

LKCC Management Model - SCI Submission

Originating Officer General Manager City Services - Tony Lines

Corporate Manager N/A

General Manager General Manager City Services - Tony Lines

Report Reference GC210427F05

Confidential ☒

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 Corporate Services, General Manager City Services, Manager City Property, Manager City Activation, Manager Corporate Governance, Manager Strategic Procurement Services, Unit Manager Land and Property, Unit Manager Communications, Unit Manager Governance and Council Support and Governance Officer be excluded from the meeting as the Council receives and considers information relating to LKCC Management Model, 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 the current EOI process for the management of the Living Kurna Cultural Centre.

REPORT OBJECTIVE

To provide Council with an update on the LKCC Management Model submission by SCI.

EXECUTIVE SUMMARY

Following more than four years of discussions with Kurna, Council received a proposal from SCI to manage the LKCC / Warriparinga facility. The proposal looks to further activate the site through additional events, tourism and educational activities to become the leading Kurna tourism location and cultural education space on Kurna Country.

In December 2020 Council reviewed the SCI submission (GC201208F04) and resolved:

That Council:

1. *In principle accepts the SCI proposal to manage the LKCC subject to negotiation of a lower annual payment (closer to Council's current net cost of approximately \$181 k p.a. for the first three years which would then reduce linearly in subsequent years to \$100 k in year 6); negotiates contract terms and conditions with SCI (e.g. insurances, operational metrics, advisory group); and receives a final report (envisaged for March/April 2021) prior to contract signing.*
2. *Notes that Council currently uses an on-line training module for cultural awareness, which covers many cultures around the world, and will consult with SCI should additional indigenous cultural awareness training be needed.*
3. *Upgrades the Coach House to operate as an education facility for up to 60 people, including required heritage restoration, allowing it to also function as a Marion museum satellite site (noting that approximately \$15 k of upgraded outdoor seating and artistic woodwork will be delivered through existing City Property budgets). Funding for the Coach House upgrade will be sought through Grant applications and 2021/22-2022/23 Council budgets.*

This report presents a summary of the negotiations to date. Unfortunately two of the fortnightly negotiation meetings were not held due to SCI or its representatives not being available at late notice, and as such a final Agreement is not yet ready. The broad Agreement terms are however well developed.

Confirmation is sought from Council on the direction of negotiations with SCI to date.

RECOMMENDATION

That Council:

- 1. Endorses the terms that have been negotiated with SCI for the management of LKCC / Warriparinga, noting the following:**
 - a.XXX**
- 2. Notes that the proposed commencement date for SCI to manage the site has been deferred to 19 July 2021.**
- 3. Receives a final report on the terms and Agreement in June 2021, prior to contract signing.**
- 4. In accordance with Section 91(7) and (9) of the Local Government Act 1999, orders that this report, the attachments to this report and any 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.**

GENERAL ANALYSIS

BACKGROUND

The City of Marion and the Kaurna Yerta Aboriginal Corporation (KYAC) have been discussing options for management models of the LKCC since 2016. At the 28 January 2020 General Council meeting, Council considered a progress report on the LKCC Management Model and resolved to request KYAC to provide Council with a proposal for its preferred management model for the Warriparinga / LKCC site by the end of May 2020.

KYAC wrote to Council on 29 May 2020 advising that COVID-19 restrictions meant that the Kaurna people could not hold face-to-face meetings to progress a proposal, and requesting a 3 month extension of the due date to 31 August 2020. Council granted that request.

On 31 August 2020 Council received a letter and management proposal from KYAC for SCI to manage the Centre, and on 29 October 2020 received a further proposal from SCI. SCI (Southern Cultural Immersion) is a private business run by Kaurna man Corey Turner. Mr Turner provides services for DEW at Glenthorne. He has significant experience at Onkaparinga CC, Centrelink, Red Cross, and the Heart Foundation. Mr Turner is also a member of a recently formed Southern Alliance, comprising about ten people from the Williams, Dixon and Turner families.

On 8 December 2020 Council resolved to accept in-principle the SCI proposal to manage the LKCC subject to negotiation of a lower annual payment (closer to Council's current net cost of approximately \$181 k p.a. for the first three years which would then reduce linearly in subsequent years to \$100 k in year 6) and negotiation of contract terms and conditions with SCI.

DISCUSSION

Key terms of the Agreement negotiated to date include:

General

1. The Term would commence on 19 July 2021 and be for an initial period of three years (till 30 June 2024), with a further period of three years subject to achievement of KPIs.
2. General City of Marion Conditions of Contract would apply, for example regarding variations, employees, insurances, liability, non-performance, audit, termination, and dispute resolution.
3. Council would be able to terminate the contract (i) 'without cause' by giving 90 days' notice and paying any fees due, (ii) immediately if SCI becomes unable to carry on business, or (iii) immediately if SCI fails

to perform material terms of the Agreement.

4. SCI would be able to terminate the contract (i) 'without cause' by giving 90 days' notice, or (ii) immediately if Council fails to perform material terms of the Agreement.
5. SCI's vision for LKCC is to create a venue this is clearly identified as the leading Kurna tourism location and cultural education space on Kurna Country.
6. SCI would continue the current activities and services operating at the site.
7. SCI would create a marketing plan for the site and activate the site by performances (including those aligned to the Adelaide Festival and Adelaide Fringe), Aboriginal art and culture markets, musical performances, and broadening tours, workshops and venue hire. SCI would manage all marketing and promotional materials for activities and events and invite collaboration with Council counterparts for large events.
8. SCI would be required to hold all standard Public and Products Liability and Professional Indemnity insurances.
9. Council would allow SCI to use Council-owned equipment currently at the site (e.g. computers, office chairs, phones / headsets, tables, whiteboards, urns, kettles, power boards, fridge, etc). SCI would be responsible for replacing or maintaining or adding to minor equipment (e.g. replacement of the above, re-resining the tables in the function room) and for returning the site to Council at the conclusion of the Agreement with a full inventory of functional minor equipment.
10. Any possible changes to the name of the site would require Council approval.

Premises

11. SCI would have primary management of the LKCC, Fairford House, and the Coach House.
12. SCI would have primary non-exclusive access rights to the gardens and grasses open spaces.
13. SCI would have use and access rights to the Sturt River and its environs and the wetlands.
14. SCI would not have access rights to the grape vines.
15. The Friends of Warriparinga are noted as a long-standing stakeholder, and will be provided with an office at Fairford House, storage facilities, and some use of a large meeting room, all at no cost.
16. Various stipulations are placed on use of the site, including no hunting or fishing, no overnight staying or camping, and the use of plant life. The site must not be used for demonstrations or anything under the auspices of political parties. SCI would require a licence to serve or allow persons to consume liquor on the site.
17. Any permanent signage would require Council approval.

Fees

18. Council would be required to pay SCI a management fee to undertake the day-to-day operations of the LKCC, primarily being for staff wages (three key staff plus casuals).
19. A review of 2019/20 Council costs for LKCC has identified \$298 k of costs (including labour, contractors, materials and other), offset by \$72 k of revenue. The net cost was therefore \$226 k. The net cost of the SCI equivalent provided services was \$181 k (i.e. \$45 k of services would still be provided by Council). However, it was also noted that there have been regular labour vacancies over the last 5 years, and the average staffing at the site has been approximately 2 FTE rather than the budgeted 2.7 FTE. This would increase the net cost of the SCI equivalent provided services to \$225 k.
20. SCI has requested a Marketing and Events Fund to be paid by Council to assist with the activation of the site. This cost would be \$25 k in 2021/22, \$20 k in 2022/23, and \$15 k in 2023/24.
21. The fees payable by Council to SCI would therefore be \$250 k in 2021/22, \$245 k in 2022/23, and \$240 k in 2023/24.
22. Fees paid by Council to SCI in any subsequent 3 year period would be determined at that point.
23. The average annual revenue generated at LKCC over the past three years is \$80,000. COVID-19 has affected attendance numbers and had an impact on site revenue. This is considered an extraordinary event. Any difference between the historical average revenues and the FY2020/21 actual result would be referred to as the 'COVID Gap'. Council would be responsible for funding any shortfall in revenue for the Centre up to the limit of the COVID Gap until such time as the Coach House renovations are complete and it is available for use.
24. SCI would pay 20% of any operating surplus to Council during the first three years (years 1-3).
25. SCI would pay 40% of any operating surplus to Council during the following three years (years 4-6).
26. SCI would pay 3% of any operating surplus to the Kurna Community trust each year.

Labour

27. SCI would employ all staff, envisaged at 2.7 FTE.
28. All staff and contractors would require police checks / DCSI clearances.

Maintenance

29. Council would continue to fund any capital improvements to the site (e.g. as required under Council's Buildings AMP).
30. Council would continue to provide site services and maintenance including: Air conditioning; Fire protection; External Graffiti; Mowing of grassed areas; Mulching, brush-cutting, weed control, and tree trimming; Pruning of Heritage Vines; Maintenance of bores and irrigation systems; Maintenance of pathways, benches, fencing and bridges; Maintenance of public art (including Tjirbruke Gateway, murals on Expressway Bridge, Sturt River signage); Electrical; Plumbing; Painting; Repairs and Maintenance; Fire Protection; Building Security; Waste.
31. SCI would provide the following site services and maintenance: Program Contractors (e.g. Weavers, artists); Advertisements and Marketing; Electricity; Gas; SA Water Charges; Office equipment; Office stationery and supplies; Goods for resale; Safety clothing and supplies; Signs; Postage / couriers; Photocopier charges; Travel; Catering supplies; Kitchen supplies; Telephone calls; Other related expenses incurred through service activity.

Site Improvements

32. Council would fund two site improvements.
33. The first site improvement is "strategically placed designer outdoor seating and artistic woodwork" worth \$15 k, funded through existing City Property budgets.
34. The second site improvement is a significant upgrade to the Coach House which would then be used by SCI as an education centre. Council has recently received 50:50 grant funding from the State Government for the restoration of the heritage Coach House and associated works. The total cost of the Coach House works is estimated at \$1 million, and Council's 50% contribution to this is included in its draft Annual Business Plan for 2021/22.

Governance

35. A Warriparinga Advisory Team (WAT) would be established to act as an overseer / advisory board for the operation (i.e. not a control group). The group would meet quarterly, consisting of two City of Marion and two SCI representatives, to consider finance, governance, compliance / KPI goals and general business. The City of Marion would chair WAT meetings.
36. SCI would be required to submit quarterly and annual reports to WAT. The annual report would be in a form that could be provided to General Council.

Performance

37. Annual KPIs include: the number of WAT meetings held, WAT reporting, number of program activities, number of people attending programs and events, opening hours, customer satisfaction, growth in the number of events (defined as more than 100 attendees), and increase in site revenues (by at least 10% per year).i
38. f the KPIs are achieved over the first three years of the Agreement, and the WAT believes there is a high likelihood that the KPIs would continue to be achieved, then another three year Agreement would be considered with approval by Council.
39. If the WAT recommends that the operations not be continued by SCI at the end of the three years, then this would be considered by Council in March 2024 and the Agreement could cease on 30 June 2024. Council would then resume management control of the operations.
40. The WAT would consider entering into discussions for the transfer of the land to Kaurna at an appropriate point in time. Any decision for transfer of the land would be subject to Council approval.

Other notes

41. The proposal complies with Council's Unsolicited Proposal Policy (the offer, the term/financial quantum, and the uniqueness), and can also be considered as an extension of the previous Banbabanbalya agreement process. Section 49 of the LG Act (value for money element) would support a contract with SCI if it is broadly in line with current costs.
42. The arrangement is likely to cater for the spiritual and social needs (e.g. via an on-site café) of the future Elders Village on Lot 707.

Timeframes

- Report to Council for noting: April 2021
- Final report to Council for noting: June 2021



- Signing of contract: June 2021
- Establishment of advisory group: July 2021
- Commencement of SCI operations: 19 July 2021
- Renovation of Coach House: July 2021 – December 2022