

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 26 November 2024
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 19.2

Responsible Officer: David Waters
Director Environment and Infrastructure
Environment and Infrastructure

Subject: Amy Gillett Bikeway Pavement and Seal Tender Approval

For: Decision

1. Amy Gillett Bikeway Pavement and Seal Tender Approval – Exclusion of the Public

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- Chief Executive Officer, Greg Georgopoulos
- Director Environment & Infrastructure, David Waters
- Director Corporate Services, Gary Lewis
- Acting Director Community & Development, Jess Charlton
- Executive Governance officer, Zoë Gill
- Minute Secretary, Rebekah Lyons
- IT Support, Tom Portas

be excluded from attendance at the meeting for Agenda Item 19.2: (Amy Gillett Bikeway Pavement and Seal Tender Approval) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3)(k) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is tenders for the supply of goods, the provision of services or the carrying out of works the disclosure of which could reasonably be expected to prejudice the commercial position of the business who supplied the information by disclosing specific quotes and modelling by the tenderer.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

2. Amy Gillett Bikeway Pavement and Seal Tender Approval – Confidential Item

SUMMARY

The purpose of this report is to provide Council with a recommendation to enter a contract with Kent Civil Pty Ltd to undertake the construction and sealing of 5km of shared pathway between Mount Torrens and Birdwood.

The works were tendered via an open tender process and in line with the Procurement Policy of Council. There were 6 compliant tenders received and assessed. All tendered amounts were within the expected upper range within project costs estimates.

This proposed contract is within the overall available budget of the project funding of \$ 5.7million. This pavement and seal component of the works is within the expected range for this element of the project.

RECOMMENDATION

Council resolves:

- 1. That the report be received and noted.**
 - 2. To enter a lump sum contract with Kent Civil Pty Ltd for the construction of Pavement and Seal for the Amy Gillett Pathway. The value of this contract is \$ 1,777,832 (GST Exclusive)**
 - 3. To recognise that this lump sum contract including a contingency of 15% will be a value of up to \$ 2,043,000 (GST Exclusive)**
 - 4. To authorise the CEO to sign all necessary documents to give effect to this resolution.**
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1. BACKGROUND

In February 2024 Council resolved to undertake the design and construction of the Amy Gillett Bikeway.

Moved Cr Malcolm Herrmann
S/- Cr Melanie Selwood

55/24

Council resolves:

1. That the report Amy Gillett Bikeway Stage 4 – Prudential Review and Construction Funding Report be received and noted.
2. That the resolution of the Council's Audit Committee, having considered the matter at its meeting held on 12 February 2024, be noted.
3. That Council, having considered the Prudential Review and the Audit Committee's advice, determine that:
 - a. The Council accept the State Government's proposal that:
 - i. the Council complete the further design and construction of the Amy Gillett Bikeway Stage 4 Mount Torrens to Birdwood
 - ii. the Council accept the funding offer of \$2.6M from the State Government
 - iii. the Council accept responsibility for ongoing maintenance and operation of the Amy Gillett Bikeway Stage 4 Mount Torrens to Birdwood
 - iv. the State Government remains the owner of the land on which the bikeway is constructed and is the owner of the bikeway asset once constructed
4. That Council reaffirms the allocation of \$500,000 of Council funds to the project and note that it will be necessary to expend those funds in line with a project implementation plan, to be determined, over the next two years.
5. That Council notes the total committed funding for the project is \$5.7M, comprising \$2.6M from the Federal Government, \$2.6M from the State Government and the Council's own funding commitment of \$500,000.

6. That Council acknowledges that it will be responsible for providing or sourcing funding for any project costs in excess of the committed funding of \$5.7M.
7. That Council note that the Council Administration's current project cost estimate is \$5.96m, inclusive of \$1.2M contingency.
8. That Council endorses a nominal additional contingency amount of \$260,000 to be made available, should it be necessary, to complete the works where other funding sources cannot be secured. This ensures total available funding is \$5.96M.
9. That the Council authorises the Chief Executive Officer, for and on behalf of the Council, to negotiate and enter into a funding deed with the State Government with the following provisions:
 - a. The ability for all parties to withdraw from the project and the agreement should it become apparent that the total project cost will exceed available, and any additional, secured funding.
 - b. The ability for the Council to make reasonable changes to the scope of the project which do not affect the fundamental outcome of extending the pathway to Birdwood.
10. That the Chief Executive Officer and Mayor are authorised, if necessary, to affix the seal of the Adelaide Hills Council to the respective funding deed.
11. That reasonable changes may be made to the scope of the project as it progresses, to contain costs to deliver the project to the available funding, which do not affect the fundamental outcome of extending the pathway to Birdwood.
12. That the necessary funding be made available from Council's \$500,000 allocation to progress preconstruction activities, including but not limited to, final planning and design, cost consultant engagement, tender specification development and continuation of the native vegetation assessment and clearance application, such that the project can progress and meet the funding partner timelines of 30 June 2025 for construction completion.
13. That engagement of consultants/ contractors via the LGA Procurement Panel Contract is approved to expediate progressing of the design and early construction works.
14. That the Chief Executive Officer take all reasonable steps to expedite commencement and delivery of on-ground works to ensure funding partner milestone targets are met.
15. That the CEO engage an external cost consultant immediately using existing project funds, to review and verify current project cost estimates.

<p>Carried Unanimously Cr Selwood voted in favour of the item</p>

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal	A functional built environment
Objective B1	Our district is easily accessible for community, our businesses and visitors
Priority B1.1	Increase accessibility to our district through the development and delivery of high priority trails and routes for all cyclists (on-road, off road, commuters, recreational) and pedestrians

Council has long advocated for the extension of the Amy Gillett Bikeway and this tender and entering the contract will progress Council towards that goal.

➤ Legal Implications

Section 49 of the *Local Government Act 1999* (the Act) requires Council to prepare and adopt policies on contracts and tenders on:

- the contracting out of services; and
- competitive tendering and the use of other measures to ensure that services are delivered cost-effectively; and
- the use of local goods and services.

Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:

- obtaining value in the expenditure of public money; and
- providing for ethical and fair treatment of participants; and
- ensuring probity, accountability and transparency in all operations.

Council's Procurement Policy FIN-01 applies.

Risk Management Implications

The consideration by Council of the proposal for Amy Gillett Pavement and Seal Tender will assist in mitigating the risk of non-compliance with statutory requirements and policy requirement leading to a loss of confidence in the Council.

Inherent Risk	Residual Risk	Target Risk
Extreme	Low	Low

Council policy position requires that a contract of over \$ 1.0M is considered by Council. The oversight by Council ensures that public funds used for significant contracts are in line with good governance and meet expected public scrutiny.

Council has several operational procedures in place to ensure that tender proposals are approved in line with policy requirements. The subsequent assessment and recommendation are also subject to multiply steps before contracts and purchase orders are entered into.

➤ **Financial and Resource Implications**

The current tender price is within the available allocation and overall budget for the Amy Gillett Bikeway Project. This project is jointly funded by Council (\$500,000), State Government (\$2,600,000) and the Federal Government (\$2,600,000).

Council has received the \$2,600,000 from the State Government and has achieved Milestone 1 in its agreement with the Federal Government and subsequently a milestone payment of \$500,000 has been received from the federal department administering the grant.

To date the project has expended \$709,000 on project management, approvals, design, tree clearance along the corridor, stormwater drainage works and construction of the first section of Stage 4. These works aligned with the obligations under Milestone 1 with the federal government.

Council has entered a contract to undertake the construction of two new bridges at Angas Creek and William Creek. The value of that contract is \$567,000.

Should this contract be approved, the total expended and committed would equate to \$3,053,000. The project is tracking on target to be delivered within the \$5.7M available budget.

The project has high priority and is being resourced by a Project Manager (Manager Strategic Assets), Construction Manager, Civil (Civil Project Coordinator), Construction Manager Structural (Project Officer/ Engineer) and internal support and advice from the Arboriculturist and Civil and Open Space Teams.

➤ **Customer Service and Community/Cultural Implications**

Not Applicable

➤ **Sustainability Implications**

It is acknowledged that the use of construction products, such as asphalts or the production and transport of quarry products, utilises fossil fuels and other resources, which have an impact on our environment.

Boral Quarries are the proposal supplier of quarry products for this the preferred tender. The product will come from the Lobethal operation and is near the construction site. Boral as a corporate entity has a commitment to environmental sustainability and a reduction in its emissions.

Whilst recycled products are available (crushed concrete), none of these products are in significant quantities close to the proposed construction. One local contractor that tendered did mention the potential for use of the recycled concrete from Heathfield as they were aware from previous discussion with Council regarding this resource. This tenderer did not cost and provide this as an option with their proposal.

The opportunity still exists for Council to work with the successful tenderer to incorporate this recycled product into component of the construction and the project team will explore those possibilities with Kent Civil Pty Ltd.

The preferred tenderer has offered to utilise EcoPrime, product used as a layer between the road base and the final surface, which has environmental benefits over conventional products.

The preferred tenderer is a South Australian based company.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Not Applicable

Community: Not Applicable

➤ **Additional Analysis**

The assessment panel consisted of 4 officers with oversight from the Procurement Officer.

The panel individually assessed all the tenders against the assessment criteria.

Subsequently, consensus by the panel resulted in 3 tenders being further consider and follow-up questions to those tenders were formulated. All of these 3 tenders were very close on the initial assessment and further information was required to assist the panel in determining the preferred tenderer.

The responses were subsequently reviewed by the assessment panel and a final determination was made to recommend Kent Civil Pty Ltd.

- Kent Civil had the best method for the site and clearly understood the scope of work
- Kent Civil will provide an additional team to accelerate the program (a key consideration in the delivery timeframe to meet funding milestones)
- Kent Civil offer a \$36,000 reduction for a change in prime to ECOPrime that will make their tender price the lowest.
- Kent Civil offered Elite Asphalt as an alternate supplier following questions from the panel. The panel has no concerns with the use of Elite Asphalt as the sub-contractor.
- All contractors are using Boral Quarries at Lobethal.

- Council experience in working with Kent Civil has been positive.

3. OPTIONS

Council has the following options:

- To enter a contract with Kent Civil Pty Ltd to undertake the construction of Pavement and sealing of the Amy Gillett Bikeway. The proposal is considered to provide the best value for money and deliver the works in line with the proposed Milestone Council is seeking to meeting its funding agreement obligations. (Recommended)
- Not enter a contract with Kent Civil Pty Ltd. Should Council not agree with the recommendation then the administration would need to consider returning to the market. In that event, Council will need to commence negotiations with the federal government regarding a new timeline for completion of the project. (Not Recommended)

4. APPENDICES

- (1) Amy Gillett Bikeway Pavement and Seal Panel Tender Assessment

Appendix 1

*Amy Gillett Bikeway Pavement and Seal Panel Tender
Assessment*

TENDER NAME:
Estimated Value (as declared and approved in the
Acquisition Plan)

Amy Gillett Bikeway Pavement and Seal
\$2,500,000

	Mandatory Requirements	Project Specific Criteria						General Criteria								
	Acceptable	Ability to supply		Business Capability		Technology		WH&S		Procurement Sustainability						Total
Selection Criteria	Insurance, ABN, Financials capacity, Conflict of interest declaration, complete submission documentatio, Site briefing(if mandatory) Price over declared limit	Ability to supply required services, Ability to complete works on time, Adequate resources.		Management skills, Technical experience, Provision of required tender data, Satisfactory credit rating, Financial stability, Proven experience in this service.		Appropriate Technology to meet Organisational Requirements		Commitment, Programmes & Procedures.		Indigenous involvement		Sustainable Procurement 1. For procurements >\$10k < \$100k, the <u>minimum</u> weighting should be 10% 2. For Procurements >\$100k, the weighting should be set to reflect the importance, risk and opportunities of sustainability particular to the procurement.		Local Economic Benefit		
Criteria Weighting (%)	Mandatory Requirements are a yes or no requirement. If a supplier is not compliant do not evaluate the supplier	30		20		10		15		5		15		5		100
	Yes/No	Point Score	Weighted Score	Point Score	Weighted Score	Point Score	Weighted Score	Point Score	Weighted Score	Point Score	Weighted Score	Point Score	Weighted Score	Point Score	Weighted Score	
Tenderer																
Tenderer 1 -		3	18	3	12	3	6	3	9	0	0	1	3	5	5	53
Tenderer 2 -		4	24	3	12	3	6	2	6	0	0	2	6	5	5	59
Tenderer 3 -		3	18	3.5	14	3	6	3.5	10.5	0	0	1	3	3	3	55
Tenderer 4 - Kent Civil Pty Ltd		3.5	21	3.5	14	3	6	3	9	0	0	1	3	3	3	56
Tenderer 5 -		3.5	21	3.5	14	3	6	3.5	10.5	3	3	1	3	3	3	61
Tenderer 6 -		3	18	3.5	14	3	6	3.5	10.5	0	0	1	3	3	3	55
			0		0		0		0		0		0		0	0
			0		0		0		0		0		0		0	0
			0		0		0		0		0		0		0	0
			0		0		0		0		0		0		0	0
			0		0		0		0		0		0		0	0
			0		0		0		0		0		0		0	0

The Proposal Selection System is a weighted point score system which allows both price and non-price attributes to be taken into account in the selcetion of the preferred tender.

The following criteria will form the basis for the comparative evaluation of Proposals: Ability to Supply; Business Capability ; Technology; WH&S; References; Procurement Sustainability.

During the evaluation process, each tender will be evaluated on the criteria nominated in the Tender. Point scores will be allocated in the range 0 to 5 on the following basis:

Points		
5	Excellent	
4	Very Good	
3	Good or better than average	
2	Acceptable	
1	Marginally adequate; or success likely but not assured	
0	will fail to satisfy required standards	

Evaluator names	
Evaluator 1	
Evaluator 2	
Evaluator 3	
Evaluator 4	
Evaluator 5	

After the allocation of point scores to criteria, they will be multiplied by the relevant nominated weights and summed to determine an overall score.

Evaluations will be completed by the individuals listed below and the results will be tallied using a consensus method where the solutions will be discussed in depth so all evaluators have the same understanding of the solutions.

Please Note: Any proposal with cost that exceeds 30% of budget may not be considered.

If a tender achieves a score of 1 or less in any criteria, the Tender may be declared non compliant

Conflict of Interest
All Evaluators must consider whether they have a Conflict of Interest. Governance and Performance can advise staff on this matter. A Conflict of Interest form can be found on Hills Hub in the Governance and Performance Section. A copy of the relevant section of the Act can be found in on a separate tab. All Evaluators must complete this form.

Link To: [Conflict of Interest Form](#)

Local Economic Benefit Scoring

Points	Description
5	Business Based in AHC area
4	Presence in AHC area (or majority of staff living in)
3	Business based and owned in SA
2	Presence in SA
1	Interstate based supplier (No SA presence)
0	Overseas based supplier

Value for Money Assessment

Value for Money Assessment is a method of ranking tenders based on a combination of their technical merit and the price. It should only be used where the Tender Price is NOT used as a weighted evaluation criteria

Only Tenders that are considered acceptable as per the Qualitative Evaluation are to be considered for a VFM assessment

Delete unused Supplier Rows to allow ranking to work correctly

Budget (\$)	\$2,500,000	0	0	0	0
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Supplier	Qualitative Score (from the Evaluation)	Tendered Price	Value for Money Score	Rank	Is the tender price within budget?
Tenderer 1 -	53	\$1,818,311	0.29	4	Yes
Tenderer 2 -	59	\$2,414,237	0.24	6	Yes
Tenderer 3 -	55	\$1,748,275	0.31	2	Yes
Tenderer 4 - Kent Civil Pty Ltd	56	\$1,777,000	0.32	1	Yes
Tenderer 5 -	61	\$1,947,832	0.31	3	Yes
Tenderer 6 -	55	\$2,177,198	0.25	5	Yes

PC sum of 100k excluded to align with other prices
Pipe cleaning and repair excluded as not a requirement of the tender

Justification of Selection

3. Amy Gillett Bikeway Pavement and Seal Tender Approval – Duration of Confidentiality

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 19.2 in confidence under sections 90(2) and 90(3)k of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:

Item	Duration of Confidentiality NB: Item to be reviewed every 12 months if not released
Report	until the contracts are signed.
Related Attachments	until the contracts are signed.
Minutes	until the contracts are signed.
Other	until the contracts are signed.

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.