

**ITEM 11. EXEMPTION FROM TENDER - HEAD CONTRACTOR HYDE PARK
SOUTH CAFÉ AND LANDSCAPE WORKS**

FILE NO: S122012

TENDER NO: N/A

SUMMARY

An exemption from the City's tendering requirements is sought in order to enable negotiations with a head contractor for the design and construction of the proposed Hyde Park South café and landscape works (Hyde Park Improvement Work Package 4), located at the corner of Elizabeth and Liverpool Streets, Sydney.

This report details the extenuating circumstances relating to the proposed exemption from tender, with consideration of Council's procurement guidelines and section 55 of the Local Government Act 1993.

On 18 November 2013, Council resolved to enter into a deed with Transport for New South Wales to grant Transport for New South Wales access to Hyde Park South to undertake upgrade works to Museum Station.

In April 2015, the City entered into a deed, referred to as the Museum Station Easy Access Upgrade Deed, with Transport for New South Wales to design and construct a café building and lobby. The café building will adjoin a new lift located behind Museum Station to be constructed by Transport for New South Wales

On 23 November 2015, Council resolved to endorse the scoping report for the construction of the Hyde Park South café, recommending works including a new café building, lift lobby, and adjacent public domain improvements around the immediate building curtilage.

Further, on 14 December 2015, Council endorsed the scope of works for Hyde Park Improvement Works - 4 Hyde Park South café setting and entry.

The approved scope of works will integrate with the Hyde Park Master Plan - Public Domain Works. The new building will be a positive and elegant contribution to the State Heritage listed Hyde Park and Museum Station curtilage.

RECOMMENDATION

It is resolved that:

- (A) Council endorse direct negotiation with Arenco Pty Ltd (Head Contractor) to undertake Hyde Park South café, landscape (Hyde Park Improvement Work Package 4) and footpath works;
- (B) Council note that the proposed scope of Hyde Park South café, landscape Improvement Work Package 4, City Infrastructure and traffic operation's footpath works are to be delivered as one package. The project scope is detailed in Attachment A to the subject report;

- (C) Council approve an exemption from tender for the Head Contractor's works in accordance with section 55(3)(i) of the Local Government Act 1993, because of extenuating circumstances as detailed in Attachment B and confidential Attachment C to the subject report; and
- (D) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the contracts between the City and the Head Contractor for the delivery of the Hyde Park South café, landscape and footpath works.

ATTACHMENTS

Attachment A: Project Scope Plan

Attachment B: Summary of Extenuating Circumstances

Attachment C: Financial Implications (Confidential)

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

BACKGROUND

1. In late 2012, City Property was approached by Transport for New South Wales, on behalf of RailCorp, to progress the Museum Station Easy Access Upgrade works, which will require a construction zone with site sheds to be established in the south-west corner of Hyde Park adjacent to Museum Station. Museum Station is the last Central Business District Station to be made Disability Discrimination Act compliant.
2. On 18 November 2013, Council resolved that the City enter into a deed with Transport for New South Wales to grant Transport for New South Wales access to Hyde Park South to undertake the easy access upgrade works to Museum Station, to commence the design process of the Hyde Park South café and lift lobby. It also resolved that authority be delegated to the Chief Executive Office to finalise the terms of the deed and the deed on behalf of Council.
3. The deed with Transport for New South Wales and the City was executed in April 2015 and Transport for New South Wales commenced the easy access upgrade works to Museum Station.
4. On 27 April 2015, Council resolved that head design consultancy services be engaged for the Hyde Park South café. The design has progressed since initial engagement.
5. On 23 November 2015, Council endorsed the Hyde Park South café scoping report, the new café building, new lift lobby and adjacent public domain improvements around the immediate building curtilage. The project will integrate with the concurrent Hyde Park Master Plan public domain works. The new building will be a positive and elegant contribution to the State Heritage listed Hyde Park and Museum Station curtilage.
6. On 14 December 2015, Council endorsed the scope of works for Hyde Park Improvement Works Packages 3 and 4 - the Hyde Park landscape design for Package 3 path restoration and entry improvements in Hyde Park North, and Package 4 Hyde Park South café setting and entry.

Procurement Strategy

7. The recommended strategy involves direct engagement of the Head Contractor to complete the design and construction of Hyde Park South café, landscape and surrounding footpath works. It is considered that this will reduce the construction risk for the City and provide financial savings (refer to financial implications in confidential Attachment C).
8. The City's Quantity Surveyor will benchmark the scope of works through an open book exercise with the Head Contractor to ensure the City receives value for money.
9. The City will be managing the Head Contractor and site safety of the 3 works components (café and lobby, footpath, and Hyde Park landscape works); to be managed by one Contractor.
10. The City will not be exposed to an interfacing risk between Transport for New South Wales lift works and café as the works will be completed by the same contractor. Transport for New South Wales lift, lobby and Hyde Park landscape and the Elizabeth Street and Liverpool Street footpath upgrades can occur at the same time, reducing impact on the general public.

11. The technical service interfacing above the rail corridor (earthing and bonding, loading over station) can be coordinated and constructed by one contractor. This reduces the risk of design and construction over the rail corridor, as the contractor has a detailed understanding of issues working in close proximity to rail infrastructure.
12. The Hyde Park Landscape make-good and new landscaping works will be completed by the same contractor and provide financial savings where landscape works overlap with make-good works.
13. This strategy will also allow early commencement of construction through design and construction of lobby, café, landscape and footpath soon after the lift works are completed.
14. The Head Contractor was engaged by Transport for New South Wales through a pre-qualified expression of interest tender (and then through a State Government tender process) for the design and construction of the Museum Station Easy Access Upgrade Project. Their consultant team is an accredited Authorised Engineering Organisation, authorised by Transport for New South Wales as capable of managing the risks associated with technical and construction issues that are unique to the railway tunnels in Sydney.

Project Scope

15. **Hyde Park South Café** - The project scope includes:
 - (a) replacing the 99m² existing café building with a new café of approximately 97m² including:
 - (i) kitchen and coolroom area approximately 35m²;
 - (ii) bin store and grease trap area approximately 10m²; and
 - (iii) provision of two unisex accessible toilets with one externally accessible for park users;
 - (b) providing approximately 90 café seats, made up of 26 indoor seats, 34 external covered seats and 30 outdoor park seats, replacing the existing 82 café seats comprised of 28 indoor seats, 20 external covered seats and 34 outdoor park seats;
 - (c) lift lobby (50m²) – including compliant lobby, paving and lift shaft permanent cladding; and
 - (d) reinstating the adjacent public domain as part of the Hyde Park Master Plan implementation project. These works include:
 - (i) replacing the existing outdoor park seating area with a new outdoor seating terrace of approximately 75m²;
 - (ii) new landscaping including garden beds, retaining walls and stairs; and
 - (iii) paving works to the café and station surrounds.

16. **Hyde Park Improvement Works Package 4:** The City is concurrently undertaking works to design and implement a suite of complementary improvement to Hyde Park - Packages 1 to 3 - Hyde Park Tree Replacement and Other works. These works include the Archibald Fountain, Fig Tree Planting, Pool of Reflection, Pathway Rationalisation and Entries. The Package 4 works will be integrated with the café outdoor seating area and the adjacent park and pedestrian access improvements.
17. **Footpath Upgrade works by City Infrastructure & Traffic Operations:** There are footpath upgrade works programmed that involve the upgrade of the existing pavement on the corner of Elizabeth and Liverpool Streets. These works are proposed to be included in the engagement with the Head Contractor to ensure the design and works achieved are of a high quality and managed in a safe environment under one head contractor.

FINANCIAL IMPLICATIONS

18. There are sufficient funds allocated for this project within the current year's capital works budget and future years' forward estimates.

RELEVANT LEGISLATION

19. An exemption from tender is sought in accordance with section 55(3)(i) of the Local Government Act 1993.
20. Attachment C contains confidential commercial information of the details of Council's 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. Current Program dates are:
 - (a) Construction Tender Late 2016
 - (b) Commence Construction Early 2017
 - (c) Complete Construction Late 2017
23. Proposed Program date – Direct Engagement of Head Contractor
 - (a) Commence Design and Construction for Contractor February 2016
 - (b) Commence Negotiation with Head Contractor March 2016
 - (c) Commence Construction Mid 2016
 - (d) Complete Construction Mid 2017

OPTIONS

24. Council to proceed as originally planned to complete design documentation and tender for a construction contractor. This is not recommended as it would result in higher risk, likely escalation of construction cost and longer delivery timeframe for the Hyde Park South café, landscape and associated works.
25. Council endorses negotiation with the Head Contractor to undertake complete design and construction of Hyde Park café, landscape and footpath works, as it will reduce the City's construction risk, provide an advantageous financial outcome and facilitate the early commencement of works closer to the Transport for New South Wales lift upgrade.

PUBLIC CONSULTATION

26. Public consultation for the Hyde Park South café design was undertaken in October 2015, with a public notification sign displayed in Hyde Park, City web page and display at the City One Stop Shop. Future consultation will be completed through the development application process.

AMIT CHANAN

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