

Confidential Minutes of the Ordinary Meeting of Council of the City of Holdfast Bay held in the Council Chamber, Glenelg Town Hall, Moseley Square, Glenelg, on Tuesday 9 April 2019.

17. ITEMS IN CONFIDENCE

17.1 Proposed Sale of Land (Report No: 131/19)

Motion – Exclusion of the Public – Section 90(3)(b & d) Order C090419/1443

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: 131/19 Proposed Sale of Land 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: 131/19 Proposed Sale of Land in confidence 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 Clancy, Seconded Councillor Snewin

**Carried Unanimously**

Following the redevelopment of the Minda land directly adjacent to King George Avenue Somerton Park, two (2) Road Reserves owned by Council (formally utilised by Minda within their grounds), have been fenced off and returned to Council for their ongoing operational management.

These blocks now currently remain unused, are unsuitable for community use/activation, and council is incurring all ongoing costs associated with the maintenance of the sites (approximately \$2,000 per year per block for mowing, spraying and labour).

Following a recent assessment, each Road Reserve has been estimated to be approximately 660m<sup>2</sup> in size, and each has been valued at \$700,000.

On the basis that the blocks are currently deemed to be 'lazy assets' and as Council's budgeted contribution to the Minda Coast Path development totalled \$1,000,000, the sale and disposal of these two parcels of land (subject to road closure provisions) for residential purposes will off-set the Minda Coast Path contribution. This was included in the 2018/19 budget as capital revenue and will have budget implications of \$1M if the sale of the properties does not proceed.

This report therefore seeks Council's endorsement for Administration to commence the relevant road closure processes with a view of selling and disposing of each allotment once created for residential development.

**Motion**

C090419/1444

1. **That Council authorise Administration to:**
- (a) **initiate action to convert the two (2) unused parcels of Road Reserves to Operational Land in accordance with the *Roads Opening and Closing Act 1991*;**
  - (b) **seek Certificates of Titles for each of the blocks in accordance with the Real Property Act 1886;**
  - (c) **explore options and quotes for undergrounding the electricity supply through the Lynmouth Avenue block; and**
  - (d) **once complete, obtain three (3) quotes from suitably qualified real estate agents to market and sell each of the two (2) parcels of land.**

2. That following the completion of the aforementioned, Administration be authorised to proceed with the sale of the blocks, based on the advice of the successful agent.
3. That Council delegates to the Mayor and the Chief Executive Officer the authority to approve any subsequent sale documents.

Moved Councillor Clancy, Seconded Councillor Snewin

Carried Unanimously

RETAIN IN CONFIDENCE - Section 91(7) Order

C090419/1445

That having considered Agenda Item 17.1 Proposed Sale of Land in confidence under section 90(2) and (3)(b and d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and attachments be retained in confidence for a period of 24 months and that this order be reviewed every 12 months.

Moved Councillor Lonie, Seconded Councillor Patton

Carried Unanimously

17.2 Brighton Oval Building Redevelopment (Report No: 138/19)

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

C090419/1446

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.

Moved Councillor Lonie, Seconded Councillor Abley Carried Unanimously

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).

**Motion**

**C090419/1447**

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.

Moved Councillor Clancy, Seconded Councillor Lonie

Carried Unanimously

RETAIN IN CONFIDENCE - Section 91(7) Order

C090419/1448

That having considered Agenda Item 17.2 Brighton Oval Building Redevelopment in confidence under section 90(2) and (3)(b and d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and attachments be retained in confidence for a period of 24 months and that this order be reviewed every 12 months.

Moved Councillor Lonie, Seconded Councillor Lindop

Carried Unanimously

■ [REDACTED]

[REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

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