



Merri-bek
City Council

SPECIAL COUNCIL AGENDA

Monday 19 December 2022

Commencing 6 pm

To be held online via video conferencing

Language Link

This is the Agenda for the Council meeting.
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ਇਹ ਕੌਂਸਲ ਦੀ ਮੀਟਿੰਗ ਦਾ ਏਜੰਡਾ ਹੈ।
ਏਜੰਡੇ ਦੀ ਕਿਸੇ ਆਈਟਮ ਬਾਰੇ ਮਦਦ ਲਈ,
ਕ੍ਰਿਪਾ ਕਰਕੇ 9280 0751 ਤੇ ਟੈਲੀਫੋਨ ਕਰੋ।

1. WELCOME

2. APOLOGIES/LEAVE OF ABSENCE

Leave of absence has been granted to:

Cr. Pavlidis - 19 December 2022 to 29 January 2023 inclusive

3. DECLARATIONS OF CONFLICTS OF INTERESTS

4. COUNCIL REPORTS

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4. COUNCIL REPORTS

4.1 CONTRACT ST-2022-314 - 33 SAXON STREET REDEVELOPMENT PROJECT

Director City Infrastructure Anita Curnow

Capital Works Planning and Delivery

Officer Recommendation

That Council:

1. Authorises the Chief Executive Officer to:
 - a) Make a formal offer to McCorkell Constructions Pty Ltd (Contractor) to award the contract ST-2022-314 for 33 Saxon Street Redevelopment Project (Contract) on the following terms and otherwise subject to and in accordance with paragraph 1(b) of this Resolution:
 - i. for a fixed price design and construction contract for the lump sum of \$24,967,260.00 (excluding GST)
 - ii. Approve a contingency sum for 10 per cent, being \$ 2,496,726.00 as provision for cost escalation, options proposed as part of Tender, and other unforeseen cost risk.
 - iii. Note additional sum of \$875,687 has been allowed for the costs associated with project management, building surveyor, Quantity Surveyor, legal matters etc.
 - b) Negotiate and finalise the terms of the Contract between Council and the Contractor provided that:
 - i. the terms specified in paragraph 1(a) of this Resolution shall not be altered without a further Resolution of Council; and
 - ii. other than terms referred to in paragraph 1(a) of this Resolution, the terms of the Contract are acceptable to the Chief Executive Officer;
2. Conditional on acceptance of the Contract by the Contractor in accordance with the terms of this Resolution:
 - a) Authorises the Chief Executive Officer to do all things necessary to execute the Contract and any required documentation for the Contract, subject to
 - i. the resolution of any town planning conditions that remain Council's responsibility as the applicant, and
 - ii. that the 28-day statutory period for appeals to VCAT has elapsed without appeal regarding the decision to grant a permit for the development
 - b) Authorises the Chief Executive Officer to exercise the option to extend contracts in accordance with the provisions within the Contract; and
 - c) Advises all tenderers of Council's decision in relation to the Contract
3. Approves an increase in budget for 33 Saxon St Redevelopment Project from \$23,295,356 to \$28,998,029 in the 4-year capital works program. The budget to support this increase is to be approved with the following adjustments by fund source: \$25,106,211 from the significant projects reserve (up from \$22,795,356); \$2,891,818 from the DCP Reserve (not included in previous budget); \$1,000,000 in Commonwealth Government pledge of grant funding (up from estimate previously of \$500,000). These sums are to be included and phased in the 2023-2027 4-year budget development.

REPORT

Executive Summary

33 Saxon Street Redevelopment project is identified as a major project in Council's 2022-23, 2023-24 and 2024-25 capital works program. The scope of works is for a community facility that includes a creative production space, gallery exhibition, commercial café/hospitality and open space for events and recreation.

A two-step procurement process was adopted that started with a publicly advertised Expression of Interest (EOI) on 2 July 2022 that closed on 22 July 2022. Five Expressions of Interest were received and all were deemed suitable to be invited to tender. The request for tender (RFT) was issued to the selected tenderers on 26 August 2022 and closed on 28 October 2022 after approved extensions.

McCorkell Constructions Pty Ltd achieved the highest score through the evaluation process and has demonstrated its ability to deliver similar large scale projects to a very good standard. The total project cost will be \$28,998,029.00, with a \$24,967,260.00 total construction cost (as submitted by McCorkell Constructions Pty Ltd as its Best and Final Offer).

The tender complies with section 109(1) of the *Local Government Act 2020*.

Costs overall proved to be higher than the estimated costs from late 2021. A revised cost estimate by the Quantity Surveyor just prior to tendering anticipated an increase in costs compared to the budget, which proved to be of a similar magnitude to the incoming tenders. In awarding the contract to McCorkell Constructions Pty Ltd, additional budget of \$5,702,673 is required, and this figure can be supported from the Significant Project Reserve as recommended in this report.

Previous Council Decisions

33 Saxon Street Brunswick – Cultural and Community Hub – Final Concept – 10 November 2021

That Council:

1. *Endorses the Final Concept Plan and key design moves, as described in this report, for redevelopment of 33 Saxon Street, Brunswick as a creative and community facility as described in Attachment 1.*
2. *Notes the estimated project cost and endorses the proposed financial strategy, to deliver the redevelopment project, as described in Table 2 of this Council Report.*
3. *Pursues cost mitigation strategies, including examining the feasibility of decanting uses and users of 33 Saxon Street to under-used areas of the Brunswick Town Hall, which will also provide the benefit of temporarily activating these areas, and which will inform a future strategy for reimagining the Brunswick Town Hall.*
- ...
6. *Acknowledges the significance of Blak Dot Gallery at 33 Saxon Street over the last 6 years and notes that a new gallery will be provided in the South Building with Blak Dot Gallery as the service provider with a long-term arrangement with peppercorn rent under the proposed Community Manager contract (subject to a separate Council report).*

7. *Explores how a First Nations art and learning use can be embedded on the site on a peppercorn rent in the long term in accordance with Moreland's Statement of Commitment to Wurundjeri Woi-wurrung People and Aboriginal and Torres Strait Islander Communities of the City of Moreland and asks officers to explore the most appropriate mechanisms for achieving this.*
8. *Commence the process to name the heritage house, the new south building and the new park at 33 Saxon Street in accordance with Naming Moreland Places Policy, in order that the process be complete by mid-2024.*
9. *Awards the contract (Contract ST-2021-182) for the full project architectural services and documentation for the Saxon Street Redevelopment project to Kennedy Nolan Architects, for the amount of \$1,006,047 and approves a provisional sum of \$188,600 for ancillary consultant services required throughout the design process and approves a contingency of \$119,464 (10%) for unforeseen variations that may occur during the design and construction period.*
10. *Authorises the Chief Executive Officer to do all things necessary to execute the contract (Contract ST-2021-182) for the full project architectural services and for the full project documentation of the Saxon Street Redevelopment project.*

1. Policy Context

This report is in keeping with Council's commitment to accountability and sound financial management. It also addresses the requirement under Section 109(1) of the *Local Government Act 2020* which requires Council to conduct a public tender for goods, services and works where once-off or ongoing cumulative spend over the life of the contract is expected to exceed \$300,000 (incl GST) as well as the policy commitments contained in Council's Procurement Policy.

2. Background

The purpose of this report is providing an overview of the procurement and selection process for the Design and Construct tender for 33 Saxon Street Redevelopment project including the analysis of the tenders and recommendation from the Tender Evaluation Panel regarding Contract award. The project is expected to deliver the following benefits to the community:

- A large public open space, designed in consultation with the community. The space will host outdoor events, community recreation, and creative activities of the site.
- Creative production spaces and a gallery exhibition space will be available for artists and creative organisations to lease with subsidised rent.
- Space for a commercial cafe or hospitality business.
- A new creative and community-use facility that will house Maternal and Child Health facilities, multipurpose community rooms, and commercial office space.
- Improved connection and access between the site and Brunswick Baths

Merri-bek Council sought tenders from successful EOI contractors for the Design and Construction of the Saxon Street Redevelopment project on 17 August 2022.

3. Issues

Tender and Tender Evaluation Process

In line with Council's procurement policy and considering current market disruptions and to ensure implied risks are mitigated, a two-step procurement process was undertaken. This process was aimed to ensure that a suitable contractor is engaged and value for money is achieved for the rate payers.

Step 1 – Expression of Interest (EOI)

The call for Expressions of Interest (EOI) was published in The Age newspaper on 2 July 2022 and the eTenderBox went live from Wednesday, 6 July 2022. The EOI was closed on 22 July 2022 with five registered respondents submitted their expression of interest within the permitted timeframe.

Step 2 - Request for Tender (RFT)

From the evaluation of EOI, it was deemed suitable that all five contractors would be invited to submit a tender. The RFT was issued to the five contractors on Friday, 26 August 2022 with closing date of 23 September 2022. Within first week of tender advertisement, two of the five nominated tenderers advised they would not be able to submit a bid for this RFT due to time constraints. To ensure a competitive tender was achieved, the Tender Evaluation Panel agreed to provide an extension of 5 weeks with new closing date for tender being 28 October 2022. This new closing date was communicated to and acknowledged by all the tenderers.

Tenders were received from four of the five shortlisted tenderers.

The table below indicates the Step 2 (Select Tender) evaluation team, followed by the evaluation criteria (covering items from Step 1 – EOI as well as Step 2 – Select Tender) and their weightings.

Step 2 – Select Tender – Evaluation Team

Role Type	Position	Contribution
Chair	Director City Infrastructure	Voting
Evaluator (External Project Manager)	DCWC – Project Manager	Voting
Evaluator	Senior Project Manager	Voting
Evaluator	Unit Manager Place Revitalisation	Voting
Evaluator	Head of Building Projects	Voting
Advisor (Staff)	Project Manager	Non-Voting
Advisor Finance (Staff)	Unit Manager Finance	Non-Voting
Evaluation Facilitator	Unit Manager Procurement/ Senior Procurement Partner	Compliance Review
Advisor (External)	Kennedy Nolan – Director of Architecture	Non-Voting
Advisor (External)	Zinc Cost Management – Managing Director	Non-Voting
Advisor (External)	ArcBlue – Managing Consultant (Probity Advisor)	Non-Voting

Stage 2 Tender Evaluation Criteria

Evaluation Criteria (Capital Works)	Weighting
Mandatory Compliance requirements criteria	
Risk and Compliance	Pass/Fail (No weighting)
Insurance: <ul style="list-style-type: none">Professional Indemnity (minimum \$10m).Public liability (minimum \$20m)	Assessed at Stage 1 EOI

Evaluation Criteria (Capital Works)	Weighting
<ul style="list-style-type: none"> Product liability (minimum \$20m) Workers Compensation (as legislated) <p>However, a tenderer has the ability to address specific issues such as agreeing to insurance requirements or insurance coverage matched at a later date depending on the contract value, risk etc.</p>	
Compliance with Fair Work Act	Assessed at Stage 1 EOI
Compliance with OHS Requirement	Assessed at Stage 1 EOI
How the Respondent complies with Modern Slavery Act 2018	Assessed at Stage 1 EOI
Attestation by tenderer of not being involved/associated with gambling and/or benefiting either directly or indirectly from gambling	Assessed at Stage 1 EOI
Financial Risk Self-Assessment	Assessed at Stage 1 EOI
Attestation by tenderer of not being involved/associated with the nuclear weapons industry or benefiting from it.	Assessed at Stage 1 EOI
Scored selection criteria	Weighted
Price Includes breakdown of schedule of fee Limits on exclusions	40%
Capability of the tenderer to provide the goods and/or services and/or works Contractor relevant experience from projects of similar nature Relevant experience in construction. Contractor demonstrates experience in managing a design team under a design and construct arrangement	20%
Capacity of the tenderer to provide the goods and/or services and/or works Contractor's qualifications and skill, Adequate resources, sub-contractor list and Capacity to deliver full scope of works Availability of resources in line with project program	10%
Methodology and task appreciation The Respondent describes or provides their proposed construction methodology for the project considering all constraints, risks and opportunities. They also demonstrate they have clearly understood the task.	10%
Tender Program/ Works Program The Respondent describes their approach and capability to manage the program of works. - Including any proposed staging required for the constricted sited.	10%
Sustainability	
1. Social How social sustainability is considered as part of this project/deliverable e.g., creating jobs for disadvantaged groups, social equity, partnerships with the community, human rights, gender, disability etc	2.5%

Evaluation Criteria (Capital Works)	Weighting
Diversity achievements/processes of the organisation submitting the tender Corporate Social Responsibility achievement of the organisation submitting the tender Social Procurement of the organisation submitting the tender	
2. Economic a) How economic sustainability is considered as part of this project/deliverable e.g., support of local businesses, opportunities to generate employment among disadvantaged residents/communities, social enterprises, Indigenous businesses, buy local	2.5%
3. Environmental How environmental sustainability is considered as part of the project/deliverable e.g., achievement of Zero Carbon Merri-bek, Integrated Water Management Strategy, Sustainable Council Buildings Policy, Waste and Litter Strategy and Plastic Wise Policy. How environmental sustainability is considered/initiatives by the organisation submitting the tender that would directly benefit Merri-bek City Council. How environmental sustainability is considered within the organisation submitting the tender own operations e.g., initiatives like energy saving, recycling etc.	5%
Value Adds - Option for Respondents to add value features - List of Value Management items	Not weighted
Weighted result:	100%

Shortlisting, interviews and reference checks

After the Select Tender submissions were evaluated, three were shortlisted for interview. Interviews were undertaken to further understand the tenderers' knowledge and methodology to deliver the project and address questions of clarification. Reference checks were also undertaken. Following the interviews and reference checks, the tender evaluation panel reviewed its initial scores leading to the identification of a preferred contractor, being McCorkell Constructions Pty Ltd.

Tender evaluation reports

The full details of the EOI and tender evaluation process including scores, panel members and financial offer are included in **Confidential Attachment 1** – Tender Assessment Report. Associated reports from Council's Quantity Surveyor, Zinc Cost Management, are shown at **Confidential Attachment 2** – Zinc Cost Management Tender Report - 01 November 2022 and **Confidential Attachment 3** – Zinc Cost Management Trade Analysis -14 November 2022.

Probity

Merri-bek City Council engaged ArcBlue as probity advisor for this tender process. The Probity Advisor's report, prepared by Megan James, is provided at **Confidential Attachment 4** – Probity Report Merri-bek 33 Saxon Street Project - ArcBlue.

The report's conclusion is copied here:

Based on oversight of this procurement project, the Probity Advisor observed no probity issues of concern and a robust evaluation process that was undertaken with appropriate due diligence.

The following is a summary of overall probity performance for the addressed tender process:

- *The procurement project was conducted in accordance with the provisions outlined in the tender documentation*
- *All relevant parties were made aware of their probity obligations*
- *Confirmation was provided that all relevant documents were kept in a secure manner and confidentiality was upheld at all times in line with Merri-bek's document security provisions and methodology*
- *All key meetings attended by ArcBlue were conducted in compliance with probity principles*
- *ArcBlue have identified no probity issues through our probity advisory activities which would create an impediment to the delegate considering the award recommendations outlined in the Tender Evaluation Report.*

Collaborative procurement

Section 109(2) of the *Local Government Act 2020* requires that procurement reports to Council provide information about opportunities for collaborative procurement. In this case, as a standalone design and construct development project there were no opportunities for collaboration with other Councils or public bodies.

4. Preferred contractor

McCorkell Constructions are nominated as the preferred contractor, scoring the highest ranking 87 per cent of a possible 100 per cent and also having the lowest adjusted contract cost of \$24,967,260.

5. Social / Environmental / Local Implications

A total weighting of 10 per cent was allocated to Sustainability in the Tender Evaluation, noting that the Sustainability offerings will also form part of the ongoing contract monitoring and reporting requirements and that the Economic aspect aligns with the State Government's Local Jobs First Policy.

McCorkell Constructions put forward the following initiatives in the 33 Saxon Street bid:

Social

Approach to Integrating Social Procurement through the Supply Chain - McCorkell has implemented a thorough end-to-end process with Subcontractors to ensure that social procurement commitments and outcomes are captured, delivered and reported, that the supply chain is adequately trained in processes and obligations and that appropriate tools and systems are provided to make this process as seamless as possible.

Environmental

McCorkell has an Environmental Policy which details its commitments to sustainable business practices including the usage of sustainable resources, managing waste and pollution and use of recycled content in construction. In conjunction with the Environmental Management System, the Environmental Policy is implemented on all projects as a minimum standard.

Economic

McCorkell will take opportunities to engage with local subcontractors and suppliers, providing economic support to the region through preferred use of local contractors and suppliers. McCorkell currently has 7 cadets as part of this program and would seek to employ a minimum of 1 additional trainee and 1 apprentice on a project of this scale.

Human Rights Consideration

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities and it has been determined that no rights have been impinged through the process and outcomes discussed in the report.

6. Communications and Planning Approvals

Details of the project are available and periodically updated on the Conversations Merri-bek web site.

The community has also been able to participate in the Planning Approvals process for this project.

Due to project tight timelines, the planning permit approval process has been run in parallel with the tender process. Draft planning conditions were shared with all the tenderers and have been allowed for in their submissions. Several of the draft planning conditions were being worked through during this phase to ensure timely issue of building permits and project delivery.

On Wednesday 23 November 2022, Council's Planning and Related Matters (PARM) meeting resolved that a Notice of Decision to Grant a Planning Permit No. MPS/2022/194 be issued for the development.

For full list of planning conditions for Saxon Street development, please refer to **Attachment 5 – Town Planning Permit Conditions Responsibility Matrix**.

From notice of decision, the stakeholders have a 28-day period to appeal these decisions to Victorian Civil Administrative Tribunal (VCAT). In the event an appeal of the decision to grant and permit is lodged at VCAT, risk of project delays will be inevitable and could potentially incur significant costs. The 28 days expires on 21 December 2022.

During this period a detailed communications plan is being developed including updates to the Conversations Merri-bek web site.

7. Declaration of Conflict of Interest

Council Officers, external consultants and all other parties involved in the tender process completed and signed Conflict of Interest declaration forms. The forms were reviewed by the Probity Advisor and no material conflicts of interest were declared.

8. Financial and Resources Implications

Including contingency, the estimated cost based on the recommended tender to deliver this project is:

Cost item	Value (\$)
Building works contract (including provisional)	\$24,967,260
Contingency (for both variation and cost escalation risk) allow 10%	\$2,496,726
Total Recommended Tender Cost	\$27,463,986
Future Consultancy Costs (BS, QS, Comms, legal etc.)	\$425,687

Cost item	Value (\$)
Project Management	\$450,000
Costs incurred to date	\$658,356
Total project costs (Ex GST)	\$28,998,029

In some cases, there may be contract variations required due to latent conditions outside of Council's and Contractor's control. In these instances, the delegated Council representative will have the authority to approve variations up to 10 per cent of the value of the contract.

The following allowances and provisional sums have been accounted for in the costs outlined above.

- **Authorities** – The project Preliminaries Specification called for the Head Works Contractor to manage and fund all Headworks/Authority applications. All tenderers qualified their submissions that no allowance was made for Headworks/Authority applications fee and charges. A provisional sum has been included (\$500,000) to cover these costs.
- **Latent Conditions** – The preferred contractor has put forward a departure to the definition of Latent Conditions. An allowance of \$238,000 has been included in the contract sum for Category A site contamination.

It is noted that ongoing effects of recent market instability are being experienced in construction. While construction industry is stabilising, with competitive tension remerging in the subcontractor market, long lead time and supply for materials such as plasterboard, timber, steel, etc. remain at risk and may result in cost escalations.

Funding strategy

The below funding table reflects the 2022-2026 adopted budget figures in 4-year capital works program, as well as a carry forward of funds from the previous financial year and expense incurred to date.

Funding Sources – 2022-2026 Capital Works Program	Value (\$)
Significant Projects Reserve	\$22,795,356
Grants	\$500,000
Total	\$23,295,356
Total Project Cost	\$28,998,029
Shortfall	\$5,702,673

The funding table below reflects the proposed 2023-2027 budget for the 4-year capital works program, including expenses incurred to date.

Funding Sources - 2023-2027 Capital Works Program	Value (\$)
Significant Projects Reserve (including prior expenditure)	\$25,106,211
Developer Contributions Plan Reserve	\$2,891,818
Grants	\$1,000,000
Total Project Cost	\$28,998,029

The report is seeking an increase in the budget for 33 Saxon St Redevelopment Project from \$23,295,356 to \$28,998,029 in the 4-year capital budget. The shortfall of \$5,702,673 is to be funded as follows:

- A further \$2,310,855 from the significant project reserve

- A contribution of \$2,891,818 from the Developer Contributions Plan Reserve (noting that this project has been added as a substitution project into the Developer Contributions Plan)
- An additional \$500,000 in Grant funding from the Australian Government

With Council's approval of these funding allocations, they will be locked into the 2023-2027 budget as indicated at recommendation 3.

9. Implementation and Timeline

Due to the compressed tender evaluation period, the preferred contractor's proposed contractor departures are yet to be fully resolved. The departures have been issued for legal review and comment. All contractual departures/amendments will be finalised before awarding of the contract.

Final planning conditions are also currently being addressed to reduce risk associated with project implementation.

Following Council approval of contract award, a Letter of Intent is proposed to be issued on 21 December 2022, followed by Contract award in January 2023.

It is proposed that the CEO be authorised to do all things necessary to execute the contract/s and any other required documentation.

The expected commencement date for McCorkell Constructions is 9 January 2023, with Practical Completion set to be on 27 May 2024.

Attachment/s

- | | | |
|----|---|------------|
| 1 | Attachment 1 -Tender_Assessment_Report.docx
<i>Pursuant to section 3(1)(k) of the Local Government Act 2020 this attachment has been designated as confidential because it relates to information prescribed by the regulations to be confidential information for the purposes of this definition.</i>
<i>Tender Assessment Report.</i> | D22/544614 |
| 2 | Attachment 2 – Zinc Cost Management Tender Report - 01 November 2022
<i>Pursuant to section 3(1)(h) and (k) of the Local Government Act 2020, this attachment has been designated as confidential because it relates to confidential meeting information, being the records of meetings closed to the public under section 66(2)(a), and information prescribed by the regulations to be confidential information for the purposes of this definition.</i> | D22/544642 |
| 3 | Attachment 3 – Zinc Cost Management Trade Analysis -14 November 2022
<i>Pursuant to section 3(1)(h) and (k) of the Local Government Act 2020, this attachment has been designated as confidential because it relates to confidential meeting information, being the records of meetings closed to the public under section 66(2)(a), and information prescribed by the regulations to be confidential information for the purposes of this definition.</i> | D22/544643 |
| 4 | Attachment 4 – Probity Report Merri-bek 33 Saxon Street Project - ArcBlue
<i>Pursuant to section 3(1)(l) of the Local Government Act 2020 this attachment has been designated as confidential because it relates to information that was confidential information for the purposes of section 77 of the Local Government Act 1989.</i> | D22/545387 |
| 5↓ | Attachment 5 – Town Planning Permit Conditions Responsibility Matrix | D22/544667 |

33 Saxon Street Redevelopment Project Planning Permit Conditions - Responsibility Matrix Revision: 3 Revision Date: 28 November 2022				
ITEM	DESCRIPTION	PLANNING CONDITION	OWNER	STATUS
1	Amended Plans	<p>Before the use and development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised 4 July 2022 but modified to show:</p> <p>a)The crossover on the south-east corner facing Saxon Street modified to match the location and width of the internal vehicle accessway.</p> <p>b)An internal vehicle accessway leading to a loading bay in the south-east corner of the site suitable for use for waste collection services.</p> <p>c)The existing crossover to the private part of Saxon Street removed and the footpath, kerb and channel reinstated.</p> <p>d)A fence designed to clearly designate the eastern boundary along the privately owned portion of Saxon Street.</p> <p>e)Any proposed works within the discontinued portion of Saxon Street annotated with "subject to the permission of land owner."</p> <p>f)The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm and communal open space.</p> <p>g)The proposed screening to the deconstructed school building frame to be unadorned by signs, vegetation or decorations, to improve views and access to the 'Sherwood' building from Phoenix Street</p> <p>h)The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 7 of this permit.</p> <p>i)Any changes to the plans arising from the:</p> <p>i.Landscape Plan in accordance with Condition 3 of this permit.</p> <p>ii.Waste Management Plan in accordance with Condition 11 of this permit.</p> <p>iii.Venue and Patron Management Plan in accordance with Condition 13 of this permit.</p> <p>iv.Acoustic Report in accordance with Condition 15 of this permit.</p>	Contractor	OPEN
2	Compliance with Endorsed Plans	The use and/or development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted as a permit condition.	Contractor	OPEN
3	Landscaping	<p>Prior to the endorsement of plans, an amended landscape plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the plan prepared by Openwork dated 10 June 2022 but amended to show:</p> <p>a)Updated details of the raingardens and other treatments to achieve best practice water sensitive urban design as nominated in the updated SMP required under Condition 7 of this permit.</p> <p>b)Details (including sections) of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:</p> <p>i.Soil depth and volumes sufficient for the proposed vegetation</p> <p>ii.Soil mix</p> <p>iii.Drainage design</p> <p>iv.Details of an automatic irrigation system, including location of water source and controller together with maintenance program and responsibility for maintenance.</p>	Contractor	OPEN

4	Landscaping	Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all landscaping works, including installation of automatic irrigation, must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.	Contractor	OPEN
5	Landscaping	All landscaping and irrigation systems must be maintained to the satisfaction of the Responsible Authority in accordance with the endorsed landscape plans. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the Responsible Authority.	Contractor	OPEN
6	Landscaping	All landscaping and vegetation to be covered by a minimum 12-month defects liability period to ensure the establishment of all landscapes.	Contractor	OPEN
7	Environmentally Sustainable Design (ESD)	<p>Prior to the endorsement of plans, an amended Sustainability Management Plan (SMP) and plans must be submitted to the satisfaction by the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP advertised 4 July 2022, but modified to include the following changes:</p> <p>a) Amend the BESS report (and any other corresponding documentation) to:</p> <p>i. Update all reports and the SMP to list the 78kW solar PV system.</p> <p>ii. The following innovation credits removed:</p> <p>a) On site organics</p> <p>b) Solar PV</p> <p>c) Heat pump</p> <p>iii. The following innovation credits altered:</p> <p>a) Embodied energy – More information is required to demonstrate how this will be achieved. Information on doing a Life Cycle Assessment or similar for Saxon Street.</p> <p>b) Add that an air tightness test will be undertaken to demonstrate the building is airtight. This is to be provided as a part of the post construction report condition.</p> <p>c) Add an innovation credit for a Life Cycle Assessment (LCA) for embodied carbon.</p> <p>b) Plans of the daylight models to confirm the percentage and area of the floor that meets the requirements including:</p> <p>i. Overlay daylight maps on to floor plans such that it is easy to ascertain that the modelling accurately depicts the dimensions and design of the space.</p> <p>ii. Clear scale to accompany daylight maps</p> <p>iii. Produce a summary table showing the daylight value for each space with their floor area and the compliant area as both a percentage and as a sqm area</p> <p>iv. An image of the development as modelled in the software which demonstrates that all external architectural features, overhangs, lightwells, screening, adjacent buildings and structures and other daylight obstructions have been accurately modelled and incorporated.</p> <p>v. All surrounding future equitable (including proposed) development modelled where relevant.</p> <p>vi. Glazing properties -VLT of all windows ensuring that the VLT and glazing specifications match the glazing specifications used in the JV3/energy/facade modelling.</p> <p>vii. Internal reflectance of walls, floors and ceilings</p> <p>viii. Description of the software used to produce the model (depending on the modelling software used a copy of the file may be requested by council).</p> <p>c) A MUSIC report and stormwater management response that provides:</p> <p>i. A copy of the MUSICX file (.mfs), demonstrating that reduction in TSS, TP and TN are achieved independent of the SPEL systems.</p> <p>d) An amended stormwater catchment plan that is consistent with the MUSIC report, clearly showing:</p> <p>i. Clearly dimension, draw and label all the raingardens, water tanks, downpipes, type of water collection (i.e. curb, channel, pipe) and direction of flow on the ground floor plan and WSUD building. No charged pipes are allowed under buildings. Details all works to ensure toilet flushing is connected to stormwater. Proprietary WSUD products are not acceptable.</p> <p>ii. Provide details on the 2m raingarden for the backstage area including:</p> <p>a) the location, size, area draining to the raingarden,</p> <p>b) sections of the raingarden</p> <p>c) maintenance details.</p> <p>d) Confirmation the raingarden is a minimum of 2 per cent of the area to be filtered.</p>	Contractor	OPEN

		<p>e) Show the following ESD initiatives on the development plans:</p> <ul style="list-style-type: none"> i. Install operable windows to the male and female toilets. ii. Operable, east facing windows to office 01, 03 and studio 03. iii. Operable windows to studio 04, unless the room requires no daylight. iv. The EV charging points including the locations, if they are public or private, kilowatts, if the EV charging points are a full EV system or the cabling for future installation. v. The grey water system including size, location, what it is connected to and what the grey water system will irrigate. <p>Where alternative ESD initiatives are proposed to those specified in the conditions above, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.</p> <p>When submitted and approved to the satisfaction of the Responsible Authority, the amended Sustainability Management Plan and associated notated plans will be endorsed to form part of this permit. No alterations to the plan may occur without the written consent of the Responsible Authority.</p>		
8	Environmentally Sustainable Design (ESD)	Prior to the issue of an Occupancy Permit or issue of a Statement of compliance, whichever comes first, the development must be constructed in accordance with the Sustainable Design Assessment (including any BESS and STORM reports) to the satisfaction of the Responsible Authority.	Contractor	OPEN
9	Environmentally Sustainable Design (ESD)	Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Sustainability Management Plan (SMP) approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm (with documented evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.	Contractor	OPEN
10	Environmentally Sustainable Design (ESD)	All stormwater treatment devices (e.g., raingardens, rainwater tanks etc.) must be maintained to the satisfaction of the Responsible Authority to ensure water quality discharged from the site complies with the performance standard in the endorsed Sustainability Management Plan.	Contractor	OPEN
11	Waste Management	Before the plans required by Condition 1 of this permit are endorsed, a Waste Management Plan generally in accordance with the Waste Management Plan prepared by One Mile Grid dated 6 June 2022 must be submitted to, and approved in writing by, the Responsible Authority.	Contractor	OPEN
12	Waste Management	The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.	Contractor	OPEN
13	Venue and Patron Management Plan	<p>Prior to the endorsement of plans, a Venue and Patron Management Plan prepared to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must address the following:</p> <ul style="list-style-type: none"> a) Circumstances when security may be required b) How the venue will manage patrons entering and leaving the venue, including security and queuing from within site. c) Complaint handling processes, including a contact number available to nearby residents and a process for immediate issue rectification. d) Staff training for patron management e) Management of outdoor areas f) Outdoor smoking areas g) Lighting outside the premises 	TPT/MBC	OPEN
14	Venue and Patron Management Plan	The venue must operate in accordance with the approved Venue and Patron Management Plan and any activities or ongoing obligations contained in the approved plan must be carried out in accordance with the approved plan, to the satisfaction of the Responsible Authority.	TPT	OPEN

15	Noise Levels	<p>Prior to the endorsement of plans, an Acoustic Report prepared by a qualified Acoustic Engineer must be submitted and approved to the satisfaction of the Responsible Authority. The report must include, but not be limited to the following:</p> <p>a) Measures to ensure the development is designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect noise sensitive residential uses within 50 metres of the venue.</p> <p>b) Recommendations of acoustic measures to be incorporated into the proposed development to comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection authority, March 2021).</p>	Contractor	OPEN
16	Noise Levels	<p>Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Environmental Protection authority, March 2021), or any other superseding regulation.</p> <p>Should the Responsible Authority deem it necessary, the owner and/or occupier of the land must submit an Acoustic Report to the satisfaction of the Responsible Authority which demonstrates compliance, or which outlines any measures considered necessary to achieve compliance.</p>	Contractor	OPEN
17	Public Works Plan	<p>17. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land directly in front of the site facing the publicly accessible part of Saxon Street and Phoenix Street must be submitted to the satisfaction of the Responsible Authority. The Plan must include:</p> <p>a) All construction details in accordance with the Merri-Bek City Council Technical Notes July 2019 (or any updated version);</p> <p>b) A detailed level and feature survey of the footpaths and roads.</p> <p>c) The upgrade of the Council managed public footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5 per cent).</p> <p>d) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the 1 metre splay on the crossings, relocated or modified.</p> <p>e) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.</p> <p>f) Any necessary drainage works.</p> <p>g) The crossover on the south-east corner facing Saxon Street modified to match the location and width of an internal vehicle accessway leading to a parking space or loading bay.</p> <p>h) The crossover to the private part of Saxon Street removed and the footpath, kerb and channel, reinstated</p> <p>i) An eastern boundary fence for the length of the privately owned portion of Saxon Street.</p> <p>j) The provision of 8 new street tree plantings and landscaping along Phoenix Street (5 trees) and within the Council managed sections of Saxon Street (3 trees) in appropriate locations in consultation with the Responsible Authority (Open Space Branch).</p> <p>k) Details (including sections) of all footpath, kerb and channel, street furniture, planter boxes, in-road street tree planting, raingardens and similar, including:</p> <p>i. Detailed specifications</p> <p>ii. Soil depth and volumes sufficient for the proposed vegetation</p> <p>iii. Soil mix</p> <p>iv. Drainage design</p> <p>l) Any other works to the public land adjacent to the development.</p> <p>m) The installation of bike hoops along Phoenix Street provided with graffiti-resistant surfaces.</p> <p>n) Any other works and street furniture including seating (provided with graffiti-resistant surfaces).</p> <p>When submitted and approved to the satisfaction of the Responsible Authority, the Public Works Plan will be endorsed to form part of the permit. No alterations to the Public Works Plan may occur without the written consent of the Responsible Authority.</p>	Contractor	OPEN
15	Public Works Plan	<p>Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all public works shown on the endorsed public works plan must be implemented to the satisfaction of the Responsible Authority at the expense of the owner of the land, unless otherwise agreed with prior written consent of the Responsible Authority.</p>	Contractor	OPEN

16	Hours of Operation	The use of the land for the sale and consumption of liquor allowed by this permit must operate only between Monday to Sunday: 7am to 10:30pm	TPT	OPEN
17	Hours of Operation	The use of the land for a place of assembly allowed by this permit must operate only between Monday to Sunday: 6am to 10:30pm	TPT	OPEN
18	Patron Numbers	A maximum of 500 patrons on site at any one time and each individual use must not exceed: a) Art gallery – 50 patrons b) Place of assembly – 350 patrons c) Education Centre – 350 patrons d) Office – 100 patrons e) Food and drink premises – 46 patrons	TPT	OPEN
19	Environmental Audit	Before the construction or carrying out of buildings and works, or where no buildings and works are proposed, prior to the commencement of the permitted use or the issue of a statement of compliance under the Subdivision Act 1988 (whichever is earlier), the owner(s) must provide: a) A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 stating that an environmental audit is not required for the use or, if this permit authorises the construction or carrying out of buildings or works, is not required for the use for which the buildings or works are constructed or carried out; or, b) An environmental audit statement under Part 8.3 of the Environment Protection Act stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out; or, c) An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out, if the recommendations made in the statement are complied with	Contractor	OPEN
20	Environmental Audit	Where an environmental audit statement is issued for the land, and any recommendation of that environmental audit statement requires any maintenance and/or monitoring of an ongoing nature, the Responsible Authority may require the Owner(s) to enter into an Agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 that provides for the undertaking of the ongoing maintenance and/or monitoring as required by the environmental audit statement. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, the issue of an Occupancy Permit under the Building Act 1993 or the issue of a Statement of Compliance under the Subdivision Act 1988 (whichever occurs first). All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).	Contractor	OPEN
21	Environmental Audit	Prior to any remediation works (if required) being undertaken in association with the environmental audit, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of an environmental audit statement.	Contractor	OPEN
22	Environmental Audit	No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as Conditions 19, 20, and 21 are satisfied.	Contractor	OPEN
23	Environmental Audit	Prior to commencement of the use, the issue of an Occupancy Permit under the Building Act 1993 or the issue of a Statement of Compliance under the Subdivision Act 1988 (whichever occurs first), written confirmation of compliance with all the recommendations of the environmental audit statement must be provided by an environmental auditor appointed under the Environment Protection Act 2017, including confirming that any requirements in the environmental audit statement recommendations regarding verification of works have been complied with. All the recommendations of the environmental audit statement must be complied with to the satisfaction of the Responsible Authority.	Contractor	OPEN

24	Environmental Audit	Where a preliminary risk screen assessment has satisfied Condition 19 (that an environmental audit is not required), the development and use must not deviate from the assumptions or limitations contained in the preliminary risk screen assessment, including but not limited to the layout and design of the development and use of the land without the written consent of the Responsible Authority. The development and use must accord with any requirements and recommendations of the preliminary risk screen assessment to the satisfaction of the Responsible Authority.	Contractor	OPEN
25	Carriageway Easement	Prior to the commencement of the development hereby permitted, evidence that a carriageway easement has been registered over 10 Dawson Street, Brunswick in favour of the site must be submitted to the satisfaction of the Responsible Authority.	MBC	OPEN
26	3D Model	Prior to the commencement of the development, a 3D digital model of the approved development which is compatible for use on Council's Virtual Merri-Bek tools and software for Council and community must be submitted to the satisfaction of the Responsible Authority. The model should be prepared in accordance with Merri-Bek City Council's 3D model submission guidelines. A copy of the 3D model submission guidelines and further information on the Virtual Merri-Bek Project can be found at https://www.merri-bek.vic.gov.au/planning-building/3D-Guidelines/ . In the event that substantial modifications to the building envelope are approved under an amendment to this planning permit, a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.	Contractor	OPEN
27	Heritage	Prior to the commencement of the development, a full schedule of the proposed conservation works to the 'Sherwood' heritage building must be submitted and approved to the satisfaction of the Responsible Authority.	Contractor	OPEN
28	Heritage	Prior to the commencement of the development, an archival record of the existing heritage building must be prepared by a suitably qualified heritage expert and then submitted and approved to the satisfaction of the Responsible Authority.	Contractor	OPEN
29	Development Contributions	Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy must be paid to Merri-Bek City Council in accordance with the approved Development Contributions Plan. The Development Infrastructure Levy is charged per 100 square metres of leasable floor space. If an application for subdivision of the land in accordance with the development approved by this permit is submitted to Council, payment of the Development Infrastructure Levy can be delayed to a date being whichever is the sooner of the following: a) a maximum of 12 months from the date of issue of the Building Permit; or b) prior to the issue of a Statement of Compliance for the subdivision; When a staged subdivision is sought, the Development Infrastructure Levy must be paid prior to the issue of a Statement of Compliance for each stage of subdivision in accordance with a Schedule of Development Contributions approved as part of the subdivision.	MBC	OPEN
30	Engineering Matters	Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority (Merri-Bek City Council, City Infrastructure Department).	Contractor	OPEN
31	Engineering Matters	Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority (Merri-Bek City Council, City Infrastructure Department).	Contractor	OPEN
32	Engineering Matters	Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, access to the site, any vehicle crossover and any ancillary road and road drainage works must be constructed in accordance with any requirement of the Responsible Authority (Merri-Bek City Council, City Infrastructure Department).	Contractor	OPEN
33	Engineering Matters	Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.	Contractor	OPEN
34	Engineering Matters	Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the bicycle storage room must have self-closing and self-locking doors or gates that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).	Contractor	OPEN

35	Engineering Matters	Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, bicycle signage that directs the cyclists to the bicycle facilities must be provided to the satisfaction of the Responsible Authority. Bicycle signage should be at least 0.3 metres wide and 0.45 metres high; display a white bicycle on a blue background on the top half of the sign and display information about the direction of facilities on the bottom half of the sign.	Contractor	OPEN
36	Stormwater	All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Merri-Bek City Council, City Infrastructure Department).	Contractor	OPEN
37	Car Parking	The area set aside for the parking of vehicles and access lanes shown on the endorsed plan must, to the satisfaction of the Responsible Authority: a) Be completed prior to issue of an Occupancy Permit or issue of a Statement of Compliance, whichever occurs first. b) Be maintained. c) Be properly formed to such levels that it can be used according to the endorsed plan. d) Have the boundaries of all vehicle parking spaces clearly marked on the ground to accord with the endorsed plan. e) Not be used for any other purpose other than the parking of vehicles, unless with the prior written consent of the Responsible Authority. f) Be numbered to facilitate management of the car park.	Contractor	OPEN
38	General	Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.	Contractor	
39	General	Unless with the prior written consent of the Responsible Authority, any plumbing pipe, ducting and plant equipment must be concealed from external views. This does not include external guttering or associated rainwater down pipes.	Contractor	OPEN
40	General	All lighting of external areas must be designed not to emit direct light onto adjoining property to the satisfaction of the Responsible Authority.	Contractor	OPEN
41	Public Art	Prior to the issue of an Occupancy Permit, the details of the proposed public artwork, including its contents and appearance, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.	Contractor	OPEN
42	Permit Expiry	This permit will expire if one of the following circumstances applies: a) the development is not commenced within three (3) years from the date of issue of this permit; b) the development is not completed within five (5) years from the date of issue of this permit. c) the uses approved by this permit is not commenced within five (5) years from the date of issue of this permit. The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or; • within six months after the permit expires to extend the commencement date. • within 12 months after the permit expires to extend the completion date of the development if the development has lawfully commenced.	Note.	OPEN
	Note No.1	This permit contains a condition requiring payment of Development Contributions. The applicable development contribution levies are indexed annually. To calculate the approximate once off levy amount, please visit http://www.merri-bek.vic.gov.au/planning-building/ and click on 'Merri-Bek Development Contributions Plan (DCP)'. Alternatively, please contact Merri-Bek City Council on 9240 1111 and ask to speak to the DCP Officer.	MBC	OPEN
	Note No.2	Environmental Audit Notes i. A copy of the Environmental Audit Statement, including the Environmental Audit Report, must be submitted to the responsible authority within 5 business days of issue, as set out in s 210 of the Environment Protection Act 2017. ii. The person in management or control of the site must also provide a copy of any statement to any person who proposes to become the person in management or control of the site, such as a potential occupier or potential purchaser. iii. The land owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor's Statement pursuant to Section 32 of the Sale of Land Act 1962, a copy of the Environmental Statement including a copy of any cover letter.	Contractor	OPEN

	Note No.3	Unless no permit is required under the Moreland Planning Scheme, no sign must be constructed or displayed on the land without a further planning permit. Carried unanimously	Note.	OPEN
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4.2 CONTRACT ST-2022-307 FAWKNER LEISURE CENTRE REDEVELOPMENT

Director Community Eamonn Fennessy

Community Wellbeing

Officer Recommendation

That Council:

1. Authorises the Chief Executive Officer to:
 - a) Make a formal offer to Built Environs Pty Ltd (ACN 008 125 111) (Contractor) to award to the Contractor Contract ST-2022-307 for the Fawkner Leisure Centre Redevelopment (Contract) on the following terms and otherwise subject to and in accordance with paragraph 1(b) of this Resolution:
 - i. For a Design and Construct Contract for the fixed lump sum of \$29,892,185 (excluding GST) plus provisional sum of \$440,000 (excluding GST), totalling \$30,332,185 (excluding GST).
 - ii. Allocates a contingency of \$4,549,828 (excluding GST) for unforeseeable variations and latent conditions that may occur during the construction period and authority costs for a new substation.
 - b) Negotiate and finalise the terms of the Contract between Council and the Contractor provided that:
 - i. the terms specified in paragraph 1(a) of this Resolution shall not be altered without a further Resolution of Council; and
 - ii. other than terms referred to in paragraph 1(a) of this Resolution, the terms of the Contract are acceptable to the Chief Executive Officer;
2. Conditional on acceptance of the Contract by the Contractor in accordance with the terms of this Resolution:
 - a) Authorises the Chief Executive Officer to do all things necessary to execute the Contract and any required documentation for the Contract; ST-2022-307.
 - b) Authorises the Chief Executive Officer to exercise the option(s) to extend contracts in accordance with the provisions within the Contract; and]
 - c) Advises all tenderers of Council's decision in relation to the Contract.
3. Approves novation of ST-2021-179 – Fawkner Leisure Centre Redevelopment, Co-Op Multi-Disciplinary Consultant Services from Council to Built Environs for the balance of the remaining fees following tender design works.
4. Approves novation of the Registered Building Surveyor services from Co-Op to Merri-bek City Council as per legislative requirements for the contract value of \$53,100 (excluding GST).
5. Approves an increase in the budget for Fawkner Leisure Centre Redevelopment from \$28,237,609 to \$36,854,434 in the 4 year capital works program. The budget to support this increase is to be approved with the following adjustments by fund source: \$25,790,085 from the significant projects reserve (up from \$19,737,609); \$2,564,349 from the DCP Reserve (not included in previous budget). These sums are to be included and phased in the 2023-2027 4-year budget development.

REPORT

Executive Summary

Council endorsed the project scope for the Fawkner Leisure Centre Redevelopment with an estimated cost of \$28 million on 8 December 2021.

Following a public Expression of Interest (EOI) process, a Select Tender (ST) was issued on 12 September 2022 to five shortlisted tenderers and concluded on 24 October 2022. Three compliant submissions were received, with two tenderers withdrawing due to competing project commitments.

The tender review has concluded with a recommendation agreed by the Tender Evaluation Panel on a preferred contractor.

This report provides recommendations on the appointment of the preferred contractor under a Design and Construct contract for the Fawkner Leisure Centre Redevelopment including an allocation of the project construction contingencies. In addition to this the report recommends the novation of the design team (Co-Op) to the recommended tenderer and novation back of the Registered Building Surveyor (RBS Krneta) to Council as per new legislation requirements.

The recommended tenderer's best and final offer is \$30,332,185. A 15 per cent contingency of \$4,549,828 is recommended to be allocated based on risks associated with refurbishment of an existing building, unknown ground condition components unable to be fully assessed due to current infrastructure and potential contaminated soil.

The tender complies with section 109(1) of the *Local Government Act 2020*.

Costs overall proved to be higher than the estimated costs from late 2021. A revised cost estimate by the Quantity Surveyor just prior to tendering anticipated an increase in costs compared to the budget, which proved to be of a similar magnitude to the incoming tenders. In awarding the contract to Built Environs Pty Ltd, additional budget of \$8,616,825 is required, and this figure can be supported from the Significant Project Reserve as recommended in this report.

Previous Council Decisions

Fawkner Leisure Centre Redevelopment – Community Feedback on Concept Design - 8 December 2021

That Council:

1. *Thanks the community for their participation and contribution to the recent community consultation.*
2. *Adopts the concept plan following recent consultation as per Attachment 1 including the delivery of the project over two stages, noting that:*
 - a) *Stage 1 is to commence construction in April 2023*
 - b) *Stage 2 of the project will be referred to a future capital works program beyond the current 5-year outlook*
3. *Endorses the commencement of detailed design, tender and construction for stage 1 as per the concept plan as per Attachment 1.*
4. *Noting that CO-OP Studio has previously been awarded the initial stage of design contract ST-2021-179 using a contractual Milestone approach for Stage 1 (executed under Director Delegation);*
 - a) *Endorses the execution of Milestones 2-5 of the CO-OP Studio Contract ST-2021-179 for the full project documentation for the Fawkner Leisure Centre Redevelopment project (Stages 1 and Stage 2).*

- b) *Notes that the Contract amount for ST-2021-179 is for \$1,145,720 along with a provisional sum of \$142,870 for ancillary consultant services required throughout the design process and contingency of \$128,856 (10 per cent) for unforeseen variations that may occur during the design and construction period – a total of \$1,417,449.*
 - c) *Immediately varies Contract ST-2021-179 with CO-OP Studio by \$390,000 (ex GST) reflecting the iterative nature of the design work during scoping, the change in scope of works and the increase in project delivery costs, taking the total authorised spend under the Contract to \$1,807,449.*
 - d) *The tender assessment and recommendation is provided at confidential Attachment 3.*
5. *Refers the need for additional budget of \$7.99 million to deliver Stage 1 of the Fawkner Leisure Centre Redevelopment to the 2022/23 budget process and associated update of the 5-year Capital Works Program, comprising estimated construction costs and Architectural and Project Management costs.*

1. Policy Context

This report is in keeping with Council's commitment to accountability and sound financial management. It also addresses the requirement under Section 109(1) of the *Local Government Act 2020* which requires Council to conduct a public tender for goods, services and works where once-off or ongoing cumulative spend over the life of the contract is expected to exceed \$300,000 (incl GST) as well as the policy commitments contained in Council's Procurement Policy.

2. Background

The purpose of the report is to award a tender for Stage 1 of the Fawkner Leisure Centre Redevelopment project including the analysis of the tenders and recommendation from the Tender Evaluation Panel regarding Contract award.

Stage 1 of the Fawkner Leisure Centre Redevelopment will see significant investment in the renewal of a much-loved community facility, including replacement of the outdoor pools that are now nearing 60 years of age have reached the end of their serviceable life.

Stage 1 works include: significant improvements and upgrades to the outdoor pool area, including a new 50 metre outdoor pool and new outdoor children's leisure pool; landscaping works and BBQ area; indoor dry area redevelopment including new gym, program room, cycle studio, café and first aid room; refurbished change rooms; entrance, reception, and a new café area and transition to an all-electric facility.

Community engagement occurred to inform the concept design with the local community and key stakeholders throughout 2021.

3. Issues

Tender and Tender Evaluation Process

The tender process was undertaken as a two-step process with the first step being a public Expression of Interest (EOI), followed by Select Tender (ST) from tenderers shortlisted from the EOI.

The EOI was advertised and issued via Council's Supply Portal on 29 June 2022. Six submissions were received on the closing date of 19 July 2022 and evaluated in accordance with the Procurement Policy 2021-25 and the Fawkner Leisure Centre Redevelopment Procurement and Probity Plan.

The EOI submissions were evaluated based on the predefined criteria documented in the Procurement and Probity Plan.

Five respondents to the EOI were shortlisted in accordance with the selection criteria to participate in the Select Tender. The EOI Tender Evaluation Matrix can be viewed at **Confidential Attachment 1**, which also covers the Select Tender process.

The Select Tender was issued to the five shortlisted contractors on 12 September 2022 with a closing date of 24 October 2022. During this period two companies formally withdrew from the tender process due to competing project commitments

The remaining three shortlisted contractors submitted compliant tenders and they were assessed by the tender evaluation panel based on the tender evaluation criteria documented in the Procurement and Probity Plan.

After the preliminary tender review, the panel shortlisted two preferred contractors for tender interviews to further assess their project knowledge, construction methodology, design management and commitment in implementing the Sustainability Policies on the project.

The tender evaluation has been concluded with a recommendation agreed by the panel for the preferred contractor, Built Environs. Detailed evaluation criteria and weighting is reflected in the attached **Confidential Attachment 1**.

Novation of design and building contracts

As the decarbonisation (all electric facility) and the aquatics components of the project deliverables are the key design features of the project, the construction works procurement methodology has been strategically intended as a design and construct contract to novate the design and building responsibilities to the preferred contractor to ensure these deliverables are achieved. The recommended contractor has also appointed key personnel with specific mechanical heat pump and aquatic experience to ensure the desired outcome.

With recent changes in legislation, the registered building surveyor who currently sits within the design team is to be novated to Council to remain independent to the builder as per requirements.

Probity

The tender process was overseen by probity consultant Anne Dalton and Associates. The consultant report (provided as **Confidential Attachment 2**) concludes at point 6.3:

On the basis of all of the above matters we have not identified, nor have we been made aware of any material probity issues which remain outstanding or unresolved that have the potential to undermine the integrity of the process. Accordingly, we consider that the process, as documented, is consistent with the probity principles.

Collaboration

Section 109(2) of the Local Government Act 2020 requires that procurement reports to Council provide information about opportunities for collaborative procurement. No opportunities were identified to undertake collaborative procurement with other Councils or public bodies due to the nature of the project.

Interviews and reference checks

Interviews were undertaken with the two shortlisted contractors to further understand their knowledge and methodology to deliver the project. Following the interviews, the tender evaluation panel was confident the initial scores reflected the interview responses leading to a preferred contractor.

As part of Tender Evaluation, reference checks were conducted for Built Environs. The feedback broadly reinforced the Evaluation Panel view of Built Environs' ability to meet Council project requirements.

Recommended Tender

The Built Environs submission was competitively priced with a strong approach to all project criteria. It displayed relevant experience in similar projects and the key personnel demonstrated their knowledge and experience designing and constructing aquatic facilities which are inherent for the project. Built Environs has also shown commitment in environmental, social and economic sustainability with very detailed and localised initiatives.

The cost to Council of appointing Built Environs as the preferred tenderer is at \$30,332,185 (excluding GST). A 15 per cent contingency of \$4,549,828 (excluding GST) is recommended for potential variations.

Social / Environmental / Local Implications

A total weighting of 10 per cent was allocated to Sustainability in the Tender Evaluation, noting that the Sustainability offerings will also form part of the ongoing contract monitoring and reporting requirements and that the Economic aspect aligns with the State Government's Local Jobs First Policy.

Social – 2.5 per cent

The tenderer has a social procurement policy. Proposed Social Procurement for this contract includes local employment and social enterprise through existing projects. The tenderer provided details of its Diversity Employment Plan, local employment initiatives, work placements and traineeships that will be implemented through the project.

Environmental – 5 per cent

The tenderer has an environmental management policy. The tender included details of innovation and accomplishments in environmental sustainability which were measurable as detailed in their 'Environmental Management Plan'.

Economic – 2.5 per cent

The Tenderer has identified local contractors and local businesses, suppliers for maintenance and goods and services to be used. Where practical, the tenderer will source goods, equipment, materials, and machinery manufactured in Australia whenever practical.

Human Rights Consideration

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities and it has been determined that no rights have been impinged through the process and outcomes discussed in the report.

4. Communications and Planning Approvals

As part of the Planning Application process, advertising of the project occurred from 5 July 2022 to 27 July 2022, which the community was also invited to view the proposal and provide feedback. No objections were received.

Project communications have been established on the Conversations Merri-bek website and this will continue to be updated with relevant project information. This includes information about the closure period.

The closure period will also be promoted using hard and soft copy newsletters, digital displays in Centre, Council social media posts and a closure of Centre event.

5. Declaration of Conflict of Interest

Council Officers, external consultants and all other parties involved in the tender process completed and signed Conflict of Interest declaration forms. The forms were reviewed by the Probity Advisor and no material conflicts of interest were declared.

6. Financial and Resources Implications

Project cost

Based on the tender construction cost, the overall project cost is outlined in the following table.

Building Works Contract	\$29,892,185	
Provisional Sum	\$440,000	
Total Recommended Tender Cost (ST-2022-307)		\$30,332,185
Professional fees	\$1,614,937	
Other costs- including FFE	\$279,444	
Total non-construction cost		\$1,894,381
Contingency	\$4,549,828	
Total Project Cost		\$36,854,434

This compares to the most recent estimate by the Quantity Surveyor (prior to tendering) of \$35,567,307. The cost of building works above has been further analysed by the Quantity Surveyor and is assessed to be competitive.

Contingency

Building and geotechnical condition assessments were undertaken prior to design documentation:

- The Fawkner outdoor pools have surpassed their serviceable lifespan and have been leaking for many years. This has left many unknowns and risks associated with ground conditions under the pool shells. Geotechnical testing was taken around the perimeter of the pools which support the current design. Further geotechnical testing under the pool shell will be required following decommissioning. This will determine if changes in design are needed and the potential requirement of piles to ensure pool shell stability.
- The filter beds for the outdoor pools are nearing 60 years of age and may contain asbestos. This may impact the demolition methodology and timelines.
- Due to the corrosive nature of an aquatic environment, there are still potential risks associated with latent building condition which will need to be addressed during the construction.

A 15 per cent contingency has therefore been allocated to this project to ensure adequate coverage of potential variations mentioned above.

Value management was undertaken during the design phase. The scope of works has been managed to reduce the costs as much as possible while still delivering the agreed scope of Stage 1. Even with the scope changes, recent cost escalations have placed further pressure on the budget and additional funding is required (see Financial Implications section).

Funding strategy

The funding strategy for the project included a \$8 million low interest loan from Treasury Corporation Victoria which was facilitated through Sports and Recreation Victoria (SRV) and has a 50 per cent subsidy on the interest. The project has also attracted a \$500,000 Australian Government contribution through an election commitment. The remaining funds required will come from the Significant Projects Reserve with additional draw on rates funding if required.

The below funding table reflects 2022-2026 adopted budget figures in the 4-year capital works program, as well as a carry forward of funds from the previous financial year.

Funding Sources – 2022-2026 Capital Works Program	Amount \$
Significant Projects Reserve	\$19,737,609
Australian Government commitment	\$500,000
Low interest loan - SRV	\$8,000,000
Total	\$28,237,609
Total Project Cost	\$36,854,434
Shortfall	(\$8,616,825)

The proposed funding table is to be reflected in the 2023-2027 4-year capital works program.

Funding Sources – 2023-2027 Capital Works Program	Amount \$
Significant Projects Reserve	\$25,790,085
Developer Contributions Plan Reserve	\$2,564,349
Australian Government commitment	\$500,000
Low interest loan - SRV	\$8,000,000
Total Project Cost	\$36,854,434

The report is seeking an increase in the budget for Fawkner Leisure Centre Redevelopment Project from \$28,237,609 to \$36,854,434 in the 4-year capital budget. The shortfall of \$8,616,825 is to be funded as follows:

- A further \$6,052,476 from the significant project reserve
- A contribution of \$2,564,349 from the Developer Contributions Plan Reserve (noting that this project has been added as a substitution project into the Developer Contributions Plan)

With Council's approval of these funding allocations, they will be locked into the 2023-2027 budget as indicated at recommendation 5.

7. Implementation and Timeline

It is proposed that the CEO be authorised to do all things necessary to execute the contract/s and any other required documentation.

The contract will be executed as soon as possible following Council's decision.

The construction is programmed for commencement in April 2023 with completion in prior to the 2024-25 summer season.

Pool opening impacts

Fawkner Leisure Centre will close on Friday 7 April 2023. A four-week decommissioning of the site will then occur with works to commence 1 May 2023. The construction will be completed prior to the commencement of the 2024/25 outdoor pool summer season.

CB Smith Reserve stakeholders have been consulted and arrangements have been made to mitigate any impacts the works may have. Officers are working with the YMCA Centre Management and have developed a detailed communication plan for the closure period. This includes surveying of members to confirm alternative options during the closure and use of Council's other five Centres, hard and soft copy newsletters, digital displays in Centre, the project page on Conversations Merri-bek, Council social media posts and a closure of Centre event.

Attachment/s

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|---|--|------------|
| 1 | Fawkner Leisure Centre Redevelopment - ST 2022-307 Tender Assessment Report | D22/559077 |
| | <i>Pursuant to section 3(1)(g(ii)) of the Local Government Act 2020 this attachment has been designated as confidential because it relates to private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.</i> | |
| 2 | Probity Report - Fawkner Leisure Centre | D22/568977 |
| | <i>Pursuant to section 3(1)(g(ii)) of the Local Government Act 2020 this attachment has been designated as confidential because it relates to private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.</i> | |