



EXTRAORDINARY MEETING OF COUNCIL

Wednesday 4 March 2020

at 9:00am

Council Chambers

56 Chanter Street, Berrigan



Agenda



Notice is hereby given that an Extraordinary Meeting of the Council of the Shire of Berrigan will be held in the **Council Chambers**, Berrigan, on **Wednesday 4th March, 2020** commencing at 9:00am, to consider and order upon:

- **TOCUMWAL FORESHORE BUILDING**

Other business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:

- a) A motion is passed to have the business considered at the meeting, and
- b) The business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

A motion moved as above can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

Only the mover of a motion moved as above can speak to the motion before it is put.

A handwritten signature in black ink, appearing to read 'R. ...', is positioned above the title 'GENERAL MANAGER'.

GENERAL MANAGER



Council Meeting

Wednesday 4th March, 2020

BUSINESS PAPER

This meeting is being webcast and those in attendance should refrain from making any defamatory statements.

1. **APOLOGIES AND REQUESTS FOR LEAVE OF ABSENCE**
2. **DECLARATION OF ITEMS OF PECUNIARY OR OTHER INTERESTS**
3. **MAYORAL MINUTES**

The Mayor Cr Matthew Hannan has given notice that at his meeting he intends to move “that the Council extend the period of road closure at Deniliquin Street Tocumwal between the Murray Street roundabout and Morris Street from 5:00pm until approximately 10:00pm to 2:00pm until approximately 10:00pm to allow for set up of equipment prior to commencement of the “Taste It” Tocumwal Food Festival on Saturday 7th March, 2020”.

4. **TOCUMWAL FORESHORE BUILDING**

AUTHOR: General Manager

STRATEGIC OUTCOME: Diverse and resilient business

STRATEGIC OBJECTIVE: 4.2 Diversify and promote local tourism

FILE NO: 05.101.7

RECOMMENDATION: For discussion

REPORT:

Background

As Councillors may be aware the entire redevelopment of the Tocumwal Foreshore Reserve and the associated townscape works have evolved since the commencement of the planning process in 2016.

The key “dry side” components implemented to date have been well received and have delivered good results for residents, businesses and visitors to the area.

The next stage in the current improvement plan is the replacement of the existing Visitor Information Centre and existing public toilets. This redevelopment is a significant step in terms of functionality and commercial viability, appearance and occupation of a high profile, high value site that represents a one off opportunity to provide a long lasting asset for the community.

Given the above, there is an obvious level of community interest in the development that may proceed.

The entire project is a part of the Murray River Economic Revitalization program that is partially funded by the State under its Regional Growth Environment and Tourism Fund and through Restart NSW. The Program is funded to a consortium of Councils being Albury City Council, Federation Council and Berrigan Shire Council. The consortium leader is officially Albury City Council.

Ignoring the other partner details, this Council put forward a project valued at \$3.254m and was successful in securing funding of \$2.127m with the balance being funded by the Council, the Tocumwal Foreshore Committee of Management and Tocumwal Community Development Committee and Rotary Club of Tocumwal.

Existing situation

In progressing the building development the Council has considered “how” to take the project forward and “what” to actually develop.

In terms of the “how’ the Council considered the following report at its Corporate Services Committee meeting held during February 2019:

One of the major stages of the Murray River Experience project at Tocumwal is the replacement/enhancement of the existing visitor information building with a new building overlooking the river.

Since funding has been announced, the Council’s plan for this part of the project has evolved somewhat from simply adding a second story to the existing building to something more in line with the expected outcomes of the project.

At its Corporate Workshop in January 2018, the Council determined that:

- *The future management of the proposed upstairs area of the Tocumwal Visitor Information Centre be on a commercial hospitality basis with the Council adopting a landlord only role.*
- *That at the appropriate time the Council call for expression of interest from potential tenant(s) so that they can be involved in the internal design of the new space.*
- *That the Council consider demolition of the existing Visitor Information Centre to allow a complete new space to be developed in its place.*

At its ordinary meeting held on 19 September 2018, the Council resolved to:

- Commence the subdivision and lease process for the site at the proposed commercial facility at the Tocumwal Foreshore.
- Develop an entirely new commercial facility at the Tocumwal Foreshore including demolition of the existing Visitor Information Centre and public toilets.
- Seek independent advice regarding the commercial viability of a future commercial facility at Tocumwal Foreshore.

Acting on the resolution above, the Council has sought an estimate for design of a viable commercial facility from GPG Architecture and Design (GPG). The full quote is attached below:

A. LUMP SUM QUOTE FOR SCOPE OF WORKS

Contract Sum estimate (\$1,000,000 + GST) – to be confirmed by Quantity Surveyor at Concept Stage.

Service	Fee	
CONCEPT DESIGN		
Prepare Concept Design Drawings and preliminary budget estimate	Architect	\$12,000 + GST
	Land Surveyor	TBA
	Quantity Surveyor	\$4,000 + GST
	TOTAL	\$16,000 + GST
DEVELOPMENT APPLICATION		
Prepare documentation for Development Application Approval	Architect	\$18,000 + GST
	BCA Advisor	\$2,500 + GST
	Energy Assessor	\$2,000 + GST
	TOTAL	\$22,500 + GST
CONSTRUCTION CERTIFICATE + TENDER/FOR CONSTRUCTION		
Prepare architectural documentation required for Construction Certificate and Builders Tender	Architect	\$30,000 + GST
	Services Engineers	TBA
	Civil/Structural Engineer	TBA
	Geotechnical Engineer	TBA
	Quantity Surveyor	\$8,000 + GST
SITE VISITS + HOURLY RATES		
Site visits (on per visit basis @ hourly rates)	Architect	\$155/hr + GST
	Travel	\$100/hr + GST
Hourly rates FOR VARIATIONS	Architect	\$155/hr + GST
	Draftsperson	\$100/hr + GST

The proposed timeframes are as below:

Concept Design	April 2019
Quantity Surveyor to prepare preliminary Cost Estimate	May 2019
Design Development + Preparation of Development Application	June 2019
Detail documentation Construction Documentation	November 2019

This estimate is based on a total construction cost of \$1m – to be confirmed by the Quantity Surveyor at Concept Stage. This \$1m budget was provided to GPG by the Council.

Note that this construction cost of \$1m is significantly higher than the Council's proposal that has been funded as part of the Murray River Experience. At the November Corporate Services Committee Meeting, the Council was advised that up to \$800,000 may be required to complete this stage of the project in line with the revised scope.

Note that while the Council had only requested advice on concepts at this stage, it would be difficult to manage a project where one firm designed the concept and another worked on the detailed design. Also, the nature of the project does not lend itself well to the Council's more favoured "design and construct" procurement method.

In the opinion of Council staff, the quoted price is reasonable and in line with expectations for a commercial building of that scale.

The Council has several options available:

1. Accept the quote from GPG as provided
2. Accept the quote for the concept stage only and review once complete
3. Seek additional quotes from other providers
4. Revise the scope of the project

Following consideration of the above the Corporate Services Committee recommended to the Council that the Council accept the fee proposal from GPG Architecture and Design for the development of plans for the proposed Tocumwal Foreshore commercial facility and town square. This recommendation was adopted by the Council at its meeting held during February 2019.

Since the above occurred, the role of GPG Architects was expanded to include the public toilets component.

In terms of the "what" the Council has previously considered 3 separate concept designs from GPG Architecture and Design finally settling on a concept and floor plan at its November 2019 Council meeting and following consideration at the November 2019 Strategic and Policy workshop.

Adopted plans

The adopted concept and floor plans are circulated with this agenda as **Appendix "A"**.

These plans do not include proposed changes to the area of the Visitor Information Centre or the proposed public toilets.

Budget

At its June 2019 meeting the Council considered the following report:

Design

Council has received concept plans from GPG Architecture of the ground floor layout attached as **Appendix “N”** for the development of the Restaurant Building and Town Square to be located on the Tocumwal Foreshore, as part of the Murray River Experience joint venture project.

The ground floor layout comprises of two shop spaces separated by a shared public circulation space and a lift space. Either of the two shop spaces could potential include the VIC. The public circulation space could also be used for outdoor dining in times of bad weather, winter rains and/or summer heat.

Each of the ground floor shops comprise that own facilities and amenities for the shop tenancy only.

The level 1 layout comprises of the Restaurant component combining the internal tenancy shop floor/dining, lift, services/amenities including patrons use and accessible facilities, outdoor dining, mechanical and waste storage, and public circulation space totaling 754m².

The Town Square component includes a landscaped ramp commencing at the Big Fish and continuing up the levee to allow for disable access into the level 1 shop. It also consists of the main outdoor dining area fronting north to Deniliquin Road and allows future development on the south of the proposed building.

The table below sets out the estimated costs of the items in the masterplan that will be constructed in the initial implementation.

Stage	Description	Cost	Contingency	Gross Cost
2	Splash Park	\$982,100	25%	\$1,227,625
4	Streetscape Works	\$870,000	25%	\$1,087,500
6a	Riverview Dining Area	\$448,000	25%	\$560,000
6b	Town Square	\$253,000	25%	\$316,250
7	Spine Path	\$50,000	25%	\$62,500
TOTALS		\$3,117,700		\$3,253,875

The Riverview Dining Area and Town Square estimated costs total **\$876,250.00**.

GPG Architecture have provided an estimate of costs (attached as **Appendix “O”**) for the Riverview Dining Area and Town Square development from there quantity surveyor totaling **\$2,040,003**.

Funding

The Council was earlier advised that there was the scope for this component of the project to exceed the initial estimate – based on the very short timeframe to develop and cost the initial proposal.

In addition, the scope of this component has increased from a simple addition of a second story over the existing VIC to the complete demolition of that building and its replacement with a new purpose-built facility.

There are obvious benefits for the Council and the community with this change in scope and equally obviously this comes at a cost. Note that not proceeding is not an option in this case – the Council has entered into a funding agreement to deliver the project.

The Council will again need to consider how to meet the funding gap.

The most attractive option is to borrow the required funds. The Council has included in its 2019/20 budget a loan of \$1m from its Sewer Fund specifically to cover potential project overruns such as this. Note that the Council has already committed \$100,000 of this to fund the Finley War Memorial Hall and School of Arts while the total exposure in this scenario would require an additional \$1.164m – a shortfall of \$264k.

This proposal would also eliminate the potential to expose the Council to over runs on other grant funded projects.

Item 2.4 of Council's Financial Strategy 2016 states:

Implement a Borrowing Policy that allows the Council to borrow only for the development of infrastructure where:

- There is an urgent need for the asset in the short term, or*
- It is most cost-effective to construct the asset in the short term (as opposed to waiting until sufficient on-hand funds are available), and*
- The Council has access to a funding stream to meet its debt obligations without compromising its other activities.*

On a commercial basis it would be expected that the facility would generate a rate of return of between 5% and 12% pa.

Assuming that Tocumwal is at the lower end of that scale, a 5% rental income on the total project value would generate about \$100k pa and would only meet the overrun in budget cost that could be loan funded at a cost of \$116k pa.

Whether this is achievable is obviously unknown at this stage but would appear to be at the high end of expectations.

Staff are of the opinion that the Architect's estimated costs are on the high side however this will only be actually determined when the project is complete.

As stated earlier, the Council has only one opportunity to get this project right, however it equally important that it become an unsustainable burden on the Council that will have long term impact on the delivery of other council services.

The Tocumwal Foreshore Committee of Management has also committed to provide \$35k pa for 5 years to defray some of the increased costs of operations of the project.

The risks to the Council are:

- How to fund further overruns – on this project or elsewhere
- How to fund the loan if tenants can't be found to occupy the building.

Realistically, while there is some hope that the estimated cost is high than what might reasonably be expected to eventuate, the Council can't plan its future based on hope.

As an alternative, the Council could put final plans out to tender, based on the current concept, and then try to scale the cost down with a preferred tenderer.

To balance all of the above, it is suggested that the Council request its Architect to reshape the project based on an overall spend of \$1.6m to \$1.8m.

This would result in the following scenario which is obviously not risk free but is a much lower risk all around.

Total project cost		\$1.6m
Already budgeted	\$876k	
Loan funding	\$600k	
Tocumwal Foreshore contribution	\$35k	
Total Funding	\$1.511m	\$1.511m
Funding shortfall		\$89k
Loan costs based on \$600k		\$70k
Rental per week to recover loan repayments only		\$1,350
Rental per week to achieve 5% rate of return		\$1,540

Following consideration of the above report the Council resolved:

That the Council accept the concept floor plans subject to suitable revisions to:

- stop wind effect;
- flip around back ground floor tenancy;
- The river side deck is made larger;
- Question if the lift is necessary;
- Remove the eastern end ramp; and

- The project cost is \$1.6m

In the scope of this report the relevant part of the Council resolution is that the overall budget for the new building was set at \$1.6m.

From the \$1.6m budget there are the following deductions:

Architect fees	\$76,500
Cost of additional public toilets (say)	\$60,000
Total available for new building and the town square	\$1,463,500

Of concern is that it appears that the town square and toilet construction is being entirely lost in the perception that all the available funding is for the building itself.

This is significant as the original estimate for the town square was \$316,250 and with the rough estimate for the toilets and the Architects fees included this leaves \$1,147,250 for the building.

At the time of writing it is not possible to further examine the overall project budget to identify savings to date and whether any of the costs to date can be covered from other budget areas.

As another view from the overall budget less costs and committed to date there is a total of \$1.65m which also has to accommodate about \$60k for the recently added toilets and the town square. In considering the town square, available space and what is hoped to be achieved I cannot see how a budget of \$316k could be required and something like \$100k is probably more appropriate.

Timelines

At present the following timelines are estimated for the building project:

Activity	Duration	Completion Date
Lodge Development Application		9/3/2020
Determine Development Application	8 weeks	4/5/2020
Prepare Tender Documents	Included above	
Tender Period	3 weeks	25/5/2020
Tender evaluation and adoption	Council meeting date	17/6/2020
Commence construction	2 weeks	15/8/2020
Construction period	40 weeks	17/4/2021

The above is a conservative view.

Risks – unique to this approach

There is a risk that the project cost may increase through lack of local participation driven by negative community response similar to that which occurred with the Finley School of Arts project.

There is also a risk that, despite a significant increase, the budget for the project is inadequate and is in fact closer to the original quantity surveyor's estimate.

Architect status

At this stage GPG Architects and Design have been instructed to stop working on the Development Application process and the development of construction plans.

The Development Application process has been put on hold given the uncertainty of the Council's preferred way forward. The lodgment of an application would trigger a public exhibition process which would be confusing for the community if the Council chooses to progress down an alternative path.

The development of construction plans is not required for a Development Application and has been halted to contain the cost of these if the Council chooses not to proceed down the current project path.

Whether or not these plans are required is discussed later in this report.

Public meeting

As discussed at the February Council meeting, the Tocumwal Chamber of Commerce and Tourism convened a well attend public meeting on 11th February 2020 to discuss the Council's adopted concept plans for the building.

Which everyone can take their own view of exactly what emanated from that meeting, my take away was that:

- There was general support for a new building;
- There was general support that the Visitor Information Centre required more floor space;
- There was little direction on the external appearance of the building with some preferring imitation heritage while other preferred a more modern appearance; and
- Parking is an issue.

Council resolution

Given the above meeting the Council further considered its direction in relation to the project at its February 2020 Council meeting.

As a result of that consideration the Council resolved:

1. *Council staff prepare a report outlining the options and issues for conducting a design and construct tender process for the Tocumwal Foreshore building or using existing design, timeframes and current architect.*
2. *That the Council convene an extraordinary Council meeting to be held on Wednesday 4th March 2020 and commencing at 9:00am in the Council Chambers to consider and order upon the report referred to in part (1) of this resolution.*

My understanding of the intent of the above resolution is that the Council wants to explore the options and issues around running a tender process based firstly on the adopted concept plans and also by opening this up to design and construct tenders with tenderers having the option to tender on either or both options.

Tender process

Broadly, in the hybrid tender process the proposed process would be:

- Advertise tender for 6 weeks;
- Tenderers are able to quote on the Councils adopted plan, their own plan or both;
- Tenders to be evaluated and short listed for Council consideration;
- The Council to consider short list and amend or adopt;
- Shortlisted tenders to be subject to public consultation;
- Council to review consultation and adopt tender.

Tender brief & Tender short listing criteria



TENDER NO. TXX/20/21

**DESIGN AND CONSTRUCTION OF THE TOCUMWAL
FORESHORE BUILDING**

CLOSES: WEDNESDAY 22 APRIL, 2020

2:00PM

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TXX/20/21 DESIGN & CONSTRUCTION OF THE TOCUMWAL FORESHORE BUILDING

SECTION ONE – CONDITIONS OF TENDERING

1.5 DOCUMENTS TO BE LODGED

The Tenderer shall include in the Tender, the following documents in a sealed envelope:-

- Concept Design Plans including plans, elevations, end views and orthographic views including premise layouts for the commercial spaces as well as finishes.
- Tender Form
- Schedule of Contractors Experience
- Schedule of Proposed Contractor's Personnel
- Register of Tenderer's subcontractors and suppliers
- Schedule of Prices, Materials and finishes
- Notification of Tender Amendment (if applicable)
- Schedule for Commencement and Completion
- Contractor Occupational Health and Safety Management System Questionnaire

1.10 ACCEPTANCE OF TENDER

1.10.1 The lowest tender will not necessarily be accepted and only those tenders received by the closing date, including all documents mentioned in clause 1.5 shall be considered.

1.10.2 The Tenderer may submit an alternative tender based on alternative methods or materials with full details of a schedule of rates, cost variation for each proposal and a total cost for the proposal. A Tenderer submitting alternatives shall also submit a tender that complies completely with the tender documents.

1.10.3 A tender shall not be deemed to have been accepted unless and until notice in writing of such acceptance is handed to the Tenderer or is sent by prepaid post to the address stated in the tender form.

1.10.4 The process of acceptance of the Tender is as follows:-

1. Close of Tender;
2. Evaluation of Tender;
3. Letter of Acceptance;
4. Verification of worker's compensation insurance, insurance of works and public liability insurance;
5. Contractor to sign "Contract Agreement";
6. Commencement of work.

TXX/20/21 DESIGN & CONSTRUCTION OF THE TOCUMWAL FORESHORE BUILDING

1.10.5 Evaluation, negotiation and selection of tenders shall be in accordance with the requirements of AS4120, Code of Tendering and NSW *Local Government (Tendering) Regulation 1993* under the NSW *Local Government Act 1993* and Council Tender Evaluation Policy (No. 92) and the evaluation criteria shall be as follows:

Mandatory Criteria	Yes	No
1. Tender Price is within Budget		
2. Design fits within set building footprint		
Assessment Criteria	Highest Possible Score	Weighting
1. Value for Money	4	4
2. Compliance with Specification	4	3
3. Community Architectural Acceptance	4	4
4. Track Record	4	3
5. Quality Systems	4	2
6. Availability of Appropriate Skills & Resources	4	2
7. Work Health & Safety Considerations	4	4
8. Community Economic Benefit	4	2
9. Innovative, Environmentally Sustainable Design	4	3
10. Completion Time	4	4

- The Principal is not bound to accept the lowest, or any tender.
- The successful Tenderer, and the price that is accepted, shall be notified in writing to all Tenderers.
- Criteria 3. and 9. are to be assessed following a community consultation process to be determined and conducted by the Council.

TXX/20/21 DESIGN & CONSTRUCTION OF THE TOCUMWAL FORESHORE BUILDING

SECTION TWO – CONDITIONS OF CONTRACT

2.1 PROVISIONS OF AS4300-1995

The provisions of AS4300-1995 will apply to the contract. For full details, Tenderers should obtain a copy of Australian Standard – General conditions of contract for design and construct (AS4300-1995)

**2.2 ANNEXURE to the Australian Standard
General Conditions of Contract for Design and Construct**

PART A - AS 4300 - 1995

This Annexure shall be completed and issued as part of the Tender Document and subject to any amendments to be incorporated into the Contract, it is to be attached to these General Conditions of Contract and shall be read as part of the Contract.

- 1. The law applicable is that of the State or Territory of : (Clause1) New South Wales
- 2. Payments under the Contract shall be made at: (Clause 1) Berrigan, New South Wales
- 3. The Principal: (Clause 2) Berrigan Shire Council
- 4. The address of the Principal Shire Offices
56 Chanter Street
BERRIGAN NSW 2712
- 5. The Contractor: (Clause 2)
- 6. The address of the Contractor
- 7. The Superintendent: (Clause 2) Matthew Clarke
- 8. The address of the Superintendent: Berrigan Shire Council,
56 Chanter Street
BERRIGAN NSW 2712
- 9. The Date for Practical Completion: (clause 2)
OR
The period of time for practical Completion: (Clause 2) 40 weeks from date of Letter of Acceptance

TXX/20/21 DESIGN & CONSTRUCTION OF THE TOCUMWAL FORESHORE BUILDING

- | | | |
|-----|--|--|
| 10. | Preliminary Design: (Clause 2) | (A) A Preliminary Design is included in the Principal's Project Requirements. |
| 11. | The Principal's Project Requirements are described in the following documents (additional to those listed in the Annexure item for Preliminary Design): (Clause 2) | Documents describing the Principal's Project Requirements are:

This Specification |
| 12. | Limits of accuracy applying to quantities for which the Principal accepted a rate or rates: (Clause 3.3(b)) | Upper Limit - Not Applicable

Lower Limit - Not Applicable |
| 13. | Contractor shall provide security in the amount of: (Clause 5.2) | Not Applicable
.....\$ |
| 14. | Principal shall provide security in the amount of: (Clause 5.2) | Not Applicable
.....\$ |
| 15. | Retention moneys shall be deducted progressively as follows: (Clauses 5.5 and 42.1) | Ten (10) per cent of the value of the work incorporated into the Works until five (5) per cent of the Contract Sum is reached. |
| 16. | The period of notice required of a party's intention to convert security into cash or to have recourse to security or retention moneys: (Clause 5.6) | Not Applicable |
| 17. | The percentage to which the Principal's entitlement to and retention money is reduced: (Clause 5.8) | Not Applicable |
| 18. | The percentage to which the Contractor's entitlement to security is reduced: (Clause 5.8) | Not Applicable |
| 19. | Holding of an interest on cash security and retention moneys- the Alternative applying: (Clause 5.10) | Alternative 2 |

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20.	The number of copies of documents to be supplied by the Principal: (Clause 8.3)	1										
21.	Documents, numbers of copies and the times or design stages at which they are to be supplied by the contractor: (Clause 8.4)	<table border="0"> <thead> <tr> <th style="text-align: left;"><u>DOCUMENTS</u></th> <th style="text-align: left;"><u>NO. OF COPIES</u></th> </tr> </thead> <tbody> <tr> <td>Construction</td> <td>2</td> </tr> <tr> <td>Drawings</td> <td>3</td> </tr> <tr> <td>Technical</td> <td>2</td> </tr> <tr> <td>Specification</td> <td>3</td> </tr> </tbody> </table>	<u>DOCUMENTS</u>	<u>NO. OF COPIES</u>	Construction	2	Drawings	3	Technical	2	Specification	3
<u>DOCUMENTS</u>	<u>NO. OF COPIES</u>											
Construction	2											
Drawings	3											
Technical	2											
Specification	3											
22.	The time within which the Superintendent must give a direction as to the suitability of documents: (Clause 8.4)	Seven (7) days										
23.	Work which cannot be subcontracted without approval (Clause 9.2)	<u>Work by Consultants:</u> ALL <u>Work by Others:</u> ALL										
24.	Subcontractors or Selected Subcontractors whose contracts the Principal may direct be novated:(Clause 10)	Not Applicable										
25.	The percentage for profit and attendance (Clause 13.2)	Not Applicable										
26.	Intellectual property rights granted to the Principal - the Alternative applying: (Clause 13.2)	Alternative 1 (Principal) (if nothing stated, Alternative 1 applies)										
27.	Legislation Requirements not required to be satisfied by Contractor: (Clause 14.1)										
28.	Insurance of the work under the Contract - the alternative applying: (Clause 18) If Alternative 1 applies	Alternative 1 (if nothing stated, Alternative 1 applies)										
	a) The amount for demolition and removal of debris:(Clause 18 (ii))										
	b) The amount for consultants' fees: (Clause 18 (iii))										

TXX/20/21 DESIGN & CONSTRUCTION OF THE TOCUMWAL FORESHORE BUILDING

- c) The values of materials of things to be supplied by the Principal: (Clause 18 (iv)) \$.....
- d) The additional amount or percentage: (Clause 18 (v))
..... 15%.....

- 29. Public liability policy of insurance - applying : (Clause 19) Alternative 1 (if nothing stated. Alternative 1 applies)
- 30. If Alternative 1 applies the amount of public liability insurance shall be not less than: (Clause 19)\$20,000,000.....
- 31. Amount of Contractor's professional indemnity insurance shall be not less than: (Clause 21) \$1,000,000.00 (if no amount stated, \$1,000,000.00)
- 32. Period for which Contractor's professional indemnity insurance shall be maintained after issue of the Final Certificated: (Clause 21) Twelve (12) months
- 33. Categories of Consultants and amounts of Consultants' Professional indemnity insurance: (Clause 21) CATEGORY AMOUNTS \$
 ALL \$1,000,000.00
 CONSULTANTS USED ON THE PROJECT BY THE CONTRACTOR
- 34. Period for which each Consultant's professional indemnity insurance shall be maintained after issue of the Final Certificate: (Clause 21) Twelve (12) months
- 35. The time by which access to the Site shall be given: (Clause 27.1) From the Date of letter of Acceptance.

TXX/20/21 DESIGN & CONSTRUCTION OF THE TOCUMWAL FORESHORE BUILDING

36.	The time for giving possession of the Site to enable commencement of further work: (Clause 27.1)	Fourteen (14) days of Date of Letter of Acceptance of Tender
37.	The times by, or periods within which the Superintendent is to furnish information, materials, documents to instructions to the Contractor: (Clause 33.1)	<u>INFORMATION</u> <u>MATERIALS</u> <u>DOCUMENTS OR</u> <u>INSTRUCTIONS</u> <u>TIME/PERIOD</u> ANY <u>SEVEN(7) DAYS</u>
38.	Events causing delay: -industrial conditions (Clause 35.5a)(i) - inclement weather (Clause 35.51)(l)	Applicable Applicable
39.	Rate of liquidated damages: (Clause 35.6)\$500 per day
40.	Limit of liquidated damages: (Clause 35.7)\$ Unlimited
41.	Bonus for early Practical Completion: (Clause 35.8)\$ Nil per day
42.	Limit of Bonus: (Clause 35.8)\$ Nil
43.	Other events for which extra costs for delay or disruption are payable: (Clause 37)	<u>OTHER EVENTS</u> NIL
44.	The Defects Liability Period: (Clause 37)	Twelve (12) months
45.	The charge for overheads, administrative costs, site supervision, establishment costs, attendance and profit for Day work.
46.	a) Times under the Contract for payment claims: (Clause 42.1)	Twenty-fifth (25th) day of each month
Or	b) stages of the work under the Contract for payment claims (Clause 42.1)
47.	Unfixed plant and materials for which payment claims may be made before they are	NIL

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incorporated in the works:
(Clause 42.2)

- | | | |
|-----|--|---|
| 48. | The amount of additional security for unfixed plant and materials:
(Clause 42.2) |\$ Not Applicable |
| 49. | The rate of interest on overdue payments : (Clause 42.7) | Seven (7) per cent annum |
| 50. | The delay in given possession of the Site or sufficient of the Site which shall be a substantial breach: (Clause 44.7 (c)) | Seven (7) days |
| 51. | The delay in given possession of the Site or Sufficient to the Site which shall be a substantial breach: (Clause 44,7 (d)) | Fourteen (14) days |
| 52. | Further steps required before proceeding - the Alternative applying : (Clause 47.2) | Alternative 1

(if nothing stated, Alternative 1 applies) |
| 53. | The person to nominate an arbitrator: (Clause) | The President of The Institution of Engineers, Australia |

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SECTION FOUR – PROJECT BRIEF

DESIGN & CONSTRUCTION OF THE TOCUMWAL FORESHORE BUILDING

4.1 GENERAL PROJECT INFORMATION

The Council has been working through a consultative process with relevant stakeholders to replace the Tocumwal Visitor Information Centre building and associated amenities with a marquee building that incorporates a first floor restaurant with river views.

This process has produced preliminary architectural drawings that provide a workable option for the achievement of this objective. However, the resultant design does not satisfy all stakeholders and therefore the Council is seeking tenders that allow for the development of an alternative design that may gain a greater degree of stakeholder support. Tenderers are also encouraged to submit an alternate tender for the construction of the building in accordance with the architects design provided in the tender documents.

4.2 PROJECT OBJECTIVE

To demolish the existing Tocumwal Visitor Information Centre located at 1 Deniliquin Road, Tocumwal and replace the building with a new 2 story building comprising of a ground floor area of no greater than that of the existing building, a commercial premise on the top floor for hospitality purposes, 3 commercial premises on the ground floor.

The building must provide access to people of all abilities and have at least 2 points of access – one from the existing footpath on top of the Levee bank and one on the ground floor. The total cost of the project must be no more than \$1,463,500.00 and must be practically completed by ~~31st March 2024~~ within 40 weeks of the issue of Letter of Acceptance.

The objective of the building will be to attract additional business and, in turn, additional tourists to Tocumwal.

The project is to be delivered as a part of the Restart NSW Regional Growth – Environment and Tourism Grant.

4.3 LOCATION

1 Deniliquin Road, Tocumwal NSW 2714.

4.4 SITE

The proposed building is to fully replace the existing building and to have an additional storey

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4.5 SCOPE

The scope of the project is to deliver a new building on the Tocumwal Foreshore as follows:

- Formulate design of new Class 6 multi-use building to address pivotal location in town – town centre;
- Consideration of adjacent heritage items and historic precinct (Site lies within conservation overlay – Berrigan LEP 2013);
- Provision for all abilities access;
- Encourage high level of public access – flow through foot traffic;
- Demolition of the existing building in its entirety;
- Preparation of construction drawings and specifications in accordance with approved design and materials;
- Construction of a new building in accordance with approved design.

Project practical completion will occur when all the components of the scope are complete and suitable for public for operational use.

The scope consists of the consultation, design and construction of the facility to be undertaken in accordance with this specification.

4.6 DEMOLITION

All demolition work required and preparation of the site will be conducted by the contractor and is included in the tender.

4.7 DESIGN & CONSTRUCTION

The Successful Tenderer shall design the new building and take into account the layout of the area and in particular the allowable building footprint.

Inclusions:

Design and Construction Consideration

- A detailed site survey
- Geotechnical investigation and soil report
- Architectural and structural design for the new building in its entirety taking into consideration, stormwater and sewer drainage amongst other service provisions
- Consideration of adjacent heritage items and historic precinct (Site lies within conservation overlay – Berrigan LEP 2013)
- Encourage high level of public access – flow through foot traffic
- Building to be designed to include the following multi-uses:
 - o Level 1 - Restaurant– Approx. 135m², 95 patrons, kitchen facilities, amenities, access to levee path
 - e Ground – Retail Shop with Kitchen – Approx 105m² 3 premises
 - o Visitor Information Centre – Approx 80m² do we need the floor areas?
 - * Ground - 3 commercial spaces:
 - 1 x approximately 100m²
 - 1 x approximately 60m²
 - 1 x approximately 40m²

Please note that the two larger commercial spaces are to cater for hospitality businesses and the smaller space to a visitor information space and should be fitted out accordingly including the provision of toilet facilities

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Accessible Public Amenities comprising 2 ambulant toilets.

o Miscellaneous - Lift

Ramp to Levee

Waste/Garbage Disposal

Stairs

- Council approvals and costs associated with approvals
- Preparation of construction costs
- Preparation of specifications for the works
- Compliance with the NCC 2019 and relevant Australian Standards
- Location of existing services and infrastructure
- Electrical and lighting
- Energy efficiency
- Use of natural light
- Accessible entry
- Air-conditioning
- Reinstatement of any works that may be impacted.

4.8 FACILITIES FOR PEOPLE WITH DISABILITIES

The building must incorporate facilities for people with disabilities designed in accordance with AS1428.1-2009 "Design for access and mobility"

"General Requirements for access – New building work"

4.9 CONSULTATION REQUIREMENTS

The following consultation meetings shall be provided for in the tendered price:

One public/committee meeting at Berrigan to scope design.

Two additional meetings with Council staff at Berrigan to finalise design.

4.10 TIMING AND COMPLETION

The completion date of the contract is at practical completion 31st March 2024 being no more than 40 weeks from the date of Letter of Acceptance. If this timing will create a cost impost you are encouraged to submit an additional non-conforming tender detailing savings that may be available should the time for completion be extended.

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SECTION FIVE – TENDER DOCUMENTS

(to be completed and returned to Council prior to close of tender)

WEDNESDAY 22 APRIL, 2020, 2:00PM

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SCHEDULE OF PRICES

ALTERNATIVE DESIGN

DESIGN AND CONSTRUCTION OF THE TOCUMWAL FORESHORE BUILDING

ITEM	DESCRIPTION	AMOUNT \$
1.	DESIGN	
1.1	Consultation meetings to develop design.	
1.2	Location of underground services including potholing where required	
1.3	Preparation of Structural Design, Construction Drawings Technical Specification (including facility plans and elevations)	
2.	DEMOLITION	
2.1	Site establishment including earthworks and security fence	
2.2	Demolition of the unfit-for-purpose existing amenities block including disposal of all materials and levelling of site.	
3.	CONSTRUCTION	
3.1	Construction of new facility including supply of all materials, labour, connection of all plumbing and electrical work.	
5.	Environmental control	
5.1	Clean up of site during and after completion of works including cartage and disposal of surplus excavated material from site. Surplus material is to be taken to the Berrigan Landfill (Approximately 45km each way) Note: Contractor is to bear the cost of tipping fees.	
TOTAL \$		

TXX/20/21 DESIGN & CONSTRUCTION OF THE TOCUMWAL FORESHORE BUILDING

ARCHITECTS DESIGN PROVIDED

DESIGN AND CONSTRUCTION OF THE TOCUMWAL FORESHORE BUILDING

ITEM	DESCRIPTION	AMOUNT \$
1.	DESIGN	
1.1	Prime Cost item for GPG Architecture & design to prepare Structural Design, Construction Drawings Technical Specification (including facility plans and elevations)	(CROSS OUT ONE) \$???? NIL
	OR	
1.2	Location of underground services including potholing where required	
1.3	Preparation of Structural Design, Construction Drawings Technical Specification (including facility plans and elevations)	
2.	DEMOLITION	
2.1	Site establishment including earthworks and security fence	
2.2	Demolition of the unfit-for-purpose existing amenities block including disposal of all materials and levelling of site.	
3.	CONSTRUCTION	
3.1	Construction of new facility including supply of all materials, labour, connection of all plumbing and electrical work.	
5.	Environmental control	
5.1	Clean up of site during and after completion of works including cartage and disposal of surplus excavated material from site. Surplus material is to be taken to the Berrigan Landfill (Approximately 45km each way) Note: Contractor is to bear the cost of tipping fees.	
TOTAL \$		

Tenderer's Signature

Witness

TXX/20/21 DESIGN & CONSTRUCTION OF THE TOCUMWAL FORESHORE BUILDING

SCHEDULE FOR COMMENCEMENT AND COMPLETION

THE TENDERER SHALL SPECIFY	DATE
1. The date they would be available to commence work on site.	
2. The time required to reach Practical Completion following receipt of the letter of acceptance.	

- NOTES: a) The period of time nominated in 2. shall apply to Clause 9 of the General Conditions of Contract for Design and Construction (refer to page 21)
- b) The Principal considers that the period of time nominated in 2. must be no greater than 40 weeks.

Tenderer's Signature

Witness

Consultation process

Circulated with this agenda as **Appendices “B” and “C”** are draft engagement strategies and draft survey for consideration.

This engagement would need to be conducted after tenders would be received for any design and construct options and before any tender acceptance.

In terms of the “what” it would be useful for Councillors to consider the issues that are being raised in the proposed strategy as this could help in shaping or focusing on “what” is required or desirable.

Timelines

For the dual tender process the following timelines have been developed:

Activity	Duration	Completion Date
Council determines to go D&C Tender		4/03/2020
Prepare tender documents	1 week	11/03/2020
Tender period	6 weeks	22/04/2020
Tender evaluation	2 weeks	6/05/2020
Council evaluation		20/05/2020
Public consultation	3 weeks	10/06/2020
Final tender adoption		17/06/2020
Lodge and determine Development Application	8 weeks	12/08/2020
Caretaker mode commences		15/08/2020
Council meeting		19/08/2020
Commence construction	2 weeks	2/09/2020
Council election		12/9/2020
Construction period + 2 weeks Xmas	40 weeks	28/06/2021

Risks – unique to this option

In considering the proposed way forward there are a number of risks to be considered.

Community support or further division

It is unknown whether having a selection of concepts, plus the adopted concept will generate wider support for a concept or rather if it will only create more division and debate.

Caretaker Period

The Council enters a caretaker period 4 weeks prior to the election on 12th September 2020. According to S393B of the Local Government (General) Regulations the following applies:

393B Exercise of council functions during caretaker period

- (1) *The following functions of a council must not be exercised by the council, or the general manager or any other delegate of the council (other than a Joint Regional Planning Panel or the Central Sydney Planning Committee), during a caretaker period—*
 - (a) *entering a contract or undertaking involving the expenditure or receipt by the council of an amount equal to or greater than \$150,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger),*
 - (b) *determining a controversial development application, except where—*
 - (i) *a failure to make such a determination would give rise to a deemed refusal under section 82 of the Environmental Planning and Assessment Act 1979, or*
 - (ii) *such a deemed refusal arose before the commencement of the caretaker period,*
 - (c) *the appointment or reappointment of a person as the council's general manager (or the removal of a person from that position), other than—*
 - (i) *an appointment of a person to act as general manager under section 336(1) of the Act, or*
 - (ii) *a temporary appointment of a person as general manager under section 351(1) of the Act.*
- (2) *Despite subclause (1), such a function may be exercised in a particular case with the consent of the Minister.*
- (3) *In this clause—*

caretaker period means the period of 4 weeks preceding the date of an ordinary election.

controversial development application means a development application under the Environmental Planning and Assessment Act 1979 for which at least 25 persons have made submissions under section 79(5) of that Act by way of objection.

Despite the fact that there is a defined caretaker period it nonetheless also creates a perception about the issue if significant decisions are made just outside of this period even if there is nothing technically wrong with it.

There is a risk that the project cost may increase in cost through lack of local participation driven by negative community response similar to that which occurred with the Finley School of Arts project.

Leave it to the new Council

If the Council is unable to complete the process to build a new building before the caretaker period commences this will ultimately leave the decision making process to the new Council.

At best this will add to the time taken to complete the project as the new Council would, quite rightly want to properly familiarize itself with the project.

At worst it could see significant change in the project which would take it away from the project that this Council is attempting to take forward.

Extension process

As the Council is aware the grant funding for this project is under the auspice of Albury City Council.

Reputation loss. As a minimum therefore the Council would need to convince that Council to apply for an extension of time to complete the Foreshore project. In normal circumstance that Council, and also Federation Council, would be concerned with the impact of any such request upon their respective reputations to deliver grant funded projects on time, especially when they nominated their own project completion times.

Despite the above, at a recent meeting of the project co-ordination team it was apparent that the other Councils may be receptive to such a request. This will be further explored at the next co-ordinating team meeting later in March 2020.

The grant deed is silent on the matter of any extension of time and rather oversees the project on a risk management basis and any perceived or actual delay in delivery outputs would see the project move to the amber stage.

Also, the cover letter of grant deed indicates that *"At any stage during the project, if it is anticipated that the project will not meet the scheduled completion date, the recipient must submit an Extension of Time (EOT) request in writing addressed to Ross Parker outlining the reasons for the delay for review and consideration by Infrastructure NSW"*.

The Council's local State Member of Parliament has also indicated a willingness to support an extension for the project.

Reputational Risk

Whilst I understand it is not a universally held view, it is my view that the Council's reputations as one that deliver grant projects on time and on budget is of great importance. There is no doubt, in my mind, that if competing for grant funding past reputation is a factor for consideration. Grant providers want to ensure that they have reliable partners in projects as failure reflects upon the provider as well as the deliverer.

At this time, this Council has an enviable reputation as a reliable partner and is put forward by some grant providers as a model for successful project delivery. Any risk to this reputation needs to be seriously considered.

Summary

Either approach to developing the new building at Tocumwal Foreshore is possible and both processes have risks associated with them. That said, the key issue for the Council to consider is whether it prefers to see the project “locked in” during the current term of the Council or whether it is confident that a future Council will appropriately take the project forward to satisfactory completion. That is a matter for the Council’s judgement.

In taking the matter forward the following suggested motions could be considered.

That the Council having considered the option of conducting a dual option tender process that would see both its adopted plans for the proposed Tocumwal Foreshore building and a design and construct option tendered now proceeds with a process to tender only its preferred option.

Or

That the Council commence the process to conduct a tender for the construction of a new building at Tocumwal Foreshore with option to develop the Council’s adopted concept plans and a further option to submit a design and construct proposal for the Council’s consideration.