

Item 13.14 – Proposed Lease and Operating Subsidy Agreement between the City of Perth and the Perth Theatre Trust for the Perth Concert Hall

File reference	P1038317#09
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Other contributors	Nil
Reporting Service Unit and Alliance	Corporate Services
Report author disclosure of interest	Nil
Date of report	23 July 2020
Nature of Council's role	Executive
Voting requirement	Simple Majority
Attachment/s	Nil

Purpose

The purpose of this report is for Council to consider a new lease and operating subsidy agreement between the City of Perth and the Perth Theatre Trust (PTT) for the Perth Concert Hall (PCH).

Background

The PCH is a landmark building on St George's Terrace and has provided Perth and Western Australia with a performance venue of international standard since 1973, allowing the State to host events it could not otherwise have experienced.

The PCH resides on Reserve 30347, with the City of Perth holding the management authority. Under the Management Order, the City has the power to lease the subject property for any term not exceeding 21 years, subject to Ministerial approval.

In terms of the operations, the City of Perth currently leases the venue to the Perth Theatre Trust (PTT) and provides PTT with an annual operating subsidy. Under a management agreement, PTT commissions WA Venues and Events (WAVE) to manage the venue.

In February 2014, the lease between PTT and the City of Perth for PCH expired. The lease is in holdover and a new draft lease is being prepared.



Figure 1: Perth Concert Hall site

Prior to considering this report on a new lease, Commissioners requested a discussion paper on a number of issues including:

1. Details on the business model / governance framework for other capital city performing arts venues in Australia;
2. Details on where each state symphony is based and what level of recurrent funding is received from each relevant capital city council; and
3. Financial information on the operating deficit that the PCH (in its current format) would generate based upon three different operating models.

This item is in response to the discussion paper presented to Commissioners on Tuesday, 23 June 2020.

Details

In considering a new lease for the PCH, Commissioners requested information and detail on three potential management options including:

- a) Current leased relationship with PTT and WAVE as a venue operator plus annualised asset management costs;
- b) Outsourced directly to a theatre management company plus annualised asset management costs; and
- c) Operated “in-house” plus annualised asset management costs.

After assessing the three options presented above, option (a) is considered to be the best option when assessed against the City’s Strategic Community Plan and the cost implications associated with the other models.

In response to the negotiations that have occurred to date, the City of Perth is preparing a new draft lease for the PCH site. In terms of the new lease, the following terms are proposed:

- Term – 5 years;
- Premises – The proposed lease area includes the PCH building. It excludes the undercroft public carpark and all of the escalators and stairways connecting the public carpark to the building; and
- Rent – The proposed rent is \$1.00 per annum.

In addition to the lease, it is proposed that the City enter into an Operating Subsidy Agreement for the PCH. Historically, this payment was included in the lease agreement.

The new agreement will run concurrently with the lease and provide PTT with an annual operating subsidy. The agreement will outline how the operating subsidy shall be used by the Lessee in carrying out its business operations in respect of the PCH. The subsidy is approximately \$250,000 per annum.

Stakeholder engagement

The City has engaged throughout this process with the Department of Local Government, Sport and Cultural Industries and the Perth Theatre Trust.

Strategic alignment

Strategic Community Plan

This item addresses the community’s vision for the future and specifically the following Aspiration and Strategic Objective(s) contained in the Strategic Community Plan 2019 – 2029:

Aspiration:	People
Strategic Objective:	1.6 Thriving and sustainable cultural, artistic and heritage industries, activities and events that encourage locals and visitors to come back for more.

Legal and statutory implications

The proposed disposal (via lease) to the PTT is an exempt disposal under section 30 of the *Local Government (Functions and General) Regulations 1996*.

30. Dispositions of property excluded from Act s. 3.58 (1)

1. A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
 - (c) the land is disposed of to —
 - (i) the Crown in right of the State or the Commonwealth; or
 - (ii) a department, agency, or **instrumentality of the Crown** in right of the **State** or the Commonwealth; or
 - (iii) another local government or a regional local government;

Connection with mandates in the City of Perth Act 2016

8(1)(d) - to continuously improve the services and facilities provided to the community, visitors and tourists

Risk implications

Impact of decision	
Organisation	Low
Community	Low

Risk domain	Consequence	Likelihood	Risk rating
Legal and Regulatory/Ethical	Moderate	Possible	Medium
Reputation and External Stakeholders	Minor	Possible	Medium

The lease for the PCH expired in 2014. Resolving this matter will provide security of tenure for the PTT.

Approval implications

Should Council agree with the officer recommendation, a new lease and operating subsidy agreement will be finalised and executed between the City and PTT. Given the land tenure arrangements, the City will also require the consent of the relevant Minister to finalise the transaction.

If Council does not endorse the officer recommendation, other options could be pursued in terms of operating models.

Financial implications

Under the terms of the proposed lease, the City would receive \$1.00 per annum. As the building owner, the City also incurs various other operating costs totalling approximately \$70,000 per annum.

Under the terms of the proposed operating subsidy agreement, the City will provide an annual operating subsidy to the PTT of approximately \$250,000 per annum.

When considering both the operating subsidy and other operating costs, the City's operating deficit under the proposed lease will be approximately \$320,000 per annum. This is offset by revenue generated by the Perth Concert Hall Carpark. The net result is a modest surplus approx. \$180,000.

In addition to the operating costs, the City has also forecasted to spend approximately \$1.0m per annum over the term of the lease. This includes resolving structural issues associated with the concourse.

Both the proposed operating and capital costs are included in the City's draft 2020/21 budget. Future cost implications from both a revenue and expenditure perspective are accommodated within the Corporate Business Plan and Long Term Financial Plan.

Policy references

Policy 10.9 - *City of Perth Common Seal and Document Signing Authority* applies to this item. This policy provides the authority for the CEO to execute land transaction and funding agreement documents.

Comments

If endorsed by Council, this new lease agreement will finalise many years of uncertainty between the City of Perth and PTT.

Officer Recommendation

That Council:

1. APPROVES a new lease over a portion of Lot 853 on Deposited Plan 174436 (excluding the undercroft public carpark number 7 and all of the escalators and stairways connecting the public carpark to the building) between the City of Perth and the Perth Theatre Trust for the Perth Concert Hall comprising:
 - i. Term: Five years.
 - ii. Rent: One dollar (\$1.00) per annum exclusive of GST payable on demand.
2. APPROVES an annual operating subsidy between the City of Perth and the Perth Theatre Trust towards the operations of the Perth Concert Hall comprising:
 - i. Term: Five year;
 - ii. Subject to the adoption of the 2020/21 Budget, an initial annual payment in August 2020 of \$253,750; and
 - iii. Future annual payments indexed to CPI (Perth).
3. AUTHORISES the Chief Executive Officer to finalise negotiations and duly execute the lease and operating subsidy agreement between the City of Perth and Perth Theatre Trust for the Perth Concert Hall.