



Late Item 14.1

Award of Tender RFT1920-41/42 Construction of Housing

Yours faithfully

A handwritten signature in black ink, appearing to read "Carl Askew".

Carl Askew
Chief Executive Officer

22 September 2020

Item 14.1 New Business of an Urgent Nature (Late items)

14.1 AWARD OF TENDER RFT1920-41/42 CONSTRUCTION OF HOUSING

Author: Senior Project Officer
Authorising Officer: Director Infrastructure Services
Disclosure of Interest: The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

OFFICER'S RECOMMENDATION 1

That Council:

- a) Re-affirm the Council decision from August 2020 Ordinary Council Meeting CM202021/029 and CM202021/030 appointing Pindan Contracting Pty Ltd as the successful tenderer in respect of RFT1920-42 and RFT 1920-41 respectively for the Staff Housing Construction - Longtom Loop and Barramine Loop;
- b) Approve an amendment to the form of Contract appointing Pindan Contracting Pty Ltd as the contractor for RFT1920-42 and RFT1920-41, whereby Pindan Contracting Pty Ltd is required to satisfy the preconditions by no later than 30 October 2020;
- c) Authorise the Chief Executive Officer to sign the form of Contract appointing Pindan Contracting Pty Ltd as the contractor for RFT1920-42 and RFT1920-41 together with any variations, amendments or discharging thereof, pursuant to Section 9.49A and B of the *Local Government Act WA 1995*

SIMPLE MAJORITY VOTE REQUIRED

OFFICER'S RECOMMENDATION 2

That Council, in the event that Pindan Contracting Pty Ltd does not satisfy the preconditions to Contract referred to in Officer's Recommendation 1 above, by 30 October 2020 or such other date as approved by the Chief Executive Officer:

- a) Authorise the Chief Executive Officer to withdraw the offer and actions as per Officers Recommendation 1;
 - b) Appoint XXXXXXXX as the successful tenderer for Tender RFT 1920-42 Staff Housing Construction on Longtom Loop for the total amount of \$XXXXXXX (excluding GST); and
 - c) Authorise the Chief Executive Officer to sign the form of Contract appointing XXXXXXXX as the contractor for RFT1920-42 together with any variations,
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amendments or discharging thereof, pursuant to Section 9.49A and B of the *Local Government Act WA 1995*.

SIMPLE MAJORITY VOTE REQUIRED

OFFICER'S RECOMMENDATION 3

That Council, in the event that Pindan Contracting Pty Ltd does not satisfy the preconditions to Contract referred to in Officer's Recommendation 1 above, by 30 October 2020 or such other date as approved by the Chief Executive Officer:

- a) Authorise the Chief Executive Officer to withdraw the offer and actions as per Officers Recommendation 1;
- b) Appoint XXXXXXXX as the successful tenderer for Tender RFT 1920-41 Staff Housing Construction on Barramine for the total amount of \$XXXXXXX (excluding GST); and
- c) Authorise the Chief Executive Officer to sign the form of Contract appointing XXXXXXXX as the contractor for RFT1920-41 together with any variations, amendments or discharging thereof, pursuant to Section 9.49A and B of the *Local Government Act WA 1995*.

SIMPLE MAJORITY VOTE REQUIRED

PURPOSE

The purpose of this report is for Council to affirm that if Pindan Construction Pty Ltd, as the successful tenderer for RFT 1920/42 and RFT 1920/41 – Staff Housing Construction on Longtom Loop and Barramine Loop respectively, cannot satisfy the preconditions under its Contract by the due date, that Council authorise the immediate appointment of the next preferred tenderers, namely XXXXXXXX for RFT 1920-42 and XXXXXXXX for RFT 1920-41.

DETAIL

The Town awarded two (2) tenders to Pindan Contracting Pty Ltd at the August Ordinary Council Meeting on 26 August 2020 for the development of two (2) land parcels, namely Longtom Loop and Barramine Loop. Pindan Contracting Pty Ltd has advised the Town that it is experiencing delays in obtaining Home Indemnity Insurance, originally estimated at three months, but now revised to 5-6 weeks. Due to the strict timeframes for completion of the project, the Town is requiring Pindan to have insurances in place prior to 30 October 2020.

If Home Indemnity Insurance is not obtained by 30 October, 2020, the Town is seeking Council approval to grant the Chief Executive Officer the discretion to either (a) extend the date; and/or (b) award the tenders to the next preferred tenderers, as per the Council's Recommendation.

Part 4 of the Tender Request expressly requires the Contractor to provide Home Indemnity Insurance in accordance with Part 3A of the *Home Building Contracts Act 1991 (Act)*.

Pindan Contracting Pty Ltd is also required to provide that insurance in order to lawfully commence the works under contract (see section 25C of the Act).

Additionally, a Building Permit cannot be granted unless the application is accompanied by evidence that the applicable provisions of the Act requiring Home Indemnity Insurance have been satisfied (see s.17(j) of the *Building Act 2011*).

The Tender Request stated the Town has an urgent need for the works under contract for the provision of staff housing. The Tender Request also stated the works under contract had to commence by 15 September 2020 with a Practical Completion date of 30 September 2021. A summary of the revised assessment results of both tenders is included in the confidential evaluation report attached.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of low significance, because the Project was endorsed during the FY2020/21 budget adoption process.

CONSULTATION

Internal

The Executive team have been consulted as to the requirements for Staff Housing under the development of the Town's Staff Housing Strategy.

The Legal and Procurement teams have been consulted about rescinding the previous award to Pindan Construction Pty Ltd of RFT1920/42 – Staff Housing Construction Longtom Loop and RFT1920/40 – Construction of Residential Housing Barramine Loop.

External Agencies

The Town engaged an external architect to assist with design for the site and provide full design documentation and the tender packs for both projects.

Community

The RFT's were publicly released via Vendorpanel (the Town's e-tendering portal) on 15 July 2020 and advertised in the West Australian and the North West Telegraph on 15 July 2020, with a closing date of 5 August 2020.

LEGISLATION AND POLICY CONSIDERATIONS

Section 3.57 of the *Local Government Act 1995*, and division 2 of the *Local Government (Functions and General) Regulations 1996* apply in relation to the invitation of tenders.

The evaluation report and corresponding details relating to the respondents offers are deemed confidential pursuant to section 5.23 (c) and (e) of the *Local Government Act 1995*.

The following Town policies were considered in relation to this tender:

1. 2/007 'Purchasing'
2. 2/016 'Regional Price Preference'

Successful contractors must abide by the Town's Code of Conduct while carrying out works for the Town.

FINANCIAL AND RESOURCES IMPLICATIONS

This housing development was endorsed by Council, through the FY2020/21 budget adoption process. The intent is for this development to be debt funded.

The total project budget for 20/21 is \$9,100,000 for Staff Housing Construction.

The initial award value to Pindan Contracting Pty Ltd was a total of \$7,160,938.15 (excl GST) for both projects.

In awarding to these alternative contractors, the revised total value of both projects is \$XXXXXXXX (excl GST), which is an increase of \$XXXXXXXX (excl GST).

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

The following section of the Town's Strategic Community Plan 2018-2028 is applicable in the consideration of this item:

4.c.4 Efficiency strategies across the Town's infrastructure and amenity assets are implemented

There are no significant identifiable environmental, social or economic impacts relating to this item.

Corporate Business Plan

The following action of the Town's Corporate Business Plan 2018-2022 apply in relation to this item:

- 4.b.1.1 Develop implementation and review the Towns Long Term Financial Plan

RISK MANAGEMENT CONSIDERATIONS

There is a service interruption risk associated with this item because failure to provide suitable staff housing to employees may risk the Town's ability to attract and retain a skilled workforce for the implementation of services to the community. The risk rating is considered to be low (4), which is determined by a likelihood of unlikely (2) and a consequence of minor (2).

This risk will be eliminated by the adoption of the officer's recommendation.

OPTIONS

Option 1 – Adopt officer's recommendation

Option 2 – Amend officer's recommendation

Option 3 – Do not adopt officer's recommendation

CONCLUSION

In order for the Town to proceed with the construction of suitable housing to attract and retain a skilled workforce for the implementation of services provided to the community, it is imperative that suitable housing is provided as an urgent priority, under the capital works planned for FY2020/21.

The alternative tenderers for both projects scored well in the qualitative criteria and the Town is confident they will be able to complete all works under scope, and within required timeframes.

ATTACHMENTS

1. Council Award Memo RFT1920-42 Longtom Loop - Confidential (under separate cover)
2. Council Award Memo RFT1920-41 – Barramine Loop - Confidential (under separate cover)