



# City of Whitehorse

## MINUTES

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### Virtual Council Meeting

Held via Zoom

on

**Thursday 23 September 2021**

at 7:45pm

**Members:** Cr Munroe (Mayor), Cr Barker, Cr Carr (Deputy Mayor), Cr Cutts, Cr Davenport, Cr Lane, Cr Liu, Cr McNeill, Cr Massoud, Cr Skilbeck, Cr Stennett

**Mr Simon McMillan**  
Chief Executive Officer

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Meeting opened at 7:55pm

**Present:** (Mayor) Cr Munroe, Cr Barker, Cr Carr, Cr Cutts, Cr Davenport, Cr Lane  
Cr Liu, Cr McNeill, Cr Massoud, Cr Skilbeck, Cr Stennett

**Officers:** S McMillan, L Letic, S Cann, S White, V Ferlaino, J Russell, C Altan

## 1 WELCOME AND APOLOGIES

The Mayor welcomed all

APOLOGIES: Nil

## 2 DISCLOSURE OF CONFLICT OF INTERESTS

None disclosed

## 3 COUNCIL REPORTS

### 3.1 INFRASTRUCTURE

#### 3.1.1 Tender Evaluation (Contract 30303) Novated Design and Construction of the Whitehorse Performing Arts Centre

ATTACHMENT

#### **SUMMARY**

*To consider tenders received for the novated design and construction of the Whitehorse performing arts centre, and to recommend the acceptance of the tender received from Kane Constructions Pty Ltd, trading as Kane Constructions for the amount of \$52,629,600 excluding GST as part of the overall project budget of \$78,000,000 excluding GST.*

#### **COUNCIL RESOLUTION**

Moved by Cr Carr, Seconded by Cr Stennett

#### **That Council:**

- 1. Accept the tender and sign the formal contract document for Contract 30303 for the novated design and construction of the Whitehorse performing arts centre received from Kane Constructions Pty Ltd (ABN 49 007 354 396), of 658 Church Street, Richmond, VIC 3121, for the tendered amount of \$52,629,600 excluding GST; as part of the overall project budget of \$78,000,000 excluding GST;**
- 2. Authorises expenditure of the construction contingency in accordance with amounts and authorisations detailed in Confidential Attachment 1.**

**CARRIED**

**A Division was called.**

#### **Division**

#### **For**

Cr Carr  
Cr Cutts  
Cr Lane  
Cr Liu  
Cr Massoud  
Cr McNeill  
Cr Munroe  
Cr Skilbeck  
Cr Stennett

#### **Against**

Cr Barker  
Cr Davenport

### **3.1.1** (cont)

**On the results of the Division the motion was declared CARRIED**

#### **BACKGROUND**

In 2017, Council endorsed the complete redevelopment of the Whitehorse Centre and allocated project funding for the design, demolition of the existing Whitehorse Centre and construction of a new performing arts centre, new open double storey car park and other associated works.

In May 2019, a lead design team was engaged by Council to design the new Whitehorse performing arts centre (WPAC) through a novated design and construct methodology with the architects and design team novating to a main works contractor at around 80% of contract documentation.

The WPAC project is being delivered under three separate packages:

- Package A - Demolition of the existing Whitehorse Centre. This package was completed in December 2020.
- Package B - Construction of a new open double storey car park with associated civil and landscape works. This package was completed in September 2021.
- Package C - The design and construction of the new WPAC with associated civil and landscape works.

This tender evaluation report is to engage a main works contractor for Package C - design and construction of the new WPAC.

#### **DISCUSSION**

The procurement of a main works contractor for the design and construction of the WPAC was a two stage process; Stage 1: a public Expression of Interest (EOI) followed by Stage 2: a Request for Tender (RFT) to invited shortlisted contractors.

#### **EOI Process and Evaluation**

The EOI was advertised in The Age newspaper and closed on Monday 19 April 2020. Ten EOI submissions were received and evaluated by the Tender Evaluation Panel (TEP).

The EOI submissions were evaluated against the following criteria:

- Capability – 50%;
- Credibility – 40%;
- Social and Environmental Sustainability (general) – 5%;
- Local Content (general) – 5%; and
- Occupational Health & Safety, Equal Opportunity and Business viability – Pass/Fail.

The TEP came together on 4 May 2020 to review and score the submissions. The TEP agreed consensus scores against each of the criteria for each submission and the TEP shortlisted five contractors. These five shortlisted contractors were further evaluated by checking references and business viability. The business viabilities were reviewed and approved by the Director of Corporate Services. The TEP met again on 21 May 2021 to confirm and recommend the five shortlisted contractors as:

- ADCO Constructions (VIC) Pty Ltd
- Building Engineering Pty Ltd
- Buxton Constructions (VIC) Pty Ltd
- Kane Constructions Pty Ltd
- SJ Higgins Pty Ltd

The shortlisted contractors were subsequently invited to tender.

### **3.1.1**

(cont)

#### **Request for Tender Process and Evaluation**

RFT documentation was issued to the shortlisted contractors on Saturday 5 June 2021 and closed on Thursday 15 July 2021. Five tenders were received and evaluated by the TEP.

The tenders were evaluated against the following criteria:

- Tender Offer - 40%
- Capability - 30%
- Credibility - 20%
- Local Content (project specific) – 5%
- Social and Environmental Sustainability (project specific) – 5%

The TEP came together on Friday 30 July 2021 to review and score the submissions. The TEP agreed consensus scores against each of the criteria for each tender submission and two tenderers were shortlisted.

The two shortlisted tenderers were issued with post tender clarifications and Council's response to the tenderers proposed contract departures. A Credit Rating report was also obtained for each shortlisted tenderer which has been reviewed and approved by the Director of Corporate Services. The TEP met again on Monday 16 August 2021 to further evaluate based on the post tender clarifications, contract departures and the endorsed Credit Rating report.

On Wednesday 18 August 2021, interviews were conducted with the two shortlisted tenderers and further post tender clarifications were sought and contract departures negotiated. The TEP met again on Thursday 19 August 2021 to further evaluate based on the interviews.

On Monday 23 August 2021, the TEP met to further discuss the Post Tender Clarifications and contract departures. Following this, the tenderers were issued with further Post Tender Clarifications. On Thursday 26 August 2021, the TEP met to discuss the Post Tender Clarification responses and revised the evaluation scoring. Following this, tenderers were issued with a set of final Post Tender Clarifications and a request for a Best and Final Offer (BAFO). On Tuesday 31 August 2021 and Wednesday 1 September 2021, the TEP met to undertake a final evaluation based on the final Post Tender Clarifications and BAFO.

The resultant tender evaluation indicates that both shortlisted tenderers have the capability and credibility to deliver the design and construction of the WPAC, however it also shows there are risks with both tenderers. The TEP has reached a consensus that the tender submission from Kane Constructions Pty Ltd is best value for money and is the recommended tender. The following observations are relevant to the tender submission prepared by Kane Constructions Pty Ltd:

- The final tender offer is under the allocated budget for Package C.
- The construction program is aggressive, finishing earlier than all other tenderers and within the completion date nominated by Council. An independent peer review has confirmed this assessment and there is a risk that the completion date nominated by Kane Constructions Pty Ltd may not be achieved as programmed.
- The tender offer provides a Contractor resource allocation greater than any other tenderer that may provide greater capacity to manage the project and mitigate the risks of not achieving the program.

Kane Constructions Pty Ltd has significant experience on similar projects with significant learnings on theatre construction including construction of the fly tower, acoustics, air tightness and fire engineering.

### 3.1.1

(cont)

#### CONSULTATION

The design of the WPAC has undergone extensive community and stakeholder engagement to ensure a functional design to suit the needs of its users now and into the future.

The Procurement Plan was developed in consultation with the procurement team and project consultants to ensure the appropriate criteria and weightings are applied to achieve the best outcome for the project and for Council.

Council's Procurement and Contracts Department and Council's lawyers have been involved to ensure a compliant and conforming tender and contract process. Contract departures have been approved by the authorised officer, the Director of Infrastructure.

The Procurement and Contracts Department has provided probity advice throughout the procurement process and a probity auditor has been engaged to ensure compliance with procurement processes and tender conditions.

#### FINANCIAL IMPLICATIONS

	Budget	Expenditure
Capital Works Funding Account No. Y597 6708	<b>\$78,000,000</b>	
<b>Total Budget</b>	<b>\$78,000,000</b>	
<b>Budget allocation for Package A and B</b>	<b>\$4,465,033</b>	<b>\$3,246,855</b>
<b>Budget allocation for Package C (This Contract)</b>	<b>\$53,658,474</b>	
Consultants	<b>\$9,401,740</b>	<b>\$6,643,035</b>
Preferred tenderer's lump sum offer (excluding GST)		<b>\$52,629,600</b>
Other costs relevant to this project	<b>\$10,474,753</b>	<b>\$1,019,290</b>
Future Forecast / Committed Expenditure		<b>\$14,461,220</b>
<b>Total Expenditure</b>		<b>\$78,000,000</b>

Please refer to the Confidential Attachment 1 for the recommended construction contingency expenditure delegations for this project.

#### ATTACHMENT

- 1 WPAC Contingency

**Whitehorse City Council designates this attachment and the information contained in it as CONFIDENTIAL INFORMATION pursuant to Section 3 (1) (g)(ii) of the Local Government Act 2020, that relates to Private Commercial Information that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage. This ground applies because the matter concerns a contractual arrangement.**

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### **3.1.2 Tender Evaluation (Contract 30325) Heatherdale Reserve Pavilion Redevelopment**

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#### **SUMMARY**

*To consider tenders received for the redevelopment of Heatherdale Reserve Pavilion and to recommend the acceptance of the tender received from Melbcon Pty Ltd, for the amount of \$4,547,006.20, including GST and to consider the overall project expenditure.*

#### **COUNCIL RESOLUTION**

Moved by Cr Cutts, Seconded by Cr Stennett

***That Council accept the tender and sign the formal contract document for Contract 30325 for the Heatherdale Reserve Pavilion Redevelopment received from Melbcon Pty Ltd (ABN 89 094 370 457), of 333 Maroondah Highway, Croydon Victoria 3136, for the tendered amount of \$4,547,006.20, including GST; as part of the total expected project expenditure of \$6,822,206.82, including GST.***

**CARRIED UNANIMOUSLY**

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#### **BACKGROUND**

The Heatherdale Reserve Pavilion has been identified as an ageing facility that no longer meets the growing needs of the tenant sporting clubs and the community.

The existing pavilion services three football ovals (winter), two cricket ovals (summer), cricket nets and playground facilities and is supported by car parking, pedestrian paths and established native vegetation landscapes. It is used by the Heathmont Jets Junior Football Club during the winter months and the Heatherdale Cricket Club during the summer months under seasonal licence agreements.

It is proposed to demolish the existing pavilion and replace it with a new pavilion in the approximate location of the existing footprint. The new pavilion will be elevated to meet Melbourne Water flood level requirements and support views to the ovals. The design provides covered spectator viewing areas, multi-purpose space, kitchen and canteen, player and referee amenities, store rooms, a public accessible toilet and embedded ESD features.

The tenant clubs have successfully secured a \$2,000,000 Federal Government grant, while Council has secured a State Government Sport and Recreation Victoria grant for \$200,000 to support provision of female friendly facilities

The playing ovals will remain fully utilised by tenant sporting clubs during the construction period for both winter and summer sports. Temporary amenities will be provided for use.

#### **DISCUSSION**

Five pre-qualified Contractors were selected from the State Government's Construction Supplier Register to tender for the project based on project experience and accreditation in ISO4801 (safety), ISO9001 (quality) and ISO14001 (environment).

Tenders closed on the 20 July 2021. All five shortlisted Contractors submitted conforming tenders.

The tenders were evaluated against the following criteria aligned with Council's Procurement Policy:

- The Tender Offer – 50%;
- Project Methodology ( Capability) – 25%;
- Resources and Previous Relevant experience (Credibility) – 15%;
- Local Content – 5%
- Social and Environmental – 5%; and
- Occupational Health & Safety, Equal Opportunity and Business Viability (Pass/Fail).

Following the detailed evaluation, the Tender Evaluation Panel concluded that the tender received from Melbcon Pty Ltd is considered to provide the best value for money for this Contract. Melbcon Pty Ltd. is a well-established building contractor that has undertaken many similar projects both in Whitehorse and in other local government areas.

It is anticipated that construction works will commence in October 2021 with completion of the new pavilion expected in October 2022

### **CONSULTATION**

Representatives from the existing sporting tenant clubs as well as internal Council stakeholders have been consulted extensively during the pavilion design process. Councils' Procurement team have overseen the procurement process and the preferred tenderer's business viability has been checked and approved by the Finance Department.

In 2019 a Project Working Group was formed comprising the tenant clubs, the architect and council officers from the Leisure and Recreation Services and the Buildings Project Management teams. The tenant clubs have been consulted throughout the design, design development and up to the completion of tender documentation.

The concept design was completed and stakeholder sign-off was received in February 2020. The tender documentation was completed in June 2020.

Broad community consultation on the project was also completed in June 2021. As the planning, design and documented for this project was undertaken prior to the endorsement of the Community Engagement Policy the community consultation fell under 'Informing the Community' within the policy. Residents abutting the reserve as well as Heatherdale Creeklands Advisory Committee, Heatherdale Community Action Group, Heatherdale Tennis Club and Heatherdale Bowls Club were all sent a notification letter and external elevation drawings of the proposed pavilion.

Prior to construction commencing, signs will be erected in the park to inform the community of the works. Abutting properties will be advised of the works and provided with the contact details of Council's project manager.



**FINANCIAL IMPLICATIONS**

Following detailed tender evaluation, Council Officers recommend, Melbcon Pty Ltd as best value for Council based on its financial capability, capacity to deliver to time, quality and allocated resources.

	<b>Budget</b>	<b>Expenditure</b>
Capital Works Funding Account No (Y595)	\$ 4,027,000.00	
Federal Government Grant	\$ 2,000,000.00	
State Government Grant	\$ 200,000.00	
<b>Total Adopted Budget</b>	<b>\$ 6,227,000.00</b>	
Preferred tenderer's lump sum offer (including GST)		\$ 4,547,006.20
Less GST		-\$ 413,364.20
Net cost to Council		\$ 4,133,642.00
Provisional Sum - Design Scope		\$ 250,000.00
Provisional Sum - Latent Conditions		\$ 250,000.00
Substation Works Cost (estimate)		\$ 150,000.00
Provisional Sum – Landscaping		\$ 50,000.00
Loose Furniture (Multipurpose Room)		\$ 15,000.00
Project Preliminaries, Permits, Authority Fees and Charges		\$ 340,000.00
Consultant Professional Fees		\$ 400,000.00
Project Management Fees		\$ 200,000.00
Construction Contingency 10%		\$ 413,364.20
<b>Total Expenditure (excl. GST)</b>		<b>\$ 6,202,006.20</b>
<b>Project Budget Surplus (excl. GST)</b>	\$24,993.80	

**4 CLOSE MEETING**

Meeting closed at 8:36pm

**Confirmed this 18<sup>th</sup> day of October 2021**

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**CHAIRPERSON**