



16 April 2024

**SUPPLEMENTARY AGENDA:**

**(1) WORKS AND INFRASTRUCTURE**

WI12/2024 Main Bund Wall - South Cessnock Bund Wall Evaluation  
Report - Q2024-164.....2

Works and Infrastructure

Report No. WI12/2024

Works and Infrastructure



**SUBJECT:** *MAIN BUND WALL - SOUTH CESSNOCK BUND WALL  
EVALUATION REPORT - Q2024-164*

**RESPONSIBLE OFFICER:** *Infrastructure Manager - Cameron Clark*

## SUMMARY

Evaluation and selection of tender for Tender No. Q2024-164 (NSW Public Works RFT-10063691) - South Cessnock Bund Wall Scheme - Stage 2- Main Bund Wall.

### RECOMMENDATION

1. That Council reject all tenders received by NSW Public Works as they have been deemed non-conforming as the correction of errors constitutes a substantial change under the Local Government (General) Regulation 2021 clause 176 and is valued at over \$4,521,014.41(including GST), and
2. That by resolution Council authorises the General Manager to enter into negotiations with any suitable person (whether or not the person was a tenderer) with a view to entering into a contract as per clause 178 3(e) of the Local Government (General) Regulation 2021.

### BACKGROUND

NSW Public Works have been engaged under *Public Works and Procurement Act 1912 No 45*, to perform procurement activities for the South Cessnock Bund Wall Scheme - Stage 2 - Main Bund Wall.

The scope of work includes all work required for the Proposed Main Bund Wall including earthworks, stormwater, scour protection, landscaping, and works to maintain access to the Hunter Plant Operator Training School. The work is as described in the following major components:

- Main Bund Wall including site clearing and tree removal, earthworks, supply of all fill material, scour protection and landscaping.
- Stormwater drainage work including pipes, culverts, pits, headwalls, and scour protection.
- Regrading of the access road to the Hunter Plant Operator Training School (HPOTS).
- Scour protection of the HPOTS access road.
- Disposal of excess excavated fill material.

### REPORT

The Request for Tender (RFT) documents were prepared by NSW Public Works, and reviewed by Council officers before tenders were called. The form of contract GC21 was *Lump Sum with Schedule of Rates for Variations*. The tender for the South Cessnock Bund Wall Scheme - Stage 2 – Main Bund Wall.

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***Invitation***

Tenders were invited on 12 December 2023 on NSW eTendering and select (pre-qualified) tenderers were invited:

- KCE Pty Ltd
- Bolte Civil Pty Ltd
- Gongues Constructions Pty Ltd
- Saunders Civilbuild Pty Ltd
- Woodbury Civil Pty Ltd

***Addenda***

The following addenda was issued via NSW eTendering portal to all prospective tenderers during the invitation period:

No.	Description
1	Clarified site access requirements
2	Provided digital data formats for Bill of quantities calculations

***Closure***

Tenders closed 9.30am on Thursday 25 January 2024.

***OPTIONS***

N/A

***CONSULTATION***

The following officers were consulted during the tender process:

- Principal Stormwater Engineer
- Stormwater Engineer
- Procurement Coordinator
- NSW Public Works, Senior Project Manager

Communication about progress of the works will be ongoing. For residents and businesses generally, Council's website will provide information and access to a *Community Newsletter*, and Council's Facebook Page offers opportunity for feedback.

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**STRATEGIC LINKS**

**a. Delivery Program**

Progressing with this project is a significant priority within Council's flood/stormwater/drainage capital program and will contribute to achieving the following objectives of the 2022-2023 & 2023-2024 Delivery Program:

- *Will reduce design flood levels to pre-subsidence values.*
- *Lowers average flood depth 14cm relative to average pre-subsidence depth.*
- *No home will experience over floor flooding in a 1 in 100 AEP flood.*
- *Safe pedestrian access to all homes in 1 in 100 AEP flood.*

The project will be completed in Financial Year 2024-2025, National Flood Mitigation Infrastructure Program funding cut-off date is 30 April 2025.

**b. Other**

Nil

**STATUTORY IMPLICATIONS**

**c. Policy and Procedural Implications**

The tender process has been carried out in accordance with:

- Council's Procurement Policy
- Council's Procurement Guidelines
- Tendering Guidelines for NSW Local Government 2009
- NSW Government – Code of Practice for Procurement 2005

**d. Financial Implications**

Total grant funding of \$4,755,000 for all three Stages of the Project is shown below:

Stage-1: Channel Diversion & Widening

Stage-2: Levee / Road Raising

Stage-3: Main Bund Wall

The Work Plans are approved by NSW Department of Planning & Environment.

Council is anticipated to fund additional costs (final figure to be advised) to complete all three stages. The contract sum and contingency are fully funded from the available project budget identified in this report

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**e. Legislative Implications**

The tender process has followed the legislative provisions, referenced in *Cessnock City Council Procurement Policy* and *Cessnock City Council Procurement Procedure*, as follows:

- *Local Government Act 1993*
- *Local Government (General) Regulation 2021*

*NSW Public Works have been engaged under Public Works and Procurement Act 1912 No 45, to perform procurement activities for the South Cessnock Bund Wall Scheme - Stage 1-Channel Widening.*

In particular, reference is made to Part 7, Division 4, Clause 178 of the *Local Government (General) Regulation 2021 (Acceptance of tenders)*.

**f. Risk Implications**

To minimise Council's exposure to business risks, the RFT required:

- *Satisfactory financial capacity, and*
- *Adequate levels of insurances.*

The authenticity of the Contractor's certificates of currency for the following insurance policies will be verified:

- *Workers Compensation,*
- *Public Liability (\$20M or greater),*
- *Comprehensive Motor Vehicle,*
- *Professional Indemnity, and*
- *Insurance of the Works.*

Risks identified in relation to safety, environment and quality are mitigated by the RFT requirement for adherence to the following system standards:

- *AS/NZS ISO 45001:2018 Occupational Health and Safety Management Systems,*
- *AS/NZS ISO 14001:2015 - Environment Management Systems, and*
- *AS/NZS ISO 9001:2008 - Quality Management Systems.*

Regarding safety, the RFT requires the Contractor to prepare and implement a Site Specific Safety Management Plan including:

- Traffic Management Plan to manage broader traffic implications such as heavy vehicles and delays,
- Traffic Control Plans to manage interactions between public and construction traffic and a staging plan to maintain access to the weighbridge and landfill,
- Requirements for on-site workers to have current general construction induction cards (white card) and licences/tickets and inducted to the site, and
- Safe Work Method Statements, kept on site, and discussed at daily tool box talks.

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**g. Other Implications**

Social

- Will reduce design flood levels to pre-subsidence values.
- Lowers average flood depth 14cm relative to average pre-subsidence depth.
- No home will experience over floor flooding in a 1 in 100 AEP flood.
- Safe pedestrian access to all homes in 1 in 100 AEP flood.

**CONCLUSION**

The tenders received by NSW Public Works have been deemed non-conforming as the correction of errors constitutes a substantial change under the Local Government Regulations clause 176.

In order for the project to be completed in Financial Year 2024-2025 and the National Flood Mitigation Infrastructure Program funding cut-off date set at 30 April 2025, negotiations with suitable person (whether or not the person was a tenderer) should commence as soon as possible with a view to entering into a contract as per clause 178 3(e). The contract sum and contingency are fully funded from the available project budget identified in this report.

**ENCLOSURES**

- 1 ⇨ Q2024-164 - Tender Evaluation Methodology
- 2 ⇨ Tender Recommendation - Stage 2 Main Bund Wall Works - *This matter is considered to be confidential under Section 10A(2) (di) of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it.*
- 3 ⇨ Q2024-164 Evaluation Matrix - Appendix A - *This matter is considered to be confidential under Section 10A(2) (di) of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it.*