

**CONFIDENTIAL Report**

**TO:** Council

**MEETING DATE:** 20 December 2021

**TITLE:** Tender Award - Cuba Street Stage 2

**PRESENTED BY:** Sandra King, Manager - Transport and Infrastructure

**APPROVED BY:** Sarah Sinclair, Chief Infrastructure Officer

It is recommended that this report be considered with the public excluded, as permitted by the Local Government Official Information and Meetings Act 1987 under clause:

**s7(2)(b)(ii) Third Party Commercial - The withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information**

**RECOMMENDATION FOR PUBLIC RELEASE**

The report can be released following execution of the contract expected to be achieved by 30 Jan 2022.

**RECOMMENDATION(S) TO COUNCIL**

1. That Council approves the award of Contract 3826 for the Cuba Street Stage 2 Redevelopment to Fulton Hogan for the sum of \$ \$1,930,470.06 (excluding GST).
2. That Council approves additional unbudgeted funding of \$1,000,000 for Capital New Programme 1440 - Cuba Street urban streetscape improvements - Rangitikei to George Street (Stage 2) to increase the 2021-22 budget from \$1,346,263 to \$2,346,263 to enable the completion of the full scope of Cuba Street redevelopment work.
3. That Council gives the Chief Executive the delegated authority to vary the contract sum by the maximum amount of 15% of the GST exclusive contract sum within the contingency provisions included in the programme budget if required for the successful delivery of the contract.

**SUMMARY OF OPTIONS ANALYSIS FOR**

<b>Problem or Opportunity</b>	Cuba Street stage 2 provides for completion of urban streetscape improvements for the section of Cuba Street from Taonui Street to Rangitikei Street. The works follow on stage one
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	<p>completed in 2018 and is the second part of works to complete a high-quality link and activated space between the city centre and the Arena.</p> <p>The project has been in development for more than two years, during which there has been extensive engagement with directly affected businesses and property owners within the affected area as well as wider consultation with the community.</p> <p>Council approved the final design proceeding to tender, following deferral of several pedestrian safety initiatives to be implemented as part of Streets for People, at the Council meeting of 2<sup>nd</sup> June 2021.</p> <p>A competitive tender process was undertaken for the delivery of the contract. An evaluation of the two tender submissions received has confirmed a preferred tenderer.</p> <p>As the tender price exceeds the Chief Executive's delegated authority, this report seeks approval to accept the preferred tender and enter into a contract to deliver the project. In addition, as the tender price in combination with project and contract costs and contingency exceeds the approved budget approval from Council is also requested to increase the approved programme budget.</p>
Community Views	<ul style="list-style-type: none"> <li>• Two formal rounds of engagement have been undertaken during 2020 and 2021 with the business and property owners affected by the project enabling resolution of all substantive issues and agreement on the design</li> <li>• Wider community consultation has also been undertaken on the project which confirmed strong support for the project.</li> <li>• Specific engagement has been initiated with the Palmerston North Defence Heritage Advisory Group (PNDHAG) to identify opportunities for inclusion of military heritage within the project, subject to Council approval of special budget.</li> </ul>
<b>OPTION 1:</b>	<b>Award the Contract for Cuba Street Stage 2 to Fulton Hogan Ltd.</b>
Benefits	<ul style="list-style-type: none"> <li>• The next stage of the link between the city and the Arena will be completed ready for integration with the wider Streets for People investment.</li> <li>• Council will deliver on its goal of delivering increased vibrancy and pedestrian activation within the CBD.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>• The current environment with rapid material and labour cost escalation may result in further variations to the contract due to cost escalations requiring an additional funding request to Council.</li> <li>• The delivery of Cuba Street Stage 2 ahead of Streets for People will result in additional disruption given that a further round of work will occur at the Rangitikei Street junction when Streets for People is implemented.</li> </ul>

Financial	<ul style="list-style-type: none"> <li>• Award the contract for \$ \$1,930,470.06 (excluding GST).</li> <li>• Increase the programme budget by \$1,000,000 to \$2,346,263 excl gst to complete the full scope of work.</li> <li>• The cost to deliver the project has increased well above the expected and budgeted cost such that it could be considered to have exceeded fair value.</li> </ul>
<b>OPTION 2:</b>	<b>Do Not Award the Contract for Cuba Street Stage 2</b>
Benefits	<ul style="list-style-type: none"> <li>• Council will avoid incurring additional expenditure and accepting the risk for delivery of a programme of work subject to extreme cost volatility.</li> <li>• The project could be re-visited as part of the Streets for People programme with opportunity for improved integration and reduced disruption.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>• Not accepting the tender and deferring either the project or seeking to re-tender at a later date may result in a higher cost being incurred to deliver the project.</li> <li>• Council has approved a programme of work and engaged with the community indicating an intention to deliver on the upgrades so not proceeding with the work will have impacts on reputation.</li> </ul>
Financial	<ul style="list-style-type: none"> <li>• An immediate capital budget saving would be achieved.</li> <li>• If the project does not proceed there is significant design and engagement costs already incurred which could not be capitalised and would need to be taken from operational budgets.</li> </ul>

## RATIONALE FOR THE RECOMMENDATIONS

### 1. OVERVIEW OF THE PROBLEM OR OPPORTUNITY

1.1 Council approved Programme 1440 in the 2018-28 Long Term Plan to enable the upgrade of Cuba Street from Rangitikei Street to the inner ring road. The key objective of the project is to provide a high amenity quality link between the CBD and the Arena as part of wider focus on enhancing the CBD as a destination and promoting walking and cycling in the inner city. Stage one from the ring road to Taonui Street was completed in 2018.

1.2 The project to complete stage two has been in development for more than two years, due to the high level of interest from small businesses and property owners within the project extent. During this time there has been extensive engagement with the directly affected businesses to seek to mitigate their concerns particularly in relation to loss of parking and loading zone facilities.

- 1.3 Substantive agreement was reached in June 2021 on the detailed design and scope resulting in Council giving direction to undertake the tender. Open tendering of the contract elicited two tender submissions and following robust evaluation a preferred tenderer was identified.
- 1.4 The preferred tender price is substantially higher than anticipated and when considered together with project and contract management costs and a suitable contingency allowance, exceeds the currently approved programme budget by a significant margin. This outcome is in part due to the severe constraints on resourcing and materials fuelling significant cost escalation, which are in the main due to Covid-19 restrictions, international supply constraints and under-capacity in the local contracting industry.
- 1.5 Approval is sought both for the award of tender and for additional budget of \$1,000,000 to enable the full scope of work to be completed.

## **2. BACKGROUND AND PREVIOUS COUNCIL DECISIONS**

- 2.1 Council last considered the project at its 2 June 2021 meeting having previously left the project to lie on the table at the 7 April 2021 meeting pending Officers undertaking further engagement and consultation with directly affected businesses.
- 2.2 At the June meeting Officers presented a modified design following further engagement with stakeholders undertaken during April and May 2021 which sought to agree mitigation strategies to address concerns around parking configuration, access for delivery vehicles and treatment selection. Agreement was reached on most issues aside from concerns from four stakeholders in respect of the impact of the proposed changes on wider congestion problems in central Palmerston North and more specifically outside the Briscoes store on Cuba Street.
- 2.3 Council at the 2<sup>nd</sup> June meeting resolved to approve the modified Cuba Street Stage 2 Project proceeding to tender with one further change as captured in the resolution:
  - That the Council notes the concept modifications to Cuba Street, and endorses the staging of some pedestrian safety initiatives to be removed from the Cuba Street scope and delivered as part of the Streets for People programme of work for Rangitikei Street.
- 2.4 The report submitted to Council on 2 June further advised that with the constrained market at that time, the construction cost for this work was estimated in the vicinity of \$1,500,000 (including project and contract management costs), and that this estimate would result in a budget shortfall, which based on the 2021/22 project budget of \$1,346,263 (refer Table 3 below) would be \$153,737. Since this time, rapid material and labour cost escalations are being realised, with tender submissions received now well above this original estimation.

### 3. PROCUREMENT OVERVIEW

3.1 A request for tender (RFT) was issued on GETS on 3 June 2021 with a closing date of 25 June 2021. Following requests for an extension to the tender the closing date was extended to 5 August. This extension allowed the contractors additional time to prepare tender documentation and also for some modifications to be made to the designs (including pavement upgrades).

3.2 A single stage tender process was chosen with inclusion of preconditions relating to previous experience of this type of project to ensure only suitably qualified and experienced contractors would submit to the process. The tender evaluation method chosen was Price Quality to allow for consideration of the value provided by a superior non-price attribute submission. The approach chosen complies with PNCC's procurement policy and aligns with Government Procurement Rules and the New Zealand government procurement principles.

3.3 Two tender submissions were received by the closing date from Fulton Hogan and [b7(2)(b)(i) Third Party] and these were evaluated by the tender evaluation team on 16 August 2021.

#### 3.4 Evaluation Methodology

The factors considered when determining the weighting of the non-price and price attributes included:

- Key project risks
- Product supply lead times and price volatility
- Methodology which balance disruption to businesses with speed and efficiency of project delivery
- Skills and experience with similar high-profile roading projects with significant stakeholder engagement
- Total project delivery cost including but not exclusively tender price

3.5 The criteria and weighting proposed are as summarised below. With the price quality method, the price weighting is designed to provide an appropriate level of cost premium to reflect the value provided by the high non-price scores. For a project of this complexity a price weighting of 30% is considered appropriate.

**Table 1 Attribute Weighting**

Attribute	Weighting
Relevant Company Experience	25%

Skills of Proposed Project Team	15%
Methodology	30%
Price	30%
<b>Total</b>	<b>100%</b>

3.6 Tender Evaluation

3.7 Key findings from the non-price evaluation are included below:

3.8 **Company Experience:** Both tenderers were assessed as capable of delivering a project of this scale and size.

3.9 **Relevant Skills of the Project Team:** Overall, the evaluation process considered Fulton Hogan had s7(2)(b)(ii) Third Party Commercial project management and site supervision skills and experience in comparison to s7(2)(b)(i) Third Party

3.10 **Methodology:** The tender documentation outlined an indicative project duration of 3-months. Two different methodologies were proposed by both tenderers. s7(2)(b)(i) Third Party proposed completion of works over an s7(2)(b)(i) month period, while Fulton Hogan proposed a s7(2)(b)(i) month period of construction. The shorter construction timeframe was preferred, taking account of preferences from stakeholders and general public through the engagement process.

3.11 **Price:** The two tender prices exceeded the engineer's estimate (\$1,640,100) by \$200,000 to \$300,000. Both tender prices were within s7(2)(b)(i) % of each other and were checked for accuracy and impacts of tags. Adjustments for missing items were made in the final pricing.

3.12 s7(2)(b)(ii) Third Party Commercial The price analysis inclusive of the supplier premium resulted in Fulton Hogan being confirmed as the preferred tenderer.

3.13 s7(2)(b)(i) Third Party price was reviewed but the tags not assessed given Fulton Hogan was selected as the preferred tenderer. If tender award to Fulton Hogan does not proceed, the tender process will be terminated.

**Table 2 Tender Evaluation Scores**

Attribute	s7(2)(b)(i) Third Party Score	s7(2)(b)(i) Third Party Commercial Score	Comment
Relevant Company Experience	s7(2)(b)(i)	s7(2)(b)(i)	Equivalent track record and performance on similar projects

Skills of Proposed Project Team	§7(2)(i)	§7(2)(i)	More appropriately skilled PM and Site Supervisor proposed by §7(2)(b)(i) Third Party Commercial
Methodology	§7(2)(i)	§7(2)(i)	Programme duration proposed by §7(2)(b)(i) Third Party Commercial excessive and likely to result in significant additional cost to PNCC to administer as well as impacts for businesses
Weighted Sum of Non-Price Attribute Scores	§7(2)(b)(ii)	§7(2)(b)(ii)	
Rank	§7(2)(i)	§7(2)(i)	
Supplier Quality Premium	§7(2)(b)(i) Third Party Commercial	§7(2)(b)(i) Third Party Commercial	
Submitted Price	§7(2)(b)(i) Third Party Commercial	§7(2)(b)(i) Third Party Commercial	
Adjusted Price	§7(2)(b)(i) Third Party Commercial	§7(2)(b)(i) Third Party Commercial	
Price including Supplier Premium	§7(2)(b)(i) Third Party Commercial	<b>\$1,807,462.63</b>	§7(2)(b)(ii) Third Party Commercial

#### 4. FINANCIAL CONSIDERATIONS

- 4.1 The urban streetscape improvements in Cuba Street are being delivered through Programme 1440 over four (4) financial years. The actual expenditure and allocated budget over these four years is summarised in Table 3 below. The 2020/21 budget was utilised for project design and engagement.

**Table 3 Budget**

Programme 1440	FY 2018/19 Expenditure	FY 2019/20 Expenditure	FY 2020/21 Expenditure	FY 2021/22 Budget
Cuba Street Urban Streetscape Improvements	\$9,000	\$30,926	\$173,262	\$1,346,000

- 4.2 The programme budget was increased in 2020/21 following a review of the project scope and recent price fluctuations. Cost escalation has however continued to occur both due to material obtainability constraints and limited contractor availability. The expected cost to complete the project along with the budget shortfall are summarised in Table 4 below.

**Table 4 Estimated Cost**

SI	Scope Item	Estimated Cost
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No.		
1.	Fulton Hogan - Tender	\$1,930,470
2.	Client Supplied Materials - Pavers	\$ (b)(2)(b)(ii) Third
3.	Road Safety Audit	\$ (b)(2)(b)(ii) Third
4.	Project and Contract Management	\$ (b)(2)(b)(ii) Third Par
5.	Contingency	\$ (b)(2)(b)(ii) Third Par
	<b>Total Cost to Complete</b>	<b>\$2,345,470</b>
	2021/22 Budget	\$1,346,263
	<b>Budget Shortfall</b>	<b>\$999,207</b>

4.3 The estimated budget shortfall identified is \$999,207. This has been rounded to \$1,000,000 for simplification. Officers will look to identify any value engineering to reduce the overall cost of project delivery. At this stage there are no obvious opportunities for reducing cost which do not significantly impact on the outcomes of the project.

## 5. SUMMARY

5.1 An open competitive tender of the Cuba Street stage 2 contract was completed and a preferred tender submission from Fulton Hogan selected. Significant cost escalation has occurred during the detailed design and tender process such that the estimated cost to complete the project now exceeds the allocated budget by some 40% of \$1,000,000 allowing for contingency.

5.2 There are two options available to Council. Option 1 comprising a decision to award the tender and complete the project as scoped requires approval by Council of additional budget of \$1,000,000. While uncertainty remains about the final project cost, Council has a confirmed price and programme for delivery. There may be some scope to value engineer the design to remove some cost and reduce the final project cost at completion.

5.3 Option 2 comprising a decision not to proceed will delay the realisation of the improved urban streetscape outcomes committed to by Council in its City Centre Plan. There is potential for inclusion of the scope of work within the wider Streets for People programme of work, which may provide opportunities for cost savings through lower cost treatments and economies of scale.



5.4 The project has been impacted by the significant cost escalation being experienced in the wider construction industry resulting from factors such as Covid-19 restrictions, international supply constraints and under-capacity in the local contracting industry. While some of these issues may ease in the short to medium term, there is no certainty that this will translate to reduced costs for civil construction projects, given the huge pipeline of work to be delivered in the region and nationally.

## **6. RECOMMENDATION**

6.1 As the contract award value is above the Chief Executive's delegated authority and significant additional funding is required to complete the project as scoped and tendered in the current tight contracting market Council Officers recommend:

- That Council approves the award of Contract 3826 for the Cuba Street Stage 2 Redevelopment to Fulton Hogan for the sum of \$ \$1,930,470.06 (excluding GST).
- That Council approves additional unbudgeted funding of \$1,000,000 for Capital New Programme 1440 - Cuba Street urban streetscape improvements - Rangitikei to George Street (Stage 2) to increase the 2021-22 budget from \$1,346,263 to \$2,346,263 to enable the completion of the full scope of Cuba Street redevelopment work.
- That Council gives the Chief Executive the delegated authority to vary the contract sum by the maximum amount of 15% of the GST exclusive contract sum within the contingency sum included in the programme budget if required for the successful delivery of the contract.

## **7. NEXT ACTIONS**

7.1 Should Council approve the additional budget and award of contract Council Officers will:

- Explore opportunities to deliver savings through value engineering without compromising on the overall objectives of the project
- Enter into negotiations to confirm the tender price, conditions of contract and address any tags within the tender to the satisfaction of PNCC
- Proceed with planning for temporary changes to parking to Taonui Street to be implemented for the duration of the construction period to mitigate the loss of parking on Cuba Street

## **8. OUTLINE OF COMMUNITY ENGAGEMENT PROCESS**

8.1 Officers will develop a communication and engagement plan for the project which sets out specific measures to ensure all stakeholders are aware of the project and to minimise disruption to businesses while maintaining access and ensuring efficient project delivery.

- 8.2 Officers will proactively engage with business owners to ensure they are aware that the project is proceeding and to discuss specific arrangements to minimise disruption to their operation.
- 8.3 Wider communication about the project will be planned for roll-out in early 2022 ahead of the start of physical work.

### COMPLIANCE AND ADMINISTRATION

Does the Committee have delegated authority to decide? If Yes quote relevant clause(s) from Delegations Manual		<b>Yes</b>
Are the decisions significant?		<b>No</b>
If they are significant do they affect land or a body of water?		<b>No</b>
Can this decision only be made through a 10 Year Plan?		<b>No</b>
Does this decision require consultation through the Special Consultative procedure?		<b>No</b>
Is there funding in the current Annual Plan for these actions?		<b>No</b>
Are the recommendations inconsistent with any of Council's policies or plans?		<b>No</b>
The recommendations contribute to Goal 2: A Creative and Exciting City		
The recommendations contribute to the achievement of action/actions in City Shaping The action is: deliver the city centre streetscape plan		
Contribution to strategic direction and to social, economic, environmental and cultural well-being	<p>The Cuba Street Upgrade Stage 2 is the next section of the city centre streetscape linking the CBD to Arena and connects this premier sporting and events centre to the wider Streets for People programme of work. The project will continue the focus of re-allocating space from road to footpath and urban green landscape while minimising the impact on parking and business activity.</p> <p>The project will contribute to developing a premier place which provides a high quality urban landscape corridor between Arena and the CBD.</p>	

### ATTACHMENTS

Nil