

BEACH CAFÉ COMMUNITY FORUM - QUESTIONS & ANSWERS

8 February 2021

1. Where did Council get the quotes from or are they just a guess?

The estimate costings were based on advice from Council employees with a background in the building industry. This has since been verified by an independent building consultant estimating a cost of between \$230,000-\$400,000 to retrofit the building as a cafe (dependent on the level of upgrade).

2. I notice the Council didn't spend any money on the beach café for 3 years. Is that why it's in such disrepair?

The condition of the building primarily relates to the fact it is an ageing facility. It was recently independently rated as being in 'fair-to-poor condition'. This means that 'the condition deterioration would be quite obvious and asset serviceability would now be affected and maintenance costs would be rising'. Council has confirmed that little investment has been made in the building in recent years, which has also contributed to the issue. However, significant investment would have been required to make the building fit-for-purpose.

3. Cost of current arrangement for chairs/tables etc? How long?

The cost to-date of activating the space is in the order of \$12,000 (this includes the purchase of chairs and tables for use at other events on an ongoing basis). This expenditure is benefiting the numerous local businesses and labour hire firms who are supplying the equipment and personnel for these activities. The ongoing activation of the space will be reviewed at the February council meeting in conjunction with the outcome of the community survey.

4. No outlay apart from blinds – which are unable to be used due to weather – nothing spent since the initial renovation. Why was it allowed to get to that point?

Numerous decisions have been made in the past regarding what has / hasn't been invested in the building. However, the current Council had to make the difficult decision to close the facility due to legal and legislative requirements and is now focused on working with the community to find the best solutions for the future of the facility.

5. Why is there no actual valuation of how much it will cost to renovate?

Estimates have now been confirmed by an independent building consultant and have been included in the community survey.

6. The voice of youth in Whyalla – have they been consulted specifically or plans to?

Through the foreshore café community survey, we have aimed to canvass a cross-section of the community to ensure whatever decision is made is informed by the broader community.





- 7. With the new development, will there be an option for the new café to be operated by a commercial business or solely Council operated building to keep the cost of the food and drinks down? If an independent operator owns the building, Council will charge rates & this cost will be passed onto patrons.**

Once a decision is made on a preferred option for the building, in addition to the works being done to bring the building up to standard in line with the preferred option, processes for the delivery of the service will also need to be undertaken in line with Council's procurement policy and the Local Government Act 1999 (e.g. an expression of interest process may be undertaken or a decision that council operates the facility could also be taken. This will be informed by which option is progressed, and how the best value for residents can be achieved).
- 8. Why not community run so money goes into community and not an individual's pocket?**

If the community survey identifies overwhelming support for creating a community space within the facility, Council will consider enabling community organisations to offer (limited) services from the facility.
- 9. Why couldn't the Federal Government be approached for a grant to upgrade the café?**

Once a decision is made on the preferred option for the café, Council will consider funding options, including whether there is any grant funding available from other levels of government.
- 10. How much rent did the Council get in rent for the last 9 FYs?**

This information is considered confidential on the basis of its commercial nature.
- 11. How much money will Council spend on consultants for beach re-development?**

At this stage, Council is yet to appoint consultants for the development of the Foreshore Masterplan. As a result, this information is currently unavailable.
- 12. How much money did Council pay the lady to run the meeting?**

Council paid Ms Kelly ~\$4,000 to facilitate the forum. This included services across a number of days before and during the forum. It was critical to have an external facilitator to ensure an independent approach was taken to achieving community input / fairness at the forum.
- 13. How much money has Council spent on marquees and chairs?**

The cost to-date of activating the space is in the order of \$12,000 (this includes the purchase of chairs and tables for use at other events on an ongoing basis). This expenditure is benefiting the numerous local businesses and labour hire firms who are supplying the equipment and personnel for these activities. The ongoing activation of the space will be reviewed at the February council meeting in conjunction with the outcome of the community survey.

14. Why didn't Council rectify issues? Building – put rent down to allow tenant to pay for work to be done during pandemic

Numerous decisions have been made in the past regarding what has / hasn't been invested in the building. However, the current Council had to make the difficult decision to close the facility due to legal and legislative requirements and is now focused on working with the community to find the best solutions for the future of the facility. COVID relief was also made available to all local businesses who could demonstrate they impact as a result of the pandemic.

15. Where is Council's obligations during tenancy?

The obligations of both Council and the Lessee are set out in the Lease and the Retail and Commercial Leases Act. Council also has obligations under various other legislations in its role as a regulator.

16. Why would tenant do this only for 6 months' notice?

Council cannot speak on behalf of the tenant.

17. How much \$\$ spent on Patterson St?

This is not relevant to this particular issue - Council's investment in other areas of the city relates to its broader strategic plan, on which there is extensive community consultation.

18. Why was it kept confidential?

The reasons for the closure of the café are public and always have been. Council's preference is for all its deliberations to be public. The only information withheld in this instance is that which has the potential to compromise the commercial and legal interests of the tenant/operator, Mr Nik Petropoulos and/or Council. This is recognised in the Local Government Act.

19. Can we have zoom meetings for Council meetings?

Given this meeting was held in confidence due to commercial sensitivities (as recognised in the Local Government Act), even if live streaming was in place, this meeting would not have been live streamed due to confidentiality. Live streaming is therefore a separate issue which will be discussed by Council at a later stage.

20. How much land does Derham own?

The majority of the foreshore area is Crown land, as is outlined in the attached map. There are extensive processes involved - including community consultation and Ministerial approval - in order for any development to occur on this land.





21. Is there a reason a thorough assessment/report did not occur prior to café going to tender/expression of interest? It seems that Council would (should?) have been aware of concerns previous to this point?

The Expression of Interest process was delayed by the COVID-19 pandemic and consequent unavailability of Council resources. The current Council was first aware of the condition of the building as a result of reports conducted during 2020 (extensive health, safety and building code inspection undertaken on 4 November 2020).

22. Have you considered how to include the voice of young people/youth when planning for the foreshore development? I'd say the average age of attendees this evening does not represent the whole community. Young people readily use this space and will do so well into the future.

Through the foreshore café community survey, we have aimed to canvass a cross-section of the community to ensure whatever decision is made is informed by the broader community.

23. Damage to the inside is done by tenant. If the money is spent to bring it up to date, how do we know the tenant will look after it?

Any new lease provisions will ensure that adequate controls are in place that future tenants are responsible for the appropriate care of the property.

24. Council transparency – will the Council stop the secrecy that has developed over the years? This is our city and we want to have our voices heard. The Beach café issue has occurred due to the level of secrecy the Council condones. Need openness and transparency.

Council's preference is for all its deliberations to be public. The only information withheld in this instance is that which has the potential to compromise the commercial and legal interests of the tenant/operator, Mr Nik Petropoulos and/or Council. This is recognised in the Local Government Act. Council made the difficult decision to close the facility as it had a legal obligation to protect the health and wellbeing of the community. The community's opinions and views will always be considered wherever possible, including as part of the community survey to determine the future of the cafe facility, and the upcoming Foreshore Master Plan community consultation.

25. Will the Council address issues raised and respond in writing to the Whyalla Community?

This document addresses all of the queries received. It is being sent to all those who asked / provided questions and will also be available on Council's website.

26. How are toilet renovations able to be included in costs to upgrade the café?

Adequate provision for toilets is a legal requirement for the operation of public facilities such as the café. As a result, upgrading the toilets was an appropriate expenditure attributed to the café.

27. How can food vans be more hygienic?

Food vans offer a specific service and are generally setup to safely deliver that particular service. They are subject to the same environment, health and safety inspections as other food service operations.

28. Why was it put up for lease by tender knowing the conditions?

The Expression of Interest process was delayed by the COVID-19 pandemic and consequent unavailability of Council resources. The current Council was first aware of the condition of the building as a result of reports conducted during 2020 (extensive health, safety and building code inspection undertaken on 4 November 2020).

29. Has the Council subsidised the sideshows at the Beach at present or facilitated them being there?

Council has not paid for the sideshows. The organisers are paying a daily trading fee as per Council's fees and charges register.

30. Did Council pay for the carnival people to come to the Foreshore?

Council has not paid for the sideshows. The organisers are paying a daily trading fee as per Council's fees and charges register.

31. Did Council pay Gabrielle Kelly to chair the meeting? How much?

Council paid Ms Kelly ~\$4,000 to facilitate the forum. This included services across a number of days before and during the forum. It was critical to have an external facilitator to ensure an independent approach was taken to achieving community input / fairness at the forum.

32. What does it cost to have a tent, chairs etc. available for pop up vans and for how long will this continue?

The cost to-date of activating the foreshore space is in the order of \$12,000. This expenditure is benefiting the numerous local businesses and labour hire firms who are supplying the equipment and personnel for these activities. The ongoing activation of the space will be reviewed at the February council meeting in conjunction with the outcome of the community survey.

33. What did the New Year's Eve fireworks cost?

This is not relevant to the café matter - Council's investment in other areas of the city relates to its broader strategic plan, on which there is extensive community consultation.

34. We (the public) would like an answer within 7 days as to how the beach café is going to open. We do not want it to go through lease and go through all that bubble bubble bubble. We want the cafeteria with a coffee machine, not a pod, not an instant thing from you know Salvation Army or any of those places. We and want a proper place to sit. We can have everything in there that the caravans have, they have pies, pasties, sausage rolls, thick shakes, milk shakes. We can board up the kitchen if that's what you're really worried about there's never ever been any food poisoning from that or any of Anna's and Nik's establishments ever. So, can we please have that tabled that we get a response within seven days?

Through the foreshore café community survey, we have aimed to canvass a cross-section of the community to ensure whatever decision is made regarding the future of the facility is informed by the broader community.





- 35. Initially I believe that Council back in the day approached Nik to come and run the beach café because it was unsuccessfully run by previous tenants. He's made it a success as far as I can tell over the years. According to that, in 14/15 when they did the extension and whatever assessment that that current Council did, it's quite evident that that kitchen area was never big enough for anything – a van let alone... Why was that issue addressed then for a bigger kitchen? And now since the previous Council has made an error, why isn't the current Council willing to rectify that situation?**

Numerous decisions have been made in the past regarding what has / hasn't been invested in the building. However, the current Council had to make the difficult decision to close the facility due to legal and legislative requirements and is now focused on working with the community to find the best solutions for the future of the facility. Given significant investment would be required to bring the facility up to current standards, Council has conducted a community survey to ensure the future of the facility is informed by the broader community.

- 36. It is the owner's duty to provide all the maintenance on its buildings. Why was it not done, Council?**

Both the tenant and the owner have maintenance responsibilities as part of the lease agreement. Council has acknowledged that there was an underinvestment in the building, which has contributed to the problems we face today.

- 37. Do you really have confidence that food caravans are going to be safer for people to eat from?**

Food vans offer a specific service and are generally setup to safely deliver that particular service. They are subject to the same environment, health and safety inspections as other food service operations.

- 38. If the Council's got a position of liability into the food that gets dispensed from the café, does that mean every other business owner that's rented their premises out to someone that cooks food, because they are actually the owner of the premises, are they too responsible for the lessee's actions and what happens out of that?**

All property owners have a degree of responsibility to ensure their properties are fit for purpose. As a public authority, Council has very high standards of conduct that it upholds.

- 39. Why on earth wasn't a HAI order or whatever you want to call it put on that building before Nik actually started running a café in there?**

We do not have the information to comment on the actions of previous councils or administrations.

- 40. My comment's directed to Eddie actually on a comment that he had regarding what we should feel about our security about the use of the foreshore and that is that it's Crown land. Well Crown land I assume is Commonwealth land as well or similar, but the Airport was also Commonwealth land before it was handed over to Council to do what they want with. How do we know that's not going to happen with this foreshore?** The majority of the foreshore area is Crown land, as is outlined in the attached map. There are extensive processes involved - including community consultation and Ministerial approval - in order for any

development to occur on this land. Council will engage the community extensively in its upcoming Foreshore Master Plan process to ensure any plans reflect the expectations of the community.

41. So we have taken \$50,000 a year from Nik for rent, but there's nothing being spent on the building for the last 3 years, where's the money gone?

All Council income is spent across the city as part of the overall budget, with each annual budget undergoing extensive community consultation.

42. Things that the Council - held responsible as a landlord. There are 3 Councillors here and the Mayor was there. The Mayor was well aware of the inadequacies of the café – absolutely – and for 3 years they sat on their laurels and have done absolutely nothing. Where was the project manager who was supposed to project manage to make sure – we agreed with Nik – and Nik is there he can agree with this – he can choose not to of course – but he didn't tell you that we agreed to fix those problems 3 years ago. And they weren't done. So you've got to ask the question, why weren't they done?

Numerous decisions have been made in the past regarding what has / hasn't been invested in the building. However, the current Council had to make the difficult decision to close the facility due to legal and legislative requirements and is now focused on working with the community to find the best solutions for the future of the facility.

43. Where is the transparency? There is no – you used to go to Council and you used to ask questions. You can't do that anymore cause they've wiped that out. There is no more recording of the council minutes audio – why?

Given this meeting was held in confidence due to commercial sensitivities (as recognised in the Local Government Act), even if audio recording was in place, the recording from this meeting would not have been available to the public due to confidentiality. Audio recording is therefore a separate issue which will be discussed by Council at a later stage.

44. Why haven't we done live streaming?

Given this meeting was held in confidence due to commercial sensitivities (as recognised in the Local Government Act), even if live streaming was in place, this meeting would not have been live streamed due to confidentiality. Live streaming is therefore a separate issue which will be discussed by Council at a later stage.

45. You say it's not fair to ask someone to contribute if they are only on a lease? Isn't that what's happening at the wetlands?

There are times when it is appropriate for commercial arrangements to be agreed. However, given the extent of works required at the café, this was not an option in this case.





46. Communication – not just digital. Many residents are not able to access the internet.

The recent community survey was made available in hard copy at all of Council's physical locations and could also be responded to via telephone. As well as being available online, the majority of Council's regular updates and publications are also promoted via the local media (newspaper, television, FM & AM radio (commercial / community / ABC) with the aim of reaching a broader audience.

47. Environmental Impacts/concerns. Long term sustainability goals/considerations. Coastal aspects etc. and the environmental impact considered over just the economic value?

Council always considers environmental / sustainability factors as part of any development.

48. My lease agreement as in Nik's there would be a Rental and Commercial Lease Act 1995 which since the building is the Council's as the Lessor aren't they obligated to do these things and then also there's speak of compensation in the Act it just depends on what area the Council was acted upon under the Retail and Commercial Leases Act 1995 – so some clarity on that and then what area of the Act the Occ Health & Safety – I'm not really sure where that's at on that Act. It'd be greatly appreciate and then next steps because that Act actually trumps all lease agreement and actually overpowers the Lease.

Council will work directly with the community member who made this comment in relation to understanding the obligations under their own Lease Agreement and the requirements of the Retail and Commercial Leases Act 1995.

