

**ITEM 23. EXEMPTION FROM TENDER - GREEN SQUARE WATER REUSE
STAGE 2 EXPRESSION OF INTEREST**

FILE NO: 2015/610332

SUMMARY

The Water Industry Competition Act (WIC Act) was introduced to promote competition, innovation and investment in the water industry. It enables the private sector to provide alternative water utility services, including recycled water, in our urban renewal areas.

There is still significant urban renewal set to occur in the greater Green Square area, particularly in the Epsom Park, North Rosebery and Beaconsfield precincts. Preliminary investigations indicate that it could be feasible for a private utility to fund, own and operate a commercial water utility in this area, provided the utility could form suitable commercial arrangements with Sydney Water, developers and customers and the City offer space to house the water treatment plant and storage tanks.

On 10 August 2015, Council resolved to seek expressions of interest for proposals from organisations capable of funding and providing alternative water utility services in the greater Green Square urban renewal area.

Three expression of interests were received from suitably qualified, private organisations willing to deliver water recycling services in the greater Green Square area. The organisations have different business models and vary in their expectations of the resources and support that they would like to receive from the City.

The expression of interest process identified only one organisation that was clearly willing to deliver the project in accordance with the City's key requirements, as set out in the expression of interest, and in a manner that presents low risks to the City with a reasonable probability of success.

The other proposals received were not clear in one or more key matters (even after interviewing) and/or were assessed as presenting unacceptable risks in their execution. There was a considerable gap between the preferred proposal and the others. A request for tender that required clarity, low risk and alignment with the City's key requirements would be very unlikely to attract competitive tenders. This unavailability of competitive tenders creates grounds for an exemption from tender.

A summary of the assessment of the responses is provided in confidential Attachment A. This report recommends that Council endorse proceeding to a direct negotiation with one of the suitably qualified organisations for the reasons outlined in this subject report and confidential Attachment A.

RECOMMENDATION

It is resolved that:

- (A) Council grant an exemption from tender for the provision of water utility services in the greater Green Square urban renewal area in accordance with s55(3)(i) of the Local Government Act 1993;

- (B) Council note that a satisfactory result would not be achieved by inviting tenders because the expression of interest process indicated that Council would not receive competitive tenders that comply with the City's preferred delivery model;
- (C) authority be delegated to the Chief Executive Officer to enter into negotiations with Company 'C', identified in confidential Attachment A, using its submitted response to the expression of interest as a benchmark; and
- (D) the Chief Executive Officer report back to Council on the results of the negotiation by mid-2016.

ATTACHMENTS

Attachment A: Expression of Interest Summary and Assessment (Confidential)

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

BACKGROUND

1. Sustainable Sydney 2030 includes a vision for a water sensitive city that reflects businesses' and the community's desire for improved water efficiency, increased water independence and improved water quality in local water catchments.
2. To increase water independence, the City adopted a target to replace 10% of mains water demand across the local government area with water generated from local water resources by 2030. Wastewater (sewage) generated in our local area is an important source of local water because it is climate resilient and is not significantly affected by weather variability.
3. Capturing and treating water produces a locally generated source of recycled water that will be reliable in times of drought. This will help to:
 - (a) maintain canopy cover, keeping our city cool and mitigating heat stress impacts; and
 - (b) keep the City's parks and gardens irrigated and open to the growing community.
4. The Water Industry Competition Act (WIC Act) was introduced to promote competition, innovation and investment in the water industry. It enables the private sector to provide alternative water utility services, including recycled water, in our urban renewal areas.
5. There is still significant urban renewal set to occur in the greater Green Square area, particularly in the Epsom Park, North Rosebery and Beaconsfield precincts. Preliminary investigations indicate that it could be feasible for a private utility to fund, own and operate a commercial water utility in this area, provided the utility could form suitable commercial arrangements with Sydney Water, developers and customers and the City offer space to house the water treatment plant and storage tanks.
6. On 10 August 2015, Council resolved to seek expressions of interest for proposals from organisations capable of funding and providing alternative water utility services in the greater Green Square urban renewal area.

INVITATION TO SUBMIT EXPRESSION OF INTEREST

7. The City commenced the expression of interest process for the Green Square Water Reuse – Stage 2 project by public advertisement on 8 September 2015. Advertisements were published in The Sydney Morning Herald, The Daily Telegraph and tender portal. The expression of interest closed on 28 October 2015.
8. The expression of interest documentation outlined the City's preferred model for delivery of water recycling in the Green Square urban renewal area. The key requirements of the City's preferred model are:
 - (a) that a private utility will fund, own and operate a water utility business that provides full customer services within the greater Green Square area on a commercial basis; and

- (b) that the City's key role will be to facilitate the early and ongoing involvement of a water utility in the redevelopment of the greater Green Square area and possibly provide access to space to house plant, and storage tanks.

EXPRESSION OF INTEREST SUBMISSIONS

9. Three submissions were received from the following organisations (listed alphabetically):
- Brookfield Infrastructure Group / Flow Systems Pty Ltd;
 - Permeate Partners Pty Ltd; and
 - Veolia Water Australia Pty Ltd.
10. No late submissions were received.

EXPRESSION OF INTEREST EVALUATION

11. All members of the expression of interest evaluation panel signed Pecuniary Interest Declarations. No pecuniary interests were noted.
12. The relative ranking of tenders as determined from the total weighted score is provided in the confidential Tender Evaluation Summary – Attachment A.
13. All submissions were assessed in accordance with the approved evaluation criteria being:
- (a) evidence of the financial capacity of the proponent to fund, install and operate a commercially sustainable precinct scale water recycling scheme in the greater Green Square area;
 - (b) level of proven experience in the design, delivery and operation of precinct-scale recycled water schemes and ability to obtain network operator and retailer licences under the Water Industry Competition Act (or similar legislation);
 - (c) nature and clarity of the business model proposed, particularly in terms of the allocation of risks, ownership and funding arrangements and the degree to which these are acceptable and represent value for money for the community and the City; and
 - (d) quality of the proposed concept and delivery methodology as evidenced by credible work programs to obtain licences, agreements and infrastructure rollout, commitment to minimising greenhouse gas emissions and the level of commitment to milestones for delivery of recycled water to customers and the achievement of reductions in potable water consumption.
14. All three organisations individually attended an interview at the City on Friday 13 November 2015 to present and clarify their proposals.
15. Only one organisation (Company 'C') submitted a proposal that was assessed to align with the key requirements of the City's preferred model outlined in the expression of interest documentation in manner that would presents low risks to the City along with a reasonable probability of success.

FINANCIAL IMPLICATIONS

16. The financial implications are summarised in confidential Attachment A.

RELEVANT LEGISLATION

17. The expression of interest has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Contracts Policy.
18. The expression of interest process identified only one organisation (Company 'C') that would be willing to deliver the project in accordance with the City's key requirements, as set out in the expression of interest, indicating there will be an unavailability of competitive tenderers. A tender process is not likely to result in a different outcome to following up the expression of interest process with direct negotiations with Company "C"
19. It is recommended that the Chief Executive Officer enter into negotiations with Company 'C', identified in confidential Attachment A, and report back to Council on the results of negotiations by mid-2016.
20. Attachment A contains confidential commercial information of the tenderers and details of Council's tender evaluation and contingencies 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.
21. 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

22. The best opportunity to develop water recycling projects in the local government area is in our urban renewal areas. Urban renewal areas provide the density and scale for efficient investment in recycled water infrastructure.
23. As Green Square is developing rapidly, it is important to set up any recycled water scheme before development is completed.

KIM WOODBURY

Chief Operating Officer

Chris Collins, Manager - Green Infrastructure Implementation

Lauren Dragicevich, Precinct Engineer - Green Infrastructure Implementation