

17.6 Unsolicited Proposal - 262 Sturt Road, Marion

Report Reference	GC220510F17.6
Originating Officer	General Manager City Development – Tony Lines
Corporate Manager	- N/A
General Manager	Chief Executive Officer – Tony Harrison

CONFIDENTIAL MOTION

That pursuant to Section 90(2) and (3)(d)(i) and (ii) of the Local Government Act 1999, the Council orders that all persons present, with the exception of the following persons: Chief Executive Officer, General Manager City Development, General Manager City Services, General Manager Corporate Services, Manager Office of the Chief Executive, Manager City Activation, Manager City Property, Unit Manager Land and Property, Chief Financial Officer, Communications Advisor and Unit Manager Governance and Council Support, be excluded from the meeting as the Council receives and considers information relating to Unsolicited Proposal – 262 Sturt Road Marion, 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 a proposal from a third party.

REPORT OBJECTIVE

This report advises Council of (i) the final negotiated contractual arrangements for the Marion Arena, (ii) current constraints in developing the 262 Sturt Road, Marion site, and (iii) the proposed community consultation process for the Marion Arena, and seeks that project details be released from the previous confidentiality requirements (with the exception of the annual rent due).

REPORT HISTORY

Report Reference	Report Title
GC210223F03	Unsolicited Proposal: 262 Sturt Road, Marion
SGC210713F12.02	Unsolicited Proposal: 262 Sturt Road, Marion
GC211026F16.4	Unsolicited Proposal - 262 Sturt Road, Marion
GC211123F16.2	Unsolicited Proposal - 262 Sturt Road, Marion

RECOMMENDATION

That Council:

1. Notes the negotiated contractual arrangements for the proposed Marion Arena.
2. Notes that the site at 262 Sturt Road, Marion has a registered condition to be used as a Public Park pursuant to the Public Parks Act 1943.
3. Endorses staff to seek the removal of the registered Public Park condition on the site at 262 Sturt Road, Marion.
4. Notes the proposed community engagement for the proposed Marion Arena.
5. Revokes the confidentiality order pertaining to the reports, minutes and attachments (GC210223F03, SGC210713F12.02, GC211026F16.4, GC211123F16.2) with the

exception of the annual rent amount to be redacted.

6. In accordance with Section 91(7) and (9) of the *Local Government Act 1999*, Council orders that the annual rent within this report and minutes, Unsolicited Proposal – 262 Sturt Road, Marion, having been considered in confidence under Section 90(2) and (3)(d)(i) and (ii) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection until the execution of the lease or 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 2022.

BACKGROUND

Cruachan Investments and the Pelligra Group put forward an Unsolicited Proposal for the development of the Marion Arena, a sporting and recreational hub that would deliver:

- An international standard ice rink (single sheet)
- 350-450 spectator capacity
- Pro shop
- Sport Climbing – international competition rock climbing walls
- Recreational rock climbing and bouldering
- Themed rock climbing walls for children
- Children's play café
- Kiosk/restaurant

On 13 July 2021 (SGC210713F12.02) Council endorsed Administration to progress discussions with the Consortium, including clarifications of a number of key requirements.

On 23 November 2022 (GC211123F16.2) Council resolved to:

1. *Note the outcomes of negotiations with the proponent group and their broad acceptance of all terms proposed by Council in its resolution of GC211026F16.4.*
2. *Is prepared to offer a lease to the proponent group on the following basis;*
 - a. *No capital or operating investment from the City of Marion;*
 - b. *A 42 year lease term*
 - c. *An annual rent of [REDACTED] (which council has derived from a simple estimate of the rent which would be chargeable to a non-profit association providing recreational services based on the obligations set out in the leasing and licensing policy);*
 - d. *A discount (of 5% - 10%) in line with the attached schedule for City of Marion residents on services provided by the facility;*
 - e. *A put option at the expiration of the 42 year lease term requiring the City of Marion to purchase the building from the Consortium for an amount agreed to by both parties in the put option agreement*
3. *Endorse Administration to finalise a formal contract in line with the above negotiated terms.*
4. *Endorse the Chief Executive Officer, in consultation with the Mayor to execute the final contract.*
5. *Note that Administration will bring a future report detailing the final negotiated contractual arrangements and the next steps with regard to development of the site and engagement with the community on the Unsolicited Proposal outcome.*

6. *Notes the prior decision by Council to prohibit traffic movements from 262 Sturt Road, Marion Site to Shelly Avenue or Christina Street, Marion*
7. *Notes that this process remains confidential and non-binding on Council in line with its Unsolicited Bids Proposal policy until a final contract is executed by both parties.*
8. *In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, Unsolicited Proposal – 262 Sturt Road, Marion, any appendices and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(d)(i) and (ii) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, 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 2021.*

NEGOTIATED TERMS

As per Council's recommendation of 23 November 2021, staff have negotiated the following:

- No capital or operating investment from the City of Marion.
- A 42 year lease term.
- Annual rent of [REDACTED] (inclusive of lease and rates).
- A resident discount on services provided by the facility in line with the schedule for City of Marion residents (the schedule is referenced and attached to the draft contract).
- A put option at the expiration of the 42 year lease term requiring the City of Marion to purchase the building from the Lessee.

In addition to the above, the following terms have been negotiated:

- The annual rent will be payable by equal consecutive calendar monthly instalments equivalent to one twelfth of the annual rent always in advance. The first instalment will be paid on the Commencement Date. (The Commencement Date will be the date immediately following that date that the last of the Planning Approval Conditions and the Leases Act Conditions are satisfied. The Lessee has no right to occupy the site or commence construction of the improvements prior to the Commencement Date.)
- The Lessee must:
 - commence construction no later than one month after the Commencement Date.
 - complete the Arena within 24 months of the Commencement Date (Council has a right to terminate should the works not be completed by that date).
- The Lessee is required to provide a bank guarantee to secure its obligations under the Lease.
- A fixed 2% annual rent increase with a market review adjustment every 5 years (calculated as the amount equal to 7% of the unimproved value of the land multiplied by 1.23).
- The Lessee is not permitted to assign the Lease prior to completing the Arena. The Lessee must otherwise seek Council consent to assign the Lease with such consent not to be unreasonably withheld except that Council may withhold consent if the incoming lessee proposes to alter the permitted use.
- All repair and maintenance obligations (including structural and capital repairs) are with the Lessee for the full contract term.
- The Lessee must at its own cost undertake any removal, remediation or other works as may be necessary in respect of contamination for the purpose of constructing the improvements.
- Council may terminate if at any time during the term the improvements are wholly or substantially damaged or destroyed such that they are unfit for occupation and use by the

Lessee. The Lessee may only terminate if the damage or destruction occurs in the last 5 years of the term. Subject to these termination rights, the Lessee must reinstate the improvements where damage or destruction occurs.

- At the end of 42 years, should Council elect not to grant a new lease to the Lessee or where Council does agree to grant a new lease but the parties fail to agree its terms, then Council will purchase the site improvements. The price payable for the site improvements will be determined by each party engaging a valuer to value the improvements and the price payable will be the average of the two valuations. Should there be a difference of greater than 5% between the two valuations, then an independent 'umpire' will be instructed by the parties to make a final determination.

SITE CONSTRAINTS FOR 262 STURT ROAD, MARION

In 1981 the site at 262 Sturt Road, Marion was transferred to The Corporation of the City of Marion from the Minister of Local Government pursuant to the Public Parks Act, 1943. Although this legislation was repealed, a Condition is still noted on the title that the land is "Public park pursuant to the Public Parks Act, 1943". This Condition is still relevant for this parcel, and means that the land must be used as a public park.

Council needs to seek to have the Condition removed from the title, and staff will contact the Crown and LTO to determine the process.

Any media release and community consultation undertaken must be subject to the removal of the Public Park site constraint. A lease cannot be signed until the community consultation is undertaken (refer below) and the Public Park site constraint is removed.

COMMUNITY CONSULTATION

Two community consultations are required. Firstly the Community Land Management Plan (CLMP) for the site should be changed to reflect the proposed use of the site, and a new site specific CLMP consulted on (as per legislation) and implemented. Staff are drafting the new draft CLMP document, and this will be presented to Council at the General Council meeting on 24 May 2022 for approval to consult on.

Secondly, the proposed 42 year lease of the community land requires consultation with the community (as per Section 202 in the Local Government Act 1999).

It is proposed that these two separate consultations occur at the same time over a three week (21 day) period in accordance with Council's Public Consultation Policy and the Local Government Act 1999, commencing shortly after the 24 May 2022 General Council Meeting.

Broad media release and consultation content includes:

- The City of Marion has endorsed a \$20 million proposal from a group of private investors to build an international standard ice rink and rock-climbing facility in the southern suburbs, to be located at 262 Sturt Road, Marion.
- The site is owned by Council and is classified as "Community Land". Council intends to consult on the adoption of a new site specific CLMP, and separately on the intention to lease before any formal deal is signed. Council will also seek to have the Public Land site constraint removed, and any signing of a lease is subject to this.
- If the proposal is formally signed off, work on the facility would start later this year.
- Once completed, the arena will boast an international standard ice rink with a seating capacity of up to 450 spectators.
- The rink is expected to be the home of South Australia's Australian Ice Hockey League team, Adelaide Adrenaline, possibly in time for the 2024 season.

- The facility is also planned to have international competition rock climbing walls for Sport Climbing, recreational rock climbing and bouldering, themed rock-climbing walls for children, a pro shop, kiosk, and children's play café.

The Making Marion website will have this project placed prominently on the home page at the time of the preliminary announcement made to local community and the media (including newspaper, TV, radio etc.).

The Making Marion 'Ice Rink' Project page will have all available detail on the proposed project, the clear next steps and information on the coming consultations for a 'Draft Community Land Management Plan' and 'Proposal to Grant Lease' which will be done before any formal lease is executed.

The Community Engagement Plan will include mixed communication techniques to ensure stakeholders are able to access information and provide feedback simply. This plan will be comprehensive and complete before consulting with the community.

The engagement strategy is as follows:

Community Engagement – Announcement Phase			
Engagement Method	How	Who	Frequency
Making Marion Online Engagement.	Project page <ul style="list-style-type: none"> • All relevant information available. • Option to follow project to keep updated with latest. • Ability to leave initial questions and comments. (will help form FAQ section later) • Project Lifecycle clear and kept updated 	Available for all Community/ Stakeholders/ Local businesses.	Live and kept until formal consultation begins
Mail out and letter box drop.	Provide a written update to local households and business.	Community/ Stakeholders/ Local businesses.	As soon as possible following GC Meeting.
Community Engagement – What will be included in Formal Consultations			
Engagement Method	How	Who	Frequency
Making Marion Online Engagement.	Project page <ul style="list-style-type: none"> • EDM Newsletter sent to all past Making Marion participants • New survey created with option to leave feedback. 	Community/ Stakeholders/ Local businesses.	Following the GC meeting decision and ongoing updates on page. Timeline updated on site reflecting progress and current stage.
Mail out and letter box drop.	Provide a written update to local households and business.	Community/ Stakeholders/ Local	As soon as possible following GC Meeting.

		businesses.	
Mayor video updates.	Create videos on-site	Community/ Stakeholders/ Local businesses.	Following the GC decision and scheduled periodically after that.
Social Media posts on Facebook/ Instagram	Social posts encouraging participation in consultation.	Social media followers / paid audience	Twice during consultation period

NEXT STEPS

Following endorsement of this report, the following steps are proposed:

1. Media release.
2. Determination and implementation of process to remove the Public Park site constraint.
3. Initial receipt of community feedback via Making Marion.
4. Council report detailing proposed community consultation for both the lease and draft CLMP (24 May 2022).
5. Community consultation for:
 - a. Lease of the site for more than 5 years (required by legislation) and overall Marion Arena proposal.
 - b. Draft CLMP for the site (required by legislation).
6. Report to Council re community consultation findings and removal of Public Park site constraint (July 2022).
7. Execution of contract (July/August 2022).

ATTACHMENTS

Nil