

CONFIDENTIAL ITEMS 2003 – AUGUST 2025

#	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
240	6 May 2024	Tender Award Recommendation – Bituminous and Associated Works	<u>Section 90 (3) (b) Order</u> 1. Pursuant to Section 90(3)(b) of the Local Government Act 1999 the Council orders that all members of the public except Chief Executive Officer, General Manager Infrastructure, General Manager Corporate Services, Executive Manager, Head of Wastewater and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.2 Confidential Tender Award Recommendation - Bituminous and Associated Works. 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 confer a commercial advantage on a person with whom the Council is: - conducting business; or - proposing to conduct business; or - would 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 Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the	Council report, related documents 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 confer a commercial advantage on a person with whom the Council is: - conducting business; or - proposing to conduct business; or - would 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	Council report, related documents and all minutes be retained in confidence until all the works package contracts are executed with the Preferred Tenderers or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.		Within 12 months	<i>Report and Minutes released on website 14 October 2025</i>

CONFIDENTIAL ITEMS 2003 – AUGUST 2025

#	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
			Council and the community in this matter and in relation to other contract negotiations <u>Section 91(7) Order</u> 6. Pursuant to Section 90 (3) (b) That having considered Agenda Item 18.2 Confidential Tender Award Recommendation - Bituminous And Associated Works, 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 council report, related documents and all minutes be retained in confidence until all the works package contracts are executed with the Preferred Tenderers or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.		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 Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other contract negotiations				

18.2	REPORT TITLE:	CONFIDENTIAL ITEM: TENDER AWARD RECOMMENDATION - BITUMINOUS AND ASSOCIATED WORKS
	DATE OF MEETING:	6 MAY 2024
	FILE NUMBER:	DOC/24/36359
	ATTACHMENTS:	Nil
	<u>Key Contact</u>	Scott Thompson, Project Manager Infrastructure
	<u>Manager/Sponsor</u>	Michael de Heus, Manager Projects and Capital Delivery
	<u>Executive</u>	Phil Burton, General Manager Infrastructure

Community Plan 2020-2035:

Leadership and Good Governance

LGG 1.5 Demonstrate accountability through clear, relevant and easily accessible policies, corporate reporting and legislative compliance.

LGG 1.10 Adopt and apply a commercial approach to deliver projects, programs and services where enduring community value and benefit can be demonstrated.

Ecological Sustainability

ES Goal 1 Emissions reduction

ES Objective 1.1 Advocate for, showcase and encourage investment and take up of net zero emissions development and technology- assisted emissions reduction management systems.

ES Objective 1.2 Significantly reduce carbon and other greenhouse gas emissions in capital projects and operational practices.

ES Objective 1.3 Work towards 100% renewable energy.

ES Objective 1.4 Apply a high standard of built and operational sustainability performance in infrastructure projects of Council

Purpose:

To gain Council's authority to award three works package contracts for 2023.061 Bituminous and Associated Works.

Summary – Key Issues:-

- Since 2016 Council has been in Contract (CON 2015.032) for the provision of bituminous works with Downer EDI through the COSOL (Council Solutions) contract process, with the final extension of contract as part of the original tender process expiring on the 30 June 2024.

- Council requires a suitable qualified and experienced contractor or contractors to supply bituminous and associated works to support Council's forward infrastructure projects along with asset renewal and maintenance programs.
- Council has tendered three works packages for a 3 + 2 year period to the open market and now recommends the award of each individual works package to the respective Preferred Tenderers.

Recommendation:

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 the Council orders that all members of the public except Chief Executive Officer, General Manager Infrastructure, General Manager Corporate Services, Executive Manager, Head of Wastewater and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.2 Confidential Tender Award Recommendation - Bituminous And Associated Works.

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 confer a commercial advantage on a person with whom the Council is:

- **conducting business; or**
- **proposing to conduct business; or**
- **would 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 Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other contract negotiations.

2. **Authorises the award of the contract 2023.061 Bituminous and Associated Works for Works Package A – Minor Asphalt to AAA Asphalt (“Preferred Tenderer A”) at the Preferred Tenderer’s tendered schedule of rates.**
3. **Authorises the award of the contract 2023.061 Bituminous and Associated Works for Works Package B – Major Asphalt to Downer EDI (“Preferred Tenderer B”) at the Preferred Tenderer’s tendered schedule of rates.**
4. **Authorises the award of the contract 2023.061 Bituminous and Associated Works for Works Package C – Sprayed Bituminous Surfacing to Fulton Hogan (“Preferred Tenderer C”) at the Preferred Tenderer’s tendered schedule of rates.**
5. **Authorises the Chief Executive Officer or his delegate to undertake final contract negotiations and execute contract documents between Council and the Preferred Tenderer/s.**

Section 91(7) Order

6. **Pursuant to Section 90 (3) (b)**
That having considered Agenda Item 18.2 Confidential Tender Award Recommendation - Bituminous And Associated Works, 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 council report, related documents and all minutes be retained in confidence until all the works package contracts are executed with the Preferred Tenderers or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.

Background:

1. The Mount Barker District Council is committed to providing and maintaining infrastructure assets across the district through its annual capital and maintenance works programs which are endorsed each year as part of the annual business plan and budget.
2. Since 2016, Council has been in Contract (CON 2015.032) for the provision of bituminous works with Downer EDI through a Council Solutions (COSOL) joint procurement involving a number of Councils. The final extension of this contract is set to expire on the 30 June 2024.
3. Council have separately contracted minor asphalt works. The current contracts with AAA Asphalt and Roker Asphalt have been in place since 2021.

4. The previous regional subsidiary, COSOL, no longer provides joint procurement services.
5. Councils long term management plans identifies ongoing programs of work that will require external contractors to provide bituminous and associated works. This includes:
 - a) Sealed road renewal program
 - b) Road upgrades (various capital new and asset renewal)
 - c) Bituminous footpath and trail works
 - d) Bituminous maintenance and associated works
 - e) Sealed carpark works
 - f) Sealed shoulder widening (various capital new and renewal capital)
 - g) Roads to Recovery Program
6. The works packages were tendered for a period of three years with the option to extend for an additional 2 years. The tendered contracts are based on a schedule of rates with the total combined expenditure, for all three works packages over the 5 year period, estimated to be in excess of \$17 million.
7. All future expenditure is subject to yearly budget adoption by Council.

Scope of Works

8. In general, the bituminous portion each works relates to the installation of either asphaltic concrete or sprayed bitumen surfacing. The contract includes Associated Works which are works required to be able to facilitate the bituminous works and these can include:
 - a) Traffic control
 - b) Service locations and protection
 - c) Resident notifications
 - d) Cold milling (Profiling)
 - e) Pavement works, including; construction of a working platform, flexible pavement installation and in-situ stabilisation.
 - f) Crack sealing
 - g) Pavement marking (in respect to works under this contract)
 - h) Adjustments of service topstones

Procurement Strategy

9. Due to the varying nature of the bituminous and associated works required, the tender was issued via VendorPanel as per the following three works packages;
 - a) Works Package A: Minor Asphalt
 - b) Works Package B: Major Asphalt
 - c) Works Package C: Sprayed Bituminous Surfacing

10. This approach was undertaken to:
- a) Maximise the value for money for the size and type of works.
 - b) Increase the volume of resources contracted by Council for Bituminous and Associated works enabling greater flexibility for infrastructure delivery.
 - c) Ensure alignment of contractors with the required skillsets, business model and resources with the nature of works to deliver quality outcomes.
 - d) Explore the option of appointing a single contractor for all works packages or multiple contractors.

Tender Process

11. Pursuant to Council's Procurement policy an open market tender was issued to secure a suitably qualified Contractor(s) to undertake the works.
12. The request for tender ("RFT") was issued via VendorPanel on 22 February 2024 and closed on 27 March 2024. The following number of tenders were received for each works package:

a) Works Package A: Minor Asphalt	4
b) Works Package B: Major Asphalt	5
c) Works Package C: Sprayed Bituminous Surfacing	3

Evaluation Overview

13. The evaluation process comprised of assessment of the following financial and qualitative criteria with pre-determined weightings (as shown below) applied to each:
- a) Pricing (40%)
 - b) Organisation Structure/Management & Technical Skills/Resources (10%)
 - c) Similar experience (20%)
 - d) Delivery of Service Levels (20%)
 - e) Local business support (5%)
 - f) Sustainability & Innovation (5%)
14. The tenders were evaluated by an Evaluation Panel ("Panel") consisting of three Council staff with two internal advisors to the panel covering financial and operational interests.
15. The Panel evaluated the components of each tender in accordance with the Tender Evaluation Plan (TEP) supported by the Procurement Lead.
16. To enable a fair pricing comparison between tenderers, the panel chair documented ten financial scenarios for each individual works package prior to tender close. Each tender was costed against these scenarios for each works package. The total cost of these scenarios for each tenderer, factoring

in exclusions, were utilised to determine a scenario based cost comparison between tenderers.

17. The Panel's consensus non-financial scores along with the scores from the above cost assessment process, were then utilised to rank the tenderers in order of overall value for money considering all the items reflected within the Tender Evaluation Plan.

Basis of Decision

18. Following the comprehensive evaluation process and consideration of the views of the Panel, the Preferred Tenderers for each individual works package have been chosen on the following basis:

- a. The Preferred Tenderer for Works Package A (AAA Asphalt);
 - i. Offered the most competitive pricing for this package of works,
 - ii. Is the second highest scoring overall in the non-financial criteria. Whilst also providing the highest level of local business support for the Council's region,
 - iii. Provided convincing evidence of relevant experience. The preferred tenderer has a history of providing similar services to this Council to a required quality standard,
 - iv. Showed a clear understanding of intent and understanding of the terrain impacts within our district in relation to service level response.
- b. The Preferred Tenderer for Works Package B (Downer EDI);
 - i. Provided the most convincing tender in respect to the non-financial elements, scoring the highest in the non-financial criteria,
 - ii. Demonstrated very convincing experience and capacity in regards to their ability to meet the expectations of the contract.
 - iii. Provided clear sustainability and innovative practices that have the opportunity to assist Council in achieving its Environment Strategy whilst potentially reducing asphalt costs where applicable,
 - iv. Based on the evaluation criteria for the assessment of the tenders, the preferred tender is the highest ranking tender overall and is considered to provide the best value.
- c. The Preferred Tenderer for Works Package C (Fulton Hogan);
 - i. Offered the most competitive pricing for this package of works,

- ii. Demonstrated convincing experience and capacity in regards to the tenderers ability to meet the expectations of the contract. The resourcefulness shown with the tenderers experience reflects the contractors capability for greater optimisation of this works package.
- iii. Based on the evaluation criteria the preferred tender is considered by the panel to provide the best value.

Community Engagement:

Informing only	Council minutes
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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 tendered rates are not significantly at variance to current rates and accordingly will have no measurable impact on the Long Term Financial Plan.

Budget:

The award of these contracts is not committing Council to a contracted expenditure value. Works are identified and approved in Council's Annual Business Plan and Budget.

Statutory/Legal:

Council will enter into a binding works agreement contract with each preferred tenderer for each respective works package.

Staff Resource Requirements:

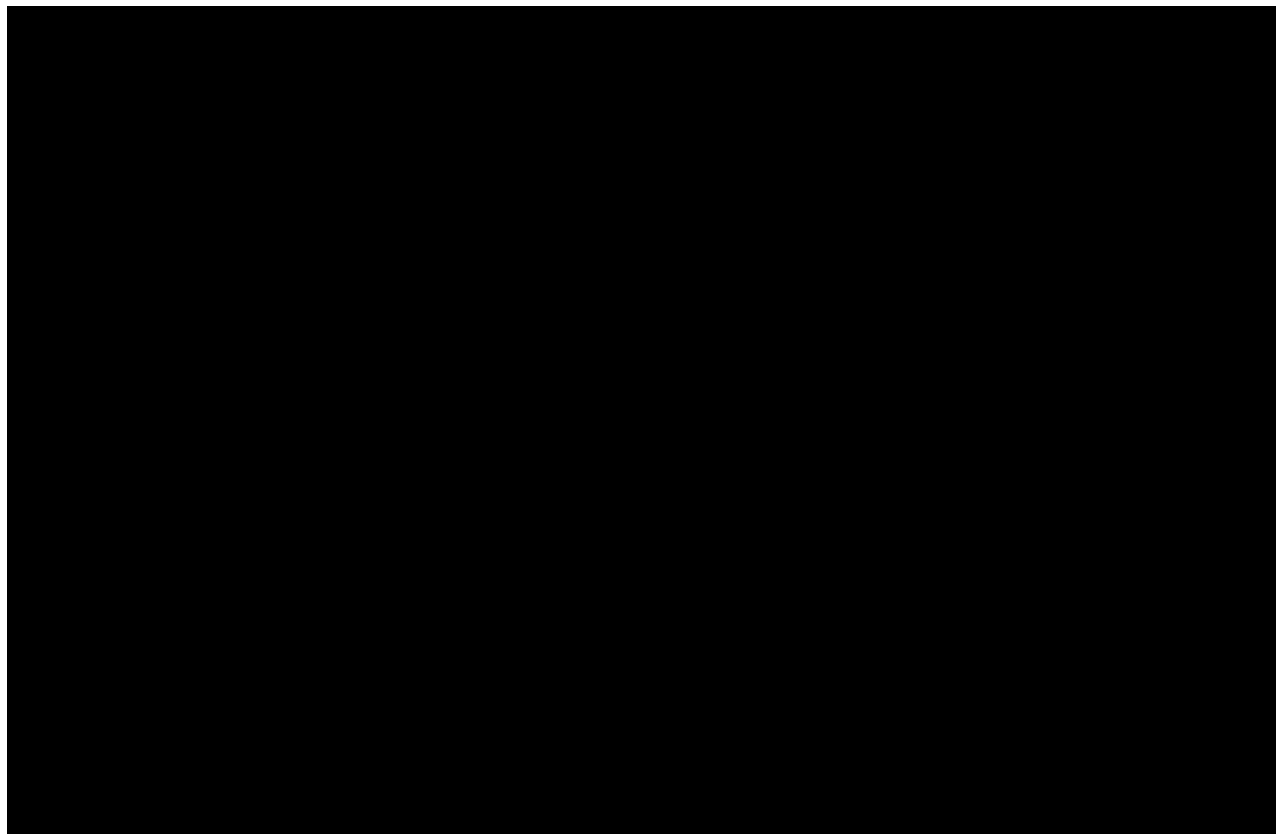
The award of these works packages can be achieved within existing staff resources.

Environmental:

Environmental benefit was a requirement in the tender documents and part of the overall evaluation process. Supply of bituminous works is one of Council's best opportunities to offsetting CO² emissions. Sustainability and Innovation was an active consideration throughout this tender process and was reviewed for how each tenderer could add value to Council.

Social:

The delivery of these work packages will contribute to the ongoing liveability of the district and community's wellbeing.



18.2 **REPORT TITLE:** **CONFIDENTIAL ITEM: TENDER AWARD
RECOMMENDATION - BITUMINOUS AND
ASSOCIATED WORKS**

DATE OF MEETING: **6 MAY 2024**

FILE NUMBER: **DOC/24/36359**

ATTACHMENTS: **Nil**

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 the Council orders that all members of the public except Chief Executive Officer, General Manager Infrastructure, General Manager Corporate Services, Executive Manager, Head of Wastewater and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.2 Confidential Tender Award Recommendation - Bituminous and Associated Works.

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Seconded Councillor Seager

CARRIED
OM20240506.31

Moved Councillor Seager that Council:

2. Authorise the award of the contract 2023.061 Bituminous and Associated Works for Works Package A – Minor Asphalt to AAA Asphalt ("Preferred Tenderer A") at the Preferred Tenderer's tendered schedule of rates.

Seconded Councillor Voogt

CARRIED
OM20240506.32

Moved Councillor Seager that Council:

3. Authorise the award of the contract 2023.061 Bituminous and Associated Works for Works Package B – Major Asphalt to Downer EDI ("Preferred Tenderer B") at the Preferred Tenderer's tendered schedule of rates.

Seconded Councillor Voogt

CARRIED
OM20240506.33

Moved Councillor Szilassy that Council:

4. Authorise the award of the contract 2023.061 Bituminous and Associated Works for Works Package C – Sprayed Bituminous Surfacing to Fulton Hogan ("Preferred Tenderer C") at the Preferred Tenderer's tendered schedule of rates.

Seconded Councillor Voogt

CARRIED
OM20240506.34

Moved Councillor Seager that Council:

5. Authorise the Chief Executive Officer or his delegate to undertake final contract negotiations and execute contract documents between Council and the Preferred Tenderer/s.

Seconded Councillor Voogt

CARRIED
OM20240506.35

Moved Councillor Jones that Council:

Section 91(7) Order

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

That having considered Agenda Item 18.2 Confidential Tender Award Recommendation - Bituminous And Associated Works, 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 council report, related documents and all minutes be retained in confidence until all the works package contracts are executed with the Preferred Tenderers or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.

Seconded Councillor Szilassy

CARRIED
OM20240506.36

