

ITEM NUMBER: 18.1

CONFIDENTIAL REPORT

PROPOSED ACTIVATION (Report No: 211/20)

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:

- b. 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; and would, on balance, be contrary to the public interest.**

Recommendation – Exclusion of the Public – Section 90(3)(b) 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: 211/20 Proposed Activation 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: 211/20 Proposed Activation on the following grounds:
 - b.** pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business and would prejudice the commercial position of the Council.

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: **PROPOSED ACTIVATION**

Date: 28 July 2020

Written By: Manager, Strategy and Governance

General Manager: Strategy and Business Services, Ms P Jackson

SUMMARY

Two unsolicited proposals have been received by Council in relation to opening a café service in the old tram, stationed at Wigley Reserve.

At present, the tram is a historic site for viewing. Council needs to make a decision to enable alternative uses.

As the proposals are likely to be under the threshold of the Unsolicited Proposals Policy, it is recommended that the Procurement Policy be applied and a select tender process be followed for the two proposals received, should Council agree to the proposed alternate use.

RECOMMENDATION

That Council:

1. **agrees to the possible use of the tram in Wigley Reserve as a café, subject to safety and other relevant technical obligations being met; and**
2. **notes the use of a select tender process, under the Council's Procurement Policy, will be applied to determine the vendor; and**
3. **notes the final proposal will be subject to Council approval.**

RETAIN IN CONFIDENCE - Section 91(7) Order

4. **having considered Agenda Item 18.1 Proposed Activation (Report No 211/20 in confidence under section 90(2) and (3)(b) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the discussion, report and attachments be retained in confidence for a period of 24 months or after a lease agreement is executed, whichever occurs first, and that this order be reviewed every 12 months.**
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COMMUNITY PLAN

Community: Providing welcoming and accessible facilities

Culture: Being financially accountable

COUNCIL POLICY

Unsolicited Proposals Policy

Procurement Policy

STATUTORY PROVISIONS

Local Government Act 1999 and Regulations

BACKGROUND

Two unsolicited proposals have been received by Council in relation to opening a café service in the old tram, stationed at Wigley Reserve. The proposals have been received from Oceanique and Crack Kitchen. Differing levels of detail have been provided by the two proposed proponents, and at this stage an assessment cannot be made to determine a preferred proponent.

At present, the tram is a historic site for viewing.

While Council does not have an active plan for the tram to be anything other than a point of historic interest, the proposals received indicate there could be market interest to use the tram as an interim amenity during the considerations of options, and later construction, at the old Buffalo site.

Council needs to make a decision to enable alternative uses if such an amenity is considered desirable for the benefit of the community and the City.

REPORT

While they are unsolicited, the proposals received are likely to be beneath the threshold of the Unsolicited Proposals Policy, which is set at \$500,000.

While the Unsolicited Proposals Policy does state that the “Council may, by resolution, where it is justified in the circumstances, determine that this policy will not apply to a particular unsolicited proposal”, there does not appear to be any justification to applying an exemption for this case.

If the Council agrees to the possible use of the tram as a café on a temporary basis, the Procurement Policy provides clear, transparent and robust pathways for selecting a vendor.

It is proposed that a select tender method will be used to ensure potential vendors submit information to the same set of parameters. This will enable a like for like comparison.

A tender panel will then assess the proposals using an appropriate and equitable process, and a lease will be awarded accordingly.

BUDGET

There is likely to be a positive budget impact due to new revenue from a lease, however the quantum is not currently known.

LIFE CYCLE COSTS

There may be life cycle costs depending on the parameters of the proposal and lease.

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