

CONFIDENTIAL BUSINESS – ORDINARY MEETING – 3 March 2025

2 Land Acquisition by Council - Part Lot 22 DP854096, 2-12 Bundarra Rd Regentville

55 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Edwin Mifsud

CW2 That:

1. The information contained in the report on Land Acquisition by Council - Part Lot 22 DP854096, 2-12 Bundarra Rd Regentville be received.
2. The following land be acquired by agreement under the Land Acquisition (Just Terms Compensation) Act 1991 (NSW) by authority contained in the Roads Act 1993 for the purpose of delivering improvements to the active transport network on Factory Road:
 - a) Part of Lot 22 DP 854096, 2-12 Bundarra Road Regentville being Lot 2 DP 1309524 having an area of 7.96sqm
3. The land be acquired in accordance with the monetary terms referred to in this report.
4. The acquisition is not for the purpose of resale.
5. Upon acquisition, Council dedicate the land as public road in accordance with Section 10 of the Roads Act 1993 (NSW).
6. The Common Seal of the Council of the City of Penrith be affixed to all documents as required, and the General Manager (or their delegate) be authorised to sign all necessary legal documents in relation to this matter.

3 RFT PCC 2024-104 Dunheved Road Upgrade Project

56 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Faithe Skinner

CW3 That:

1. The information contained in the report on Dunheved Road Upgrade Project be received.
2. After considering the responses to the Design and Contract (D&C) of the Dunheved Road Upgrade Project Tender and in accordance with section 178(1)(b) of the Local Government (General) Regulation 2021 ("the Regulation"), Council declines to accept any of the tender submissions.
3. In accordance with sections 178(3)(e) and 178(4) of the Regulation Council resolve:
 - a. To enter into negotiations with the three tenderers (BMD, Seymour Whyte and Georgiou Group) in relation to the proposed Early Works Agreement

- (EWA) approach;
- b. That Council's reasons for declining to invite fresh tenders is that:
 - i. The negotiation process is consistent with the tender round that has been completed and current process, proposition and scope of works put to market in the tender and it should not be necessary to retender to the open market;
 - ii. The extensive pre-qualification process and tender process to date has identified appropriate suppliers with the requisite skill, capacity and experience, however none have accepted Council's proposal without significant changes and commercial risk to Council. A call for fresh tenders is unlikely to result in a significantly different or improved outcome; and
 - iii. while not recommended for acceptance given the current non-compliances and issues, Council considers that it should be possible to negotiate an acceptable outcome with one or more of the shortlisted tenderers and
 - c. Council's reasons for determining to re-enter into negotiations with the three tenderers in relation to a proposed EWA approach are:
 - i. the negotiations with the three tenderers are assessed as most likely to provide the outcome for Council; and
 - ii. due to the differing issues to be addressed no single preferred supplier is identified to the exclusion of the others.
4. Council does not at this stage support calling for fresh tenders as it is not likely to present a more advantageous result to Council.
 5. Council authorises the General Manager to conduct the negotiations with BMD Constructions Pty Ltd, Seymour Whyte Construction Pty Ltd, and Georgiou Group Pty Ltd in relation to the proposed Early Works Agreement (EWA) approach.
 6. The General Manager be authorised to sign the negotiations agreement which includes the terms and conditions in the body of this report.
 7. The General Manager to report to Council on the outcome of negotiations for the purposes of either recommending that a contract be entered with one of the preferred suppliers referred to in paragraph 5 of this motion, or for Council to determine to call fresh tenders, or any other powers that Council has available pursuant to section 178 of the Local Government Regulation.