

**ITEM 8. EXEMPTION FROM TENDER – GREEN SQUARE CHILD CARE
CENTRE - ADDITIONAL CONTINGENCY FOR HEAD CONTRACTOR
CONTRACT**

FILE NO: S117320.010

SUMMARY

On 29 June 2015, Council accepted a tender for head contract services for the construction of the Green Square Child Care Centre, 3 Joynton Avenue, Zetland.

The works have encountered extensive delays due to additional hazardous and contaminated material being identified on site during remediation and demolition works of the former outpatients' building and external areas.

This report seeks exemption from tender to increase the existing Head Contractor's contract contingency due to the treatment of contaminated, hazardous material and future design amendment requirements during construction to adapt to site conditions and the extended construction period.

RECOMMENDATION

It is resolved that Council:

- (A) approve an exemption from tender, in accordance with section 55(3)(i) of the Local Government Act 1993, for the contract 'additional hazardous and contaminated material removal', noting that, due to extenuating circumstances, a satisfactory result would not be achieved by inviting tenders;
- (B) note the reasons why a satisfactory outcome would not be achieved by tenders are:
 - (i) a contractor for the construction works has already been appointed in accordance with the City's procurement processes;
 - (ii) within the current contract, a remediation subcontractor is to complete contract remediation works; and
 - (iii) the additional cost required to establish another remediation contractor on site is not considered value for money. If the work were separately contracted, it is not considered that better value for money or suitable timeframes would be achieved for Council;
- (C) approve increased contract contingency to the existing Head Contractor to cover extended construction work as described in confidential Attachment A to the subject report; and
- (D) note the financial and contractual implications detailed in confidential Attachment A to the subject report.

ATTACHMENTS

Attachment A: Financial and Contractual Implications (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. A contract was awarded for the construction of the Green Square Child Care Centre (former outpatients' building and adjacent playground and public domain improvement) at 3 Joynton Avenue, Zetland into an accessible, safe and vibrant child care centre.
2. The contractor commenced the project and remediation works at the former outpatients' building at the South Sydney site on 14 September 2015.
3. As the project proceeded, further testing has been conducted in the validation process and management of contaminated material on site. As a result, the required amount of contamination and remediation works have increased throughout the child care site. This includes external soil remediation, outpatients' building lead paint and dust removal.
4. The current status for the contract works is 20% complete and remediation works 95% complete.
5. The contract works did not include an extensive amount of remediation and hazardous material treatment and, as a result, delayed the progress on contract building works.
6. It is recommended that Council increase the contract contingency to the existing Head Contractor's contract due to the treatment of contaminated, hazardous material and future design amendment requirements during construction to adapt to site conditions and an extended construction period.

FINANCIAL IMPLICATIONS

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

RELEVANT LEGISLATION

8. This exemption from tender is in accordance with section 55 of the Local Government Act 1993.
9. In accordance with section 55 of the Local Government Act 1993, exemption from tender is required due to extenuating circumstances. Extenuating circumstances exist on this project for the following reasons:
 - (a) a contractor for the construction works has already been appointed in accordance with the City's procurement processes;
 - (b) within the current contract, a remediation subcontractor is to complete contract remediation works; and
 - (c) the additional cost required to establish another remediation contractor on site is not considered value for money. If the work were separately contracted, it is not considered that better value for money or suitable timeframes would be achieved for Council.

10. Attachment A contains confidential commercial information Council's contract contingencies which, if disclosed, would confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
11. 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

12. Program Key Milestones

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| (a) Construction works commenced: | September 2015 |
| (b) Construction Work Completion | end February 2017 |

AMIT CHANAN

Director City Projects and Property

Tony Chung, Project Manager