

**CITY OF MARION
SPECIAL COUNCIL MEETING
10 OCTOBER 2017**

CONFIDENTIAL REPORT

Originating Officer: Tyson Brown, Unit Manager Cultural Facilities
Manager: Carol Hampton, Manager City Property
General Manager: Abby Dickson, General Manager City Development
Subject: Signatures Café Lease
Report Reference: GC101017F03

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.



**Adrian Skull
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: Adrian Skull, Chief Executive; Vincent Mifsud, General Manager Corporate Services; Abby Dickson, General Manager City Development; Kate McKenzie, Manager Corporate Governance; Alicia Clutterham, Acting Manager City Property, Carol Hampton, Acting Manager Innovation & Strategy; Tyson Brown, Unit Manager Cultural Services; Victoria Moritz, Governance Officer and Jamie Thwaites, Unit Manager Governance and Records be excluded from the meeting as the Council receives and considers information relating to Signatures Cafe, 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

This report provides an update on the negotiations for a new operator and to consider a once off rent subsidy to support the transition of the new lessee to commence operation of Signatures Café as of 28 October 2017.

EXECUTIVE SUMMARY

At the General Council meeting on 11 April 2017 (GC110417F01) it was agreed to commence an Expression of Interest (EOI) process to find a new lessee for the Signatures Café.

The EOI process was undertaken (19 May to 30 June 2017) with 17 enquiries, six onsite inspections and four expressions of interest received. The enquiries ranged from:

- Small “home style” family based businesses looking to establish their first retail café.
- Small catering groups looking at having a base to grow their catering while operating the café.
- Existing cafes looking at the economies of scale by having two or more cafes running in unison.
- Organised charity groups looking at using the café as a training operation for the groups under their care.

Four organisations submitted an EOI, which were assessed. During the process, three organisations withdrew.

The proposed lessee presented the most comprehensive business plan, a sound management model and financial modelling, which was assessed by Council’s finance team, noting that upon achievement of projected sales volumes they would be a viable and profitable business.

Rent of \$30,240 pa (previously \$28,600 pa) has been negotiated. The new lessee has now requested a rent-free period of two months to assist with setting up and building up the business.

It is proposed to offer one month rent-free and the second month 50% reduction, reverting to 100% in the third month. This would be at a loss of income to Council of \$3,780. The lessee would still be required to pay outgoings and commission on catering.

RECOMMENDATIONS

DUE DATES

That Council:

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| 1. Notes the details and progress of the lease negotiations with The Trustee for the Joshuas Trust Trading as Culinary Escapades Pty Ltd for a term of 5 years over portion of the land contained in Certificate of Title Volume 588 Folio 722, known as the ‘Café’, located at 287 Diagonal Road, Oaklands Park. | 10 October 2017 |
| 2. Authorises an initial rent-free period of one month and a 50% reduction in rent for the second month to support the new lessee to commence operation. | 10 October 2017 |

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| 3. Council pursuant to Section 37(b) of the Local Government Act 1999 authorises the Manager City Property to enter into and execute all documentation necessary to prepare and implement the above lease. | 10 October 2017 |
| 4. 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 2017. | December 2017 |

BACKGROUND

At the General Council meeting on 11 April 2017 (GC110417F01) Council considered a report on the management model for Signatures Café and resolved the following:

1. *Subject to the current operator agreeing to surrender the lease upon appointment of a new operator:*
 - a. *Endorses the engagement of a hospitality agent to undertake an Expression of Interest for an Operator for Signatures Café.*
 - b. *Resolves to allocate additional funds of up to \$6,500 to engage a hospitality agent to undertake the Expression of Interest in the 2016/17 third budget review process.*
 - c. *Approves the continuation of a rent free period and reduced outgoings charge of 3.15% up until a new Operator is appointed or 27 October 2017.*
 - d. *Notes that in the event a new Operator has not been appointed by 27 October 2017 a further report will be brought to Council to consider its position.*
2. *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 2017.*

An Expression of Interest (EOI) process was undertaken to attain a new lease-holder for Signatures Café. McGees Property was engaged to undertake this process, and commenced the EOI on Friday 19 May 2017 and concluded Friday 30 June 2017.

The EOI was advertised via:

- McGees property website which is linked to various real estate pages
- Coast City Messenger
- For lease sign on the MCC Diagonal Road frontage
- Email dissemination to various networks.

Four expressions of interest were received, however three applicants later withdrew their EOI due to:

- Necessity to commence a new operation immediately / additional opportunity being sought concurrently.
- Progressing a different operation more closely linked to their specialty of catering.
- Refocus on existing project.

McGees property recommended the remaining applicant as a suitable lessee with the following advice:

- The expression detailed all the relevant information requested, offered a business plan, CV, relevant certificates for experience and food safety certificate, work experience documentation and a SWOT analysis.
- Degree qualifications in Business Management (Bachelor degree- Catering and Hotel Management), has worked overseas in Singapore (Four Season hotel), in Queensland and country Victoria where he has run successful establishments.
- Financial report of his existing business as prepared by Mark Riddle of Illume Solutions. This shows a level of business experience and the support of ongoing financial advice by a professional.
- Produced a business plan for the Signatures Café offering, including details of his head chef, advisers, accountants detail and interior design groups he deals with. This shows a level of experience one would expect of a successful business.
- The business plan has also detailed his range of food on offer and the price point of each. He has shown a capability to research the target demographic and align his menu accordingly. To that effect, he has produced a SWOT analysis on the offering.
- This group has detailed a professional report and backed this up with the relevant information required to successfully run a café /restaurant such as Signatures. As such, this group represents the most qualified group to date and feel his “on trend” attitude to food service refreshing and offers good potential for Signatures Café.

An assessment of the applicant has included reference checking and a thorough analysis of financial information, which included analysis of the Business Development Director's (BDD) current business financial information and modeling of proposed Signatures Café business plan (comprehensively assessed by the finance team). The applicant has had several site inspections and discussions with the existing lease holder and a site meeting with a designer seeking ideas to increase the visual appeal. In addition, staff contacted referees for both the BDD and the head chef.

Details of the proposed lease are:

Lessee:	The Trustee for the Joshuas Trust Trading as Culinary Escapades Pty Ltd
Term:	5 Years (3 + 2 years)
Commencement Date:	28/10/2017
Expiry Date:	27/10/2022
Rental:	Based on market rent rate of \$210.00 per sqm x 144sqm the rental rate of \$30,240.00 p.a. plus GST payable in monthly instalments of \$2,520.00 plus GST and in advance.
Rent Review:	CPI Annually on the anniversary of the commencement of the Lease based on September increases in the Consumer Price Index, all Groups, Adelaide. Market Review 28 October 2022

Times of Use:	Maximum trading hours – Monday to Sunday 6.00am to 12 Midnight (excluding Public Holidays in South Australia)
Operating Expenses:	The lessee is responsible to pay 7.14% of all operating expenses (including cleaning)
Utilities:	The Lessee is responsible to pay 7.14% of all utilities associated with the premises
Catering Costs:	The lessee is responsible to pay 1.5% commission from internal Marion Cultural Centre catering that is coordinated by MCC staff.

Administration has been working closely with the applicant and are in the final stages of negotiation to enable the new lease to commence from 28 October 2017.

The proposed lessee has now requested consideration of a rent subsidy to support the implementation of some initial enhancements to the café, such as reconfiguring the counter area to improve the presentation and emphasis on the offerings and to promote the café.

ANALYSIS

The preferred lessee recognises the importance of increasing the profile of the café and to have a point of difference to the existing and competing cafes in Westfield Marion. The initial focus is to plan and promote an appealing menu with a variety of affordable options and invest in refreshing the cafe appearance, which is the intent of the rent subsidy.

The current lessee is working towards the 28 October 2017 deadline to transition out of the café. Should this timeline be extended, in line with the resolution made at the General Council meeting in April 2017 (GC110417F01), the current lessee will be required to commence paying full rent and outgoings. Should this occur, it is expected that the current lessee will cease operations. This will have a significant negative impact on services.

The current proposal is the only suitable applicant, and if a successful negotiation is not attained it would be necessary to undertake a further EOI process or explore alternative options of managing the cafe.

There is currently commitment from all parties to achieve the 28 October 2017 weekend deadline as this is the most suitable weekend due to the large number of events, functions and performances booked at the Marion Cultural Centre over the coming months. No down time is required.

The proposed lessee's long-term approach to develop and build up the café and to transform Signatures into a 'destination café' will benefit the venue and community. Initial immediate benefits of this approach would see the implementation of Signatures Café's operational hours expanding to six days with Saturday morning trading as well as increased hours each weekday.

Should the rent subsidy not be provided there may be a risk of the proposed lessee not taking up the lease and their approach to invest into improving the facility and operations may be delayed.

CONCLUSION

Negotiations are in the final stages with the new lessee who is planning to commence as from 28 October 2017. The new rental of \$30,240 pa (previously \$28,600 pa), has increased

the income return for Council and this one off subsidy will assist with setting up and building the business.

It is proposed to offer one month rent-free and the second month 50% reduction, reverting to 100% in the third month. This would be at a loss of income to Council of \$3,780. The lessee would still be required to pay outgoings and commission on catering.