

ITEM NUMBER: 18.1

CONFIDENTIAL REPORT

CONFIDENTIAL MINUTES – AUDIT AND RISK COMMITTEE – 27 MARCH 2024

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 –
 - i. would 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
 - ii. 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 –
 - i. 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
 - ii. would, on balance, be contrary to the public interest;
- j. Information the disclosure of which –
 - i. would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council); and
 - ii. would, on balance be contrary to the public interest;
- k. tenders for the supply of goods, the provision of services or the carrying out of works.

Recommendation – Exclusion of the Public – Section 90(3)(b, d, j and k) 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: 95/24 – Confidential Minutes – Audit and Risk Committee – 27 March 2024 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: 95/24 – Confidential Minutes – Audit and Risk Committee – 27 March 2024 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 proposing to conduct business and would prejudice the commercial position of the Council by revealing the commercial details that may advantage third parties whom council is proposing to engage.
- 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 confer a commercial advantage on a third party.
- j. pursuant to section 90(3)(j) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would divulge information provided on a confidential basis by the Auditor-General.

The Auditor-General in the information between Council, Auditor-General and relevant parties relating to the service review is requested by the Auditor-General to remain confidential until the report is delivered to Parliament.

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.

- k. pursuant to section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda Item are tenders for the carrying out of works. Council is seeking to commission a construction contractor for the Jetty Road Masterplan project and the content of this report may prejudice Council's position in the market.
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:	18.1
Subject:	CONFIDENTIAL MINUTES – AUDIT AND RISK COMMITTEE – 27 MARCH 2024

Summary

The confidential minutes of the meeting of the Audit and Risk Committee held 27 March 2024 are presented to Council for information.

Recommendation

That Council notes the confidential minutes of the meeting of the Audit and Risk Committee of 27 March 2024, namely that the Audit and Risk Committee:

1. recommends to Council it:
 - receives the letter to the Mayor from the Auditor-General;
 - receives the review findings and recommendations; and
 - approves the final written response prepared by Administration.
2. supports the proposed Jetty Road Masterplan Construction Procurement Plan and notes this will reduce the delivery risks of the project.
3. recommends that Council:
 - endorses the exemption to the Procurement Policy for a contract variation to continue utilising the TechnologyOne Software as a Service (SaaS) Enterprise Resource Planning (ERP) platform;
 - authorises the Chief Executive Officer to negotiate, execute, and administer the contract variation relating to the TechnologyOne SaaS platform on terms acceptable to the City of Holdfast Bay (CHB) for a maximum seven-year contract variation; and
 - notes the budget allocation for the TechnologyOne SaaS fee is included in the draft 2024-25 budget and subsequent future budgets will include the uplift in the significantly discounted SaaS fee.

RETAIN IN CONFIDENCE - Section 91(7) Order

4. That having considered Agenda Item 18.1 – Confidential Minutes – Audit and Risk Committee – 27 March 2024 in confidence under section 90(2) and (3)(b, d, j and k) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report, attachment and minutes be retained in confidence for a period of 24 months and/or the Chief Executive Officer is authorised to release the documents and that this order be reviewed every 12 months.

This order is subject to section 91(8)(b) of the Act which provides that details of the identity of the successful tenderer must be released once Council has made a selection. In addition, section 91(8)(ba) of the Act requires details of the amount(s) payable by the Council under a contract for the provision of cleaning services must be released once the contract has been entered into by all concerned parties.

Background

The Audit and Risk Committee is established under Section 41 of the *Local Government Act 1999*, and Section 126 of the *Local Government Act 1999* defines the functions of the Audit and Risk Committee to include:

- reviewing annual financial statements to ensure that they present fairly the state of affairs of the council;
- proposing, and providing information relevant to, a review of the council's strategic management plans or annual business plan;
- proposing, and reviewing, the exercise of powers under section 130A;
- if the council has exempted a subsidiary from the requirement to have an audit committee, the functions that would, apart from the exemption, have been performed by the subsidiary's audit committee;
- liaising with the council's auditor; and
- reviewing the adequacy of the accounting, internal control, reporting and other financial management systems and practices of the council on a regular basis.

Report

The confidential minutes of the meeting of the Audit and Risk Committee held on 27 March 2024 are attached for Members' information.

Refer Attachment 1

Review of Service

The Audit and Risk Committee received an update regarding the Auditor-General's review of council's urban tree canopy management and recommends that Council approves the written response prepared by Administration.

A separate report on this matter is included as agenda item 18.2.

Jetty Road Masterplan Construction Procurement Plan

A Procurement Plan prepared by Administration was presented to the Committee for review and discussion and supports the proposed plan.

Procurement Policy Exemption

The Audit and Risk Committee received a report seeking a waiver of tender and contract variation to continue using the TechnologyOne SaaS platform for up to seven more years. The Committee supports the proposal and commends it to Council.

Budget

Not applicable

Life Cycle Costs

Not applicable

Strategic Plan

Statutory compliance

Council Policy

Not applicable

Statutory Provisions

Local Government Act 1999, Sections 41 and 126

Written By: Executive Assistant, Strategy and Corporate

General Manager: Strategy and Corporate, Ms S Wachtel

CONFIDENTIAL

Attachment 1

Confidential Minutes of the Audit and Risk Committee Meeting of the City of Holdfast Bay held in the Kingston Room, Brighton Civic Centre, 24 Jetty Road, Brighton on Wednesday 27 March 2024.

10. CONFIDENTIAL ITEMS

10.1 Review of Service (Report No: 81/24)

Motion – Exclusion of the Public (Section 90(3)(j) Order

- 1. That pursuant to Section 90(2) of the *Local Government Act 1999* Audit Committee 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: 81/24 Review of Service in confidence.**
- 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Audit Committee is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 81/24 Review of Service on the following grounds:**
 - j. pursuant to section 90(3)(j) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would divulge information provided on a confidential basis by or to the Auditor-General (not being an employee of the Council, or a person engaged by the Council).**

The Auditor-General in the information between Council, Auditor-General and relevant parties relating to the service review is requested by the Auditor-General to remain confidential until the report is delivered to Parliament.

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 Audit Committee 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 P Davies, Seconded D Powell

Carried

The Auditor-General has conducted a review of the City of Holdfast Bay's management of its urban tree canopy. This report outlines the findings and recommendations from the review. The outcome of the review along with a final written comment from Council will be reported to Parliament by the Auditor-General.

Motion

That the Audit and Risk Committee recommends to Council it:

1. receives the letter to the Mayor from the Auditor-General;
2. receives the review findings and recommendations; and
3. approves the final written response prepared by Administration provided in Attachment 2.

RETAIN IN CONFIDENCE - Section 91(7) Order

4. That having considered Agenda Item 10.1 81/24 Review of Service in confidence under section 90(2) and (3)(j) of the *Local Government Act 1999*, the Audit and Risk Committee, pursuant to section 91(7) of that Act orders that the report, attachment and minutes be retained in confidence for a period of 12 months and/or the Chief Executive Officer is authorised to release the documents when the Auditor-General's report is delivered to Parliament and that this order be reviewed every 12 months.

Moved P Davies, Seconded C Garrett

Carried

10.2 **Jetty Road Masterplan Construction Procurement Plan (Report No: 80/24)**

Motion – Exclusion of the Public (Section 90(3)(b and k) Order

1. That pursuant to Section 90(2) of the *Local Government Act 1999* the Audit and Risk Committee 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: 80/24 Jetty Road Masterplan Construction Procurement Plan in confidence.
2. That in accordance with Section 90(3) of the *Local Government Act 1999* Audit and Risk Committee is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 80/24 Jetty Road Masterplan Construction Procurement Plan 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/s with whom the Council is proposing to conduct business and would prejudice the commercial position of the Council by revealing the commercial details that may advantage third parties whom council is proposing to engage.

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.

- k. pursuant to section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda Item are tenders for the carrying out of works. Council is seeking to commission a construction contractor for the Jetty Road Masterplan project and the content of this report is may to prejudice Council's position in the market.

3. The Audit and Risk Committee 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 P Davies, Seconded D Powell

Carried

The Jetty Road Masterplan Project was approved by Council to undertake the design and construction of Jetty Road, Glenelg by 31 December 2027. The project is recognised as being highly complex and requiring outsourced expertise to assist council's project team to deliver the project. Particularly, the construction of the project in a high retail environment presents additional risks to the project delivery and the project's procurement plan has detailed the strategy to reduce these risks. This report was submitted to the Audit and Risk Committee to present the project's construction procurement plan for discussion and adoption.

Motion

That the Audit and Risk Committee supports the proposed Jetty Road Masterplan Construction Procurement Plan and notes this will reduce the delivery risks of the project.

RETAIN IN CONFIDENCE - Section 91(7) Order

That having considered Agenda Item 10.2 80/24 Jetty Road Masterplan Construction Procurement Plan in confidence under section 90(2) and (3)(b and k) of the *Local Government Act 1999*, the Audit and Risk Committee, pursuant to section 91(7) of that Act orders that the report, attachment and minutes be retained in confidence for a period of 18 months or the Chief Executive Officer is authorised to release the documents when the Coast and Transition Zones of the Masterplan have been finalised for construction.

This order is subject to section 91(8)(b) of the Act which provides that details of the identity of the successful tenderer must be released once Council has made a selection. In addition, section 91(8)(ba) of the Act requires details of the amount(s) payable by the Council under a contract for the provision of cleaning services must be released once the contract has been entered into by all concerned parties.

Moved D Powell, Seconded C Garrett

Carried

10.3 Procurement Policy Exemption (Report No: 79/24)

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

1. That pursuant to Section 90(2) of the *Local Government Act 1999* the Audit and Risk Committee 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: 79/24 Procurement Policy Exemption in confidence.
2. That in accordance with Section 90(3) of the *Local Government Act 1999* the Audit and Risk Committee is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 79/24 Procurement Policy Exemption 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.
 - 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 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 Audit and Risk Committee 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 P Davies, Seconded C Garrett

Carried

This report seeks a waiver of tender and recommends to Council to approve a contract variation to continue using the TechnologyOne SaaS platform for up to seven more years.

The rationale for not going to tender and approving the contract variation is that the evidence from other councils that have undergone a tender or reviewed their TechnologyOne service, has demonstrated limited benefit as they have found TechnologyOne to be the preferred provider at this point in time. Costs for this tender and review process are between \$0.558M and up to \$1.744M for a two-year tender. Transitioning to a new (Enterprise Resource Planning or best-of-breed) system requires substantial costs, disruption and risk, incurring around \$9.0M in costs over a number of years to change systems. Accepting the contract variation, with the discounted offer with additional functionality of the new modules council requires, provides potential savings of \$2.6M over seven years.

Motion

That the Audit and Risk Committee recommends that Council:

- 1. endorses the exemption to the Procurement Policy for a contract variation to continue utilising the TechnologyOne Software as a Service (SaaS) Enterprise Resource Planning (ERP) platform;**
- 2. authorises the Chief Executive Officer to negotiate, execute, and administer the contract variation relating to the TechnologyOne SaaS platform on terms acceptable to the City of Holdfast Bay (CHB) for a maximum seven-year contract variation; and**
- 3. notes the budget allocation for the TechnologyOne SaaS fee is included in the draft 2024-25 budget and subsequent future budgets will include the uplift in the significantly discounted SaaS fee.**



RETAIN IN CONFIDENCE - Section 91(7) Order

4. That having considered Agenda Item 10.3 79/24 Procurement Policy Exemption in confidence under section 90(2) and (3)(b and d) of the *Local Government Act 1999*, the Audit and Risk Committee, pursuant to section 91(7) of that Act orders that the report, attachment and minutes be retained in confidence for a period of 12 months and/or the Chief Executive Officer is authorised to release the documents when the contract is signed and that this order be reviewed every 12 months.

Moved C Garrett, Seconded D Powell

Carried

CONFIRMED

15 April 2024

MAYOR