

**CD17/8095 - WAVE PARK GROUP GROUND LEASE RECREATIONAL FACILITY
PROPOSAL FOR TOMPKINS PARK (AMREC)**

Ward : Bicton/Attadale
 Category : Strategic
 Subject Index : Recreation
 Customer Index : Wave Park Group
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : CD16/8081 – City of Melville Lawn Bowls Strategy – Ordinary Meeting of Council – June and October 2016
 CD16/8092 – Wave Park Group Ground Lease Recreational Facility Proposal For Tompkins Park – 28 November 2016
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Christine Young – Director Community Development
 Louis Hitchcock – Executive Manager Legal Services

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	Includes adopting local laws, town planning schemes & policies.
<input type="checkbox"/>	Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/>	Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
<input type="checkbox"/>	Information	For the Council/Committee to note.

**CD17/8095 - WAVE PARK GROUP GROUND LEASE RECREATIONAL FACILITY
PROPOSAL FOR TOMPKINS PARK (AMREC)****KEY ISSUES / SUMMARY**

- This report advises details of submissions received as a result of the Public Notice advising the proposed disposition of a portion of Tompkins Park by way of a ground lease for recreational purposes.

The Council is required to consider all submissions received and then resolve to proceed or amend the proposed disposition.

BACKGROUND

The City of Melville, at a Special Meeting of the Council on Monday, 28 November 2016, resolved to advertise the proposed ground lease and Business Case in accordance with Section 3.59 of the Local Government Act 1995 as follows:

That the Council:-

1. Notes the Business Case which details the proposed Wave Park Recreational facility project and ground lease;
2. Approves the proposal for advertising of the Business Case and Ground Lease proposal as per the requirements of Section 3.59 of the Local Government Act 1995; and
3. Directs the Chief Executive Officer to report to the Council at the conclusion of the advertising.

The Public Notice of a Major land Transaction was prepared by the City's solicitors in accordance with Section 3.59(4) of the Local Government Act 1995. The Public Notice period seeking submissions commenced on Saturday, 3 December 2016 and closed on Friday, 27 January 2017 at 5pm with all valid submissions having must been received by closing of the advertising period.

The Public Notice of Major Land Transaction was advertised in the West Australian on Saturday, 3 December 2016 and Wednesday, 11 January 2017. In addition to this, the Notice was also advertised in the Melville Times on Tuesday, 6 December 2016 and Tuesday, 10 January 2017.

DETAIL

The Council is required to consider all submissions received, and the Council's decision and the reasons for a decision must be recorded in the Minutes of the Meeting.

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STAKEHOLDER ENGAGEMENT

I. COMMUNITY

An advertisement inviting submissions on the proposed ground lease arrangement was placed in the West Australian on Saturday, 3 December 2016 with submissions closing after an eight week period at 5pm on Friday, 27 January 2017. Notices were also placed in the Melville Times, the City's Website, Public Notice Board and in all Libraries.

A total of 3,694 valid submissions were received during the advertising period with all submissions recorded electronically. In addition, a total of 56 late submissions were received after closing and accordingly cannot be considered by the Council. Most submissions received were in the form of public comment on the proposal with those expressing their support and those expressing their objection to the proposal.

The submissions received and recorded have been subject to an independent internal audit process to validate the integrity of the submissions and the count.

Three alternative proposed use submissions were received and are summarised in Table 1 below:

Table 1:

Alternative Proposals (3)	Proposal	Officer's Comment
<p><u>Name</u> Mr Rex Baker</p> <p><u>Address</u> 35A Dunkley Ave Applecross</p> <p><u>Proponent</u> "Community"</p>	<p>This proposal requests that Council ceases evaluating the proposal by Wave Park Group.</p> <p>Council allows for the presentation of an alternative proposal from the community (?) for the use of the site.</p> <p>Council take no further action in regard to relocating the Melville Bowls Club until the alternative proposal has been received and evaluated.</p>	<p>Noted</p> <p>This submission does not represent an alternative ground lease proposal to that advertised by the City.</p> <p>In addition, to be considered by Council, alternative proposals must be submitted during the public submission period and cannot be considered if they are received after the submission period is closed.</p>

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<p><u>Name</u> Mr A T Jackson</p> <p><u>Address</u> 55 Doney Street Alfred Cove</p> <p><u>Proponent</u> "Not Specified"</p>	<p><u>Proposal 1</u> Amalgamate the two bowling clubs but house them in one facility. Upgrade the clubhouse to accommodate enlarged membership and include a public café. The café to leased separately or operated by the bowling club as a source of income with the café having an outlook to the river.</p> <p><u>Proposal 2</u> In addition to Proposal 1 or instead of it, construct an adventure playground that focuses on entertainment and education for children.</p>	<p>Noted</p> <p>This submission does not represent an alternative ground lease proposal to that advertised by the City.</p> <p>This is an idea with no explanation of who will pay for and deliver the proposal. It seems to imply that the City will pay for the delivery of the proposal.</p>
<p><u>Name</u> Mr David Maynier</p> <p><u>Address</u> Unit 4 Pelican Cove 240 Burke Drive Attadale</p> <p><u>Proponent</u> "Alfred Cove Action Group"</p>	<p>Retain the Melville Bowling Club clubhouse building when the club vacates to the new facility at Tompkins Park.</p> <p>The area to the south of the Melville Bowling Club clubhouse between Canning Highway to be developed as a community recreation area with the clubhouse to be converted to a coffee shop/restaurant or kiosk.</p> <p>The area to the north of the clubhouse and existing shared use path to be cleared of existing structures and fencing and restored for passive recreation to the general public use as a natural bushland using local native flora and reinstated to the status of Bush Forever.</p> <p>The existing car park is to be retained to service the restaurant facility, Tompkins Park overflow parking and users of the POS.</p> <p>The shared use path re-routed where it leaves Atwell House to the facilitate access to the restaurant/kiosk and eliminate the dangerous bends for walkers and cyclists.</p>	<p>Noted</p> <p>This submission does not represent an alternative ground lease proposal to that advertised by the City.</p> <p>This proposal requires the City to deliver the proposal and not the proponent, does not reflect a ground lease proposal of the site as an alternative to the Wave Park ground lease.</p> <p>Small rental income to be derived from the restaurant/kiosk.</p>

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The total submissions received as comment only including those received from State Government. Agencies, are summarised below in Table 2.

These submissions have been sorted into four categories as described below:

1. City of Melville Residents For and Against;
2. Non City of Melville Residents For and Against;
3. State Government. Agencies – Those from the heads of the State Government Departments; and
4. Questions Only.

Common comments received and raised both for and against the proposal are as follows:

Support for the Proposal

1. Family recreational use
2. Safe alternative to children surfing in the ocean with the presence of sharks and physiological fears and anxiety developing in children who surf in Perth
3. Healthy activity, increased physical activity and mental wellbeing
4. Sporting and skills development
5. Alternative to Perth beaches to benefit from consistent surfing conditions
6. Regional Tourism benefits
7. Local economic benefits
8. Accessible to the general public
9. Represents a new sport in the City of Melville

Objections against the Proposal

1. Environmental damage to the Nature Reserve and Swan River
2. Contamination concerns both existing and future on the site
3. Proponent has no track record and questions over the Proponent's capacity to fund, build and operate the facility successfully
4. Site remediation obligations and concern that ratepayers will have to pay for this if the project fails
5. Traffic impacts
6. Unsociable behaviour by users of the facilities
7. Compatibility of proposed use with Sport and Recreational uses currently existing at Tompkins Park
8. Operating hours of the facility
9. Financial return to the City from ground rent is considered inadequate for such a facility and the length of the ground lease being offered

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Table 2:

Submission Numbers	Summary of Submissions	Support/Object	Officer's Comment
<p>Demographic Split</p> <p>Residents = 719 Non-Residents = 2,307</p> <p>Total: 3,026</p>		Support For The Proposal	Noted
<p>Demographic Split</p> <p>Residents = 587 Non-Residents = 64</p> <p>Total: 651</p>		Object Against The Proposal	Noted
<p>9</p>	<p>Questions raised over the impacts from the proposal and how they will be dealt with.</p>	<p>Questions Only</p>	<p>Noted</p> <p>These questions will be addressed during the Proponent's Development Application phase should the Proposal be approved to proceed and can not be fully answered at this point in time.</p>
<p>State Government. Agency</p> <p>1</p>	<p>Director General of Water</p>	<p>Proponent will be required to prepare an Urban Water Management Plan (UWMP) in accordance with the WAPC's Better Urban Water Management 2008.</p>	Noted

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<p>State Government Agency 1</p>	<p>Senior Town Planner at Water Corporation</p>	<p>No concern with the proposal from a water services planning perspective.</p>	<p>Noted</p>
<p>State Government Agency 1</p>	<p>Director General of Department of Planning</p>	<p>Proponent will be required to lodge application to Department of Parks and Wildlife and in turn will be referred by Department of Parks and Wildlife to Department of Planning for comment.</p>	<p>Noted</p>
<p>State Government. Agency 1</p>	<p>Director General of Department of Parks and Wildlife</p>	<p>Noted that a comprehensive assessment under the Swan and Canning Rivers Management Act 2006 (SCRM) will occur if the Proponent lodges a Development Application with Department of Parks and Wildlife and will be determined by the Minister for Environment.</p>	<p>Noted</p>
<p>State Government. Agency 1</p>	<p>Director, Facilities and Camps at the Department of Sport and Recreation</p>	<p>Department is supportive in principles of the proposed development. Department is supportive in principle of the City's Bowls Strategy and relocation of the Melville Bowling Club as proposed.</p>	<p>Noted</p>

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As part of the due diligence undertaken by the proponent and the City, the following agencies and stakeholders some of which put in a submission as detailed in the report were consulted.

The Key Stakeholders:

- City of Melville
- Wave Park Group trading as Urbnsurf Perth
- Melville Bowls Club
- Tompkins Park Sporting Clubs
- Department of Sport and Recreation
- Department of Parks and Wildlife (Swan River Trust)
- Department of Environment
- Department of Lands
- Department of Planning
- Department of Water
- Water Corporation
- Western Power
- Main Roads
- Local Residents and Business Operators
- Atwell Art Association
- Swan Estuaries Reserve Action Group (SERAG)

STATUTORY AND LEGAL IMPLICATIONS

The Local Government Act 1995 at Section 3.59 (3) (b) requires the Council to consider all valid submissions received prior to resolving any action. The Council's decision and the reasons for a decision must be recorded in the Minutes of the Meeting. The decision must also be made by an absolute majority of the Council.

FINANCIAL IMPLICATIONS

The financial implications have been detailed in the Business Case provided to the Council under confidential cover at the Special Meeting of the Council on Monday, 28 November 2016.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**City of Melville's Strategic Objectives**

The City's Corporate Business Plan 2016-2020 provides the following Priorities relevant to this proposal.

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Priority 1: Restricted current revenue base and increasing/changing service demands impacts on rates.

Key Strategies to address this:

1. Explore opportunities for increased residential density and commercial investment in strategic locations, aligned to the local planning objectives and coupled with the exploration of special area rating.
2. Creating greater revenue from our current and potential land, property and facility holdings.
3. Pursue productivity and efficiency improvements.

Priority 2: Meeting the demand to provide fit for use/appropriate infrastructure into the future.

Key Strategies to address this:

1. Optimise facilities to achieve “fit for use” facilities for current and future beneficiaries. Includes amalgamation of like groups into hubs and shared use of facilities.
2. Review the standards and management model that we assess our asset gap against.
3. Ensure sufficient funding is available to replace assets at their end of life.

Priority 3: Urban development creates changes in amenity (positive and negative) which are not well understood.

Key Strategies to address this:

1. Facilitating higher density development in strategic locations, consistent with the local planning framework and structure plans, design guidelines for interface areas and ensuring measured change in established areas and consideration of parking and traffic issues.
2. Enhance amenity and vibrancy and enhancing community safety through streetscapes, public art, pedestrian and cycle paths, place making and creating well designed, attractive public areas.

Further, the City's Strategic Community Plan - People, Places, Participation 2016-2026 aims to facilitate the following aspirations:

- Clean and Green
- Sustainable and Connected Transport
- Growth and Prosperity
- Sense of Community
- Healthy Lifestyles
- Safe and Secure

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The opportunity for the facility to further the City's Strategic Community Plan objectives and strategies are noted. Risk management of the proposal was addressed in detail in the Business Case. However, risks for the City are identified below:

Risk Statement	Level of Risk	Risk Mitigation Strategy
<p>There is a risk that the City of Melville is tying up an important component of freehold land for potentially 50 years under the ground lease opportunity and foregoing the opportunity for alternative uses in the future.</p>	<p>Moderate consequences which would be rare, resulting in Low level of risk.</p>	<p>The proposal site sits within the Tompkins Park precinct and is zoned Parks and Recreation for public use. It is unlikely that a change of use away from recreation would be acceptable to the Council or Community, and it is therefore reasonable to assume that there are little alternative redevelopment options for the site providing the level of financial return, despite it being freehold land which the City owns.</p>
<p>There is the risk that if the owner and operator collapse, the City of Melville will inherit the facility and will either need to find a suitable experienced operator or undertake the operations itself.</p>	<p>Major consequences which would be possible, Resulting in a High level of risk.</p>	<p>The City's solicitors will ensure that the City is as legally protected as can be reasonably expected under Contract Law, by ensuring that the default provisions within the ground lease agreement provide a clear course of action in the event that the Wave Park Group is placed into Administration or Liquidation. In addition a security bond of significant value will be required from Wave Park Group to cover the "make good" costs such as demolition and site restoration so that the City does not bear the costs. With risk mitigation as described risk is reduced to Medium.</p>

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The City engaged the services of an independent risk assessor to undertake a risk assessment study of the proposal on behalf of the City and advise the City of potential risks and measures to mitigate those risks. The Report was issued on Friday, 28 October 2016 and it identified and ranked the risks associated with this proposal and recommended mitigation strategies for the City to employ. None of the risks identified were considered to be so severe that they would prevent the City from being able to mitigate those risks. No fatal flaws were identified from the risk assessment.

POLICY IMPLICATIONS

The Council's "Land and Property Retention, Disposal and Acquisition" Policy (CP-005) is the principal Policy that will apply to this transaction. Other Council Policy that may apply includes the following:-

- Architectural and Urban Design Advisory Panel – CP-069 Canning Highway Precinct Design Guidelines – CP-075
- Car Parking and Access – CP-079
- Crime Prevention Through Environmental Design of Buildings – CP-065
- Disability Access and Inclusion Policy – CP-084
- Energy Efficiency in Building Design – CP-080
- Environmental Policy – CP-030
- Flood and Security Lighting – CP-058
- Land Property Retention, Disposal and Acquisition – CP-005
- Non-Residential Development – CP-087
- Outdoor Advertisements and Signage – CP-093

ALTERNATIVE OPTIONS AND THEIR IMPLICATIONS

The alternative option is to not proceed with approving the ground lease proposal from Wave Park Group Pty Ltd.

CONCLUSION

The City has received an unsolicited proposal from the Wave Park Group to ground lease a portion of the Tompkins Park Reserve covering approximately 4.4 hectares for the purpose of constructing and operating a Wave Park recreational facility. This proposal is considered a unique, transformational proposal that could provide a number of community benefits to the City and although implementing the proposal will come with risks, based on independent advice sought by the City those risks can be mitigated to a reasonable extent. The community benefits and risks are outlined in the Business Case and also show excellent alignment to the City's Strategic Community Plan aspirations, and the Strategic Corporate Plan objectives.

At 8.17pm Cr Schuster left the meeting and returned at 8.19pm.
At 8.40pm Cr Barling left the meeting and returned at 8.42pm.
At 8.41pm Mr L Hitchcock left the meeting and returned at 8.43pm.
At 8.47pm Dr Silcox left the meeting and returned at 8.49pm.
At 8.47pm Cr Aubrey left the meeting and returned at 8.493pm.
At 8.50pm Cr Wieland left the meeting and returned at 8.52pm.
At 8.51pm Cr Phelan left the meeting and returned at 8.53pm.
At 8.55pm Cr O'Malley left the meeting and returned at 8.57pm.
At 9.11pm Cr Pazolli left the meeting and returned at 9.13pm.

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The proposal offers the introduction of a unique recreation facility to the community whilst at the same time providing significant financial return.

The proposal is to be funded by the Wave Park Group and the initial offer proposes payment to the City of an annual commencing ground lease rent of \$700,000 (ex GST) plus variable outgoings in return for granting a long term ground lease to the Wave Park Group.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (8095) ABSOLUTE MAJORITY APPROVAL

At 6.59pm Cr Macphail moved, seconded Cr Wieland–

That the Council, having considered the submissions as set out in this report:

- 1. By absolute majority decision authorises the Chief Executive Officer to proceed with the drafting and executing the ground lease agreement with Wave Park Group Pty Ltd; and**
- 2. Requests the Chief Executive Officer to, by way of a Notice on the City's website, advise the public and all parties who provided submissions that the ground lease proposal by Wave Park Group Pty Ltd has been approved by the Council.**

REJECT AND REPLACE MOTION NO 1

At 7.01pm Cr Pazolli moved, seconded Cr Barton–

That the City of Melville Council NOT support in any way, including by granting ground lease, or proceed with, the location of the proposed Wave Park on any part of Tompkins Park, the current site of the Melville Bowling Club or any other part of Applecross, Alfred Cove or Attadale foreshores.

At 7.42pm the Mayor submitted the motion, which was declared

LOST (5/8)

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Vote Result Summary	
Yes	5
No	8

Vote Result Detailed	
Cr Barling	Yes
Cr Barton	Yes
Cr O'Malley	Yes
Cr Pazolli	Yes
Cr Schuster	Yes
Cr Aubrey	No
Cr Foxtan	No
Cr Macphail	No
Cr Phelan	No
Cr Robartson	No
Cr Wieland	No
Cr Woodall	No
Mayor Aubrey	No

REQUEST FOR AN EXTENSION TO SPEAK

At 7.08pm Cr Barton moved, seconded Cr Wieland -

That in accordance with Standing Order Clause 9.6 (Limitation of duration of speeches) Cr Pazolli be permitted an extension of time to speak.

At 7.08pm the Mayor submitted the motion which was declared

CARRIED UNANIMOUSLY (13/0)

At 7.14pm Cr Pazolli requested a further five minutes to speak, however, the request was denied.

REJECT AND REPLACE MOTION NO 2.

At 7.43pm Cr Barton moved, seconded Cr Wieland –

That the Council reject the Officer's Recommendation 8095, replacing it with:

“That the Council;

- 1. Requests the Chief Executive Officer to investigate fully the legal issues raised about the business case and its advertising; and**
- 2. Requests the Chief Executive Officer to report the results of this investigation to an Elected Member Information Session; and**
- 3. Defer any decision on proceeding with a ground lease until the legal issues are resolved to the satisfaction of the Council.”**

At 8.16pm the Mayor submitted the motion, which was declared

LOST (4/9)

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Vote Result Summary	
Yes	4
No	9

Vote Result Detailed	
Cr Barling	Yes
Cr Barton	Yes
Cr O'Malley	Yes
Cr Pazolli	Yes
Cr Aubrey	No
Cr Foxtton	No
Cr Macphail	No
Cr Phelan	No
Cr Robartson	No
Cr Schuster	No
Cr Wieland	No
Cr Woodall	No
Mayor Aubrey	No

Motion of Dissent with the Presiding Member's Ruling

At 8.02pm Cr Pazolli moved, seconded Cr Barton, the following Procedural Motion in accordance with Clause 11.1(f) of Standing Orders Local Law 2003 -

That the ruling of the Presiding Member relating to a Point of Order made on his comments relating to the "spirit of the Act" be disagreed with.

At 8.03pm the Mayor submitted the Procedural Motion which was declared

LOST (3/10)

Vote Result Summary	
Yes	3
No	10

Vote Result Detailed	
Cr Barton	Yes
Cr Pazolli	Yes
Cr O'Malley	Yes
Cr Aubrey	No
Cr Barling	No
Cr Foxtton	No
Cr Macphail	No
Cr Phelan	No
Cr Robartson	No
Cr Schuster	No
Cr Wieland	No
Cr Woodall	No
Mayor Aubrey	No

**CD17/8095 - WAVE PARK GROUP GROUND LEASE RECREATIONAL FACILITY
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At 8.17pm Cr Woodall moved, seconded Cr Robartson –

1. That the Council amends item 1 of the Officers recommendation by deleting the words “executing the” and replacing them with the words “negotiation of a....”
2. That the Officers recommendation number two, be renumbered number three and that the word “approved” be replaced with the word “progressed” and the following number two recommendation be inserted. “2. Requests the Chief Executive Officer to present the ground lease agreement to an Elected Member Information Session prior to seeking final authority from the Council to execute the agreement.”

At 8.17pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (13/0)

**CD17/8095 - WAVE PARK GROUP GROUND LEASE RECREATIONAL FACILITY
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Cr Woodall provided the following reasons in support of the Amendment –

1. The proposed wave park at Alfred Cove is a major project which has the potential to cause reputational and/or financial damage to the City if it does not succeed.
2. It is imperative that the City is protected in the event of Wave Park Group entering administration or liquidation, or otherwise failing to run the facility. The terms of the lease agreement are critical in this respect.
3. Given the value and scale of this development, as well as the strong level of community interest, it is important for Council to closely consider the terms of any lease agreement before giving final approval.
4. This motion proposes to give the Chief Executive Officer full discretion to negotiate and draft the lease, but the Council retains the right to give final approval or refusal.

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AMENDMENT 2

At 8.56pm Cr Schuster moved, seconded Cr Phelan–

That the Council add a new recommendation 4 as follows: “The term of the proposed lease be limited to 30 years with the capacity for it to be extended, if the Council so resolves, through an appropriate public process as decided by the Council of the day in the last two years of the lease”;

At 8.59pm the Mayor submitted the amendment, which was declared

CARRIED (7/6)

Vote Result Summary	
Yes	7
No	6

Vote Result Detailed	
Cr Barling	Yes
Cr Foxton	Yes
Cr O'Malley	Yes
Cr Phelan	Yes
Cr Robartson	Yes
Cr Schuster	Yes
Cr Woodall	Yes
Cr Aubrey	No
Cr Barton	No
Cr Macphail	No
Cr Pazolli	No
Cr Wieland	No
Mayor Aubrey	No

AMENDMENT 3

At 8.59pm Cr Schuster moved, seconded Cr Pazolli –

That the Council add a new recommendation 5 as follows:” If the proposal proceeds and in the event that the City requires less groundwater for its Tompkins Park facilities, any excess groundwater pumping capacity this provides under the City’s licence through the Rights in Water and Irrigation Act will be used on other City parks or reserves”;

At 9.00pm the Mayor submitted the amendment, which was declared

CARRIED (11/2)

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Vote Result Summary

Yes	11
No	2

Vote Result Detailed

Cr Aubrey	Yes
Cr Barling	Yes
Cr Foxtton	Yes
Cr Macphail	Yes
Cr O'Malley	Yes
Cr Pazolli	Yes
Cr Phelan	Yes
Cr Robartson	Yes
Cr Schuster	Yes
Cr Wieland	Yes
Cr Woodall	Yes
Cr Barton	No
Mayor Aubrey	No

AMENDMENT 4

At 9.01pm Cr Schuster moved, seconded Cr Phelan –

That the Council add a new recommendation 6 as follows: "In the event that the proposal is supported in this meeting, the final lease agreement, with all relevant regulatory approvals in place, must be finalised by February 28, 2019, or the proposal lapses, unless this date is amended by Council prior to 28 February, 2019."; and,

At 9.04pm the Mayor submitted the amendment, which was declared

CARRIED UNANIMOUSLY (13/0)

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AMENDMENT 5

At 9.05pm Cr Schuster moved, seconded Cr Woodall –

That the Council add a new recommendation 7 as follows:” In the event the proposal is supported in this meeting the Council provides to the Wave Park Group all information it holds by way of regulatory correspondence and consulting reports other than confidential documents in respect to the Contaminated Sites Act 2003 and relevant classifications of the land, which is the subject of this proposal.”

At 9.11pm the Mayor submitted the amendment, which was declared

CARRIED (11/2)

Vote Result Summary	
Yes	11
No	2

Vote Result Detailed	
Cr Aubrey	Yes
Cr Barling	Yes
Cr Foxtan	Yes
Cr Macphail	Yes
Cr O'Malley	Yes
Cr Phelan	Yes
Cr Robartson	Yes
Cr Schuster	Yes
Cr Wieland	Yes
Cr Woodall	Yes
Mayor Aubrey	Yes
Cr Barton	No
Cr Pazolli	No

AMENDMENT 6

At 9.12pm Cr Schuster moved, seconded Cr Woodall –

That the Council add a new recommendation 8 as follows:

8 In the event that the proposal is supported in this meeting, the final lease agreement contain a clause requiring Wave Park Group Pty Ltd provide and maintain for the term of the lease a bank guarantee, or similar security, of an amount sufficient to cover the total costs of “make good” and (remediation and rehabilitation) of the ground lease site, to be accessed by the City in the event of the failure or inability of Wave Park Group Pty Ltd to continue operating the facility.

At 9.15pm the Mayor submitted the amendment, which was declared

CARRIED (12/1)

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Vote Result Summary	
Yes	12
No	1

Vote Result Detailed	
Cr Aubrey	Yes
Cr Barton	Yes
Cr Foxtan	Yes
Cr Macphail	Yes
Cr O'Malley	Yes
Cr Pazolli	Yes
Cr Phelan	Yes
Cr Robartson	Yes
Cr Schuster	Yes
Cr Wieland	Yes
Cr Woodall	Yes
Mayor Aubrey	Yes
Cr Barling	No

Cr Schuster provided the following reasons in support of the motion -

1. Given their diverse nature my proposal is that these proposed amendments be dealt with separately by the Council, if thought fit.
2. The lease term has no magic in terms of the number of years, but in my view if approved the lease should not be as an "as of right" 50 years (30 + 10 + 10), but rather be for 30 years to provide the capacity for satisfactory return on investment, then subject it to a public process at the time;
3. The Wave Park, if approved, will apparently use much more groundwater than the Bowls Club does currently and I don't think any savings the City might make from its City wide groundwater licence should be used at the Wave Park –that is a regulatory hurdle the Wave Park needs to meet;
4. The proposal for a period of a year to gain all approvals and sign the lease is in my view a protection for the City from unforeseen circumstances that could cause the process to extend for a long period of time; and,
5. The provision of all information on the contaminated site would happen anyway , but given the issues that could exist if excavations are not handled effectively I would prefer the Council to resolve that the Wave Park Group be formally provided with all the necessary information.

CD17/8095 - WAVE PARK GROUP GROUND LEASE RECREATIONAL FACILITY PROPOSAL FOR TOMPKINS PARK (AMREC)

At 9.16pm Cr Schuster moved, seconded Cr Pazolli -

That the following amendment be deleted

“a new recommendation 4 as follows: “The term of the proposed lease be limited to 30 years with the capacity for it to be extended, if the Council so resolves, through an appropriate public process as decided by the Council of the day in the last two years of the lease”

At 9.20pm the Mayor submitted the amendment, which was declared

CARRIED (12/1)

Vote Result Summary	
Yes	12
No	1

Vote Result Detailed	
Cr Aubrey	Yes
Cr Foxtton	Yes
Cr Macphail	Yes
Cr Phelan	Yes
Cr Robartson	Yes
Cr Wieland	Yes
Cr Woodall	Yes
Mayor Aubrey	Yes
Cr Barton	Yes
Cr O'Malley	Yes
Cr Pazolli	Yes
Cr Schuster	Yes
Cr Barling	No

COUNCIL RESOLUTION

That the Council, having considered the submissions as set out in this report:

- 1. By absolute majority decision authorises the Chief Executive Officer to proceed with the drafting and negotiation of a ground lease agreement with Wave Park Group Pty Ltd; and**
- 2. Requests the Chief Executive Officer to present the ground lease agreement to an Elected Member Information Session prior to seeking final authority from the Council to execute the agreement.**
- 3. Requests the Chief Executive Officer to, by way of a notice on the city's website, advise the public and all parties who provided submissions that the ground lease proposal by Wave Park Group Pty Ltd has been progressed by the Council.**

CD17/8095 - WAVE PARK GROUP GROUND LEASE RECREATIONAL FACILITY PROPOSAL FOR TOMPKINS PARK (AMREC)

4. If the proposal proceeds and in the event that the City requires less groundwater for its Tompkins Park facilities, any excess groundwater pumping capacity this provides under the City's licence through the Rights in Water and Irrigation Act will be used on other City parks or reserves";
5. In the event that the proposal is supported in this meeting, the final lease agreement, with all relevant regulatory approvals in place, must be finalised by February 28, 2019, or the proposal lapses, unless this date is amended by Council prior to 28 February, 2019."
6. In the event that the proposal is supported in this meeting, the final lease agreement, with all relevant regulatory approvals in place, must be finalised by February 28, 2019, or the proposal lapses, unless this date is amended by Council prior to 28 February, 2019.
7. In the event the proposal is supported in this meeting the Council provides to the Wave Park Group all information it holds by way of regulatory correspondence and consulting reports other than confidential documents in respect to the Contaminated Sites Act 2003 and relevant classifications of the land, which is the subject of this proposal.
8. In the event that the proposal is supported in this meeting, the final lease agreement contain a clause requiring Wave Park Group Pty Ltd provide and maintain for the term of the lease a bank guarantee, or similar security, of an amount sufficient to cover the total costs of "make good" and (remediation and rehabilitation) of the ground lease site, to be accessed by the city in the event of the failure or inability of Wave Park Group Pty Ltd to continue operating the facility.

At 9.22pm the Mayor submitted the substantive motion as amended, which was declared

CARRIED BY ABSOLUTE MAJORITY (8/5)

Vote Result Summary	
Yes	8
No	5

Vote Result Detailed	
Cr Aubrey	Yes
Cr Foxtton	Yes
Cr Macphail	Yes
Cr Phelan	Yes
Cr Robartson	Yes
Cr Wieland	Yes
Cr Woodall	Yes
Mayor Aubrey	Yes
Cr Barling	No
Cr Barton	No
Cr O'Malley	No
Cr Pazolli	No
Cr Schuster	No

At 9.24pm the meeting was adjourned.

At 9.24pm Mr de Lang left the meeting