

Nicholas Street - Ipswich Central

Tender Consideration Plan: Retail Variation for D&C Contractor

12 November 2019



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1. BACKGROUND

1.1 INTRODUCTION

Section 230 of the Local Government Regulation 2012 allows a local government to enter into medium and large contractual agreements, without first inviting written quotes or tenders, through the preparation and adoption of a Tender Consideration Plan (TCP). This TCP provides the information required to comply with the regulation and to justify the use of the plan as an effective and appropriate alternative to seeking quotes or to calling for open tenders for the following activities:

- D&C Head Contractor engagement to deliver the Retail Project works;
- Retail Project Consultant engagements through to completion of the Retail Project works.

1.2 RETAIL PROJECT

Ipswich City Council (Council) is currently undertaking a major redevelopment of the Ipswich CBD referred to as Nicholas St, Ipswich Central. A combination of Council-owned assets makes up the entire project site intermixed with existing and heritage commercial buildings as well as the Icon Tower built in 2013.

The five Council-owned retail buildings across the Nicholas St precinct are:

- Metro A
- Metro B
- Eats
- Venue
- Commonwealth Hotel (this is treated separately under its own TCP submission).

Refer to the Figure 1 below of the Nicholas St precinct plan showing the location of each building.

Figure 1: Nicholas St Precinct Plan



Council resolved at its meeting on 28 October 2019 to proceed with the development strategy for the Nicholas St precinct and recommended development of Venue, Eats and Metro B while deferring the Metro A building works pending further lease deals being sourced.

However, pending Council's approval there are certain elements of the Metro A building that may be delivered at the same time as other the retail buildings. For example, the internal demolition and strip out of the existing tenancies will greatly assist prospective tenant inspections and completing the Nicholas St façade of Metro A will enable continuous activation of building frontages with the showcase AV projection.

Finalisation of the Nicholas St and Union Place road work and associated footpath works will also be included in the retail project scope. These works were originally part of Jmac Constructions' contract however it has been deleted from their scope to enable the works to be better coordinated with retail construction delivery.

The potential demolition of the Bell St overbridge link between the Metro A building and the Health Plaza will also be incorporated into the Metro A building scope when Council considers proceeding with the Metro A works.

Benefits of the proposed approach are detailed/incorporated in section 8 of this document.

1.3 PROPOSED PROCUREMENT METHODOLOGY

It is proposed that Hutchinson Builders as the existing head contractor for the Civic Project undertake a 2-stage D&C process for the delivery of the Retail Project within the Nicholas St, Ipswich CBD precinct. This methodology is further explained below.

Stage 1 was approved to proceed by Council on 28 October 2019, and Hutchinson Builders are underway with progressing design works and sourcing competitive trade pricing.

Subject to Council approval of Hutchinson Builder's submitted design and pricing, the Stage 2 delivery of the retail works are proposed to be a contract variation to the existing Civic project contract. This contract was specifically drafted by Council's legal advisers with a special condition to facilitate the potential addition of the retail project works.

The 2-stage D&C procurement methodology is proposed as follows:

1.1. Stage 1

- Council has engaged the building services consultant WSP to provide refined building services briefs that reflect the replacement of the majority, if not all, existing building services;
- Council has engaged Rider Levitt Bucknall (RLB) as independent quantity surveyors to audit and review the D&C Contractor's offer to ensure value for money is established;
- Council has engaged Ranbury to project manage the Stage 1 process;
- Hutchinson Builders will engage remaining consultants such as the architect Buchan and structural engineer ADG to progress the existing design documentation to a level of documentation where accurate trade tenders can be received;
- Hutchinson's Builders will then seek competitive quotes from trade sub-contractors. These competitive quotes will be reviewed by Council's quantity surveyor and the build-up of the construction cost will be transparent to Council's quantity surveyor;
- Hutchinson Builders will then prepare a lump sum price submission for the D&C delivery of the Retail Project's revised scope of works based on the refined Building services briefs and existing Schematic Design documentation;

- Stage 1 will also include a design verification and value management of the current Schematic Design by Hutchinson Builders' design team, as well as the design of any missing information and or documentation required;
- Hutchinson Builders' submission is to also include a construction delivery program and staging of the Retail Project works;
- Hutchinson Builder's submission is due 3 December 2019;
- Due to the timeframes involved it is understood that some trades or certain building elements may be provisional sums. If this is the case, then Council's Quantity Surveyor will verify the appropriate quantum for the proposed Provisional Sum.

1.2. Stage 2

- If Council accepts the lump sum price and construction program presented, then Hutchison Builders will be issued with a variation to their existing Civic Project contract and commence D&C delivery of construction works;
- Hutchinson Builder's will provide competitive quotes for review and approval by RLB when seeking approval of any remaining provisional sums;
- If the proposal is not acceptable to Council, Council reserve their rights to retender the Retail Project to the open market.

2. FINANCIAL

2.1 VALUE FOR MONEY

Several mechanisms are in place to ensure value for money is achieved:

- As part of their lump sum price submission Hutchinson Builders will provide competitive quotes for an estimated 77% of the value of trade subcontract work;
- These competitive quotes will be reviewed by RLB and the build-up of the construction cost will be transparent;
- Preliminaries and fees for the Head Contractor were provided during the pre-award phase of negotiations for the Civic Project and compared favourably with competing tenderers;
- All construction costs and consultant fees will be benchmarked against market rates from similar projects by the project cost consultant RLB.

2.2 ESTIMATED VALUES

Table 1 below outlines the project costs that are under consideration as part of this Tender Consideration Plan. These percentages are based on RLB's construction cost estimate.

The engagements are estimated to fall into the category of large to medium-sized contract arrangements as defined by the *Local Government Regulations 2012* based on the total aggregate value across the Retail Project scope of work through to project completion.

Table 1: Breakdown of Estimated Project Costs

Description	Forecast proportion of total costs	Comment
1. Trade Construction Cost	77%	Competitively tendered prior to award of Retail contract variation. Provisional Sums not agreed at time of variation approval will also require competitive pricing for review.
2. Builder's Prelims	10%	Agreed rate within Civic Project D&C contract.
3. Builder's Margin	4%	Agreed rate within Civic Project D&C contract.
4. Scaffold & Temp Works*	4%	Excluded from preliminaries in Civic Project D&C contract so is an additional entitlement for Hutchinson Builders.
5. Design & Authority Fees	5%	Whilst some consultant engagements will remain with Council, the majority will be via Hutchinson Builders.
TOTAL	100%	

* Includes craneage, traffic control, hoarding etc.

3. SUPPLIER DETAILS

Table 2 below outlines the proposed engagement details for identified suppliers providing contracting consulting and or design services for the Retail Project. Please note that this list is not comprehensive and there will be additional suppliers required in addition to those listed below, including water management, acoustics, asbestos testing and integrity testing.

Table 2: Proposed Engagements for Suppliers

Design Discipline	Proposed Supplier	Engagement Details
1. Builder	Hutchinson Builders	Variation to existing Civic Project contract.
2. Architect	Buchan	Engagement directly by Hutchinson Builders. Sole select due to involvement to date on Retail Project & existing involvement on Civic Project.
3. Structural	ADG	Engagement directly by Hutchinson Builders. Sole select due to existing involvement on Civic Project.
4. Certifier / DDA	McKenzie	Engagement directly by Hutchinson Builders. Sole select due to involvement to date on Retail Project & existing involvement on Civic Project.
5. Fire Engineer	NDY	Engagement directly by Hutchinson Builders. Sole select due to existing involvement on Civic Project.
6. Surveyor	Bennett + Bennett	Engagement directly by Hutchinson Builders. Sole select due to existing involvement on Civic Project.
7. Waste Management	tba	Engagement directly by Hutchinson Builders. Sole select due to existing involvement on Civic Project.
8. Landscape	Vee Design	Engagement directly by Hutchinson Builders. Sole select due to involvement to date on Retail Project & existing involvement on Civic Project.

A report will be presented at the 19 November 2019 Council Meeting requesting resolution for the adoption of recommendations for Hutchinson Builders to directly procure the above Retail Project suppliers based on the proposed engagement methods.

The proposed extension of the existing consultant engagements will enable the timely continuation of the retail development program and maintain the intellectual knowledge these consultants have across the entire project due to their engagement on the Civic Project and or longstanding involvement with the Retail Project.

Subject to passing of this resolution, it is proposed that the scope and agreements are finalised in accordance with the existing Civic Contract terms and conditions.

4. OBJECTIVES

This tender consideration plan is intended to fulfil the following objectives:

Table 3: Tender Consideration Plan Objectives

No.	OBJECTIVES
1.	Document Council's decision to proceed with the delivery of the Retail Project works as a variation to the existing Civic Project contract with agreed preliminaries and margin and other mark-ups negotiated prior to award.
2.	Document Council's decision not to request multiple quotes or tenders for selected consultants and or to agree to extend existing consultant engagements through Hutchinson Builders
3.	Manage key risks associated with direct engagement to be identified and mitigated.

5. HOW WILL OBJECTIVES BE ACHIEVED

The objectives identified for the TCP in Section 4 will be achieved by the actions detailed in Table 4 below:

Table 4: How Objectives will be achieved

No.	OBJECTIVE	ACHIEVED BY
1.	Document Council's decision to proceed with the delivery of the Retail Project works as a variation to the existing Civic Project contract with agreed preliminaries and margin and other mark-ups negotiated prior to award.	<p>Hutchinson Builders seeking multiple quotes from trade subcontractors covering approximately 80% of the value of the Retail Project work from a mutually agreed shortlist with a minimum of three tenderers. These competitive quotes will be reviewed by Council's quantity surveyor and the build-up of the construction cost will be transparent to Council's quantity surveyor.</p> <p>The proposed variation to the existing Civic contract will enable the timely continuation of the retail development, single point of responsibility for the design and management of construction works, and reduced interface and access risk since one Contractor will be responsible for coordination of construction works across the entire precinct.</p>

No.	OBJECTIVE	ACHIEVED BY
2.	Document Council's decision not to request multiple quotes or tenders for selected consultants and or to agree to extend existing consultant engagements through Hutchinson Builders	<p>Consideration of the five sound contracting principles outlined in the <i>Local Government Act 2009</i>.</p> <p><u>1. Value for Money</u></p> <p>The independent cost consultant RLB will review and benchmark lump sum pricing submission from Hutchinson Builders, including competitive quotes from subcontractors and fee submissions from consultants, against market rates from similar projects.</p> <p><u>2. Open Competition</u></p> <p>A competitive tender process was used to award the D&C Contract for the Civic Project and this proposed variation for the Retail Project is consistent with the terms of that contract and the rates specifically included prior to award.</p> <p><u>3. Development of Competitive Local Business</u></p> <p>Tender lists for the trade subcontract work that constitutes 80% of the total value of the variation will be compiled and mutually agreed with due consideration to the inclusion of local businesses.</p> <p><u>4. Environmental Protection</u></p> <p>As a general comment regarding environmental and other risks, the use of a single contractor across the entire site and retention of existing consultants where appropriate, is expected to mitigate the probability of error.</p> <p><u>5. Ethical Behavior and Fair Dealing</u></p> <p>With disciplines where the incumbent consultants hold a significant advantage over other market participants, it may be problematic to subject other market participants to a tender process which they are unlikely to be successful in, thus reducing the tendering burden on the industry.</p>
3.	Manage key risks associated with direct engagement to be identified and mitigated	Evaluate levels of various risk profiles with mitigation strategies to be implemented (refer Section 9).

6. HOW WILL ACHIEVEMENT OF OBJECTIVES BE MEASURED

Table 5 below details the measurements required to confirm objectives are achieved:

Table 5: Measure of Objectives

No.	OBJECTIVE	MEASUREMENT
1.	Document Council's decision to proceed with the delivery of the Retail Project works as a variation to the existing Civic Project contract with agreed preliminaries and margin and other mark-ups negotiated prior to award.	The timely delivery of the project in accordance with the project schedule, and in accordance with project budgets verified by external cost consultant RLB and monitored by the Project Steering Committee and Coordination and Performance Department.
2.	Document Council's decision not to request multiple quotes or tenders for selected consultants and or to agree to extend existing consultant engagements through Hutchinson Builders	Acceptance of this plan and final costs agreed within budget parameters.
3.	Manage key risks associated with direct engagement to be identified and mitigated	The evaluated risk level of key risks outlined in Section 9 below are reduced by the implementation of the mitigation strategies.

7. IDENTIFICATION & ANALYSIS OF ALTERNATIVES:

The analysis of reasons to support the engagement of the retail project works as a variation to the existing Civic project contract is set out below.

The rational for pursuing the proposed procurement plan includes:

- Maintaining the intellectual knowledge these suppliers have on the Project due to long-standing involvement;
- A single point of responsibility for the design and management of construction works in a confined area of the CBD;
- Reduced management costs to Council;
- Reduced tendering burden on the industry - reduces risk of market failure in the tender process due to the current Contractor's site location
- Competitive pricing will still be undertaken for approximately 77% of subcontract work in a transparent process fully auditable by the Council's independent quantity surveyor;
- The main item being single-sourced is the Principal Contractor role which is benchmarked against the results for the competitive tender process for the recently awarded Civic Project;
- Reduced interface risk associated with multiple contractors since one Contractor will be responsible for coordination of construction works on the site;
- Reduced risk profile due to the elimination of interface risk between different contractors and the responsibility for coordination of works by a single contractor;
- Single point of accountability remains with a Tier 1 Contractor for any disruptions to the rail corridor and rail network operations;

- Reduced risk of access issues for material supply and mitigation of potential delay claims; and
- Reduced overall cost for the works.

Relevant insurance and security documentation will be sought. Any effect on the works being carried out by suppliers will be negligible.

The alternative option is for Council to undertake a new procurement process for the appointment of a head contractor for the Retail Project and all consultants. The time frames of undertaking this process would have meant that the project was significantly delayed and the cost of completion increased as well as increasing project risk.

8. PROPOSED TERMS OF CONTRACTS

The existing D&C contract is in place for Hutchinson Builders and has been reviewed by Council's internal legal team and external advisors Clayton Utz. The contract was specifically crafted to enable this Retail Variation work to proceed if required.

9. RISK ANALYSIS OF MARKET FROM WHICH SERVICES ARE TO BE OBTAINED:

The key risks identified when assessing the market from which the services are obtained is the ability for the project to continue without delay and to ensure that Council has the intellectual property and a single point of contact for all warranties and defects liability obligations. If the project is delayed further than the overall cost of completion of the project would escalate.

In addition, if the current contractors and consultants were engaged by Council, then the risk of not successfully delivering the project would be much higher as implicit project knowledge across the retail assets could be lost.

The following general risks and mitigation strategies have been identified in relation to procuring this work as a variation to the existing Civic Project D&C Contract:

Financial Risk		Risk Level
Event	Competitive subcontract trade package pricing, when received, may exceed the current budget allowance	
Likelihood	Possible	Moderate
Consequence	Moderate	
Mitigation	Quantity surveyor to agree return pricing with Hutchinson Builders in advance and report on risk profiles for trade packages based on recent market experience. For trade packages that are returned significantly over-budget the mitigation is that provisional sums are carried for those trade packages in lieu of fixed contract values. Then during the delivery phase, the work relating to those trade packages will be value-engineered and retendered.	

Legal & Governance		Risk Level
Event	Competitive subcontract trade package tenderers may submit proposals with unacceptable exclusions or qualifications which are incompatible with the head contract.	
Likelihood	Possible	Low
Consequence	Minimal	
Mitigation	Subcontract terms will be issued to tendering subcontractors to ensure they are aware of the requirements.	

Political / Reputation		Risk Level
Event	Other market participants may be discouraged at missing the opportunity to become involved in the project.	
Likelihood	Unlikely	Low
Consequence	Minimal	
Mitigation	Multiple trade subcontractors have been identified for seeking quotes from the broader market. In terms of the incumbent principal contractor and consultants the political and reputational risks of seeking quotes for disciplines where an incumbent holds a significant advantage is potentially more harmful to the market	

Community and Environment		Risk Level
Event	None	
Likelihood	N/A	N/A
Consequence	N/A	
Mitigation	There is no perceived Community or Environmental risk due to delivering the objectives of this TCP. However, we note that the retention of the existing principal contractor and consultants familiar with the work and site is a risk mitigation generally.	

Health & Safety		Risk Level
Event	Disruption to the rail corridor and rail network operations.	
Likelihood	Minimal	Moderate
Consequence	Moderate	
Mitigation	Engaging a tier 1 contractor as the single point of accountability for all works across the precinct through ongoing consultants with QR.	

Service Delivery / Business Continuity		Risk Level
Event	Delays in executing agreements causing project or operational delays	
Likelihood	Possible	Moderate
Consequence	Moderate	
Mitigation	The TCP and proposed procurement of this work as a variation vs undertaking a new quote or tender process helps mitigate this risk	

Information Confidentiality, Integrity and Accessibility		Risk Level
Event	Information and knowledge of the projects and assets not transferred to Council	
Likelihood	Possible	Moderate
Consequence	Moderate	
Mitigation	The TCP and proposed procurement of this work as a variation vs undertaking a new quote or tender process helps mitigate this risk	

10. SUMMARY

This Tender Consideration Plan outlines the proposed methodology to procure the Retail Project Design & Construct work as a variation to the existing Civic Project construction contract. The five sound contracting principles outlined in the *Local Government Act 2009* will be preserved as follows:

1. Value for Money

- Trade subcontract work constituting approximately 77% of the value will be competitively bid to at least three suitable tenderers and the process will be reviewed by Council's quantity surveyor
- The Principal Contractor role will be awarded based on pre-agreed margins that were determined pursuant to a major competitive tender to appoint a D&C Contractor for the Civic Project.
- The proposed extension of the existing consultant engagements will enable the timely continuation of the retail development program and maintain the intellectual knowledge consultants have across the entire project.

2. Open Competition

- A competitive tender process was used to award the D&C Contract for the Civic Project and this proposed variation for the Retail Project is consistent with the terms of that contract and the rates specifically included prior to award.
- Trade subcontract work constituting approximately 77% of the value of the work will be competitively bid.
- Due to the co-location of the Civic Project a renewed tender process may be compromised by the presence of an incumbent principal contractor on the adjacent and shared areas of the site.

3. Development of Competitive Local Business

- Tender lists for the trade subcontract work that constitutes approximately 77% of the value will be compiled and mutually agreed with due consideration to the inclusion of local businesses.

4. Environmental Protection

- The use of a single principal contractor across the entire site and retention of existing consultants where appropriate, is expected to mitigate the risk of environmental or safety issues.

5. Ethical Behavior and Fair Dealing

- Where the incumbent contractor or consultant hold a significant advantage over other market participants, it may be problematic to subject other market participants to a tender process which they are unlikely to be successful in, thus reducing the tendering burden on the industry.

6. Benefits

The following is a recap of the benefits anticipated from the proposed procurement methodology:

- Maintaining the intellectual knowledge these suppliers have on the Project due to long-standing involvement;
- A single point of responsibility for the design and management of construction works in a confined area of the CBD;
- Reduced management costs to Council;
- Reduced tendering burden on the industry - reduces risk of market failure in the tender process due to the current Contractor's site location;
- Competitive pricing will still be undertaken for approximately 77% of subcontract work in a transparent process fully auditable by the Council's independent quantity surveyor;
- The main item being single-sourced is the Principal Contractor role which is benchmarked against the results for the competitive tender process for the recently awarded Civic Project;
- Reduced interface risk associated with multiple contractor since one Contractor will be responsible for coordination of construction works on the site;
- Reduced risk profile due to the elimination of interface risk between different contractors and the responsibility for coordination of works by a single contractor;
- Single point of accountability remains with a Tier 1 Contractor for any disruptions to the rail corridor and rail network operations;
- Reduced risk of access issues for material supply and mitigation of potential delay claims; and
- Reduced overall cost for the works.