



## Notice of Special Council Meeting

To be held on 4 December 2024 and commence at 4:30pm

To be held at the Council Chambers in Donnybrook

*(1 Bentley Street, Donnybrook)*

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### **The purpose of this Special Council Meeting is for Council to considers:**

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- Endorsement of VC Mitchell Park Licenses, Management Model and Business Case for Public Comment.

**Authorised:**

Nicholas O'Connor, Chief Executive Officer

**Prepared:**

3 December 2024

## MEASURES OF CONSEQUENCE

LEVEL	RATING	HEALTH & SAFETY	FINANCIAL	SERVICE INTERRUPTION	COMPLIANCE	REPUTATION	PROPERTY	ENVIRONMENT
1	Insignificant	Negligible injuries	Less than \$5,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, localised low impact on community trust, low profile or no media item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
2	Minor	First aid injuries	\$5,000 - \$20,000 Or < 5% variance in cost of project	Temporary interruption to an activity – backlog cleared with existing resources	Some temporary non compliances	Substantiated, localised impact on community trust or low media item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
3	Moderate	Medical type injuries	\$20,001 - \$100,000 Or > 5% variance in cost of project	Interruption to Service Unit(s) deliverables – backlog cleared by additional resources	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact on community trust or moderate media profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
4	Major	Lost time injury	\$100,001 - \$1M	Prolonged interruption of Service Unit core service deliverables – additional resources; performance affected	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, widespread high impact on community trust, high media profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
5	Catastrophic	Fatality, permanent disability	More than \$1M	Indeterminate prolonged interruption of Service Unit core service deliverables	Non-compliance results in criminal charges or significant damages or penalties	Substantiated, public embarrassment, widespread loss of community trust, high widespread multiple media profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

## MEASURES OF LIKELIHOOD

LEVEL	RATING	DESCRIPTION	FREQUENCY
5	Almost Certain	The event is expected to occur in most circumstances	More than once per year
4	Likely	The event will probably occur in most circumstances	At least once per year
3	Possible	The event should occur at some time	At least once in 3 years
2	Unlikely	The event could occur at some time	At least once in 10 years
1	Rare	The event may only occur in exceptional circumstances	Less than once in 15 years

### RISK MATRIX

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	MODERATE (5)	HIGH (10)	HIGH (15)	EXTREME (20)	EXTREME (25)
Likely	4	LOW (4)	MODERATE (8)	HIGH (12)	HIGH (16)	EXTREME (20)
Possible	3	LOW (3)	MODERATE (6)	MODERATE (9)	HIGH (12)	HIGH (15)
Unlikely	2	LOW (2)	LOW (4)	MODERATE (6)	MODERATE (8)	HIGH (10)
Rare	1	LOW (1)	LOW (2)	LOW (3)	LOW (4)	MODERATE (5)

### RISK ACCEPTANCE CRITERIA

RISK RANK	DESCRIPTION	CRITERIA FOR RISK ACCEPTANCE	RESPONSIBILITY
LOW	Acceptable	Risk acceptable with adequate controls, managed by routine procedures and subject to annual monitoring	Operational Manager
MODERATE	Monitor	Risk acceptable with adequate controls, managed by specific procedures and subject to semi-annual monitoring	Operational Manager
HIGH	Urgent Attention Required	Risk acceptable with excellent controls, managed by senior management / executive and subject to monthly monitoring	Director / CEO
EXTREME	Unacceptable	Risk only acceptable with excellent controls and all treatment plans to be explored and implemented where possible, managed by highest level of authority and subject to continuous monitoring	CEO / Council

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## 1. Declaration of Opening / Announcement of Visitors

### **Acknowledgement of Country:**

The Shire President to acknowledge the continuing connection of Aboriginal people to Country, culture and community, including traditional custodians of this land, the Wardandi and Kaneang People of the Noongar Nation, paying respects to Elders, past and present.

The Shire President to declare the meeting open welcome the public gallery.

The Shire President to advise that the meeting is being live streamed and recorded in accordance with Council Policy EM/CP-2. The President further stated the following:

*“This meeting is being livestreamed and digitally recorded in accordance with Council Policy.*

*Members of the public are reminded that no other visual or audio recording of this meeting by any other means is allowed without the permission of the chairperson.*

*Whilst every endeavour has been made to only record those who are actively participating in the meeting, loud comments or noises from the gallery may be picked up on the recording.”*

## 2. Attendance

### **Councillors Present:**

Cr Vivienne MacCarthy	Cr Lisa Glover	Cr John Bailey
Cr Alexis Davy	Cr Peter Gubler	Cr Anita Lindemann
Cr Anne Mitchell	Cr Grant Patrick	Cr Deanna Shand

### **Staff Present:**

Nicholas O'Connor, Chief Executive Officer	Ross Marshall, Director Operations
Loren Clifford, Acting Director Finance and Corporate	Samantha Farquhar, Administration Officer Corporate Services

### **Public Gallery:**

2.1. Apologies

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2.2. Approved Leave of Absence

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2.3. Application for Leave of Absence

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Nil.

3. Announcements from the Presiding Member

Nil.

4. Declarations of Interest

Division 6: Sub-Division 1 of the *Local Government Act 1995*. Care should be taken by all Councillors to ensure that a financial/impartiality interest is declared and that they refrain from voting on any matter, which is considered to come within the ambit of the Act.

5. Public Question Time

5.1. Responses to previous public questions that were taken on notice

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Nil.

5.2. Public Question Time

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In accordance with the Clause 7(3) of the Local Government (Administration) Regulations, public questions must relate to the stated purpose of the Special Meeting of Council.

6. Presentations

6.1. Petitions

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Nil.

6.2. Presentations

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Nil.

6.3. Deputations

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Nil.

6.4. Delegates' Reports

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Nil.

7. Reports of Committees

Nil.

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## 8 Reports of Officers

### 8.1.1 Endorsement of the proposed VC Mitchell Park Licences, Management Model and Business Case (Business Plan) for Public Comment

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#### Report Details:

**Prepared by:** Loren Clifford, Acting Director Finance and Corporate

**Manager:** Nicholas O'Connor, Chief Executive Officer

**File Reference:** L003, L078

**Voting Requirement:** Simple Majority

#### Attachment(s):

8.1.1(1) Draft Licence – Pavilion 1 - Donnybrook Football & Sporting Club (Inc)

8.1.1(2) Draft Licence – Pavilion 2 - Donnybrook Tennis Club Inc

8.1.1(3) Management Agreement Draft Outline

8.1.1(4) Business Case (Business Plan)

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#### Executive Recommendation

##### That Council:

1. **Endorse the draft licence (Attachment 1) for Pavilion 1 with Donnybrook Football & Sporting Club (Inc) to be advertised for public comment.**
  2. **Endorse the draft licence (Attachment 2) for Pavilion 2 with the Donnybrook Tennis Club Inc to be advertised for public comment.**
  3. **Endorse the Management Agreement draft outline (Attachment 3) to be advertised for public comment.**
  4. **Endorse the Business Case (Business Plan) (Attachment 4) to be advertised for public comment.**
  5. **Request the CEO to facilitate a Community Engagement Forum in December to allow Community members to engage in discussions about the proposed licenses and management model, and to provide feedback on options for broader community use of the facility in the future.**
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#### Strategic Alignment

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The following outcomes from the Council Plan relate to this proposal:

**Outcome:** 11 - Strong, visionary leadership.

**Objective:** 11.1 - Provide strategically focused, open and accountable governance.

**Item:** Nil.

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#### Executive Summary

Stage 1 of the VC Mitchell Park redevelopment reached practical completion on 27 November 2024. This stage included demolishing the old pavilion, building a new two-storey community pavilion

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(Pavilion 1), and upgrading the smaller pavilion (Pavilion 2). The next steps are for the Council to consider endorsing the draft licence for Pavilion 1 with Donnybrook Football & Sporting Club, the draft licence for Pavilion 2 with Donnybrook Tennis Club, the draft Management Agreement outline, and the Business Case (Business Plan), all for public comment. Additionally, the Council should consider facilitating a Community Engagement Forum in December for discussions and a preview of the new facility.

## Background

The Shire has undertaken a significant redevelopment project at VC Mitchell Park to enhance the quality of sporting, recreational and community amenities. This project aimed to address the ageing infrastructure and meet the current and future needs of the community.

Stage 1 of the project, which involved the development of a new two-storey multi-purpose pavilion adjacent to the main oval and alterations and additions to the smaller pavilion, reached practical completion on 27 November 2024. This stage included:

- Demolition of the larger pavilion,
- Construction of Pavilion 1, a two-storey multi-use community pavilion,
- Additions and alterations to Pavilion 2,

The project was designed to deliver significant community benefits, including increased participation in sports, improved health outcomes, and enhanced community cohesion.

In light of this, the draft licences and management model have been meticulously developed to meet the community's needs, drawing on extensive community consultation, the Council's overarching Property Management Framework, and the supporting documents in the Business Case (Business Plan), including the VC Mitchell Park Master Plan, Precinct Benefits Assessment (Lucid Economics), Anna Dixon Consulting Options Analysis Report, and the Life Cycle Maintenance Expenses and Revenue Project Plan.

## Risk Management

Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Likely	Minor	Moderate (8)
Risk Description:	Inadequate Project/Change Management - Status Reporting <ol style="list-style-type: none"> <li>1. Inaccurate Reporting: Providing inaccurate or misleading status reports.</li> <li>2. Lack of Transparency: Not being transparent about project progress and issues.</li> <li>3. Irregular Updates: Infrequent or inconsistent status updates.</li> <li>4. Poor Communication: Ineffective communication channels and practices</li> </ol>		

Mitigation:	Continue with public consultation including the proposed Community Engagement Forum in December to allow Community members to engage in discussions about the proposed licenses and management model, and to have a sneak peek of the new facility.
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Risk:	Likelihood:	Consequence:	Risk Rating:
Reputational	Possible	Minor	Moderate (6)
Risk Description:	Inadequate Engagement Practices		
Mitigation:	Continue with public consultation including the proposed Community Engagement Forum in December to allow Community members to engage in discussions about the proposed licenses and management model, and to have a sneak peek of the new facility.		

Risk:	Likelihood:	Consequence:	Risk Rating:
Compliance	Possible	Moderate	Moderate (9)
Risk Description:	Failure to Fulfil Statutory, Regulatory or Compliance Requirements		
Mitigation:	Advertise the Business Case/Plan for public comment for a period of 6 weeks.		

## Financial Implications

The cost to advertise the draft licenses, Management Agreement draft outline and Business Case (Business Plan) for Public Comment in the West is estimated to be up to \$1,500. The expense will be costed to Account No. 8882 – Lease Management.

External consultants Whitney Consulting were engaged to provide a Business Case (Business Plan). The cost was \$24,174 inc. GST. The expense was costed to Account No. 4148 - Consultants.

## Policy Compliance

Both draft licences and the responsibilities outlined in the draft Management Agreement outline are consistent with ***Council Policy EXE/CP-11- Property Management***.

Advertising the draft licences, draft Management Agreement outline, the Business Case (Business Plan) and proposing a Community Engagement Forum are consistent with the requirements in ***Council Policy COMD/CP-3-Community Engagement***.

## Statutory Compliance

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### Local Government Act 1995

#### Section 3.58 – Disposing of Property

Under Section 3.58 of the *Local Government Act 1995*, the disposal of property, including buildings, typically requires the Shire to give public notice of the proposed disposition and consider any submissions received. However, in this case, the disposal of the building to a sporting group will be exempt from these requirements under Regulation 30 of the *Local Government (Functions and General) Regulations 1996*, as the sporting group qualifies as a body with recreational or sporting objects.

#### Section 3.59 - Commercial Enterprises by Local Governments

Contents of the Business Plan, must include an overall assessment of the major trading undertaking or major land transaction and must address:

- Expected effect on the provision of facilities and services by the local government.
- Expected effect on other persons providing facilities and services in the district.
- Expected financial effect on the local government.
- Expected effect on matters referred to in the local government's current plan prepared under section 5.56.
- The ability of the local government to manage the undertaking or the performance of the transaction.

The Officers Comments below provide an overview of each of these requirements.

### Local Government (Administration) Regulations 1996

Regulation 10. Public Notice: The Shire must give state-wide public notice of the business plan, including:

- A summary of the business plan.
- Details of where and when the business plan may be inspected.
- An invitation for submissions about the business plan to be made to the local government before a specified day (which must be at least 6 weeks after the notice is given).

The Shire must consider any submissions made before it proceeds with the undertaking or transaction. It's proposed that a Special Council Meeting be held in January for Council to consider any submissions made.

## Consultation

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### Public Consultation

Extensive consultation was conducted with key stakeholders and the community to ensure the project met local needs and expectations. The consultation process included:

- Community Surveys: Conducted both online and in hard copy to gather input from residents.
- Open Door Sessions: Held at the Shire Offices to facilitate direct community engagement.
- User Group Surveys and Meetings: Engaged with local sporting clubs and user groups to understand their specific needs and priorities.
- Stakeholder Engagement Plan: Developed to guide ongoing consultation throughout the project's design and construction phases.
- A dedicated project page on the Shire's website with detailed information about the project.

The Shire will now undertake further consultation by advertising the proposed VC Mitchell Park Licenses, Management Model, and Business Case (Business Plan) for Public Comment. Statewide public notice will commence on Thursday, 5 December through to 18 January 2025. This public notice will be provided via the Shire's Website, meta platforms, notice boards, Shire's E-connect, and the West on the 12 December 2024.

Additionally, the Shire will facilitate a Community Engagement Forum in December to allow community members to discuss the proposed licenses and management model and to get a sneak peek of the new facility. It will provide an opportunity for sporting and community clubs to make suggestions on potentially broadening the community use of the facility.

#### External Consultation

External Consultants, Whitney Consulting were engaged to provide a Business Case (Business Plan) the Business Case/Plan for the VC Mitchell Park project outlines a comprehensive plan to redevelop the park into a modern, multi-use community, sporting, and recreation precinct, aiming to enhance local amenities, support community health and wellbeing, and drive economic growth through improved facilities and increased participation in sports and events.

The Shire has consulted with its solicitors, McLeod's, to obtain legal advice. Consequently, McLeod's has provided standardised licence templates based on the Shire's adopted Property Management Framework which has been used as the basis for the two licence Council is being asked to consider endorsing.

Consultations sessions were held with Council and the proposed licence holders to discuss the proposed management model.

#### Internal Consultation

Council has discussed the VC Mitchell Park Project/Management model and licence arrangements at numerous Council meetings and in more detail during the following workshops.

- a. Workshop 3 – 14 February 2024
- b. Workshop 5 – 13 March 2024

- c. Workshop 10 -26 June 2024
- d. Workshop 11 – 3 July 2024
- e. Workshop 13 – 31 July 2024
- f. Workshop 15 – 14 August 2024
- g. Workshop 17- 11 September 2024
- h. Workshop 18- 2 October 2024
- i. Workshop 19 - 30 October2024

### **Officer Comment**

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The proposed licences, management model, and Business Case (Business Plan) have been developed with comprehensive stakeholder input and align with strategic priorities at the local, regional, and state levels. Outlined below is a breakdown of the proposed responsibilities for Pavilion 1 and Pavilion 2 located at VC Mitchell Park.

#### Pavilion 1: Licence holder proposed responsibilities - Donnybrook Football & Sporting Club (Inc)

##### Bookings and Usage:

- a. Manage community usage and provide access, orientation, and post-use inspections.
- b. Ensure compliance with the booking system and priority seasonal bookings.

##### Maintenance and Repairs:

- a. General servicing, maintenance, and minor repairs.
- b. Air-conditioning servicing, maintenance, and repairs.
- c. Gas system service and repairs.
- d. Cleaning (day-to-day, incidental, post-hire, and annual deep clean).
- e. Pest inspection and treatment.
- f. Fire extinguishers, first aid equipment, and defibrillator maintenance.
- g. Servicing and maintenance of audio-visual equipment.

##### Utilities and Consumables:

- a. Pay for electricity, gas supply, gas bottle hire, and water usage.
- b. Manage consumables such as cleaning products, toilet paper, and hand wash soap.

##### Insurance:

- a. Insure their fixtures, fittings, equipment, stock, public liability, and workers' compensation.

##### Compliance:

- a. Ensure compliance with safety and testing obligations (RCDs, smoke detectors, etc.).
- b. Handle any alterations, additions, and new fixtures with prior approval from the Shire.

Pavilion 2: Licence holder proposed responsibilities - Donnybrook Tennis Club Inc.

Bookings and Usage:

- a. Manage community usage and provide access, orientation, and post-use inspections.
- b. Ensure compliance with the booking system and priority seasonal bookings.

Maintenance and Repairs:

- a. General servicing, maintenance, and minor repairs.
- b. Air-conditioning servicing, maintenance, and repairs.
- c. Gas system service and repairs.
- d. Cleaning (day-to-day, incidental, post-hire, and annual deep clean).
- e. Pest inspection and treatment.
- f. Fire extinguishers, first aid equipment, and defibrillator maintenance.
- g. Servicing and maintenance of audio-visual equipment.

Utilities and Consumables:

- a. Pay for electricity, gas supply, gas bottle hire, and water usage.
- b. Manage consumables such as cleaning products, toilet paper, and hand wash soap.

Insurance:

- a. Insure their fixtures, fittings, equipment, stock, public liability, and workers' compensation.

Compliance:

- a. Ensure compliance with safety and testing obligations (RCDs, smoke detectors, etc.).
- b. Handle any alterations, additions, and new fixtures with prior approval from the Shire.

Shire's Lessor Responsibilities for Both Pavilions

- a. Booking System: Establish and maintain a Shire-wide booking platform.
- b. Compliance Inspections: Conduct regular compliance inspections and manage remedial actions.
- c. Annual Licence Fee: Determine and manage the annual licence fee based on the Property Management Framework (PMF).
- d. Major Maintenance and Capital Works:
  - i. Handle lighting maintenance.
  - ii. Air-conditioning capital repairs.
  - iii. Structural maintenance.
  - iv. Capital upgrades.
  - v. Manage statutory compliance, stormwater disposal, and sewage disposal.

- e. Insurance:
  - i. Insure the building.
  - ii. Shire's fixtures and fittings.
  - iii. Public liability.
  - iv. Workers' compensation.
- f. Utilities and Services:
  - i. Manage NBN service provider.
  - ii. Security systems monitoring.
  - iii. Emergency services levy.
  - iv. Roof anchors service and certification.
  - v. Backflow prevention device service.
- g. Legal and Administrative:
  - i. Cover legal costs for lease drafting and sub-lease drafting.
  - ii. Manage local government rates and service charges.
- h. Security Systems Monitoring: Account established under Shire group account.
- i. Sewage Disposal (Deep Sewer): Annual service and maintenance costs for the lift pump.
- j. Security CCTV: Managed and integrated into Shire's existing network.
- k. Emergency Services Levy: Covered by the Shire.
- l. Statutory Compliance: Managed by the Shire.
- m. Stormwater Disposal: Managed using existing infrastructure.
- n. Structural Maintenance: Requirements for structural maintenance are highly unlikely in the next 10 years.
- o. Painting and Flooring Renewal (AMP): Managed by the Shire as determined by Council.
- p. Roof Anchors Service & Certification: Users must not have access to the roof.
- q. Defibrillator Service & Maintenance: Community asset mounted externally.
- r. Testing & Tagging - Electrical: Procurement and attendance coordinated for a single annual visit.
- s. Fire Extinguishers: Procurement and attendance managed by the Shire and back charged to the Users.

These responsibilities ensure that the Shire maintains oversight and management of critical infrastructure, compliance, and major maintenance, while the clubs handle day-to-day operations and minor maintenance.

Based on the responsibilities provided above the proposed total estimate of the annual costs for the two licence holders and Shire are tabled below:

	Estimated Annual Costs
Pavilion 1 licence holder - Donnybrook Football & Sporting Club (Inc)	\$19,510.45
Pavilion 2 licence holder - Donnybrook Tennis Club Inc	\$6,832.48
Lessor -Shire	\$26,662.07

### Licensed Areas

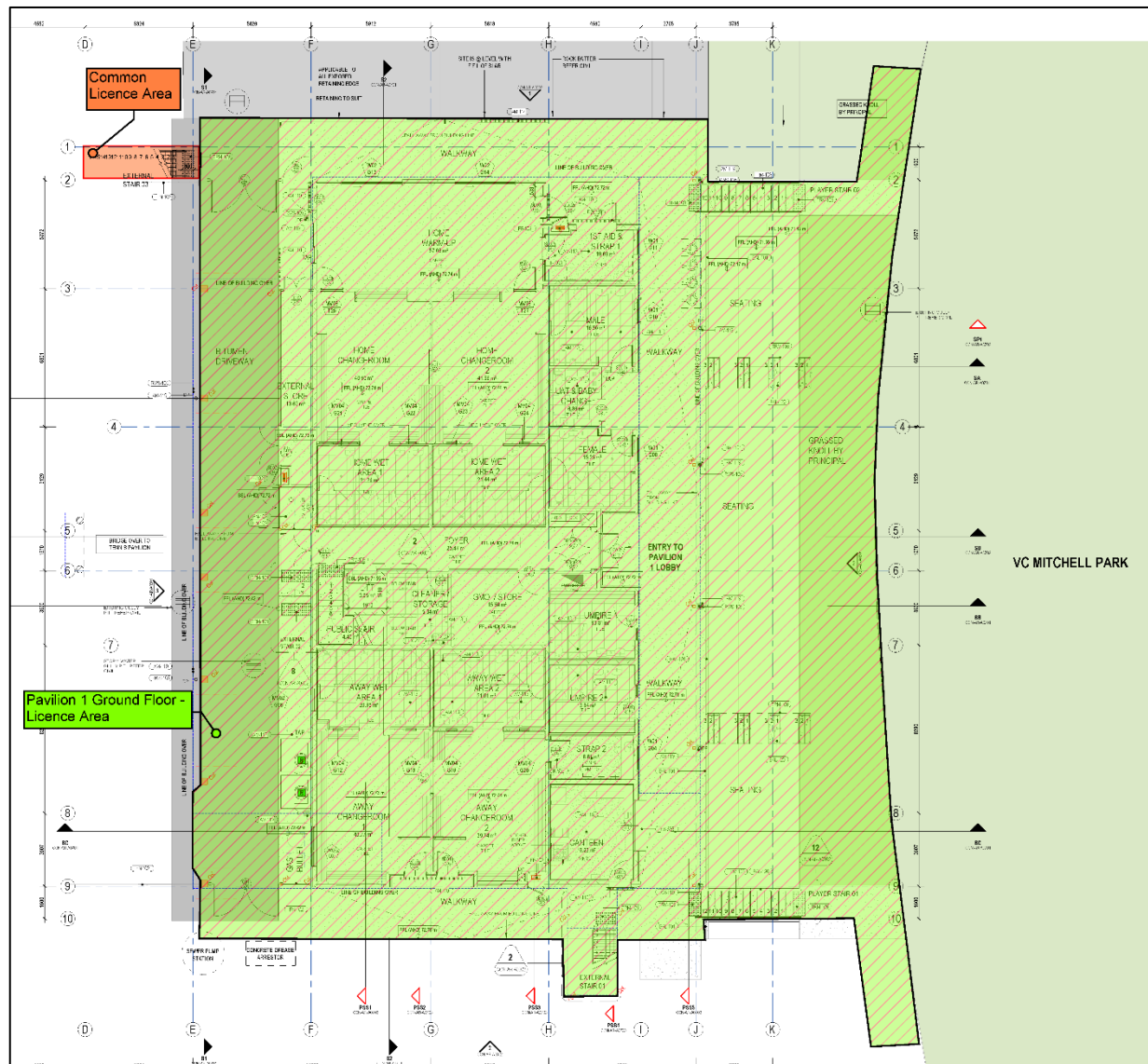


FIGURE 1 PAVILION 1, GROUND FLOOR – PROPOSED LICENCED AREA



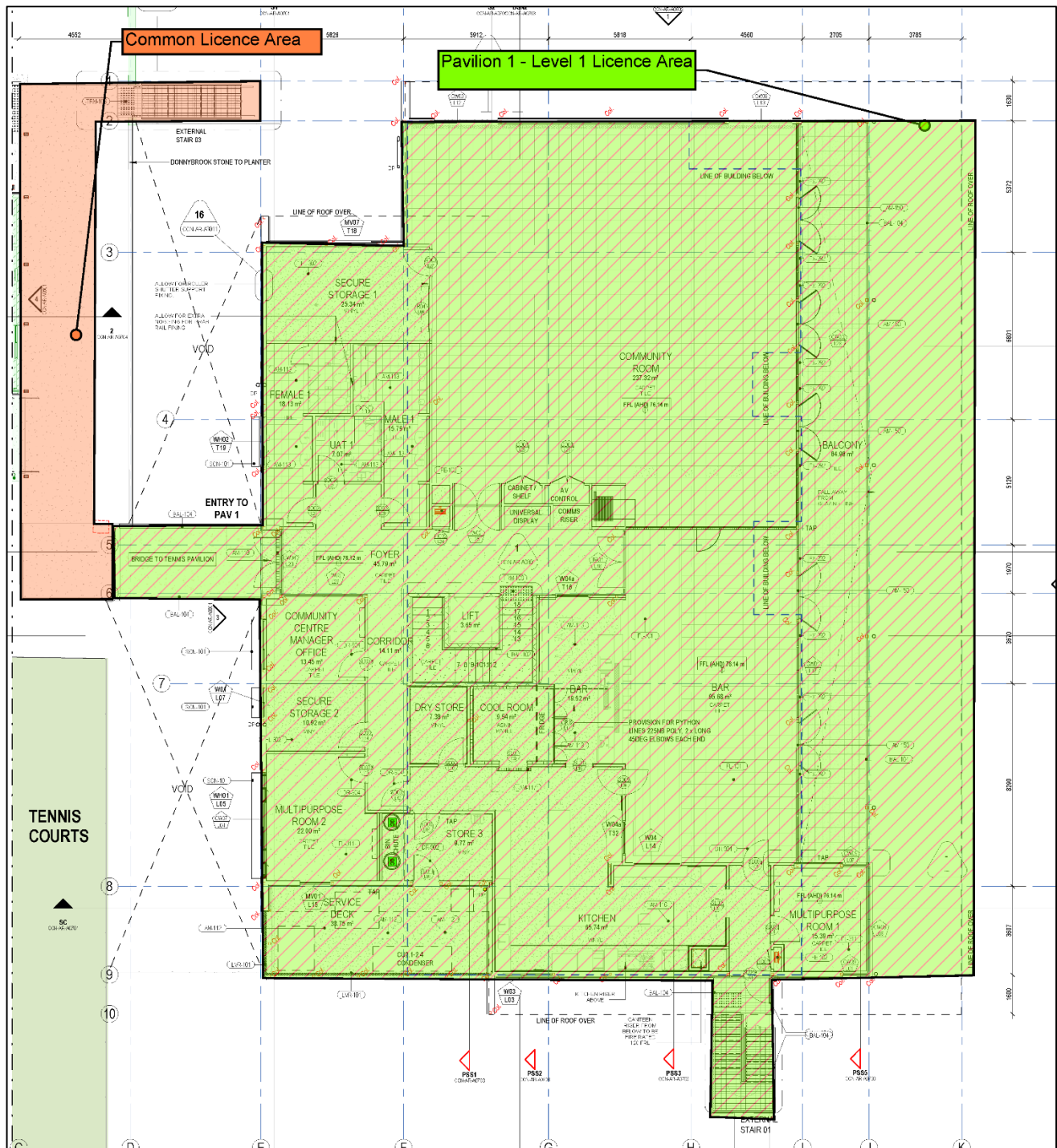


FIGURE 2 - PAVILION 1, LEVEL 1 – PROPOSED LICENCED AREA

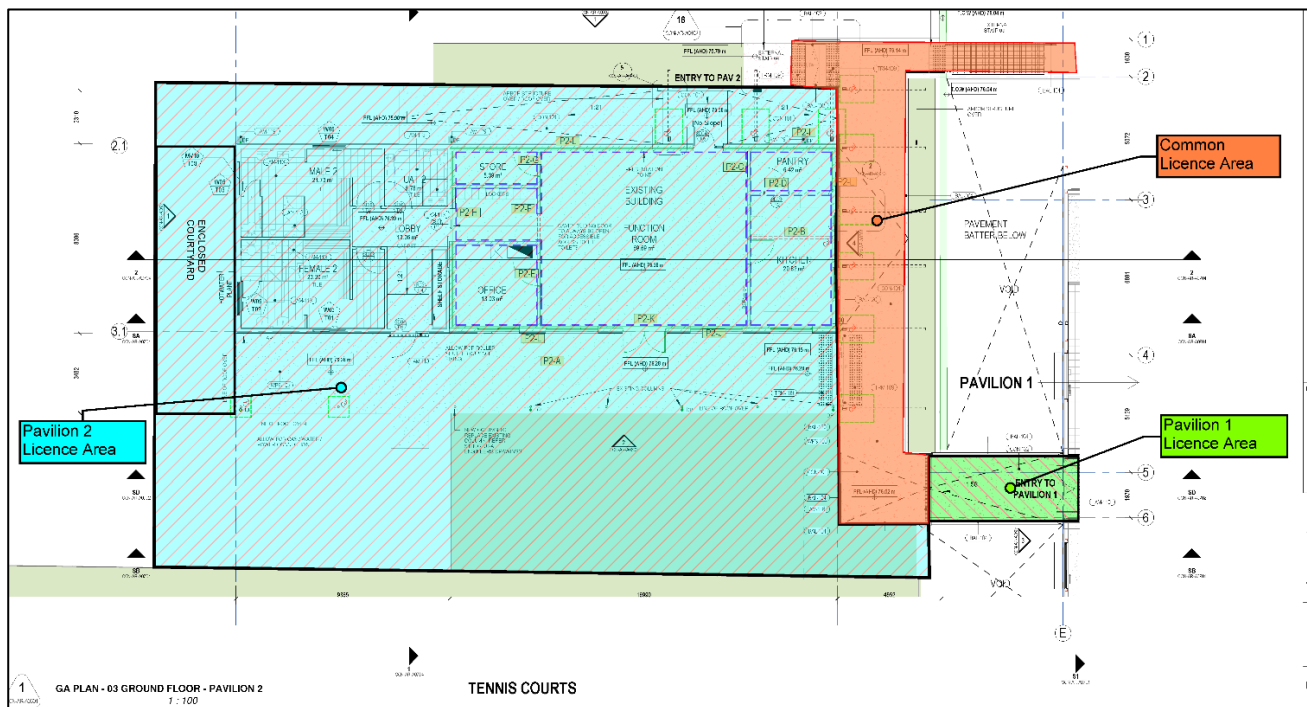


FIGURE 3 - PAVILION 2 – PROPOSED LICENCED AREA

### Business Case (Business Plan)

External Consultants, Whitney Consulting were engaged to provide a Business Case (Business Plan) (Business Plan) the Business Case (Business Plan) for the VC Mitchell Park project outlines a comprehensive plan to redevelop the park into a modern, multi-use community, sporting, and recreation precinct, aiming to enhance local amenities, support community health and wellbeing, and drive economic growth through improved facilities and increased participation in sports and events.

Contents of the Business Plan, must include an overall assessment of the major trading undertaking or major land transaction and must address:

### **Expected effect on the provision of facilities and services by the local government**

The Business Case (Business Plan) comprehensively addresses the expected effects on the provision of facilities and services by the Shire. It highlights the benefits of modernising and consolidating facilities, improving accessibility and inclusivity, ensuring operational sustainability, and delivering significant community and economic benefits. The project is designed to enhance the Shire's capacity to provide high-quality recreational services and support the growth and wellbeing of the community.

### **Expected effect on other persons providing facilities and services in the district.**

The Business Case (Business Plan) outlines the positive effects of the project on other persons providing facilities and services in the district. It highlights the benefits of modernising and consolidating facilities, promoting efficient use of resources, boosting local tourism and economic activity, enhancing community wellbeing, and fostering collaboration among user groups. The project is designed to support the growth and sustainability of local sporting clubs and organisations, ultimately benefiting the entire community.

**Expected financial effect on the local government.**

The Business Case (Business Plan) comprehensively addresses the expected financial effect on the local government. It highlights the funding sources, annual costs, and the overall financial impact on the Shire. The project is designed to be operationally sustainable, with additional income generated through community and commercial use. The financial analysis indicates that the project is economically desirable and provides a net benefit to the Shire.

**Expected effect on matters referred to in the local government's current plan prepared under section 5.56 of the *Local Government Act 1995*.**

The Business Case (Business Plan) outlines how the VC Mitchell Park redevelopment project aligns with and supports the objectives of the Shire of Donnybrook Balingup Council Plan 2022-2032. It addresses key areas such as population growth, community health, built environment, economic development, social inclusion, and community engagement, demonstrating a comprehensive approach to enhancing the Shire's amenities and overall quality of life.

**The ability of the local government to manage the undertaking or the performance of the transaction.**

The Business Case (Business Plan) comprehensively outlines the Shire's ability to manage the undertaking or performance of the transaction. It highlights the experienced project management team, robust governance and procurement strategies, sound financial health, stakeholder engagement, risk management, and operational sustainability measures in place to ensure the project's success.

Community Engagement Forum

It's proposed to hold a Community Engagement Forum on Saturday 14 December 2024, between 10am – 3pm to allow community members to explore the facility and engage in discussions about the proposed licenses and management model. It will provide an opportunity for sporting and community clubs to make suggestions on potentially broadening the community use of the facility.

9. Elected Member Motions of which previous notice has been given

Nil.

10. New Business of an urgent nature introduced by Decision of the Meeting

Nil.

11. Meetings Closed to the Public

11.1. Matters for which the Meeting may be closed

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Nil.

11.2. Public reading of Resolutions that may be made public

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Nil.

12. Closure

The Shire President to advise that the next Agenda Briefing Session will be held on 11 December 2024, in the Shire of Donnybrook Balingup Council Chamber.