



Total Area 2496m²

Public Transport Authority

COTTESLOE
Lease of Land to Town of Cottesloe

Infrastructure Planning and Land Services

Scale	NTS
Date:	05/11/13
Drawn:	LD
Plan No.	1735-1

12.1.6 TOWN CENTRE CARPARKS ON RAILWAY RESERVE LAND - PTA LEASE 1735

File No: C12.17
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 9 August, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council the recent rent increase on Public Transport Authority controlled reserve land in Railway Street and Brixton Street leased by Council for the purposes of carparking with a recommendation that consideration be given to the lease be terminated and that political pressure be enlisted to support the recent rent increase being held pending relevant Council studies.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The annual rental on the lease was \$300 since 1979 and was increased to \$11,250 as from 1 July 2005. The 2005/06 budget includes provision for payment of \$300.

BACKGROUND

In 1979 Council entered into a lease with the Western Australian Government Railways Commission (WAGRC) for the lease of 1751m² of railway reserve land on the east side of the Perth to Fremantle railway line (1305m² next to Railway Street immediately north of Jarrad Street (Railway Street carpark) and 446m² next to Brixton Street south of Jarrad Street (Brixton Street carpark) (PTA Lease 1735). The lease was for a period of twelve months commencing 1 March 1979 and the original rent was \$156 per annum. The lease provides that the land is to be used as a parking area. It also provides for rent reviews "from time to time" and for notice of increases to be given "up to ninety (90) days after the said review date". The lease continues at the end of the initial one year term until "determined by three month's notice in writing given at any time by either party".

It is unclear who provided parking infrastructure in the first instance, however the Town has maintained and managed the carpark since 1979. The rental was increased to \$300 per annum sometime before 1995. In 1995, WAGRC's agent notified the Town that the rent had been increased from \$300 to \$6,128.50 per annum which sparked a flurry of correspondence including representations to the

local Member of Parliament, Ministers and the like. This resulted in the Town being advised that the Commissioner for Railways had agreed to hold the rent review for twelve months pending a proposed upgrade of railway stations and precincts in the area that included plans for better parking and pedestrian facilities for Cottesloe. The plan was for WAGRC to consult with local traders and the Town of Cottesloe to ensure local needs were fully understood. WAGRC representatives addressed a Council committee and liaised with Council officers with respect to a strategic land use and parking plan study for Cottesloe Station that it was to undertake and fund. Correspondence date December 1996 indicates that the study had not commenced and that a draft consultant brief had been developed and put to Council's administration for comment. Comment continued in relation to this into the early part of 1997 but the files contain nothing after this. A recent enquiry with WAGRC revealed that its proposed study did not go ahead. Whilst the rent increase issue was resolved with WAGRC in 1996 its agent was billing at the higher rate till 1997.

More recently, the property managing agent wrote to the Town of Cottesloe on 15 July, 2005 advising that the annual rent has increased from \$300 to \$11,250 (plus GST) as from 1 July, 2005 noting that the Perth Transport Authority's (PTA) valuer had assessed that a full market rental was warranted for the following reasons:

- The Town of Cottesloe has placed a two hour parking limit on the premises thus not catering for PTA's park'n'ride patrons that require all day parking to commute by train.
- The carpark is clearly used by persons visiting the nearby retail shops.

They noted that the PTA will now hold this new rental fixed for the next 24 months.

Council's administration wrote to the property manager challenging the revised rent and short notice and suggesting that the rent review be held pending the Town's review of its land holdings in Station Street which may be developed to provide more parking. It also noted that the lease contained no clause which impede Council's ability to impose restrictions or that the facilities should be managed and maintained for rail passenger usage. Their response confirmed PTA's decision to apply a commercial rental of \$11,250 per annum effective 1 July 2005 (a copy of both letters attached). The second last dot point of the letter reads as follows:

- *The Town of Cottesloe has had the benefit of a non-commercial rental for approximately 9 years based on achieving a planning outcome for this area, which has not happened. Unfortunately a further planning study cannot continue to justify the existing rental.*

This relates to the 1995 rent hike attempt that was put on hold following political pressure. Council was advised at time that the WAGRC was planning to conduct a study, as mentioned earlier in this report, but did not do so. Therefore it was the WAGRC not Council that did not meet its proposed planning outcome for the area.

It is not clear when parking restrictions for the two carparks were introduced by Council however they have been in place for a number of years.

The Railway Street carpark is marked out for 29 ordinary carparking bays on its western side and 11 on the east side. It has 2 taxi bays and 2 loading bays plus a truck bading bay (approximately 40m long). Plans of the carpark and leased area show that the leased area terminates at the southernmost driveway and approximately 6 car bays are located outside the leased area on a portion of the Railway Reserve near Jarrad Street. Parking in the ordinary car bays is restricted to 2 hours, 8am to 6pm Monday to Friday and 8am to 1pm Saturdays.

The Brixton Street carpark is sealed and marked out for 24 car bays, 5 of which are restricted to 1 hour, 8am to 6pm, Monday to Friday.

Rangers report that approximately 30 vehicles are booked per month in these carparks and that patrols take approximately 12 hours per month. This results in a net revenue of in the order of less than \$3,000 per annum from which the Town has to maintain the carparks, pay rent etc (estimate to be in the order of \$5,000 per annum). This is a relatively low number of infringements indicating that the time limits are appropriate (Rangers report that most infringements relate to the loading and taxi bays).

CONSULTATION

The author has spoken and corresponded with the property managing agent, a representative of WAGRC, and Council staff.

STAFF COMMENT

The carparks are important (especially the Railway Street carpark) to the town centre and its retail operations both in terms of providing customer parking and loading bays.

The parking limits imposed in both carparks work well in terms of meeting the demand of the retail area in that relatively few users tend to park longer than the times allowed. If the two hour restriction in the Railway Street carpark were to be removed it may well provide a park'n'ride opportunity for rail patrons but it would also be used by employees from the commercial area and it is expected that a significant number of bays would be taken up by all day parkers leaving less parking for shoppers and the like using the commercial area. The current restrictions were imposed in order to better meet short term parking requirements close to the retail area with all day parkers being moved to areas further away such as the Brixton Street carpark (19 of the 24 bays unrestricted) and the Railway Street carpark adjacent to Forrest Street (no restrictions).

The proposed rent hike makes the cost of providing shopper carparking high. No income is derived from the carparks in question other than from infringements. The cost of managing parking appears to take up a significant amount of infringement income. No separate costings are kept for individual carparks however using rule of thumb rates the annual maintenance cost for the two areas is in the order of \$5,000.

Council has a number of options with respect to the rent hike which include the following:

- 1) Accept the new rental figure noting that the lease arrangement could be terminated at anytime with three months notice from PTA.

- 2) Remove parking restrictions on the basis of the rental going back to \$300 per annum and be faced with insufficient short term parking close to the retail area.
- 3) Take the matter up at a political level as was done in 1995.
- 4) Give notice of intent to terminate the lease. WAGRC has given verbal indication that they would take the facility over and remove restrictions and the loading bays.

Option 1) is not recommended as a long term solution due to the relatively high cost. It may however be acceptable in the short term pending development of more parking solutions with the Town Centre Revitalisation Study.

Option 2) might result in the rent staying at \$300 per annum but would leave Council with the maintenance costs and no real benefit in terms of providing short term parking.

Option 3) worked in 1995 and may well work again but would take up the Town's resources in fighting the rent hike. It is noted that last time the WAGRC was to conduct a study of the Cottesloe Station area that included removal of the level crossing, etc and an execution of parking/land use requirements. Council and the community were to be included so that the Town's needs might also be met presumably with a better and longer term solution than to rent pieces of railway land on the basis of three months notice of termination. This study was not commenced however Council is now looking at its options for uses of land in Station Street and has embarked on a town centre study. These should address current and future parking needs for the area and could make the railway leased carparks redundant for the Town's purposes and so it appears logical for the rent increase to be held for at least 12 months pending completion of these initiatives.

Option 4) appeals given the approach and stance of the other parties. Effectively it would result in the PTA having to field complaints from the retail area for the loss of customer parking and loading bays and reduce Council's carpark management and maintenance costs. In the longer term Council's town centre study and review of its Station Street land options should meet all parking needs.

It is recommended that PTA be advised that Council is prepared to terminate the lease on the basis of the rent increase and that representations be made to the local Member of Parliament and the Minister seeking assistance in having the rent increase put on hold pending Council's town centre study (which was part funded by a State grant of \$20,000 indicating the Government's support for this important forward planning).

VOTING

Simple majority

COMMITTEE COMMENT

The committee agreed that a letter be written to the Cottesloe Business Association advising of the situation and suggesting the possibility of retailers contributing to the cost of the carpark, as it is predominantly used by their staff and customers.

Discussion was held in relation to point (1) terminating the lease; it was decided that the Public Transport Authority would be advised of Council's consideration of terminating the lease and the implications of such an approach.

It was agreed that it is important that the options be considered within the town centre study.

Cr Strzina suggested that a statement be made in relation to Council's provision of the Cott CAT in the letters to the Minister and the local Member of Parliament.

OFFICER RECOMMENDATION

That Council

- (1) Advise the Public Transport Authority that given the recent rent increase the Town of Cottesloe seeks the termination of PTA Lease 1735; and
- (2) Write to the Minister and local Member of Parliament seeking support to have the rent increase put on hold pending the completion of Council's Town Centre study and its implementation with respect to Station Street land that could be used to provide increased parking facilities.

COMMITTEE RECOMMENDATION

That Council:

- (1) Advise the Public Transport Authority that given the recent rent increase the Town of Cottesloe is considering the termination of PTA Lease 1735.
- (2) Advise the Public Transport Authority of the implications of such a termination of the lease.
- (3) Write to the Minister and local Member of Parliament seeking support to have the rent increase put on hold pending the completion of Council's Town Centre study and its implementation with respect to Station Street land that could be used to provide increased parking facilities.
- (4) Write to the Cottesloe Business Association advising of the situation and suggesting the possibility of paid parking or a levy on businesses if the lease is to be continued at the higher rent level.

AMENDMENT

Moved Cr Cunningham, seconded Cr Strzina

That (2) be amended to read:

- (2) Advise the Public Transport Authority of the implications of such a termination of the lease and of a substantial rent increase.

Lost 0/11

AMENDMENT

Moved Cr Dawkins, seconded Cr Miller

That (4) be amended to read:

- (4) Write to the Cottesloe Business Association advising of the situation.

Carried 6/5

12.1.6 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Advise the Public Transport Authority that given the recent rent increase the Town of Cottesloe is considering the termination of PTA Lease 1735.
- (2) Advise the Public Transport Authority of the implications of such a termination of the lease.
- (3) Write to the Minister and local Member of Parliament seeking support to have the rent increase put on hold pending the completion of Council's Town Centre study and its implementation with respect to Station Street land that could be used to provide increased parking facilities.
- (4) Write to the Cottesloe Business Association advising of the situation.

Carried 11/0

Monday, 25 November 2013

TOWN OF COTTESLOE
Attention: Geoff Trigg
109 Broome Street
COTTESLOE WA 6011

COPY

Burgess Rawson (WA) Pty Ltd
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Commercial Property Consultants
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PO Box 7658 Cloisters Square, Perth WA 6850
T 08 9288 0288 F 08 9481 5353
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Dear Geoff,

Re: PTA L1735-2 (and L2696) Cottesloe - Offer to Lease

We are pleased to confirm that PTAWA has agreed to a new lease for the above property on the terms and conditions outlined in the Offer to Lease and based on the draft PTAWA Ground Lease Low Environmental Risk document (a copy of which is also attached).

Kindly note:

- The additional terms identified in the Offer to Lease as NOT APPLICABLE will naturally not be included in the final lease document and naturally as any reference to a retail situation will be deleted from the final documentation.
- The Offer to Lease has been prepared in the name of Town of Cottesloe.
- PTA requires that the Town of Cottesloe provides written documentation showing the authorisation for the person/s who will be executing the lease document; or
- The Power of Attorney document authorising the signature(s) on behalf of the Town of Cottesloe; or
- The Town of Cottesloe sealing clause.
- Lease, L2696 has been amalgamated into the Offer to Lease, L1735-2, and upon execution of this lease L1735-2, L2696 will be terminated.

Kindly check the document thoroughly and arrange for the return of the two bound copies along with the Lessee's remittance of \$1,400.00 including GST (made out to PTA) to cover the solicitor's estimated fees in the self address envelope provided

Should you have any queries, please feel free to contact this office to discuss any point of the new offer to lease.

Yours faithfully,



Burgess Rawson (as agents for PTAWA)
GERALDINE PEREIRA
PROPERTY MANAGER
Direct 9288 0258
E-mail gpereira@burgessrawson.com.au

TRIMMED
Document Number
D13/24074

PTAWA (as Lessor) hereby offers Town of Cottesloe (as Lessee), ABN/ACN _____, a lease under the following terms and conditions.

LOCATION That area in Cottesloe highlighted in blue on the attached copy of PTAWA plan number 1735

AREA Approximately 2496 Sqm.

TERM Ten (10) Years only
(Subject to clause 14 of the additional terms, with a six month break clause).

Commencement 1 October 2013 and expiring on 30 September 2023

RENT \$18,360 per annum plus GST – payable quarterly in advance.

RENT REVIEWS 24 monthly market reviews on anniversary of the lease (ie 1 October 2015, 2017, 2019 and 2021)

PURPOSE The Premises may only be used as PARKING and drainage sumps subject to the tenant obtaining all relevant written approval from all authorities for the use of the premises.

INSURANCE **Public Risk Not less than \$10,000,000**

NOTE A Certificate of Currency (from LESSEE's Insurer) confirming the existence of the Insurance Coverage and notating PTAWA's interest as Lessor. MUST be provided prior to lease commencement and on each anniversary of same.

MAINTENANCE **Land leased as they stand** with Lessee being responsible for all Maintenance, repairs, renovations, or improvements whatsoever.

OUTGOINGS All outgoings payable by Lessee (including Management Fee)

LEASE PREPARATION COSTS Preparation of lease costs (Prepared by PTAWA's Panel Solicitor Tottle Partners and **payable by Lessee** estimated at **\$1,400.00 including GST**. Lessee agrees to execute lease within 14 days of being provided same

MANAGEMENT FEE **7% of gross annual rental, charged against Lessee in advance, each 12 months on the lease anniversary dates**