

**CITY OF MARION
GENERAL COUNCIL MEETING
22 March 2005**

CONFIDENTIAL

**REPORT RELATING TO:
Delivery of the Community Vision**

Originating Officer: **Leeanne McEwan,
Manager Community & Cultural Services**

Director: **Peter Tsokas, Director Operations**

Subject: **Living Kaurna Cultural Centre**

Reference No: **GC220305F01**

File No: **9.85.1.2**

If the Council so determines, this matter may be considered in confidence under Section 90(2) and (3)(a) of the Local Government Act 1999 on the grounds that it relates to the personal affairs of a person (living or dead).

Mark Searle
Chief Executive Officer

1. That Pursuant to Section 90(2) and (3)(a) of the Local Government Act, 1999 the Council orders that all persons present, with the exception of the following Council officers [Mark Searle, Chief Executive; Peter Tsokas, Director Operations; Jeff Rittberger, Director Finance; Kiki Magro, Director Corporate Development, Kathy Jarrett, Manager Governance; Jaimie Thwaites, Governance Business Officer, Leeanne McEwan, Manager Community & Cultural Services] be excluded from the meeting as the Council considers that the requirement for the meeting to be conducted in a place open to the public has been outweighed in circumstances where the Council will receive and consider information pertaining to the personal affairs of a person (living or dead).

CORPORATE OBJECTIVES:

1.3 A community that embraces and celebrates its heritage and culture

BACKGROUND:

At its meeting of 25 January 2005, Council considered a report advising of concerns in relation to the Living Kurna Cultural Centre and resolved that:

- 1. The review of the Living Kurna Cultural Centre be completed and the outcomes of the review be reported to the February 2005 meeting of Council.*
- 2. The centre remain closed until Council has considered the review findings and an operational plan is implemented.*
- 3. The Mayor writes to the Chair of KACHA seeking joint agreement to suspend the Memorandum of Understanding until the future directions of the LKCC can be determined.*
- 4. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, the minutes arising from this report be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting on the basis that it deals with information the disclosure of which will involve the unreasonable disclosure of information relating to the personal affairs of any person (living or dead). This confidentiality order will be reviewed at the General Council Meeting in December 2005.*

The Living Kurna Cultural Centre has remained closed and, where possible, arrangements have been made to fulfil or otherwise assist those organisations which had made bookings, or had expectations of booking the LKCC.

Information gathered from subsequent investigations and review has enabled the identification of dysfunctional practices and required changes and improvements in the governance, administration and operational areas of the LKCC.

A letter has been sent from the Mayor to the Chair of KACHA, requesting a joint agreement to suspend the Memorandum of Understanding between the City of Marion and KACHA. The Chair of KACHA has responded and agreed to the suspension.

REPORT OBJECTIVE:

The purpose of this report is to provide Council with information gained from investigations and a review of the operation of the Living Kurna Cultural Centre and to provide recommendations for future operation. The report is structured around the key areas of Governance and Operations.

IMPLEMENTATION:

The review of the Living Kurna Cultural Centre has involved a number of investigations, including:

- a review of administrative procedures, undertaken by Deloitte
- an internal review of documentation, including invoices, faxes, memos, letters and minutes of meetings
- utilisation of a risk assessment tool
- discussion with members of the Kurna community

The focus of the review has been to determine how the City of Marion can ensure that the right factors are in place to ensure the success of the Living Kurna Cultural Centre.

Influencing the instigation of the review have been reports and allegations in relation to governance and administrative dysfunction, a low level of income to the Centre, complaints by members of the public and members of the Kurna community and anecdotal evidence of misconduct.

The driving reason for the decision to close the LKCC and to finalise the review was the resignation of the Coordinator of the Living Kurna Cultural Centre and concerns about the Occupational Health and Safety for any current or future staff associated with the LKCC.

Governance

History

The Interim Committee was set up following a workshop held on 7th June 2002 between the City of Marion and KACHA. The Minutes of the first meeting of the Living Kurna Cultural Centre Steering Committee, held on the 12th July 2002 record that the committee was set up for six months to establish the Living Kurna Cultural Centre in a way that is true to both cultures.

At the second meeting of the Steering Committee on 29th July 2002, it was noted that the Marion Council was "...to be asked to be responsible for the employment of the Manager for the first six months, until the Board is properly constituted and all financial and legal requirements have been met and all formalities established."

There was always a clear intent by both the City of Marion and KACHA that the two parties would work together to enable the responsibility for the running of the LKCC to be transferred to Kurna people. It has always been acknowledged that issues of cultural difference and knowledge and skill levels would need to be addressed in the process.

Whilst it is clear that a six month period was the expected timeframe to set up a governing Board for the LKCC, some two and a half years have elapsed without it being achieved.

Current

At the meeting of the Interim LKCC Committee on 4th January 2005, with the resignation of Lynette Crocker, only three committee members remained, namely Georgina Williams (Chair), Joan Lamont and Paul Dixon.

The intended Board has not been established or constituted and as the necessary financial and legal requirements have not been put in place, the City of Marion still retains responsibility for the Living Kurna Cultural Centre.

Minutes of the Interim Committee Meeting record numerous attempts by the Council's representatives to progress the development of LKCC governance and business operations. Meetings have been characterised by inattention to an agenda or meeting procedure, lack of focus on decision making and frequent loud and aggressive outbursts by the Chair. Agenda items adopted at one meeting have been often refuted or denied at subsequent meetings.

The joint agreement to suspend the Memorandum of Understanding with KACHA has enabled the City of Marion to 'separate' itself from dealing with the remaining three members of the Interim Committee. A meeting was held with the three members on 8th February 2005, at which the Administration advised that the City of Marion wished to enable the success of the LKCC and, to that end, was pursuing all options to ensure it dealt with people who could bring a range of skills and expertise to the table, as well as represent the wider Kurna community.

Administration have met with the Chair of the Kurna Heritage Board (Ms Lynette Crocker), and the Chair of KACHA (Mr Joe Williams), who have both endorsed the City of Marion actions to date. Both Chairs have concerns that the composition of the Interim Committee is not representative of the Kurna community and its aspirations for the Centre and Kurna culture.

Council, along with the Cities of Holdfast Bay, Onkaparinga, and Yankalilla is working toward the development of the Tappa Iri Reconciliation Agreement. The agreement provides a context for the development of Warriparinga and the LKCC due to their significance and location in the Tjilbruke dreaming story.

Joint discussions have resulted in an articulated preference for the City of Marion to set up a new (advisory) Board with appropriate representation and expertise, retain responsibility for the operation and administration of the LKCC and that at a future time, once established, discussions be held about transferring of responsibility to Kurna.

It is therefore recommended that the Council resolves to:

1. formally advise KACHA and the three remaining members of the Interim Committee that it no longer recognises the remaining membership as the appropriate body to deal with in terms of the LKCC. Members to be thanked for their contribution to date.
2. develop the LKCC in the context of the Regional Reconciliation framework and develop a working relationship with the office of the Kurna Heritage Board
3. set up a new Board for the LKCC (ensuring that appropriate Governance training is provided and practices are in place)
4. employ appropriate staff and establish and maintain appropriate administrative practices at the LKCC

Operation and Administration

Throughout 2004, in particular the latter part of the year, it became apparent that things were not working well from an administrative point of view at the LKCC . Issues were emerging in the form of :

- customer complaints about bookings and service
- income to the centre was not increasing
- tour guides were being paid but there was sometimes no corresponding income to offset the payment
- an inadequate fee structure i.e. to reflect community vs commercial hire
- reports were not being provided or not provided in a timely manner
- questions were being raised about a staff member being paid by the City of Marion whilst also receiving payment for private work
- issues of alleged harassment by the Chair of the Interim Committee

In November 2004 Deloitte's were engaged to conduct a review of administrative practices at the LKCC and the results of this review were received on the 12th January 2005.

It should be noted that at the time of the Deloitte's review, there were two staff at the LKCC; the Coordinator and the Community Development Officer. A part-time Administrative Assistant had not been replaced after leaving mid-year:

Bookings

Summary of comment from Deloitte:

"The data recorded in the bookings diary after the previous LKCC Administration Officer left was of poor quality and lacked sufficient detail to determine actual use of the centre and the services provided or if in fact that the booking was completed.

There did not appear to be a formal approval process for charging of hire fees for the LKCC. This resulted in inconsistent application of the fee schedule, eg the standard fee of \$165 was charged just for centre hire on some occasions and others where the booking included a \$100 fee for guided tours."

In relation to invoicing..."The CDO currently completes a spreadsheet of completed bookings that is forwarded to the Administration Assistant in the Community and Cultural Services department for completion of the Request for Invoice. The spreadsheet we examined had not been forwarded for a period of 5 weeks.

The spreadsheet provided to the Administration Assistant is not reconciled to the booking diary and there was no identified check to verify that invoices were sent for all bookings completed and that all individual services provided were in fact invoiced."

Deloitte recommended the introduction of a formal booking process to record all details of booking enquiries, the services to be provided and expenses to be paid. The recommendation included ensuring that the booking process included pre-numbered booking forms and a cross-referencing system. Regular monthly reporting on enquiries, bookings and finances was also recommended.

The recommendation also included a revised system for invoicing to ensure the integration of booking and invoicing systems and that bookings and invoices are checked regularly by the LKCC Coordinator. In addition debtor control procedures need to be established as well as monthly reconciliation of bookings to invoices.

It is recommended that:

- 1. Appropriate booking and invoicing systems be implemented to ensure a high standard of customer service and financial accountability and sustainability.*
- 2. A skilled Administrative Officer be recruited and trained to ensure required procedures are implemented and maintained.*

Tours and Tour Guides

There have been a number of issues relating to tours and tour guides at the Centre.

These include:

- complaints by people who had not received the service they expected
- people or groups who had arrived at the Centre to find no one there
- feedback that the content of the tour was inappropriate
- instances where tour guides were paid by the Centre but the Centre had not received income from a booking.

Deloitte reviewed this aspect of the operation. The Deloitte comments relate mainly to internal administrative procedures, but do also highlight that tours were being conducted with payment going to guides, but no income to the Centre. Administration has a significant number of letters of complaint about the quality, timeliness and content of tours conducted by tour guides at the LKCC.

In most instances, tour guides used at the LKCC have also been members of the Interim Committee. As the Interim Committee was also responsible for setting of fees and payment it is considered an undesirable practice with conflict of interest implications. Interim Committee members have argued however, that they are the appropriate people, culturally, to undertake the tours.

It is recommended that:

- 1. guidelines and standards for tour guides be established and administered*
- 2. that a brochure outlining the content of tours be produced, so that people booking a tour have a clear understanding of the service they will receive and that this is confirmed in their booking.*
- 3. only trained guides are used and/or training for tour guides is a requirement*
- 4. selection and retention of tour guides is the responsibility of the LKCC Coordinator and will be based upon assessed skill and performance of tour guides.*
- 5. where a third party uses the LKCC to generate income for services performed, a commission or fee will be charged to the third party for use of the centre.*
- 6. that issues regarding the employment of any LKCC Board or Committee member be addressed as part of the establishment of new governance provisions.*

Fees and Charges

The issue of Fees and Charges has been difficult in terms of being able to set fees which are realistic and are applied consistently. Minutes of a number of meetings of the Interim Committee reflect the number of times the issue of Fees and Charges was discussed and resolution attempted.

There has been a general reluctance by the Interim Committee members to set realistic fee levels . Discussions about the setting of fees has invariably led to conflict about what Kaurna people would be paid for delivering welcomes and conducting tours. The result was a focus on payment for tour guides and for ‘cultural services’ rather than on ensuring that there was a balance, enabling realistic income for the Centre.

Considerable conflict also centred around the insistence by the Chair of the Interim Committee, that she give a paid Kaurna welcome for every function that was booked at the Centre. This resulted in the Centre losing a significant number of bookings as people found a forced ‘welcome’, unwelcome, particularly if they intended to hold repeat meetings at the Centre.

The Deloittes review revealed that:

“The fee structure is weighted in favour of the tour guides and not for centre hire – eg \$165 (incl. GST) total typical tour fee consists of centre hire of \$65 to the City and \$100 to selected guides and performers. Consequently very little of the income received goes to the City/LKCC for use by the wider Kaurna community”

It is recommended that:

- 1. New fee structures be implemented and adopted by Council, with a focus on ensuring appropriate fees for use of the LKCC and its services*
- 2. Appropriate levels of payment are made for services provided to the LKCC*
- 3. That appropriate levels of return to the LKCC are achieved in the fees and payments*

Use of staff time

The Deloitte review identified discrepancies in the timesheets submitted by the Cultural Development Officer. Specifically, there is evidence that the Cultural Development Officer was engaged in his private business and performing for private payment at times he was also being paid his salary.

There is evidence of at least three occasions where the Cultural Development Officer was being privately paid to perform at events and also submitted timesheets showing that he was present at work and therefore entitled to be paid. On at least one of the occasions he was performing privately and was absent from the LKCC, a group arrived at the LKCC expecting a tour that had been booked with the Cultural Development Officer.

These instances were suspected by the Coordinator and met with hostility by the Cultural Development Officer and the Chair of the Interim Committee when raised as an issue of concern. Confirmed evidence of the instances were not obtained until early in January 2005

The twelve month contract of the Cultural Development Officer ended on 11th January 2005 and he is no longer employed with the LKCC or City of Marion.

It is recommended that:

- 1. No further action be taken in relation to the former Cultural Development Officer*
- 2. That staff employed by the City of Marion at the LKCC be made aware of, and comply with, Council's policies regarding their employment.*

Risk and Security

The Deloitte review identified significant risk to the City of Marion on some aspects of the operation of the LKCC.

Standard City of Marion Hirer Agreements, which are used at Cooina and the Neighbourhood Centres, were not being utilised for users of the LKCC. This could potentially leave the City at risk of insurance claims for damage or injury.

There was some evidence of unauthorised use of the centre after hours, indicating that some people may have been given keys or provided with passwords without authorisation.

Deloitte recommended that hirer agreements be implemented and that an appropriate system of key and security passwords be implemented. Both recommendations have already been implemented with an approved hirer agreement developed in February 2005 and the locks and security password system changed at the LKCC in January 2005.

Behavioural Impacts

In May 2003 the former Coordinator of the LKCC raised issues at a meeting of the Interim LKCC Committee about harassment and interference by Georgina Williams. The Coordinator ultimately resigned due to stress related to these issues. Documentation has been retained relating to these events.

A partial Risk Assessment was subsequently conducted by the Manager of Community and Cultural Services and this identified a number of risks associated with Ms Williams behaviour. Following the identification of the issues, and as a consequence of this risk assessment, a new

Safe Work Procedure for the LKCC was developed and both fixed and personal duress alarms were installed and staff were trained in their use.

In November 2003, recruitment was conducted for the new Coordinator of the LKCC. The recruitment panel comprised senior staff from the City of Marion and three members of the Interim LKCC Committee. The panel agreed on the Position Description and developed and agreed on the interview questions and it was felt that the successful applicant had the capacity to fulfil the role and manage the cultural and behavioural issues.

Throughout 2004, considerable support was provided to the Coordinator in terms of dealing with cultural and behaviour issues relating the Chair of the Interim Committee. Safe Work Procedures were reinforced, regular de-briefing was provided and the Chair was asked not to interfere with the Coordinator's responsibilities.

The Coordinator specifically requested that the City of Marion not take any stronger steps to deal with the issues as it would have negative cultural impacts for her. This request was respected, though vigilance was maintained in respect of the Coordinator's Occupational Health and Safety.

On 14th December 2004 the Coordinator gave verbal advice that she was resigning.

On 16th December 2004 Violence in the Workplace Risk Assessment tool was used to assess the level of risk to the LKCC Coordinator.

The Risk Assessment has identified a number of areas in which further control measures need to be implemented and can easily be addressed. In the category of Occupational Violence the risk factors are very high and relate specifically to behaviours by the Chair of the Interim LKCC Committee. It should be noted that Occupational Violence does not necessarily refer to physical violence but includes verbal threat, abuse and harassment.

Verbal and written complaints about the aggressive behaviour of the Interim Chair have also been received from users of the LKCC. This has included members of the Kaurna community being treated disrespectfully and asked to leave.

The Memorandum of Understanding between the City of Marion and KACHA recognises Georgina Williams as a Cultural Advisor to the City of Marion. Through repeated verbal, often aggressive exchanges, it has become evident that this wording in the MOU has come to be interpreted by Ms Williams that she is the chief or sole source of Kaurna cultural advice and that it accords her particular status and expectations of respect from others.

The suspension of the MOU in effect removes Ms Williams Cultural Advisor status and does not afford her any expectations or status beyond that of any other citizen.

With the disbanding of the Interim Committee, the assumed status and power of the role of the Chair is diminished and does not give Ms Williams any legitimate reason to attempt to control or direct any member of staff or the public at the LKCC or the Administration building.

It is recommended that:

- 1. The current Interim Committee is disbanded, and the MOU with KACHA is not reinstated, therefore eliminating any implicit or perceived power by the person to intervene in LKCC business*
- 2. Appropriate control measures be implemented to ensure that future staff have training in dealing with harassment and have access to security alarms.*
- 3. Behavioural and relationship expectations are discussed with the perpetrator of the harassment and that an agreement is made about expectations in terms of appropriate behaviour from her in relation to staff and users of the LKCC.*
- 4. Should the unacceptable behaviours persist, to ensure the safety of staff and others, that further avenues, including the possibility of a restraining order be implemented*

Grant funding

In the process of reviewing administrative and operational documentation, some issues were identified in relation to the administration and management of grant funding received by ATSSIS and now administered by various government departments.

It became evident that systems and controls need to be put in place to ensure that grant funding is expended in the manner intended and that financial and performance reporting requirements are carried out within required timelines.

Actions and activities for grant funding received for the 2003/2004 financial years were not implemented until half way through the financial year. A Cultural Development Officer was appointed, on a twelve-month contract commencing January 2004, in the belief that the grant funding would be carried over to the 2004/2005 financial years.

It was not known until February 2005 that while the 2003/2004 grant had been carried over internally by the City of Marion, the funding body had not carried over the funding and it had in fact ceased at 30 June 2004. This effectively meant that the City of Marion had been paying for the Cultural Development Officer salary and cultural development equipment and program costs from 1st July 2004 to 11th January 2005.

Administration staff have now met with an officer from the funding body and have been able to discuss and negotiate a favourable outcome. This is the subject of another report to Council for 22nd March 2005.

Resources

For the LKCC to operate effectively it will require appropriate resourcing.

In terms of staffing, it is considered that the LKCC requires, at a minimum, a Manager/Coordinator, an Administrative Assistant and a Cultural Development Officer.

Current funding allows for the employment of a Coordinator and for operating costs. An Administrative Assistant can be employed using grant funding for the remainder of the 04/05 financial year, however as ongoing external funding is only for twelve month periods and is dependent on successful grant applications, would be better funded internally, to ensure consistency of employment and function.

It is recommended that:

- 1. Recruitment for a new LKCC Coordinator commences as soon as possible.*
- 2. Recruitment for an Administrative Assistant commences as soon as possible, utilising external funding for 2004/2005 and internal funding for 2005/2006.*
- 3. Recruitment for a Cultural Development Officer to be conducted only on receipt of external funding.*

Café and Gallery

While to date the café and gallery components of the LKCC have not been developed it is proposed that Expressions of Interest be sought for the operation of the café as a separate business enterprise.

The development of the gallery and reception area will be the responsibility of the LKCC Coordinator.

BUDGET IMPLICATIONS:

Expectations in terms of levels of income to the LKCC for bookings and tours have not been realised due to the issues identified in this report. Appendix 1 shows the 2004/2005 budget and income and expenditure to 16/3/05. Forecast figures for 2005/2006 are provided, showing increased income, inclusion of an Administrative Assistant position at Level 2 and reduced operating costs.

Income from Grant Funding has been significant, though as identified in the report, requires improved levels of management to ensure appropriate administration and effective outcomes.

Due to the resignation of the Coordinator from 7th January 2005, there are savings in salary costs and due to the closure of the LKCC from that date, there are savings in running and program costs.

To honour some bookings at the LKCC costs have been incurred for security staff to open and close the building and be present while events are in place. Where full cost recovery for these events has not been possible, partial cost recovery has been achieved.

ENVIRONMENT:

Nil.

CONCLUSION:

The Living Kurna Cultural Centre began as a fine example of partnership and a tangible way to demonstrate and work in the spirit of Reconciliation.

Whilst initial plans, and the work to date, has largely been done with the best of intentions and many attempts have been made to progress the development of the Centre it is clear that these efforts have not worked effectively.

The identification of dysfunctional factors in the areas of governance and administration have highlighted a range of areas in which improvement can be made. Whilst there is inevitably some difficulty and regret around the changes that will need to be made, there is a much greater understanding of what needs to be done to ensure the success of the Centre.

Kurna people are articulating their desire for the LKCC to be a successful and a welcoming place for all people and not to be the domain of a small group. Ensuring that, in the longer term, the LKCC is available to the broader community and is operating efficiently and effectively can be a source of pride for the Marion Council and community.

RECOMMENDATION:

That:-

- 1. The report on the review of the Living Kurna Cultural Centre be received and noted**
- 2. The identified opportunities for improving the service be implemented**
- 3. Council formally advise KACHA and the three remaining members of the Interim Committee that it no longer recognises the remaining membership as the appropriate body to deal with in terms of the LKCC. Members to be thanked for their contribution to date.**
- 4. Council develops the LKCC in the context of the Regional Reconciliation framework and develop a working relationship with the office of the Kurna Heritage Board**
- 5. Council sets up a new Board for the LKCC (ensuring that appropriate Governance training is provided and practices are in place)**
- 6. Council employs appropriate staff and establish and maintain appropriate administrative practices at the LKCC.**
- 7. Appropriate booking and invoicing systems be implemented to ensure a high standard of customer service and financial accountability and sustainability.**
- 8. A skilled Administrative Officer be recruited and trained to ensure required procedures are implemented and maintained.**
- 9. Guidelines and standards for tour guides be established and administered**

- 10. That a brochure outlining the content of tours be produced, so that people booking a tour have a clear understanding of the service they will receive and that this is confirmed in their booking.**
- 11. Only trained guides are used and/or training for tour guides is a requirement**
- 12. Selection and retention of tour guides is the responsibility of the LKCC Coordinator and will be based upon assessed skill and performance of tour guides.**
- 13. Where a third party uses the LKCC to generate income for services performed, a commission or fee will be charged to the third party for use of the centre.**
- 14. That issues regarding the employment of any LKCC Board or Committee member be addressed as part of the establishment of new governance provisions.**
- 15. New fee structures be implemented and adopted by Council, with a focus on ensuring appropriate fees for use of the LKCC and its services**
- 16. Appropriate levels of payment are made for services provided to the LKCC**
- 17. That appropriate levels of return to the LKCC are achieved in the fees and payments**
- 18. No further action be taken in relation to the former Cultural Development Officer**
- 19. That staff employed by the City of Marion at the LKCC be made aware of, and comply with, Council's policies regarding their employment**
- 20. The current Interim Committee is disbanded, and the MOU with KACHA is not reinstated, therefore eliminating any implicit or perceived power by the person to intervene in LKCC business**
- 21. Appropriate control measures be implemented to ensure that future staff have training in dealing with harassment and have access to security alarms.**
- 22. Behavioural and relationship expectations are discussed with the perpetrator of the harassment and that an agreement is made about expectations in terms of appropriate behaviour from her in relation to staff and users of the LKCC.**
- 23. Should the unacceptable behaviours persist, to ensure the safety of staff and others, that further avenues, including the possibility of a restraining order be implemented**
- 24. Recruitment for a new LKCC Coordinator commences as soon as possible.**
- 25. Recruitment for an Administrative Assistant commences as soon as possible, utilising external funding for 2004/2005 and internal funding for 2005/2006.**
- 26. Recruitment for a Cultural Development Officer to be conducted only on receipt of external funding.**

27. **In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, the minutes arising from this report be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting on the basis that it deals with information the disclosure of which will involve the unreasonable disclosure of information relating to the personal affairs of any person (living or dead). This confidentiality order will be reviewed at the General Council Meeting in December 2005**

Appendix 1

	Budget 04/05	As at 16/3/05	Forecast 05/06
Salary – Includes Super, LSL etc	62,822	31,936	107,000
Operating	54,445	22,900	44,000
Total Exp	117,267	54,836	151,000
Less Income	17,000	9,892	20,000
TOTAL	100,267	44,944	131,000