



Workshop Program

Tuesday 21 March 2017 commencing at 6.15pm

Reception Room, Civic Centre, 128 Prospect Road, Prospect

Workshop Chair: Cate Hart, Chief Executive Officer

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Workshop Guidelines

The following details provide an overview of the procedures to be observed:

1. The Workshop will be held on the first and second Tuesday of each month, other than January of each year, between the hours of 6.15pm and 9.30pm (commencing with a light meal for elected members and staff), for the term of the Council or until the Council determines to discontinue the Workshop structure.
2. The need for extraordinary Workshops will be assessed and determined by the CEO.
3. The Workshops will be held in the Reception Room, Civic Centre, 128 Prospect Road, Prospect SA 5082.
4. The time, date and location may be subject to change by the CEO where necessary.
5. The Workshops will be open to the public and media. Notice of a Workshop and the program for a Workshop is to be placed on the Council's website.
6. A confidentiality declaration may be determined by either the Council or CEO in accordance with Council's Informal Gatherings Policy.
7. No decisions will be made at the Workshops. There will be the opportunity for discussion and questions and answers only, and the provision of guidance to the Administration.
8. The CEO or proxy will convene and chair the Workshop to ensure the smooth running of the meeting. The proxy will be determined by the CEO on a needs basis.
9. All Elected Members will be encouraged to attend.
10. The CEO will ensure the Program and papers for the Workshop, which will include Agenda items for the following Council Meeting, will be provided to members by the Friday preceding the Workshop to allow time for members to read the reports and prepare their questions prior to the Workshop.
11. Notes will be made of the general issues and items covered by the Workshop, given that no decisions can be made, and distributed to Elected Members for information.
12. The format for the Workshop may vary on a meeting by meeting basis and could include training, planning, presentations, and discussions.
13. The format for the Workshop will be determined by the CEO.
14. External parties may make Presentations/deputations to the Workshop, subject to prior agreement by the CEO.
15. Elected Members, employees and consultants will be required to disclose any financial and/or conflicts of interest in matters to be discussed. The disclosure of such interest and participation in the Workshop will need to be made as if the matter was considered in accordance with the Local Government Act 1999. A record of the disclosures of interest will be made and maintained by the CEO.

Workshop Protocol

The protocols are a set of guiding principles that aim to achieving enhanced, meaningful engagement of members and to facilitate an equal and equitable participation of all members.

The individual members commitment to active listening and disciplined talking, displaying both courtesy and respect to other members is paramount.

1. The Chair ensures that every members' input is heard and not overlooked or lost, and will enforce a limit on speakers' time when it is best required.
2. No rank and/or officer position of administrative or governance authority recognised within the workshop (except for the Chair), and protocols are enforced when deemed necessary.
3. Members and staff are to be addressed by their first name and not by their title of office they hold.
4. Discussion must be focussed on the issues and matters being the subject of discussion.
5. One member speaking at a time is a right, and must be enjoyed by all members.
6. Interrupting another member speaking is not desired and members are encouraged to exercise restraint for the benefit of all concerned. Equally, there should be no dialogue between members and person(s) in the gallery that interrupts the workshop discussion.
7. No ridicule, blame or shame to be expressed and/or exchanged during the workshop and care should always be taken with the words used in debate.
8. Problems and solution expressed by members are a healthy part of the discussion and may lead to positive outcomes, and should not be frowned upon but rather encouraged.
9. Although it is not a decision-making forum, it is an important part of ensuring a well-informed and enhanced decision-making process for Council.
10. The imperatives for a successful conduct of these workshops are that all members need to work together, displaying courtesy and respect to each other.

It is important that all members recognise the above list of protocols is not about rules; protocols are a set of guiding principles that are agreed on and committed to by all participating members.

Notes from previous workshop

Notes from Workshop 14/03/2017

Chair: Ginny Moon, Director Corporate Services
Present: D O'Loughlin, K Barnett, T Evans, A De Backer, A Harris, M Lee, M Grooten
Apologies: M Standen, Cate Hart (Chief Executive Officer)
Video Conference: M Larwood

Notes from previous workshop held on 07/03/2017

- Taken as read.

Elected Member request progress update:

- Item 3 – New Broadview Oval Event Development of Objectives & Expectations
 - Has the follow up been completed and dates set?
 - Have we met with the 'usual groups'?
 - Concern surrounding the setting of the date, looking to have a close out on the setting of a date as soon as possible.
 - *Staff reaffirmed that strong efforts are being made to secure a date as soon as possible but are experiencing difficulties.*

1. **Footpath Trading Fees**

Chris Hannaford & Jennifer Uebergang worked through the proposed changes to Council's Footpath Trading Policy including the suggestion that trading fees for business be removed.

Broad risk considerations include: Public safety; Maintaining a 1.2mt wide pedestrian walkway; Energy absorbing bollards; Development applications may be required; Formal application in simplified form; Annual audits will continue but a 5 year approval could be granted.

1. Is Council satisfied? Any further issues?
2. Is Council supporting removal of the table & chair fees, including retention of second A Frame fee?
3. Issuing of 5 year permits that are transferable?

Elected Member comments and questions included:

- What is the fee per chair? *We charge \$20 per square metre, this would roughly equate to \$20 per chair per year.*
- It is the resident footpath's, we need to be sure that those making a profit from the footpaths are contributing toward the upkeep.
- The rationale is not clear to me, how often are we monitoring now? I would like to look at the costs now versus what it may cost in the future. *We only respond if there is a complaint. It is mostly around the paperwork, it is difficult to recover the fees and we do not wish to be fining our businesses but that we are encouraging outdoor dining.*
- We have 15 outdoor dining permits with 7 not currently compliant, if we reduce fees what is the estimated growth? *Estimated 2-3 additional businesses.*
- A benefit of charging is that they have invested in the game and without it they may do nothing, fees raised of approx. \$2,500 is immaterial but regarding A Frame's I think 1 only per premise otherwise we will have them everywhere, increasing permits from 12 months to 5 years and transferable makes sense; the long policy is ok if written well but as long as it is written well and enforced, something online would be the best place for the application form. *We will still require an approval and public liability insurance, one A Frame per business sounds reasonable, and we will work towards an online form.*
- A Frame's were meant for the business' off the main street, now it is in proliferation, I would like to see some research on whether A Frames actually work? *It is cheapest and best way for a business to say it is open for business, we will do some research.*
- Generally supportive, anything that reduces paperwork is a good thing for business, the fees we need to look at the net costs, we need to prompt people with a time limit once approved, do not want our policy to be too strict, have we contact Disability SA? Perhaps an A Frame or option to have table or rack sales.

- What are we looking to achieve, it is around street activation and this is worthwhile, not convinced that taking away fees will create activation, it is about the business owners being responsible for the areas.
- I am in two minds, a flat fee may work est. \$150, we do a lot for business and do not see the take up. I like the idea of parklets. We are constantly doing things for local business. *They will have to pay to get approval & Public Liability est. \$1k, and the smaller business may be priced out.*
- We also relax the car parking requirements, there is a loss of potential revenue into our fund, should not be for free, there is an equity issue, at least a fee, how do we chase up the fee is it an invoice (yes), why can we not do it as a charge against the land? *It will need to be a separate levy, the tenant will pay, if it is included in rates notice, landlord will pass on the fee to tenant.*
- I would like to see all of this type of payment included on rating.
- I think there should be some sort of fee, I agree on the activation, issue is not at stake but the fee construct and how we get to it is what is important. The A Frames should be a change of language, it is saying I am open but that is the old way, maybe a flag, umbrella, pallets with plants, racks, other new ways of showing that 'I am open for business'. Recast the language as 'open for business'.
- The old footpaths were too narrow and steep, things rolling onto the road, Council have improved this over time and I would like to see the businesses demonstrate their benefit by putting something towards the cost.
- We could maybe do this as a trial for 2 years; if it doesn't work claw it back. Where did the 5 year permit option come from? *To say to a business that the red tape will be reduced, we can try other options.*
- Did we already trial this? *We waived the fee for 12 months.*
- I like empowering people to do a better job and we should get out of the way, traders are working with us on street activation, it is either the money or paperwork and the paperwork bothers me more, do not make it subjective, other options to A Frame should be encouraged, education process may be considered on other ways of getting things done, is there an issue with a lot of people not taking up the trading option, how many are and how many are not? There are overflow issues, is this under an agreement, will it cause issues of business changeover? *That is included in the policy to say that both parties must agree.*
- The policy there was no major changes? *We have removed the process and put into the guideline.*
- Storage of material on the footpath is not on, does not look good, does not activate and should not be allowed e.g. tables & chairs etc.
- K Barnett provided via email:
 - Agree no footpath trading fees if mainly balancing out administration and enforcement costs and 'red tape' being more of an impediment to encouraging business and more foot fall.
 - Under Page 9 Urban Design perhaps outdoor dining approaches and furniture should be of high quality and design, and make a positive contribution to the street experience with interesting and innovative approaches encouraged.
 - Pleased about promoting Australian Standard AS1428 (Design for Access & Mobility) and Information provided by Blind Citizens Australia regarding the clear and continuous path of access for pedestrians.
Make it clearer 'Pedestrian zone' refers to the area required for pedestrian movement. The pedestrian zone must be kept clear of both business items, such as A Frame signage and customer items such as bicycles and prams.
 - Provide a checklist, for example:
 - Can a wheelchair fit easily under at least some of your tables? As a guide a table surface height of 750mm – 850mm is recommended
 - Can a wheelchair access at least one of your dining tables without impeding pedestrian movement space?
 - Is your seating access friendly? As a guide seating height of 450mm – 520mm is recommended.
 - Example: Page 24 –Adelaide Council
<http://www.cityofadelaide.com.au/assets/documents/GUIDELINES-outdoor-dining.pdf>
 - Page 12 Umbrellas: Advertising on awnings & umbrellas allowed?
 - Page 12 Advertising: Council seeks outdoor dining areas that are visually attractive and not dominated by advertising. To that end, Council supports advertising on removable screens and umbrellas where the visual appearance

- of the item is characterised by the material the item is made from (e.g. canvas) and the advertising does not dominate. Advertising of items not related to the business is not permitted in outdoor dining areas.
 - Page 13 Smoking: It is expected that smoke free venues appropriately train staff to facilitate this, do not provide ashtrays and display appropriate signage.
 - Include- Heritage Areas: The design and siting of outdoor dining areas adjacent to or near heritage places must be compatible with the heritage significance of the location.
 - Include- Removal of Outdoor Dining Infrastructure On termination of the Outdoor Dining Permit (for any reason) all infrastructure associated with the Outdoor Dining Permit must be removed within 30 days and the footpath returned to its previous state at the permit holder's expense, unless alternative arrangements have been agreed in writing by Council. This infrastructure includes but is not limited to all removable items and previously approved fixed or semi-fixed items such as furniture, umbrellas, glass screens, Energy Absorbing Bollards and any other item placed or installed in or on the footpath by the permit holder.
- A De Backer provided via email:
 - http://www.portphillip.vic.gov.au/Footpath_Trading_Application_Form_September_2013.pdf
 - I also would like a page that is usable for shop/cafe holders so they can easily draw a to scale site plan (refer last page of the above link).
 - I think the application form is as important as the policy. Show pictures of good examples, not just words and in plain english the features and benefits of footpath activation.
 - Also can we capture a possible opportunity for parklets in this discussion?
 - <http://www.cityofadelaide.com.au/city-business/business-responsibilities/permits-licences-for-business/parklets/>

Summary:

- Fees: zero versus lower; trial option; flat fee.
- Policy simplified
- How many take up option and how many after 5p?
- State benefit clearly and waive the fee e.g. car parking (able to claw back).
- We should say waive or trial, then can withdraw concession rather than imposing a tax.
- Policy should not allow adjoining owners if they do not wish to use the space they cannot prevent others using it.

Where to from here:

- Detailed Policy to be tabled for Council adoption at the Meeting of 28 March.

2. Churchill Precinct Local Area Traffic Management Plan

Greg Georgopoulos and Benjamin Russ & James Edwards, Consultants (InfraPlan) updated the workshop attendees on the progress of the precinct traffic management plan for the local area surrounding Churchill Road, noting Churchill Road does not form part of this project as it is DPTI controlled. It was further noted that there were issues raised as important to residents, and we will aim to seek possible solutions with DPTI.

The below recommendations were applied against consideration of existing conditions, community consultation and onsite observations:

1. Kingdom Place: (high) install pavement bar island;
2. Kingdom Place: (low) yellow pavement marking;
3. Corner Devonport & Kingdom Pl: (medium) repair footpath paving blocks;
4. Full Churchill LATM area: (low) investigate introduction of 40 km zone;
5. Full Churchill LATM area: (medium) replace on-street parking signs;
6. Boucher Place: (medium) install flat-top road hump;
7. Elizabeth, Devonport, Boucher: (medium) varied approach to improve driveway clearance;
8. Dev Tc. & Ovingham Railway Station: (medium) restrict parking to only eastern side;
9. Dev Tc. Rail Reserve: (high) consider streetscape upgrade;
10. Dev Tc. Rail Reserve: (medium) install additional 'no dumping' signage;

Elected Member comments and questions included:

- Local street definition up to 1500 vehicles per day. *Whilst both Pym & Belford are listed as local roads, they are not functioning in this manner and the LATM provides an opportunity to review that. They should now be identified as 'minor collector'.*
- We review the roads roughly every 2 years; with the changes in surrounding developments, could Devonport Terrace be impacted similarly within the next 2 years? *This is likely to be the one most affected as the others are limited in the amount of development due to their short lengths.*
- 250 Churchill Road, is it proposed to be developed for the broader community and public transport for use of car parking? *Currently the owner is not interested but Council's Development Plan promotes this for the site.*
- It is in an unlit area and quite spooky, that is Council's area of responsibility. *Acknowledged*
- Are the Councilors consulted before you put all of this together? I feel we should be in the earlier part of the discussion as community representatives. *This process commences with the expert review and local resident consultation. Tonight's workshop is to consult with EM's and then a refined report will be prepared and released. We are seeking EM's feedback on what they have seen.*
- It is common courtesy to speak with EM's first. *We are simply following council consultation policy which aligns with other LATM processes.*
- We need to have comment on the various issues, Churchill Road almost impossible to do right hand turns.
- Devonport Terrace landscaping & parks theme and the leaf litter on the road, is it marked with 'yellow lines' or 'no standing'? *We may develop a mini Devonport Terrace management plan.*
- What are the on-street parking benefits? *It is a traffic management intervention, it slows traffic down, with the short streets you can see far enough down to allow others to pass through.*
- Raised on behalf of M Standen via email - the call to install a road hump in Boucher Street will notably increase carbon emissions in that street, and as such contravenes our Strategic Plan, which advocates for a lowering of carbon emissions where we have control do so. *The control device may actually encourage the traffic to travel to disperse which actually might deliver a net benefit.*
- Raised on behalf of M Standen via email - I have an issue with the use of the term 'rat runner'. It's discriminatory to people who are simply using the road network completely within their legal entitlements. *Alternate language such as 'opportunistic drivers' will be used.*
- Nothing included in recommendation around Belford & Pym Streets why? *The issues are surrounding the specific interaction with Churchill Road which is outside of the project scope, although we can raise this with DPTI. We will include this in the recommendations.*
- If you (Consultants) have an opinion for the findings then be sure to include in the recommendations! *Agreed*
- Include the rail line issues in the recommendations. *Greg Georgopoulos will forward all email comments to the InfraPlan consultants for inclusion and 'beef up' the matters surrounding resident's concerns.*
- Emphasis on the Pym Street issues so the community know this has been considered.
- May rephrase recommendations into 2 categories for Council & for others; when you come back to us please let us know how long implementation may be so we are able to advise residents. *Usually we plan one year, for expenditure in the following year, if it requires project funds.*
- K Barnett provided via email:
 - Agree with all the recommendations.
 - Council lobby DPTI about Churchill Rd not being a designated B double road from Torrens Rd to at least Regency Rd in City of Prospect as it is now a more predominately residential area especially apartments and re-development of 250 Churchill road with apartments.
 - Devonport Terrace in particular expressed a desire for increased and improved protection from the rail line, including additional vegetation, noise walls or fencing.
 - Lack of pedestrian crossing points at the southern end of Churchill Road, near Avenue Road. It is understood that some train passengers using Ovingham Station use Avenue Road to reach Churchill Road and access areas on the eastern side. Council to liaise with DPTI to install pedestrian refuges within the existing painted median area to provide a higher level of pedestrian safety during a 2-stage crossing.
 - Introduction of a 40km/h speed limit within the Churchill Precinct, consistent with the area on the eastern side of Churchill Road.

- Recommendation: liaise with DPTI in the process of upgrading (electrifying) the Gawler Rail Line to investigate the need for/possibility of implementing noise barriers along the rail corridor, taking into consideration the preferred barrier placement, appropriate barrier design and materials, urban design (CPTED) principles and other public considerations. Secondary Recommendation: request DPTI undertake a rail crossing safety audit to ensure that the current crossing points meet standards, and ensure that proper usage by pedestrians across the rails line are being met. OR seek to investigate the opportunity for improved fencing along the rail corridor to match the fencing on the western side of the rail corridor.

Where to from here:

- Endorse draft LATMP for consultation;
- Letterbox drop to residents for 28 day consult;
- Work with council officers for additional input;
- Final LATM submitted to Council est. May

3. Galway Avenue Median

Greg Georgopoulos; Alex Cortes & Nina Phillips briefly revisited the existing median strips on Galway Terrace, noting the Crab Apple Trees and lawns with no garden beds as the general amenity. Recapped the feedback from the early concepts delivered to workshop in November 2016.

Three options delivered across seven median strips were discussed focusing only on Median 1 'McInnes Ave to Staffa St', (as the design template). All options included creating a boulevard of trees as the highest and most immediate priority. Then creating triangular nooks and decorative paths for through access or providing aesthetics. After last workshop, the plan has moved away from promoting high level activity but perhaps reading and viewing will occur. Need to consider desirability of using the space, pedestrian desire lines, vehicular experience and note the need to retain existing amenity as a minimum.

STAGING proposed:

- 2017 – plant advanced trees along entire Galway Ave and fix irrigation (7 medians)
- 2017/2018 – lawn remediation, establish understorey decorative ground surface (medians 1-3)
- 2018/2019 – lawn remediation, establish understorey decorative ground surface (medians 4-7)
- 2019/2020 – establish artworks in conjunction with Arts, Gallery & Events Dept. & Arts Advisory Board.

Elected Member comments and questions included:

- I understand that there are services (stormwater drain) running under the median? *We will explore that further.*
- When do we get to say no seating? *Tonight is that opportunity*
- I don't mind the way finding paths to bus stops etc. but be sure that they are the desire lines of travel/ movement.
- There seems to be a gap between last workshop and now, confused on how much money is being spent, what is the budget being spent on? *This session is to direct the designers on which way to go.*
- I thought there was a drain which limited our ability to plant large trees. I would be keen to see this done. Many people like that it is lawn, single lane road, can see neighbours across the road.
- If we are going to do something extra (more than lawn and large trees), the next area should be near Hardy St. It would be good to have paths across, putting trees in, hesitant to put a lot of plantings in, people love to see a flower, grasses are not necessarily popular, maybe the areas of Le Cornu St, 5 junction and Hardy Tc, would be good for more plantings. *If general sentiment is to leave lawn and plant trees, that is good for now, these are future concepts.*
- Recent consultations such as the one held at Ern Sconce Park was quite inspiring, perhaps we can do that on the median strips. *Agreed this style of consultation is worth considering.*
- K Barnett provided via email:
 - Concept Option 3 - keep it in line with PAE end of median, more natural linear park, Gum trees a 'nod' to Aboriginal history, Spotted Gums attract honey-eaters.

- What will happen to the 112 crab apple trees? Will they be retained or can they be replanted elsewhere in the City? Crab Apple Trees are valued as a spring flowering ornamental tree. Crab apples are a tough tree that cope well with a range of conditions and once established require little care or pruning. Good small shade tree.
- 64 trees, are we looking at the same as PAE? *They have lemon scented gums that there may be issues with. We are proposing spotted gums that are more appropriate for public spaces.*
- Is planting 64 trees too many? *For further consideration.*
- Will we be consulting? *Yes per Community Engagement and Consultation Policy.*
- Can we strip out options 1 & 2 as there is no interest and can you have one option with trees and one with paths and plantings? *This can be done.*
- If there is a drain where the trees are to go (Greg G to check), with the offset option, what are you proposing to do? If you think it will be quite dramatic then it is probably best if you consult with us before progressing. *Agreed.*
- Raised on behalf of M Standen via email - I love the proposal. Less is more, especially as we have so many other projects to fund in The Far East.

Where to from here:

Designs to be refined.

Underground services to be investigated and consultation plan to be prepared.

Workshop closed at 9.20pm

Workshop Items

1 CLIC Development Partnership, Project Governance and Project Objectives

Responsible Director: Nathan Cunningham – Director Community and Planning

Expected Duration: 180 minutes

Presented by: Nathan Cunningham, Chris Newby and Brendan Lott

There are a number of key topics relating to the CLIC Project to be discussed at this workshop, as follows:

Development partnership options

- Progression of the partnership arrangements with developers and the many options available to Council are to be talked through.

Project Governance

- The delivery of the project within a Local Government framework will also be discussed.

Project Objectives

- Moving towards agreed Project Objectives will be an important step for the project. A series of questions will be asked with the responses to be captured to allow staff (and PEG) to finalise a set of Project Objectives which can be used as a reminder of what is important for the project.
- A series of questions have been developed by PEG for Elected Member input/ responses that will be used to develop Project Objectives to guide the project thereafter.
- The questions to be answered are:
 - *What parts of the site can't be knocked over?*
 - *How close the back wall can we come?*
 - *Do the trees matter? Gum tree and plan trees.*
 - *Which half is for sale?*
 - *Can the Vine St Plaza be redeveloped?*
 - *Should the FFL match the Town Hall?*
 - *Should we build over the Town Hall?*
 - *Include top 3 issues/desires from library survey?*
 - *How is history displayed?*
 - *How space is shared/open for the community/reserved for Council use?*
 - *What is the level of landscaping we want?*
 - *Do we want access to building and outdoor spaces after hours?*
 - *What will smart city integration look like?*
 - *Is there a setback from Prospect Road?*
 - *Is it a beacon? Attention seeking? Iconic?*
 - *Consider how these impact on develop EOI and architect brief.*
 - *What function do we want to see at ground-facing Prospect Road?*
 - *What energy efficiency rating can we achieve?*
 - *What vehicle movement is provided for?*
 - *How far back to rear fence can we go?*
 - *What to retain of lobby, lower rooms?*

Workshop Item 1 Pre-reading:

Advice on the process to be undertaken in respect of calling for Expressions of Interest in partnering in the development of the CLIC has been sought from Louisa McClurg, Partner at Minter Ellison.

Drawing on her extensive experience in advising on construction management, joint venture projects, contract administration and risk management, Louisa's advice is as follows:

1. The Proposed Development

We understand that Council have resolved to explore partnership opportunities for a redevelopment and expansion of its current premises located at 128 Prospect Road, Prospect. We understand that the **objectives of the Proposed Development** are, amongst other things:

- a. to co-locate the Council's civic facilities, council administration CLIC (ie community hub, library and innovation centre) and art gallery;
- b. to improve footfall in and around Prospect Road;
- c. create a modern and interactive community hub; and
- d. maximise the development return on the Site while delivering the Council's objectives described above.

(Council's Objectives).

2. Current Status

While we understand the objectives for the Proposed Development have been articulated and the need to source a suitable development partner has been agreed, we don't believe that:

- a. any concept plans have been prepared;
- b. nor has a detailed feasibility been determined so as to identify any minimum/maximum funding requirements for the project (Councils' requirements under S48 of the LGA with respect to Prudential Reporting should be considered in this regard).

Consistent with Council's resolution we recommend, and understand that it is your intention, to develop an EOI that is to be issued to a list of suitable developers (or possibly to developers more broadly) seeking proposals that meet Council's Objectives and for Respondents to define more fully the possibilities/proposals for:

- use of non-Council owned spaces – such as residential, commercial / other mix
- funding
- the treatment of construction and delivery risk
- design,

and importantly, the nature of any proposed relationship with Council (ie Service Provider v's Purchaser v's Joint Venture Participant). We have set out in paragraph 5 below some suggested inclusions in the EOI.

3. Development Options

Options

We are confident that sophisticated Developers will have a range of options for the Proposed Development and also for articulating an ongoing relationship between the successful Developer and Council. These Options could range from:

- **(Sale and Lease Back)** The sale of the entire site to a Developer subject to:
 - Council approval of entire development design and use
 - an agreement to lease with Council which is very prescriptive about the Council's tenancy requirements and a long term lease; and
 - specific encumbrances regarding the future use of any other spaces on the site.

From a funding/investment perspective this is likely to be quite attractive to Developers with their foundation tenant being a long term commitment from Council – which may ultimately enable a Developer to build/fund the remaining build with few pre commitments.

- **(Joint Venture)** *Entering a relationship with a Developer to jointly own the site and share in the development profit & annuity income that a tenanted building will offer -*

We believe this type of Development would definitely generate interest amongst experienced developers who may themselves offer a range of ownership/funding models that benefit all stakeholders. Any joint ownership of the existing site will obviously create stamp duty and other taxation implications which would need to be considered as part of an overall feasibility.

- **(Sale of non-Council Spaces)** *A Developer funding construction (in whole or in part) of the development in exchange for ownership of all non-Council spaces subject to specific encumbrances regarding the future use of any other spaces on the site.*

Once again we are confident that there would be an appetite for this form of Development but will likely require the Developer to secure pre commitments for non- Council spaces in order to fund construction

- **(Lease of non-Council Spaces)** *Rather than the sale of non-Council Spaces, a Developer funding construction of the development in exchange for a long term lease (eg 99 years or such period that is necessary for an acceptable ROI) of all non-Council spaces (at a nominal rent), with provisions in the lease regarding the future use of those spaces. The Developer could then sublease its interest to third parties.*

This option may be less attractive to a Developer. However, it does allow Council to retain ownership of the asset, while the Developer has the benefit of the rental income.

(together the 'Development Options')

At the EOI phase we recommend asking Developers to formulate their own proposals for the design, construction, funding and ownership of the Site. However if there are any Council specific limitations that would absolutely prohibit any of the Development Options described above then this should be made clear in the EOI document.

It is also important to appreciate that each Development Option will have its own taxation implications for both the Council and the Developer which will need to be carefully considered as part of the process of assessing EOI responses.

Separating Ownership of the Site

*We discussed the mechanics that would be involved in any separation of ownership on the site and can confirm that this would typically occur, by the creation of individual titles (allotments and/or lots) (**Title Structure**), at the completion of a development, or at completion of certain defined stages. Title Structures could include Torrens titles and/or community titles.*

Once a Development Option is selected by Council (most likely following the EOI process) we will be able to advise on the most appropriate Title Structure. For example, a multi-storey building would likely involve community titling, whereas standalone areas (including open spaces) may be Torrens titled.

To manage costs, ownership may not at any stage transfer to the Developer (for those portions of the site that the Developer does not intend to hold long term), but may transfer instead to a third party identified by the Developer. For example, the Proposed Development may include residential apartments that the Developer markets to a third party in which case ownership may transfer directly from Council to that third party with the Developer taking a Development Fee (eg the difference between a pre-agreed land value and the apartments sale price).

4. Legal Documents Required

Once a Development Option is selected and Title Structure resolved the required legal documents can be determined. However, we would expect the contractual framework to comprise:

- a. a Development Management Agreement / Joint Venture Agreement to document the agreed relationship, ownership interests, powers, contributions and responsibilities of each party.
- b. A Consultancy Agreement with any consultants engaged for the design of the Proposed Development. This agreement should secure ownership in all Intellectual Property associated with the design and be in a form that can be easily novated to a Builder or Developer with a view to ultimately making a Builder and/or Developer contractually responsible for the design and construction of the Proposed Development.
- c. A Project Management agreement if the Council/JV intends to have a Project Manager assist with the construction phase of the Proposed Development (bearing in mind that the Developer may in fact take on this role/responsibility). If this is the case then the scope of a Project Manager's role can involve:
 - a. Creating a short listed of appropriate builders to be invited to tender
 - b. Preparing Tender Packages
 - c. Assessing and reporting on tenders received and assisting in the selection of an appropriate builder based on a range of criteria including, track record, quality, price etc; and
 - d. Administering the Building Contract (including the rectification of any defects) on behalf of the Council/JV
- d. A Building Contract that is sensitive to the nature of the building to be constructed, that minimises the scope for cost variations and provides sufficient incentive for the Builder to complete the Proposed Development on time and on budget.

5. Other Factors to Include in EOI Document

We understand that you are compiling a draft EOI document and hence we have set out below some brief suggestions for inclusion in the EOI (we are obviously happy to assist with drafting and/or reviewing any one or more components of the EOI)

- Council's Objectives for the Proposed Development should be clearly articulated
- A statement of Council's design objectives should be included eg An iconic presence representing the desired community approach to the building
- Site details should be included and importantly any known limitations (potentially the right of access and heritage issues). It may be worth revisiting any prior due diligence on the site even if it relates back to the prior re-development.
- A timeline for the EOI process and for the entire development (to Completion) should be specified
- Any pre-conditions that Council must satisfy (or have satisfied) in order for the Proposed Development to proceed
- Respondents should be asked to provide details of, amongst other things:
 - their proposed funding / pricing model
 - their experience with Council's and Governments in terms of development, collaboration etc
 - referees
 - how they intend to engage a builder and manage construction risks
 - a proposed design
 - a plan and timeline for dealing with Council staff currently located on the Site
- details of any briefing session to be run by the Council regarding the project;

- process for submitting enquiries and contact point within Council regarding the EOI;
- A statement about the evaluation process of submissions;
- standard provisions such as probity, confidentiality, costs, liability of Council,
- Legislative and policy issues will need to be carefully considered. For example, the EOI process is in our view likely captured by Council's 'Procurement Policy'

Advice on project governance concerning the CLIC has been sought from Susie Inat, Special Counsel at Minter Ellison Lawyers. Drawing on her extensive experience in governance and administrative law relating to local government, Susie's advice is as follows:

It is imperative that Council ensures its decision making is robust and transparent and can withstand the most rigorous of scrutiny - be it in the form of for example a section 270 internal review request, an Ombudsman inquiry or a Ministerial inquiry.

Relevantly to the CLIC project, this mean, for example ensuring:

- meeting procedure processes were complied with and resolutions validly made;
- any and all workshops (informal gatherings) were held in accordance with legislative parameters, including no 'decisions' were made at such forums;
- executive meetings relating to the project did not result in decisions and actions that were beyond the power of those in attendance (i.e. that appropriate powers and functions were delegated to individuals).

We also discussed Council establishing a section 41 committee for the purposes of ongoing management of the CLIC project. As we discussed, there are pros and cons associated with doing this. For example:

- Pros - Council has a dedicated team established for the particular purpose of managing the project and making decisions. (Council may delegate powers and functions to a s41 committee. It cannot delegate decision making powers/ functions to an executive group – only individuals in that group).
- Cons – may result in the loss of efficiencies to the decision making timeframes, e.g. often even with delegated authority, such committees act as a recommending body to (full) Council anyway.

The terms of reference for a s41 committee for this purpose need carefully consideration, as well the composition and members and what powers and functions the committee would be delegated.

Alternative to s s41 committee, Council may resolve to delegate powers and functions to an individual, most likely the CEO. In my view there are advantages to doing this over a s41 committee, particularly around time frames for decisions. Of course, Council can impose limitations and conditions on the grant of the powers and functions and further, whilst having the requisite powers and functions on a particular matter, you as the CEO may decide not to exercise use them in respect of the same – but rather put the matter for decision to Council.

Future Workshop and Council Agenda Items

Members may seek advice as to the purpose, or intended resolutions planned for the next Council meeting. These items are subject to change.

Council Meeting 28/03/2017

- Mayoral Monthly Report
- Tourrific Prospect Evaluation Report
- Response to January Motion - Future options for Tram Barn (and revenue impact)
- CLIC Project Governance and Development Partner
- Footpath Trading
- Urban Design Awards
- Response to Ombudsman - Section 270 Reviews
- Memorial Traffic Speeds

Council Workshop 04/04/2017

- 2017-2018 Budget - Capital and Operating Projects (part 1)
- Innovation Project

Council Workshop 11/04/2017

- 2017-2018 Budget - Capital and Operating Projects (part 2)
- 2017-2018 Budget - Rate Modelling