



17.3 **Brighton Oval Redevelopment – Commercial Strategy** (Report No: 95/19)

Motion – Exclusion of the Public – Section 90(3)(b and d) Order C120319/1414

1. That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 95/19 Brighton Oval Redevelopment – Commercial Strategy in confidence.
2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 95/19 Brighton Oval Redevelopment – Commercial Strategy on the following grounds:
 - b. pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is

conducting business; or
would prejudice the commercial position of the Council.
 - d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected

to prejudice the commercial position of the person who supplied the information, or
to confer a commercial advantage on a third party.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

Moved Councillor Lonie, Seconded Councillor Chabrel

Carried

Design of the Brighton Oval redevelopment has reached an advanced stage and Council will shortly be asked to provide approval for the project to proceed to construction. In order to finalise this round of design and enable a final Guaranteed Maximum Price (GMP) to be submitted by Council's contractors Cook Building, Administration is seeking Council's direction in three (3) areas – finalising this stage of design with the sporting clubs, confirming items to be included in the design and agreeing a commercial strategy to conclude negotiations over the GMP.

This report outlines the proposed strategy and seeks Council's resolution to confirm these.

Short Term Suspension of Meeting

Her Worship the Mayor with the approval of two-thirds of the members present suspended the meeting procedures pursuant to Regulation 20(1) of the *Local Government (Procedures at Meetings) Regulations 2013* for a period of 5 minutes to facilitate informal discussion in relation to the Brighton Oval Redevelopment- Commercial Strategy for discussion and will resume at the end of this time.

The meeting procedures were suspended at 8.15 pm.

The meeting resumed at 8.19 pm.

Motion

That Council endorses the following commercial strategy in relation to finalisation of the design phase of the Brighton Oval Redevelopment:

1. Administration to work with and assist the Clubs to finalise their kitchen, bar, cool room and canteen designs to a standard that suits the club's needs.
2. Council to provide funding in the amounts allocated in the original budget and any subsequent approved additional funding for the Clubs to undertake and pay for their own kitchen, bar and canteen fit-out including appliances such as cookers, range hoods, cool rooms/freezers,

refrigeration, kitchen and bar equipment to put effect to the preferred Club designs.

3. Council to provide building shells and any fixed joinery to enable club designed kitchens and cool rooms, together with bar and canteen equipment to be fitted and make available power, water, drains, other penetrations and supports suitable to allow the clubs to reasonably fit-out their facilities.
4. Facade treatments included as per drawings submitted to Council on 26 February 2019 (being a combination of timber slats, painted concrete and club logos generally in a V pattern) in project design and funded in Guaranteed Maximum Price submission.
5. Ceiling heights in the 1st floor clubrooms be set at minimum of 2.7m for back of house spaces (eg kitchens, storerooms, toilets) and ceiling heights in front of house spaces (eg club room, bars, board/meeting rooms) to be set at a minimum of 3.0m with any additional costs included in the GMP.
6. Administration to work to complete designs with the Clubs and Cook by mid-late March with the aim of bringing final 70% design drawings, GMP and construction agreement to Council in April 2019.
7. Should agreement with the Clubs over design issues not be completed by 22 March 2019, that Administration is authorised to finalise the 70% designs based on their best endeavours and to instruct Cook to prepare a revised GMP.
8. Following the design freeze, all further requests for design changes are referred to Administration for review, and where appropriate authorise inclusion in the project – noting that any change requests that result in additional costs will need to be funded by the clubs unless determined by Administration that such changes are at Council cost.
9. Council's appointed Quantity Surveyor to review the current GMP and assess it for cost effectiveness, quality of finishes and inclusions, and provide advice to Council on whether the GMP proposal represents value for money.
10. Administration is authorised to negotiate contract clarifications and terms to achieve a successful project outcome within the budget constraints.
11. Administration is requested to circulate any relevant design drawings, draft price schedules or other materials to Council with sufficient time for Council to assess the project, the proposed designs and financial information prior to the formal report seeking approval to proceed.

12. Council note that formal project approval to proceed to construction is currently schedule for consideration by Council on 9 April 2019.
13. Should the revised GMP exceed Council's Target Price, a further report be brought to council recommending contractual options, including potentially retendering the Cook contract as permitted under their Contract.

Adjournment

That the motion be deferred for a period up to 4 weeks to enable elected members, administration and the clubs to meet in a confidential workshop to consider the collective clubs' concerns regarding perceived design shortcomings, and to consider the alternatives open to Council and the clubs together with their financial implications. Motion to be brought back to Council no later than 9 April 2019.

Moved Councillor Bradshaw, Seconded Councillor Smedley

Lost

Amendment

C120319/1415

That Council endorses the following commercial strategy in relation to finalisation of the design phase of the Brighton Oval Redevelopment:

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6. **Administration to work to complete designs with the Clubs and Cook by mid-late March with the aim of bringing final 70% design drawings, GMP and construction agreement to Council in April 2019.**

Moved Councillor Patton, Seconded Councillor Snewin Carried

The amendment on being put was Carried

The motion, as amended, on being put was Carried

Division was called

A division was called and the previous decision was set aside:

Those voting for: Councillors Snewin, Clancy, Abley, Lonie, Patton, Lindop (6)

Those voting against: Councillors Bouchee, Bradshaw, Chabrel, Miller, Smedley, Fleming (6).

Her Worship the Mayor used her casting vote and declared the motion Carried

RETAIN IN CONFIDENCE - Section 91(7) Order **C120319/1416**

That having considered Agenda Item 17.3 Brighton Oval Redevelopment – Commercial Strategy (Report No: 95/19) in confidence under section 90(2) and (3)(b&d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and minutes be held in confidence for a period of 12 months and/or the Chief Executive Officer is authorised to release the documents when Council has awarded a contract and that this order be reviewed every 12 months.

Moved Councillor Lonie, Seconded Councillor Abley Carried

CONFIRMED **Tuesday 26 March 2019**

MAYOR

ITEM NUMBER: 17.3

CONFIDENTIAL REPORT

BRIGHTON OVAL REDEVELOPMENT – COMMERCIAL STRATEGY

Pursuant to Section 83(5) of the Local Government Act 1999 the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that Council will receive, discuss or consider:

- b. Information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and would, on balance, be contrary to the public interest.**

Recommendation – Exclusion of the Public – Section 90(3)(b and d) Order

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 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 95/19 Brighton Oval Redevelopment – Commercial Strategy on the following grounds:
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conducting business; or
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 - d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected

to prejudice the commercial position of the person who supplied the information, or
to confer a commercial advantage on a third party.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

 3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.
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Item No: **17.3**

Subject: **BRIGHTON OVAL REDEVELOPMENT – COMMERCIAL STRATEGY**

Date: 12 March 2019

Written By: General Manager City Assets & Services

General Manager: City Assets and Services, Mr H Lacy

SUMMARY

Design of the Brighton Oval redevelopment has reached an advanced stage and Council will shortly be asked to provide approval for the project to proceed to construction. In order to finalise this round of design and enable a final Guaranteed Maximum Price (GMP) to be submitted by Council's contractors Cook Building, Administration is seeking Council's direction in three (3) areas – finalising this stage of design with the sporting clubs, confirming items to be included in the design and agreeing a commercial strategy to conclude negotiations over the GMP.

This report outlines the proposed strategy and seeks Council's resolution to confirm these.

RECOMMENDATION

That Council endorses the following commercial strategy in relation to finalisation of the design phase of the Brighton Oval Redevelopment:

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5. **Ceiling heights in the 1st floor clubrooms be set at minimum of 2.7m for back of house spaces (eg kitchens, storerooms, toilets) and ceiling heights in front of house spaces (eg club room, bars, board/meeting rooms) to be set at a minimum of 3.0m with any additional costs included in the GMP.**
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7. **Should agreement with the Clubs over design issues not be completed by 22 March 2019, that Administration is authorised to finalise the 70% designs based on their best endeavours and to instruct Cook to prepare a revised GMP.**
8. **Following the design freeze, all further requests for design changes are referred to Administration for review, and where appropriate authorise inclusion in the project – noting that any change requests that result in additional costs will need to be funded by the clubs unless determined by Administration that such changes are at Council cost.**
9. **Council's appointed Quantity Surveyor to review the current GMP and assess it for cost effectiveness, quality of finishes and inclusions, and provide advice to Council on whether the GMP proposal represents value for money.**
10. **Administration is authorised to negotiate contract clarifications and terms to achieve a successful project outcome within the budget constraints.**
11. **Administration is requested to circulate any relevant design drawings, draft price schedules or other materials to Council with sufficient time for Council to assess the project, the proposed designs and financial information prior to the formal report seeking approval to proceed.**
12. **Council note that formal project approval to proceed to construction is currently schedule for consideration by Council on 9 April 2019.**
13. **Should the revised GMP exceed Council's Target Price, a further report be brought to council recommending contractual options, including potentially retendering the Cook contract as permitted under their Contract.**

COMMUNITY PLAN

Community: Building a Healthy, Active and Resilient Community

COUNCIL POLICY

Not Applicable.

STATUTORY PROVISIONS

Not Applicable.

BACKGROUND

Administration has been negotiating with the three (3) sporting Clubs in regards to development of three (3) clubrooms at Brighton Oval since around May 2018. Progress has been slow, but constant. Negotiations have highlighted differences in expectations between the Clubs and Council (and Council's contractors and their designers). The major contentions have been the size of the clubrooms and the standard of fit-out of spaces such as kitchens, bars and refrigeration.

In general terms, the Club's expectations have generally exceeded Council's budget and this has resulted in protracted negotiations between Council project staff, Council's contractor and the Clubs. On 11 December 2018, Elected Members resolved to increase the project budget by some \$472,670 (refer Motion C111218/1333) to fund additional contract costs, extra floor space and modest kitchen/bar fit-out, equipment and joinery. Council's additional funding also provided for change room benches.

At the time, Council made it clear that further funding increases for the project would be difficult to secure.

In order to keep the project on schedule and to enable the GMP to reflect a higher degree of accuracy, Cook continued to develop the design between December and end of January, culminating in production of updated design drawings and a 70% design GMP estimate on 14 February 2019.

The Feb 19 designs submitted by Cook contained a number of discrepancies between issues that had been agreed with Council and/or the Club and which did not appear on the drawings. Foremost were plain facades which had little architectural merit and ceiling heights of 2.4m back of house and 2.7m for public areas which were below levels considered appropriate by Council and the Clubs. Both Football and Lacrosse clubs still have concerns over the placement and Finished Floor Levels for their clubrooms.

Administration is also working with Tonkin Consulting to determine costs and plans for on-site works to interface the new clubrooms into the oval environment. This will include infrastructure, drainage and service lead ins.

REPORT

Since February 2019 Administration has been working with the Clubs to attempt to resolve all major design issues prior to Cook preparing an updated GMP and 70% design drawing (expected in mid-late March 2019).

As many "minor design" issues as can be resolved by mid March will be addressed, but some issues will remain to be finalised post contract award through to 100% design status. It is not

anticipated that minor issues will substantially impact the final GMP price and where practical, cost allowances will be incorporated.

The construction window for these buildings is limited as it coordinates with off-seasons for Football and Lacrosse. As the new rugby clubroom is essentially a green-field build, it can commence at any time. Administration is also aware of commitments under the deed of grant which require on-site works to commence no later than 30 June 2019 and be substantially complete by 30 June 2020. This program is tight, but can be achieved if site possession is provided to Cooks by mid-late April 2019. Any later than this and the risk is that there will be downstream impacts of construction of the football/cricket and lacrosse clubs, potentially adding cost to the project.

On this basis, Administration is proposing that a design deadline of 22 March 2019 be established by which time the major concerns and as many minor issues as can be resolve are complete and the design is frozen apart from minor changes approved by Council.

This report seeks Council's support to fix a design deadline of 22 March 2019 and authorize Administration to finalise the designs in a form which reasonably reflects each of the Club's requirements in as a practical way as possible. This 'design deadline' may result in complaints from one or more Clubs, but it is noted that minor changes will still be possible.

Approvals Timing

In order to keep the project on schedule, Administration is tentatively planning to submit the contract, drawings and revised GMP to Council on 9 April 2019. Should this not be possible, a submission to the following meeting on 23 April 2019 will be considered. This would result in site possession being approximately 1 month behind schedule.

BUDGET

The anticipated budget allowances for kitchen, bar, cool room and canteen fit-out for each club is summarised below:

Clubroom	Current PC allowance (incl additional funds 11 Dec 18)			
	Kitchen & Bar Equipment	Kitchen & Dry store fit-out	Cool Rooms	Total
Football/Cricket	\$30,000	\$10,000	\$33,000	\$73,000
Rugby	\$30,000	\$10,000	\$12,000	\$52,000
Lacrosse	\$30,000	\$10,000	\$12,000	\$52,000

LIFE CYCLE COSTS

Not applicable.