

ITEM NUMBER: 18.1

CONFIDENTIAL REPORT

WIGLEY RESERVE KIOSK

Pursuant to Section 83(5) of the Local Government Act 1999 the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that Council will receive, discuss or consider:

- d. commercial information of a confidential nature (not being a trade secret) the disclosure of which –
 - i. could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - ii. would, on balance, be contrary to the public interest.

Recommendation – Exclusion of the Public – Section 90(3)(d) Order

1. That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Agenda Item 18.1 Wigley Reserve Kiosk (Report No: 410/25) in confidence.
 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Agenda Item 18.1 Wigley Reserve Kiosk (Report No: 410/25) on the following grounds:
 - d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party.

This report contains proposed commercial terms and benchmarks them against other lease agreements, as well as outdoor dining data provided as part of commercial valuations, both of which are already held in confidence. It is imperative that any future negotiations or requests for expressions of interest, at the subject site or elsewhere within the City of Holdfast Bay's property portfolio, are not hindered by the release of such information, ensuring competitive fairness.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.
 3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.
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Item No: 18.1
Subject: WIGLEY RESERVE KIOSK

Summary

This report seeks Council's authorisation for the Mayor and Chief Executive Officer to execute a new lease over a portion of Wigley Reserve with Unique Hospitality Group for a period of five years commencing 1 December 2025 and expiring 30 November 2030, together with a right of renewal for a further five years.

Recommendation

1. That Council enters into a new Lease with Unique Hospitality Group Pty Ltd in respect of the portion of land comprised in Certificate of Title Volume 5935 Folio 965 as delineated in blue on the plan annexed hereto as Attachment 1 and situated at Wigley Reserve for a term of five years commencing 1 December 2025 and expiring 30 November 2030 and otherwise on the terms and conditions contained within Attachment 1.
2. That the Mayor and Chief Executive Officer be authorised to execute and seal any documents required to give effect to this Lease.

RETAIN IN CONFIDENCE - Section 91(7) Order

3. That having considered Agenda Item 18.1 Wigley Reserve Kiosk (Report No: 410/25) in confidence under section 90(2) and (3)(d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the attachment be retained in confidence for the duration of the proposed management term until 30 November 2030 and that the Chief Executive Officer is authorised to release the documents in the event the agreement is terminated prior to expiration, and that this order be reviewed every 12 months.
 4. That having considered Agenda Item 18.1 Wigley Reserve Kiosk (Report No: 410/25) in confidence under section 90(2) and (3)(d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the key commercial terms and valuation data contained within the report be redacted for the duration of the proposed management term of any of the subject sites referred to, and that this order be reviewed every 12 months.
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Background

At its meeting held on 14 October 2025 Council resolved to grant a new five-year lease with Unique Hospitality Group Pty Ltd over a portion of Wigley Reserve (C141025/9187). The resolution required a draft lease be presented to Council at a subsequent meeting seeking

authorisation prior to execution by either party. This report provides the draft lease for Council to review prior to execution.

Report

Lease Terms

The following table reflects terms discussed in the previous report, and those contained within the draft lease. The draft lease is provided as Attachment 1 of this report and is yet to be signed by the Lessee.

Refer Attachment 1

[illegible]

Leased Area

There has been a degree of uncertainty as to whether the quoted area of 120m² was accurate. By way of background, the lease plan provided as part of the previous motion noted a roof

structure totalling 57m². It is understood a high-level estimate was completed assuming this to equate to roughly half of the leased area.

Following the relocation of their kiosk to accommodate final Buffalo site remediation works, Council Administration has visited the site and measured out the proposed area. It has been determined that a total area of 134.8m² is required, comprising the following:

- **Kiosk Footprint** 2.5 x 4 metres (10m²)
- **Verandah Footprint** 5.2 x 16 metres (83.2m²)
- **Open Dining** 5.2 x 8 metres (41.6m²)

The lease plan provided as Annexure A has been updated, utilising an updated site plan of the reserve post Buffalo site remediation, as well as the altered leased space and shape. Following execution of the new lease a clearly defined boundary in accordance with the varied lease plan will need to be established.

It is proposed compliance with this be managed in a similar manner to that of outdoor dining permits along Jetty Road. This would see small discs installed on the ground marking the outer perimeter. Staff would be required to promptly relocate any tables and chairs customers place outside the leased area. Special Condition 6 provides Council with mechanisms to remedy an ongoing encroachment. This includes the provision to charge a \$200 fine for each occurrence, or additional rent.

Commencement Date

Given the time it has taken to finalise the draft lease in consultation with the tenant, the commencement date is recommended to commence from 1 December 2025, rather than the initial proposed date of 1 November 2025.

Minimal Trading Hours

Having considered the low average spends and high wages on public holidays, exclusion of these times from the minimum trading hours has been requested. This is considered a fair and reasonable request given the tight margins of profit food and hospitality businesses face. Furthermore, in South Australia, it is generally considered unlawful for a landlord to require a retail tenant to trade on public holidays given rostering is voluntary for employees and, by extension, for tenants. This request has been accommodated through Special Condition 2.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Budget

Revenue from this lease is factored into Council's 2025-26 Annual Business Plan.

[REDACTED]

Life Cycle Costs

There are no lifecycle costs associated with endorsing this lease. As it is a ground lease, the tenant is responsible for all operational and capital works associated with the premises.

Strategic Plan

Vision – creating a welcoming and healthy place for everyone

Council Policy

Commercial Leasing Policy
Community Land Management Plan, Regional Open Space

Statutory Provisions

Local Government Act 1999, section 202
Retail and Commercial Leases Act 1995

Written By: Property Manager

General Manager: Assets and Delivery, Ms C Hughes