

**RELEASED**  
**C280223/7360**  
**ITEM NUMBER: 18.1**

**CONFIDENTIAL REPORT**

**NEW MANAGEMENT AGREEMENT – BRIGHTON  
CARAVAN PARK (Report No: 146/20)**

*Pursuant to Section 90(2) of the Local Government Act 1999 the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that Council will receive, discuss or consider:*

- a. information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead).
- d. 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 or to confer a commercial advantage on a third party: and would, on balance, be contrary to the public interest.

**Recommendation – Exclusion of the Public – Section 90(3)(a)(d) Order**

- 1** That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 146/20) New Management Agreement – Brighton Caravan Park in confidence.
  - 2.** That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 146/20 New Management Agreement – Brighton Caravan Park on the following grounds:
    - a.** pursuant to Section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to Report No: 146/20 New Management Agreement – Brighton Caravan Park is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).
    - d.** Pursuant to Section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to Report No: 146/20 New Management Agreement – Brighton Caravan Park 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 or to confer a commercial advantage on a third party.

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.
  - 3.** The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential
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Item No: **18.1**

Subject: **NEW MANAGEMENT AGREEMENT - BRIGHTON CARAVAN PARK**

Date: 9 June 2020

Written By: Team Leader, Leasing & Commercial Operations

General Manager: City Assets & Services, Mr H Lacy

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### **SUMMARY**

On 1 July 2013 Council entered into a new Management Agreement ("*Agreement*") with FreeSpirit Resorts Pty Ltd ("*FreeSpirit*") to manage the Brighton Caravan Park. The term of the Agreement was originally five years and was then renewed for two years, from July 2018. It is now scheduled to expire on 30 June 2020.

Despite running successful operations at the Brighton Caravan Park for the past seven years, personal circumstances of FreeSpirit's owner have changed dramatically over the past year and they have recently indicated their intention to retire by the end of October 2020. Accordingly Council will need to return to the open market and seek an alternate manager for the park.

Additional factors that need to be considered in the process are the effects of the COVID19 crisis, the plans for stage 2 of the park's redevelopment and the situation with the existing staff.

With these in mind, it is proposed to extend the existing contract with FreeSpirit for 4 months under the same conditions and start an expression of interest as soon as possible with the aim of transitioning to a new management agreement from 1 November 2020.

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### **RECOMMENDATION**

#### **That Council:**

- 1. approve to extend the current Management Agreement with FreeSpirit Resorts Pty Ltd for a 4 month period commencing 1 July 2020 and expiring on 31 October 2020, under the same conditions as the current agreement;**
- 2. approve the Mayor and Chief Executive Officer to sign and execute any documentation necessary to put effect to the proposed extension of the Management Agreement;**
- 3. note that Administration will seek Expressions of Interest for suitable businesses to enter a new management agreement for the Brighton Caravan Park with the expectation that the new agreement commence on 1 November 2020; and**

4. **note that the outcomes of the Expression of Interest process and the preferred tenderer be subject to a further report to Council.**

**RETAIN IN CONFIDENCE - Section 91(7) Order**

5. **That having considered Agenda Item 18.1, New Management Agreement – Brighton Caravan Park in confidence under section 90(2) and (3)(1 and 2a and d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and minutes be retained in confidence for a period of 12 months.**

**COMMUNITY PLAN**

Community: Providing welcoming and accessible facilities

Economy: Supporting and growing local business

Economy: Making it easier to do business

Economy: Harnessing emerging technology

Economy: Boosting our visitor economy

**COUNCIL POLICY**

*Procurement Policy (2017)*

**STATUTORY PROVISIONS**

*Local Government Act 1999.*

**BACKGROUND**

***Previous Relevant Reports & Decisions***

- Council Report No.: 197/13; Item No.: 14.7, '*Brighton Caravan Park – New Management Agreement*', 11 June 2013 (Resolution No.: C110613/951);
- Council Report No.: 113/18; Item No.: 14.6, '*Brighton Caravan Park – New Management Agreement*', 10 April 2018 (Resolution No.: C110418/1115);

In accordance with Resolution C110613/951, FreeSpirit commenced operation of the Brighton Caravan Park on 1 July 2013. The term of the Management Agreement ("*Agreement*") was five years and was renewed for a further 2 years from 1 July 2018. The current Agreement (dated 19 February 2019) expires on 30 June 2020, with no further right of renewal.

During their term of management, FreeSpirit have increased occupancy rates within the park each financial year since the commencement including during the Stage 1 Redevelopment of the park in 2014/15. This increased occupancy rate in turn has resulted in ongoing growth in the net contribution returned to council.

However, despite running successful operations at the Brighton Caravan Park, circumstances have changed dramatically over the past year for FreeSpirit; one director passed away in late 2019 and the other, who remains the main point of contact for all operations, based in Queensland, is looking to retire in the coming months.

With the COVID19 outbreak in March 2020, the caravan park closed to new business for approximately 7 weeks, only providing accommodation for essential and permanent travellers. Normal operations were put on hold, as was the search for a new operator.

Given that COVID19 related restrictions are now lifting, the market may be more open and professional operators may start looking for opportunities to expand their activities.

## **REPORT**

### **Short term (4 month) extension of current agreement**

Due to a number of factors, including COVID-19, Administration has not progressed the Expression of Interest (EOI) for awarding a new Management Agreement. To ensure the time necessary to undertake a tender process the existing park manager, FreeSpirit, has agreed to extend their existing agreement for a further four months, until 31 October 2020. Given the continued performance of FreeSpirit over the last 7 years, it is recommended that the current agreement be extended with the same terms and conditions.

In the meantime, Council will commence an Expression of Interest (EOI) process for the management of the Brighton Caravan Park with an expectation that a new agreement will commence on 1 November 2020.

### **In case of delays**

Given the uncertainties of COVID19, including the possibility of new outbreaks, the economic recession, and the fact that the industry is highly fragmented with most players being small in scale, it may prove difficult to find a new operator for the caravan park in the coming months.

In that case, FreeSpirit has offered the option for a further 8 months with the extension expiring on the 30<sup>th</sup> June 2021 or before that, depending on a start date for any new manager. However, this is not their preferred option and Administration will use all efforts to select a suitable replacement manager to take operational control of the park by 1 November 2020.

### **Expression of Interest process**

Advertisements for interested parties to participate in the Expression of Interest (EOI) process will be placed with Tenders SA by the end of June at the latest and will close after three weeks.

The second stage of the process will seek detailed proposals from companies short-listed during the Expression of Interest process. Following assessment of these detailed proposals, the selection panel will recommend a preferred tenderer to Council for appointment.

It is expected that Administration, once Council has endorsed the proposed tenderer will be in a position to finalise contract details with the successful tenderer in September 2020, allowing a smooth transition from the current management agreement to the new operator commencing on 1 November 2020.

### **Expression of Interest objectives**

The key selection criteria to be utilised during the Expression of Interest process will include:

1. Caravan and holiday parks expertise

During their term of management, *FreeSpirit's* industry knowledge and operational expertise has resulted in not only a positive turn around for the park, but also increased occupancy rates and in turn revenue returned to Council.

The expression of interest will again seek to attract experienced operators who can demonstrate previous success in managing and marketing caravan parks and who can provide expert advice about the future growth of the park.

It is proposed that the new management agreement be for a period of 5+5 years as an incentive to develop the park and its revenue/profitability.

2. Financial performance/resources

FreeSpirit currently receive a management fee based on a percentage of total gross income of the park ("*Base Service Fee*") for operating the park. Additionally, FreeSpirit receives an annual Performance Service Charge which is a percentage of the annual Base Service Fee if all relevant KPIs are met.

All costs associated with the day to day operation, including salaries, cleaning, maintenance and promotion are currently paid by Council.

The EOI process will explore all operating models and cost proposals submitted but will aim to result in an agreement based on a similar benefits for Council, if not more advantageous.

The financial resources and stability of the operator will also be assessed.

3. Customer Service

As a customer centric business, the EOI will seek out prospective operators with a strong history of customer service and support. This will include seeking references from

previous operations and other evidence which would support claims of service excellence.

4. Staff Management

Hiring and retaining quality staff and building a culture of high quality customer service, operations, grounds and facilities maintenance, housekeeping and administration is critical to the success of any caravan park business. The prospective operators will be asked to demonstrate successful staff management, staff training and development and of building a high performing culture.

5. Transition of Existing staffing

A requirement of the EOI will be for the proponents to retain the permanent employees currently working at the caravan park, under new employment agreements.

This will maintain a sense of continuity for the customers of the park, minimise the loss of corporate knowledge and ensure a smooth transition between the two operators. It is to be noted that the existing six permanent employees at the caravan park (including the Grounds Manager and the Park Manager) form a very competent team and are well known to loyal customers and locals.

Keeping the current employees will also avoid termination costs which fall to Council under the Management Agreement, as referred to in the Budget section below.

## **Redevelopment Stage 2**

In parallel to its ongoing operations, the redevelopment of the caravan park is currently being investigated to address the condition of some aging infrastructure and consequent impact on pricing and occupancy.

A preliminary draft capital budget for the park has been submitted for the 2020/21 financial year and includes two components:

- preparation phase (including business case and design)
- construction phase

It is anticipated that the construction budget will be spread over two financial years with the redevelopment scheduled for completion by the beginning of summer 2021/22.

Prior to any commitment being made on the redevelopment, a business case and design will need to be received and approved by Council.

Any procurement for the redevelopment will follow the requirements of Council's Procurement Policy and all costs associated with the redevelopment are the responsibility of Council.

The successful tenderer of the management agreement will be expected to provide advice in regards to the redevelopment and play a pivotal role in the project, while still servicing the daily operations of the park. It should be noted that FreeSpirit were instrumental in assisting Council during the Stage 1 redevelopment of the park.

Detailed design for the new cabins and infrastructure will be finalised once a new operator is engaged.

To ensure any prospective operator understands the scope and estimated timeline for the redevelopment of the park stage 2, these will need to be included in the EOI so that potential impacts on the park's business including disruption over the next two years can be considered.

## **BUDGET**

A draft operating budget for the park has been included in the draft 2020/21 Operating Budget. This forecast includes the continued operational expenses of FreeSpirit, and likely impacts of COVID19 and park redevelopment stage 2. The forward budget will need to be reviewed based on proposals submitted by the tenderers and any changes agreed.

One condition of the existing Management Agreement is that all expenses for staff termination are to be paid by Council if required, including redundancy payments and long service leave entitlements. It will be important to negotiate for the new operator to transition these staff members to become employees of the new operator, otherwise Council will be liable for termination costs which will impact the 2020/21 caravan park operating budget.

## **LIFE CYCLE COSTS**

Council will continue to be responsible for the ongoing operations, maintenance and replacement of the building & structures on site. These are factored into Council's Operating Budget and Asset Management Plans.