

## **Contract Variation - Child Care Management Agreement - Children's Services Community Management**

**File No: S080772**

### **Summary**

Children's Services Community Management, an entity owned by Community Early Learning Australia, has been operating a child care centre in Chippendale since it was awarded the tender by Council in 2009. The service offers affordable education and care to the general community whilst also providing places to City of Sydney employees.

The contract includes an annual management fee paid by the City to Children's Services Community Management. The contract was awarded for a five-year term with a five-year option. The first five-year term commenced on 1 January 2011. The second five-year term commenced on 1 January 2017 and is due to cease on 31 December 2021.

During the contract period, Children's Services Community Management was supported financially by Community Early Learning Australia to cover the financial deficit experienced by the service in some years due to low utilisation.

In May 2018, Community Early Learning Australia formally notified the City that it was no longer in a financial position to continue operating Chippendale Child Care, and sought to end the contract agreement early, in August 2018.

The City assessed a number of options and associated timeframes for short-term assistance to enable the continued operations of the centre while a long-term plan was determined. This assessment was conducted in collaboration with Children's Services Community Management.

In August 2018, Council entered into a contract variation from Children's Services Community Management and provided Community Early Learning Australia additional funds, as outlined in the Resolution of Council dated 13 August 2018, to ensure the continued operation of the service to 30 June 2019.

The City has been working closely with Children's Services Community Management to assess the viability of the service to the end of the contracted period (December 2021).

In March 2019, Community Early Learning Australia informed the City that Children's Services Community Management was continuing to experience financial difficulties and required further funds to cover the deficit the service was experiencing.

The City is committed to continuing to offer child care and has assessed a number of short-term options for the service, which form the basis of the recommendations of this report. Providing the additional funds will ensure that the service can remain open and continue to offer child care to the community.

This report recommends that Council enter into a contract variation with Children's Services Community Management to enable the continued operation of Chippendale Child Care to 31 December 2019. The City will then undertake an open tender to find a suitable service provider to carry out the remainder of the contract term to December 2021.

The City is also currently working to update the City's Child Care Needs Analysis. The City will consider the findings to determine a long-term solution for Chippendale Child Care that will form the basis of a future report to Council.

## **Recommendation**

It is resolved that:

- (A) Council enter into a contract variation with Children's Services Community Management for Chippendale Child Care so that the period of management of the child care service ends by 31 December 2019;
- (B) Council approve the payment of additional funds to Children's Services Community Management as outlined in Confidential Attachment A to the subject report, should this be required;
- (C) authority be delegated to the Chief Executive Officer to finalise negotiations and enter into any documentation necessary to give effect to clauses (A) and (B); and
- (D) Council approve funding from the 2018/19 General Contingency budget, in the event that the additional costs are not able to be absorbed through savings in the People, Performance and Technology operational budget for 2018/19.

## **Attachments**

**Attachment A.** Contract Variation Offer (Confidential)

## Background

1. Children's Services Community Management, an entity owned by Community Early Learning Australia, has been operating the child care centre since it was awarded the tender by Council in September 2009. The service also provides child care spaces for City of Sydney employees.
2. The term of the awarded tender with Children's Services Community Management was for five-years, with a five-year option. The first five-year contract term between the City and Children's Services Community Management commenced on 1 January 2011.
3. In December 2016, following a thorough assessment of occupancy rates, Children's Services Community Management's Annual Reports and financials and a review of a number of new initiatives designed to improve the Centre's performance, the City made a decision to exercise the five-year term option which commenced on 1 January 2017. This option is due to end on 31 December 2021.
4. In May 2018, Community Early Learning Australia formally notified the City that its entity, Children's Services Community Management, was experiencing financial difficulties and could no longer continue operating Chippendale Child Care. Community Early Learning Australia indicated its intention of ending the contract agreement in August 2018.
5. On receiving this notification, the City assessed options and associated timeframes for maintaining the ongoing operation of the centre. As part of this process, the City requested that Children's Services Community Management assess what assistance would be required to continue operations while a long-term plan was determined.
6. In June 2018, the City met with Children's Services Community Management to discuss a proposal to provide Children's Services Community Management with the financial capacity to continue operation of the service 30 June 2019.
7. In August 2018, Council entered into a contract variation to pay Community Early Learning Australia additional funds to ensure the continued operation of the service to 30 June 2019.
8. Since August 2018, the City has been meeting with representatives of Community Early Learning Australia and Children's Services Community Management to assess the ongoing financial viability of Children's Services Community Management continuing to operate the service until at least 31 December 2019. These discussions have also assessed the possibility of Children's Services Community Management to continue operating the service to the end of the contract period, 31 December 2021.
9. In March 2019, Community Early Learning Australia formally informed the City that the service was still experiencing financial difficulties and would require further financial assistance, over and above that awarded in August 2018.
10. Confidential Attachment A provides details of the proposal for further financial assistance and recommendations.

## Key Implications

### Organisational Impact

11. Chippendale Child Care is the City's work-based child care centre and provides a benefit to City of Sydney employees who have priority access for places.

### Risks

12. Community Early Learning Australia has confirmed that it can no longer continue to financially support the operations of Chippendale Child Care. Without the City's support there is a risk that the service will not be able to continue operating in the short term without additional funds to the centre's operations.

### Social / Cultural / Community

13. Chippendale Child Care offers care and education to the community whilst also providing places for City of Sydney employees. Families who currently access the service may find it difficult to find alternative child care at short notice, should the service close.

## Budget Implications

14. Should additional costs, outlined in Confidential Attachment A, not be able to be absorbed through savings in the People, Performance and Technology operational budget, funding will be sought from Council's 2018/19 General Contingency budget. The request for additional funds in the 2019/20 financial year has been included in the draft People, Performance and Technology 2019/20 operational budget.

## Relevant Legislation

15. Local Government Act 1993.
16. Attachment A to the subject report contains confidential commercial information of the tenderers and details of Council's tender evaluation and contingencies which, if disclosed, would:
  - (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
  - (b) prejudice the commercial position of the person who supplied it.
17. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

### **Critical Dates / Time Frames**

18. Children's Services Community Management identified that it is unable to continue to operate Chippendale Child Care beyond June 2019 without the financial support from the City to cover the shortfall. The additional funds requested will allow the operations to continue to 31 December 2019. If Council does not approve the additional funds, Children's Services Community Management will consider withdrawing from operations prior to 30 June 2019.

### **ANN HOBAN**

Director City Life

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