

**CITY OF MARION
GENERAL COUNCIL MEETING
11 December 2012**

**REPORT RELATING TO:
A leader in the delivery of the Community Vision**

Originating Officer: Abby Dickson, Manager Libraries and Cultural Development

Director: Vincent Mifsud, Director

Subject: Commercial Arrangements

Ref No: GC111212F01

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 it relates to commercial information of a confidential nature the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage to a third party.



Mark Searle
Chief Executive Officer

1. 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 Mark Searle, Chief Executive Officer, Kathy Jarrett, Director, Vincent Mifsud, Director, Heather Montgomerie, Director, Abby Dickson, Manager Library and Cultural Development, Kate McKenzie, Manager Governance, Victoria Moritz, Governance Officer, Craig Clarke, Unit Manager Communications, Marg Edgecombe, Unit Manager Arts & Cultural Development, David Barrett, Marion Cultural Centre Coordinator be excluded from the meeting as the Council receives and considers a report in relation to proposed Commercial Arrangements 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 the receipt / discussion / consideration of the matter confidential as disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage to a third party.

STRATEGIC OBJECTIVES:

CV3.1 Develop unique and vibrant public places that express local identity and meet local needs

CV3.2 Provide and support opportunities to celebrate and express community identity

DE1 A supportive business environment

DE2 A strong adaptable and diversified economy

CWSP1 further develop the Marion Regional centre as a Focal Point of Southern Adelaide

REPORT OBJECTIVE AND EXECUTIVE SUMMARY:

This report provides Council with a summary of the tender processes undertaken to lease Signatures Café to a private operator, which to date has not resulted in an operator being appointed. The report includes advice received from Savills Property Management on the state of the café property market and confirms that the length of time it is taking to appoint an operator is not dissimilar to other businesses on the market. The advice received from Savills in a written letter to Council recommends that Council continue to seek to lease the café, stating '*Signatures in our view will eventually strike a deal with the right operator and persistence will pay off*'. The report recommends a revised marketing strategy for Council's consideration which seeks Council's endorsement of the continued work towards the leasing of Signatures Café by offering a rent free period and co-subsidy incentives to deliver a sustainable café management model and an improved financial return to Council.

RECOMMENDATIONS (4)**DUE DATES****That Council endorse:**

- | | |
|---|------------------|
| 1. Continued work towards the management of Signatures Café being outsourced to a private operator. | 11 December 2012 |
| 2. the proposed method of outsourcing Signatures Café to a private operator being an Expression of Interest followed by a closed tender | 11 December 2012 |
| 3. the approach of applying a business attractor and establishment strategy which involves negotiating a short term rent free period and the potential for minimal subsidy based incentives to an approved operator | 11 December 2012 |
| 4. That a report be brought back to Council at the conclusion of the tender process for consideration of the recommended operator and final terms and conditions of the lease | March 2013 |
| 5. 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 and any other information distributed at the meeting having been considered in confidence under Section 90(2) and (3)(d) and (k) 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 2013. | 11 December 2012 |

DISCUSSION

Background

Signatures Café is an integral component of the Marion Cultural Centre (MCC) acting as a vibrant café and meeting place and providing catering services which complement the theatre, function rooms, library and gallery. It provides a central anchor point for the multiple services and activities which occur within the Centre. The recent Design by Competition process for the plaza redevelopment which involved extensive community engagement confirmed that the provision of a dining experience is a critical component to successfully activating the space.

At the 23 August 2011 General Council Meeting, Council resolved to undertake an EOI to tender the operations of Signatures Café to a private operator. The decision to lease to a private operator has been supported by two independent reviews of the café conducted by both Savills Property Management (2011) and Utopia Consulting (2010).

Council since September 2011 has been seeking to secure an operator for the café. This has involved going out to Tender on two occasions. An EOI was first undertaken for a period of 4 weeks commencing on 29 September 2011 and closing on the 15 November 2011. Council considered a report and resolved to enter into a lease with the recommended operator at the General Council Meeting on 24 January 2012. On 28 February 2012 the incoming operator terminated lease negotiations. Council undertook a second EOI which closed 10 May 2012 but did not appoint an operator and requested that the EOI be extended to consider other operators who had registered interest post the second EOI closing.

Over the period September 2012 to October 2012 other applications were considered and involved meeting with operators, providing a tour of the premise and further information on the café operations. This resulted in only one Operator submitting a full application who was assessed as not being suitable to recommend to Council.

This report provides an evaluation of the past 12 months undertakings to secure a café operator and recommends future strategies for Council's consideration.

Discussion:

The EOI process for the past 12 months has been managed by Savills Property Management.

As part of the EOI process operators were required to supply the following information as part of their proposal:

- Rental Offer
- Consideration of purchase of plant and equipment
- Lease term proposal
- Rental increases
- Deposit
- Settlement
- Relevant experience
- Achievement in customer service
- Marketing and business management strategies
- Service brand and the type of menu they would bring to the café

Given the length of time Council has been seeking to lease the café, advice has been sought from Savills regarding Council's approach to securing an operator; the state of the market

and what options are available to Council to attract a stronger field of applicants. Savills provided written advice which is attached as Appendix 1 to this report.

In summary the advice received from Savills Property Management is that:

- The sale of leasehold cafes and restaurants is one of the most difficult and challenging to achieve results in. At present the banking community has a preference to not invest in this sector. This means that buyers must rely on their own resources or raise capital on security against a home or other property assets;
- Signatures Cafe is not alone in terms of time on the market. The attached letter provides examples of well established businesses which have been on the market for a similar period;
- Signatures Café does present some challenges in attracting operators with its current operating deficit and Council's requirements for a more detailed application process as part of the EOI; and
- Signatures Café will eventually strike a deal with the right operator and persistence will pay off.

Responding to current market conditions and the financial cost to Council

The café currently operates at an annual deficit of \$151,000 and the leasing of the café will remove this cost from Council while still retaining a café, which is a key component of the Cultural Centre.

The challenge for Council is how to secure an operator within the current economic environment and with the café currently operating at a deficit.

It is recommended that Council incorporate the following business attraction and establishment strategy to address the length of time it is taking for Council to successfully secure an operator:

- Incorporate a rent free period of up to 24 months; and
- Indicate Council is open to negotiate extra co-subsidies for approved parties within the terms and conditions of the lease which supports the incoming operator in the short term to successfully establish the business.

Any negotiated subsidies Council provides to support the establishment of the business would be paid on receipt of fully audited historical financial accounts.

Review and trigger points will also be incorporated into the terms and conditions of the lease and once the business is fully established Council would require the payment of rent and would cease the payment of any subsidies. Any business establishment support and/or rent free periods would be limited to no more than 24 months.

The following strategies will also be adopted to attract a stronger field of applicants:

- Highlight the current turn over within the Information Memorandum which demonstrates the café is a viable business opportunity when operated under the appropriate management model
- Include information on Council plans to redevelop the Marion Cultural Centre Plaza within the Information Memorandum
- Ensure the EOI process balances Council's requirements for a detailed application process without presenting a barrier to interested parties, which would include being

open to negotiations regarding opening hours and not being too prescriptive regarding menu options

- Be proactive in inviting potential operators to register their interest

Time Frames

The EOI and closed tender will open in late January and will be open for a period of 4 weeks. A report will be brought back to Council in March 2013 with the outcomes of the EOI.

Legal / Legislative and Risk Management:

Legal advice has been sought in devising the terms of the lease agreement which includes advice on incorporating a rent free period and the provision of co-subsidies. The lease for Signatures Café meets all legislative requirements, and mitigates and/or transfers any risks to ensure business continuity.

Savills Property Management will develop a sale of business contract and legal advice will be sought in formulating this final document.

Financial Implications:

The café currently operates at an annual deficit of \$151,000. The leasing of the café to a private operator will remove this financial cost to Council.

By providing the incoming operator with a short term establishment subsidy, Council will continue to incur some costs for operating the café, however it will be at a significantly lower amount than the current \$151,000. The cost to Council in supporting a business to establish itself will form part of the tender negotiations and the final negotiated terms and conditions will be brought back to Council for their consideration and approval.

The objective is for an operator to be managing the café independently and paying rent at the conclusion of the rent free period. On average, food and beverage operations can afford to pay 5%-7% of turnover as net rental and remain profitable. Based on the current café sales information an annual rental return of approximately \$30,000 will be delivered to Council through a lease arrangement post the rent free period.

Extending the period of EOI with Savills Property Management results in no further costs being incurred by Council as the contract with Savills is based on a flat fee payment on the sale of the business. There will be some additional advertising costs of approximately \$2000 which will be absorbed within the existing MCC operational budget.

CONCLUSION:

Signatures café provides a central anchor point for the multiple services and activities which occur within the Centre. The provision of a dining experience is an integral component of activating the internal and external spaces within the MCC. The outsourcing of Signatures Café to a commercial operator is a financially sustainable model for the delivery of café services from a Council owned facility.

The provision of real incentives in terms of a rent free period recognises the current state of the market and offers an appropriate response which aims to achieve Council's objectives of outsourcing the café to achieve improved financial returns and eliminate the need for Council staff unfamiliar with hospitality practices to manage food and beverage operations

The appointment of a private operator will support Council to achieve a higher standard of customer service, contributing to the overall vibrancy of the MCC and Domain Precinct.

Appendix 1: Letter from Savills Property Management regarding Signatures Cafe

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The Savills logo consists of the word "savills" in a lowercase, red, sans-serif font, positioned on a bright yellow rectangular background.

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By email

21 November 2012
Ref: 121121 – RW - Dickson

Dear Abby

Re: Signatures Café, Marion

Market Overview

The sale of leasehold cafes and restaurants is one of the most difficult and challenging to achieve results in.

At present the banking community has a preference to not invest in this sector. This means that buyers must rely on their own resources or raise capital on security against a home or other property assets.

The market at present is divided into the following:

- 1) Buyers looking at cafe style with big turnover or ability to trade at big turnovers.
- 2) New start-up individuals who may be inexperienced or want a change of life
- 3) Restaurateurs who are specifically wanting a venue and have a concept or cuisine in mind. Examples are Walter Ventura who created Kwik Stix, Charminar and recently purchased The Manse and created 'Red Ruby Flamingo'.
- 4) Chain buyers looking at opportunities to expand a franchise or brand, ie Cibo, Arema, Stax etc.

Where there is an absence of profit from existing trading, buyers will look at the scope of the venue to attract a decent turnover and profit. They will consider the state or adequacy of plant and equipment and the attractiveness of the lease.

Signatures: evaluation of interest

Two campaigns have been held to attract interest in Signatures. Buyers from all of the above categories have considered the opportunity. To date, the level of enquiry is similar to most other opportunities.

The volume of offers received on each occasion has been significantly higher than other opportunities. The hurdles facing buyers with Signatures are greater than others. The experienced campaigners are not used to interviews, explaining menu plan and pricing and understanding policies of healthy food practice etc. This has meant on each occasion the parties prepared to have such discussions are novice start-up buyers with not as much experience at running businesses full time. This group have difficulty understanding solid commercial reality, ie cost of goods and wage outcomes and have constantly expressed concern over current trading information. They have consulted advisors who issue warnings about risk.

These concerns are not as significant to experienced parties.

Signatures is not alone in terms of time on the market. Others which have been available for the same length of time include:

- Estia, Henley Beach
- Urban Bistro, Rose Park
- Beijing Restaurant, Adelaide
- Dragonfly Bar & Dining, Adelaide
- Wild Thyme, North Adelaide

All of the above businesses are still on the market and have reviewed expectations down to achieve results.

Advice from here

We would recommend continuing to deal with the market and offer real incentives in terms of rent reduction for the first year.

Signatures, in our view, will eventually strike a deal with the right operator and persistence will pay off.

If you require any further information, please do not hesitate to contact the undersigned.

Regards,

A handwritten signature in black ink, appearing to read 'Rob Williamson', written in a cursive style.

Rob Williamson
Divisional Director, Agency, Hotels & Leisure