

ITEM 14. EXEMPTION FROM TENDER - REGIMENTAL SQUARE UPGRADE

FILE NO: S121614

SUMMARY

Regimental Square is located at the eastern end of Wynyard Street with frontage on George Street. The square is adjacent to the development site at 333 George Street which is being redeveloped by Charter Hall Funds Management Pty Ltd (Charter Hall).

The Voluntary Planning Agreement (VPA) in relation to 333 George Street between Charter Hall and the City requires:

1. the developer to provide a monetary contribution of \$765,970 (which has been received by the City); and
2. the City to upgrade Regimental Square within seven years from the execution of the VPA as proof of the proper application of the monetary contribution.

A concept design for the upgrade of Regimental Square (Upgrade Works) has been completed in consultation with the Royal Australian Regiment Association. See Attachment A. The design retains a curved memorial wall and original bronze plaques. The location of the wall has been modified to provide equal footpath widths to either side of the memorial.

Watpac Construction (Charter Hall's builder) are currently constructing a new commercial tower at 333 George Street, scheduled for partial opening in 2016 and final completion in 2017. In conjunction with the redevelopment of 333 George Street, Watpac Construction are operating a work zone in the part of Regimental Square adjacent to 333 George Street and will be required to 'make good' the work zone upon exit. Consequently there is an opportunity for Charter Hall and Watpac Construction to deliver the Upgrade Works in early 2016 prior to the commencement of construction works in George Street associated with the delivery of light rail. The work will be done in accordance with the City's public domain codes and standards, and new furniture will be selected from the new suite of street furniture approved by Council.

It is proposed that the monetary contribution of \$765,970 associated with the VPA for the development site at 333 George Street is paid to the developer for the delivery of the construction works associated with the Upgrade Works. These funds will supplement the City's funding of the capital works upgrade project.

The Upgrade Works for Regimental Square would usually attract a public tender under section 55 of *the Local Government Act 1993 (Act)* as the estimated contract amount is in excess of \$150,000. Section 55(3) of the Act provides for an exemption from tendering requirements because of extenuating circumstances and the decision not to tender must be made by Council.

It is recommended that Council endorse the offer from Charter Hall to undertake the delivery of the Upgrade Works as it will provide an advantageous financial outcome when compared to the detailed costs estimates undertaken by the City, and facilitate the early completion of Regimental Square Upgrade Works by approximately four years.

RECOMMENDATION

It is resolved that Council:

- (A) approve the Regimental Square Upgrade Concept Design as shown at Attachment A to the subject report;
- (B) grant an exemption from tender, under the extenuating circumstances provisions of section 55(3)(i) of the Local Government Act 1993, for the delivery of the Regimental Square Upgrade Works;
- (C) endorse the delivery of the Regimental Square Upgrade Works by Charter Hall Funds Management Pty Ltd, the adjacent developer of 333 George Street as set out in Confidential Attachment B;
- (D) delegate authority to the Chief Executive Officer to enter into an agreement between the City and Charter Hall Funds Management Pty Ltd for the delivery of the Regimental Square Upgrade Works;
- (E) endorse using the City Centre Regimental Square capital budget and the \$765,970 received from Charter Hall Funds Management Pty Ltd through the Voluntary Planning Agreement for 333 George Street to fund the Regimental Square Upgrade Works;
- (F) note that the reason for seeking an exemption from tender is that, due to extenuating circumstances, a satisfactory result would not be achieved by inviting tenders as delivery of the Regimental Square Upgrade Works by Charter Hall Funds Management Pty Ltd will:
 - (i) enable coordination of the development works on 333 George Street with the Regimental Square Upgrade Works;
 - (ii) facilitate early completion of the Regimental Square Upgrade Works by approximately four years due to access to Regimental Square from the adjacent 333 George Street site and the work zone being utilised by Watpac Constructions in Regimental Square (the completion of the Regimental Square Upgrade Works is required prior to the commencement of major construction works in George Street associated with the delivery of light rail); and
 - (iii) provide value for money to the City as the offer by Charter Hall Funds Management Pty Ltd provides financial savings when compared to the detailed costs estimates prepared by the City's quantity surveyor (including savings through staging the project with the development make-good works and the existing knowledge, resources and experience associated with the project site).

ATTACHMENTS

Attachment A: Regimental Square Upgrade – Concept Design

Attachment B: Regimental Square Upgrade – Financial Assessment, Independent Quantity Surveyor Summary Report and Charter Hall Proposal (Confidential)

(As Attachment B is confidential, it will be circulated separately from the agenda paper and to Councillors and relevant senior staff.)

BACKGROUND

1. Regimental Square is located at the eastern end of Wynyard Street adjacent to 333 George Street with frontage to George Street. The site represents historical and social links to our local, national military and colonial past represented by various memorial plaques.
2. In February 1974, Council approved the closure of a portion of Wynyard Street to create an active pedestrian precinct including a partly enclosed garden with a water feature.
3. In April 1974, the Council agreed to the suggestion by the Royal Australian Regiment Association (RARA) for the site to be used for a memorial to be paid for by the RARA.
4. In December 1974, Council approved the design of the memorial which included a curved wall made from sawn Sydney sandstone with bas-reliefs made of bronze commemorating four conflicts in which the Royal Australian Regiment served.
5. In December 1976 the memorial was officially opened by the then Lord Mayor and the NSW Governor.
6. The name 'Regimental Square' was proposed by the Royal Australian Regiment Association and accepted by Council in September 1977.
7. The square is approximately 515 metres square and incorporates an east facing memorial wall flanked by planter boxes containing 23 mature palm trees of varying ages and seats on the north and south ends.
8. The area within the planter boxes is slightly depressed, providing a space dedicated to respite and reflection with a 2.6 metre wide footpath on the southern side and a 1.8 metre wide footpath on the northern side.
9. The square is used as a pedestrian thoroughfare and meeting place and by the Royal Australian Regiment for ANZAC Day services and has not been upgraded since its opening in 1976.
10. The proposed Upgrade Works support and build upon recommendations from Jan Gehl's Public Spaces – Public Life Sydney 2007 and the Regimental Square 2011 Report. Regimental Square is an important pedestrian route linking the Wynyard bus interchange, Wynyard Station and George Street.
11. The Voluntary Planning Agreement (VPA) between the City and Charter Hall Funds Management Pty Ltd (Charter Hall), the owner/developer of 333 George Street, the site adjacent to the north boundary of the square, requires the City to upgrade the square within seven years of the execution of the VPA.
12. The VPA included a financial contribution of \$765,970 toward the upgrade of the square.
13. A concept design that removes the original planters and existing vegetation but retains the memorial wall and water feature has been endorsed by the Royal Australian Regiment Association.
14. Watpac Construction (as Charter Hall's builder) are currently constructing 333 George Street to deliver a new commercial tower scheduled for completion in 2017.

15. There is a small window of opportunity to implement the construction works for the upgrade of Regimental Square with the first stage of opening of the new building and prior to the commencement of major construction works for the light rail in George Street.
16. It is proposed that the monetary contribution of the VPA associated with the redevelopment of 333 George Street be returned to the developer for the delivery of the Regimental Square upgrade and that the VPA be supplemented from the original project budget to deliver the concept design endorsed by the Royal Australian Regiment Association.

KEY IMPLICATIONS

Strategic Alignment

17. *Sustainable Sydney 2030* is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This proposal is aligned with the following strategic directions and objectives:
 - (a) Direction 4 - A City for Walking and Cycling – The proposal will improve and reinforce the existing pedestrian links between George Street and Wynyard Street.
 - (b) Direction 5 - A Lively and Engaging City Centre – The proposal will provide a space for residents, workers and visitors to the City to meet and gather.
 - (c) Direction 7 - A Cultural and Creative City – the proposal retains the opportunity to provide a space for contemplation within the CBD for use by the Royal Australian Regiment Association and celebration of ANZAC day services.

Organisational Impact

18. The delivery of upgrade works to Regimental Square will have minimal impact on the organisation as the project will be delivered by the developer of 333 George Street.
19. The City will need to dedicate an officer to ensure the interest of the Royal Australian Regiment Association and the City is maintained during the implementation of the works.

Risks

20. The site is of social and historical significance and adjacent to heritage-listed buildings. The proposed works do not alter views to or from heritage items nor impact on the heritage fabric of the site. The proposed removal of the palm trees will improve the visibility of the adjacent heritage items.
21. There are a number of utility services which transverse the site, these have been surveyed and mapped in order to mitigate risk during construction.

Social / Cultural / Community

22. The project will improve pedestrian links between George Street and Wynyard bus interchange and Wynyard station and provide improved urban amenity within the CBD.
23. New benches and improved lighting will provide opportunities for meeting and gathering within the CBD.
24. The existing memorial will also be updated and revitalised for ongoing use by the Royal Australian Regiment Association well into the future.

Environmental

25. The Upgrade Works to Regimental Square supports and encourages sustainable transport such as walking and cycling. New plantings will contribute to the City's urban canopy.

Economic

26. The upgrade will improve accessibility and increase outdoor areas for local businesses in the vicinity of the works. There will be broader economic benefits for the City with improved connections between Wynyard Park and George Street and the adjacent transport interchanges.

BUDGET IMPLICATIONS

27. There are existing funds in the endorsed capital works project budget for the delivery of upgrade works to Regimental Square, Wynyard Street and Wynyard Lane.
28. A Voluntary Planning Agreement (VPA) between the owner/developer of 333 George Street includes a monetary contribution of \$765,970 that can supplement the capital works project funding.

RELEVANT LEGISLATION

29. An exemption from tender is sought in accordance with section 55(3)(i) of the Local Government Act 1993.
30. Section 377 of the Local Government Act 1993 expressly excludes the delegation of some functions from Council to the CEO. Section 377(1)(g) refers the voting of money for expenditure on its works, services or operations as being excluded from the delegations.
31. Attachment B contains confidential commercial information on Charter Hall's project costings and inclusions which, if disclosed, would:
 - (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person who supplied it.
32. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

CRITICAL DATES / TIME FRAMES

33. The Upgrade Works for Regimental Square would usually attract a public tender under section 55 of the Local Government Act 1993 (Act) as the estimated contract amount is in excess of \$150,000. Section 55(3) of the Act provides for extenuating circumstances where tendering is not required and the decision not to tender must be made by the elected Council
34. Construction of light rail and the transformation of George Street is scheduled to commence in 2016. Access to Regimental Square will be restricted after July 2016 and the upgrade would not be able to commence until post 2019.
35. The developer plans to open the ground floor of 333 George Street in July 2016. The Regimental Square upgrade can be completed by the construction contractor within this timeframe.
36. If the opportunity to upgrade Regimental Square by the adjacent developer is not taken, access to undertake upgrade works to the square will not be available until post light rail delivery in 2019 and the opportunity to improve the pedestrian connections from George Street to the Wynyard bus interchange and Wynyard station prior to the delivery of light rail in George Street will be lost.

OPTIONS

37. The City could deliver the upgrade works internally which would result in the implementation of the project after completion of light rail in George Street. This option is not recommended due to the late completion of the upgrade after 2020.

PUBLIC CONSULTATION

38. Regimental Square is zoned Public Recreation under the provisions of the Sydney Local Environment Plan 2012. The existing use and proposed upgrade works are consistent with the objectives of the zone and the range of permissible uses.
39. Regimental Square is classified as community land and the existing use and proposed upgrade works are consistent with the relevant plan of management.
40. The City has consulted with the NSW Royal Australian Regiment Association (RARA) and they confirmed their support for a new memorial, agreeing that the area was due for a face-lift. The RARA requested that the bas-relief sculptures and curved wall was retained in the new design.
41. The Charter Hall offer excludes provision of plaques. The City is working with the RAR Association to determine a design approach for the plaques. When this is completed, the City will provide the plaques.
42. Adjacent property owners, building managers, businesses and other stakeholders will be advised in writing prior to the commencement of construction works.

KIM WOODBURY

Chief Operating Officer

Terry Daly, Executive Manager, City Transformation