

14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL
15. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

**15.1 NOTICE OF MOTION BY COUNCILLOR GOODE**

Date and Time Received: Tuesday 16 April 2019 at 12.03pm.

**15.1: MOTION BY COUNCILLOR GOODE**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council:**

**GRANTS the final lease approval for Coffee Kiosk over portion of Lot 123 York Street, Albany Tourism and Information Hub to Christopher Saurin as Trustee for the Saurin Family Trust, subject to:**

- a. Lease area being approximately 14.25m<sup>2</sup>;
- b. Lease rent being \$9,000 per annum plus GST, and outgoings as determined by a licensed Valuer;
- c. Rent review by market valuation every 3 years with Consumer Price Index applied for intervening years;
- d. Lease term being 5 years with an option for a further 5 year term;
- e. Leasing commencing as soon as practicable;
- f. All costs associated with the ongoing operations of the leased premises being payable by the tenant;
- g. All costs associated with the development and finalisation of the lease being payable by the City of Albany, in line with the Commercial Tenancy (Retail Shops) Agreements Act 1985; and
- h. Lease being consistent with Council Policy-Property Management (Leases and Licences)

**Councillor Reason:**

Council, at the Ordinary Council Meeting held on 28 August 2018, considered and supported a proposal to lease a commercial space for a coffee kiosk in the Tourism and Information Hub in York Street.

As part of the statutory process, the proposed lease was advertised for public comment and one submission was received.

At the Ordinary Council Meeting held on 27 November 2018 the Committee Recommendation to adopt the Responsible Officer Recommendation (which recommended approving the lease) was lost.

An alternate course of action or proposal was not considered by Council. As such, Council simply made a decision to not award the lease to Mr Saurin.

A petition containing 299 signatures was subsequently received by Council. The petition requested that Council review its decision to reject a coffee kiosk in the Tourism and Information Hub.

This motion will grant approval of the lease for the Coffee Kiosk located in the Tourism and Information Hub to Mr Saurin, as trustee for the Saurin Family Trust.

Officer Comment (Executive Director Corporate Services):

ORDINARY COUNCIL MEETING  
AGENDA – 23/04/2019

Background

1. In May 2018, following a Request for Proposal (RFP) to lease the commercial space within the Tourism and Information Hub, one proposal was received for a coffee kiosk.
2. Following an assessment of the proposal, the City entered into discussions with the applicant, Mr Christopher Saurin and a proposal was prepared for Council's consideration.
3. Council considered the new lease request at its meeting held on 28 August 2018 and resolved THAT Council APPROVE a new lease over portion of Lot 123 York Street, Albany Tourism and Information Hub to Christopher Saurin as Trustee for the Saurin Family Trust, subject to:
  - a. Lease permitted use being Coffee Kiosk.
  - b. Lease area being approximately 14.25m<sup>2</sup>.
  - c. Lease rent being \$9,000 per annum plus GST and outgoings as determined by a licensed Valuer.
  - d. Rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years.
  - e. Lease term being 5 years with an option for a further 5 year term.
  - f. Lease commencing as soon as practicable.
  - g. Pursuant to Section 3.58 of the Local Government Act 1995 advertising requirements, the new lease will be advertised.
  - h. All costs associated with the ongoing operations of the leased premises being payable by the tenant.
  - i. All costs associated with the development and finalisation of the lease being payable by the City of Albany, in line with the Commercial Tenancy (Retail Shops) Agreements Act 1985.
  - j. Lease being consistent with Council Policy – Property Management (Leases and Licences).
4. As noted in (g) above, the new lease was required to be advertised for comment and during this comment period one submission was received from the Albany Chamber of Commerce & Industry (ACCI) on behalf of some York Street retail traders. The ACCI raised a number of concerns and City management met with representatives from the ACCI and a number of York Street retail traders to listen to their concerns.
5. At the November 2018 CCS meeting, the CCS Committee resolved as follows:

CCS110: RESPONSIBLE OFFICER RECOMMENDATION

*THAT Council:*

*NOTES its previous resolution of 28 August 2018 Item CCS080.*

*GRANTS the final lease approval for Coffee Kiosk over portion of Lot 123 York Street, Albany Tourism and Information Hub to Christopher Saurin as Trustee for the Saurin Family Trust, subject to:*

- a. Lease area being approximately 14.25m<sup>2</sup>.*
- b. Lease rent being \$9,000 per annum plus GST and outgoings as determined by a licensed Valuer.*
- c. Rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years.*
- d. Lease term being 5 years with an option for a further 5 year term.*
- e. Lease commencing as soon as practicable.*
- f. All costs associated with the ongoing operations of the leased premises being payable by the tenant.*
- g. All costs associated with the development and finalisation of the lease being payable by the City of Albany, in line with the Commercial Tenancy (Retail Shops) Agreements Act 1985.*
- h. Lease being consistent with Council Policy – Property Management (Leases and Licences).*

CARRIED 8-1

6. However, when the item went to the 27 November 2018 meeting of Council, the motion as recommended by Committee was lost 5-6.
7. By not supporting the Committee recommendation, this matter is still open. In accordance with section 3.58(3)(b) Council is to consider any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

ORDINARY COUNCIL MEETING  
AGENDA – 23/04/2019

8. Council did not resolve to NOT SUPPORT the lease. Advice from WALGA following the meeting was that Council should have resolved an alternate motion to clarify its position on this lease. To close the matter Council needs to:
  - a. Resolve to NOT LEASE a portion of Lot 123 York Street, Albany Tourism and Information Hub as a Coffee Kiosk; or
  - b. Resolve to RECONSIDER the proposal.
9. At the December OCM, a petition was lodged by Petition lodged by Mr Christopher Saurin requesting that Council re-consider the decision regarding the Coffee Kiosk at the Tourism and Information Hub. The petition was considered by Council at the February 2019 OCM. At this meeting, Council resolved as follows:

THAT:

- 1. The Petition lodged by Mr Christopher Saurin requesting that Council re-consider the decision regarding the proposed Coffee Kiosk at the Tourism and Information Hub be RECEIVED.*
- 2. The Chief Executive Officer convene a further briefing/workshop regarding this matter as soon as practicable in order that the proposal for a coffee kiosk in the Tourism and Information Hub be clarified prior to any future consideration of this matter by Council.*

CARRIED 8-4

Councillor Reason:

In light of the number of residents who have signed the petition in support of a coffee kiosk in the Tourism and Information Hub, and support from several Councillors, I would request that this matter be discussed further and the City's position be clarified on this matter prior to any further consideration by Council.

Options

10. As recommended by WALGA, this matter can be closed by Council by resolving as follows:

- a. Resolve to NOT LEASE a portion of Lot 123 York Street, Albany Tourism and Information Hub as a Coffee Kiosk; or
- b. Resolve to RECONSIDER the proposal.

11. An alternate option for Council is to NOT LEASE a portion of Lot 123 York Street, Albany Tourism and Information Hub as a Coffee Kiosk; at this time.

12. This matter is now a matter for Council's consideration.

## 15.2 NOTICE OF MOTION BY COUNCILLOR DOUGHTY

**Date and Time Received: Tuesday 16 April 2019 at 9.43pm.**

### 15.2: NOTICE OF MOTION BY COUNCILLOR DOUGHTY

**THAT Council:**

1. **Takes no further action to award a commercial tenancy over the portion of Lot 123 York Street, being the Tourism and Information Hub.**
2. **Requests a further report from the CEO to be provided by November 2019 providing possible commercial options for the 14m<sup>2</sup> space in the Tourism and Information Hub.**
3. **Those options are to be discussed at an Elected Member Strategic Workshop, prior to making a recommendation for consideration at the December 2019 Ordinary Council Meeting.**

#### Councillor Reason:

Council, at the Ordinary Council Meeting held on 28 August 2018, considered and supported a proposal to lease a commercial space specifically for a coffee kiosk in the Tourism and Information Hub in York Street.

At the Ordinary Council Meeting held on 27 November 2018 the Committee Recommendation to adopt the Responsible Officer Recommendation (which recommended approving the lease for a coffee kiosk) was lost.

However, an alternate course of action was not considered by Council, which has left the matter open.

At the Elected Member Strategic Workshop held on 16 April 2019, further discussion regarding other possible uses for this space occurred.

It was noted that significant capital works are currently underway for Alison Hartman Gardens and student accommodation which will potentially see an increase in foot traffic for the Central Business District.

The report to be prepared by the CEO should explore broader options for this space, including pop up enterprises, for example: supporting local artisans, producers or boutique tour operators. This report may also rely on evidence of increased use of Alison Hartman Gardens and the precinct in general following the completion of the capital works.

This space may provide options that do not compete with current existing retailers in the CBD.

**Officer Comment (Executive Director Corporate Services):**

Background

1. In May 2018 following a Request for Proposal (RFP) to lease the commercial space within the Tourism and Information Hub, one proposal was received for a coffee kiosk.
2. Following an assessment of the proposal, the City entered into discussions with the applicant, Mr Christopher Saurin and a proposal was prepared for Council's consideration.
3. Council considered the new lease request at its meeting held on 28 August 2018 and resolved THAT Council APPROVE a new lease over portion of Lot 123 York Street, Albany Tourism and Information Hub to Christopher Saurin as Trustee for the Saurin Family Trust, subject to:
  - a. Lease permitted use being Coffee Kiosk.
  - b. Lease area being approximately 14.25m<sup>2</sup>.
  - c. Lease rent being \$9,000 per annum plus GST and outgoings as determined by a licensed Valuer.
  - d. Rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years.
  - e. Lease term being 5 years with an option for a further 5 year term.
  - f. Lease commencing as soon as practicable.
  - g. Pursuant to Section 3.58 of the Local Government Act 1995 advertising requirements, the new lease will be advertised.
  - h. All costs associated with the ongoing operations of the leased premises being payable by the tenant.
  - i. All costs associated with the development and finalisation of the lease being payable by the City of Albany, in line with the Commercial Tenancy (Retail Shops) Agreements Act 1985.
  - j. Lease being consistent with Council Policy – Property Management (Leases and Licences).
4. As noted in (g) above, the new lease was required to be advertised for comment and during this comment period one submission was received from the Albany Chamber of Commerce & Industry (ACCI) on behalf of some York Street retail traders. The ACCI raised a number of concerns and City management met with representatives from the ACCI and a number of York Street retail traders to listen to their concerns.
5. At the November 2018 CCS meeting, the CCS Committee resolved as follows:

CCS110: COMMITTEE RECOMMENDATION

THAT Council:

*NOTES its previous resolution of 28 August 2018 Item CCS080.*

*GRANTS the final lease approval for Coffee Kiosk over portion of Lot 123 York Street, Albany Tourism and Information Hub to Christopher Saurin as Trustee for the Saurin Family Trust, subject to:*

- b. Lease area being approximately 14.25m<sup>2</sup>.*
- c. Lease rent being \$9,000 per annum plus GST and outgoings as determined by a licensed Valuer.*
- d. Rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years.*
- e. Lease term being 5 years with an option for a further 5 year term.*
- f. Lease commencing as soon as practicable.*
- g. All costs associated with the ongoing operations of the leased premises being payable by the tenant.*
- h. All costs associated with the development and finalisation of the lease being payable by the City of Albany, in line with the Commercial Tenancy (Retail Shops) Agreements Act 1985.*
- i. Lease being consistent with Council Policy – Property Management (Leases and Licences).*

CARRIED 8-4

ORDINARY COUNCIL MEETING  
AGENDA – 23/04/2019

6. However, when the item went to the 27 November 2018 meeting of Council, the motion as recommended by Committee was lost 5-6.
7. By not supporting the Committee recommendation, this matter is still open. In accordance with section 3.58(3)(b) Council is to consider any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
8. Council did not resolve to NOT SUPPORT the lease. Advice from WALGA following the meeting was that Council should have resolved an alternate motion to clarify its position on this lease. To close the matter Council needs to:
  - a. Resolve to NOT LEASE a portion of Lot 123 York Street, Albany Tourism and Information Hub as a Coffee Kiosk; or
  - b. Resolve to RECONSIDER the proposal.

9. At the December OCM, a petition was lodged by Petition lodged by Mr Christopher Saurin requesting that Council re-consider the decision regarding the Coffee Kiosk at the Tourism and Information Hub. The petition was considered by Council at the February 2019 OCM. At this meeting, Council resolved as follows:

*THAT:*

1. *The Petition lodged by Mr Christopher Saurin requesting that Council re-consider the decision regarding the proposed Coffee Kiosk at the Tourism and Information Hub be RECEIVED.*
2. *The Chief Executive Officer convene a further briefing/workshop regarding this matter as soon as practicable in order that the proposal for a coffee kiosk in the Tourism and Information Hub be clarified prior to any future consideration of this matter by Council.*

CARRIED 8-4

**Councillor Reason:**

In light of the number of residents who have signed the petition in support of a coffee kiosk in the Tourism and Information Hub, and support from several Councillors, I would request that this matter be discussed further and the City's position be clarified on this matter prior to any further consideration by Council.

Options

10. As recommended by WALGA, this matter can be closed by Council by resolving as follows:
  - a. Resolve to NOT LEASE a portion of Lot 123 York Street, Albany Tourism and Information Hub as a Coffee Kiosk; or
  - b. Resolve to RECONSIDER the proposal.
11. The motion proposed by Councillor Doughty is another option for Council to consider.
12. This matter is now a matter for Council's consideration.

**16. REPORTS OF CITY OFFICERS Nil**

**17. MEETING CLOSED TO PUBLIC**

**18. CLOSURE**