

ADDENDUM**SY164-12/23 – EARLY TERMINATION – MANAGEMENT CONTRACT FOR YORK RECREATION & CONVENTION CENTRE AND FORREST OVAL PRECINCT****Additional Information**

Following the release of the December 2023 Council Agenda, a formal contractual response has been provided to Belgravia Leisure regarding the request for early termination of the Management Contract for the York Recreation & Convention Centre and Forrest Oval Precinct.

The contractual response confirms the requirement for Belgravia Leisure to support the transition to an alternative provider (Shire or otherwise) and to bear the costs of this transition. A formal letter stating the legal requirements was sent to Belgravia on the 12 December 2023. Belgravia has verbally acknowledged this requirement and is working with the Shire on a preliminary transition plan. Belgravia Leisure's request for early termination is presented at Appendix 2 of SY164-12/23, the Shire's written response to the request is attached to this addendum (Appendix 7).

As the agenda was distributed prior to the issuing of the contractual response there is a requirement to update the Recommendation to Council to ensure clarity of direction to Administration. The new Recommendation is as follows:

That, with regard to the Early Termination - Management Contract for York Recreation & Convention Centre and Forrest Oval Precinct, Council:

- 1. Notes the request for early termination from Belgravia Leisure as presented in Appendix 2.**
- 2. Acknowledges the formal response from the Chief Executive Officer outlining the contractual requirements of Belgravia Leisure's default against the contract as presented in this Addendum - Appendix 7.**
- 3. Directs the Chief Executive Officer to progress the Club Development Model as outlined within the body of the Council report (SY164-12/23).**
- 4. Directs the Chief Executive Officer to finalise a transition plan with Belgravia Leisure, acknowledging transitioning could take 3-6 months (March – June 2024).**
- 5. Directs the Chief Executive Officer to undertake consultation with clubs with an existing user licence within the Forrest Oval Precinct.**
- 6. Authorises the Chief Executive Officer to finalise the contract completion with Belgravia Leisure and undertake any necessary legal acceptance.**
- 7. Authorises the Chief Executive Officer to finalise the inventory of equipment at the point of handover.**
- 8. Directs the Chief Executive Officer to update Council on progress at the March 2024 Ordinary Meeting of Council.**

Your Ref:
Our Ref:
Contact: Alina Behan



12 December 2023

Mr Rohan Gunton
WA State Manager
Belgravia Health & Leisure Group Pty Ltd
20 Longstaff Road
BAYSWATER VIC 3153

1 Joaquina Street, York WA 6302
PO Box 22, York WA 6302
T: (08) 9641 0500
E: records@york.wa.gov.au
W: york.wa.gov.au

Dear Rohan

REQUEST FOR EARLY TERMINATION OF THE MANAGEMENT CONTRACT

I refer to your letter of 27 November 2023 requesting an early termination of the Management Contract between Belgravia and the Shire.

Under the Management Contract, Belgravia has a contractual obligation to perform the agreed Services for the entire Contract Term – being the Initial Contract Term, ending on 14 November 2026 ‘plus any period for which the operation of the Contract is extended under Item 3 of the Schedule’ (see clauses 3.1 and 3.2).

If Belgravia is unable or unwilling to comply with this obligation, this would enable the Shire to initiate the default proceedings under clause 27.2, including the issue of a Default Notice. If the default is not rectified, the Contract may be terminated, resulting in Belgravia being liable to –

‘pay to the Shire the amount of all costs, losses and expenses incurred by the Shire by reason of or arising from the termination including but not limited to all professional fees, Shire’s costs and costs of making alternative arrangements for provision of the services’ (clause 27.3(1)).

The need for the Shire to protect its interests by initiating the default proceedings under clause 27.2 may be avoided if Belgravia formally acknowledges and accepts that, as a result of the early termination of the Contract, as you have proposed, Belgravia would pay to the Shire its losses and expenses referred to in clause 27.3(1).

The Shire’s preference would be to avoid the commencement of default proceedings under clause 27 of the Contract, including the issue of a formal Default Notice and, instead, to proceed on the basis of Belgravia’s acknowledgment of the contractual position and then work with you to ensure a smooth transition.

I look forward to your early response.

Yours sincerely

A handwritten signature in black ink, appearing to read "Chris Linnell".

Chris Linnell
CHIEF EXECUTIVE OFFICER

