

MINUTES

for the Special Meeting of Council held in the COUNCIL CHAMBER - 104 HOVELL STREET WODONGA, VIC on MONDAY, 23 MAY 2011

Present

Cr M Byatt (Mayor)

Cr A Collins (Deputy Mayor)

Cr C Ferguson

Cr E Foulston

Cr L Mahood

Cr A Speedie

Cr R Wangman

In Attendance

Mr G Cator

Chief Executive Officer

Mr T Ierino

Director Business Services

Ms P Harrington

Director Community Development

Mr J Louw

Director Sustainable Development



**LIVE
WORK
INVEST**

1. Calling To Order

The meeting was called to order at 9.00am by the mayor, Cr Mark Byatt.

2. Statement Of Acknowledgement

The mayor read the following:

We acknowledge the traditional owners of the land on which we are meeting. We pay our respects to their elders and to elders from other communities who may be here today.

3. Apologies And Requests For Leave Of Absence

No apologies or requests for leave of absence were received.

4. Declaration Under Acts, Regulations, Codes Or Local Laws

Audio recording

The CEO noted that council had previously given consent to Brad Worrall and Sally Evans of the *Border mail* newspaper, David Johnston of the *Xpress* newspaper, and Pat Koopman of the *Albury Wodonga news weekly* newspaper, to use audio equipment for the purposes of ensuring accuracy with their reports.

Consent was granted on the understanding that:

- a. the audio tapes will not be made available to the public or disclosed to any third party;
- b. once their original purpose is served, the tapes will be destroyed; and
- c. in accordance with the local law this consent may be revoked at any time.

Public notice of special council meeting

The CEO referred to the requirements of section 89(4) and 89(4A) of the *Local Government Act 1989*, whereby council must give at least seven days notice of a special meeting or where this is not achievable, specify the urgent or extraordinary circumstances which prevented the council from complying.

The CEO noted that this special meeting was called in accordance with a resolution of council at its ordinary meeting of May 16, 2011. The public notice could only be given once council had so resolved and it was necessary to conduct the meeting on May 23, 2011 in order to finalise the contract so as to meet contractual obligations associated with the construction of the Wodonga community arts and entertainment centre.

5. Declaration By Councillors Of Any Conflict Of Interest

There were no conflicts of interest disclosed.

6. Officer Reports For Determination

6.1 AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE: CONTRACT NO. 201102 4

7. Confidential Business

Nil.

8. Close Of Meeting

There being no further business the meeting closed at 9.04am.

Chairperson

Date

AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE: CONTRACT NO. 201102
PURPOSE OF REPORT

The purpose of this report is to detail the process followed for the evaluation of the construction tender for the Wodonga Arts Community & Entertainment Centre and to provide a reasoned recommendation for consideration to award this contract, Contract No. 201102.

BACKGROUND

The history up to the point of demolition of the old Wodonga Civic Centre has been well documented and will not be revisited in this particular report.

The demolition of the Civic Centre commenced late in January 2011, with works completed on or around February 24, 2011. At the time of this report, minor earthworks remained outstanding but had been scheduled to be completed. The site remains in the control of the demolition firm responsible for the works, Guilfoyle Wreckers.

The tender for the construction of the Wodonga Arts Community & Entertainment Centre was made available to contractors following an Expression of Interest (Eoi) process. Eighteen (18) responses were received for the Eoi which were reduced to six (6) preferred tenderers. The Eoi Evaluation Panel was confident that the shortlisted contractors were well experienced, capable and financially sound and likely to execute the project in a timely and cost effective manner.

The Tenders were accepted at the offices of the Wodonga council as well as at the project manager's (Thinc Projects) offices in Melbourne. Three (3) tenders were received in Wodonga well before the closing time, while two (2) were received in Melbourne. Tender evaluation commenced on Friday, March 25, 2011 in the offices of Thinc Projects.

RESPONSE

Tenders were presented to the tenderers on Friday, February 24, 2011. The closing date was set as being 12:00pm on Thursday, March 24, 2011. Numerous Requests for Information (RFI's) were received and responded to during the tender period, including a request for extension of time. This was denied and partly contributed to a tenderer withdrawing from the process a week before closure.

TENDERS RECEIVED

Kane Construction Pty Ltd	Contract Control Services Pty Ltd
Colin Joss & Co Pty Ltd	Zauner Construction Pty Ltd
Hansen Yuncken Pty Ltd	

The initial assessment indicated that the lowest presented tender was \$9,140,000 excluding GST. The highest tender sum was \$10,133,152. The average tender sum was \$9,623,838.

The initial assessment declared the submission by Kane Construction Pty Ltd as non-compliant. This reduced the average tender sum to \$9,496,510 excluding GST. The pre-tender construction estimate, carried out on March 23, 2011 was \$9,100,000 excluding GST.

AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE: CONTRACT NO. 201102 (cont'd)

It should be noted that the tenderers proposed one form of saving or the other, and these have been assessed and considered. The outcome of this exercise is detailed within the confidential Tender Report attached to this report.

The Tender Evaluation Panel consisted of:

A.	Rob Tandy/Grellan Symes	Project Manager – Thinc Projects
B.	Chris Hose	Project Architect – Williams Ross Architects
C.	Andrew Wright (assisted by Chris Smith)	Quantity Surveyor – Ryder Levett Bucknall
D.	Leon Schultz	Manager Engineering & Parks – Wodonga council

The following selection criteria were used as advertised in the tender document:

Criteria	Weighting
Corporate Capability	5%
Proposed Personnel & their Capability (inc VIPP Statement)	40%
Task Appreciation & Methodology	25%
Proposed Project Practices & Procedures	10%
Compliance with this RFT (incl. Contract & Statement of Requirements)	15%
Other Risk Inherent in the Proposal (inc Level of Insurance)	5%
Total	100 %

The Tender Sums (both as submitted and those which offered savings) were then divided by the aggregated scores from the Technical/Quality analysis to provide the Value for Money Indicators.

THE PROCESS

As indicated above, tenders were received and opened in Wodonga as well as in Melbourne at 12:00pm on Thursday, March 24, 2011. The documents opened in Wodonga were then driven down to Melbourne where an initial assessment commenced on Thursday evening and continued on Friday, March 25, 2011.

This initial assessment determined that, with the exception of Kane Construction Pty Ltd, all tenders were compliant, albeit with information still to be provided.

Tenderers were requested to provide further detailed information by close of business on Tuesday, March 29, 2011. All tenderers complied with this request.

The priced Schedules of Rates were then scrutinised by the Quantity Surveyors to determine the viability and appropriateness of tendered rates. Detailed feedback was provided to the Evaluation Panel.

AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE: CONTRACT NO. 201102 (cont'd)

A teleconference was held on Monday, April 4, 2011 wherein the merits and demerits of continued negotiations with the tenderers were discussed, and what the number of contractors to negotiate with should be.

It was concluded that negotiation was paramount and that, initially at least, it would be recommended that all conforming contractors be negotiated with, and that these would commence as soon as this was approved by Council. The Tender Evaluation Panel members then commenced with their individual tender assessments.

The Project Manager collated feedback from the consultant team and presented to the author a detailed report which was presented to the Councillor Briefing of April 11, 2011.

Following the report to the Councillor Briefing the consultant team entered into further Value Management discussions with the four remaining tenderers with a view of driving the tender prices downwards or allowing the tenderers to provide cost saving initiatives of their own.

This process initially identified approximately \$986,000 worth of works which could be negotiated upon, and which also represented potential cost savings if so resolved by Council.

The Value for Money indicators based on their initial tendered sums and for the alternate tendered sums (price with recommended savings) for each tenderer is shown below:

Name/Company	Value for Money Indicator (as Tendered)	Value for Money Indicator (alternate, with savings)
Colin Joss & Co Pty Ltd	131,486	127,691
Hansen Yuncken Pty Ltd	115,834	112,607
Contract Control Services Pty Ltd	132,742	128,081
Zauner Construction Pty Ltd	128,191	124,696

A report was presented to the Councillor Briefing meeting on Monday, May 9, 2011 informing councillors of progress with the evaluation of tenders. Due to severe time constraints, representatives of Zauner Construction Pty Ltd were invited to attend a meeting with the Consultant Team on Thursday, May 12, 2011. This meeting requested the tenderer to consider specific additional cost savings on his already-revised tender sum, with a view of providing these details by close of business on May 17, 2011.

This timeline was necessary to seek Council resolution on the tender award in time to meet funding requirements at the end of June 2011.

At an Ordinary Council meeting held on May 16, 2011, Council resolved as follows:

AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE: CONTRACT NO. 201102 (cont'd)

- “ 1.0 Elevate Zauner Construction Pty Ltd to exclusive preferred status and continue further negotiations;*
- 2.0 Reserve the right to negotiate with other tenderers in the event that the contract negotiations cannot deliver council the desired and mutually acceptable position;*
- 3.0 Conclude these negotiations once the desired savings have been achieved or once all efforts have been exhausted to achieve same, and in any event no later than 9.00am on Monday, 23 May 2011; and*
- 4.0 Following the conclusion of these negotiations, a special meeting of council be held at 9.00am on Monday, 23 May 2011 to consider a recommendation from the Tender Evaluation Panel.”*

This resolution enabled the tenderer to identify cost savings which reduced his Final Tender Sum to an amount of approximately \$178,000 over the project budget.

This final stage of negotiation however ensured that no external aesthetics or levels of functionality have been compromised, and it can be confirmed that the look and quality of all finishes as previously presented to Council, in various illustrations, have been maintained. One aesthetic change which was made prior to the value management sessions was the colour of the external anodised facade strip from green to a proposed purple (please refer to attached illustrations).

Generally, savings have been achieved as a result of:

- feature facade lighting on the western wall only, however, fittings remain for further fitout to remaining sides (an option which was included for costing, but removed with a saving)
- Changes to type of internal light fittings;
- Removal of some backstage plywood panelling ;
- Reduction in the number and type of structural piles;
- Mechanical services;
- Theatre savings – still to be confirmed.;
- Tapware and related fixtures;
- Changes to the bar front;
- Screw piles;
- Roofing materials;
- Roof plywood alternative;

AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE: CONTRACT NO. 201102 (cont'd)
COUNCIL PLAN / KEY STRATEGIC ACTIVITY

Pillar	Outcome	Strategic Action
Pillar One Vibrant people, communities and neighbourhoods	A city built around vibrant community places	Plan for and provide cultural facilities that are accessible hubs of creative production, presentation and engagement.
Pillar Four An inclusive and culturally rich city	A strong, vibrant and family friendly CBD with signature buildings offering a range of retail, commercial and social networking opportunities	Support cultural events and opportunities within the CBD

COUNCIL POLICY / STRATEGY IMPLICATIONS

Council has elected to proceed with construction of the Wodonga Arts Community & Entertainment Centre to meet the needs and aspirations of the community for a state-of-the-art facility which would deliver appropriate entertainment opportunities to the city and the residents of the region.

RISK MANAGEMENT IMPLICATIONS

Risks associated with the *construction* process are numerous and will be identified and appropriately mitigated against by the appointed contractor. To that end, these will not be addressed in this report. It is however necessary to identify other risks and to determine the implications of these upon the city.

Risks	Likelihood	Consequence	Rating	Mitigation Action
Contractor unable to undertake works due to other commitments	D (unlikely)	3 (moderate)	Medium	The preferred contractor has confirmed his ability to commence works immediately.
Contractor unable to complete works within construction schedule	C (possible)	3 (moderate)	Significant	This possibility will be known once the construction program has been submitted for scrutiny.
Contractor unable to undertake works due to financial or staff related problems	D (unlikely)	2 (major)	Significant	A security bond (5% of contract value) will be held by council to offset costs associated with engaging an alternate contractor to complete the works.
Personnel changes amongst the project managers or	C (possible)	4 (minor)	Medium	There is usually overlap of responsibilities within these organisations and any changes will not

AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE: CONTRACT NO. 201102 (cont'd)

Risks	Likelihood	Consequence	Rating	Mitigation Action
consultants				be too disruptive.
Project managers or consultants cease to operate for various reasons	D (unlikely)	2 (Major)	Significant	The staff involved with the project could be contracted to continue in their private capacities should this eventuate.
Flaws/design problems with the facility affecting "buildability"	D (unlikely)	3 (moderate)	Medium	The consultant team carry professional liability insurance which would largely negate financial impact on council. There may however be minor delays in addressing these unlikely issues.
Non-availability of selected materials or finishes	C (possible)	4 (minor)	Medium	Approved alternate materials and finishes will be available at similar costs, so this is not seen as crucial at all.
Council fails to meet budgetary commitments	E (rare)	2 (Major)	Medium	No mitigating action would seem appropriate in this instance, other than to curtail the project to meet the funding already available.
Construction costs overrun budget estimates or financial provision	D (unlikely)	2 (Major)	Significant	This would be identified early and are usually covered by the allowable contingencies item in the construction budget. The process to date has been rigorous and significant cost over-runs seem unlikely.
Withdrawal of State or Federal funding	E (rare)	1 (Catastrophic)	Significant	The withdrawal of this funding would likely cripple the project forcing council to abandon or severely re-scope the works to be carried out.

FINANCIAL IMPLICATIONS

The tender sum of \$8,765,514 has now been determined, and should result in a total project cost of approximately \$11,435,412 which is approximately \$177,412 above the approved budget of \$11,248,000. It should be noted that while potential other cost savings remain an option, these will only be fully defined post tender award, as time constraints have not permitted rigorous evaluations to be undertaken. These are not reflected in any the project costs at this stage.

ITEM NO: 6.1 - OFFICER REPORTS FOR DETERMINATION

INFRASTRUCTURE,
SUSTAINABILITY & ENVIRONMENT
AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE: CONTRACT NO. 201102 (cont'd)

	2010/11 Approved Budget \$	This Proposal \$	Variance to Approved Budget \$	Comments
Revenue	3,000,000	3,000,000	-	
Expense	3,050,000	1,095,112	1,954,888	Later than anticipated commencement
Net Result to Council	(50,000)	1,904,888	1,954,888	

Lifetime Financial Planning (as per the 2010/2011 Strategic Resource Plan)

	09/10 Actual \$	10/11 Budget \$	11/12 Forecast \$	12/13 Forecast \$	Total Project Life \$
Revenue	-	3,000,000	4,500,000	-	7,500,000
Expense	-	3,050,000	6,750,000	-	9,800,000
Nett Cost to Council	-	(50,000)	(2,250,000)	-	(2,300,000)

Lifetime Financial Planning (Revised Forecast)

	09/10 Actual \$	10/11 Budget \$	11/12 Forecast \$	12/13 Forecast \$	Total Project Life \$
Revenue	-	3,000,000	3,000,000	1,000,000	7,000,000
Expense	62,666	1,095,112	10,277,634	-	11,435,412
Nett Cost to Council	(62,666)	1,904,888	(7,277,634)	1,000,000	(4,435,412)

CONSTRUCTION PROGRAM

While the preferred contractor is still to provide his updated and final construction program, a generic representation is provided for information purposes hereunder. It is completely foreseeable that the project could be handed over to Council by June 2012, or within a very short time of that.

AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE: CONTRACT NO. 201102 (cont'd)

Activity	2011										2012					
	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J
This report to Council																
Tender/Contract negotiations																
Award of Contract No. 201102																
Execution of Contract																
Site handover and occupation																
Site bench, ground works																
Structural Concrete																
Precast works																
Structural Steelwork																
Roof cladding																
Facade works																
Internal fitout																
External works																
Commissioning																
Practical Completion																
Handover to CoW																

Builder's Shutdown

ENVIRONMENTAL IMPLICATIONS

A comprehensive Environmental Management Plan (EMP) will be submitted by the appointed contractor for scrutiny and approval. This plan will clearly elucidate the control measures which will be implemented to minimise construction impact on the environment. Any accidental impacts will be dealt with under this EMP or applicable legislation.

SOCIAL/CULTURAL IMPLICATIONS

This project has progressed to a point where social/cultural implications would have been addressed should any negative implications have been identified. This report seeks not to revisit these issues, nor add commentary to what has already been reported.

LEGISLATIVE IMPLICATIONS

There are no known legislative requirements, other than standard reporting requirements.

AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE: CONTRACT NO. 201102 (cont'd)
CONSULTATION PROPOSED / UNDERTAKEN

The public have been kept aware of the project progress to date. It is proposed that once a contractor is appointed that an article announcing same be placed in the local press. This should also be used to provide information of the construction program, anticipated completion and the likely impact of these works on the precinct.

The table below does not detail the proposed negotiations with the shortlisted contractors.

Level of public participation	Select ✓	Promises to the public/stakeholders	Example of techniques to use
Inform	✓	Keep informed	Articles in the local press

OPTIONS FOR CONSIDERATION

This report deals with the appointment of the head contractor for the construction of the Wodonga Arts Community & Entertainment Centre.

The tender process initially identified 4 tenderers who submitted competitive bids and whose initial tender sums were within approximately 6% - 12% of the pre-tender estimate of \$9,100,000 excluding GST. The initial negotiated tender sums were closer to the allocated budget, albeit that the scope of works have been slightly amended. These changes are mostly internal, with the functionality of the facility or the aesthetic values unchanged.

Option 1 – do nothing

This option is for the Wodonga council not to proceed with the tender and appointment process, and re-consider other options for the now vacant site. This option is **NOT** supported as a very real expectation amongst the public of Wodonga has already been formed and would not be in the council's best interest to consider.

Option 2 – make an appointment

This option would be to appoint the contractor to carry out the works associated with Contract No. 201102. This option in itself has two alternatives, viz. Alternate 1, appoint the tenderer who has scored the best (i.e. the lowest) Value for Money score or Alternate 2, appoint the tenderer who has submitted the lowest revised tendered sum.

This is the preferred option (Alternate 2) and aligns with the recommendation of the Tender Evaluation Panel.

CONCLUSION

Separately councillors have received a copy of the Tender Evaluation Report and it is concluded that Option 2 (Alternate 2) provides the Wodonga council with the best outcome.

ATTACHMENTS

Illustrations of internal and external architect's impressions

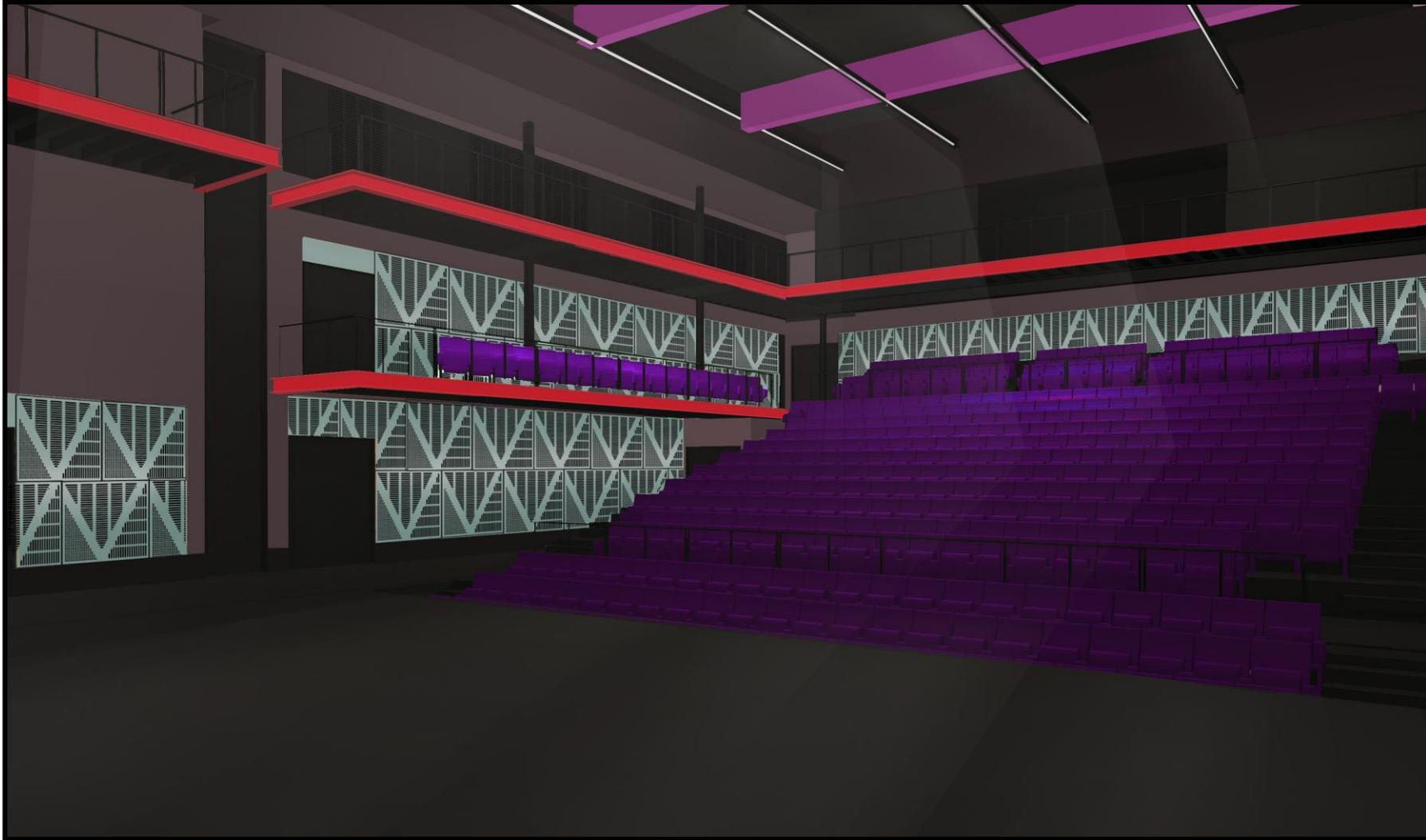
ITEM NO: 6.1 - OFFICER REPORTS FOR DETERMINATION

INFRASTRUCTURE,
ENVIRONMENT

SUSTAINABILITY

&

**AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE:
CONTRACT NO. 201102 (cont'd)**



**AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE:
CONTRACT NO. 201102 (cont'd)**



ITEM NO: 6.1 - OFFICER REPORTS FOR DETERMINATION

INFRASTRUCTURE,
SUSTAINABILITY & ENVIRONMENT

AWARD OF CONSTRUCTION TENDER FOR THE NEW WODONGA COMMUNITY ARTS & ENTERTAINMENT CENTRE: CONTRACT NO. 201102 (cont'd)

DECLARATION OF CONFLICT OF INTERESTS

Under section 80C of the *Local Government Act* 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Director Infrastructure, Sustainability & Environment - Johan Louw
In providing this advice as Director, I have no interests to disclose in this report.

Manager Engineering & Parks - Leon Schultz
In providing this advice as the report author, I have no interests to disclose in this report.

RECOMMENDATION

That Council:

1. Appoint Zauner Construction Pty Ltd as construction contractor for Contract No. 201102: Construction of the Wodonga Arts Community & Entertainment Centre in the revised Tender Sum of \$8,765,514 excluding GST; and
2. Sign and seal the contract.

MOTION

CRS. RODNEY WANGMAN / ANNA SPEEDIE

That the recommendation be adopted.

(CARRIED)