

10.1 Tender Endorsement and Contract Award for the new Aberfoyle Community Centre

This report seeks Council's endorsement of the recommended tender and contract award for the construction of the new Aberfoyle Community Centre on Council land on the corner of Jessica Street and Sandpiper Crescent, Aberfoyle Park.

This is a new proposal, concept or issue.

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Attachments:	1. Contracts Management Systems tender assessment (7 pages) 2. Legal advice from Wallmans Lawyers 20/04/07 (2 pages)

1 Executive Summary

1.1 Topic

This report seeks Council's endorsement of the recommended tender and contract award for the construction of the new Aberfoyle Community Centre on Council land on the corner of Jessica Street and Sandpiper Crescent Aberfoyle Park.

1.2 Context

This report has been prepared in support of a separate non-confidential report in this agenda on the tendering processes for the selection of a contractor for the construction of the new Aberfoyle Community Centre.

1.3 Suggested Outcome

Tender endorsement and contract award for the construction of the new Aberfoyle Community Centre.

2 Recommendation(s)

1. (a) **That under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting in order to consider in confidence this item.**
- (b) **That the Council is satisfied that it is necessary that the public be excluded to enable the Council to consider the report at the meeting on the following grounds:**

- **Section 90 (3)(b)(i)(ii) information the disclosure of which -**
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business or to prejudice the commercial position of the council; and**
 - (ii) would, on balance, be contrary to the public interest;**
 - (c) That 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 or discussion confidential.**
- 2. That for the construction of the new Aberfoyle Community Centre, Council:**
- a) Endorse the tender provided by Cox Constructions Pty Ltd up to the fixed price lump sum of \$2,028,895 (including GST).**
 - b) Award the construction contract to Cox Constructions Pty Ltd.**
 - c) Authorise the Chief Executive Officer to sign all required documentation.**
 - d) In the event of the preferred tenderer withdrawing, authorise the Mayor and the Chief Executive Officer to negotiate with the tenderer offering the next lowest price.**
- 3. That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the abovementioned document (or part of such document) including the minutes and the report of the Council relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(b)(i)(ii) until the litigation over the Seaford Recreation Centre is finalised.**

3 Resource Implications

3.1 Financial

3.1.1 Current

A project budget of \$2.3 million (excluding GST) has been endorsed to allow the construction of the new Community Centre including associated infrastructure, landscaping, car parking, fit-out and other required project costs.

The budget for the construction phase of the project is \$1,850,000 (excluding GST).

3.1.2 Future

A separate budget bid will be presented to Council for any proposed development of the balance of the reserve.

Key Factors

4 Discussion

The tenders received including GST are:

- Cox Constructions Pty Ltd \$2,028,895
- AJ Chappell Pty Ltd \$2,129,206
- Partek Industries and Interiors \$2,139,636.41
- Coombs and Barei Constructions Pty Ltd \$2,171,159.10
- Harrold and Kite Pty Ltd (withdrew)
- Mossop Group Pty Ltd (withdrew)

Harrold and Kite withdrew before the tenders closing date.

Mossop Group withdrew their tender during the tender evaluation period.

In light of the current litigation proceedings against Hassell and Cox Constructions by Council over the Seaford Recreation Centre project, legal advice was sought from Wallmans Lawyers after the Expression of Interest and prior to the Tender Invitation stages regarding any concerns with Cox Constructions' eligibility for tendering for the Aberfoyle Community Centre project. No concerns were indicated and Cox Constructions was included on the tendering list.

Following closure of tenders and due evaluation processes by the evaluation panel, Cox Constructions rated highly in a majority of the identified criteria. (Refer Attachment 1 Contracts Management Systems tender assessment).

Further legal advice has been sought to confirm Cox Constructions' eligibility for contract award for the construction of the new Aberfoyle Community Centre. (Refer Attachment 2 legal advice from Wallmans Lawyers). The legal advice indicates that the awarding of this contract neither prejudices the current litigation or the selection of Cox Constructions for this tender.