

### 3.19. I&E - 28/10/2024 Tender Evaluation - TEN17/24 - Main Street CBD Footpath Improvements Stage 2

#### Strategic Context for this matter:

##### Developing Our Built Environment

To provide a choice of effective public and private transport options, suitable entertainment and recreational facilities, and lifestyle choices while enhancing the existing rural areas, villages and towns that make up the Lithgow LGA.

##### Strengthening Our Economy

To provide for sustainable and planned growth through the diversification of the economic base, the development of diverse job opportunities and the provision of a broad range of formal and non-formal educational services.

##### Responsible Governance & Civic Leadership:

To develop community confidence in the organisation by the way it is directed, controlled and managed

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**Responsible Officer:** Jonathon Edgecombe - Director of Infrastructure and Economy

#### Executive Summary

This report summarises the tender evaluation process that has been undertaken for the replacement of the pavers and associated streetscaping works for Main Street, Lithgow (between Bridge Street and Eskbank Street). This stage of works forms part of the overall Main Street Footpath Revitalisation program, and is funded from the NSW Government's Resources for Regions grant program and Council's allocated capital works funding.

#### Administration's Recommendation

THAT Council:

1. Note the tender evaluation for TEN17/24 - Main Street CBD Footpath Improvements Stage 2 and the deficiencies highlighted in the tender response.
2. Resolve to not accept any tenders received and enter into negotiations with the compliant tenderer, Civil Construction Pty Ltd in accordance with Clause 178 (3)(e) of the *Local Government (General) Regulation 2021*.
3. Authorise the General Manager to execute the contract on behalf of Council under delegated authority.
4. Note that a further report will be provided to the November 2024 Ordinary Meeting to report on the outcome of negotiations.

#### Attachments

1. CONFIDENTIAL - TEN 17 24 Main Street CBD Footpath Tender Evaluation Scoresheet [3.19.1 - 1 page]

#### Reference to any relevant previous minute

Min. No. 24-179 Ordinary Meeting of Council held on 26 August 2024.

## Background and discussion

Main Street Footpath Refurbishment Stage 2 is a project which aims to improve the street appeal and functionality of Lithgow's central business district, from Bridge Street to Cook Street.

The proposed works build on the Stage 1 works involving upgrades to Cook Street Plaza, and the intersection of Eskbank Street and Main Street which were completed in 2020.

Proposed works include:

- A revamped streetscape, including replacement of old and dated pavers (which become hazardous during wet weather periods) with modern concrete - enhanced with slate borders and brick banding tying into Lithgow's great industrial heritage, and achieving better compliance with disability grades;
- replacing drainage systems to ensure asset protection;
- improved safety balustrade, street furniture, a parking zone review (including disability access / loading zones and bus zones); and
- new green scaping.

Results from this important community project will be improved pedestrian connectivity, enhancement to shop frontages to attract new businesses / retain existing business, and improvement to public spaces such as Pioneer Park to compliment business activity by providing a space for community events.

The project total cost is \$4,309,358, originally comprising of funding from NSW Government through Resources for Regions Round 8 (R4R8) of \$1,500,000, Commonwealth Government via Building Better Regions Fund - Infrastructure Projects Stream - Round 5 (BBRF) providing \$1,938,911, and Council allocating the remaining funding of \$870,447.

At Council's meeting held on August 2024, Council were made aware of the Commonwealth Government's Building Better Regions Fund - Infrastructure Projects Stream - Round 5 (BBRF) for \$1,938,911. Without this funding, Council is unable to deliver the entire project from Bridge Street to Cook Street, as originally planned. The remaining project budget is \$2,370,447. Based on available funding, Council revised the scope of works prior to issuing tender documents, and called for tenders to complete works from Bridge Street to Eskbank Street.

## Tender Process

A Tender Evaluation Panel (TEP) was formed, consisting of the following members:

Name	Position	Role on TEP
Leanne Kearney	Assets & Infrastructure Planning Manager	Chair
Jim McGee	Engineering Officer	Member
Emily So	Design Consultant	Member
Adam Hunter	Design Consultant	Member

In accordance with the tender evaluation plan, it was determined that tender responses would be evaluated based on the following criteria:

- Value for money (40%);
- Project Program (40%);
- Demonstrated Experience and Past Performance (10%);
- WHS / Quality / Environmental Management (5%); and

- Local Preference Policy (5%).

Council called for tenders on 5 September 2024, and one (1) response was received by the tender closing time, 5:00pm on 7 October 2024. This was received from Civil Constructions Pty Ltd.

### Tender Evaluation

The TEP reviewed the submissions and met on 10 October 2024 to discuss the proposals.

The below table offers a summary of the TEP's scoring against the various evaluation criteria. A copy of the detailed evaluation has been provided to all Councillors with this report as a confidential attachment. Please note that the attachment contains information that is commercial-in-confidence.

Component	Weighted Score
Value for money	400
Project Program	360
Demonstrated Experience and Past Performance	90
WHS / Quality / Environmental Management	45
Local Preference Policy	0
<b>Calculated Total Score (Out of 100)</b>	<b>90</b>

As well as tendering a price comparative to Council's quantity surveyor price, Civil Construction Pty Ltd demonstrated a sound understanding of the project. Civil Construction Pty Ltd have successfully completed a number of similar projects over the past thirty (30) years, including works of similar scope, scale and value for both Burwood and Canterbury Bankstown Councils. Referee's from both Council's have vouched for Civil Construction Pty Ltd's professionalism, quality of work and value for money on current and completed projects.

Civil Construction Pty Ltd are based in Sydney so do not meet the requirements of Council's Local Procurement Policy, however, have indicated that they will be utilising local suppliers and subcontracting companies for the civil works where possible.

However, the tender evaluation panel have noted some omissions and clarifications are needed to rule out any ambiguity with the submission, including:

- Program of works scheduling
- Included contingencies
- Inclusion of nightwork costings
- Clarification of bill of quantities inclusions (for some listed items).

Whilst these clarifications are minor and do not pose a risk to the final delivery of the project, it is recommended that Council negotiate changes with the Tenderer. Council's Project Officers and Consultants will work with Civil Constructions Pty Ltd prior to accepting the tender to ensure the outcome delivered is compliant and meets the needs of the community for the foreseeable future.

Normally, clarification can be sought from respondents during the tender evaluation process. In this case, due to the small window for tender evaluation, and need to present a report to Council's October meeting to ensure a tender is awarded and works can be completed before the grant expiry period, the opportunity to have this clarification included in this report has closed.

Clause 178 (3)(e) of the *Local Government (General) Regulation 2021* allows Councils to 'decline all tenders received and enter into negotiations with any person with a view of entering into a contract for the subject matter'.

Given the tight timeframe for works to be completed, it is recommended that Council decline the tender received and enter into negotiations with Civil Construction Pty Ltd. It is then recommended that the administration report the outcome of the negotiations at the November 2024 Ordinary Meeting and seek approval to enter into an agreement following this process.

Negotiations will be carried out in accordance with the Independent Commission Against Corruption's (ICAC) Guidelines for Managing Risks in Negotiations. While the objective of these negotiations will be to meet Council's expectations regarding project scope of works, the overarching imperative of on-time, on-budget project delivery remains.

Should the outcomes of the negotiation reveal that inclusion of any of these additional deliverables threaten on-time or on-budget project delivery, the original pricing and scope can still be presented to Council for consideration to Council's Ordinary meeting scheduled for 25 November 2024.

Council's Administration are continuing to source any available grant funding and other opportunities for external funding to continue this stage of works. Any funding shortfall remaining after negotiations with the Tenderer have reached a final point can be funded by advancing an allocation from the 2025/26 SRV allocation.

It is imperative that the component of works funded from the Resources for Regions grant continues in a timely manner to prevent any potential for the funding to be withdrawn. This will require the \$1.5 million of works to be expended by 31 March 2025. The remaining components of the project funded by Council's allocation and other sources are expected to be completed by 30 June 2025.

Works undertaken to date as part of this project include:

- **Pioneer Park Works (25% of full Stage 2 work):**
  - o Demolition of existing men and women's amenities,
  - o Installation of Exeloo public amenities and fencing,
  - o Replacement of existing bus shelter, and
  - o Landscaping works (park area only, not roadway or footpath verges)
- **Survey and Design Work (100% of full Stage 2a work, and 90% for Stage 2b work):**
  - o Traffic study for entire stage,
  - o Infrastructure Survey (including service locations),
  - o Preliminary Design and component options (lighting, street furniture, construction materials, landscaping), and
  - o Liaison with infrastructure service providers (Endeavour Energy, Jemena Gas, Telstra and NBN Co).
- **Consultation (50% of full Stage 2 work):**
  - o Consultation with elected representatives,
  - o Engagement with businesses directly impacted by proposed works,
  - o Open community consultation (project specific), and
  - o Community consultation feedback from public exhibition of Council's Integrated Planning and Reporting Process (Operation and Delivery Plans).

### **Consultation and Communication**

Local businesses, and the wider community, have been advised of the project in writing and further direct communication will be issued once the tender is awarded. In addition, Council has created a project-specific webpage for the Main Street CBD Footpath project, which will be updated regularly.

**Policy**

The tender process was undertaken in accordance with Policy 1.4 - Tendering and Policy 1.7 - Local Procurement.

**Legal**

The subject matter of this report is a function of Council conferred by Section 55 of the *Local Government Act 1993* and Part 7 the *Local Government (General) Regulation 2021*.

The project is subject to a thorough assessment of key environmental issues by way of formal Review of Environmental Factors, to ensure compliance with the *Environmental Planning and Assessment Act 1979*.

**Risk Management**

Council's Project Manager has undertaken a risk assessment of the project and identified real and perceived risks and treatment strategies have been applied. The risk register will be updated over the course of the project.

Proposed negotiations will be carried out in accordance with the ICAC's Guidelines for Managing Risks in Negotiations. These include conducting negotiations as a panel, formulating a negotiation plan and recording minutes.

**Financial**

- Budget approved - \$2,370,447 (external funding of \$1,500,000 from R4R funding and Council capital works funding of \$870,447)
- Cost centre - 400156, 600245, 100832, and 100710
- Expended to date - \$779,886 on Pioneer Park works, design and preliminary works
- Future potential impact - \$1,590,561 to be expended this financial year with funding for the design and construction for future stages to continue to be sought (when opportunities present).