

CONFIDENTIAL ITEMS 2003 – AUGUST 2024

#	Date	Item Title	Confidential Order Details	Item being kept confidential - Agenda/ Attachment/ Minutes	Reason regarding retention or recommend-action to release	Resolution Regarding Action	Last Review Date	Next Review Date	Date Released
242	6 May 2024	Recommendation to Award Laratinga Water Recovery Plant Single Early Contractor Involvement Procurement Transaction	<u>Section 90 (3) (b) Order</u> 1. Pursuant to Section 90(3)(b) Pursuant to Section 90(2) of the Local Government Act 1999 that Council orders that all members of the public except the Chief Executive Officer; Executive Manager; General Manager of Corporate Services; General Manager Infrastructure; Head of Wastewater; Manager Water Capital Delivery; Manager Water Operations; Wastewater Project Manager; and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.4 Confidential Item: Confidential Council Report LWRP Recommendation to Award sECI. The Council is satisfied that pursuant to Section 90(3) (b) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to prejudice the commercial position of the Council. In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of the information may prejudice Council's ability to be able to negotiate a contract with the preferred tenderer. <u>Section 91(7) Order</u> 5. Pursuant to Section 90 (3) (b) That having considered Agenda Item Agenda Item 18.4 Confidential Item: Recommendation to Award Laratinga Water Recovery Plant Single Early Contractor Involvement Procurement Transaction	Agenda Item and attachments and all minutes	The Council is satisfied that pursuant to Section 90(3) (b) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to prejudice the commercial position of the Council. In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of the	Agenda Item and attachments and all minutes be retained in confidence until such time as the council determines that this is no longer required and that this order be reviewed every 12 months.		Within 12 months	Report and Minutes released on website 26 August 2024

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			in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the Agenda Item and attachments and all minutes be retained in confidence until such time as the council determines that this is no longer required and that this order be reviewed every 12 months.		information may prejudice Council's ability to be able to negotiate a contract with the preferred tenderer.				

RELEASED

18.4 **REPORT TITLE:** **CONFIDENTIAL: RECOMMENDATION TO AWARD
LARATINGA WATER RECOVERY PLANT SINGLE
EARLY CONTRACTOR INVOLVEMENT
PROCUREMENT TRANSACTION**

DATE OF MEETING: **6 MAY 2024**

FILE NUMBER: **DOC/24/43374**

ATTACHMENTS: **1. DOC/24/49166 LWRP DECI TENDER
EVALUATION RECOMMENDATION MEMO
CONTRACT 2021.169
2. DOC/24/51384 LWRP STAGE 1 PROBITY
ADVISORS REPORT APRIL 2024**

Key Contact **Dean Hurford, Manager Water Capital Delivery**

Executive **Helen Edmonds, Head of Wastewater,
Wastewater**

Community Plan 2020-2035:

Ecological Sustainability

Objective 5.1

Continue to build on Council's reputation as a leader in wastewater management

Wastewater Service Annual Business Plan:

Purpose:

1. To seek endorsement to include an additional step in the procurement transaction for single early contractor involvement (sECI) and;
2. To seek endorsement to engage the preferred tenderer to undertake sECI services for the Laratinga Water Recovery Plant (LWRP) project and;
3. Give delegation to the Chief Executive Officer to negotiate and sign a sECI agreement with the preferred tenderer for sECI services;

Summary – Key Issues:

4. The LWRP dual early contractor involvement (dECI) procurement transaction process is complete and the next step is to progress to a sECI procurement process prior to letting of a contract for design and construct (D&C) contract;
5. The sECI phase will finalise outstanding technical and commercial risks and opportunities, providing certainty for Council in relation to cost, time, scope and planning consent risk;

6. Delays in the procurement process will impact on the commencement of the construction of the LWRP and result in financial and environmental risk to Council.

Recommendation:

Section 90 (3) (b) Order

1. Pursuant to Section 90(3)(b)

Pursuant to Section 90(2) of the Local Government Act 1999 that Council orders that all members of the public except the Chief Executive Officer; Executive Manager; General Manager of Corporate Services, General Manager Infrastructure, Manager Financial Services; Head of Wastewater, Manager Water Capital Delivery, and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.4 Confidential Item: Confidential Council Report LWRP Recommendation to Award sECI

The Council is satisfied that pursuant to Section 90(3) (b) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to prejudice the commercial position of the Council.

In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of the information may prejudice Council's ability to be able to negotiate a contract with the preferred tenderer.

That Council:

2. Endorse the change in the procurement transaction process to include an additional step from dECI to sECI prior to letting of a final D&C contract.
3. Endorse the recommendation to invite Harmony Water Consortium to undertake sECI services for the LWRP project procurement;
4. Give delegation to the Chief Executive Officer to negotiate and sign an sECI agreement with Harmony Water for sECI services.

Section 91(7) Order

5. Pursuant to Section 90 (3) (b)

That having considered Agenda Item 18.4 Confidential Item: Updated Prudential Report on Laratinga Water Recovery Plant Stage 1 in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the Agenda Item and attachments and all minutes be retained in confidence until such time as the council determines that this is no longer required and that this order be reviewed every 12 months.

Background:

1. In 2021, the Wastewater Service team commenced the planning, evaluation and selection of a procurement delivery strategy for the LWRP project
2. In March 2022, IDSM Pty Ltd were engaged to deliver specialist procurement advice and transaction management services for the LWRP project.
3. At the May 2022 meeting, Council endorsed the recommendation for dual early contractor involvement (dECI) as the preferred procurement strategy.
4. At the December 2022 meeting, Council endorsed the delegation for the Chief Executive Officer to award and execute a contract for the LWRP (dECI) procurement.
5. In March 2023, Harmony Water Consortium and GOLD JV were awarded a contract to participate in the LWRP dual early contractor (dECI) procurement transaction process.
6. In April 2023, a dECI procurement process commenced which included workshops, development of the principles project requirements (PPR) documentation, risk management, development and evaluation of concept designs.
7. In October 2023, the dECI procurement process was completed and Harmony Water Consortium and GOLD JV were requested to submit tenders for a design and construct contract.
8. In November 2023, the dECI tender period closed and technical and commercial evaluation of offers from Harmony Water and GOLD, in accordance with the approved tender evaluation plan, commenced.
9. Prior to the completion of the evaluation, the LWRP procurement transaction team identified an unacceptable number of technical and commercial risks / departures therefore recommended the addition of a single early contractor involvement (sECI) procurement transaction step prior to letting of a D&C contract.

10. At the 25 March 2024 confidential Council briefing session, the Wastewater Service team provided Council with a progress update on the history of the LWRP procurement transaction, outlining the work undertaken and advised of the proposed change to the procurement strategy which included an additional procurement transaction step from dECI to sECI.
11. Evaluation of the LWRP tenders including technical and commercial assessment was completed by 4th April 2024 and on the 5th April 2024, the tender evaluation panel convened at a tender selection meeting Chaired by the Head of Wastewater. In attendance was a representative of O'Connor Marsden to monitor probity.
12. At the 5th April 2024 tender evaluation panel meeting, the LWRP evaluation panel members recommended Harmony Water as the tenderer to invite to undertake negotiations to enter into a sECI procurement transaction.

Discussion:

13. The selection of the tenderer was based on the 5 April 2024 tender evaluation meeting and summary report prepared by the procurement transaction lead John Davis. The report provided a summary of high and very high residual risks including the capital and operational adjusted pricing for each tenderer.
14. The determination of high and very high risks was based on technical and commercial assessments supported by the procurement transaction team subject matter experts (SME's).
15. The risk adjusted pricing process ensures that the tender evaluation delivers an overall total comparative cost based on 'like for like' for the respective tenders.
16. Examples of high or very high risks that price adjustments were applied to included;
 - a. Capex adjusted (e.g. structural design, bio-reactor sizing, odour control, planning consent impacts)
 - b. Power use 15 year PV
 - c. Resilience value adjustment
17. A tender evaluation panel report based on the outcomes of the SME risk evaluation process has been prepared by the procurement transaction lead John Davis and subsequently endorsed by the evaluation panel members including a recommendation to commence negotiations to undertake sECI services.
18. The LWRP procurement transaction team is recommending that Council proceed with negotiations with Harmony Water and that Council and Harmony Water enter into an sECI agreement based on the following negotiated outcomes;

- a. agree to the principles in the sECI arrangement, including the risk close-out process, the price checking process with Sempac and technical / commercial consensus;
 - b. agree to the sECI deed;
 - c. agree to the scope of work for the sECI phase;
 - d. agree to the program of work implementation for the sECI phase;
 - e. agree to the commercial terms;
 - f. agree to the sECI upper limit fee and payment terms;
19. The objectives of the sECI are to work closely, actively and collaboratively engage with the contractor to;
- a. action the risk register for planned close-out of all issues
 - b. close out all remaining PPR issues to agreed positions.
 - c. close out all remaining commercial issues to agreed positions.
 - d. reduce the nominal D&C price (tendered amount plus disclosed Council contingency assessed in tender evaluation) through collaborative value engineering and develop the Contractor's design and construction planning to the extent that:
 - e. the design and related solutions are suitable for submission, with a high degree of confidence, for Planning Consent
 - f. the design is subsequently modified, as necessary to meet the Planning Consent conditions, and the price adjusted accordingly so that;
 - g. the sECI Contractor can offer a firm price in accordance with the agreed PPR and GCs, to be submitted to Council for acceptance and pending formal decision, proceed to execute the D&C contract for construction
20. The majority of the work undertaken in the sECI process is what would normally be undertaken during a D&C phase including the delivery of a 30% design however the key advantage is that the principal (Council) and the contractor work together during the sECI to close out risk and uncertainty and reach an agreed position for scope, time and cost prior to committing to the main D&C construction contract.
21. Similar to the concept of the dECI process, Harmony Water would be paid for their input and deliverables during the sECI which would become the intellectual property of Council.
22. Following endorsement by Council to enter into an sECI agreement, the following key actions will be undertaken;
- a. The project procurement transaction team completes any outstanding sECI planning and administrative matters;

- b. A tender evaluation recommendation report is finalised by the evaluation panel team detailing the outcomes from the sECI phase including the recommendation Council to enter into an sECI agreement with Harmony Water;
 - c. Following the signing of the sECI agreement, a non-confidential information report (public) will be prepared for Council;
 - d. At the completion of the sECI phase, forecast to take 4-6 months, the project procurement transaction team and the tender evaluation team will prepare a report which will include details of final scope, program, cost, risk;
 - e. A Council report will be prepared recommending to award a D&C contract and endorsement for the Chief Executive Officer to finalise negotiations and sign tender documents.
23. Harmony Water is a consortium consisting of four companies;
- a. McMahon Services Australia Pty Ltd (SA) – principal contractor;
 - b. Aquatec Maxcon (QLD) – wastewater technology & equipment;
 - c. Waternish (SA) – construction, design, management;
 - d. Tonkin (SA) – principal engineer.
24. The Harmony Water proposed design is based on Nereda Technology developed by Royal HaskoningDHV which is used globally in wastewater plants globally and is in use in Australian plants in the eastern states.
25. The recommendation to proceed with Harmony Water Consortium was based on the following key criteria;
- a. Lowest CAPEX price adjusted cost;
 - b. Lowest annual operational cost (energy, chemical);
 - c. Highest added value for resilience;
 - d. Lowest residual risks (technical and commercial);

Community Engagement:

Informing only	Information is recommended to remain confidential until the Council determines that confidentiality is no longer required.
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Policy:

The tender process has been undertaken in accordance with Council's Procurement Policy and associated procedures.

Long Term Financial Plan:

The Wastewater Service Long Term Financial Plan and consolidated Council Long Term Financial Plan both reflect revenue and expenditure relating to the Project.

Budget:

The Wastewater Service 2024/25 budget includes provision for the LWRP project expenditure.

Statutory/Legal:

Local Government Act 1999

Section 7 Functions of a Council

The functions of a council include to provide infrastructure for its community and for development within its area

Staff Resource Requirements:

Implementation of the above recommendations can occur within existing budgeted staffing arrangements supplemented by the use of external contractors and consultants for activities such as survey and design development.

Project management will be resourced externally and Superintendent will be external consultant.

Environmental:

The above recommendations are consistent with the Council Environment Improvement Program and would have positive direct implications for the environment. Council's wastewater and recycled water objectives continue to feature environmental goals.

Social:

The project will deliver improved public and environmental health and generate employment through the construction industry.

Risk Assessment:

The Project Risk Management Plan will require regular review and updating with reporting for consideration at Audit and Risk Committee and council meetings as per the previously endorsed recommendation of the Committee.

Asset Management:

Council, via the Wastewater Service, will be responsible for the management of the new asset and the cost of operating and maintaining that asset. This is a key consideration as part of the procurement process.

Conclusion:

Endorsement of the above recommendations will enable the procurement process for this essential project to continue to progress.

Previous Decisions By/Information Reports to Council

Meeting Date	18 September 2023	CM Reference	DOC/23/118932
Title	Confidential item: Prudential Report on Wastewater Treatment Plant Upgrade Stage 1		
Purpose	For Council to receive and endorse the attached Prudential Report and Addendum to the prudential report on the wastewater treatment plant upgrade stage 1 (now named the Laratinga Water Recovery Plant) and note timing of decision making on award of the design and construct contract.		

Meeting Date	8 May 2023	CM Reference	DOC/23/50459
Title	TENDER AWARD FOR WASTEWATER PROJECT MANAGEMENT AND SUPERINTENDENT SERVICES		
Purpose	To gain Council's authority to award contract 2022.075 Wastewater Project Management and Superintendent Services to North Projects Pty Ltd ("Preferred Tenderer") for the tendered schedule of rates and an upper limiting fee of \$1.417 million excluding GST.		

Meeting Date	3 April 2023	CM Reference	DOC/23/15406
Title	LARATINGA WATER RECOVERY PLANT DUAL EARLY CONTRACTOR INVOLVEMENT CONTRACT AWARD		
Purpose	To provide an update on the status of the procurement process for stage 1 of the Laratinga Water Recovery Plant and the award of the Dual Early Contractor Involvement (dECI) contracts.		

Meeting Date	12 December 2022	CM Reference	DOC/22/155389
Title	CONFIDENTIAL ITEM: UPGRADE OF THE MOUNT BARKER WASTEWATER TREATMENT PLANT STAGE 1 - EXPRESSIONS OF INTEREST AND NAME		
Purpose	To: • provide an update on the status of the procurement process for the Mount Barker wastewater treatment plant upgrade stage 1; • seek endorsement for the Chief Executive Officer to award and execute documentation for the Early Contractor Involvement phase; and • seek endorsement for the proposed name of the new facility.		

18.4

REPORT TITLE:

**CONFIDENTIAL: RECOMMENDATION TO AWARD
LARATINGA WATER RECOVERY PLANT SINGLE
EARLY CONTRACTOR INVOLVEMENT
PROCUREMENT TRANSACTION**

DATE OF MEETING:

6 MAY 2024

FILE NUMBER:

DOC/24/43374

ATTACHMENTS:

**1. DOC/24/49166 LWRP DECI TENDER
EVALUATION RECOMMENDATION MEMO
CONTRACT 2021.169
2. DOC/24/51384 LWRP STAGE 1 PROBITY
ADVISORS REPORT APRIL 2024**

Moved Councillor Szilassy that Council:

Section 90 (3) (b) Order

1. Pursuant to Section 90(3)(b)

Pursuant to Section 90(2) of the Local Government Act 1999 that Council orders that all members of the public except the Chief Executive Officer; Executive Manager; General Manager of Corporate Services; General Manager Infrastructure; Head of Wastewater; Manager Water Capital Delivery; Manager Water Operations; Wastewater Project Manager; and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.4 Confidential Item: Recommendation to Award Laratinga Water Recovery Plant Single Early Contractor Involvement Procurement Transaction.

The Council is satisfied that pursuant to Section 90(3) (b) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to prejudice the commercial position of the Council.

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Seconded Councillor Voogt

CARRIED
OM20240506.40

Moved Councillor Jones that Council:

2. Endorse the change in the procurement transaction process to include an additional step from dECI to sECI prior to letting of a final D&C contract.
3. Endorse the recommendation to invite Harmony Water Consortium to undertake sECI services for the LWRP project procurement;
4. Give delegation to the Chief Executive Officer to negotiate and sign an sECI agreement with Harmony Water for sECI services.

Seconded Councillor Voogt

CARRIED
OM20240506.41

Moved Councillor Voogt that Council:

Section 91(7) Order

5. Pursuant to Section 90 (3) (b)

That having considered Agenda Item 18.4 Confidential Item: Recommendation to Award Laratinga Water Recovery Plant Single Early Contractor Involvement Procurement Transaction in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the Agenda Item and attachments and all minutes be retained in confidence until such time as the council determines that this is no longer required and that this order be reviewed every 12 months.

Seconded Councillor Jones

CARRIED
OM20240506.42

MEETING DECLARED CLOSED AT 9:35PM

MAYOR

DATE