

## 10.1 Confidential - Noarlunga Leisure Centre

*To determine the future management of the Noarlunga Leisure Centre.*

*This is a new proposal, concept or issue.*

General Manager: Bruce Williams, General Manager City Projects  
Report Author: Brian Fitzpatrick, Asset Planner (Property)  
(brifit@onkaparinga.sa.gov.au)  
Contact Number: 8384 0663  
Attachments: 1. Noarlunga Leisure Centre Site Plan (1 page)  
2. Council Report dated 2 October 2007 (27 pages)

---

## 1 Executive Summary

### 1.1 Topic

To determine the future management of the Noarlunga Leisure Centre, (the Centre).

### 1.2 Context

The Centre is currently managed on behalf of the community by the Noarlunga Centre Community Recreation Association (NCCRA) pursuant to a lease agreement with Council. At the same time NCCRA entered into an agreement with LeisureCo Pty Ltd to provide recreation management services at the Centre. Both agreements are set to expire on 30 June 2008.

Council at its meeting on 2 October 2007 discussed a confidential report concerning issues relating to NCCRA Board membership and sought future direction to proceed. At the meeting it was resolved (in part):

- “2. *That Council having considered the legal advice and the options available to it resolves that the Chief Executive Officer write to the Chairman of NCCRA requesting that all actions and records in respect of NCCRA including any dealings with the accounts and funds be placed in the hands of the Council appointees. Further requesting those arrangements should remain in place until such time as a thorough investigation of the records can properly ascertain the membership of NCCRA and its Board.*
3. *That in the event it is demonstrated that LeisureCo is not entitled to appoint members of the Board Council resolves to:*
  - *Strongly recommend its appointees to the Board to exercise their rights under the Constitution to assign to Council NCCRA’s interest in the lease of the Noarlunga Leisure Centre and the management services agreement with LeisureCo. Following*

*completion of these assignments to Council strongly recommend its appointees to the Board to wind up NCCRA.*

4. *That Council appointed representatives to the board be requested to consider the relevant changes to the association's constitution and report back to Council within 1 month after assignment occurring.*
5. *That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the abovementioned document (or part of such document) including the minutes and the report of the Council relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(g), 90(3)(h) until the expiry of the existing management arrangements for Noarlunga Leisure Centre and the process of entering into a new management arrangement is completed."*

The above report also stated that a further report will be presented in November 2007. It was also stated that Council "at that time may want to consider whether it wishes to enter into a direct relationship with a management provider as now occurs with all its recreation centres or whether it wishes to continue an at arms length arrangement by offering a lease to NCCRA (or similar body)." This matter is the subject of this report.

### **1.3 Suggested Outcome**

That a direct contract management model for the provision of recreation management services at the Centre be adopted.

That a nationwide call for expressions of interest process be conducted under the guidance of a suitably qualified Probity Auditor seeking submissions for the provision of direct recreation management services of the Centre.

## **2 Recommendation(s)**

1. (a) **That under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting in order to consider in confidence this item.**
- (b) **That the Council is satisfied that it is necessary that the public be excluded to enable the Council to consider the report at the meeting on the following grounds:**
  - **Section 90 (3)(b)(i)(ii) information the disclosure of which -**
    - (i) **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**

- (ii) would, on balance, be contrary to the public interest;
- **Section 90 (3)(g) matters that must be considered in confidence in order to ensure that the council does not breach any law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;**
  - (c) **That accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.**
- 2. **That Council receive the update information contained in the report.**
- 3. **That Council endorses the management of the Noarlunga Leisure Centre involving a direct relationship with the recreation management services provider from July 1 2008.**
- 4. **That the Chief Executive Officer be authorised to conduct an Expression of Interest process under the guidance of a Probity Auditor.**
- 5. **That the Chief Executive Officer be authorised to negotiate suitable terms and conditions with the successful operator.**
- 6. **That the Mayor and Chief Executive Officer be authorised to sign and seal any contractual agreements for a term of up to 15 years.**
- 7. **That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the abovementioned document (or part of such document) including the minutes and the report of the Council relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(b)(i)(ii), (g) until a new recreation management services provider is appointed.**

### **3 Engagement**

#### **3.1 Community**

The Noarlunga Leisure Centre is excluded from the classification of community land as defined under the Local Government Act 1999. Accordingly there is no legislative requirement for community engagement to be conducted in relation to this matter.

#### **3.2 Elected Members**

Mid South Coast Ward Councillors have been notified of the subject matter by email.

### 3.3 Staff

Jeff Tate, Chief Executive Officer

Beth Davidson-Park, General Manager Corporate Services

Bruce Williams, General Manager City Projects

Robert Pride, Manager Property

Mark Nokes, Team Leader Property

### 3.4 Others

Richard McNeil, Partner Cowell Clarke Commercial Lawyers

One Eighty Sports & Leisure, Specialist Recreation Consultants

## 4 Direction

### 4.1 Strategic/Corporate Direction

Our document 'Creating Our Future 2002 -2005', states (in part) under the headings "fostering enterprising communities and promoting healthy lifestyles" that we will promote community empowerment by:

*"continuing to support and develop leisure and recreational facilities that are accessible and safe to all members of the community."*

*"supporting health education and awareness programs."*

### 4.2 Council's Role(s)

#### 4.2.1 Owner/custodian

In our role as owner or custodian

*"Council will protect and make the best use of the community's assets in a way that ensures the greatest possible benefit to the community (environmental, economic and social)"*

*"Council will fulfil its obligations as the owner or custodian of the community's physical assets through asset management planning and service level standards."*

### Key Factors

## 5 Discussion

The Noarlunga Leisure Centre has been categorised as a 'Regional Sporting Facility' as it caters for a wide range of sport and recreation activities, has a variety of facilities available and is easily accessible (Attachment 1).

The Centre comprises two community recreation facilities:

- The Noarlunga Aquatic Centre building is located at Seaman Road, Noarlunga Centre and features a lap pool, free-form pool, wading pool, spa and sauna. The main building houses the administration offices, kiosk, weights and cardio theatre, change rooms and toilets. A beach volleyball court has recently been constructed in the aquatic centre grounds. There is also a commercial tenancy area occupied by a physiotherapy business.
- The Noarlunga Recreation Centre building is located at David Witton Drive, Noarlunga Centre and is a three court stadium with two squash courts, administration offices, reception area and two commercial tenancy areas occupied by Aged Care Housing (ACH) and Fit Kids.

The Centre has been managed by LeisureCo since 1 July 1998 pursuant to a ten year agreement with NCCRA (a Community Recreation Association) that is set to conclude on the same day as the agreement between NCCRA and Council being 30 June 2008.

The establishment of a common lease expiry date is a standard facilities management practice that enables the owner to undertake a strategic review of its commercial arrangements.

Given the expiry of the lease it is considered prudent to seek submissions from interested recreation service providers from within Australia

#### **5.1 Update on Actions being taken with respect to NCCRA Membership**

Council at its meeting on 2 October 2007 resolved to take certain actions with respect to resolving an issue relating to LeisureCo purported membership on the Board of NCCRA.

In accordance with that resolution Council's solicitors have drafted a letter for the Chief Executive Officer to hand to Ray Gilbert Chair of the NCCRA Board setting out the apparent membership breach and requesting LeisureCo appointees stand aside from the Board until such time as the facts of the apparent breach can be fully ascertained. The CEO has met with Ray Gilbert to hand over the letter and to brief him of the situation and actions to be taken.

In order to further progress the resolution of Council following a formal stepping aside of the LeisureCo appointees, a General Meeting of the NCCRA Board comprising the three Council appointees will be called as soon as possible. Assistance will be provided from our solicitors to amend the quorum requirements in the Constitution so that the Board can undertake its business of both managing the affairs of the Leisure Centre and the management agreement it has with LeisureCo and ascertaining the facts of the apparent breach. Subject to the outcome of the investigation, further actions in accordance with the resolution of Council will be taken.

## 5.2 Recreation Facility Management Models

A review of recreation centre management models was undertaken in August 2007 by specialist recreation consultancy firm One Eighty Sports & Leisure. The review confirmed that a number of models exist each with their own benefits. The main determining factors between model types are the level of council and contractor involvement in the management/service delivery. Equally important is the level of investment from the contractor towards the facility which also impacts upon the lease term.

Below is an overview and assessment of the existing Community Recreation Association model and the Direct Contract Management model.

### 5.2.1 The Community Recreation Association Model (existing model)

A Community Recreation Association is an independent, legally incorporated body which manages a recreation centre on behalf of the owner, normally Council or an educational establishment for the community.

The consultant's review provides that "the key issues of a Community Recreation Association are:

- All decisions are delegated to the Association;
- Some associations employ professional management groups (as is the case at the Centre whereby LeisureCo are engaged by NCCRA);
- Owners (Council) have little or no control over the day-to-day management of the centre;
- The owner usually underwrites the association by annual agreements; and
- Individual user groups may over time, come to exert a high degree of influence over the operation of the centre."

Furthermore, a Community Recreation Association structure may be considered inappropriate for today's standards of corporate governance as has occurred with the membership of LeisureCo on the NCCRA Board.

The review concludes that these models have become obsolete in recent years.

### 5.2.2 Direct Contract Management Model

The consultant's report confirmed that "the most common approach taken is an arrangement whereby a facility and/or service is outsourced to a third party (normally a commercial operator) to operate for a fee for a given period of time. Tenure is negotiated with a maximum of 21 years in South Australia although many Councils tend to opt for shorter periods to enable regular reviews of the service delivery."

The key benefits of this model are:

- Professional recreation management service providers are better informed of current and emerging industry trends;
- Managers prepare Business Plans in accordance with Council's policies and objectives for review and approval by Council;
- Performance measures are set based on independent reviews (including customer surveys) regularly reported on and closely monitored; and
- Financial exposure is minimised.

This direct management model is identical to that adopted by Council for its other indoor recreation centres (The Hub, The Hill and Seaford) which has operated effectively for the past 5 years and is consistent with the specialist consultant's advice.

The same direct management model is hereby proposed for the Noarlunga Leisure Centre.

### **5.3 Expression of Interest (EOI) Process**

A series of pro-active reviews and information gathering has been undertaken in anticipation of an EOI process being supported by Council.

If supported the EOI documentation preparation and evaluation process will be conducted by an assessment panel consisting of key staff members and independent experts within the recreation services industry.

A suitably qualified Probity Auditor is also proposed to be engaged to oversee the entire EOI process ensuring a fair and equitable procedure is followed and documented.

The proposed EOI is planned to be conducted in February 2008 and will seek information and confirmation from interested parties concerning its proposed management structure, satisfying our community service delivery objectives and commitment towards the Centre.

All aspects of the submission(s) will then be evaluated by the assessment panel and negotiated with the preferred management firm.

An information report will be provided back to Council at the conclusion of the EOI process. The report will contain the key results of the EOI process from the Probity Auditor confirming the procedure has been appropriately carried out and details of the preferred recreation management service provider.