

Subsequent Business Paper



Ordinary Meeting of Council

to be held at

Council Administration Centre

180 Mort Street, Lithgow

on

Monday 24 February 2025

at 6:30 PM

ORDER OF BUSINESS

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3. Administration Reports

3.1. I&E - 24/02/2025 - Main Street Footpaths - Scope of works and Communication

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.

Author: Leanne Kearney – Assets & Infrastructure Planning Manager
Responsible Officer: Jonathon Edgecombe – Director Infrastructure & Economy

Executive Summary

This report provides Council with information on the outcomes of tender negotiations and the community communication process that occurred as part of TEN 17/24 - Main Street CBD Footpath Improvements project.

Administration's Recommendation

THAT:

1. Council notes the information provided on the outcomes of tender negotiations and the community communication process that occurred as part of TEN 17/24 - Main Street CBD Footpath Improvements.
2. The Administration investigate and provide a report to a Strategic Review Committee meeting ASAP on the costs of pursuing Option 1 (a hotmix asphalt overlay) as a temporary measure to improve the northern surface of Lithgow's Main Street footpath between Bridge Street and Eskbank Street.
3. Council obtains legal advice regarding the likelihood of a successful claim for compensation made to both NBNC Co and Energy Australia, to contribute to the temporary paver replacement cost, reporting this advice to the next available Strategic Review Committee meeting or Ordinary Meeting of Council after which this advice is received.

Attachments

1. Main Street CBD Footpath - Commencement of Works version 2 [3.1.1 - 2 pages]
 1. Main Street CBD Footpath – Commencement of Works Letter

Reference to any relevant previous minute

Min-No 24-232 Ordinary Meeting of Council held on 28 October 2024.

Strategic Review Committee meeting held on 4 February 2025.
Strategic Review Committee meeting held on 18 February 2025.

Background and discussion

The original scope of works for the Main Street CBD Footpath Improvements project included works on both the southern and northern sides of Main Street, Lithgow, between Cook Street and Bridge Street. In the second half of 2024, based on the revised available funding (after the cancellation of the Building Better Regions grant), Council had no alternative but to split the project and revise the scope of works to between Eskbank Street and Bridge Street.

The Council prepared tender documentation based on the reduced scope. Following receipt and evaluation of tender submissions, the project scope again needed to be further revised to fall within Council's available funding Council to complete the project. At Council's meeting held on 28 October 2024, Council resolved:

24 -232 RESOLVED

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 as long as it is in the approved budget.*
- 4. Note that a further report will be provided to the November 2024 Ordinary Meeting to report on the outcome of negotiations.*

Council sought advice from the designer and quantity surveyor to determine the best method of reducing the scope of works that would:

- A) Ensure that works could be completed within the available budget,
- B) Be completed within the grant timeframes (i.e. 30/6/25),
- C) Be easy to transition to future works that needed to be postponed, and
- D) Have minimal impact on business over the Christmas trade period.

Council's project designers determined that the best solution to achieve the above factors was to separate the project into two (2) separable portions, and complete the northern side, pedestrian crossing and part of Bridge Street works first, as detailed below.



This project split was carefully considered to enable works to be undertaken without impacting future stages, and to provide safe transition from the new works to the remaining footpath and kerb on the southern side.

In accordance with Council's resolution from 28 October 2024, this reduced scope of works for the tender for the Main Street CBD Footpath Improvements project was successfully negotiated with the conforming tenderer Civil Construction Pty Limited resulting in a revised contract price of \$1,699,000 (ex GST). A report was not able to be provided to the 24 November 2024 meeting as the contract negotiations were not finalised until a week after this meeting.

Council staff have been contacted by a number of local businesses on the southern side of Main Street, between Bridge Street and Eskbank Street expressing their disappointment that the scope of works has been reduced and no longer includes their section as part of the current works. Concerns were also expressed about a lack of clear communication on the change of scope. Two written complaints have been lodged with Council regarding the reduced scope. The Project Manager will be contacting these business owners directly. Additionally, Council's Director has visited the authors of this correspondence directly to hear of their concerns and commit to improved engagement as further stages of this project are delivered. Confirmation has been provided that Council is committed to completing this section of works as soon as possible, however, undertaking of the project in the near term is dependent on the success of grant funding applications.

As the design has been completed for Stage 2b (and the construction costs estimates are known), Council is searching for funding opportunities weekly and is ready to make applications as soon as suitable opportunities arise. Once this funding is secured for Stage 2b works, Council will be seeking further funding for Stage 3 works (from Eskbank Street to Cook Street Plaza), as the design work for this has also been completed as part of the original Stage 2 works.

Unfortunately, Council is not in a financial position to fund the additional stages without grant assistance and are not considering loan borrowings in order to retain borrowing capacity for consideration of funding for the road renewal backlog.

Whilst improvement works have been delayed, it should be noted that Council's Precinct Officer routinely inspects the footpath area of all sections of Main Street from Bridge Street to Lithgow Street, and performs a combination of mechanical and manual cleaning (four days one week and three days the second week), including the proposed Stage 2b area. Any unsafe areas (including uneven or damaged pavers / brick kerbs or utility / service lids etc) are identified and placed on Council's maintenance repair program for prompt attention dependent of the level of risk they pose to the community. Paved areas are also pressure washed on occasions when required to remove areas unclean due to spillages and/or stains (when identified through routine inspection and reported by the community to Council's Customer Service Department).

When the pavers were recently removed and relayed as a result of Energy Australia and NBN works, the original pavers were unable to be purchased anywhere in Australia. There are no remaining manufacturers of these tiles. Hence, a slightly larger option had to be purchased, and the tiles shaved to size. While some minor works can be delivered by Council staff to assist, it isn't possible to relay these tiles and ensure permanent stability.

There are two options if the Council wishes to greatly improve the surface of the southern footpath of Main Street between Bridge Street and Eskbank Street.

1. Replace the pavers with a temporary alternative, at the lowest possible cost. This would likely be a hotmix asphalt, laid by hand to accommodate the overhead awnings, leaving the bull-nose kerb as it lies. The administration can seek quotes for this to occur for prompt consideration of Council. Please note that while this option will offer temporary relief, it will represent a 'sunk cost' as it is not a tolerable long-term solution.
2. Replace the pavers with concrete and brick banding, to match the works delivered on the northern side. This will come at a far greater cost.

Option 1 may be a preferable temporary solution, as it will minimise the cost to the Council while grant funding is sourced for a permanent solution (Option 2). Choosing Option 2 now, and sourcing a loan to fund it, will prohibit the Council from applying for future grants for this area as grants usually require that works have not yet commenced.

Business owners have also questioned why NBN compensation has not been used for the project. Unfortunately, this is public misinformation that the Administration has attempted to correct. To be clear, no compensation has been paid by NBNC Co or Energy Australia for their utility works underneath the Main Street footpath between Bridge Street and Eskbank Street.

Upon completing a final inspection and walkover of the initial restoration work, Council refused the handover of the asset as the works were not to our expectations. NBNC Co accepted this and the contractor recompacted and relayed all the pavers that were uneven or had prematurely sunk, at the cost of NBNC Co. The final restoration, at the time, was even and showed no signs of further compaction. Over time, however, further deterioration has occurred. It was not possible to predict the later deterioration at that time.

The Utilities Act 2000 provides that a public utility operator (water, sewer, gas, telecommunications and electricity supply) may enter any land and conduct any works required to maintain and operate their network (Section 106). No bonds or fees can be charged for this, so long as the operator ensures that the land is restored as soon as practicable to a condition that is similar to its condition before the operations began (Section 113).

A claim for compensation, pursuant to Section 143 and 144 of the Utilities Act 2000 could be issued to both NBNC Co and Energy Australia, understanding that the paver defects can be directly attributed to their work. This could assist with the costs of replacing the pavers with a temporary hotmix overlay.

The Council would need to determine the costs to make good (through replacement of the pavers with a hotmix overlay) and likely engage legal support to make such a formal request. This would likely result in a lengthy process of negotiation which would also attract financial and time costs.

Council's claim for compensation would need to be made on the basis that a long-term, stable solution can never be implemented through replacement of the pavers as they are no longer manufactured, and thus a hotmix asphalt temporary solution is warranted while Council seeks external funding for a permanent improvement.

Consultation and Communication

On the day that preliminary works commenced (2 December 2024), Council's Contractor delivered a notification on the commencement of works to all residents and businesses between Bridge Street and Eskbank Street (both northern and southern sides of the road). This notification advised of the planned works, provided the Contractors contact details, and advised residents and businesses on how to keep updated on the progress of the project (via Council's Key Projects website).

Whilst it would be normal practice for Council to undertake this notification, Council's Contractor advised that as part of their normal practice, they visit each business to introduce themselves, and to discuss any specific requirements that individual businesses may have that need to be taken into account during the construction phasing. The Council accepted the Contractors offer to drop off the letter to businesses as part of their communication and introduction process, which allowed Council staff to focus on other critical projects.

The Council has also appointed a Project Manager who is working closely with Council's Communication Department to ensure that businesses and the community are kept informed of the progress of the project, and any expected impacts. This includes regular updating of the Council's website to be the single source of project information. Corflute posters have been installed on street bins, with details of the website as well as a QR code provided for easy redirection to Council's Key Projects web page. The same posters have been distributed to interested businesses to provide information for their customers and the general community. The Contractor has been liaising with all the businesses in Main Street prior to and during works to ensure that any of their concerns are addressed. Feedback from the Contractor is that businesses are wary of potential impacts, however, are pleased that works are being undertaken, and that the Contractor is planning work to ensure any business disruptions are kept to a minimum (some impact is unavoidable).

Policy

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

Provision of information to residents, business and the community has been undertaken in accordance with Policy 4.10 Community Engagement and Communications Policy

Legal

Awarding of the construction contract under tender is a function of Council conferred by Section 55 of the Local Government Act 1993 and Part 7 the Local Government (General) Regulation 2021.

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 - \$2,376,823.94
- Cost centre - PJ 100832
- Expended to date - \$1,964,289 (\$579,447 spent and \$1,384,842 committed funds)
- Future potential impact - savings of up to \$378,023.16 may be made if contingency is not fully required.

4. Council Committee Reports

4.1. I&S - Strategic Review Committee Meeting Minutes - 18th February 2025

Author: Penny Way - Executive Assistant Infrastructure and Economy
Responsible Officer: Jonathon Edgecombe - Director of Infrastructure and Economy

Executive Summary

This report provides details of the Minutes of the Strategic Review Committee Meeting held on 18 February 2025.

Administration's Recommendation

THAT Council:

1. Note the minutes of the Strategic Review Committee held on 18 February 2025.
2. Endorse the draft 'Keying System' policy to be placed on public exhibition for a period of 56 days, prior to returning the matter to Council for final determination.
3. Council accepts Cr Darryl Goodwin as a voting member of the Strategic Review Committee.

Attachments

1. Draft Minutes Strategic Review Committee 18 02 2025 [4.1.1 - 10 pages]

Reference to any relevant previous minute

Nil.

Background and discussion

At the Strategic Review Committee held on 18 February 2025, there were numerous items discussed by the Committee including:

- Strategic Review Committee Terms of Reference;
- Infrastructure Asset Management Plans – Update;
- Review of Civil Engineering Guidelines – Update;
- REF and Part 5 Assessment Improvement Program; and
- Lithgow City Council - Sporting Precinct Master Plan.

The following items were outside the Committee's delegations and require Council to formally approve the recommendation:

- Item 7.5 Building Security (Keys and Locks) Policy; and
- General Business (New Voting Member).

Financial

- Budget approved - NIL
- Cost centre - NA
- Expended to date - NIL
- Future potential impact - NIL