

REPORTS OF OFFICERS

Report Title: Melrose Caravan & Tourist Park – Future Operations
Item No: 8.1
Date of Meeting: 18 January 2022
Author: Sam Johnson, Chief Executive Officer
Jacqui Kelleher, Manager Administrative & Community Services

Attachments:

- 1. Public Consultation Policy:**
https://www.mtr.sa.gov.au/data/assets/pdf_file/0032/174686/04.21-Public-Consultation-Policy.pdf
- 2. Local Government Act 1999:**
<https://www.legislation.sa.gov.au/legislation/lz/c/a/local%20government%20act%201999/current/1999.62.auth.pdf>
- 3. Community Land Management Plans:**
<https://www.mtr.sa.gov.au/documents/management-plans/community-lands>
- 4. Proposals received from the Expressions of Interest process**

Officer Direct or Indirect Conflict of Interest:
In accordance with Section 120 of the Local Government Act

Status:
Information classified confidential under Section 90(2) of the Local Government Act

Yes

No

Yes

No

Confidentiality Clauses:

That Pursuant to Section 90(2) and (3)(b) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of Sam Johnson (Chief Executive Officer), Kathryn Crisp (Senior Administration Officer), Craig Mudge (Manager Corporate Services), and Brenton Daw (Manager Infrastructure and Regulatory Services), be excluded from the meeting as Council considers that the requirement for the meeting to be conducted in a place open to the public has been outweighed in circumstances where the Council will receive and consider a report containing information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business or to prejudice the commercial position of the Council (namely, information regarding an expression of interest process related to the operation of the Melrose Caravan & Tourist Park which if made public could

negatively impact the expression of interest process) and would, on balance be contrary to the public interest.

(for resolution after consideration of the matter)

1. In accordance with Section 91(7) and (9) of the *Local Government Act 1999*, Council orders that this report item 8.1 - Melrose Caravan & Tourist Park – Future Operations, the attachments to this report and minutes pertaining to this item having been considered in confidence under Section 90(2) and (3)(b) of the Act be kept confidential and not available for public inspection on the basis that it contains information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council (namely, information regarding an expression of interest process related to the operation of the Melrose Caravan & Tourist Park which if made public could negatively impact the expression of interest process) and would, on balance, be contrary to the public interest. This order is to remain in force until further order of the Council, noting that it will be reviewed at least annually in accordance with the *Local Government Act 1999*.
2. Pursuant to Section 91(9)(c) of the *Local Government Act 1999*, the Council delegates to the Chief Executive Officer the power to revoke this order and any other orders made by the Council under Section 91(7) in relation to the Melrose Caravan & Tourist Park – Future Operations in whole or part. This delegation may be exercised by the Chief Executive Officer for any purpose including, but not limited to, the of publishing information as part of the public consultation processes approved by Council at this meeting.

1. EXECUTIVE SUMMARY

This report seeks a decision of Council in relation to the future operations of the existing Melrose Caravan & Tourist Park (MCTP) following a recent public expressions of interest process calling for proposals for the lease of the MCTP.

2. RECOMMENDATION

That Council:

1. receives and notes the report;
2. authorises the Chief Executive Officer:
 - a. to negotiate a business sale and lease agreement with the Council's preferred candidate [INSERT NAME], such sale and lease to be subject to community consultation and final approval by the Council;
 - b. to review the current community land management plan and draft any amendments that may be required;
 - c. to undertake public consultation in accordance with the Local Government Act 1999 and the Council's Public Consultation policy on:
 - i. any proposed amendments to the community land management plan; and
 - ii. the proposed lease;

- d. if necessary, seek approval from the Minister for Environment and Water for the grant of the lease in accordance with section 22 of the *Crown Land Management Act 2009*.
3. request that, following the completion of the processes outlined in paragraph 2 above, Council be provided with a further report regarding the actions taken by the Chief Executive Officer, the outcomes of those processes, and any recommendations as necessary for further Council decision.

3. RELEVANT CORE STRATEGIES/POLICIES

DCMR Community Plan 2021-2031

3.3 Support Local Business & Industry

4.1 Partner with Tourism Stakeholders

4.2 Develop our District Tourism Proposition

4.3 Develop our Tourism Infrastructure

5.4 Improve the Efficiency and Effectiveness of Council Services

6.3 Enact Strong Governance

6.4 Provide Financial Sustainability

6.5 Develop Organisational Capability

4. BACKGROUND

In 2020/2021 Council undertook a process to review the current operations, management and potential ownership of the MCTP. AS a result of this review Council resolved to further progress the potential sale of a lease over the MCTP. This resulted in an industry agent, Murray Fielder, being appointed to manage an expressions of interest process for the sale of the leasehold business of the MCTP. Following the conclusion of this process, Council has received two (2) proposals for its consideration.

5. DISCUSSION

A report setting out the full background to this matter was considered and received by the Council at its meeting in July 2021. That report concluded that sale of the leasehold of the MCTP would provide operational savings to the Council as well as providing a one off capital injection, being the sale price, along with an ongoing income from the lease fee.

Form the above previous report and advice, Council resolved to;

That Council:

1. *receives and notes the report;*
2. *appoints Murray Fielder Caravan Park Broker as the agent for the sale of the leasehold of the Melrose Caravan & Tourist Park;*
3. *authorises the Chief Executive Officer to enter in to an appropriate Sales Agency Agreement with the selected agent; and*
4. *approves a method of marketing the Melrose Caravan & Tourist Park as expressions of interest, with all received proposals to be presented to Council for further consideration; and*

5. *notes that subject to the outcomes of the expression of interests process, a public consultation process will be undertaken with respect to any proposed lease and any necessary modifications to the Council's Community Land Management Plan for the land in order to facilitate the entering in to of such a lease.*

Expressions of Interest Process

The previously approved expression of interest process in relation to the MCTP closed in December 2021. Below is a summary of the two (2) proposals as received;

	Party 1	Party 2
Interested Party:		
Price Offered:	\$1,300,000	\$800,000
Deposit Payable:	\$65,000 (5%)	\$80,000 (10%)
Proposed Settlement:	March 15, 2022	Feb/March 2022
Rent Payable:	\$99,300 plus GST in Year 1.	\$99,300 plus GST in Year 1.
Lease Term Request:	35 years	30 years
Rights of Renewal:	Initially 5 years plus 6 x 5 years.	Initially 5 years plus 5 x 5 years.
Rent Review:	By CPI annually.	By CPI annually and Market review each 5 year renewal.
Conditions Precedent:	Subject to signing a suitable lease	Subject to formal and satisfactory inspections of Council fixtures.
Capacity to Finance:	Yes. External finance not required.	Yes. Finance through CBA
Experience to Operate:	Yes, personal and family experience and ownership.	Yes, operate 2 parks in Tasmania.
Other Matters:	14 day training/handover period Discussion re operation and maintenance of water facility	

Attached to this report is the proposal as received. Members will note that the above summary indicates two relatively similarly proposals, but significantly different purchase prices. Offer 1 has a much larger proposed purchase price than that of offer 2.

Offer 2 is however offering to accept responsibility of the maintenance of the underground services, of which traditionally stays with the land owner (Council in this instance of care and control). This offer does come with a caveat of a maximum amount of no greater than \$50,000 to the lessee. Whilst this could pose an attractive offer, noting the variance in offers it is of the opinion of the agent (Murray Fielder) that the offer does not fully negate the \$500,000 purchase price difference in offers.

Members are encouraged to review the proposals as attached, of which include both proponents experience and management capabilities.

Land Ownership

The land at present is owned by the State Government, with only the section in which the newly established cabins are located being the freehold ownership of Council.

Discussions have been held with Crown Lands Department within the State Government to establish an appetite with government about Council being able to lease, resulting in a third party becoming a lease holder to the land in which Council has dedicated care & control over. A representative of Crown Lands has advised this is common across regional Councils, and would in principle be supportive of such taking place.

The *Crown Land Management Act 2009* provides at section 22(5) that a Council may grant a lease over land under its care, control and management without the consent of the Minister provided that certain criteria are met, including that the lease would not detract from any existing public use and enjoyment of the land, and that the lease would not prevent the land from being used for its dedicated purpose. In addition, Section 22(5) of the *Crown Land Management Act 2009* (SA) provides that a Council can grant a lease over dedicated Crown land without the Minister's consent provided that:

- (a) native title in the land has been extinguished or the council is satisfied that the grant of the lease will not affect native title; and
- (b) the lease will not cause any development (within the meaning of the Planning, Development and Infrastructure Act 2016); and
- (c) the council is satisfied that the grant of the lease—
 - (i) would not detract from any existing public use and enjoyment of the land; and
 - (ii) would not prevent the land being used for the purpose for which it was dedicated; and
 - (iii) would not otherwise, in the opinion of the council, be improper or undesirable.

Based on current information at this stage, it is likely that the conditions of section 22(5) will be met and therefore that the Council does not need Ministerial approval for the grant of the lease, however this can only be confirmed upon the final lease terms being drafted.

Community Land Status

The land is currently classified as community land, and listed within Council's current Community Land Management Plan.

Some amendments to the current Community Land Management Plan for the Land are expected to be required to support the proposed leasehold arrangements. Amendment of the Community Land Management Plan must be undertaken in accordance with section 198 of the *Local Government Act 1999* which requires the Council to undertake public consultation before adopting any amendments. This consultation must comply with the Council's public consultation policy, and can be undertaken simultaneously with public consultation required for the grant of any lease (but noting that if both

consultations are run simultaneously it should be made clear that there are two separate matters being consulted on).

Another option that the Council seek is to revoke the community land status of the Land in accordance with section 194 of the *Local Government Act 1999*. This would mean that the ongoing operation and management of the land would no longer be subject to the community land provisions of the *Local Government Act 1999*. This would require the consent of both the Minister for Environment and Water (as the owner of the land) and the Minister for Local Government and is subject to a public notification and consultation process over and above the Council's consultation Policy. This process will need to ensure a series of appropriate steps are taken, including the preparation of a publicly available report detailing the proposed revocation and purpose inviting submissions from the public and including any requirements of the Minister for Environment and Water. Upon receipt of any submissions, the publicly available report along with copies of all submissions are required to be sent to the Minister for Local Government for approval for revocation of community land. Upon such approval from the Minister, Council would then be required to make a formal resolution to revoke the community land classification status.

Noting the above community land revocation process, it is considered preferable to retain the community land status of the land and to make any changes to the relevant community land management plan that are necessary to support the proposed lease arrangements.

Current Management Agreement

The current management agreement was entered into for a period of 12 months in April 2021 and is due to expire in April 2022. Should the agreement require to be terminated earlier, Council will explore provisions that may allow such to occur. It is anticipated however, that an appropriate process for sale including public consultation will take some time. It is on this basis that a possibility may exist for the current management agreement to be extended accordingly and as appropriate.

Next Steps

Subject to the Council's decision the next steps to progress this matter are:

- to negotiate a business sale and lease agreement with the Council's preferred candidate, such sale and lease to be subject to community consultation and final approval by the Council;
- to review the current community land management plan and draft any amendments that may be required;
- to undertake public consultation on:
 - any proposed amendments to the community land management plan; and
 - the proposed lease;
- if necessary, seek approval from the Minister for Environment and Water for the grant of the lease in accordance with section 22 of the *Crown Land Management Act 2009*.

A further report will then be presented to the Council to consider the outcome of negotiations and the results of any community consultation and for the Council to make further resolutions accordingly.

6. ANALYSIS OF OPTIONS

Option 1:

That Council:

1. receives and notes the report;
2. authorises the Chief Executive Officer:
 - to negotiate a business sale and lease agreement with the Council's preferred candidate, such sale and lease to be subject to community consultation and final approval by the Council;
 - to review the current community land management plan and draft any amendments that may be required;
 - to undertake public consultation on:
 - any proposed amendments to the community land management plan; and
 - the proposed lease;
 - if necessary, seek approval from the Minister for Environment and Water for the grant of the lease in accordance with section 22 of the *Crown Land Management Act 2009*.

Option one (1) allows Council to proceed with negotiations for the sale and lease of the Melrose Caravan & Tourist Park.

Option 2:

That Council receives and notes the report.

This option allows Council to receive and note the report and the information as presented, but does not proceed with any sale options for the Melrose Caravan & Tourist Park.

7. RECOMMENDED OPTION

Option 1 is the recommended option.

8. POLICY IMPLICATIONS

8.1 Financial/Budget

In preparing for a sale of the MCTP, appropriate fees will be required. This is in addition to the previously advised fees payable to the agent (Murray Fielder) for the sale process. This will include fees payable for preparation of

legal documents namely being the lease required. This is estimated in the vicinity of \$10,000.

8.2 Legislative/Risk Management

Local Government Act 1999

8.3 Staffing/Work Plans

Staff will be required to assist the appropriate agent in the sale process.

8.4 Environmental/Social/Economic

There are potential economic impacts to the broader district and the community. Should the caravan park proceed with a sale as outlined within one of the two received proposals, a significant investment is being proposed in the business and associated assets. This is likely to resolve in a greater visitor experience, and encouraging further visitors to the region as a whole.

8.5 Stakeholder Engagement

Noting the confidential nature of this report, stakeholder engagement has been limited to Council Leadership Team only.

9. REPORT CONSULTATION

Discussions were held with Council's Leadership Team.

10. REPORT AUTHORISERS

Sam Johnson	Chief Executive Officer
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