

# CONFIDENTIAL

Note: Confidential Provisions released on 30/06/2020



REPORT FOR:	<b>Operations Committee</b>		
MEETING DATE:	13 February 2017		
REPORT FROM:	Director – City & Cultural Services		
REPORT TITLE:	<b>Proposal – Future Operation and Management of Council Facilities</b>		
FILE NAME:	F17/217	RECORD NO:	AR17/4595

## COMMUNITY VISION & STRATEGIC PLAN OUTCOMES

### **1 We Thrive**

- 1.3 Develop partnerships to attract investors in business proposals and new developments that contribute to a diversified and robust economy.

### **4 We Care**

- 4.2 Facilitate services and develop partnerships to enable appropriate care for people in our communities.

## **PURPOSE**

The purpose of this report is to provide Elected Members with information regarding an unsolicited proposal that has been received in relation to the operation and management of the Miriam High Special Needs Centre and Port Augusta Childcare Centre.

## **RECOMMENDATION**

### **Operations Committee recommends Council:**

1. Notes that the Unsolicited Proposal has merit and provides 'in principle' endorsement for the proposal to proceed to Stage 2 of the Unsolicited Proposal process.
2. Approves the Steering Committee to be the following members: Chief Executive Officer, Director – Community Services, and Director - City And Cultural Services and to commence negotiations with Novita Children's Services.
3. Supports a mutual non-disclosure agreement and exchange of information to be formalised by the relevant parties to enable negotiations to progress.
4. Approves obtaining an independent valuation of the site, if necessary.

## **BACKGROUND**

In early January 2017, Novita Children's Services approached Council to advise that the company was in the process of developing a business case for the establishment of a regional office in the Upper Spencer Gulf region and is currently investigating a number of options.

## **DISCUSSION**

Novita and Council have had a long standing relationship through the Miriam High Special Needs Centre and following preliminary discussions between the Director – Community Services and Mr Greg Ward CEO, Novita, there is a strong possibility that the company would be keen to explore a more formal arrangement with Council which may also include the Port Augusta Childcare Centre.

Novita has provided this information on a 'Commercial-in-Confidence' capacity, and is looking forward to commencing negotiations with Council on the various opportunities that may exist.

Both the Miriam High Special Needs Centre and Port Augusta Childcare Centre sites have been excluded from the classification as Community Land and therefore Council could dispose of these properties to an approved provider.

Council has already initiated a 'Service Range and Level' review, which has already commenced. This is a two part review process and will identify how Council can improve its financial position; one through individual service efficient savings for a short term gain, and two consideration of reducing its service range for a more positive longer term financial outcome.

Council has two policies under which this proposal could be considered. Policy 2.3.14 'Guidelines for the Receipt and Assessment of Unsolicited Proposals' covers a proposal that may include:

1. the purchase, lease or development of Council owned or managed land;
2. the delivery of goods or services to or on behalf of the Council;
3. the provision of infrastructure for the community.

It is recommended that Mr John Banks, CEO, Mrs Anne O'Reilly, Director – Community Services and Mrs Lee Heron, Director – City & Cultural Services immediately commence negotiations with Novita Children's Services to enable both parties to assess the options available and the likelihood of a mutually acceptable arrangement being achieved, in line with the provisions of Council Policy 2.3.14.

Novita have requested that a mutual non-disclosure agreement and exchange of information on the facilities operations, financial performance, and potential terms and conditions be entered into.

## **CONFIDENTIALITY PROVISIONS**

The Council is satisfied that, pursuant to Section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstance because commercial position of the company could be compromised and negotiations could be negatively impacted, resulting in Council not being able to achieve a positive outcome for the benefit of the community. The disclosure could also result in the person who disclosed information to Council not being willing to negotiate with Council if the information is released at this time.

That having considered this Agenda Item – Proposal – Operation and Management of Council Facilities in confidence under Section 90(2) and (3)(d) of the *Local Government Act 1999*, it is recommended that Council pursuant to Section 91(7) of that Act orders that the report be retained in confidence for a period until negotiations have been terminated, finalised via entering into a contractual agreement, or consultation is required to be undertaken, and that this order be reviewed every 12 months, if the confidentiality period extends for longer than 12 months in duration.

## **RISK MANAGEMENT**

### **1: Financial/Budget**

Council operates both the Miriam High Special Needs Centre and the Port Augusta Childcare Centre and approves a budget annually for the operation and management of these services.

Funding for the Miriam High Special Needs Centre is now predominantly through the National Disability Insurance Scheme. This has increased the complexity of operating this program significantly with the range of supports being provided restricted based on the lack of qualified therapists (eg Occupational Therapists, Speech Therapists, Physiotherapists) employed by the Centre. The Centre now only receives funding when a service is actually provided. Funding is not provided if a child is absent for the session. The Centre is struggling to adapt to this new environment.

### **2: Legal/Policy**

Section 36 of the *Local Government Act 1999* provides that Council has the legal capacity of a natural person, and may enter into any kind of contract or arrangement.

Council Policy 2.3.14 'Guidelines for the Receipt and Assessment of Unsolicited Proposals' outlines the process as to how an Unsolicited Proposal will be managed.

### **3: Environment/Planning**

Not applicable.

### **4: Community**

#### 4.1 General

Staff and community consultation will be an important part of progressing this proposal, if Council approves proceeding after initial negotiations have taken place as to the options available for both parties and a report presented back to Council for consideration.

#### 4.2 Aboriginal Community Consultation

Not applicable.

**Lee Heron**  
**30/1/2017**