

14.3 REVIEW OF CONFIDENTIAL ITEMS – TENDER SELECTION REPORTS

REPORT AUTHOR:	General Manager, Governance & Civic Affairs
GENERAL MANAGER:	Chief Executive Officer
CONTACT NUMBER:	8366 4549
FILE REFERENCE:	qA65013
ATTACHMENTS:	A - D

PURPOSE OF REPORT

The purpose of the report is to present information regarding a review of Confidential Items relating to four (4) Tender Selection Reports to the Council for the Council's consideration.

BACKGROUND

In accordance with the *Local Government Act 1999*, a review of the Council's Confidential Items as at 30 June 2024, has been undertaken. A summary of all Confidential Items is set out in the Register of Confidential Items which details the date of the order, the grounds upon which the order was made and whether or not the document has become public by virtue of the resolution.

The Register of Confidential Items was considered by the Council as a separate report as part of the agenda for this meeting.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

DISCUSSION

A review of the Confidential Items as at 30 June 2024 has been undertaken. There are four (4) items regarding tenders that require the Council's consideration as the confidentiality period is due to expire:

1. Annual Pruning and Removal of Council Trees (**Attachment A**);
2. Capital Works - Brick Paved Footpath Reconstruction 2018-2019 (**Attachment B**);
3. Extinguishment of Easement & Re-alignment of Stormwater Pipe - Joslin (**Attachment C**); and
4. New Clubrooms & Members Facilities at Norwood Oval (**Attachment D**).

These matters were considered "in camera" in accordance with Section 90(2) and (3) of the *Local Government Act 1999*, on the basis that the items contained information regarding the tenders which had been received for the project.

At that time, the Council resolved to retain the matter in confidence for a five (5) year period, after which time the order would be reviewed.

At its meeting held on 7 August 2023, the Council was advised that from a governance perspective it is not considered good practise to retain items as confidential items for an indefinite period. However, as the documents contain commercial information regarding each tenderer, a letter will be sent to each tenderer advising that the confidential order will expire and that it is the Council's intention to remove the confidential order and release the documents as public documents.

On this basis, the Tenderer will be given the opportunity to request that the Council consider maintaining the confidential provisions on the basis of commercial reasons only.

The Council will then consider the request and determine whether or not to retain the confidentiality provisions pertaining to the tender documents.

In March 2024 and in accordance with the process set out above, a letter was forwarded to all parties (24 businesses and/or organisations), associated with the four (4) confidential items, as set out in Attachments A - D.

Of the 24 businesses and/or organisations that have been contacted, one (1) business is no longer registered as a business and as such, their business name has been cancelled on the Australian Securities and Investments Commission (ASIC), website.

A total of five (5) businesses and/or organisations responded to the letter:

1. Annual Pruning and Removal of Council Trees – one (1) response;
2. Capital Works - Brick Paved Footpath Reconstruction 2018-2019 – two (2) responses;
3. Extinguishment of Easement & Re-alignment of Stormwater Pipe - Joslin – one (1) response; and
4. New Clubrooms & Members Facilities at Norwood Oval – One (1) response.

Each respondent has requested that the Council determines to continue to retain their information as confidential on the basis of the following:

- highly competitive nature of these tenders;
- pricing for previous projects set out in the documentation;
- information regarding the company (IP), which includes financial performance, safety performance and pricing schedules;
- organisations invest a significant amount of time and resources preparing their tender submissions which includes information regarding the unique value and quality of services; and
- prices are based on unique capabilities, experience and cost structure and organisations need to maintain a competitive edge.

Whilst a business and/or an organisation (or a person for that matter), cannot compel the Council to retain information in confidence, the request to the Council to retain commercial information as confidential for a further period, is understandable given the competitive environment businesses face when submitting tenders for works.

Whilst it is frustrating that a number of businesses and/or organisations did not respond, it is also acknowledged that a lack of understanding of the processes surrounding confidential matters within the Local Government context may be a reason for this.

Whatever the reason, the Council still holds commercial information within its Corporate Records system which must be considered in terms of the confidential status of the information.

The Council could, where a Tenderer is no longer operating, determine to lift the confidential order applicable to that tender submission and the tender documents will be released.

The Council could also take this approach where the Tenderer has not responded to the letter (in other words, the tender did not advise the Council that they wish the confidential orders to be retained) and lift the confidential order and release the documentation.

However, the Council has received requests from five tenderers to retain the information that they have submitted as confidential.

This would mean that for each item, some of the information would be released and if where the Council agrees to the request of the five (5) tenderers to retain their information as confidential, some documentation would remain confidential.

This is somewhat impractical and does not seem to be a logical step for the Council to take.

A more sensible approach is for the matters which contain information of a commercial nature to be retained in confidence for a further two (2) year period at which time the matters will be automatically released.

This means that no further extensions to the confidential orders in respect to these items will be considered by the Council, on the basis that after a total of seven (7) years, it is questionable that the commercial information supplied by the various businesses and/or organisations would be relevant or of any value to a competitor at that point in time.

A seven (7) year time frame has been determined as this is a standard period of time for the retention of financial records according to the benchmark determined by both the Australian Taxation Office and the ASIC.

It is clear that the process which has been recently undertaken, whilst in theory may be sound, in terms of its application is not practical.

On this basis, in terms of a more practical approach to the management of confidential tender matters whilst ensuring compliance with the Act, the process could be managed by ensuring that all Requests for Tender Information clearly sets out information regarding the Council's confidential framework in terms of tender documentation.

This process would apply to all future tender submissions.

In the event that the Council agrees to amend its process in respect to the management of confidential tender documentation, it is proposed that the current confidential orders in respect to tender submissions be extended to retain the items as confidential for a total of seven (7) years and that the orders will expire at the conclusion of the seven (7) year period.

This means that if the confidential status of an item is due to expire in December 2024, the order would be extended by a further two (2) years, making the total period that the item has been retained as confidential seven (7) years.

A letter would then be forwarded to all existing businesses and/or organisations to advise of this process.

To enact this process, all existing confidential tender items will be presented to the Council at its September meeting.

OPTIONS

The Council can determine to release the confidential items as contained in Attachments A-D, however as the items relate to information of a commercial nature and on the basis of the proposed process as set out within this report, it is recommended that the Council retain the confidential provisions relating to these items for a further two (2) year period.

CONCLUSION

The review of the Council's confidentiality orders ensures compliance with the legislative requirements as set out in Sections 90 and 91 of the *Local Government Act 1999*.

COMMENTS

Nil.

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the *Local Government Act 1999* the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

RECOMMENDATION 2

In accordance with Section 91(7) of the *Local Government Act 1999*, the following reports and attachments be kept confidential for a further two (2) year period, after which time the confidential order will expire and the documents will be released:

1. Annual Pruning and Removal of Council Trees (Attachment A);
2. Capital Works - Brick Paved Footpath Reconstruction 2018-2019 (Attachment B);
3. Extinguishment of Easement & Re-alignment of Stormwater Pipe - Joslin (Attachment C); and
4. New Clubrooms & Members Facilities at Norwood Oval (Attachment D).

Cr Granozio moved:

That pursuant to Section 90(2) and (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Civic Affairs, General Manager, Infrastructure & Major Projects, General Manager, Community Development Acting General Manager, Urban Planning & Environment, Manager, Governance, Manager, Strategic Communications & Advocacy, Chief Financial Officer and Administration Assistant, Governance & Civic Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Clutterham and carried unanimously.

Cr Sims moved:

In accordance with Section 91(7) of the Local Government Act 1999, the following reports and attachments be kept confidential for a further two (2) year period, after which time the confidential order will expire and the documents will be released:

- 1. Annual Pruning and Removal of Council Trees (Attachment A);*
- 2. Capital Works - Brick Paved Footpath Reconstruction 2018-2019 (Attachment B);*
- 3. Extinguishment of Easement & Re-alignment of Stormwater Pipe - Joslin (Attachment C); and*
- 4. New Clubrooms & Members Facilities at Norwood Oval (Attachment D).*

Seconded by Cr McFarlane and carried unanimously.

Attachment A

Confidential

**Review of Confidential Items
Tender Selection Reports**

Released

14.1 TENDER SELECTION REPORT – ANNUAL PRUNING AND REMOVAL OF COUNCIL TREES

REPORT AUTHOR: Manager, City Services
GENERAL MANAGER: General Manager, Urban Services
CONTACT NUMBER: 8366 9007
FILE REFERENCE: S/05129
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to seek the Council's approval to appoint the preferred tenderer, following an open tender process for the delivery of tree removal and pruning services for a five (5) year period.

BACKGROUND

The Council undertakes a tree removal and pruning program annually, primarily based on the request for trees to be removed or pruned. The requirement to engage contractors to undertake these works is due to the size and height of the trees exceeding the requirements that can be undertaken by the Council staff.

The Council area currently has and maintains some 30,000 trees which are planted on road reserves and parks and gardens.

To date, each time a tree is removed or pruned, quotes are sought and different contractors are engaged resulting in loss of time by staff in having to obtain three (3) written quotations every time a tree needs to be pruned or removed.

As the value of the contract exceeds \$100,000 (undertaken by contractors) in any given year for the delivery of this operation, an open tender process in accordance with the requirements of the Council's Procurement Policy, was undertaken.

Tenders were received from the following contractors:

- Mark Lawson Professional Tree Services;
- Taking Care of Trees,
- Active Tree Services;
- Mechanical Veg Solutions;
- Urban Virons;
- Arbotech Tree Services; and
- Austral Tree Services.

Given the nature of the Contract (that is, the number of trees which are required to be removed or pruned will vary from year to year). Tenderers were required to submit a Schedule of Rates for the various components of the works for both the removal and pruning of trees.

As the quantity of each component of the work varies depending on the number of trees to be pruned or removed each year, it is impractical to request a lump sum contract price.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Given that the total aggregate value of the Contract exceeds \$250,000, the Council's Schedule of Delegations, requires that this Contract be considered and awarded by Council (i.e. it is not a delegated authority).

An open tender process was conducted as required by the Council's Procurement Policy.

The relevant Strategic Outcomes and Objectives related to this project, as set out in the Council's **City Plan 2030 – Shaping Our Future** are summarised as follows:

Outcome 1: Social Equity

A connected, accessible and pedestrian-friendly community.

Objectives:

2. A people-friendly, integrated and sustainable transport and pedestrian network.

Appropriate pruning of trees on a regular basis is required to provide the adequate understorey clearance, both on the footpaths and roads to allow both pedestrians and vehicles safe access.

Outcome 4: Environmental Sustainability

A leader in environmental sustainability.

Objectives:

3. Sustainable quality streetscapes and open spaces.

One of the Council's key objectives is to provide, enhance and maintain healthy trees, both on the verges and in the Council's reserves and landscape areas. This can be achieved by appropriate pruning of the trees when required.

FINANCIAL AND BUDGET IMPLICATIONS

An allocation of \$120,000 has been made in the 2017–2018 Budget for the removal and pruning of trees by contractors. As at 21 June 2018, the total expenditure is \$130,400 for both the removal and pruning of street trees. This expenditure is 10% above the Budget amount.

In order to obtain a fair comparison of cost for the tenders which have been received, the total amount shown in the Valuation Matrix as contained in **Attachment A**, has been based on 200 hours for the pruning of trees and the removal of 200 trees. These quantum will vary from year to year as it is not possible to obtain an exact figure of trees that will need to be pruned or removed in any financial year. This expenditure will be affected by the health of the trees, storm damage and requests which are received and approved from the pruning or removal of trees.

Table 1 below sets out the combined expenditure for the removal and pruning of trees for the last five (5) financial years by contractors.

TABLE 1: TOTAL TREE MAINTENANCE COSTS CONTRACTED SERVICES

YEAR	ACTUAL	BUDGET	VARIANCE
2013 - 2014	\$111,111	\$80,624	-\$30,487
2014 - 2015	\$135,944	\$108,505	-\$27,439
2015 – 2016	\$197,476	\$105,000	-\$92,476
2016 – 2017	\$234,984	\$127,000	-\$107,984
2017 – 2018	\$130,401	\$120,000	-\$10,401

It should be noted that in the 2015–2016 and 2016–2017 financial years, two (2) major storms occurred. These events occurred on 16 September 2015, 22 January 2016 and between 8 September 2016 and 1 October 2016. A report on the damage and severity of these storms was presented to the Council in December 2016. This has resulted in the higher costs in those financial years due to the severity of the storms resulting in considerable damage to the Council's tree stock.

The actual costs for the 2018–2019 financial year can only be realised as the delivery of the works progresses throughout the year. The budget will be reported during the Quarterly Budget Reviews throughout the year as required.

It should be noted that the works to be undertaken by the successful contractor are above and beyond the works which are undertaken by Council staff for the pruning and removal of trees. This occurs because Council resources (both plant and staff) are limited in terms of pruning branches at a high level and the removal of large trees.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

The Council's Environmental Sustainability Policy (ESP) provides appropriate conditions of contract and standard operating procedures which are incorporated into the Contract to reduce the likelihood and consequences of any of those hazards occurring during the undertaking of the works.

Contractors are inducted into the Council's ESP and are contractually obliged to comply with its requirements. Council staff undertake regular inspections and act on any issues of non-compliance which are identified during the undertaking of the works.

RESOURCE ISSUES

The delivery of the works will be managed by Council staff. The on-ground works will be delivered by the Contractor.

RISK MANAGEMENT

The pertinent risk issue associated with the awarding of this Contract is the inability of the Contractor to deliver the requirements of the Contract. To ensure that the level of risk is identified, the tender evaluation process included consideration of each tenderer's prior experience, reliability and ability to complete the work on time.

CONSULTATION

- **Elected Members**
Not Applicable.
- **Community**
Not Applicable.
- **Staff**
General Manager, Urban Services;
Manager, Financial Services;
Acting Manager, City Assets;
Works Coordinator, City Services; and
City Arborist.
- **Other Agencies**
Not Applicable.

DISCUSSION

As with all tender assessments, there are a number of factors and criteria which are considered in determining the preferred tenderer. These factors include proposed methodology, WHS and risk systems, organisational structure, equipment and resources, value add, improvements, innovations, expenditure and references.

To determine the preferred tenderer, the Schedule of Rates submitted by each tenderer was applied to the number of trees by size (diameter) to be removed and the number of hours required to prune the trees. The number of hours estimated to prune the trees was based on the average hours taken over the last four (4) financial years. This calculation was placed in a price based tender evaluation matrix as shown in **Attachment A**. This method allows for an equitable comparison between each tenderer's submission in respect to price.

A weighted analysis of price and non-price criteria was also undertaken as part of the assessment of tenders received, in order to determine which tenderer would provide Council with the best value. Point scores have been allocated to each criterion.

In assessing the criterion as shown in Attachment A, a Value Index has been calculated, which is the price submitted divided by quality of the submission. The valuation of the quality is based on the weighted score for the individual evaluation criteria. This calculation is shown in the matrix attached (**Attachment A**).

The selection of the preferred tenderer is based on the lowest Value Index. The Value Index for each tenderer resulting from the assessment undertaken is shown in Table 2.

TABLE 2: RESULTS OF TENDER EVALUATION MATRIX

TENDERER	*VALUATION INDEX
Mark Lawson Professional Tree Services	539.39
Taking Care of Trees	582.69
Active Tree Services	462.75
Mechanical Veg Solutions	953.08
Urban Virons	368.64
Arbortech Tree Services	515.28
Austral Tree Services	755.54

**A lower score is better.*

It is important to note that whilst Arbortech Tree Services was the most competitive tenderer based on price, they did not receive the lowest Valuation Index, based on weighting of non-price criteria.

Based on the assessment which has been undertaken, Urban Virons has achieved the lowest Valuation Index of 368.64, as shown in **Attachment A**, as compared with other tenders received which includes price and non-price criteria.

It is therefore recommended that Urban Virons be awarded the Contract.

OPTIONS

The Council can choose to award the contract to Urban Virons, as recommended.

Alternatively, the Council may choose to award the Contract to any of the other tenderers, or not award the Contract at all.

To enable for the works to commence and based on the procurement process which has been undertaken, there is no logical reason why Council would not award the Contract as recommended.

Given that Urban Virons has achieved the best result that is lowest overall in comparison to the other tenders received, which includes price and non-price criteria, it is recommended that Urban Virons be awarded this Contract.

CONCLUSION

Urban Virons is a proven tree management Contractor with significant experience with this Council and other councils. This experience, together with a competitive price makes it the preferred tenderer.

COMMENTS

Nil.

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the Local Government Act, 1999 the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

RECOMMENDATION 2

1. That the Contract for the City of Norwood Payneham & St Peters' Pruning and Removal of Council Trees be awarded to Urban Virons as per the specified Schedule of Rates, to be managed within existing and ongoing operational budgets for a term of five (5) years.
2. That the Mayor and the Chief Executive Officer be authorised to sign and seal all the documents associated with awarding of this Contract.

RECOMMENDATION 3

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report and discussion be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the minutes be kept confidential until the contract has been entered into by all parties to the contract.

Cr Duke moved:

That pursuant to Section 90(2) and (3) of the Local Government Act, 1999 the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Community Affairs, General Manager, Urban Planning & Environment, General Manager, Urban Services, General Manager, Corporate Services, Manager, City Services, Project Officer, Civil and Executive Assistant, Urban Services], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Minney and carried.

Cr Minney moved:

1. *That the Contract for the City of Norwood Payneham & St Peters' Pruning and Removal of Council Trees be awarded to Urban Virons as per the specified Schedule of Rates, to be managed within existing and ongoing operational budgets for a term of five (5) years.*
2. *That the Mayor and the Chief Executive Officer be authorised to sign and seal all the documents associated with awarding of this Contract.*

Seconded by Cr Knoblauch and carried unanimously.

Cr Minney moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report and discussion be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the minutes be kept confidential until the contract has been entered into by all parties to the contract.

Seconded by Cr Dottore and carried unanimously.

Released

Attachment B

Confidential

**Review of Confidential Items
Tender Selection Reports**

Released

14.2 TENDER SELECTION REPORT - CAPITAL WORKS BRICK PAVED FOOTPATH RECONSTRUCTION 2018-2019

REPORT AUTHOR: Project Officer - Civil
GENERAL MANAGER: General Manager, Urban Services
CONTACT NUMBER: 8366 4571
FILE REFERENCE: S/05214
ATTACHMENTS: A - B

PURPOSE OF REPORT

The purpose of this report is to seek the Council's approval to appoint the recommended Contractor, following an open tender process undertaken for the Council's Annual Footpath Reconstruction Program ("the Program").

BACKGROUND

The Council undertakes the Program, based on its "Whole of Life" Infrastructure Asset Replacement Model and the Council's Civil Infrastructure Asset Management Plan. The Program enables the current level of standard of footpaths throughout the City to be maintained.

The current three-year Contract for the delivery of the Program expires on 30 June 2018. As such, a procurement process has been undertaken in order to appoint a Contractor to deliver the Program for the next three (3) years, commencing with the 2018-2019 Program.

The value of the contract exceeds \$100,000 and as such, an open tender in accordance with the requirements of the Council's Tenders and Purchasing Policy, was undertaken for the 2018-2019 Program.

Tenders were received from the following contractors:

- BEST Bricks & Pavers;
- Falzon Paving & Concrete;
- Boral Hollostone Masonry;
- Nova Group Services;
- Icon Paving;
- Basetec; and
- Aberfoyle Brick Paving.

Tenderers were required to submit a Schedule of Rates for the various components of the work, which not only includes laying of the pavers, but also includes associated work such as excavation and disposal of existing material, reconstructing driveway crossovers, replacing stormwater pipes, altering utility service pits, mortaring around signs and fences, replacing verge material and replacing unsuitable sub-base material.

As the quantity of each component of the work varies depending on site conditions which may be encountered, it is impractical to request a Lump Sum contract price.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Given that the value of the works is above \$250,000, the Council's Schedule of Expenditure Authorities, requires that this Contract be considered and awarded by the Council (i.e. it is not a delegated authority). As stated above, an open tender process was conducted as required by the Council's Tenders and Purchasing Policy.

The relevant Strategic Outcomes and Objectives related to the Program, as set out in the Council's **City Plan 2030 – Shaping Our Future** are summarised as follows;

Outcome 4: Environmental Sustainability

A leader in environmental sustainability.

1. Sustainable and efficient management of water, energy and other resources. One of the Council's key objectives is to provide and maintain its civil infrastructure at a high quality and standard. The undertaking of the works as part of this Program will enable the Council to meet its objectives, as adopted within its Asset Management Plan and its Strategic Plan and provide for safer footpaths throughout the City.

FINANCIAL AND BUDGET IMPLICATIONS

A total of \$811,352 has been allocated within the Draft 2018-2019 Budget for the works associated with the Program. The Council's Civil Infrastructure Asset Management Plan identifies the need for similar amounts to be spent on an annual basis to ensure that the Council's footpaths are replaced in line with the expected useful lives of the existing footpaths.

The actual expenditure will depend on the specific quantities of the various components of the work which are ultimately required to be completed. At this stage, this is difficult to quantify, however, a first order estimate shows that the total cost for the Program is in line with the 2018-2019 Budget allocation. As the Program is carried out and the actual cost becomes more certain, Budget revisions will be undertaken accordingly. However, the actual expenditure is expected to be within Budget.

EXTERNAL ECONOMIC IMPLICATIONS

Nil.

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Although, the Council does not currently have a certified Environmental Management System (EMS) the Council's Environmental Sustainability Policy provides appropriate conditions of contract and standard operating procedures which are incorporated into the Contract to reduce the likelihood and consequence of any of those hazards occurring during the undertaking of the works associated with the Program. Contractors are inducted into the Council's Environmental Sustainability Policy and are contractually obliged to comply with its requirements. Council staff undertake regular inspections and act on any issues of non-compliance which are identified during the undertaking of the works associated with the Program.

RESOURCE ISSUES

The delivery of the Program will be project managed by Council staff. The on-ground works associated with the Program will be delivered by the Contractor.

RISK MANAGEMENT

The pertinent risk issue associated with the awarding of this Contract is the recommended Contractor's ability to deliver the requirements of the Contract. To ensure that the level of risk is identified, the tender evaluation process included consideration of each tenderer's prior experience, reliability and ability to complete the works on time.

The results of the tender evaluation are outlined in the Discussion section of this report.

CONSULTATION

- **Elected Members**
Not Applicable.
- **Community**
Not Applicable.
- **Staff**
General Manager, Urban Services; and
Acting Manager, City Assets.
- **Other Agencies**
Not Applicable.

DISCUSSION

As with all tender assessments, there are a number of factors or criteria which are considered in determining the preferred tenderer. These factors include relevant experience, technical competence, business capability, financial stability, methodology, WHS, price, etc. However, in respect to the Program, price is rated higher than the other assessment criteria.

To determine the most competitive tender, the Schedule of Rates tendered by each contractor, was applied to a hypothetical one hundred metre (100m) section of footpath, which contained typical quantities of the various components of the work (e.g. stormwater pipe replacements, verge filling, replacement of unsuitable sub-base, driveway crossover reconstructions, mortaring around utility pits, excavation and disposal of existing footpath materials, etc.). This method allowed for a fair comparison between each tenderers' submission and is in line with the methodology for assessments undertaken with previous tenders for the delivery of the Program, this information is contained in **Attachment A**.

The nominal "per square metre" rate for each tenderer, based on the nominal quantities, is summarised in Table 1 below.

TABLE 1: NOMINAL FOOTPATH RECONSTRUCTION RATES

Tenderer	Nominal Footpath Reconstruction Rate (per m2)
BEST Bricks & Pavers	\$89.31
Falzon Paving & Concrete	\$130.62
Boral Hollystone Masonry	\$94.33
Nova Group Services Nova Group Services	\$107.12
Icon Paving	\$154.72
Basetec	\$409.73
Aberfoyle Brick Paving	\$84.16

In terms of price, Aberfoyle Brick Paving is the most competitive.

A Tender Evaluation Matrix was also used to undertake a weighted analysis of price and non-price factors for each tenderer, in order to determine which tenderer would provide the Council with the best value. Non-price factors include the tenderer's prior experience and reputation, technical skills of personnel and the ability of the tenderer to perform the work within the required timeframe.

Based on each tender, Council Staff's knowledge of each contractor and reference checks, point scores have been allocated to each criteria. A copy of the completed Tender Evaluation Matrix, which indicates the outcome of the assessment of each criteria for each tenderer, is contained in **Attachment B**.

The overall score for each tenderer, based on the Tender Evaluation Matrix, is summarised in Table 2 below, whereby the higher the score the better.

TABLE 2: SUMMARY OF TENDER SCORES

Tenderer	Tender Evaluation Score
BEST Bricks & Pavers	416.44
Falzon Paving & Concrete	321.37
Boral Hollostone Masonry	414.05
Nova Group Services Nova Group Services	361.47
Icon Paving	330.28
Basetec	-135.12
Aberfoyle Brick Paving	417.35

As indicated in Table 2, Aberfoyle Brick Paving received the highest score and is therefore the preferred tenderer. Whilst, Aberfoyle Brick Paving was the most competitive based on price; they also performed well in other criteria.

Aberfoyle Brick Paving have been the Council's footpath brick paving contractor for the past nine (9) years and have performed to a high standard. During the term of the current Contract, Aberfoyle Brick Paving have not only produced quality work, but their attention to detail and willingness to co-operate with both property owners and Council Staff has been excellent. Their commitment to the Council has been invaluable providing reassurance that the Council's expectations will continually be met each year at the level of quality Council staff and the community deserve.

On the basis of Aberfoyle Brick Paving achieving the overall best tender evaluation score, including having the most competitive price, they are considered the preferred tenderer.

The Contract has been tendered on a basis of an initial one (1) year term, with an option for up to two (2) single year extensions subject to successful performance. The Contract contains provision for annual price increases on the Schedule of Rates, based on Consumer Price Index (CPI) increases, should the option to extend be taken up.

OPTIONS

The Council can resolve to award the Contract to Aberfoyle Brick Paving, as recommended. Alternatively, the Council may choose to award the Contract to any of the other tenderers, or not to award the Contract at all.

Given that the required tender process has been undertaken and the Program is required to be implemented, there is no logical reason why the Council would not award the Contract as recommended. Also, given that Aberfoyle Brick Paving has achieved the best result in comparison with the other tenderers through the tender evaluation process which included price and non-price factors, there is no logical reason for the Council not to award the Contract to Aberfoyle Brick Paving.

CONCLUSION

Aberfoyle Brick Paving is a proven paving contractor, with significant experience in the delivery of the Council's Footpath Reconstruction Program. This experience, along with a very competitive price, makes them the preferred tenderer.

Should the Council award the Contract, it is expected that the works will commence in August 2018 and be completed by June 2019.

COMMENTS

The detailed information contained in this report is commercially sensitive and while the Local Government Act 1999 and Freedom of Information Act provide for certain information to be made publicly available in certain circumstances, the report should still be considered in confidence.

RECOMMENDATION 1

That pursuant to Section 90 (2) and (3) of the Local Government Act 1999, the Council orders that the public, with the exception of the Council Staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

RECOMMENDATION 2

1. That the Contract for the Construction of Brick Paving to Footpaths within the City of Norwood Payneham & St Peters for 2018-2019, be awarded to Aberfoyle Brick Paving, for a one (1) year term, with the Council having the right of renewal for up to two (2) single year extensions.
2. That the Mayor and the Chief Executive Officer be authorised to sign and seal all the documents associated with awarding of this the Contract.
3. That the General Manager, Urban Services, be authorised to approve the two (2) single year contract extensions in 2019-2020 and 2020-2021 respectively, subject to satisfactory performance of the Contractor and sufficient budget allocation being made by the Council in the 2019-2020 and 2020-2021 financial years for the delivery of the Program.

RECOMMENDATION 3

Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the report and discussion be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the minutes be kept confidential until the contract has been entered into by all parties to the contract.

Cr Granozio moved:

That pursuant to Section 90 (2) and (3) of the Local Government Act 1999, the Council orders that the public, with the exception of the Council Staff present [Chief Executive Officer, General Manager, Governance & Community Affairs, General Manager, Urban Planning & Environment, General Manager, Urban Services, General Manager, Corporate Services, Manager, City Services, Project Officer, Civil and Executive Assistant, Urban Services], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Minney and carried.

Cr Whittington moved:

- 1. That the Contract for the Construction of Brick Paving to Footpaths within the City of Norwood Payneham & St Peters for 2018-2019, be awarded to Aberfoyle Brick Paving, for a one (1) year term, with the Council having the right of renewal for up to two (2) single year extensions.*
- 2. That the Mayor and the Chief Executive Officer be authorised to sign and seal all the documents associated with awarding of this the Contract.*
- 3. That the General Manager, Urban Services, be authorised to approve the two (2) single year contract extensions in 2019-2020 and 2020-2021 respectively, subject to satisfactory performance of the Contractor and sufficient budget allocation being made by the Council in the 2019-2020 and 2020-2021 financial years for the delivery of the Program.*

Seconded by Cr Dottore and carried unanimously.

Cr Shepherdson moved:

Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the report and discussion be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the minutes be kept confidential until the contract has been entered into by all parties to the contract.

Seconded by Cr Duke and carried.

Attachment C

Confidential

**Review of Confidential Items
Tender Selection Reports**

Released

3.1 EXTINGUISHMENT OF EASEMENT & RE-ALIGNMENT OF STORMWATER PIPE – JOSLIN

REPORT AUTHOR: Project Manager - Assets
GENERAL MANAGER: General Manager, Urban Services
CONTACT NUMBER: 8366 4538
FILE REFERENCE: S.04573 & S.04863
ATTACHMENTS: A - D

PURPOSE OF REPORT

The purpose of the report is to present to the Council, an update on the progress of the extinguishment of a stormwater easement which exists on privately owned property at 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin and to seek the Council's approval to appoint the preferred tenderer to undertake the re-alignment of the stormwater pipe to the adjacent Council owned land (walkway).

BACKGROUND

As Elected Members will recall at its meeting held on 5 December 2016, the Council considered a report to extinguish a stormwater easement is located on privately owned property at 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin and to relocate the stormwater pipe (i.e. lay a new stormwater pipe) on adjacent Council owned land (walkway). This proposal was initiated at the request of the Government of the People's Republic of China (through the Chinese Consulate-General) following its purchase of the land for the purpose of establishing the Consulate-General of the People's Republic of China in Adelaide.

The costs associated with the relocation of the stormwater pipe and extinguishment of the easement will be met by the Government of the People's Republic of China.

Following consideration of the matter at its meeting held on 5 December 2016, the Council resolved the following:

1. *That the Council agrees to the extinguishment of an existing easement located at 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin (Certificates of Title Volume 5261 Folio 363, being allotments 4 and 5 in Filed Plan 138009) and to re-align the path of the stormwater drain (and lay a new stormwater pipe) to adjacent Council owned land, on terms described in the Deed of Agreement document, contained in Attachment C to this report, including the gifting of a 600mm strip of land from the Chinese Consulate-General to the Council, to permit the walkway to be widened to three (3) metres.*
2. *That the walkway and the 600mm strip of land be converted to a public thoroughfare, as distinct from community land, if required.*
3. *That the Council acquire an Easement in Gross over the whole of the widened walkway.*
4. *That the Council extinguish the easement over the common property in Strata Plan No. 1361 at 75 Fifth Avenue, Joslin.*
5. *That the Mayor and the Chief Executive Officer be authorised to sign and seal the Deed of Agreement document described in Point 1 above.*
6. *That pursuant to the Electronic Conveyancing National Law (South Australia) Act 2013, the Chief Executive Officer be authorised to execute a Client Authorisation Form on behalf of the Council, to authorise a Subscriber to:*
 - (a) *act for the Council in consenting to the extinguishment of easements and creation of an easement in gross and merging of the 600mm strip of land with the existing walkway contained in Certificate of Title Volume 6159, Folio 921 and registering the new allotment as a Public thoroughfare (if appropriate); and*
 - (b) *to execute and submit the requisite documents with the relevant Land Registry.*

7. *That the Chief Executive Officer be authorised to take such other actions as necessary to give effect to the undertakings contained in the documentation being executed in Point 5 above.*

The Deed of Agreement was subsequently executed by the Council and the Chinese Consulate-General and a copy of the Deed of Agreement is contained in **Attachment A**.

The detailed design associated with the Project has now been completed and in accordance with the requirements of the Council's Procurement Policy, an Open Tender process has been undertaken in order to select and appoint a Contractor to deliver the Project.

Tenderers were required to submit a Lump Sum Cost, together with a Schedule of Rates for the various components of the works.

Tenders have been received from the following contractors:

1. McMahon Services;
2. Cavco;
3. Team Civil;
4. Metro and Country Civil;
5. CME Civil; and
6. Bitu-mill.

The tender from Bitu-mill was received after the closing date of the lodgement of tenders and was not assessed as part of the tender assessment process.

Awarding of this tender would normally be dealt with administratively as provided for in the Council's delegations, however, in respect to this Project, the Chief Executive Officer has determined that the matter be referred to the Council for the following reasons:

1. Notwithstanding the fact that the contract sum from the recommended tenderer is \$244,826.27 and below the Chief Executive Officer's delegation threshold of \$250,000, with the inclusion of the contingency of 12.5% (\$37,668.73) the total cost of the project is \$300,000
2. When this matter was first referred to the Council for approval in December 2016, the Council was advised that the estimated cost of the Project was in the order of \$175,000.
3. Notwithstanding the fact that the Chinese Consulate-General will reimburse the Council for all of the costs, the extent of variance in cost from what the Council was originally advised in December 2016 and the high profile nature of this project, is significant.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

When the matter was first presented to the Council in 2016, a cost estimate of \$175,000 was provided to the Chinese Consulate-General. The project estimate of \$175,000 was established using the available construction cost data for similar works which have been previously undertaken by the Council and was based on pre-design assumptions regarding the diameter of the drainage pipe, alignment and unhindered access to the construction site.

Following the preparation of this initial estimate, Southfront (Design Consultants) were engaged to prepare a detailed design, including a variation to the initial design for an internal drainage design. Following completion of the final design and following confirmation of the scope of works, an Open Tender on the Tenders SA website was released to the market to price.

The Project has been tendered and the total cost of the Project which includes design, tendering, construction and contingency costs, have been presented to the Chinese Consulate-General for approval. A copy of the letter dated 4 July 2018 which has been sent to the Chinese Consulate-General is contained in **Attachment B**.

Table 1 below sets out a summary of the Project Budget which has been approved by the Chinese Consulate-General.

TABLE 1: PROJECT BUDGET

Project Phase	Cost (GST Exclusive)
Design (Southfront)	\$17,450.00
Tender Fee (Tenders SA)	\$55.00
Construction (Metro & Country Civil)	\$244,826.27
Contingency (12.5% allowance)	\$37,668.73
Total	\$300,000.00

As per Clause 6.4.1 of the Deed, the Chinese Consulate-General is required to reimburse to the Council, all reasonable costs associated with the design and construction of the Project.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

The Council's Environmental Sustainability Policy provides appropriate conditions of contract and standard operating procedures which have been incorporated into the Contract in order to reduce the likelihood and consequence of any of those hazards occurring during the undertaking of the works associated with the Program.

The Contractor appointed to undertake this Project will be inducted on the Council's Environmental Sustainability Policy and will be contractually obliged to comply with its requirements. Council staff undertake regular inspections and act on any issues of non-compliance which are identified during the undertaking of the works associated with the Program.

RESOURCE ISSUES

Overall management of the project will be undertaken by Council staff. The nature of the works proposed are relatively straightforward and the project can be managed within existing resources.

RISK MANAGEMENT

The pertinent risk issue associated with the awarding of this Contract, is the ability of the contractor to deliver the requirements of the Contract. To ensure that the level of risk is identified, the tender evaluation process included consideration of each tenderer's prior experience, reliability and ability to complete works on time.

CONSULTATION

- **Elected Members**

At its meeting held on 5 December 2016, the Council considered a report outlining the extinguishment of the existing easement and the re-alignment of the Council's stormwater drainage pipe.

- **Community**

Not Applicable.

- **Staff**
 General Manager, Urban Services
 General Manager, Urban Planning & Environment
 Financial Services, Manager
- **Other Agencies**
 Chinese Consulate-General

DISCUSSION

Tender Evaluation Criteria

As with all tender assessments which are undertaken by the Council, there are a number of factors or criteria which are considered in determining the preferred tenderer. The Evaluation Criteria and Weightings which are generally used to assess Tenders is summarised below:

- | | |
|------------------------------------|-----|
| 1. Methodology and Program | 15% |
| 2. Business Capability of Tenderer | 15% |
| 3. Quality of Service | 15% |
| 4. Compliance | 5% |
| 5. Price | 50% |

Tender Assessment Criteria and Weightings

A summary of the Evaluation Criteria and weightings allocated is outlined below:

- ***Methodology and Program (Weighting 15%)***

Given the nature of the Project (it is being undertaken with a restricted and suburban environment) the methodology and program provided by each of the tenderers was considered to be one of the most important Evaluation Criteria aside from price. As such, this Evaluation Criteria was given a weighting of 15%.

- ***Business Capability of Tenderer (Weighting 15%)***

Consideration must be given to the ability of a Contractor to deliver the Project in a timely manner and of a high standard. Given the nature of the Project the business capability of the tenderers is considered to be a very important Evaluation Criteria and was therefore also given a weighting of 15%.

- ***Quality of Service (Weighting 15%)***

It was considered important for tenderers to demonstrate the sound quality of their service (i.e. quality assurance and customer satisfaction) to ensure that the Chinese Consult-General, the Council and local residents, are kept up to date regarding progress in a professionally and timely manner. As such, this Evaluation Criteria was given a weighting of 15%.

- ***Compliance (Weighting 5%)***

Given the nature of the works associated with the Project, Work Health & Safety, environmental systems and insurances, play a significant role in the delivery of the Project. The location of the works in close proximity to established residences highlights the importance of appropriate systems being put in place. As such, this Evaluation Criteria was given a weighting of 5%.

- ***Price (Weighting 50%)***

Delivery of the scope and the associated lump sum price indicate the 'value for money' for the delivery of the Project. As such this Evaluation Criteria was given the highest weighting of 50%.

Tender Assessment

The assessment of the tenders which have been received was undertaken by a Tender Assessment Panel, in accordance with the requirements of the Council's Procurement Policy. In this instance, the Panel comprised of the Council's General Manager, Urban Planning & Environment, Financial Services Manager and Project Manager – Assets (**"the Panel"**).

Each Member of the Panel was provided with a copy of the Tender and independently reviewed the submission against the above Evaluation Criteria and weighting.

Each Member of the Panel independently provided an unweighted point score for the tenderer for each Evaluation Criteria and provided commentary on the reasons for each score. The scores ranged from 0 to 5 as provided for in the Tender Assessment Matrix. An average of the individual scores for the tenderer for each Evaluation Criteria was then determined. The average unweighted point score is then multiplied by the applicable weighting for the associated Evaluation Criteria. The weighted point score for each Evaluation Criteria are added together for each tenderer to provide the overall weighted score, with the maximum point score of 500 possible.

The Tender Evaluation Matrix (which indicates the results of the tender assessment for each criterion for each tenderer) and the tenders which have been received, is contained in **Attachment C**.

A summary of the weighted scores achieved for each non-price criteria by each tenderer is shown in Table 2 below.

TABLE 2: MATRIX OF NON PRICE CRITERIA WEIGHTED SCORES

<i>Tenderer</i>	<i>Criteria (Weighted Score)</i>			
	<i>Methodology and Program</i>	<i>Business Capability of Tenderer</i>	<i>Quality of Service</i>	<i>Compliance</i>
McMahon Services	40	55	55	50
Cavco	40	40	20	20
Team Civil	60	55	45	50
Metro and Country Civil	60	55	45	45
CME Civil	50	55	50	50

The formula used to calculate the point score for the tender price is shown below:

Point Score (P) = $2.5 + 5 (\$M - \$T) / \$M$ where \$T = tendered price and \$M = mean price.

The Lump Sum price submitted by each of the tenderers and the associated point score for each tenderer is setout in Table 3 below.

TABLE 3: LUMP SUM PRICES SUBMITTED

<i>Tenderer</i>	<i>Lump Sum Price (GST Exclusive)</i>	<i>Weighted Score</i>
McMahon Services	\$464,910.95	-18.0
Cavco	\$255,187.00	159.3
Team Civil	\$253,490.00	160.7
Metro and Country Civil	\$245,499.54	167.5
CME Civil	\$259,652.00	155.5

The overall score for each tenderer, resulting from the assessment which has been undertaken is set out in Table 4 below.

TABLE 4: RESULTS OF TENDER EVALUATION MATRIX

<i>Tenderer</i>	<i>Tender Evaluation Score*</i>
McMahon Services	182.0
Cavco	279.3
Team Civil	370.7
Metro and Country Civil	372.5
CME Civil	360.5

****A higher score is better.***

The Open Tender call was competitive and the variance between the four lowest price tenderers is approximately \$15,000, or six percent. Team Civil and Metro and Country Civil scored the highest weighted points in the Methodology and Program criteria, with each tenderer providing details specifically designed to meet the challenges of the construction site. The Business Capability of Tenderer, Quality of Service and Compliance criteria, are very even between McMahon Services, Team Civil, Metro and Country Civil and CME Civil, with all four tenderers providing evidence that they are capable of delivering the construction works. The submission from Cavco did not meet the standards of the other tenderers and scored poorly in comparison.

The three tenderers with the highest Tender Evaluation Score, namely Metro and Country Civil, Team Civil and CME Civil, have been assessed as being capable of undertaking the construction works to the required standard and at an economical price (best value).

Based on the assessment of the tenders which have been received, Metro and Country Civil is recommended for selection and appointment. As set out above, by letter dated 4 July 2018, the Chinese Consulate-General was advised of this proposed recommendation.

By email dated 13 August 2018, the Chinese Consulate-General advised of its endorsement of the recommendation. A copy of the email dated 13 August 2018, from the Chinese Consulate-General is contained in **Attachment D**.

Notwithstanding this, legal advice is currently being sought as to whether endorsement and acceptance of the costs by email correspondence, is sufficient from a legal perspective.

The outcome of this advice will be provided at the Council meeting.

OPTIONS

The Council can resolve to award the Contract to Metro & Country, as recommended by Council Staff and endorsed by the Chinese Consulate-General. Alternatively, the Council can choose to award the Contract to any of the other tenderers, or not to award the Contract at all. Should the Council resolve to award the Contract to any of the other tenderers, it may be subject to the additional costs above Metro & Country tendered price. Should the Council resolve not to award the Contract, it may be in breach of the Deed of Agreement.

To enable the Project to commence and based on the procurement process which has been undertaken, there is no logical reason why the Council would not award the Contract, as recommended.

Given that Metro & Country has achieved the best result that is the highest overall tender assessment score, in comparison with the other tenders received, which includes price and non-price criteria, it is recommended that Metro & Country be awarded this contract.

CONCLUSION

Metro & Country Civil is a proven civil contractor, with significant experience in working with the Council. This experience, together with a competitive price, makes them the preferred tenderer.

Should the Council resolve to award the Contract, it is expected that the works will commence in September 2018 and be completed in December 2018.

COMMENTS

Nil.

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the Local Government Act, 1999 the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

RECOMMENDATION 2

1. That the Contract for the Joslin Stormwater Drainage Project involving the re-alignment the stormwater drain from 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin, to Council owned land, be awarded to Metro & Country Civil for the tendered price of \$244,826.27 (GST Exclusive).
2. That the Mayor and the Chief Executive Officer be authorised to sign and seal all the documents associated with the Contract.

RECOMMENDATION 3

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report and discussion be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the minutes be kept confidential until the contract has been entered into by all parties to the contract.

Cr Duke moved:

That pursuant to Section 90(2) and (3) of the Local Government Act, 1999 the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Community Affairs, General Manager, Urban Planning & Environment, General Manager, Corporate Services, Project Manager, Assets and Administration Officer, Governance & Community Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Stock and carried.

Cr Minney moved:

- 1. That the Contract for the Joslin Stormwater Drainage Project involving the re-alignment the stormwater drain from 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin, to Council owned land, be awarded to Metro & Country Civil for the tendered price of \$244,826.27 (GST Exclusive).*
- 2. That the Mayor and the Chief Executive Officer be authorised to sign and seal all the documents associated with the Contract.*
- 3. That the Council's decision regarding this Tender (refer to Part 1 above) and the total cost of the Project and acceptance of the decision to award the contract to Metro & Country Civil, be confirmed with the Government of the People's Republic of China (through the Chinese Consulate-General), through an exchange of letters, including the requirement for the Government of the People's Republic of China (through the Chinese Consulate-General) to provide the Council with a Bank Guarantee before commencement of works.*

Seconded by Cr Moore and carried unanimously.

Cr Stock moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report and discussion be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the minutes be kept confidential until the contract has been entered into by all parties to the contract.

Seconded by Cr Shepherdson and carried unanimously.

Attachment D

Confidential

**Review of Confidential Items
Tender Selection Reports**

Released

4.2 TENDER SELECTION REPORT - NEW CLUBROOMS & MEMBERS FACILITIES AT NORWOOD OVAL - DEMOLITION PACKAGE

REPORT AUTHOR:	Manager, Economic Development & Strategic Projects and Project Manager
GENERAL MANAGER:	Chief Executive Officer
CONTACT NUMBER:	83664509
FILE REFERENCE:	S/04735
ATTACHMENTS:	A

PURPOSE OF REPORT

The purpose of this report is to:

- approve the appointment of the preferred Tenderer for Stage 1, the Demolition Package for the New Clubrooms & Members' Facilities at Norwood Oval, following a Request for Expressions of Interest and a Select Tender Process; and
- advise the Council of the progress of the Norwood Oval Redevelopment Project.

BACKGROUND

At its meeting held on 3 April 2018, the Council resolved the following in relation to the new Clubrooms and Members Facilities and the Women's Facilities projects at Norwood Oval:

- a. That the Council increase its contribution for the proposed new Clubrooms & Members Facilities, by an additional \$1.4 million based on a revised cost estimate of \$8,154,851 and based on a 50:50 cost sharing arrangement of the revised additional cost of \$2,822,851, bringing the Council's total contribution to \$3.4 million.*
- b. That the proposed Women's Facilities Project at Norwood Oval be endorsed and the Council resolve to allocate \$735,000 to this Project, based on a cost estimate of \$1,952,600 for the proposed new Women's Facilities less the grant funds of \$482,500, which have been received from the Office of Sport and Recreation SA.*
- c. The Council notes that the Section 48 Prudential Report will be amended to include the new cost estimates for the new Clubrooms & Members' Facilities, the cost sharing arrangements between the Council and the Norwood Football Club Incorporated.*

Requests for Expressions of Interest from Building Contractors

In February 2018, the Council released an open Request for Expressions of Interest from Building Contractors through the Tenders SA website. In response, seven (7) Expressions of Interest were received. The responses were assessed against weighted criteria by the Council's appointed architect Tridente Architects, the Council's cost consultant for the Project, Rider Levett Bucknall and the Council's Project Manager.

The results of the initial assessment were presented to the Norwood Football Club at a meeting held on 16 March 2018. The recommendations together with the Club's endorsement were presented to the Chief Executive Officer for his approval. The following five (5) Tenderers were subsequently shortlisted:

- BMD Constructions Pty Ltd
- Kennett Pty Ltd
- Marshall & Brougham Constructions Pty Ltd
- Schiavello Construction (SA) Pty Ltd
- Shape Australia Pty Ltd

Project Procurement

In order to progress the procurement and delivery of the project in a timely manner it was decided that the Project should be split into two (2) parts, Stage 1, comprising of the Demolition Package, which encompasses the demolition of the Boulderstone Stand and Stage 2, comprising of the Construction and Civil Works Package, which incorporates the construction of the Members Facility, the Civil Works and the Women's Facilities. Splitting the Project into two (2) parts enabled the procurement and tendering of Stage 1 to occur, while the documentation for Stage 2 is being finalised.

All five (5) of the short listed Contractors have been advised of the revised format and have agreed to Tender separately for both components of the Project, with the understanding that the two (2) tender packages may not be awarded to the same Contractor.

Stage 1 - Demolition Package Tender

On 30 July 2018, the Council released the tender for Stage 1 of the Project, the Demolition Package as a select tender to the five (5) short-listed Building Contractors, namely BMD Constructions Pty Ltd, Kennett Pty Ltd, Marshall & Brougham Constructions Pty Ltd, Schiavello Construction (SA) Pty Ltd and Shape Australia Pty Ltd. The Tender was open for a period of almost three (3) weeks, closing on Friday 17 August 2018. All five (5) Tenderers were issued with the full set of Tendering Documents and invited to submit a fixed lump sum tender.

In response, the Council received five (5) tender submissions, which have been assessed and are the subject of this report.

As the total value of the Contract is above \$250,000, the Council's Schedule of Delegation requires that this Contract is required to be considered and awarded by the Council (i.e. it cannot be awarded under delegated authority).

The Scope of Work included as part of the Stage 1 Demolition Package Tender incorporated the following components:

- the demolition of the Boulderstone stand in its entirety and removal of the existing stobie pole;
- the demolition of part of the southern end of the Western Stand, approximately 16 metres in length;
- the provision of temporary propping of the exposed end of the Western Stand;
- terracing in front of the Boulderstone Stand;
- demolition of the existing men's toilet adjacent to Gate 2; and
- demolition of electrical and hydraulic services.

It should be noted that all five (5) Tenderers will be invited to submit Fixed Lump Sum Tenders for Stage 2 of the Project, the Construction and Civil Works Package at the Norwood Oval:

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The Outcomes, Objectives and Strategies of the Council's *CityPlan2030: Shaping Our Future – Update 2017* that are relevant to this project are provided below:

Outcome 1: Social Equity – A connected, accessible and pedestrian-friendly community.

- **Objective 1: Convenient and accessible services, information and facilities**
Strategy 1.3: Design and provide safe, high quality facilities and spaces for people of all backgrounds, ages and abilities.
- **Objective 3: An engaged and participating community**
Strategy 3.3: Provide opportunities for community input in decision-making and program development.
- **Objective 4: A strong, healthy, resilient and inclusive community.**
Strategy: Encourage increased physical activity and support mental health to achieve healthier lifestyles and well-being.

Outcome 3: Economic Prosperity – A dynamic and thriving centre for business and services.

- **Objective 5: A local economy supporting and supported by its community.**
Strategy 5.4: Encourage businesses to sponsor local community activities.

FINANCIAL AND BUDGET IMPLICATIONS

The Council originally approved an allocation of \$2m in its 2016-2017 Budget and in its Long Term Financial Plan, as its contribution towards the new Clubrooms & Members Facilities, with the remaining balance of \$3.332 (based upon an estimate project cost of \$5,332m) to be funded by the Norwood Football Club. This budget was based on cost estimates prepared by Heinrich Consulting in January 2014.

In addition, the Council allocated a budget of \$500,000 for the construction of the Civil Works relating to the Forecourt and Woods Street. The intent is that this component of the Project will be funded solely by the Council.

Given that a significant period of time had passed since the original cost estimates were prepared by Heinrich Consulting (2014), the number of changes that had been made to the scope of work, the development of the schematic design and the fact that a number of items had previously been excluded from the original cost estimates (ie CITB Levy, temporary accommodation), Rider Levett Bucknall, the Council's Cost Consultant for the Project, was asked to prepare new cost estimates.

The revised cost of the construction of the Clubrooms & Member's Facilities, including all professional fees, temporary accommodation and project contingency estimated at \$8,154,851, was presented to the Council at its 3 April 2018 Meeting.

At that meeting the Council resolved to increase its contribution for the proposed new Clubrooms & Members Facilities, by an additional \$1.4 million based on the revised cost estimate of \$8,154,85, bringing the Council's total contribution to \$3.4 million.

At that meeting the Council also approved the Women's Facilities Project and resolved to allocate \$735,000 towards this project. This amount was based on a 50:50 cost sharing arrangement with the Norwood Football Club for this component of the Project taking into consideration the grant fund of \$482,500, which has been received from the Office of Sport and Recreation SA. Since April, the Council has been successful in obtaining a further grant of \$150,000 from the AFL, which has assisted in reducing both the Council's and the Norwood football Club's contribution to this component of the Project by \$75,000 each.

More details regarding budget estimates for this Project are included in the Discussion Section of this Report.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Council staff will manage and oversee the consultants and contract works throughout the length of the Project. The Council should note that this will require a significant resource allocation.

RISK MANAGEMENT

As part of the Prudential Report which has been prepared by the Council, all of the risks have been identified and a risk management plan will be prepared to either eliminate or manage these risks prior to construction works commencing.

CONSULTATION

- **Elected Members**

Elected Members have considered reports on this Project on a number of occasions.

- **Community**

All of the required community consultation processes associated with this Project have been undertaken. It should be noted that prior to the start of demolition the Council will notify the adjoining neighbours and businesses of the intended works and the duration of the work. The Contractor will also be obliged to advise residents in advance of any road closures in Wood Street, which may be required for short periods of time during the Contract period. Every attempt will be made to minimise any impact on the adjoining residents and businesses.

- **Staff**

Not Applicable.

- **Other Agencies**

Not Applicable.

DISCUSSION

In accordance with the Council's Procurement Policy and Guidelines, an assessment of the tender submissions has been undertaken by the Tender Assessment Panel, utilising a set of weighted criteria established as part of the tender package.

In accordance with the Policy and in recognition of the technical requirements of the tender, the Tender Assessment Panel comprised of the Council's appointed architect for the Project (Tridente Architects), the cost consultant for the Project (Rider Levett Buchnall), the Council's Project Manager and a nominated representative from the Norwood Football Club.

All five (5) Tenders were assessed against performance criteria and financial criteria. Table 1 below lists the Performance Criteria that was used and the associated Weighting Factors.

TABLE 1: PERFORMANCE CRITERIA

Criteria	Weighting Factor
Tender Form/Tender Sum/Tender Details	20
Key Contracted Personnel	15
Proposed Sub-contractors	15
Program/ Methodology	20
Financial Capacity	5
Licences	5
Insurances	5
Quality Assurance	5
Environmental Management Plan	5
Work Health and Safety	5
Maximum Possible Score	100

Table 2 sets out a summary of the results of the assessment of the Performance Criteria, which forms the first stage of the assessment. In this assessment the higher score reflects a better outcome.

TABLE 2: PERFORMANCE CRITERIA ASSESSMENT RESULTS

Tenderer	SCORE (Out of 100)
BMD Constructions Pty Ltd	92
Marshall & Brougham Constructions Pty Ltd	90.3
Schiavello Construction (SA) Pty Ltd	92.3
Shape Australia Pty Ltd	92
Kennett Pty Ltd	86.3

Table 3 sets out the Tender Sums that were received from the five (5) Tenderers. Given that the Cost Estimate for this Package of works was estimated at \$504,000 the results received through the tender process are encouraging and reflect a positive response from the industry.

TABLE 3: TENDER SUMS

Tenderer	Tender Sum (Excl. GST)
BMD Constructions Pty Ltd	\$287,629
Marshall & Brougham Constructions Pty Ltd	\$387,450
Kennett Pty Ltd	\$437,200
Shape Australia Pty Ltd	\$466,156
Schiavello Construction (SA) Pty Ltd	\$517,788

Table 4 below sets out the results of the assessment of the costs in order to assess the financial aspects of the Tender. The Tender Sum from each Tenderer is divided by the Score achieved as part of the Performance Criteria (Table 2) to obtain a final score. In this assessment the lower score is better and is the basis on which the preferred Tenderer is selected.

TABLE 4: FINANCIAL CRITERIA

TENDERER	TENDER SUM (Excl. GST)	PERFORMANCE ASSESSMENT (Assessment 1)	FINANCIAL ASSESSMENT (Assessment 2)
BMD Constructions Pty Ltd	\$287,629	92	31
Marshall & Brougham Constructions Pty Ltd	\$387,450	90.3	43
Kennett Pty Ltd	\$437,200	86.3	51
Shape Australia Pty Ltd	\$466,156	92	51
Schiavello Construction (SA) Pty Ltd	\$517,788	92.3	56

After resolving some Qualifications, Clarifications and Exclusions with all of the Tenderers, the Tender Assessment Panel has recommended that BMD Constructions Pty Ltd be awarded the Demolition Tender for a fixed Lump Sum fee of \$287,629 (excluding GST).

A copy of the full Tender Assessment Report prepared by Tridente Architects and Rider Levett Bucknall, is contained in **Attachment A**.

It is anticipated that the successful contractor for Stage 1, the Demolition Contractor will commence on site on 15 October 2018 and is expected to be completed by 7 December 2018.

Stage 2 – Construction and Civil Works Package

At this stage, it is anticipated that the Construction Documentation for Stage 2 of the Project will be completed by 5 October 2018. Following the completion of the Construction Documentation, a Pre-Tender Estimate will once again be prepared. Concurrently with the preparation of the Pre-Tender Estimate, the five (5) successful Tenderers will be invited to submit fixed lump sum tenders for the Stage 2 Construction and Civil works Package, with the objective of commencing construction in January 2019. The Construction program is expected to take between 36 and 42 weeks, however this program will be negotiated with the successful Tenderer, noting that the negotiated timeframes will have to take into consideration the pattern and level of usage of the Norwood Oval, therefore the final construction sequencing and scheduling will be determined in consultation with the Norwood Football Club. The Norwood Football Club is aware of the proposed scheduling and is satisfied with the arrangements.

It is anticipated that a report regarding the appointment of the successful contractor for the Stage 2 Construction and Civil Works Package will be presented to the Council for its consideration in December 2018.

Cost Estimates

At its meeting held on 3 April 2018, the Council considered and approved a revised budget for the Norwood Oval Redevelopment Projects based on the Schematic Design Stage Cost Estimates of the Project. A summary of the approved budget is outlined in Table 5 below.

TABLE 5: NORWOOD OVAL REDEVELOPMENT - SCHEMATIC DESIGN COST ESTIMATES

PROJECT COMPONENT	COST ESTIMATE
Members' Facility	\$8,154,851
Civil Works	\$500,000
Women's Facility	\$1,952,600
Total Project Costs	\$10,607,451

Design Development and Construction Documentation

The Design Development Stage of the Project has now been completed and Tridente Architects together with the sub-consultants are in the process of finalising the Construction Documentation. It is anticipated that this documentation will be completed by 5 October 2018.

Following the completion of the Design Development Stage of the Project, the Project Cost Estimates were once again reviewed. The results of this review have shown that the cost estimates are still within the Council's combined allocated project budget of \$10,607,451, for all of the three components of the Project. A third and final round of cost estimates will be prepared following completion of the Construction Documentation. However, as with all construction projects, the actual cost of the project will not be known until the tender submissions are received.

One of the benefits of undertaking periodic reviews of the cost estimates is that as the design develops, the costs can be more accurately identified and defined therefore enabling better management of the budget. All cost estimates start out as broad first order estimates and as various stages of detail design are completed, the costs are more accurately defined.

It should be noted that at all stages of the Project, Council Staff together with the Project Consultants and representatives of the Norwood Football Club, are undertaking value management exercises to identify potential cost savings without compromising the facility.

OPTIONS

The Council has three (3) options in respect to awarding the Tender for Stage 1 of the Norwood Oval Redevelopment, the Demolition Package, however the recommendation to appoint BMD Constructions Pty Ltd provides the best outcome and ensures that the integrity of the Project is not compromised.

The Council can choose to either:

- **Option 1**

Proceed with the appointment of the recommended Contractor (BMD Constructions Pty Ltd) and the scope of works and the budget accordingly to deliver the Project.

This is the **recommended** option for reasons set out in this Report.

- **Option 2**

Appoint another contractor, however given that all other tender amounts are greater and there is little to no added advantage in appointing these contractors, compared to that of BMD Constructions Pty Ltd, this Option is **not recommended**.

- **Option 3**

Resolve not to award the Tender.

This Option is **not recommended** on the basis that the scope of the Project and the price which has been submitted by the preferred Tenderer is below the budget estimate

CONCLUSION

Based on the results of the tender evaluation process which has been undertaken, BMD Constructions Pty Ltd is recommended as the preferred contractor for the demolition work at Norwood Oval at the contract price of \$287,629 (excluding GST).

COMMENTS

Overall, the Tender Evaluation Panel is pleased with the detail of the tenders which have been received and the considered approach to the construction of the Project.

The evaluation criteria highlighted the importance of price, however the assessment sought to balance cost with the recognition of the contractors approach to program, methodology and experience. These criteria provide the Council with an effective means of determining the "best value for money".

On this basis, BMD Constructions Pty Ltd is recommended to be appointed as the preferred tenderer for the following reasons:

- the rates, quality and overall price for the work demonstrates a clear understanding of the required demolition works; and
- the tender highlighted the knowledge and experience necessary in managing a project of this nature.

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the *Local Government Act 1999* the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

and that the Council is satisfied that, in principal, that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

RECOMMENDATION 2

- a) That the Contract for the Demolition Package of the Norwood Oval Redevelopment Project be awarded to BMD Constructions Pty Ltd for the sum of \$287,629 (excl. GST).
- b) That the Council notes that the construction program will commence on 15 October 2018, with the date for Practical Completion being nominally 7 December 2018.
- c) That the Mayor and the Chief Executive Officer be authorised to sign and seal all the documents associated with the initial Contract.
- d) That the Council notes the progress that has occurred in relation to the Norwood Oval Redevelopment Project.

RECOMMENDATION 3

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report and discussion be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the minutes be kept confidential until the contract has been entered into by all parties to the contract.

Cr Minney moved:

That pursuant to Section 90(2) and (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Community Affairs, General Manager, Urban Planning & Environment, General Manager, Urban Services, General Manager, Corporate Services, Manager, Economic Development & Strategic Projects, Projects Manager and Administration Officer, Governance & Community Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

and that the Council is satisfied that, in principal, that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Dottore and carried.

Mayor Bria declared an interest in this matter on the basis that he is a Member of the Norwood Football Club. Mayor Bria advised that he would remain in the meeting.

Cr Stock declared an interest in this matter as he is a Member of the Norwood Football Club. Cr Stock advised that he would remain in the meeting.

Cr Duke declared an interest in this matter as he is a Member of the Norwood Football Club. Cr Duke advised that he would remain in the meeting.

Cr Dottore declared an interest in this matter as he is a Member of the Norwood Football Club. Cr Dottore advised that he would remain in the meeting.

Cr Minney declared an interest in this matter as he is a Member of the Norwood Football Club. Cr Minney advised that he would remain in the meeting.

Cr Duke moved:

- a) That the Contract for the Demolition Package of the Norwood Oval Redevelopment Project be awarded to BMD Constructions Pty Ltd for the sum of \$287,629 (excl. GST).*
- b) That the Council notes that the construction program will commence on 15 October 2018, with the date for Practical Completion being nominally 7 December 2018.*
- c) That the Mayor and the Chief Executive Officer be authorised to sign and seal all the documents associated with the initial Contract.*
- d) That the Council notes the progress that has occurred in relation to the Norwood Oval Redevelopment Project.*

Seconded by Cr Stock and carried unanimously.

Cr Dottore moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report and discussion be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the minutes be kept confidential until the contract has been entered into by all parties to the contract.

Seconded by Cr Duke and carried unanimously.