

ITEM NUMBER: 17.2

CONFIDENTIAL REPORT

BRIGHTON OVAL BUILDING REDEVELOPMENT

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.**

- d. 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; and would, on balance, be contrary to the public interest.**

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

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: 138/19 - Brighton Oval Building Redevelopment 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: 138/19 - Brighton Oval Building Redevelopment 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
proposing to conduct business; or
would prejudice the commercial position of the Council.

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.

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.

Item No: **17.2**

Subject: **BRIGHTON OVAL BUILDING REDEVELOPMENT**

Date: 9 April 2019

Written By: Manager Assets & Facilities
Manager Active Communities

General Manager: City Assets and Services, Mr H Lacy

SUMMARY

At its meeting on 11 December 2018, Council approved a budget increase of \$472,670 for the Brighton Oval Building Redevelopment project. Since then, council staff, the three (3) Club representatives and Council's contractor Cook Building (Cook) have been further progressing the detailed design development which now reached 85%. As the design process progressed, a number of issues emerged that required decisions by Council. Council considered and resolved these items at its meetings on 12 March 2019 and 26 March 2019.

As per the contract requirement, Cook has prepared and submitted a GMP on 14 Feb 2019. As Administration negotiated number of issues with Cook and the three Clubs, the GMP submission has been revised a twice. The final GMP for the project has been received on 3 April 2019.

The revised GMP submission comprises two offers based on the 85% detailed design. The scope of the works/design includes the club requested changes and the major changes to design as resolved by Council on 12 and 26 March 2019. These changes represents an inclusion of approximately \$300,100 worth of works. The scope excludes the exterior footpath connections to the buildings (minor works with a value of \$9,000 which can be funded separately or as part of Stage 2 works if agreed).

The GMP consists of two options. The prices of the two options are:

Cook Option	GMP
Option 1 (qualified)	\$6,875,000
Option 2 (complying)	\$7,257,130

Option 1 represents a departure from the terms of contract which provided for Council to run the contract as an "open book" contract and the "sharing of savings" clauses which mean that the contractor would not be required to share savings made during construction (ie to share 50% of savings such as unspent contingency, cheaper trade pricing than budgeted, unspent risk premiums allocated to certain work packages).

Both Options 1 and 2 are include minor clarifications and qualifications submitted by Cook which may result in minor amendments to the contract. These qualifications and clarification have been assessed by Administration and resolved.

The available budget (Target Price) is currently \$6,674,081. This figure excludes the contributions to be paid to the clubs directly by Council for kitchen, bar, cool room and canteen fit-out (\$207,000), excludes funds for major items added to the scope over the past months. It does however include minor grants provided by the Rugby Club (to cover the cost of their drop down balcony and grant from SANFL).

In summary the revised GMPs still exceed the Target Price (project budget) as indicated below:

Cook Option	GMP	Current Target Price (Project Budget)	Over Budget
Option 1	\$6,875,000	\$6,674,081	\$200,919
Option 2	\$7,257,130	\$6,674,081	\$583,049

On this basis, there are two options available to the Council:

Option 1 – Accept one of the GMP options and increase the project budget accordingly

Option 2 – Reject the GMP and call fresh tenders for the finalisation and construction of the buildings.

Administration is recommending that Council increase the Target Price (Project Budget) by \$200,919 to bring GMP and Target Price in line and accept Cook's GMP Option 1 (qualified).

RECOMMENDATION

1. **That Council approves:**
 - (a) an increase of \$200,919 (excl GST) in the project budget for the Brighton Oval Redevelopment Project
 - (b) acceptance of Cook Building's alternative Guaranteed Maximum Price (GMP) offer of \$6,875,000 (excl GST) and that the Formal Instrument of Agreement be amended to remove clauses related to Open Book and Sharing of Savings (and any minor amendments).
 - (c) the Brighton Oval Building Upgrade Project for construction.
2. **That Administration prepare any necessary documentation to finalise the necessary legal agreements to enable the project to proceed.**

3. **That Council authorises the Mayor and Chief Executive to sign any necessary documentation to enact resolutions 1 and 2 above and authorizes the affixing of the Seal thereto if required.**
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COMMUNITY PLAN

Placemaking: Creating lively and safe places

Placemaking: Developing walkable connected neighbourhoods

Placemaking: Building character and celebrating history

Community: Building a healthy, active and resilient community

Community: Celebrating culture and diversity

Community: Providing welcoming and accessible facilities

Community: Fostering an engaged and contributing community

Environment: Fostering an environmentally connected community

Culture: Supporting excellent, efficient operations

COUNCIL POLICY

Not Applicable.

STATUTORY PROVISIONS

Development Act 1993

BACKGROUND

- Council Report No: 240/18; Item No. 14.6 'Brighton Oval Complex – Redevelopment', 10 July 2018.
- Council Report No: 255/18; Item No. 11.2 'Motion on Notice – Brighton Oval development – Tender Documents', 24 July 2018 (resolution C240718/1220).
- Council Report No: 272/18; Item No. 14.3 'Brighton Oval Complex – Redevelopment', 14 August 2018 (tender documents).
- Council Report No: 294/18; Item No. 17.1 'Brighton Oval Complex – Redevelopment', 28 August 2018 (confidential report)
- Council Report No: 411/18; Item No. 14.7 'Brighton Oval Building Redevelopment', 11 December 2018 (confidential report)
- Council Report No: 95/19; Item No. 17.3 'Brighton Oval Redevelopment – Commercial Strategy', 12 March 2019 (confidential report)
- Council Report No: 112/19; Item No. 14.10 'Brighton Oval – Updated Project Inclusions', 26 March 2019

The Brighton Oval Clubroom Redevelopment project involves building three (3) separate new clubrooms on the Brighton Oval site accommodate the Brighton Football and Cricket clubs (single shared facility), the Brighton Rugby Club and the Brighton Lacrosse Club. The overall project budget was set at \$8.0m, comprising \$6.0m of Council funding and a \$2.0m State Government Grant.

At its meeting on 11 December 2018, Council approved a further budget increase of \$472,670 to cover additional project management and works (\$119,000); construction cost variances (\$84,330) and further club fit-out costs (\$269,340).

Council staff, club representatives and Council's contractor Cook Building (Cook) have continued design development since that time. As the design process progressed, a number of issues emerged that required decisions by Council.

Council considered these items at its meetings on 12 March 2019 and 26 March 2019 adopting the following:

- ceiling heights increased to 2.7m (back of house) and 3.0m front of house
- adopted more elaborate façade treatments utilizing vertical batons in a V pattern on the clubroom western elevations with associated painting and club logos
- Council to provide a kitchen/bar/canteen fit out allowance to the Club's and provide appropriate service (eg power, water, gas, drainage) connections to suit club designs
- Club's responsible for the supply and installation of kitchen, bar, cool room and canteen fit-outs and provision of all necessary appliances
- mechanical services to be located at ground level in a secure services compound
- a minor items allowance of \$90,000 be included to cover the cost of final list of minor inclusions/design changes requested by the three (3) clubs

The detailed design process has now progressed to around 85% design status and the majority of the requests from the Clubs have been incorporated into the designs and costed by Cook as at the end of March 2019. Minor changes required after that date will be dealt with separately.

REPORT

As per the contract requirement, Cook has prepared and submitted a GMP on 14 Feb 2019. As Administration negotiated number of issues with Cook and the three Clubs, the GMP submission has been revised a twice. The final GMP for the project has been received on 3 April 2019.

The revised GMP submission comprises two offers based on the 85% detailed design. The scope of the works/design includes the club requested changes and the major changes to design as resolved by Council on 12 and 26 March 2019. These changes represents an inclusion of approximately \$300,100 worth of works. The scope excludes the exterior footpath connections to the buildings (minor works with a value of \$9,000).

The revised GMP submission comprises two offers:

1. Option 1 – a qualified offer which is priced based on:
 - (a) the 85% designs as agreed between Council, Clubs and Cook
 - (b) original contract specifications as amended by Council during the design process
 - (c) commercial clarifications and qualifications agreed between Council and Cook
 - (d) major changes to design as resolved by Council on 12 and 26 March 2019
 - (e) minor design and inclusions requested by Clubs as agreed by Council
 - (f) exclusion of exterior footpath connections to the buildings (which can be funded under Stage 2 works)
 - (g) modified contractual terms to exclude Open Book and Gain Sharing provisions of the original contract

This alternative GMP price is \$6,875,000 (excluding GST).

2. Option 2 – a complying offer which is priced based on:
 - (a) the 85% designs as agreed between Council, Clubs and Cook
 - (b) original contract specifications as amended by Council during the design process
 - (c) commercial clarifications and qualifications agreed between Council and Cook
 - (d) major changes to design as resolved by Council on 12 and 26 March 2019
 - (e) minor design and inclusions requested by Clubs as agreed by Council
 - (f) contractual terms as per the original contract documents

This GMP price is \$7,257,130 (excluding GST).

Option 1 represents a departure from the original terms of contract which provided for Council to run the contract as an “open book” contract and the “sharing of savings” clauses which mean that the contractor would not be required to share savings made during construction (ie to share 50% of savings such as unspent contingency, cheaper trade pricing than budgeted, unspent risk premiums allocated to certain work packages).

Option 1 essentially monetizes these potential future savings (valued by the contractor in total as \$764,260) and allows Council to take their 50% share of this amount (\$382,130) out of the GMP at the front of the contract rather than at the back-end of the contract. Under Option 1, the contractor would then retain 100% of any savings after council had taken out its lump sum.

GMP vs Target Price

Both GMP figures are above Council’s current approved Target Price (project budget) which is currently set at \$6,674,081 after deduction of contributions to be paid to clubs directly by Council for kitchen, bar, cool room and canteen fit-out. The over budget amounts are:

Cook Option	GMP	Current Target Price (Project Budget) (**)	Over Budget
Option 1	\$6,875,000	\$6,674,081	\$200,919
Option 2	\$7,257,130	\$6,674,081	\$583,049

(**) – after deduction of contributions to be paid to clubs directly by Council for kitchen, bar, cool room and canteen fit out

The current Target Price (Project Budget) has not been adjusted to reflect the additional scope and inclusions added to the design and which are now costed into the revised GMPs. This increased scope was valued at:

- ceiling height increases \$ 65,000
 - more elaborate façade treatments \$145,100
 - minor design items and inclusions \$ 90,000
- \$300,100

Should Council include these amounts in the Target Price (project budget), then Option 1 GMP would be within the Target Price and Council would be in a position to accept the offer and proceed to construction.

Price Competiveness

Council's contract methodology included the services of a Quantity Surveyor (QS), with a role to ensure that the pricing provided by Cook was competitive to market prices. Council appointed QS, Ryder Levett Bucknall (RLB), and they have reviewed Cook's pricing for the revised GMP. A copy of their report is included at Attachment 1.

Refer Attachment 1

Whilst RLB noted a number of issues that still needed to be resolve (now resolved between Cook and Council) and that there were some cost items higher and lower than their estimates, their overall assessment was that the revised GMP price was consistent with prices being obtained in the market at current time. This provides some comfort for Council that the prices quoted by Cook are cost competitive and that opening the contract to re-tendering may or may not result in a more competitive price.

Conclusion

Detailed design is nearly complete (85%) for the proposed Brighton Oval Buildings. The design issues have been agreed between the parties and included within the scope of the GMP. Majority of the changes sought by the Clubs have been accommodated.

Cook has submitted its final GMP with two options. The first option is an attempt to bring the GMP closer to the target price. The second option is approximately \$583,000 over the available budget.

Council has the option of rejecting the GMP and call new tenders for the completed design.

When the costs of retendering (estimated at \$25,000) and risk of delays are factored into the assessment, it is Administration's view that proceeding with Cook alternative proposal (Option 1) is the best option.

On balance therefore, Administration is recommending that Council increase the Target Price (Project Budget) by \$200,919 to bring GMP and Target Price in line; accept Cook's alternative offer (Option 2); approve the project to proceed to construction and authorise Administration to prepare necessary documentation to be brought back to council for final approval.

BUDGET

Should Council approve the recommendations in this report, an additional \$200,919 would be added to the overall project budget and to the project's funding allocation for the 2019/20 financial year increasing the total project budget to \$8,673,589 (excl GST).

Details of the proforma budget are presented in Table 1 below.

After deducting Council's direct contributions to the Clubs to fund kitchen, bar, coolroom and canteen fitout (\$207,000) the funding available for Cook's construction packages (ie the Target Price) would be \$6,875,000 (excl GST).

The revised GMP (option 1) is \$6,875,000 which would equal the revised Target Price allowing the project to proceed.

LIFE CYCLE COSTS

Once the development is completed, the asset, component lives, and their values will be included in the asset register. The regular maintenance costs will be appropriately shared between the lessee and the Council. The required replacements and the associated costs will be included in the relevant asset management plan.

TABLE 1
BRIGHTON OVAL - CLUBROOM REDEVELOPMENT PROJECT
REVISED BUDGET (9 April 2019 – subject to Council approval)

Original Budget	8,000,000
- Additional Council Funds (approved 11.12.18)	472,670
- Additional funds requested (this report 9.4.19)	200,919
Total Funding Available	8,673,589
LESS:	
- Lacrosse Lights	90,000
- Concept Design (Folland Panozzo Architects)	45,000
- Legal - contract/tendering	35,000
- Tonkin - prelim design/specs/planning advice	109,000
- Contractor Superintendent (Tonkin)	75,000
- Quantity Surveyor (RBL)	25,000
	379,000
LESS:	
Civil works/Services/Landscaping	300,000
Tree Removals	10,000
	310,000
LESS:	
- Detail Design (Cook & Bell)	340,755
- Contractors Preliminaries/Margins/Project Costs	558,855
	899,610
LESS:	
- Council Contingency	155,050
Council Funds Available for Construction Packages	6,929,929
LESS: Contribution to Club Fitout	-207,000
ADD: Funded by Rugby Club (drop down balcony)	77,071
ADD: Funded by Footy Club (SANFL grant)	75,000
TARGET PRICE (Excl Council contribution to Club fit-out)	6,875,000

3 April 2019

City of Holdfast Bay
PO Box 19
BRIGHTON SA 5048

Attention: **Rajiv Mouveri**
Manager Assets and Facilities

Dear Rajiv,

BRIGHTON OVAL TENDER VARIANCE REVIEW

As requested, we present our findings, having undertaken a pricing review with Cook at meeting in RLB offices on 13 March 2019.

It is important to understand the method of procurement when preparing a tender or estimate. Our understanding is a Design and Construct GMP procurement is the basis on which Cook have prepared their pricing.

This procurement method dictates that the cost risk rests entirely with Cook. On this basis, they have included a contingency (3% of trade value) plus a risk provision in some trades to account for known issues not yet fully developed but which are the responsibility of Cook e.g. acoustic requirements comprising a layer of vinyl in the roof space and higher rated glazed elements. These allowances are normal for this type of procurement.

RLB note that variances exist in trades both above and below Cook amounts but overall the two prices are very similar. It is also noted that as required by the contract and procurement method, appropriate risk has been apportioned to certain elements of the building.

We understand that Cook have offered savings on this tender amount if they are signed to a GMP. In our view this may be a more appropriate method of dealing with the concern that Cook have doubled up on contingency allowances.

Cook has advised there is still information required from Council in an effort to resolve final scope including kitchen layout etc plus resolution of contract methodology.

Regardless of the variances noted above, we believe that overall the Cook tender, inclusive of the scope of works presented at the time of our review, represents a value for money offering in the current market with this procurement method.

TENDER REVIEW

RLB reviewed Cooks price on a trade basis focusing on those trades with significant variance.

RLB did not request an open book review as would be required in a cost-plus contract, as the builder, at their discretion, will allocate risk amounts to trades as required to ensure undeveloped scope of works is accounted for. Notwithstanding this, they responded to all our questions to our satisfaction.

Civil works: Cook maintain they have allowed for a 300mm thick base under the buildings which is greater than RLB. This is not clearly shown on the drawings and requires further work in conjunction with the current level survey being undertaken by Tonkin.

Floor Coverings: Cook floor covering costs allow for screeding to wet-areas and levelling where required. We also note that Cook allowance includes for wall vinyl to change and toilet areas.

Partitions & Ceiling: Cook have made allowance for ceilings to be upgraded to an acoustic plasterboard as the current documented ceiling tiles will not achieve required acoustics. There is also allowance to rake the ceiling within the cost which is not shown on the drawings. All bulkheads above window lines etc. due to the raked ceiling are allowed. The full extent of this is not yet known as they are seeking feedback from Council.

This may be required and due to RLB's limited involvement in design and project meetings we may have not accounted for these risks i.e. we have just priced what is shown on the drawings.

Metalwork: On review, Cook agree this cost is high because their contractor has allowed for stainless steel balustrades. This is an oversight from Cook and the cost for these works package should be reduced.

Windows & Glazing: Significant variance however Cook maintain they have allowed for a suitable glazing system to meet both Section J and acoustics which is not yet resolved. As such a suitable allowance needs to be included within their cost. If this issue is resolved and the increased acoustic requirements are not required, we'd expect this trade value to reduce.

Roofing: Cooks cost allows for fall prevention within this allocation. It also allows for roof access, hatch and walkway to the exhaust hood. These are not shown on the drawing but required. This cost also allows for a vinyl layer required within the roof space for acoustics. If any of these elements are deemed not required by the client then savings should be achieved.

Electrical: RLB allowances for buildings have been allocated on a m2 basis and are too high for the required power and lighting requirement discussed with Cook. Also, the scope priced by RLB for electrical infrastructure is different to Cook. We understand that 2 x feeds are now coming from Brighton road and 1 x feed from Highet Avenue – the 70% drawings do not reflect this.

Roller Shutters: Cook have a significantly greater allowance for roller shutters than is necessary. This was not explained at the time and we are seeking further feedback.

Once contract conditions and scope of work has been agreed, we believe both parties will be in a better position to finalise a contract sum.

Please let me know if you have any further issues you wish to discuss.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'A Knowles', with a horizontal line extending to the right.

Andrew Knowles
Director
Rider Levett Bucknall
andrew.knowles@au.rlb.com