

**CITY OF MARION
GENERAL COUNCIL MEETING
24 MARCH 2015**

CONFIDENTIAL REPORT

Originating Officer: David Barrett, Unit Manager Cultural Facilities
Corporate Manager: Abby Dickson, Manager Libraries & Cultural Development
Director: Vincent Mifsud
Subject: Signatures Café
Reference No: GC240315R03
File No: 16.21.3.52

If the Council so determines, this matter may be considered in confidence under Section 90(2) and (3)(d) of the *Local Government Act 1999* on the grounds that the report contains information relating to commercial operations of a confidential nature the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.



Mark Searle
Chief Executive Officer

RECOMMENDATION:

1. That pursuant to Section 90(2) and (3)(d) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Mark Searle, Chief Executive Officer; Kathy Jarrett, Director; Vincent Mifsud, Director; Abby Dickson, Manager Libraries and Cultural Development; Kate McKenzie, Manager Governance; David Barrett, Unit Manager Cultural Facilities; Victoria Moritz, Governance Officer; Craig Clarke, Unit Manager Communications, be excluded from the meeting as the Council receives and considers information relating to Signatures Café, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to commercial operations of a confidential nature the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.

REPORT OBJECTIVES AND EXECUTIVE SUMMARY:

The purpose of this report is to provide options for Council's consideration regarding the future operations of Signatures Café within the Marion Cultural Centre (MCC). The operator informed administration on 11 February 2015 that he was unable to meet his rental and outgoings financial commitments. Administration has been working with the operator to establish the best options for the Café's operations that both support the operator and deliver community value.

RECOMMENDATIONS (3)**DUE DATES****That Council:**

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| 1. Approves a variation to the existing lease for Signatures Café that provides an interim rent free period back-dated to 16 February 2015 until 3 January 2016 | 24 March 2015 |
| 2. Requires Administration to report back to Council in September 2015 on the outcomes of the rent free period and recommendation for future rental return | September 2015 |
| 3. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, Signatures Café and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(d) of the Act be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2012 | 24 March 2015 |

BACKGROUND:

Signatures Café is an integral component of the MCC acting as a vibrant café and meeting place and providing catering services which complement the theatre, function rooms, library and gallery.

The Café was operated by Council from 2004 to 2013. Prior to 2004 the Café and other functions of the Centre were managed by a private operator. The decision to bring the management of the Café's operations in-house resulted from the lease being terminated due to the operator being unable to meet its financial commitments. The decision to bring the management of the Café in-house was made with a commitment to revisit the management model in the future (GC220604R03). At this time, it was acknowledged that the development of the Domain Precinct would significantly change the commercial environment in which the Café operates. The opening of the SAALC and GP Plus in 2011 provided Council with an opportunity to attract a private operator to manage the Café.

When entering into the current lease, which included an initial 12 month rent free period, Council took a long term view of attracting a quality operator to improve and stabilise the café making it a viable business. At the 26 March 2013 General Council meeting Council resolved to enter into a lease arrangement with Hoffwood Pty Ltd for a term of 5+5 years.

DISCUSSION:

Hoffwood Pty Ltd has significantly improved the operations of the café evidenced predominantly by the reduction in operating expenditure of approximately 24% (approximately \$119,578 p.a.). There has been a slight increase in turnover of approximately 1% (approximately \$1,643 p.a.). Further market development is required to achieve higher turnover.

Hoffwood Pty Ltd has been operating the lease since September 2013. Rent became payable as of September 2014 at the rate of \$550 + GST per week. The annual rent is payable by equal consecutive calendar monthly instalments always in advance.

Prior to the café being outsourced it operated at a \$160,000 per annum deficit to Council.

The existing lease provides for the following return to Council:

- An annual rent of \$28,600 + GST.
- A contribution to outgoings equal to 7.14% of the annual budgeted outgoings for the MCC paid in equal monthly instalments. The current monthly instalments are equal to \$2,138.25 + GST for this contribution.
- A commission of 1.5% on all catering income that Signatures Cafe receives as a direct result from venue hire at the MCC. This commission is invoiced on a quarterly basis in arrears of the income being received.

On 11 February 2015 Mr Hoffert met with the Unit Manager Cultural Facilities and advised that the café was struggling to return enough to pay the outstanding rent and contribution to outgoings. He indicated that the current income level was sufficient to cover the cost of goods and staff costs but insufficient to cover the additional rent and contribution to outgoings.

Aged receivables as at 28 February 2015:

Debtor	Total Balance	Current	30 Days	60 Days	90 Days	90+ Days
Outgoings	13,307.65	2,352.08	2,352.08	2,352.08	2,352.08	3,899.33
Rent	4,840.00	2,420.00	1,815.00	605.00	.00	.00
Total	18,147.65	4,772.08	4,167.08	2,957.08	2,352.08	3,899.33

- Rent is in arrears of \$4,840 inclusive of GST. This covers the period from Monday 19 January to Sunday 15 March 2015.
- The outgoings contribution outstanding equals \$13,307.65 inclusive of GST. This covers the period from 1 August 2014 to 28 February 2015.
- Commission on catering at the MCC is fully paid.

Hoffwood Pty Ltd has applied a range of strategies to improve the business viability including different marketing scenarios, changes to the menu, increased food options and reductions in overheads through staffing efficiencies. Mr Hoffert has advised that these strategies have delivered a minor increase in trade since the commencement of his operations however the increase is insufficient for the café to be financially viable on its own.

Mr Hoffert advised that he is still committed to making the Café a viable business and providing a service for the MCC and the community but to do so is requesting short term support from Council. If this is not possible, he has advised that he will honour all

commitments/expenses under the lease but will be forced to immediately place the Café on the market for transfer to another operator.

Mr Hoffert indicated he is committed to working collaboratively with Council in an open book environment to ensure Council has all the information it requires to make an informed decision.

Options available to Council

Option 1: Establish a rent free period back-dated to Monday 16 February 2015 until Sunday 4 October 2015

The rent free period would be back dated to the week following 11 February when Hoffwood Pty Ltd first notified Council they were unable to meet their rental commitments. The intent of a rent free period is to support Signatures Café to become a viable and financially sustainable business which in turn supports the vibrancy of the Cultural Centre.

The period equates to 33 weeks, including the waiving of the 1.5% commission on catering, this represents a combined loss of income of approximately \$18,500. This also results in a reduction in the current rental debt owed by Hoffwood Pty Ltd from \$4,840 to \$2,420. This still represents a favourable return to Council when compared to the previous cost incurred managing the café in-house.

Council will continue to receive revenue throughout the rent free period resulting from the Operator's contribution to outgoings. This equals approximately \$12,457.

Hoffwood Pty Ltd will be required to submit full financial reports at the conclusion of each month of the rent free period to enable ongoing financial monitoring of the café's performance.

The above changes will be confirmed via an exchange of letters which record the interim variation to the existing lease.

A progress report will come back to Council in September 2015 which reviews the performance of the café during the rent free period and considers future lease arrangements.

Option 2: Establish a rent free period back-dated to Monday 16 February 2015 until Sunday 3 January 2016

The rent free period would be back dated to the week following 11 February when Hoffwood Pty Ltd first notified Council they were unable to meet their rental commitments and would conclude on 3 January 2016.

The rent free period equates to 46 weeks, including the waiving of the 1.5% commission on catering, this represents a combined loss of income of approximately \$25,800. This also results in a reduction in the current rental debt owed by Hoffwood Pty Ltd from \$4,840 to \$2,420. This still represents a favourable return to Council when compared to the previous cost incurred managing the café in-house.

Council will continue to receive revenue throughout the rent free period resulting from the Operator's contribution to outgoings. This equals approximately \$18,499.

Hoffwood Pty Ltd would be required to submit full financial reports at the conclusion of each month to enable ongoing financial monitoring of the café's performance.

The above changes will be confirmed via an exchange of letters which detail the interim variation to the existing lease.

A progress report will be provided to Council in September 2015.

Administration will also work with the operator to improve awareness of the Café via joint marketing approaches, assist with improving the amenity of the plaza and explore other opportunities that may improve the café's visibility within the precinct. This can be achieved within current operating budgets.

Option 2 is recommended to Council as it provides a sufficient period of time for Council to fully assess to what extent the interim arrangement has had a positive impact on operations of the café in the short and long term.

Option 3: Retain existing lease provisions and seek repayment of outstanding debts

Mr Hoffert understands this may be an option Council chooses and has indicated if a rent free period is not possible then he will seek to on sell the business.

Option 3 is not recommended to Council for the following reasons:

- A new rent free period is a more favourable financial position to managing the Café in-house at an operating deficit of \$160,000 per annum
- The net position of the Café has improved since being managed by a private operator but is not yet returning a break-even position. The exit of the existing operator prior to achieving a break-even point will make the task of attracting a new operator extremely difficult.

Repayment of existing Debts

Hoffwood Pty Ltd has provided a guarantee that the outstanding debt will be fully repaid by 3 January 2016.

Repayments will be made on a monthly basis in the amount of \$1,747.52 inclusive of GST.

Social / Cultural Impact

Signatures Café is an important meeting place within the MCC for community members and adds value to the services Council provides via the Theatre, meeting rooms, Library and Gallery. The management of the Café by an external operator provides Council with an ongoing revenue stream, offsetting MCC operational costs and enhancing the public value achieved from the Centre.

CONCLUSION:

The intent of a rent free period is to support Signatures Café to become a viable and financially sustainable business which in turn supports the vibrancy of the MCC.

The approach recommended in this report for Council's consideration will further support Council's long term vision to achieve a sustainable business model for Signatures café which continues to deliver positive community outcomes.