



Shire of
Serpentine
Jarrahdale

Special Council Meeting Minutes

**Friday, 28 April 2017
4.00pm**

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NOTE: a) Declaration of Councillors and Officers Interest is made at the time the item is discussed.

Minutes of the Special Council Meeting held in the Council Chambers, 6 Paterson Street, Mundijong on Friday 28 April 2017. The Shire President declared the meeting open at 4.00pm and welcomed Councillors, staff and members of the gallery and acknowledged that the meeting was being held on the traditional land of the Noongar People and paid his respects to their Elders past and present.

1. Attendances and apologies (including leave of absence):

In Attendance:

Councillors: J Erren Presiding Member
D Atwell
K Ellis
D Gossage
S Hawkins
J See
M Rich (from 4.04pm)

Officers: Mr K Donohoe Chief Executive Officer
Mr A Schonfeldt Director Planning
Mr D Elkins Director Engineering
Mr P Kocian Acting Director Corporate and Community
Ms K Peddie Executive Assistant to CEO (Minute Taker)
Ms A Liersch Minutes and Governance Officer

Leave of Absence: Cr S Piipponen
Apologies: Nil

Observers: Nil

Members of the Public – Nil
Members of the Press – 1

2. Public Question Time:

Nil

3. Public Statement Time:

Nil

4. Petitions and Deputations:

Nil

5. Declaration of Councillors and Officers Interest:

Nil

6. Receipts of Minutes or Reports and Consideration for Recommendations:

6.1 Reports for Consideration:

SCM001/04/17	Award of Tender - Abernethy Road Upgrade Construction Project (SJ1665-02; SJ2179)
Author:	Mridula Maharaj - Project Coordinator Infrastructure and Design
Senior Officer/s:	Doug Elkins – Director Engineering
Date of Report:	21 April 2017
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i>

Introduction

The purpose of this report is for Council to consider the Officer's recommendation to award tender RFT 05/2017 for the Abernethy Road Upgrade Construction Project, after consideration of the financial implications.

Background

As part of Council's obligations, under the Byford Developer Contribution Plan ('DCP'), Officers have been progressing the upgrade of Abernethy Road. The works completed to date include the road design, design of relocated water mains, gas mains, the relocation of Telstra infrastructure, and the undergrounding of power. In addition, Officers have been working closely with the Public Transport Authority to achieve the required approvals for widening Abernethy Road through the level crossing. To assist with progressing the project, Officers have also sought grant funding through the National Stronger Regions Fund and through Main Roads Western Australia.

With completion of most of the applicable design, with project funding 'penciled in' and most of the required approvals in place, to progress the project further a tender was called for the construction of the major project elements (undergrounding of power, road construction, major culvert construction and water and gas main relocations). Separately, a contract will be entered into for the relocation of Telstra Infrastructure (direct purchase of this service through Telstra is required), and another separate contract will be entered into for the construction of the road widening through the level crossing. The latter contract will include replacement of a section of rail, relocation and upgrade of the railway signaling equipment, the installation of a pedestrian maze on the south side of the road, and the construction of the widened road, through the crossing. The contract for the works around the railway will be subject to a different procurement process, at a later date.

Not included in the project scope is the relocation of the National Broadband Network cable. The cost to relocate the cable is \$360,000. However, as the cable was installed after the establishment of the Byford structure plan, the National Broadband Network Company are obliged under the Telecommunication Providers' Code of Practice, to locate the cable on the correct alignment relative to the structure plan. Accordingly, the relocation of the cable should not be a cost to the Shire. However, the National Broadband Network Company are requesting that the Shire pay this cost. An allowance for this cost has been included in the project estimate, although it is not considered to be a cost that should, or will, be met by the Shire.

Prior to tendering, a Civil Contractor provided a preliminary price, so that Officers could confirm that the project could be completed within the scope of the budget. The total project cost, and the financial implications of tender options, are discussed below.

Tender

While estimating of the total project cost was assisted by a Civil Contractor price, the total project cost was still subject to final designs, and market forces. In order to manage the project financial risk, and to avoid having to re-scope the project and recall tenders, if the tender price, combined with the other project elements, were outside a reasonable budget, the draft contract was setup as separable portions. Using this form of contract, Council can reduce the scope, at the tender award time, without having to go back to market. The following separable portions were provided in the draft tender:

- Separable Portion 1: Kardan Boulevard to Soldiers Road – road construction and trenching;
- Separable Portion 2: Soldiers Road to South Western Highway – road construction; and
- Separable Portion 3: Underground Power and Services.

Relevant Previous Decisions of Council

There is a history of Council decisions leading to the current point in time. These include decisions relating to a Town Planning Scheme amendment, the adoption of a district structure plan, the inclusion of the DCP in the Town Planning Scheme and the adoption of the 2016/17 financial year budget.

Community / Stakeholder Consultation

Tender RFT 05/2017, for the Abernethy Road Upgrade Construction Project, was advertised in the West Australian newspaper on Saturday 11 February 2017. The tender closed at 2:00pm on Wednesday 8 March 2017.

The project itself has been known in the community for many years, and has been advertised by the Shire, in different forms, over the past several years.

Developers fronting Abernethy Road (Peet Limited Land Developer, LWP Property Group and SCA Property Group), were consulted, as there will be a need to enter their land in advance of the land being handed over as part of development. Access to Land Deeds are currently being finalised with these landowners.

Submissions

Seven tenders were received with six of these summarised in the tender assessment included at confidential attachment OCM050.2/04/17.

At the time of tender closure, only six tenders were officially in the electronic tender box. One of the tenderers did not finalise the submission prior to the electronic cut-off and submitted their tender via email. In accordance with the conditions of tendering, the late submission was rejected, and recorded as such in the Shire's tender register.

Evaluation Panel

An evaluation panel was convened and consisted of the following personnel:

- Acting Director Corporate and Community Services;
- Manager Design and Infrastructure;
- Project Coordinator Engineering; and
- Senior Engineer Subdivisions.

Each member of the panel assessed the tenders separately.

Evaluation Criteria

The evaluation criteria and percentage weighting against which the tenders were assessed were:

- Price with quantities (45%);
- Relevant experience (20%) with:
 - Details of similar work (type, size and budget);
 - Tenderers involvement including details of outcome;
 - Details of issues and how these were managed;
 - Any additional information.
- Tenderer's resources, Key Personnel, Skills and Experience (10%) with
 - Key personnel's role in the performance of the contract, including their experience in similar projects;
 - Curriculum Vitae of key personnel;
 - Plant, equipment and materials;
 - Resources availability schedule, including any contingency measures or back up of resources;
 - Details of subcontractors and major suppliers of goods and services.
- Demonstrated Understanding/Experience (25%) with
 - Project schedule;
 - Process for delivery of goods/services;
 - Project Management Plan;
 - Occupational Health and Safety Management Plan;
 - Critical assumptions; and
 - Any additional information.

Comments

Overall, the tender process has resulted in high-quality, large contractors, with proven records in the delivery of similar projects, providing offers. Accordingly, the award of a contract is recommended. However, it is necessary to determine the contractor and the packages to be awarded.

Based on the tender assessment, the recommended tenderer will be tenderer number 2 (in attachment OCM050.2/04/17). This recommendation is the case with an award of the whole contract, or if separable portion 3 is removed from the award. While the Council does not have a local price preference, had the price of a local tenderer been similar to the assessed most advantageous tenderer, with similar other assessment scores, Officers may have suggested that, notwithstanding the price difference, Council consider the community benefit of investing locally. However, while a local contractor is the next price (in terms of cost above the recommended price), the price difference is considered beyond what Officers consider a reasonable subsidy to apply for local content. However, notwithstanding the assessment undertaken by Officers, ultimately, the award of tender is the role of Council, and it is open to Council to make its own decision, after weighing all the information in the context of the prosperity of the local community.

Within the tender specification, tenderers were asked to price the tender on the basis of using HDPE pipe, rather than traditional concrete. The tenderers approached this requirement differently. Two of the tenderers used concrete pipe to determine their lump sum tender price. However, these tenderers included HDPE pipe as a price within their schedule of rates so that either option could be accepted. Two tenderers only priced HDPE pipes and two tenderers did not specify the particular pipe, so the price represents the HDPE pipe, in accordance with the specification.

The tender assessment, for all tenders, was based on the lump sum price provided for each separable portion. As such, where a tenderer created a lump sum price using concrete price, but provided a rate for HDPE pipe, the assessment reflects the concrete pipe price. If the

HDPE pipe price is substituted for the concrete pipe price, for the two tenderers who used concrete pipe to determine their lump sum price, there is no change to the outcome of the tender assessment, other than the recommended tenderer's price becoming marginally more advantageous.

Options and Implications

As part of the 2016/17 budget, the need to raise a loan to fund part of the Shire's contribution was recognised. However, OCM050.3/04/17 notes a need for the Shire to raise a loan of nearly \$2.7m, which is approximately \$1m greater than originally contemplated (the budget estimate is based on using the HDPE pipe option provided by the preferred tenderer). The additional funds are made up of the \$360,000 that might be required if the cost to relocate the National Broadband Network Company's cable is borne by the Council. The remainder of the difference is project contingencies, which can be expected in a large complex project. Only the required additional funds will be drawn down through a loan.

Assuming the Council is inclined to proceed with the project, the following options have been identified.

Option 1 – Award all 3 separable portions of the contract to tenderer number 2. As part of the 2017-18 budget, increase the budget loan from \$1,886,057 to \$2,750,000. The loan drawdown being limited to the actual funds required.

Option 2 – Award the contract to tenderer number 2, without separable portion 2. This will also allow the level crossing section of the project to be delayed. This option will reduce the total project cost by around \$1.7m. However, this could proportionally reduce the funds provided under the National Stronger Regions Grant. Furthermore, ultimately, these sections will need to progress, and Council will still need to accommodate the funding within the budget. A delay may provide an opportunity to increase the Metropolitan Regional Road Fund grant for the project, but this could be at the cost of funds from the National Stronger Regions Fund.

Option 3 – Not award a contract and delay the project until such time that Council has raised the required funds through savings in reserve. This option is likely to be unpopular within the community, and creates the risk that funding is not replaced through a new grant round under Regional Development Australia. Essentially, this option risks over \$5m in funding.

Option 1 is the recommended option. While it is recommended that the level crossing section of the project proceed, this section should be considered part of the project contingency. It is also necessary to recognise that the estimate for the level crossing works has not been subjected to a tender process, so the estimate is not based on market advice.

Conclusion

It is recommended that Council award the whole contract (i.e. separable portions 1, 2 and 3) to tenderer number 2, and that, as part of the 2017-18 budget, the loan capacity for the project be increased to \$2.75m.

Attachments:

- Confidential Attachment OCM050.1/04/17 – Tender Submission from WBHO Infrastructure Pty Ltd (IN17/5589)
- Confidential Attachment OCM050.2/04/17 - Tender Assessment combined score sheet (E17/2785)
- Confidential Attachment OCM050.3/04/17 RFT05/2017 – Finance (E17/2787)

Alignment with our Strategic Community Plan:

Objective 2.1	Responsible Management
Key Action 2.1.1	Undertake best practice financial and asset management
Objective 3.2	Appropriate Connecting Infrastructure
Key Action 3.2.2	Ensure that planning for the bridge and road network incorporate community safety and emergency management.

Statutory Environment:

The *Local Government Act 1995*, Sections 3.57 (1) (2) and *Local Government (Functions and General) Regulations 1996, Part 4*, provide for the calling of tenders and the award of contract.

Financial Implications:

The financial implications of the project are discussed above, and detailed in attachment OCM050.3/04/17. The project cost includes a contingency of 10%, in addition to provisional sums contained within the contract.

Voting Requirements: Absolute Majority

Councillor Rich entered Chambers and joined the meeting at 4.04pm

SCM001/04/17 COUNCIL DECISION / Officer Recommendation:

Moved Cr Hawkins, seconded Cr See

That Council:

1. Award contract RFT 05/2017, for the Abernethy Road Upgrade Construction project, to WBHO Infrastructure Pty Ltd for Separable Portions 1, 2 and 3 for the value of \$9,207,248.05 excluding GST, in accordance with the tender submitted and attached at OCM050.1/04/17;
2. On the basis of awarding tender RFT 05/2017 to WBHO in condition 1 above, endorse a minor variation to the contract to use HDPE pipe, in accordance with the tender submitted, at a value of \$9,201,470.59, excluding GST;
3. Endorse total loan borrowing, as part of the 2017-18 financial year budget, of \$2,750,000 (including \$1,706,567 already authorised under the 2016-17 financial year budget), to fund the balance of the Abernethy Road Upgrade Construction project;
4. Authorise that the 2016/17 budget be amended to reflect the cash flows associated with the Abernethy Road Upgrade Construction project;

Description	Original Budget	Proposed Amendment	Variation
Abernethy Road Works	(\$7,132,598)	(\$2,000,000)	\$5,132,598
NSRF Funding – paid at 30% completion	0	\$1,706,567	\$1,706,567
Municipal Loan Funds	\$1,886,057	\$0	(\$1,886,057)
Other Funding (Restricted Cash/Reserve/Grant) *DCP Funds	\$5,246,541	\$293,433	(\$4,953,108)
Net Change in Closing Surplus	0	0	0

5. Acknowledge the following amount as carryover and new funding to be considered as part of the 2017/2018 Budget adoption; and

Description	2017/18 Budget
Abernethy Road Remaining Works	(\$11,889,373)
NSRF Funding – final claims	\$3,528,385
Municipal Loan Funds	\$2,750,000
Other Funding (Restricted Cash/Reserve/Grant) *DCP Funds \$4,643,377	\$5,593,552*
Net Change in Closing Surplus	0

CARRIED UNANIMOUSLY

7. Motions of Which Notice has been Given:

Nil

8. Urgent Business:

Nil

9. Closure:

There being no further business the Presiding Member declared the meeting closed at 4.07pm.

I certify that these minutes were confirmed at the Ordinary Council Meeting held on 22 May 2017

.....
Presiding Member

.....
Date