



**13.6** **PALAIS THEATRE AND LUNA PARK PRECINCT  
REVITALISATION - CONSTRUCTION CONTRACT TENDER  
AWARD**

**EXECUTIVE MEMBER:** **CHRIS CARROLL, GENERAL MANAGER, CUSTOMER,  
OPERATIONS AND INFRASTRUCTURE**

**PREPARED BY:** **LACHLAN JOHNSON, EXECUTIVE MANAGER CONSTRUCTION,  
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**SARAH BUFTON, PROJECT OFFICER ASSET MANAGEMENT  
AND PROPERTY**

**1. PURPOSE**

- 1.1 To present the report of the Tender Evaluation Panel (TEP) for the Palais Theatre & Luna Park Precinct Revitalisation – Construction Contract and recommend awarding of the contract to Connell Design & Construction P/L.
- 1.2 Following an extensive community consultation and engagement process and the consideration of submissions, to present the formal closure of the Lower Esplanade for endorsement.
- 1.3 To request Council approval to allocate savings from other capital works projects to increase the funding allocated to the Palais Theatre and Luna Park Precinct Revitalisation project by \$268,984.23 to increase project contingency and allow for the provision of the hostile vehicle mitigation bollard sculptural sheaths.

**2. EXECUTIVE SUMMARY**

- 2.1 The Palais Theatre and Luna Park Precinct Revitalisation project will incorporate Hostile Vehicle Mitigation (HVM) with significant amenity upgrades to improve the public realm surrounding the Palais Theatre and Luna Park.
- 2.2 In March 2020, this project received \$1.3 million in funding from the Department of Environment Land Water and Planning (DELWP) as part of the Local Parks Program for construction of the Palais Theatre plaza. Council has committed a further \$2.55m to the project, bringing the project total to \$3.8 million (Ex.GST) for design and construction in the 2021/22 and 2022/23 financial years.
- 2.3 Council has recently conducted a procurement process to appoint a contractor for this iconic project. This report outlines the procurement process and recommends that Council award a contract for construction to Connect Design & Construction P/L for a lump sum of \$3,708,570.97 (Inc.GST).
- 2.4 Whilst the recommended tenderer's price is within the project budget, it is recommended that Council reallocate savings from other projects to increase the



overall project budget by \$268,984.23 (Ex.GST or \$295,882.65 Inclusive of GST) to a total of \$4,536,061.45 (Inc. GST) to provide additional contingency capacity and fund the provision of the sculptural bollards for the project.

- 2.5 The creation of the Palais Theatre plaza will require a change of road function for a section of Lower Esplanade, partially closing the road and changing the current one-way road to a two-way road. Changes to the existing parking arrangements will also be required. The proposed Lower Esplanade partial road closure and other alterations are an integral component of the Palais Theatre and Luna Park Precinct Revitalisation project. The formal process to close the part of the road requires community engagement and application to the Department of Transport (DoT).
- 2.6 The formal process to consider partially or fully close roads commenced on 8 December 2021 and involved a statutory community notification process, inviting community members to make a submission to the proposed road closure. The submissions deadline for written submissions was 5 pm on 23 January 2022. A total of six-written submissions were received between 15 December 2021 and 23 January 2022. Council formally received and considered these submissions at its meeting on 16 March 2022.
- 2.7 Following this consultation and submission period, this report seeks Council formal approval to close the Lower Esplanade.

### 3. RECOMMENDATION

That Council:

- 3.1. Approves the allocation of \$268,984.23 (Ex.GST or \$295,882.65 Inclusive of GST) to the Palais Theatre & Luna Park Precinct Revitalisation Project from savings from other capital works projects to fund the delivery of the project.
- 3.2. Notes the revised total project budget is \$4,536,061.45 (Inclusive of GST)
- 3.3. Awards the contract for the construction of the Palais Theatre & Luna Park Revitalisation to Connell Design & Construction Pty Ltd for \$3,708,570.97 (Inclusive of GST).
- 3.4. Authorises the CEO to approve variations to the contract value within the approved project budget.
- 3.5. Affixes the Common Seal of Port Phillip City Council to the contract between Council and Connell Design & Construction Pty Ltd.
- 3.6. Notes that the works are expected to take 28 weeks, with full access to the community to the site by November 2022.
- 3.7. Extends its gratitude to all tenders that made submissions to the public tender, noting the high quality of submissions received.
- 3.8. Having given consideration to the submissions from the community resolves to close the Lower Esplanade, St Kilda and to change the road function of the Lower Esplanade, converting from the current one-way configuration to a two-way roadway.



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### 3. KEY POINTS/ISSUES

- 3.1 The Palais Theatre & Luna Park Precinct Revitalisation project will create a new park for the City of Port Phillip, providing an iconic landscape outside two of the municipality's most iconic and well recognised buildings.
- 3.2 The project incorporates hostile vehicle mitigation (HVM) providing a safe open space associated with significant amenity upgrades to improve the public realm surrounding the Palais Theatre and Luna Park.
- 3.3 In March 2020, the project received \$1.3 million in funding from the Department of Environment, Land, Water & Planning (DELWP) as part of the Local Parks Program for the construction of the plaza outside of the Palais Theatre. Council committed a further \$2.5 million to the project, bringing the total project budget to \$3.8 million for the design and construction of the project across the 2021/22 and 2022/23 financial years.
- 3.4 The creation of the plaza requires a change in road function for a section of the Lower Esplanade, partially closing the road and changing the current one-way road into a two-way road. The project also includes changes to the existing parking arrangements in the area. These road network changes are vital to enable the delivery of the project. These changes have been the subject of a formal road closure consultation process with the community and engagement with the Department of Transport.
- 3.5 Concurrently, Council has been finalising the design and preparing to appoint a construction contractor for the project with the aim to complete the works over the winter period when the area is generally quieter.

#### Procurement

- 3.6 A public tender for the construction of the project was advertised on Saturday 18 December 2021 for a period of eight (8) weeks and closed on Friday 11 February 2022 after a one (1) week extension was granted via addendum (no. 2) which was issued on 25 January 2022.
- 3.7 The composition of the Tender Evaluation Panel (TEP) is showing Table One:



Table One: Composition of TEP	
Name	Title (Role)
Christopher Cook	Coordinator Open Space Projects (TEP Chairperson)
Joe Gangi	Project Manager (TEP Member)
Kimberley Harrison	Acting Head of Asset Management (TEP Member)
Sarah Bufton	Acting Coordinator Open Space & Recreation Portfolio (TEP Member)
Stacey Maitland	Procurement & Contracts Business Partner (TEP Member)

- 3.8 All TEP members signed the standard form indicating that they had no conflicts of interest to declare and that they would keep the tender information confidential.
- 3.9 To support the TEP, Prowse Quantity Surveyors and Pollen Landscape Architects were appointed to provide technical advice throughout the tender period.
- 3.10 The following criteria were established prior to the tender being advertised

Table Two: Tender Evaluation Criteria	
Filter Criteria	Pass/Fail
Third Part Accredited OH&S Management System	Pass/Fail



Third Party Accredited Environmental Management System	Pass/Fail
Third Party Accredited Quality Management System	Pass/Fail
Criteria	Weighting (%)
Price	50
Relevant experience and track record	20
Capacity to meet the requirements of the specification	20
Corporate Social Responsibility	10

3.11 Four (4) submissions were received. A summary of the submissions for each conforming tenderer are outlined in the following table.

Table Three: Tenders Received			
No.	Tenderer's Name	Price (Inclusive of GST)	
1	Tenderer A	\$	4,398,315.90
2	Connell Design & Construction Pty Ltd	\$	3,616,061.95
3	Tenderer C	\$	4,986,628.24
4	Tenderer D	\$	5,291,770.41

3.12 One tender was found to be non-conforming as they did not meet the mandatory criteria for having a third part accredited OH&S Management System, Quality Management System and Environmental Management System in place.

3.13 The TEP resolved that based on the submissions, it was not possible to score each tenderer without seeking clarifications. As such, tender clarifications were sought from all three conforming tenderers on 16 March 2022 and closed on 17 March 2022. The TEP resolved to grant an extension of time to receive clarifications to 18 March 2022.

3.14 Tenderer A did not submit their clarification by the ended deadline. The TEP resolved to accept their clarifications by 12pm, 21 March 2022. This decision was made in accordance with clause 5.2 of the Tender Conditions.

3.15 The TEP resolved to interview all three conforming tenders. Interviews with the three conforming tenderers, Tenderer A, Connell Design & Construction Pty Ltd and Tenderer C demonstrated that Tenderer A had a superior understanding of the specification and were able to expand on their capacity to meet requirements of the contract. Additionally, they demonstrated a clear understanding of the site-specific



constraints, particularly around access to surrounding businesses, traffic management and site management.

- 3.16 Connell Design and Construction Pty Ltd had an adequate understanding of the project complexity, but demonstrated a genuine commitment to working with Council officers to deliver the project in a manner that reduced the impact on stakeholders and achieved a positive outcome.
- 3.17 Tenderer C demonstrated an adequate to moderate appreciation for the complexities of the project but had a very good track record of delivering projects of a similar type and of working with stakeholders.
- 3.18 The TEP considered the tender submissions, responses to tender clarifications and interviews as part of their assessment and scoring. The evaluation scores are set out in the following table.

Table Five: Tender Scoring		
No.	Tenderer’s Name	Score (Out of 1,000)
1	Tenderer A	781.1
2	Connell Design & Construction Pty Ltd	790.0
3	Tenderer C	742.6
4	Tenderer D	Non-Conforming

- 3.19 Prowse Quantity Surveyors advised the TEP that the offers from Tenderer A and Connell Design & Construction Pty Ltd are in alignment with expected open market responses at the time of the year. Tenderer A’s tendered price was considered a safe but competent offer, whilst Connell Design & Construction Pty Ltd was considered a fair offer. Based on the scoring, the TEP resolved to shortlist the tenderers with the top two highest overall scores for further assessment.
- 3.20 The TEP resolved to seek a Best & Final Offer (BAFO) from Tenderer A and Connell Design & Construction Pty Ltd on 30 March and close the submission period on 31 March 2022. As part of the BAFO process, tenderers were requested to include separate cost items for 200mm thick concrete pavement and 150mm thick pavement. Pricing for the 150mm thick concrete only provided marginal savings and the TEP resolved to include the thicker pavement as part of the lump sum price. Prices from the BAFO process are summarised in the following table.



Table Four: Pricing Table (Post-BAFO)			
No.	Tenderer's Name	Price (Inclusive of GST)	
1	Tenderer A	\$	4,519,995.17
2	Connell Design & Construction Pty Ltd	\$	3,708,570.70

- 3.21 Both shortlisted tenderers increased their prices from their original tendered lump sum offer as a result of clarifications throughout the tender process and material increases. The final adjusted evaluation scores are as follows
- 3.22 The TEP concluded that the submission from Connell Design & Construction Pty Ltd provided the best overall value to Council to deliver the project.

#### Financial Analysis

- 3.23 The price from Connell Design & Construction Pty Ltd is within the adopted budget for the project allowing for a ten percent contingency.
- 3.24 Based on the assessment process, the TEP recommend that Council give consideration to increasing the project budget to allow for a higher contingency going into construction. This approach is likely to enable better management of site risks and latent conditions during the construction period.
- 3.25 The financial viability of Connell Design & Construction Pty Ltd was checked in accordance with Council's standard procedures. A standard D&B Illion report confirmed that the company was identified as having a Low Risk of Failure.

#### Reference Checks

- 3.26 The preferred tenderer, Connell Design & Construction Pty Ltd have recently undertaken major projects for The City of Port Phillip including the construction of the South Melbourne Life Saving Club.
- 3.27 Reference checks were undertaken with representatives from the City of Glen Eira who raised no concerns with Connell Design & Construction Pty Ltd. They spoke of the tenderers record of delivering on time and the quality of working relationships. They noted that some civil works are often subcontracted but that the subcontracted work remains of a high standard.
- 3.28 The references raised no concerns with engaging the preferred tenderer for future works.

#### Recommendation

- 3.29 It is recommended that Council award the construction contract for the Palais Theatre & Luna Park Revitalisation project to Connell Design & Construction Pty Ltd.

#### Road Closure

- 3.30 In December 2021, Council indicated its intent to consider closing the Lower Esplanade outside of the Palais Theatre to facilitate the construction of the new pocket park and plaza as part of the Palais Theatre & Luna Park Precinct Revitalisation project.



- 3.31 Council called for submissions from the community which closed on 23 January 2022. At its meeting of 16 March 2022, Council received the six submissions. The submissions covered the following topics and themes:
- a) Concerns with the enforcement of on-street parking spaces
  - b) Concerns about the noise and disruption impacts associated with the works
  - c) The suggested need for the provision of underground parking
  - d) Recommendations to fully close Cavell Street at the Upper Esplanade
  - e) The need for solar powered lighting to be delivered as part of the project
  - f) Concerns about the St Kilda Triangle parking area
  - g) Support for the proposal to improve pedestrian safety
- 3.32 Many of the submissions contained recommendations, suggestions and considerations for the broader revelation project and were not specific to the road closure process. Where possible, officers have been able to incorporate feedback and input into the finalisation of the design for the revelation process.
- 3.33 Officer responses to each of the matters raised in the submissions were considered and endorsed by Council at its meeting on 16 March 2022.
- 3.34 Having given consideration to the submissions, officer responses and the final project design and construction program, it is recommended that Council proceed with formally closing the Lower Esplanade.

#### **4. CONSULTATION AND STAKEHOLDERS**

- 4.1 In February 2020, Councillors supported the concept design for the Palais Theatre and Luna Park Precinct revitalisation project, which represented the precinct design in its current form, but also included other proposed design elements, notably the southern section of Cavell Street (palm tree planting).
- 4.2 Following a review of the project scope and budget in early 2021, a change of scope was supported by Councillors at the May 26 Councillor briefing, which provided additional funding to deliver the project in the 2021/22 and 2022/23 financial years.
- 4.3 The community has been engaged through an 'inform' approach for the project, which commenced in April 2020. Information on the concept design, including an animated video and renders, was provided on Council's website and social media platforms.
- 4.4 The project webpage and Council's Have Your Say website have been updated with the latest project information.
- 4.5 Specific engagement has been undertaken throughout the project with the foreshore traders and the operators of the Palais Theatre, Luna Park and the Esplanade Market.

#### **5. LEGAL AND RISK IMPLICATIONS**

- 5.1 The recommended tenderer holds public liability insurance, contract works insurance, professional indemnity insurance and workers compensation insurance equal to, or in excess of that specified in the tender terms and conditions.





- 5.2 A risk to the successful delivery of this project is the condition of the DELWP grant funding, as construction must be completed by 30 November 2022. If this timeline is not achieved, Council runs the risk of having the grant withdrawn. To help mitigate this risk, a number of processes are being run in parallel to expedite the project, this includes the construction contract award, the formal closure of the road and a statutory planning process.
- 5.3 The Palais Theatre and Luna Park Precinct Revitalisation project is reliant upon the closure of Lower Esplanade, as it is a key project component. This process is a joint process between Council and the Department of Transport (DoT). Council’s decision to close the road, and change its function, as per this report, will inform the final administrative process with DoT to enact the closure. Should the road closure process be delayed or not approved, this will impact the construction timeline.
- 5.4 A town planning permit is required before construction can start. The town planning application process is underway. In addition to the proposed precinct design, it will consider the outcomes of the road closure process and other changes to road functions.
- 5.5 The town planning and road closure processes are running concurrently, as such project information provided to the community is referring to these processes where possible to provide consistent messaging.
- 5.6 Subject to the approval and completion of the road closure process, further Council endorsement will be sought to remove the road from the City of Port Phillip Register of Public Roads pursuant to section 17(4) of the Road Management Act 2004 and to undertake the statutory procedures required to discontinue this road in accordance with clause 3 of Schedule 10 of the Local Government Act 1989. This process includes a further public notice period.

**6. FINANCIAL IMPACT**

- 6.1 The recommended tenderer’s price is \$3,708,570.70 (Inclusive of GST) falls within the existing project budget.

Budget allocated (2021/22)	\$3,854,708.00 (Ex.GST)
Current Spend (2021/22)	\$ 138,115.00 (Ex.GST)
<b>Total Remaining (2021/22)</b>	<b>\$3,716,553.00 (Ex.GST)</b>
Proposed Contract Value	\$3,371,428.97 (Ex.GST or \$3,708,570.70 Inc)
Contingency (10%)	\$ 337,141.63 (Ex.GST)
<b>Total Budget Required</b>	<b>\$3,708,570.70 (Ex.GST)</b>

- 6.2 The current project budget excludes provision for the specialist manufacture and fabrication of the feature sculptural hostile vehicle mitigation bollards included in the



project. An additional \$100,000 (Ex.GST) is required to fund this element that is to be procured from an industrial designer/fabricator.

- 6.3 As outlined in the TEP's assessment, it is also recommended that Council give consideration to increasing the budget for the project to provide additional contingency to help mitigate any financial risks encountered during construction. This includes managing latent conditions.
- 6.4 Increasing the contingency to 15% from the standard 10%, and allowing for the separate procurement of the feature HVM bollards, requires additional funding of \$268,984.23 (Ex.GST).

## 7. ENVIRONMENTAL IMPACT

- 7.1 The construction of the project will deliver improved environmental outcomes in the local area. The project involves the removal of hard asphalt pavements and the replacement, in part, with garden beds, grassed areas and trees.
- 7.2 The nature of the works will reduce the urban heat island effect in this exposed area and help to provide some shade and green space.
- 7.3 The recommended tenderer provided a number of examples in their submission and interview that highlight their commitment to acting in a sustainable and environmental conscious manner. These included:
  - a) Having and maintaining third-party accreditation for environmental management including the setting of targets and continual measurement towards achieving them. One example provided was a 90% reduction in potable water use for hard surface wash-down and construction related cleaning.
  - b) As part of the recommended tenderer's third-party environmental accreditation they demonstrated a clear commitment to local sourcing, reducing the volume of demolition material and its diversion to recycling streams at source.
  - c) The recommended tenderer also demonstrated a commitment to active transport.

## 8. COMMUNITY IMPACT

- 8.1 The project will provide significant improvements to the precinct through the creation of new public space, notably by converting a part of Lower Esplanade to a public plaza.
- 8.2 The inclusion of HVM measures will mitigate the hostile vehicle risk to crowds gathering at the precinct during events and peak holiday and tourist periods.
- 8.3 Throughout the procurement process, the preferred tenderer put forth a number of a CSR related commitments, these included:
  - d) That the contractor is a local Port Melbourne based contractor contributing to the City of Port Phillip economy.



- e) The tenderer has strong policies related to the recruitment, training and development of staff from varying professional and non-professional backgrounds from diverse cultural groups.
  - f) During tender interviews, the preferred tenderer outlined their approach to local procurement including how their approach was providing supply chain stability during a period of disruption.
  - g) Have a history of engaging local staff from disadvantaged social groups to provide pathways into the engineering and construction sector.
- 8.4 The awarded contractor, and officers, will continue to work with the Palais Theatre, Luna Park and local residents and traders to reduce the impact of the construction works. It is intended that by constructing the project across the quieter winter period and reopening before the summer peak, the impact on local stakeholders will be reduced.

## **9. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY**

- 9.1 The delivery of the Palais Theatre and Luna Park Revitalisation project is most aligned to Council's commitments under Strategic Direction – Liveable Port Phillip but also provides additional benefits.
- 9.2 The project will create additional open space for informal and formal use whilst at the same time mitigating any potential risks through the installation of hostile vehicle mitigation measures.
- 9.3 The project will additionally improve safety for pedestrians and vulnerable road users in the area.
- 9.4 The project contributes to the broader value of the local economy and cultural institutions.

## **10. IMPLEMENTATION STRATEGY**

### **10.1 TIMELINE**

- 10.1.1 Council resolves to close the Lower Esplanade & award the construction tender (April 2022)
- 10.1.2 Planning permit considered and issued (Subject to decision - April-May 2022)
- 10.1.3 Process with DoT to close the Lower Esplanade in-line with Council's decision.
- 10.1.4 Commencement of construction (May 2022)
- 10.1.5 Construction is required to be completed by 30 November 2022.

### **10.2 COMMUNICATION**

## ORDINARY MEETING OF COUNCIL – 06 APRIL 2022



10.2.1 Following final consideration and resolution of Council's decision to close the Lower Esplanade, Council's Have Your Say page and web page will be updated with the details of Council's decision.

10.2.2 A project webpage has been created to keep our community updated on project progress, from resolution of road closure until construction is completed. The webpage will include information about how to sign up for updates on the project's progress.

### 11. OFFICER DIRECT OR INDIRECT INTEREST

11.1 No officers involved in the preparation of this report have any material or general interest in the matter.

**ATTACHMENTS** Nil