

Contract Variation - Future Management and Operation of Aquatic Leisure Centres and Belgravia Leisure

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Summary

This report sets out the results of the independent assessment of management options for operating the City's aquatic leisure centres and recommends the implementation of an outsourced model of operation at the end of the current contracts in March 2024.

The City has a proud history of providing high quality public swimming pools and owns six world-class aquatic leisure centres in its local area. Collectively, they represent the largest frontline service offered by Council to the community, including a significant variety of fitness and learn to swim classes each week with a total of 1.79 million attendances last financial year.

The importance of these facilities to the community is highlighted by participation rates in New South Wales for swimming (17.8 per cent) and gym/fitness (35.9 per cent), surpassed only by walking at 44.2 per cent.

The City's aquatic leisure centres provide a unique offering of services that are affordable, accessible, and available universally to all and they play a distinct and vital role in our local communities. They contribute to wellbeing, support improvements in physical and mental health and provide an environment to build social networks and connections.

However, they are among the most expensive and complex services a Council can provide. To ensure that Council secures optimal benefit from delivering the service, independent consultants were engaged to undertake an assessment to determine the most suitable management model in preparation for the expiry of the existing contracts.

The Aquatic Leisure Services Management Options Evaluation and Research Report at Attachment A presents the evaluation findings of the four management models that were assessed against a strategic framework that examined the risks, benefits, and financial impact of each model. The options assessed were:

- an outsourced model;
- an inhouse model;
- a Council Company; and
- a Council Company with Council corporate service support.

The review recommends an outsourced model with a single combined contract that gives due consideration to rising service delivery costs, reduction in and changing patron demand due to the impact of Covid-19, and escalating cost of living pressures (6.0 per cent for year ending June 2023).

The recommended option of an outsourced contract will take 18 to 24 months to implement and will require a variation with Belgravia for a further 15 months until 30 June 2025 for management of Cook and Phillip Park, Ian Thorpe Aquatic Centre, Prince Alfred Park, Victoria Park, and Andrew (Boy) Charlton Pools and Gunyama Park Aquatic and Recreation Centre.

The extension of the contracts will require approval of an increase in the cost of both contracts and additional budget as outlined in Confidential Attachment C to this report.

Recommendation

It is resolved that:

- (A) Council note the confidential Aquatic Leisure Services Management Options Evaluation and Research Report recommendations as outlined in Confidential Attachment A to the subject report;
- (B) Council approve an exemption from tender in accordance with section 55(3)(i) of the Local Government Act 1993 for the extension of the current contracts for management of Cook and Phillip Park, Ian Thorpe Aquatic Centre, Prince Alfred Park, Victoria Park and Andrew (Boy) Charlton Pools; and the contract for Gunyama Park Aquatic and Recreation Centre;
- (C) Council note that a satisfactory result would not be achieved by inviting tenders for the following reasons:
 - (i) a suitable provider will not be able to be sourced, transitioned into operating and provide value for money in the 15-month period;
 - (ii) extending the term of the current provider will allow the continuation of service to the community while staff conduct an expression of interest and select tender to ensure the best commercial and community service outcomes; and
 - (iii) extending the term of the current provider will also allow staff to incorporate the final recommendations of the Aquatic Leisure Services Management Options Evaluation - Evaluation Summary into the future tender contract and deliverables;
- (D) Council approve the extension of the current contracts for management of Cook and Phillip Park, Ian Thorpe Aquatic Centre, Prince Alfred Park, Victoria Park and Andrew (Boy) Charlton Pools; and the contract for Gunyama Park Aquatic and Recreation Centre for 15 months to 30 June 2025;
- (E) Council approve a variation to the two current contracts with Belgravia Health and Leisure Group Pty Limited as Trustee for The Belgravia Unit Trust to change the term and total contract value of both contracts;
- (F) Council approve the additional operational funds requested until the end of the contract term on 30 June 2025 as outlined in Confidential Attachment C to the subject report. Sufficient funds are allocated within the approved 2023-2024 operating budget and future years' forward estimates;
- (G) Council note the development of an Asset Renewal and Upgrade Plan will be undertaken as part of ongoing asset management work; and
- (H) authority be delegated to the Chief Executive Officer to finalise negotiations and enter into any necessary documentation with Belgravia Health and Leisure Group Pty Limited as Trustee for The Belgravia Unit Trust to give effect to the clauses above.

Attachments

- Attachment A.** Aquatic Leisure Services Management Options Evaluation and Research Report (Confidential)
- Attachment B.** O'Connor Marsden Associates Probity Report (Confidential)
- Attachment C.** Financial and Contractual Implications (Confidential)

Background

1. The City owns six world-class aquatic leisure centres in its local area that generate significant health, social and economic benefits for the community. It is a large, complex, public-facing and market driven service. The centres operate approximately 98 hours per week and are open 363 days a year.
2. Incorporating a mix of year-round and seasonal centres, they collectively represent the largest frontline service offered by Council to the community, including a significant variety of fitness and learn to swim classes each week, and achieved a total of 1.79 million attendances last financial year across both contracts.
3. AusPlay data indicates in New South Wales swimming has the third highest participation rate (17.8 per cent) behind fitness/gym (35.9 per cent) and walking (44.2 per cent).

Current Service Delivery

4. The centres are currently managed through two contracts by Belgravia Health and Leisure Group Pty Ltd as Trustee for The Belgravia Unit Trust (Belgravia):
 - (a) the contract for the management of Cook and Phillip Park Aquatic and Fitness Centre, Ian Thorpe Aquatic Centre, Prince Alfred Park, Victoria Park, and Andrew (Boy) Charlton Pools, (the Five Centre contract) commenced on 1 April 2012; and
 - (b) the contract for management of Gunyama Park Aquatic and Recreation Centre (Gunyama contract) was awarded in October 2019.
5. The two contracts were varied by Council on 17 May 2021 to extend the terms by an additional two years with both contracts to expire on 31 March 2024. The extended contract term was recommended based on:
 - (a) providing continuity of service and deferring tendering the service in a highly risk averse market starting to recover from the significant impact of closures from Covid-19; and
 - (b) completing the strategic review to recommend the most sustainable management model at the expiry of the existing contracts.
6. The second three-month Covid-19 lockdown from July to September 2021 resulted in a complete cessation of the service during that period.

Independent Assessment of Management Options

7. In June 2022, the City engaged Warren Green Consulting (the consultant) to undertake an independent assessment of the prevalent management options in use across the industry. The benefits to the City of completing the management options evaluation included:
 - (a) careful independent assessment of the City's desired outcomes for the service;
 - (b) objective, transparent, and rigorous assessment of options;
 - (c) consideration of the state of services currently provided and the market;

- (d) an understanding of the risk profiles associated with each management model; and
 - (e) enablement of an informed decision made on the optimal best value solution to meet the needs and priorities of the City.
8. The confidential Aquatic Leisure Services Management Options Evaluation and Research Report at Attachment A provides the findings of the evaluation and recommends a preferred management model for the future operation of the centres when the current contracts expire.

Current Service Performance and Covid Recovery

9. The recovery period since the pandemic has been materially impacted by a range of factors that have affected attendance and financial performance. The recovery has more recently been and will continue to be impacted by:
- (a) the city's slow recovery, particularly with only 55 per cent office occupancy levels in June 2022 and international students numbers still below pre-Covid levels means decreased foot traffic and visitation in inner city centres;
 - (b) rising cost of living pressures continue to force people to make difficult decisions about their disposable and discretionary income, and spend on swimming and fitness;
 - (c) the estimated resident population has been relatively stagnant between 2016 and 2023. The number of visits per head of population for the Five Centre contract in 2016 was 8.59, compared to 2022-2023 which was 7.61 visits for the six centres (based on the 2023 population estimation of 235,461). The City's high level of provision for the community means a crossover with catchment areas and likely ongoing market cannibalisation, equally creating challenges where the level of subsidy to provide the service and maintain the assets will continue to increase;
 - (d) a saturated health and fitness market directly competing with the City's centres, with 150 gyms within a 20-minute drive time catchment (ActiveXchange). To a lesser extent, aquatic programming is competing with 14 pools within a 20-minute drive time catchment;
 - (e) labour market considerations with loss of quality staff during pandemic restrictions in 2021 to other industries when JobKeeper and JobSaver support was no longer available. Recruitment and retention challenges, particularly learn to swim instructors, have seen Belgravia move from a certified agreement to an industry Award to remain competitive in the job market;
 - (f) supply chain pressures and associated growing cost of service delivery increases resulting in fixed and variable cost increases, e.g. chemicals, insurances, cleaning; and
 - (g) the age, condition and functionality of Cook and Phillip Park and Victoria Park Pools requiring extensive capital and renewal works to maintain the existing service levels and meet patron expectations.

10. Additional funds may be required in the 2023/24 financial year for this service. In an evolving market, as the post Covid-19 pandemic economic impacts on the City unfold, the financial projections for the aquatic centres over the next 15-month period have been updated. The development of the current year's operating budget occurred in February 2023. The City will monitor the performance of the centres closely and initially look to absorb any required extra funding for the service within the existing Divisional operating budget over the course of the financial year. If needed additional funds will be requested from general contingency as part of a quarterly review to Council.

Potential Management Options

11. The management of multi-purpose aquatic leisure centres is complex, and compliance driven, staff intensive and high risk (both operationally and financially).
12. Research and industry trends indicate potential management models operating in the Australian aquatic leisure industry are:
 - (a) Council Managed (Inhouse Model) – the most traditional model where a Council directly employs management and staff to operate the centres. The model provides full control of operations, pricing, service programming, asset maintenance and lifecycle responsibility, and staffing and ensures full alignment with strategic vision, without the need to manage an intermediary.
 - (b) Outsourced (Third Party Management Group) – this is the current model used by the City. Council contracts out management rights of the centres to either a professional contract management company or an individual to operate all centres. This is usually done through a contract for an agreed term and a set of conditions that bind each party.
 - (c) Council Company (Stand-alone Company) – this model is emerging and involves the Council setting up a separate wholly owned company to manage and operate the centres on its behalf, subject to a full business case and Ministerial approval. This model allows the company to control all centres based on a Management Agreement and key operating directions set up by Council. This option is used where Council's wish management to be more commercial and are prepared to hand responsibility to the company but retain strategic direction and control. The model is still in its infancy, hence there are some unknowns and a higher risk profile. The model generally has higher start-up costs and is better suited to a network of centres due to the economies of scale it can deliver.
 - (d) Council Company with Council Corporate Service Support – this is the same as the Council Company, but Council would provide the corporate services function (e.g. human resources, finance and information technology support).
13. The City's aquatic leisure centres have predominantly operated under an outsourced model since 1999.

Management Options Evaluation Framework

14. The model that Council adopts is a policy decision, balancing the level of risk the Council is willing to take; the commercial return the Council wishes to secure or guarantee; the social and wellbeing benefits the Council is seeking to achieve; and the level of control the Council expects to maintain over both strategic and operational matters.
15. The consultants customised a process to suit the City's circumstances. Guiding principles were formulated in consultation with the Executive to strengthen the strategic planning framework and alignment to Council's relevant strategies, plans and policies. These were:
 - (a) community benefits: community health and wellbeing, inclusiveness, social benefit and community connection; and
 - (b) operational factors: financial performance, asset management, quality management and operational delivery and environmental sustainability.
16. The evaluation process and criteria for the City's review incorporated:
 - (a) guiding principles;
 - (b) level of risk;
 - (c) responsiveness, flexibility, and influence;
 - (d) implementation and establishment plan implications; and
 - (e) financial performance.

Risk Implications

17. The risks that arise from the implementation of each option have been considered and financial risks quantified as part of the high-level cost modelling undertaken by the consultants. The evaluation process also considered operational risks as part of assessing each management model.

Implementation and Critical Dates/Timeframes

18. A decision cannot be delayed as the existing contracts expire on 31 March 2024. It is not achievable for the City to release a tender for a short-term contract to the market and appoint a preferred contractor by the date the existing contracts with Belgravia expire.
19. The timeframe estimated to successfully implement the recommended outsourced model is between 18 to 24 months. This will ensure a smooth service transfer and onboarding from the current contracts to commencement of the new outsourced delivery arrangement on 1 July 2025 outside of peak operational time. It will also align the contract to operate on a financial year basis.

Options

20. The City considered several options in the process:
 - (a) Extend the term of both contracts for an additional 15 months to 30 June 2025. This will ensure no adverse impact to this service that is highly valued by the community and allow the City to implement the recommendations arising from the Aquatic Leisure Services Management Options Evaluation. This is the recommended option.
 - (b) Competitively tender an interim 15-month contract for the management of the six centres to 30 June 2025 and then retender for the new contract. This is unlikely to deliver a cost effective or efficient solution due to the risks of increased costs and complexity of potentially transitioning and establishing a new provider for a short time. This is not recommended.
 - (c) City to manage and operate the centres from 1 April 2024. There is considerable risk associated with this option, notably that the management and operation of this large and high-risk public facing service is complex and requires specialised skills and resources that the City currently does not have and is unlikely to be able to recruit in the time available. This is not recommended.

Relevant Legislation

21. The exemption from tender process has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021.
22. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
23. Attachments A to C contain confidential commercial information 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.
24. 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.

Probity Report

25. All negotiations with Belgravia were conducted in principle and in the presence of the probity advisor from O'Connor Marsden Associates (OCM). OCM has provided a report confirming the negotiations have been conducted in accordance with the endorsed probity plan (Attachment B).

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