



CONFIDENTIAL ORDINARY COUNCIL MEETING

CONFIDENTIAL MATTERS**Chief Executive Officer Review Committee**

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Services Committee

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COMMITTEE REPORTS

CHIEF EXECUTIVE OFFICER REVIEW COMMITTEE

Confidential Matters

17.1 CEO INTERIM PERFORMANCE ASSESSMENT RESULTS

Contact Person: Ms Christie Russell

Why is this matter confidential?

Subject to an order pursuant to Section 90 (3) (a) of the Local Government Act 1999, this matter is confidential because the report and attachments contain information relating to the personal affairs e.g. employment performance of the CEO in the form of the CEO interim assessment results.

A. COUNCIL/COMMITTEE TO MOVE MOTION TO GO INTO CONFIDENCE

No action – this motion passed in the open section.

B. THE BUSINESS MATTER**17.1 CEO INTERIM PERFORMANCE ASSESSMENT RESULTS**

Responsible Executive Manager : Ms Christie Russell

Report Author : Ms Christie Russell

Delegated Authority : Matters which cannot be delegated to a Committee or Staff.

Attachments : 1 [↓](#). AM Consulting CEO Interim Assessment Report

PURPOSE

This report presents the results of the CEO interim performance assessment for the period (acting October 2018 – September 2019) and from formal appointment September 2019 to June 2020.

STAFF RECOMMENDATION

That the Council receives and notes the CEO interim performance assessment results for the CEO, the period (acting October 2018 – September 2019) and from formal appointment September 2019 to June 2020 (Attachment 1).

COMMITTEE RESOLUTION

1. That the Council receives and notes the CEO interim performance assessment results for the CEO, for the period (acting October 2018 – September 2019) and from formal appointment September 2019 to June 2020 (Attachment 1).
2. That the CEO be commended on the excellent performance assessment results, for the period (acting October 2018 – September 2019) and from formal appointment September 2019 to June 2020 (Attachment 1).

EXECUTIVE SUMMARY

On 1 June 2020 the CEO Review Committee endorsed the approach for the CEO interim performance assessment for the period (acting October 2018 – September 2019) as per below:

- “1. The Committee accepts the proposed approach and survey, as outlined in Attachment 1, to undertake the interim performance assessment for the CEO, for the period (acting October 2018 – September 2019) and from formal appointment September 2019 to June 2020.*
- 2. The Committee note the 360 Degree survey will be undertaken with the following personnel and be made available for the Ordinary Council Meeting on 25th August 2020:*
 - *CEO*
 - *Elected Members*
 - *Direct Reports to the CEO*
 - *Senior Managers*
- 3. Assessment will be undertaken in accordance with page 2 of attachment 1 also taking into account the COVID-19 survey results recently undertaken. The following themes will form the interim review and the associated means of measurement.*

| <i>Theme</i> | <i>Measurement Tool</i> |
|-------------------|---|
| <i>Culture</i> | <ul style="list-style-type: none">• <i>Culture Amp survey</i>• <i>360 survey</i> |
| <i>Leadership</i> | <ul style="list-style-type: none">• <i>360 survey</i>• <i>COVID-19 survey</i> |
| <i>Financial</i> | <ul style="list-style-type: none">• <i>End of Year Audited Financial Statements 18-19</i>• <i>Budget Forecast 19-20</i>• <i>Draft Budget 20-21</i>• <i>Identified Savings</i>• <i>Debt Management</i>• <i>Financial Strategy</i> |

The interim review of the CEO's performance sought to capture and document the CEO's performance during his acting period and from the period of his formal appointment as a means to provide an informal point in time appraisal recognising that the CEO has not been subject to formal KPI's at this point.

For the 360 survey, participants were asked by the Mayor to respond to the survey between 22 June 2020 and 6 July 2020, with AM Consulting facilitating the process.

The results of the CEO interim assessment have been prepared by AM consulting and are contained within Attachment 1.

Council administration provided information to AM Consulting on the Culture Amp COVID Survey results, as well as the financial information for inclusion in the CEO interim assessment report (Attachment 1).

1. BACKGROUND

At the CEO Review Committee meeting on 1 June 2020, the Committee endorsed that an interim CEO Performance Assessment take place by way of a 360 degree survey with Council Members, Executive and Senior Managers at City of Playford. The interim

assessment will also take into consideration the recent COVID-19 organisational survey results undertaken with staff, which had a 78% participation rate and also involved collation of pulse check survey results from CultureAmp and information relating to Council's finances.

The CEO interim performance assessment is for the period (acting October 2018 – September 2019) and from formal CEO appointment September 2019 to June 2020.

The *CEO Performance Review Committee Charter* outlines in the “Delegations” section 4.1.3 that the CEO Performance Review Committee are delegated to *determine activities associated with reviewing the Chief Executive Officers performance review process, performance measures and targets, and the development plan and position description.*

2. RELEVANCE TO STRATEGIC PLAN

1: Smart Service Delivery Program

Outcome 1.2 Improved service delivery

The efficient and effective process of ensuring a performance review process is in place for the CEO ensures that the Strategic Plan can continue to be delivered.

3. PUBLIC CONSULTATION

There is no legal or policy requirement to consult the community on this issue.

4. DISCUSSION

- 4.1** The CEO 360 survey results are contained within Attachment 1 and were sought from Council Members, Executive, Senior Management Group and Direct reports of the CEO. The survey sought to seek feedback on the CEO performance for the period (acting October 2018 – September 2019) and from formal appointment September 2019 to June 2020.
- 4.2** As per the Committee resolution the Committee asked that the interim assessment cover the key themes of Culture, Leadership and Financial. Council administration provided documentation for inclusion in the CEO interim assessment report based on the above key themes.
- 4.3** The intention going forward is to have AM Consulting assist the Committee with establishing Key Performance Indicators (KPI's) that will provide a baseline for performance and potential improvement of the CEO over the term of the contract. Subsequent to these reviews based on achievement of KPI's the CEO position description will be reviewed as per the terms of the CEO employment agreement.
- 4.4** Given the interim nature of this review and the absence of KPI's to date, the interim assessment results will not be used for the review of the CEO's Position Description as per the terms of the CEO employment agreement.

5. OPTIONS

Recommendation

That the Council receives and notes the CEO interim performance assessment results for the CEO, the period (acting October 2018 – September 2019) and from formal appointment September 2019 to June 2020 (Attachment 1).

Option 2

That the Council receives and notes the CEO interim performance assessment results for the CEO, for the period (acting October 2018 – September 2019) and from formal appointment September 2019 to June 2020 (Attachment 1) and note the following:

- <<Committee to insert as it sees fit>>

6. ANALYSIS OF OPTIONS

6.1 Recommendation Analysis

6.1.1 Analysis & Implications of the Recommendation

Review of the CEO interim performance assessment results ensures monitoring and review of the performance of the CEO demonstrating due diligence and good human resource management.

This option allows for the Council to receive and note the assessment results.

6.1.2 Financial Implications

There are no financial or resource implications.

6.2 Option 2 Analysis

6.2.1 Analysis & Implications of Option 2

Review of the CEO interim performance assessment results ensures monitoring and review of the performance of the CEO demonstrating due diligence and good human resource management.

This option allows for the Council to receive and note the assessment results and allows the Committee/Council to make any amendments to the recommendation.

6.2.2 Financial Implications

There are no financial or resource implications.

C. COUNCIL/COMMITTEE TO DECIDE HOW LONG ITEM 17.1 IS TO BE KEPT IN CONFIDENCE**Purpose**

To resolve how long agenda item 17.1 is to be kept confidential.

STAFF RECOMMENDATION

Pursuant to Section 91(7) of the Local Government Act 1999, the Council/Committee orders that the following aspects of Item 17.1 be kept confidential in accordance with Council's/Committee's reasons to deal with this item in confidence pursuant to Section 90 (3) (a) of the Local Government Act 1999:

- Report for Item 17.1
- Attachment(s) for Item 17.1
- Decision for Item 17.1

This order will be reviewed and determined as part of the annual review by Council in accordance with Section 91(9)(a) of the Local Government Act 1999, whichever comes first.

COMMITTEE RESOLUTION

Pursuant to Section 91(7) of the Local Government Act 1999, the Council/Committee orders that the following aspects of Item 8.1 be kept confidential in accordance with Council's/Committee's reasons to deal with this item in confidence pursuant to Section 90 (3) (a) of the Local Government Act 1999:

- Report for Item 8.1
- Attachment(s) for Item 8.1

This order will be reviewed and determined as part of the annual review by Council in accordance with Section 91(9)(a) of the Local Government Act 1999, whichever comes first.

COMMITTEE REPORTS

SERVICES COMMITTEE

Confidential Matters

17.2 NAWMA AUDIT COMMITTEE

Contact Person: Ms Tina Hudson

Why is this matter confidential?

Subject to an order pursuant to Section 90 (3) (a) of the Local Government Act 1999, this matter is confidential because it is sensitive for people who have expressed interest and/or are being considered for the NAWMA Audit Committee.

A. COUNCIL/COMMITTEE TO MOVE MOTION TO GO INTO CONFIDENCE

No action – this motion passed in the open section.

B. THE BUSINESS MATTER**17.2 NAWMA AUDIT COMMITTEE**

Responsible Executive Manager : Ms Tina Hudson

Report Author : Ms Kaarina Sarac

Delegated Authority : Matters which cannot be delegated to a Committee or Staff.

Attachments : 1 [↓](#). Letter requesting Council consideration of proposed Independent Audit Committee Members

PURPOSE

To endorse NAWMA's recommendation on the appointment of the Independent Members of the NAWMA Audit Committee

STAFF RECOMMENDATION

1. Council endorse the following people, as recommended by the NAWMA Board, as Independent Members to the NAWMA Audit Committee:
 - Claudia Goldsmith
 - Mark Labaz
 - Craig Johnson
2. The Chief Executive Officer write to the NAWMA Independent Chairperson notifying of the decision of Council.

COMMITTEE RESOLUTION**4173**

1. Council endorse the following people, as recommended by the NAWMA Board, as Independent Members to the NAWMA Audit Committee:
 - Claudia Goldsmith
 - Mark Labaz
 - Craig Johnson
2. The Chief Executive Officer write to the NAWMA Independent Chairperson notifying of the decision of Council.

EXECUTIVE SUMMARY

In May 2020, the Northern Adelaide Waste Management Authority (NAWMA) Board reviewed the composition of their Independent Members of the Audit Committee. This resulted in a public recruitment process to seek interested and capable people for carrying out the functions of the Audit Committee of NAWMA. Fifty applicants responded, with a full process of short-listing, interviews and reference checks resulting in the Board recommending three short-listed candidates considered to have suitable skills and experiences to provide high quality input to the responsibilities of the Audit Committee.

Clause 2.1 of the NAWMA Audit Committee Terms of Reference (ToR) states that the three Constituent Councils must endorse the candidates prior to NAWMA finalising the Audit Committee composition. Specifically, clause 2.1 of the ToR states *"The NAWMA Board will determine the members of the Audit Committee and after the Constituent Councils have approved the independent members, appoint the members for an initial term of two years and thereafter for various terms as resolved by the Board."*

1. BACKGROUND

NAWMA reviewed its Audit Committee membership and Terms of Reference in May 2020, with the NAWMA Board determining that it was timely to review the appointment of the three Independent Audit Committee Members.

Of the previous three Independent Members, two have been involved since its inception in March 2011, and one joined in December 2014. All three were invited to apply through the recruitment process, with two choosing to not re-apply. Their significant and long-term involvement with NAWMA has been recognised by the NAWMA Board.

This matter comes to Council as a requirement under legislation as well as through the Terms of Reference for the NAWMA Audit Committee. Schedule 2, Part 2, Clause 30 (3) of the *Local Government Act 1999* requires that an audit committee be determined or approved by constituent councils; and the Terms of Reference (ToR) of the NAWMA Audit Committee require that Constituent Councils approve the Independent Members initially, with further terms determined by the Board.

The NAWMA Audit Committee ToR refer to the legislation outlined above and provides for membership in line with the *Local Government Act (Financial Management) Regulations 2011*, Part 5, clause 17(3) which defines the number of members and composition of Independent Members of regional subsidiary Audit Committees.

2. RELEVANCE TO STRATEGIC PLAN

1: Smart Service Delivery Program

Outcome 1.1 High quality services and amenities

Independent Members of an Audit Committee for a Regional Subsidiary are required by legislation as part of governance practices.

3. PUBLIC CONSULTATION

There is no requirement for public consultation on this matter. It should be noted that a public call for Independent Members for the NAWMA Audit Committee occurred.

4. DISCUSSION

- 4.1** As one of the three Constituent Councils of NAWMA, Council is required to consider the composition of the Audit Committee by legislation and the NAWMA Audit Committee ToR. The Chairperson of the NAWMA Board has written to Council requesting that Council consider the recommended Independent Members for endorsement to the NAWMA Audit Committee (this letter is provided in Attachment 1).
- 4.2** The NAWMA Audit Committee is comprised of three Independent Members and two Members of the NAWMA Board, with the Independent Member roles being the focus of this report.
- 4.3** The NAWMA Board embarked on a public recruitment process for all three Independent Members in June 2020. A short-listing, interview process, and reference checks has resulted in three recommended people to fill the Independent Member vacancies. The recommended candidates are listed below with a short synopsis of their expertise:

| | |
|-------------------|--|
| Claudia Goldsmith | A professional Company Director, senior Chartered Accountant and Consultant; experienced exposure to local government and with audit committees. |
| Mark Labaz | Experienced member of NAWMA's audit committee for the past nine years; experience in corporate governance, risk management, probity, audit, procurement and contract management. |
| Craig Johnson | A consultant, former partner at Deloitte, and experienced Board member with other organisations; experience across various industries including local government, specifically in financial and risk management, corporate governance and internal audit services. |

- 4.4** The *Local Government (Financial Management) Regulations 2011*, Part 5, Clause 17(3) determines that an audit committee of a regional subsidiary:
- (a) must have between 3 and 5 members (inclusive); and
 - (b) must include at least 1 person who is not a member of the board of management of the regional subsidiary and who is determined by the constituent councils to have financial experience relevant to the functions of the audit committee; and
 - (c) may include members who are members of a constituent council; and
 - (d) must not include, as a member, a constituent council's auditor under section 128 of the Act or the auditor of the subsidiary under Part 6.
- 4.5** In relation to the above, NAWMA has confirmed that all applicants were vetted by Stillwell Management Consultants prior to being presented to NAWMA, and that NAWMA has considered real or perceived conflicts-of-interest when considering its appointments. None of the three recommended candidates serve as an External Auditor for any of the three Constituent Councils nor is NAWMA aware of real or perceived conflicts of interest.

5. OPTIONS

Recommendation

1. Council endorse the following people, as recommended by the NAWMA Board, as Independent Members to the NAWMA Audit Committee:
 - Claudia Goldsmith
 - Mark Labaz
 - Craig Johnson
2. The Chief Executive Officer write to the NAWMA Independent Chairperson notifying of the decision of Council.

Option 2

Council does not endorse the NAWMA Board recommendations for the reasons outlined below, and requests the Chief Executive Officer to discuss these with the NAWMA Board.

Reasons:

1. _____
2. _____

6. ANALYSIS OF OPTIONS

6.1 Recommendation Analysis

6.1.1 Analysis & Implications of the Recommendation

A public recruitment process which generated significant interest was undertaken by NAWMA. The proposed Independent Members for the Audit Committee have been through an interview and reference check process facilitated by an external agency with expertise in recruitment for these types of roles.

This option enables NAWMA to appoint Independent Members to ensure its Audit Committee is functioning.

6.1.2 Financial Implications

There are no financial or resource implications.

6.2 Option 2 Analysis

6.2.1 Analysis & Implications of Option 2

This option provides Council the opportunity to highlight concerns with any of the three recommended Independent Members to the NAWMA Audit Committee.

6.2.2 Financial Implications

There are no specific financial implications to Council with Option 2.



27/07/2020

Mr Sam Green
Chief Executive Officer
City of Playford
12 Bishopstone Road
Davoren Park SA 5113

Dear Mr Green

RE: NAWMA Audit Committee Independent Member Appointments

In my capacity as Chairperson of NAWMA, I write to seek Council endorsement of NAWMA Board Circular Resolution, in accordance with the NAWMA Audit Committee Terms of Reference, to appoint three (3) Independent Members of the NAWMA Audit Committee.

We respectfully ask that Council consider the NAWMA Board Resolution at the upcoming August Council Meeting and advise NAWMA of the endorsement (or otherwise) in writing by **Thursday 27 August 2020**.

For convenience and consistency for all three NAWMA Constituent Councils, we provide background and a proposed recommendation below that you are free to utilise in your Council Report.

Background;

Clause 2.1 of the NAWMA Audit Committee Terms of Reference (replicated below), states that each of NAWMA's three (3) Constituent Councils must endorse the Board's preferred candidates.

Clause 2.1 NAWMA Audit Committee Terms of Reference

The NAWMA Board will determine the members of the Audit Committee and after the Constituent Councils have approved the Independent Members, appoint the Members for an initial term of two years and thereafter for various terms as resolved by the Board.

The NAWMA Board passed by Circular Resolution the following resolution on Friday 24 July 2020:

1. *Subject to Constituent Council endorsement, Claudia Goldsmith, Craig Johnson and Mark Labaz are appointed to the NAWMA Audit Committee as Independent Members for an initial term of two (2) years, commencing 1 September 2020, and*
2. *Subject to his acceptance of the role, Mark Labaz be appointed as the Presiding Member (Chairperson) of the Audit Committee for an initial term of one (1) year, commencing 1 September 2020, and*
3. *The Chair write to each of the three (3) Constituent Council Chief Executive Officers to gain endorsement for the appointment of the Independent Members and Presiding Member to the NAWMA Audit Committee.*

It is the opinion of the NAWMA Board that all three (3) of the preferred candidates will provide NAWMA, its Audit Committee, Board and Constituent Councils with vast financial and governance experience, and knowledge. All of the preferred candidates come to the Committee with a lens to Local

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Government and its intricacies. The CV's of the preferred candidates (confidential) are available on request.

The recruitment process uncovered over fifty (50) applicants for the role which was advertised due to the impending term expiry dates of the existing Audit Committee Terms of Reference. Current Audit Committee Members Mr Peter Brass (Audit Chair) and Mr Mark McAllister advised the NAWMA Board Chairperson and Chief Executive Officer early in the process that they did not reapply for the vacant positions due to current workload, and additional duties recently acquired through other Committee's. The NAWMA Chairperson thanked the pair for their long and worthwhile contributions to the Audit Committee at their final meeting of 18 June 2020.

Proposed Recommendation;

1. *That Council resolve to endorse Claudia Goldsmith as Independent Member to the NAWMA Audit Committee, as described in the Report, and as endorsed by the NAWMA Board, and*
2. *That Council resolve to endorse Mark Labaz as Independent Member to the NAWMA Audit Committee, as described in the Report, and as endorsed by the NAWMA Board, and*
3. *That Council resolve to endorse Craig Johnson as Independent Member to the NAWMA Audit Committee, as described in the Report, and as endorsed by the NAWMA Board, and;*
4. *The Chief Executive Officer write to the NAWMA Independent Chairperson notifying of the decision of Council*

If you wish to obtain any further information on the process undertaken for a Council report please contact NAWMA Executive Assistant Amy Hosking (a.hosking@nawma.sa.gov.au). Otherwise myself (brian@briancunningham.com.au) or NAWMA Chief Executive Officer Adam Faulkner (a.faulkner@nawma.sa.gov.au) can be contacted via email.

Yours sincerely



Brian Cunningham
Independent Chairperson

C. COUNCIL/COMMITTEE TO DECIDE HOW LONG ITEM 17.2 IS TO BE KEPT IN CONFIDENCE**Purpose**

To resolve how long agenda item 17.2 is to be kept confidential.

STAFF RECOMMENDATION

Pursuant to Section 91(7) of the Local Government Act 1999, the Committee orders that the following aspects of Item 17.2 be kept confidential in accordance with the Committee's reasons to deal with this item in confidence pursuant to Section 90 (3) (a) of the Local Government Act 1999:

- Report for Item 17.2
- Attachment(s) for Item 17.2
- Minutes for Item 17.2

This order shall operate until NAWMA makes the composition of its Audit Committee public, or will be reviewed and determined as part of the annual review by Council in accordance with Section 91(9)(a) of the Local Government Act 1999, whichever comes first, with the exception of communicating the decision of Council with the Independent Chair of the NAWMA Board.

COMMITTEE RESOLUTION**4174**

Pursuant to Section 91(7) of the *Local Government Act 1999*, the Committee orders that the following aspects of Item 8.1 be kept confidential in accordance with the Committee's reasons to deal with this item in confidence pursuant to Section 90(3)(a) of the *Local Government Act 1999*:

- Report for Item 8.1
- Attachment(s) for Item 8.1
- Minutes for Item 8.1

This order shall operate until NAWMA makes the composition of its Audit Committee public, or will be reviewed and determined as part of the annual review by Council in accordance with Section 91(9)(a) of the *Local Government Act 1999*, whichever comes first, with the exception of communicating the decision of Council with the Independent Chair of the NAWMA Board.

17.3 4 LANGFORD DRIVE, ELIZABETH MATTERS

Contact Person: Mr Simon Blom

Why is this matter confidential?

Subject to an order pursuant to Sections 90 (3) (a) (b) (g) of the Local Government Act 1999, this matter is confidential because the report provides information from the Lessee which staff have been advised is highly sensitive and confidential which could cause distress to TRY Australia employees and families utilising the centre. As the Lessee has requested confidentiality there could also be legal implications if disclosed to the public. Further, the report discusses details which could potentially prejudice the commercial position if Council determines the asset to be recognised as surplus.

A. COUNCIL/COMMITTEE TO MOVE MOTION TO GO INTO CONFIDENCE

No action – this motion passed in the open section.

B. THE BUSINESS MATTER**17.3 4 LANGFORD DRIVE, ELIZABETH MATTERS**

Responsible Executive Manager : Mr Simon Blom

Report Author : Mr Daniel Turner

Delegated Authority : Matters which can be delegated to a Committee or Staff but the Council has decided not to delegate them.

Attachments :
1. [Property Information](#)
2. [Lessee Advice](#)

PURPOSE

To make a determination for the termination of the lease to TRY Playford Children's Centre (4 Langford Drive, Elizabeth), acknowledge the asset as surplus to Council requirements, and consider sale or lease of the property.

STAFF RECOMMENDATION

1. Acknowledge the asset is surplus to Council requirements.
2. Agree to the lease termination at 4 Langford Drive, Elizabeth and authorise staff to negotiate an exit strategy with the lessee.
3. Staff to engage market to consider repurposing of asset options which will include open market disposal and direct sale or long term lease opportunities. Options to be presented to Council at a later meeting for delivery/investment decision.

COMMITTEE RESOLUTION**4176**

- 1. Acknowledge the asset is surplus to Council requirements.**
- 2. Agree to the lease termination at 4 Langford Drive, Elizabeth and authorise staff to negotiate an exit strategy with the lessee.**
- 3. Staff to engage market to consider repurposing of asset options which will include open market disposal and direct sale or long term lease opportunities. Options to be presented to Council at a later meeting for delivery/investment decision.**

EXECUTIVE SUMMARY

A strategic land use assessment has recently been completed on the Council owned asset located at 4 Langford Drive, Elizabeth currently leased to TRY Australia as a Childcare Centre. In completing this assessment staff have completed an internal consultation, held discussions with the Lessee and sought independent third party advice from a specialist senior childcare valuer and advisor at Knight Frank. An attached map and basic asset details are attached as Attachment 1 - Property Information.

Analysis of the asset has revealed that the property has not been financially viable since being utilised as a Childcare service with significant annual losses occurring under operation from both the private and public sectors.

Advice provided by the specialist childcare valuer/advisor indicates that the property is currently running at approximately 30% capacity which is not financially sustainable and an analysis of childcare competitors has revealed that there is a sufficient amount of operators in the catchment area for children to relocate to in the event the asset ceases use as a childcare service.

Discussions with the Lessee (TRY Australia) has determined that they would like to enter negotiations for terminating the current lease due to expire 30 June 2022 due to the business not being financially viable since occupying the premises in 2012. Annual losses from the childcare centre have averaged in excess of \$100,000 per annum with the 2019/2020 being in the order of \$148,000. They have further advised that the building is in need of refurbishment and is currently not fit for purpose in comparison to competing Childcare centres. Currently the centre is experiencing challenges in meeting the required Australian Children's Education and Care Quality Authority (ACEQA) National Quality Standards (NQS) which are published online and can be utilised by families seeking childcare.

Internal consultation together with advice sought from Knight Frank has revealed that an estimated amount of \$312,000 is required to uplift the property to the standard required under the current lease, however in order to refit the facility to a modern childcare centre or other asset class, an approximate \$825,000 (\$1,250m²) would likely be required to be spent. In the event the property was to be refit/repurposed to a modern standard and taking into consideration evidence and advice provided by Knight Frank, the required outlay to Council would outweigh the financial benefit received from an increased purchase price or lease.

The table below summarises the current operating financial position of the asset to Council together with assumed minimal uplift and full refit scenarios:

| Current Financial Position | | Assumed Financial Position (uplift) | Assumed Financial Position (Refit/Repurpose) |
|--|----------|--|---|
| Annual Lease Income | \$48,691 | \$48,691 | \$83,305 |
| Rate Revenue | \$3,123 | \$3,123 | \$3,123 |
| Total Revenue | \$51,814 | \$51,814 | \$86,428 |
| Expenditure | | | |
| Maintenance | \$3,895 | \$5,640 | \$8,509 |
| Insurance | \$2,266 | \$2,266 | \$5,640 |
| Depreciation | \$37,916 | \$46,816 | \$61,449 |
| Interest | | 7,675 | \$20,295 |
| Total Expenditure | \$44,077 | \$62,397 | \$95,893 |
| Net Operating Position | \$7,737 | -\$10,583 | -\$9,465 |
| Assumptions: Increased income expectation upon full refit. Maintenance, insurance and depreciation increase as capital expenditure spent. Interest amount calculation increase estimated from current debt | | | |

The particulars of this report provide the necessary information for Council to determine if the site is considered surplus to requirements and to provide direction to staff with next steps and current asset matters.

1. BACKGROUND

Historically the asset was operated by Council as the 'Playford Children's Centre' prior to having a name change to 'Playford Community Children's Centre' in 2002 to align with Community Children's Centre SA network for not-for-profit childcare providers.

On 22 June 2010 Council completed a service review, investigating Council's assets and viability to continue and on 12 April 2011 Council made the resolution to cease management of the centre due to operating losses averaging \$125,065 per annum. This was attributed at the time to high staffing costs from employees being on the Council EA as opposed to the childcare award.

On 22 November 2011 Council made the resolution to lease the property to TRY Australia Children's Services who since this time have indicated the service has not been profitable and have had increasingly high vacancy rates since occupying the premises. Further to this the lessee has approached Council on a number of occasions to discuss termination of the lease with the most recent correspondence indicating annual losses have averaged in excess of \$100,000 per annum throughout the entire lease period.

Based on a risk / outcome rating assessment process that was conducted, 4 Langford Drive, Elizabeth was identified as one of eight (8) priority sites to focus on as part of Council's long term financial plan which has previously been presented to Council, initially at the October 2019 services committee. Since this time, a strategic land use assessment (SLUA) has been completed by internal staff for further analysis of the asset.

Staff were presented with an unsolicited bid in November 2019 from adjoining land owner Peter Page Holden with a purchase price of \$530,000. As the bid did not meet price or uniqueness requirements under Council's sale and disposal of land and other assets policy, it was rejected. Peter Page Holden has recently approached Council with an additional offer of \$720,000 which will be considered against Council policy to directly negotiate in the event staff recommendation is endorsed. This along with other potential disposal/lease options would then be presented to Council at a later meeting for direction.

2. RELEVANCE TO STRATEGIC PLAN

4: Smart CBD Program

Outcome 4.2 Growth and diversification of local jobs in the CBD

Outcome 4.5 Commercial Growth

The decision will impact the Council's Smart CBD Program as the asset is included as a strategic parcel within the current CBD Masterplan together with the whole block bounded by Elizabeth Way, Langford Drive and Goodman Road. This is an area of interest due to the proximity to the train station and Mountbatten Square. Due to the relatively small size of the allotment and limited main road exposure, the site is not considered to have strong strategic significance unless amalgamated with an adjoining allotment fronting Philip Hwy/Elizabeth Way.

The outcome from the decision is considered to affect growth and diversification of local jobs in the CBD as the asset is anticipated to have increased local employment opportunities and commercial growth through a change of asset class or via a refit/refurbishment. This is due to the asset currently being underutilised with inconsistent attendance and as such the majority of staff are casual employees that are sourced through local employment agencies. In the event the lease continues in its current state, the property will likely become vacant upon the lease expiring with limited opportunity to find another operator.

3. PUBLIC CONSULTATION

Council resolved to revoke the community land status of 4 Langford Drive, Elizabeth in line with the Local Government Act 1999. A report completed by Maloney Field Services (2005) reviewed all Council land status and confirmed the asset was listed as 'Freehold'. As such there is no requirement to further consult with the community.

4. DISCUSSION

- 4.1** The current net operating position of the asset is \$7,737 per annum. There is however no option to continue the current arrangement. A financial analysis of current and assumed financial positions under various uplift/refit scenarios is detailed as shown in the executive summary.
- 4.2** The lessee has approached Council on several occasions to request lease termination. The business has been operating at a substantial loss since occupying the premises and is no longer considered sustainable.
- 4.3** The lessee requested rent relief in March 2020 due to the COVID-19 environment. At time of writing, the lessee continues to pay invoices, as requested evidence to show further downturn has not been provided to Council.
- 4.4** The Lessee was contacted in April to discuss the assets current position. At this time TRY Australia confirmed they still wish to terminate the agreement and would like to discuss an exit strategy. Information provided to staff from the Lessee has been attached as Attachment 2 - Lessee Advice.
- 4.5** The Lessee recently approached the market in an attempt to assign their lease to another operation which was unsuccessful indicating there is limited or no other market interest to lease the asset in its current condition.
- 4.6** The asset is listed in the long term financial plan to be disposed of in the 2020/2021 financial year with a net value of \$779,000. A third party market valuation has recently been completed on the property which indicates the actual

estimated market value to be \$750,000 in the current economic climate. Council should note that the current written down value of the property which takes into consideration the depreciated value of money spent on the asset is \$1,196,414.

- 4.7** There are seven competitors identified within the expected childcare catchment area as determined by a childcare specialist valuer. Whilst occupancy rates are typically not disclosed due to confidentiality, it is understood a number of competing centres have availability on all days with some of them indicating relatively low levels of occupancy. Census data confirms there are 3,507 children in the selected catchment area aged up to 5 years. The total number of licensed places listed in the competing centres are shown above and there are 520 licensed places in the catchment area (including TRY Australia) which equates to approximately 6.74 children per licensed place. On balance, the amount of children per licensed place is considered to be within an acceptable range taking into consideration the lower socio-economic location and higher proportion of single income families. Overall there is currently considered to be sufficient childcare centre competitors in the catchment to cater for children in the event TRY Australia was to cease service and in fact there is potentially an oversupply in the market with the service being operated. Discussions with TRY Australia indicated that current occupancy at the centre have been around 30-40% in the recent years. The valuer indicated at the time of inspection occupancy was around 30% and advised that childcare centres with this level of occupancy is not sustainable.
- 4.8** As the site is already developed there are minimal environmental considerations however note there are several regulated and potentially significant trees that need to be considered in future planning decision making.
- 4.9** There are currently 45-55 families that are utilising the service on an inconsistent basis. The majority of these families are on the highest rebate bracket meaning they are entitled to an 80% cost rebate. Should families require another service they may be required to pay slightly more at a competing centre. To clarify, TRY Australia have an average daily rate of \$85 a day whereas surrounding competitors are showing daily rates predominantly between \$85 and \$100 a day.

5. OPTIONS

Recommendation

1. Acknowledge the asset is surplus to Council requirements.
2. Agree to the lease termination at 4 Langford Drive, Elizabeth and authorise staff to negotiate an exit strategy with the lessee.
3. Staff to engage market to consider repurposing of asset options which will include open market disposal and direct sale or long term lease opportunities. Options to be presented to Council at a later meeting for delivery/investment decision.

Option 2

Determine the asset is not surplus to Council requirements. Tenant/Leasing options to be considered further and presented at a later meeting for Council endorsement.

6. ANALYSIS OF OPTIONS

6.1 Recommendation Analysis

6.1.1 Analysis & Implications of the Recommendation

Analysis/implications of the recommendation has been determined as follows:

- Allows staff to consider opportunities to reduce Council's overall debt position in line with the current long term financial plan.
- Analysis of competitors (as determined by specialist childcare valuer) together with advice from the lessee indicates there is sufficient supply of Childcare centres within the catchment area in the event of centre closure.
- The potential risk for negative publicity/reputation is considered minimal due to the business being operated by TRY Australia, not Council.
- There is a potential for short term employment loss and negative financial impacts from those utilising the service should the property become vacant and as such an exit strategy with the Lessee will be negotiated to mitigate risks. For example, an agreement could be reached that requires the lessee to pay out a portion of the remaining lease which could be utilised towards providing families an appropriate amount of time to source another services and upskilling/assisting with staff costs of transitioning to other employment.
- There may be loss of lease income should the property cease use prior to disposal or another investment/delivery decision being realised.

The above risks and implications as a result of the recommendation being endorsed will be considered in further detail in a future report upon further details being known.

6.1.2 Financial Implications

The initial financial or resource implications will be presented for decision in a further report upon the lessee exit strategy has been negotiated and initial market engagement being conducted in line with the endorsement.

6.2 Option 2 Analysis

6.2.1 Analysis & Implications of Option 2

In the event Council determine the asset is not considered surplus the analysis and implications under option 2 are as follows:

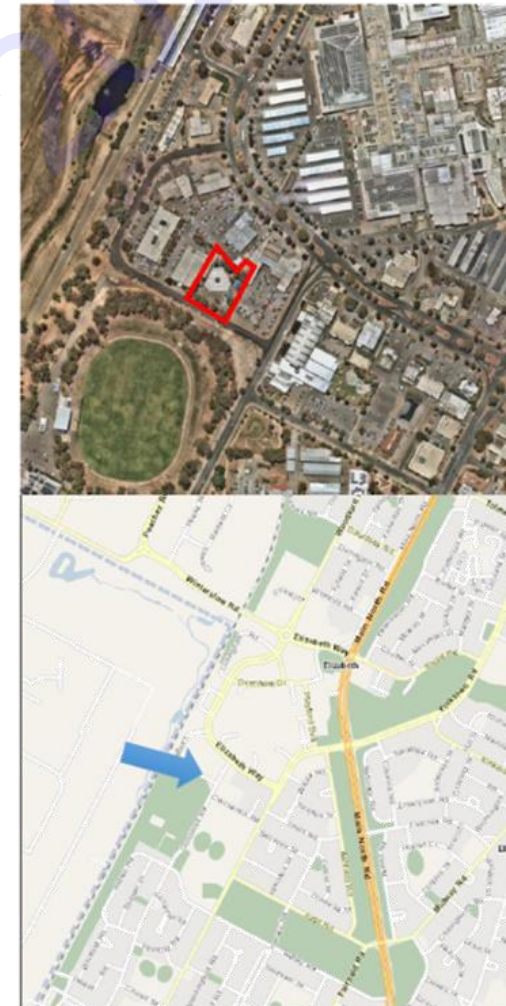
- There is a high risk of not securing another Childcare operator upon the current tenant vacating. This could result in the property becoming vacant for an extended period of time creating negative outcomes from an employment, community, asset, and financial perspective.
- Whilst determining the asset not to be surplus to Council requirements may mitigate reputational risks from a service perspective, it could be seen to increase risks associated with public expectations for meeting Councils financial plan ie decreasing overall debt.
- Sourcing another appropriate operator in the current market will likely require leasing incentives such as a rent free periods and providing upgraded fitouts. Furthermore, potential Lessees will likely see an opportunity to negotiate a below market rate on the property if providing a Community service.

6.2.2 Financial Implications

- Whilst there are numerous scenarios that could occur that will be presented to Council at a later date, the two assumed scenarios are (1) uplifting the asset to a minimum standard required under the current lease and (2) refit/repurposing the asset to a modern Childcare facility or other asset class.
- Uplifting the asset to a minimum standard has been estimated at \$312,000. Refitting the premises to a modern Childcare facility or other asset class has been estimated at \$825,000 (\$1,250m²). The overall net operating position to Council under these scenarios are shown in the executive summary.
- Assumption: From a leasing perspective, the assumed income upon completion of a refit as determined by Knight Frank is considered to be \$83,305p.a. Whilst an extra rate revenue apportionment of \$3,123p.a may be increased it has been assumed to remain the same as the current apportionment being recovered. Under this scenario (and shown in the executive summary table), Council's overall net operating position is assumed at -\$9,465p.a. Taking this into account, refurbishing/refitting the premises to a modern standard is not considered financially sensible.
- Assumption: Potential market value on the property if a refit occurs has been estimated at \$1,100,000 by Knight Frank. This considers a 7.5% yield on the estimated rental value and in line with recent market evidence. Taking the current market valuation of the property (\$750,000) into consideration, spending \$825,000 to achieve a \$1,100,000 property value is not considered financially sensible.
- Adding \$825,000 capital investment to the \$779,000 expected to be achieved in the 2020/2021 financial year, the long term financial plan debt impact to Council would be -\$1,604,000.

ANNEXURE A- PROPERTY INFORMATION

| Item | Detail |
|---|--|
| Registered Proprietor | City of Playford |
| Property Details | CT Volume 5549 Folio 106 being Allotment 54 in Filed Plan 113438 |
| Site Street Address | 4 Langford Drive, Elizabeth SA 5112 |
| Site Area / Building Area (m ²) | Site Area- 3,404m ² / Building Area- 660m ² |
| Current Council Net Operating Position | Revenue- \$51,814 Expenditure- \$44,077 Net Operating Position- \$7,737P.A. |
| Current Market Valuation (as at 27/05/2020) | \$750,000 |
| Current Written Down Value | \$1,196,414 |
| Current Development Plan Zoning | Zoned- Regional Centre. Precinct- 23 (Centre Fringe) |
| Leases / Licences | Leased to TRY Australia expiring 30 june 2022. 2x further 5 year options which are highly unlikely to be exercised |
| Community Land Classification / Management Plan | Freehold. As confirmed in external contractor asset identification (Maloney Field Services 2005) |



PLAYFORD CHILD CARE CENTRE

TRY Australia is a group of 2 companies and an association. Playford Child Care Centre (PCCC) is a part of TRY Australia Children's Services (TRY) which makes up the majority of the operations of the group. TRY's history is one of services to vulnerable young people dating back to the 1880s. TRY took on the provision of Early Learning and Care services in the 1970s.

PCCC is the sole child care centre for TRY Australia Children's Services in South Australia, with the TRY Australia head office in Melbourne.

Since TRY commenced management of PCCC the service:

- has never reached capacity (70), with demand being variable – see below utilization rate for the past 6 months
- the demographic is highly vulnerable
- The family fee is very low (\$85 per day) and most families (about 80%) are eligible for the highest CCS rate
- The service is rated Working Towards (QSA 3 - physical environments & 6 – collaborative partnerships with families and communities). This was rated in 2012 and the service is well overdue a second Assessment and Rating (which was recently postponed again).
- Staffing is problematic in that it has been difficult to recruit an Early Childhood Teacher, leaving TRY having to use agency staff for this position which has been costly and inconsistent.
- Generally, staff are keen to learn and very committed to the service
- The building is in dire need of a refurbishment and is not fit for purpose. This condition of the building is often commented on by parents looking at the facility, particularly if PCCC is not the first child care centre they visit.

Utilization Rate:

| | Monday | Tuesday | Wednesday | Thursday | Friday | Week |
|-----------------------|--------|---------|-----------|----------|--------|------|
| Average last 6 months | 24 | 24 | 29 | 29 | 25 | 131 |
| Utilisation | 34% | 34% | 41% | 41% | 35% | 37% |

To address this TRY was successful in receiving a grant to undertake:

- Community outreach and consultation
- Advertising
- Staff training

Management are committed to upskilling the current staff, with professional training being organised, and given the current COVID environment TRY has not proceeded with the community outreach and consultation or advertising. This is unlikely to happen in the foreseeable future.

DECISION MAKING

The TRY Board has undergone significant change in the past 2 years. The Board does not see the one off expansion into South Australia as making strategic or operational sense. All remaining services are in Victoria, particularly in the Western and Northern suburbs of Melbourne.

The Board views that an exit strategy from the PCCC is the most satisfactory way forward, and if not achievable prior to the cessation of the lease next year, TRY is clear that we will not be negotiating a continuation of the lease.


I understand that TRY has attempted to negotiate a cessation of the lease on two occasions. During this process TRY also approached a number of other providers in South Australia to attempt to negotiate a transfer of management. The most recent attempt resulted in TRY being informed that the building was not suitable and that there is already an oversupply of child care places in the geographical area.

While the TRY Board are keen to exit PCCC, they have been concerned regarding the plight of the vulnerable families that attend the service. This has been heightened again more recently with TRY's inability to support the service in the manner in which they see as optimum, given the closure of State borders.

In the discussion at the TRY Board meeting in May they reiterated that they would welcome discussions in relation to exiting the service in a planned manner in which families attending would be supported. To that end, I have been asked to continue such discussions as appropriate with Playford City Council.

FINANCIAL INFORMATION

Please find below financial budgeting information for PCCC for the past 5 years.

| <div>  Playford Child Care Centre </div> | | | | | | | | | | |
|---|-----------------|----------------|------------------|------------------------|------------------|------------------|-------------------------|------------------|-----------------|----------------|
| PROFIT & LOSS STATEMENT - 2019/20 | | | | | | | | | | |
| | Year to Date | | | 2019/20 Financial Year | | | Prior Years Comparative | | | |
| | Actual | Budget | Variance | Budget | Forecast | Variance | 2018/19 | 2017/18 | 2016/17 | 2015/16 |
| Income: | | | | | | | | | | |
| Government Funding | 408,334 | 520,115 | (111,781) | 643,418 | 453,134 | (190,284) | 493,816 | 479,338 | 616,047 | 652,119 |
| Childrens Services Revenue | 109,792 | 145,485 | (35,693) | 178,182 | 109,792 | (68,390) | 151,582 | 170,243 | 170,156 | 197,313 |
| Funds Raising Revenue | 0 | 0 | 0 | 0 | 0 | - | 0 | 0 | 0 | 0 |
| Financial Revenue | 1 | 0 | 1 | 0 | 0 | - | 0 | 43 | 26 | 15 |
| Other Income | 69 | 0 | 69 | 0 | 0 | - | 0 | 4 | 0 | 0 |
| Total Income | 518,196 | 665,600 | (147,404) | 821,600 | 562,926 | (258,674) | 645,399 | 649,629 | 786,229 | 849,447 |
| Expenditure: | | | | | | | | | | |
| Staff Expenses | 443,299 | 461,943 | (18,644) | 550,960 | 531,960 | (19,000) | 508,003 | 629,912 | 636,952 | 650,775 |
| Corporate Expenses | 3,418 | 1,950 | 1,468 | 5,634 | 3,962 | (1,672) | 4,927 | 5,079 | 6,048 | 2,726 |
| Office Expenses | 8,060 | 12,457 | (4,397) | 14,335 | 9,468 | (4,867) | 18,792 | 14,290 | 9,824 | 9,506 |
| Marketing & Communications | 0 | 0 | 0 | 0 | 0 | - | 723 | 0 | 0 | 0 |
| Property Expenses | 70,695 | 75,915 | (5,220) | 91,097 | 87,834 | (3,263) | 87,745 | 95,345 | 87,891 | 91,632 |
| Childrens Service Expenses | 18,530 | 31,492 | (12,962) | 37,903 | 20,340 | (17,563) | 26,873 | 28,165 | 38,698 | 41,210 |
| Funds Raising Expenses | 435 | 0 | 435 | 0 | 435 | 435 | 0 | 0 | 0 | 0 |
| Grant Funding Expenses | 1,066 | 0 | 1,066 | 0 | 1,066 | 1,066 | 0 | 0 | 0 | 0 |
| Repairs & Maintenance Expenses | 3,339 | 1,500 | 1,839 | 1,500 | 4,269 | 2,769 | 3,694 | 6,315 | 6,163 | 5,144 |
| Motor Vehicle Expenses | 0 | 0 | 0 | 0 | 0 | - | 0 | 0 | 0 | 0 |
| Equipment Expenses | 2,920 | 3,675 | (755) | 4,305 | 3,160 | (1,145) | 3,244 | 1,651 | 2,776 | 2,520 |
| Financial Expenses | 999 | 1,377 | (377) | 1,982 | 1,180 | (802) | 5,355 | 1,056 | 1,993 | 2,673 |
| Total Expenditure | 552,761 | 590,309 | (37,548) | 707,717 | 663,674 | (44,043) | 659,355 | 781,812 | 790,345 | 806,187 |
| Operating Result Pre M'ment Fees | (34,566) | 75,291 | (109,856) | 113,883 | -100,748 | (214,631) | (13,956) | (132,183) | (4,115) | 43,260 |
| Management Fees | 0 | 55,913 | (55,913) | 67,096 | 48,210 | (18,886) | 46,852 | 45,863 | 45,361 | 44,822 |
| Other | 0 | 0 | 0 | 0 | 0 | - | 0 | 0 | 0 | 0 |
| Net Operating Surplus/(Deficit) | (34,566) | 19,378 | (53,943) | 46,787 | (148,958) | (195,745) | (60,808) | (178,046) | (49,476) | (1,562) |

C. COUNCIL/COMMITTEE TO DECIDE HOW LONG ITEM 17.3 IS TO BE KEPT IN CONFIDENCE**Purpose**

To resolve how long agenda item 17.3 is to be kept confidential.

STAFF RECOMMENDATION

Pursuant to Section 91(7) of the Local Government Act 1999, the Committee orders that the following aspects of Item 17.3 be kept confidential in accordance with Committee's reasons to deal with this item in confidence pursuant to Sections 90 (3) (a) (b) (g) of the Local Government Act 1999:

- Report for Item 17.3
- Attachment(s) for Item 17.3
- Minutes for Item 17.3

This order shall operate until the current lessee has vacated the premises and Council has disposed / leased the property to another operator, or will be reviewed and determined as part of the annual review by Council in accordance with Section 91(9)(a) of the Local Government Act 1999, whichever comes first.

Pursuant to Section 91(9)(c) of the Local Government Act 1999, the Committee delegates to the Chief Executive Officer the power to revoke this order at any time subject to first confirming with the lessee (TRY Australia) to ensure no matter of confidentiality will be breached, and the Chief Executive Officer must advise the Committee of the revocation of this order as soon as possible after such revocation has occurred.

COMMITTEE RESOLUTION**4177**

Pursuant to Section 91(7) of the *Local Government Act 1999*, the Committee orders that the following aspects of Item 8.2 be kept confidential in accordance with Committee's reasons to deal with this item in confidence pursuant to Sections 90(3)(a)(b)(g) of the *Local Government Act 1999*:

- Report for Item 8.2
- Attachment(s) for Item 8.2
- Minutes for Item 8.2

This order shall operate until *the current lessee has vacated the premises and Council has disposed / leased the property to another operator*, or will be reviewed and determined as part of the annual review by Council in accordance with Section 91(9)(a) of the *Local Government Act 1999*, whichever comes first.

Pursuant to Section 91(9)(c) of the *Local Government Act 1999*, the Committee delegates to the Chief Executive Officer the power to revoke this order at any time subject to first confirming with the lessee (TRY Australia) to ensure no matter of confidentiality will be breached, and the Chief Executive Officer must advise the Committee of the revocation of this order as soon as possible after such revocation has occurred.