

SERVICES REVIEW

Meeting / Session: 5 COMMUNITY & ENVIRONMENTAL SERVICES

Reference: A20597277 : 18 September 2020

Responsible Officer: BH, Director Community and Environmental Services (CES)

Basis of Confidentiality

Pursuant to s275 (1) of the Local Government Regulation 2012, paragraph (b), as the matter involves industrial matters affecting employees.

Executive Summary

This report seeks Council's direction regarding the findings of a recent services review undertaken by Council officers

CONSIDERED BY COUNCIL AS DETAILED BELOW

Meeting & Date: General Meeting - 7 October 2020

Minute Page: 20/1790

Agenda Item & Title: ITEM C.1 - SERVICES REVIEW (A20597277)

CSR 2885356

RESOLUTION

Moved by Cr Matt Constance

Seconded by Cr Jodie Shipway

CARRIED 13/0

1. That in accordance with s228 of the Local Government Regulation 2012, Council commences a tender process for the Council Services identified in the accompanying officer's report.
2. That in accordance with s228(3)(a) of the Local Government Regulation 2012, Council decides it would be in the public interest to invite Expressions of Interest before inviting the written tenders.
3. That, in accordance with s228(3)(b) of the Local Government Regulation 2012, Council record its reasons for resolving to invite Expressions of Interest before inviting written tenders, as follows:
 - a) to enable Council to canvass the interest and capacity of providers outside Council in relation to the Council Services identified in the accompanying officer's report having regard to Council's desired terms, prior to inviting written tenders;
 - b) to reduce for providers the time and expense associated with preparing a full tender response where such a response may not be required following the preparation of a short list from which written tenders will be invited; and
 - c) to maximise Council's resources in the tender process.
4. That in accordance with s228(6) of the Local Government Regulation 2012, Council prepares a short list from those providers who respond to the invitation for Expressions of Interest and invite written tenders from those providers.
5. That the Chief Executive Officer be authorised to take all action necessary to undertake the Expressions of Interest and tender processes as described in this report.
6. That a report be tabled at a future General Meeting detailing the evaluation outcomes of the tender process for Council's further consideration.
7. That the full contents of this report be made public (through publication on Council's website) in seven days to enable appropriate communications to be undertaken.

OFFICER'S RECOMMENDATION

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2. That in accordance with s228(3)(a) of the Local Government Regulation 2012, Council decides it would be in the public interest to invite Expressions of Interest before inviting the written tenders.
3. That, in accordance with s228(3)(b) of the Local Government Regulation 2012, Council record its reasons for resolving to invite Expressions of Interest before inviting written tenders, as follows:
 - a) to enable Council to canvas the interest and capacity of providers outside Council in relation to the Council Services identified in the accompanying officer's report having regard to Council's desired terms, prior to inviting written tenders;
 - b) to reduce for providers the time and expense associated with preparing a full tender response where such a response may not be required following the preparation of a short list from which written tenders will be invited; and
 - c) to maximise Council's resources in the tender process.
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6. That a report be tabled at a future General Meeting detailing the evaluation outcomes of the tender process for Council's further consideration.
7. That the full contents of this report be made public (through publication on Council's website) in seven days to enable appropriate communications to be undertaken.

REPORT DETAIL**1. Background**

Council has owned and operated the 65-place Birrale Child Care Centre (BCCC) located at 1-7 Samantha Court, Ferny Hills (Services) since 1977. The centre provides high-quality long day care services and a Queensland Government accredited kindergarten program for families across both the Moreton Bay Region and Brisbane City local government areas.

Over its forty-three (43) years of operation, BCCC has built a strong reputation in the local child care sector for providing high-quality early childhood education and care services. This is evidenced by the centre's 100% occupancy rate and National Quality Framework Assessment Rating of 'Exceeding'.

BCCC is best described as a community-based non-profit child care centre, operating under public governance and administration. When originally established by Council in 1977, it is understood that very few child care providers were in existence, and the availability of this service type to residents was limited. Accordingly, it was determined by the former Pine Rivers Shire Council that a centre-based child care service would be established under Council's management for the benefit of residents.

In today's context, the Moreton Bay Region is well serviced by a large, dynamic and highly competitive specialist child care sector. Council's contribution to the availability of child care services across the region is considered minor, with all other services being delivered by non-profit community organisations or for-profit businesses.

Whilst common place in the 1980s, the direct governance and management of child care centres by major Queensland local governments is, in the modern day, irregular. Currently, Moreton Bay Regional Council (MBRC) is the only major local government in South-East Queensland (SEQ) still directly delivering child care services. All others, inclusive of Sunshine Coast Regional Council in 2010, have since transitioned the delivery of their services to alternate specialist providers. It is understood that the primary drivers for this sectoral change are:

- Child care centres now operate within a highly competitive marketplace, creating challenge for councils with regards to competitive neutrality and National Competition Policy compliance;

- The commercial and non-profit sectors and generally more responsive and agile in the direct delivery of child care services;
- Operating costs for child care centres in a local government context are higher than that of non-public sectors. This can constrain the growth and service potential of centres; and
- Child care is no longer considered to be the core business of Queensland local governments.

Officers have recently undertaken a review of the BCCC's operations with the view to better understanding the governance and management arrangements that would best support the future provision of high-quality child care services to BCCC customers. Council briefings were conducted on 5 August and 16 September 2020 for the purpose of providing information and advice to Council regarding the findings of this review. In line with Council's decision-making framework, extracts from the minutes of these briefings are provided below:

5 August 2020 Council Briefing - Birralee Child Care Centre - Governance and Management Review

The CEO noted the way forward:

- That the Manager Community Services, Sport and Recreation to provide Council with a detailed transition methodology and also a communications plan prior to consideration to adopt an EOI at a future General Meeting.

16 September 2020 Council Briefing - Birralee Child Care Centre - Governance and Management Review

The CEO noted the way forward:

- The Transition Methodology and Communications Plan as presented was noted by Council. The initial Council resolution to invite Expressions of Interest is to be submitted to the General Meeting of 7 October 2020. This will alter the indicative timelines provided in the Briefing Note accordingly.

2. Explanation of Item

The recent review of BCCC's operations was undertaken for the purposes of identifying the governance and management arrangements that would best support the future provision of high-quality child care services to BCCC customers. The core findings of this review are as follows.

1. A strong and diverse child care sector

Today, the Moreton Bay Region child care sector has considerable strength, depth and diversity. With the exception of Council's BCCC, all other child care centres in the Region operate under the governance and management of either specialist non-profit or commercial child care providers. Council is no longer required to contribute towards the availability of child care services to residents.

2. Not a Queensland local government core service

The direct provision of child care services is not considered a core deliverable of Queensland local governments. Moreton Bay Regional Council is currently the only major SEQ council still directly delivering child care services. In recent decades, all other SEQ councils (with the exception of Lockyer Valley Regional Council who continues to manage one service) have transitioned the delivery of their child care services to alternate specialist child care providers.

3. Service potential limitations

The child care industry is a dynamic, everchanging and heavily regulated sector. Accordingly, services are required to be agile and responsive to the needs of customers, marketplace competition and legislative reforms.

As child care services are not considered the core business of Council, its governance and administrative structures are not established in ways that best support the delivery of this service type. This may be considered a limiting factor in the service's ability to grow and diversify its services to customers into the future.

4. Competitive neutrality

As a public entity, Council has responsibilities under the National Competition Policy to apply principles of competitive neutrality in its delivery of business activities that compete in the open marketplace.

BCCC operates in a highly competitive market alongside many local child care businesses and community organisations. As a public-sector entity, Council endeavours wherever possible to minimise its direct competition with industry.

Whilst BCCC has not previously been the subject of competitive neutrality concerns, there remains a risk that local child care businesses may perceive BCCC as having a competitive advantage due to its public governance and management.

5. Risk profile

Compliance risk

As a heavily regulated industry, the operations of BCCC requires Council to closely monitor the centre's compliance with various regulatory and service quality frameworks. Whilst every endeavour is made to ensure BCCC's compliance, there remains a level of risk to Council due to the focus of its governance and administrative structures being on Council core business, rather than the child care industry.

Liability risk

BCCC is fully compliant with the *Childcare Regulation 2003* and maintains a comprehensive suite of policies and procedures that minimise risks to children. However, as is the case with all child care centres, there remains a risk that a child whilst under the care of Council's BCCC may suffer a serious injury or death. This risk is identified in Council's Corporate Risk Register as a 'Medium' risk.

Financial risk

Whilst BCCC has generally operated at a cost-neutral or better operating position, there remains a risk that due to the high operating costs, subsidisation of the service by Council may be required into the future.

In addition, the review noted that BCCC assets will require renewal and upgrade investment over the coming years. This investment will include the installation of air conditioning throughout the centre.

Key person dependency risks

As an operator of only one medium sized childcare centre, Council has a critical dependence on a small number of specialist staff to manage the BCCC's operations.

Unlike many major child care providers that operate multiple centres, Council does not have a breadth of specialist industry skills and knowledge within its broader workforce.

With consideration to the above-mentioned findings of the review process, it is recommended that, under s228 of the Local Government Regulation 2012 (Regulation), Council commence a tender process for specialist child care providers to assume the future governance and management of BCCC. The invitation will be targeted at non-profit child care providers.

Through this process, the following desired transition outcomes will be investigated, with the view to achieving an optimal and seamless transition of services for staff, customers and Council:

- Continuity of high-quality services to BCCC customers;
- Retainment of BCCC's community-based status and ethos;
- Transition of BCCC employees to the new provider on terms acceptable to Council;
- Transmission of all relevant Council assets to the new provider for continued deployment in the delivery BCCC services to customers; and
- Retention of the Birralee Child Care Centre brand.

Prior to inviting the above-mentioned written tenders, it is recommended that Council first invite Expressions of Interest (EOI) under s228(2)(b) of the Regulation (in the manner prescribed by s228(5)) from specialist child care providers. The EOI will be targeted at non-profit child care providers.

It will be in the public interest to invite EOI before inviting written tenders for the following reasons:

- it will enable Council to canvas the interest and capacity of the child care sector (including the non-profit child care sector) to assume the governance and management of BCCC services on Council's desired terms, prior to inviting written tenders;

- it will to reduce for child care providers the time and expense associated with preparing a full tender response where such a response may not be required following the preparation of a short list from which written tenders will be invited; and
- it will maximise Council’s resources in the tender process.

Following the above mentioned EOI and subsequent tender process, a report detailing the transition offers received will be tabled at a future General Meeting for Council’s consideration.

3. Strategic Implications

3.1 Legislative / Legal Implications

Council must comply with the Local Government Act 2009 and the Local Government Regulation 2012 when it disposes of valuable non-current assets. Section 228 of the Regulation details the tender process and enables Council to invite Expressions of Interest (EOI) before considering whether to invite written tenders (s228(2)(b)). Council must resolve that it is in the public interest to invite EOI and record those reasons in the meeting minutes (s228(3)). After considering the responses to the EOI, Council may prepare a short list and invite written tenders from the short list (s228(6)).

3.2 Corporate Plan / Operational Plan

Strengthening Communities: Strong local governance - strong leadership and governance.

3.3 Policy Implications

The EOI and subsequent tender process detailed in this report will be undertaken in accordance with Council’s Procurement Policy (2150-006).

3.4 Risk Management Implications

Should Council, as a result of the EOI and tender process, subsequently resolve to transition the governance and management of BCCC to an alternate provider, the following risks and related mitigation strategies have been identified.

Risks	Risk explanation and mitigation strategies
Customer impacts	<p>There is a risk that changes resulting for the transition of the service to an alternate provider may negatively impact customers.</p> <p>To mitigate this risk, the EOI and subsequent tender process will seek to achieve various protections from the new provider to enable continuity of services to customers.</p> <p>Further, to ensure that families who have chosen BCCC due to its community-based / non-profit status and ethos, the EOI and subsequent tender process will target community-based / non-profit providers.</p>
Workforce impacts	<p>Following the EOI and subsequent tender process, should Council determine that BCCC services be transitioned to an alternate provider, there is a risk that Council’s BCCC employees may be negatively impacted.</p> <p>To mitigate this risk, the EOI and subsequent tender process will seek to achieve a full transition of all BCCC employees to the new provider on acceptable terms.</p>
Service quality impacts	<p>Should BCCC’s governance and management be transitioned to an alternate provider, there is a risk that the high quality of services historically provided to customers may be negatively impacted.</p> <p>To mitigate this risk, the EOI and subsequent tender process will endeavour to achieve a full transition of all BCCC employees to the new provider (noting the direct correlation between service quality and current BCCC employees). Further, additional service quality and continuity guarantees will be sought from the new provider.</p>

3.5 Delegated Authority Implications

Recommendation 5 for this report proposes that the Chief Executive Officer be authorised to take all action necessary to undertake the Expressions of Interest and tender processes described in this report.

3.6 Financial Implications

BCCC has historically operated at a cost neutral or better position.

3.7 Economic Benefit Implications Nil identified

3.8 Environmental Implications Nil identified

3.9 Social Implications

Should BCCC's governance and management transition to a specialist non-profit child care provider, it is envisaged that the quality and spectrum of services to customers will be further enhanced.

3.10 Human Rights Implications

Council must not make a decision which is incompatible with a person's human rights. Council must also give proper consideration to any human rights relevant to its decision.

Council's decision in this circumstance may affect a person's right to education. However, officers consider that Council's decision in this circumstance (should it reflect the officer's recommendation) is compatible with (and does not limit) a person's right to education. This is due to the intention for BCCC services to continue under an alternate provider and the general availability of early childhood education services in the Moreton Bay Region.

3.11 Consultation / Communication

Chief Executive Officer

Director - Community and Environmental Services

Council departments, including Legal Services, Community Services, Sport and Recreation, Strategy and Engagement, Finance and People, Culture and Safety

Councillors - Council Briefings on 5 August and 16 September 2020