

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

CONFIDENTIAL REPORT

Originating Officer: Tyson Brown, Unit Manager Cultural Facilities

Manager: Carol Hampton, Manager City Property

General Manager: Fiona Harvey, Acting General Manager City Development

Subject: Signatures Café Update

Report Reference: GC241017F02

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 Officer, Vincent Mifsud General Manager Corporate Services, Fiona Harvey Acting General Manager City Development, Tony Lines, General Manager City Services, Kate McKenzie Manager Governance, Carol Hampton Acting Manager Innovation and Strategy, Alicia Clutterham Acting Manager City Property, Tyson Brown Unit Manager Cultural Facilities, Victoria Moritz, Governance Officer, Jamie Thwaites, Unit Manager Governance and Records, Mervin Joshua, Sarah Davies and Natalie Oliver 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 a new name for Signatures Café, negotiations with the new operator and consideration for extending the rent subsidy for Hoffwood Pty Ltd due to the new operator now commencing on 17 November 2017.

EXECUTIVE SUMMARY

On 10 October 2017 (GC101017FO3), Council was provided an update on the negotiations for a new café operator and considered a once off rent subsidy to support the transition of the new lessee to commence operation of Signatures Café as of 28 October 2017.

As it was necessary for Council to consider the request for rent subsidy there was a slight delay with finalising the negotiations. As a consequence, the commencement date will now be 17 November 2017.

To enable a smooth and seamless transition, Hoffwood Pty Ltd have agreed to continue to operate the café until 16 November 2017. At the General Council meeting on 11 April 2017 (GC110417F01) Council considered ongoing rent subsidies for Hoffwood and it was endorsed:

1. *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.*

Consideration needs to be given to continue to provide rent free and reduced outgoings for the period 28 October to 16 November 2017.

Council also provided creative licence for the name of the café subject to Council approval (GC101017FO3), and this will be provided to Council for consideration.

RECOMMENDATIONS

DUE DATES

That Council:

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| 1. Approves the continuation of a rent free period for Hoffwood Pty Ltd and reduced outgoings charge of 3.15% until 16 November 2017. | 24 Oct 2017 |
| 2. Approves _____ as the new name for the Café. | 24 Oct 2017 |
| 3. Approves the concept design presented to Council for the Café to be installed. | 24 Oct 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. | 24 Oct 2017 |

BACKGROUND

On 10 October 2017 (GC101017FO3) Council was provided an update on the negotiations for a new café operator. At that meeting Council endorsed:

1. *Council 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.*
2. *Council 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.*
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.*
4. *The lessee be advised that Council is open to a creative licence regarding the name of the café subject to Council approval.*
5. *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.*

As it was necessary for Council to consider the request for rent subsidy it caused a slight delay with finalising the negotiations. As a consequence, the commencement date will now be 16 November 2017. This delay has implications on the subsidies for Hoffwood Pty Ltd, as at the General Council meeting on 11 April 2017 (GC110417F01) Council agreed to continue the subsidies until 27 October 2017. Hoffwood Pty Ltd has agreed to continue to provide the café service until the new operator commences to ensure a smooth transition, and therefore it is recommended that the subsidy continues.

At the Council meeting on 10 October 2017 (GC101017FO3), Council also endorsed the new operator to propose a new name for their consideration. Since the meeting, the operator has been working with a designer, as ideally they would like the new name and any collateral to be available when they commence. At the time of preparing this report, the design options were not available. It is anticipated that designs will be circulated prior to the Council meeting.

Further information was requested on Criminal History checks of the new lessee. McGees were contacted to confirm what checks had been undertaken, they advised their standard process includes (but not limited to):

- Reference checks (Business, Personal)
- I.D checks
- Company check (ACC no. , Registered business address)
- Contact details and living address
- Photo I.D proof (License number)
- Previous trading experience/ existing operations (Qualifications)

They have provided details on these checks. As no Criminal Check was undertaken, we have requested the operator to provide this. They have submitted an application and it is anticipated the check will be available by week ending 27 October 2017.

CONCLUSION

The letter of offer was signed by the new operator on 18 October 2017 and the lessee will commence on 17 November 2017. It is recommended that Council continues to subsidise Hoffwood Pty Ltd until the new operator commences.

The new operator is working with a designer to develop a new name and image for the cafe that compliments the venue.