

COMMUNITY SERVICES COMMITTEE 11 JULY 2012	5
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PROPOSED MANAGEMENT AGREEMENT WITH FNQ SWIMMING FOR THE MANAGEMENT OF THE MARLIN COAST SWIM CENTRE OVER PART OF LOT 2 ON RP867128, 27 CHEVIOT STREET, SMITHFIELD, DIVISION 8.

Tim Dendle: 10/2/1-29: #3633733

RECOMMENDATION:

It is recommended that Council:

- a) **Negotiates with FNQ Swimming Association for a Management Agreement for the management of the Marlin Coast Swim Centre for a twelve (12) month term with an option for a further six (6) months, should it be required; and**
- b) **Delegates authority to the Mayor and Chief Executive Officer in accordance with Section 257 of the *Local Government Act 2009* to deal with any and all matters associated with the finalisation of the above agreement for Marlin Coast Swim Centre (Smithfield Pool).**

INTRODUCTION:

The Management Agreement for the Marlin Coast Swim Centre (Smithfield Pool) located within Lot 2 on RP867128, 27 Cheviot Street, Smithfield expired on 30 November 2011. Council has since exercised an option to continue the agreement however in order to facilitate a new formal tenure arrangement, Council must either invite written tenders under Section 177 of the *Local Government (Finance, Plans and Reporting) Regulation 2010* or seek exemption by approaching a community organisation under the *Land Title Act 1994* and the *Property Law Act 1974*.

This report provides commentary and recommendation around entering into a partnership for Management Services with FNQ Swimming Association to maximise community benefit and leverage a number of economic, social and facility development opportunities.

BACKGROUND:

In August 2010, Council advertised a Request for Services for the Management of this facility for a term to expire 30 November 2011. This agreement was granted to the sub-lessee of the pool at the time, Mr Ben Eales. Council has since exercised a 'holding over' option to continue this agreement until a new arrangement can be brokered.

The Cairns Regional Council Parks and Recreation Strategic Plan 2010-2015 was adopted by Council on the 7th of July, 2010 focusing on Council's vision, principals, position and role in the delivery of the identified outcomes for the community relating to Parks and Recreation.

Some attention was paid to Council's approach to management of swimming pools within the region. A number of key issues were identified from the study's Community Engagement around Council "not adequately considering the needs of swimming and other sporting groups using the pools in the same way that planning and management of sporting fields or indoor sports courts would consider user groups and resident clubs".

Submissions from FNQ Swimming, the peak body for 18 swimming clubs across FNQ, and other affiliated clubs indicated that in general, the impact on swimming as a sport had been significant and that there is a need to address this and other management issues associated with pools. Specific issues regarding opening hours and the use of non-FINA standards in the management of pools were also highlighted.

Smithfield Sporting Precinct Feasibility Study

Whilst this study did not address the operation and functionality of the Smithfield Pool, it did provide that that the facility should continue to operate as a regional competition pool, and continue to host major swimming events and competitions. Relevantly it was noted that Council should include this feature in future management contracts/leases, to protect the interests of competitive swimming in Cairns.

It was observed that both the Marlin Coast Recreation Centre and Marlin Coast Swimming Complex (Smithfield Pool) are currently autonomous leisure facilities managed independently. The study proposed development to existing infrastructure at both venues to improve operations and cater for future demand. However given, that any future development would not occur until capital funding was available, the following recommendations were made to ensure flexibility and Council could readily respond to strategic intent:

- Retain separate contract management/lease arrangements for the Marlin Coast Recreation Centre and Marlin Coast Swimming Complex (Smithfield Pool) while the current facilities exist in their current configuration;
- Synchronise the two management contracts/leases so that they have common commencement and termination dates;
- Standardise the terms and conditions of both management contracts/leases so they are consistent. It will specify the rights and responsibilities of Council and the contractor in all aspects of the operation of the facilities.

COMMENT:

In order to facilitate a new management arrangement, Council must either invite written tenders under Section 177 of the *Local Government (Finance, Plans and Reporting) Regulation 2010* or seek exemption by approaching a community organisation under the *Land Title Act 1994* and the *Property Law Act 1974*.

Given the strategic direction detailed above, it is strongly recommended that Council explore a partnership with a community organisation capable of carrying out the operational and service requirements of managing the pool. It is proposed that a short term agreement of 12 -18 months be brokered to achieve the following:

- The preferred organisation can demonstrate its capabilities and develop 'experience' should a competitive tender be called in the future;
- Allow Council to complete a review of its management approach to and provision of swimming pool services; and
- Allow the synchronisation of other venues (i.e. Tobruk Pool) due for expire in 2013.

Partnership Models

Industry research and bench marking has shown that partnerships between local councils and competent swim clubs have provided significant benefits to both parties. One example of such an arrangement is the Nunawading Swimming Club in Victoria who have transformed from a local club to a sporting organisation run as a professional business. Fundamental to the arrangement are the following principles:

- Clubs are highly connected with the community and are more likely to deliver higher quality programs and content;
- Clubs have access to government and private sector funding which local governments cannot;
- The volunteer based club model is declining and not for profit organisations need to look at becoming more professional and commercially focussed to remain sustainable;
- Clubs have considerable opportunity to lobby and advocate for events and sports tourism opportunities; and
- Legislative benefits around procurement of resources and services to achieve highest possible value for money.

The Smithfield Pool is the highest performing venue in Council's portfolio of aquatic facilities both from a participation and service point of view. In addition to these trends, it is the option in the region which meets the desired standards for hosting 'state level' event.

FNQ Swimming Proposal

FNQ Swimming has submitted an application for the Management of this facility listing their future goals and objectives as:

- Develop a close association with Cairns Regional Council and FNQ Swimming Contractors.
- Develop long term strategies to better engage the broader community and specifically the swimming community.

- Establish a working relationship with Advance Cairns, Tourism Tropical North Queensland and Cairns Regional Council to develop sports tourism in this area, specifically related to aquatic activities.
- Work closely with Cairns Regional Council to apply for funding at both a state and federal level to allow for further development of aquatic infrastructure in this region.
- As a result of performance and experience derived from the short term management of Smithfield Pool, acquire other pool leases within the region.

As part of the application, FNQ Swimming has also developed a detailed business plan demonstrating that they can achieve Council's stringent requirements around safe pool operation. Primarily this will be achieved by engaging a suitably qualified sub-contractor to undertake the day to day management and programming at the pool.

Officers recommend further negotiating a management agreement with FNQ Swimming at the Smithfield Pool, based on the existing agreement with minor changes to reflect current operational requirements. Due to the short term nature of the agreement it is proposed that the previous management fee be indexed for CPI only.

Proceeding on this basis will enable this facility to remain open for the next twelve-eighteen (12-18) months without the need to proceed to tender. It will also allow officers the opportunity to complete a review of Council's management approach to and provision of swimming pool services within the region.

As the FNQ Swimming is a not for profit organisation, Council is exempt from complying with the tendering provisions of section 176 of the *Local Government (Finance, Plans and Reporting) Regulation 2010* and can offer the Association a Management Agreement for the daily running of this facility. FNQ Swimming has completed the necessary application and fulfils Council's needs and requirements to ensure the public is offered the services that are currently available.

CONSIDERATIONS:

Corporate and Operational Plans:

The recommendation supports Council's Corporate Plan 2009-2014 with particular reference to:

Goal 2: "To build more creative, innovative and self-reliant communities where participation in community life is enabled and encouraged."

2.2 – Improve the quality and opportunities for public space across the region

2.4 – Provide enhanced arts and cultural activities that add value to the life of residents and visitors alike.

Goal 6: "To ensure that Council is open, accountable, ethical and financially responsible. Recognise that Council plays a leadership role for our immediate communities and for the wider region and will strive to represent our communities needs and expectations."

6.3. Collect, interpret, manage and capture data and information to inform good decision making.

6.7 Consistently perform better, deliver on our objectives and operate sustainably.

Statutory:

In terms of Section 176 of the *Local Government (Finance, Plans and Reporting) Regulation 2010*, a local government cannot enter into a contract (in this case, a lease or permit) over a valuable non-current asset (land) unless it invites written tenders for the contract under Section 177 of the *Local Government (Finance, Plans and Reporting) Regulation 2010*. However, under Division 4 there is an exception for valuable non-current assets contracts, 185, (1) (b), where the valuable non-current asset is disposed of to – (ii) a community organisation, *Land Title Act 1994* and the *Property Law Act 1974*.

Policy:

Council policies that may impact upon, or be impacted by any of the options listed in this report include:

- *General Policy No 1:02:23 Procurement Policy*
- *Council's Tenures Policy No.1:02:45 for Not for Profit, Recreation, Sporting and Community Groups*

Financial and Risk:

It is proposed that the same management terms be offered to those previously in place under the last request for services exercise. Under this arrangement, Council and the operator's responsibilities were defined as follows:

	Lessee	Council
Revenue		
Entry/hire fees	✓	
Receipt Management Fee for Pool		✓
Leasing/tenancies costs		✓
Kiosk Sales	✓	
Commercial licensing fee (programming etc)	✓	
Sponsorships	✓	
Other revenue	✓	
Expenditure		
Employee Costs	✓	
Plant		✓
Licenses, permits and accreditations	✓	
Cleaning	✓	
Promotion of the facility	✓	✓
Operational expenditure (non-routine maintenance, consumables, chemicals, etc.)		✓

	Lessee	Council
Utilities (other than water)	✓	
Other Expenses (inventory etc)	✓	
Capital Renewal		✓
Capital Development		✓
Rates		✓
Water Consumption		✓
Asset Depreciation		✓
Corporate Overheads		✓

It is noted that:

- Council contributes approximately \$124,365 per annum towards operational costs of Smithfield Pool;
- The Manager pays a management fee of \$35,000 (GST exclusive) per annum to Council; and
- It is proposed that the management fee be increased for CPI under the new agreement.

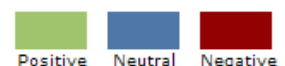
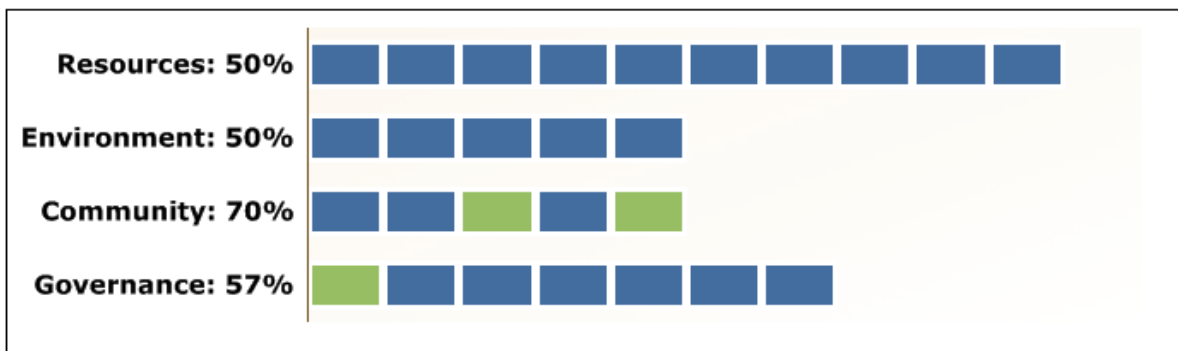
Sustainability:

The Cairns Regional Council Sustainability Scorecard has been completed in relation to the recommendation. In undertaking this analysis, officers answer a series of questions based on the four sustainability principles. The image below shows how many of these questions generated a positive rating (green), a neutral rating [or not applicable] (blue) or a negative rating (red) to each question.

The questions that relate to the positive results in the sustainability score card are as follows:

- The activity meets or exceeds Service Standards for Enhancing community Health and Wellbeing.
- The activity will support employment in the region, via external businesses.

The actions undertaken with regard to the subject of this report will have an overall neutral effect on Council’s sustainability.



FNQ Swimming will have an opportunity to establish a base for the sport that has not previously existed enabling them to develop and prosper within the region to the benefit of the community. Working with Council will allow the two entities to seek grant opportunities for aquatic infrastructure which diminishes the ratepayer burden through partnerships with economic and tourism agencies as well as State and Federal governments.

CONSULTATION:

Consultation has taken place between officers of Council's Sport and Recreation Unit, Property Services Unit and FNQ Swimming.

OPTIONS:

Option 1:

It is recommended that Council:

- a) Negotiates with Swim FNQ for a Management Agreement for the management of the Marlin Coast Swim Centre for a twelve (12) month term with an option for a further six (6) months, should it be required; and
- b) Delegates authority to the Chief Executive Officer in accordance with Section 257 of the *Local Government Act 2009* to deal with any and all matters associated with the finalisation of the above agreement for the Marlin Coast Swim Centre (Smithfield Pool).

Option 2:

It is recommended that Council approves the commencement of procedures to call "request for services" from the open market for the management of the Smithfield Pool.

CONCLUSION:

Opportunity exists for a short term arrangement with FNQ Swimming to achieve the following objectives:

- Allow the organisation to demonstrate its capabilities and develop 'experience' should a competitive tender be called in the future;
- Allow Council to complete a review of its strategic management approach to and provision of swimming pool services; and
- Allow the synchronisation of expiry times for other venues (i.e. Tobruk Pool, Marlin Coast Recreation Centre)

Council officers will work closely with FNQ Swimming to monitor service provision and ensure programs at this facility continue to operate without significant change. As such it is recommended that Council:

- a) Commences negotiations with FNQ Swimming Association for a Management Agreement for the management of the Marlin Coast Swim Centre for a twelve (12) month term with an option for a further six (6) months, should it be required; and
- b) Delegates authority to the Chief Executive Officer in accordance with Section 257 of the *Local Government Act 2009* to deal with any and all matters associated with the finalisation of the above agreement for the Marlin Coast Swim Centre (Smithfield Pool).

ATTACHMENTS:

Attachment 1: Aerial View

Attachment 2: Smithfield Sport & Recreation Precinct Master Plan 2007 – Final Master Plan

Attachment 3: Smithfield Sporting Precinct Feasibility Study – Concept Plan

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MALCOLM ROBERTSON

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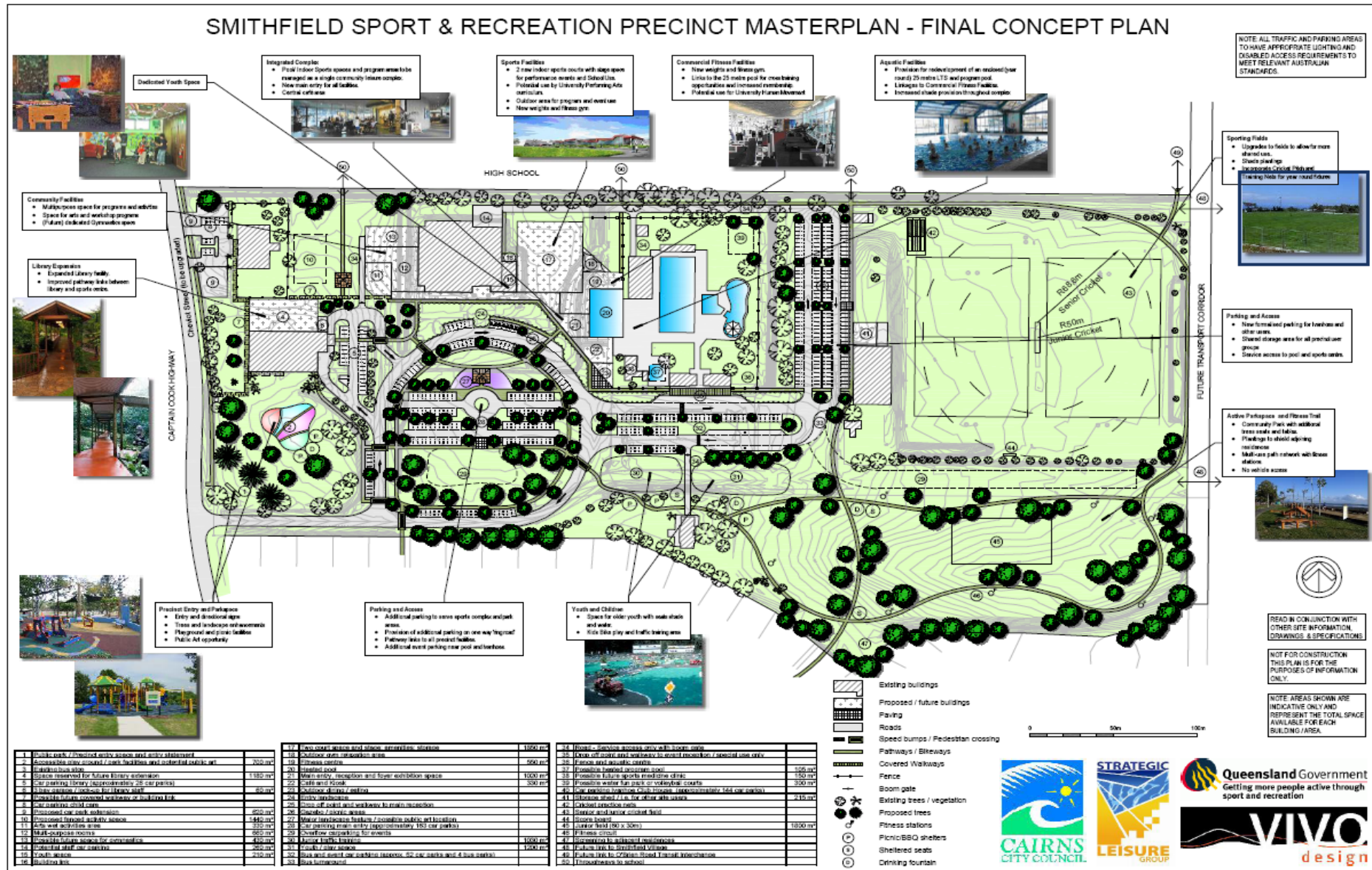
IAN LOWTH

General Manager Community Sport and Cultural Services

ATTACHMENT 1



ATTACHMENT 2



ATTACHMENT 3

