

**ITEM 7. EXEMPTION FROM TENDER - GREEN SQUARE CREATIVE
CENTRE - ADDITIONAL CONTINGENCY FOR HEAD CONTRACTOR
AND QUANTITY SURVEYOR CONTRACTS**

FILE NO: S118549.006

SUMMARY

On 23 November 2015, Council accepted a tender providing head contract services for the construction of the Green Square Creative Centre Community Facilities and Park at 3 Joynton Avenue, Zetland.

The works have encountered delays and cost, 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 remediation of contaminated and hazardous materials throughout the site and latent conditions during construction to the completion of construction.

This report also seeks exemption from tender to increase the existing Quantity Surveyor services contract contingency due to the extended construction period and additional services required to complete the project.

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 contracts for the construction and quantity surveyor services, 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 inviting 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 B to the subject report;

- (D) approve increased contract value for the existing Quantity Surveyor services to cover the extended construction period as described in confidential Attachment B to the subject report;
- (E) note the financial and contractual implications detailed in confidential Attachment B to the subject report; and
- (F) approve the budget shortfall to be brought forward from the South Sydney Hospital Stage 2 project forward estimates in 2022/23 into the 2016/17 financial year of this project.

ATTACHMENTS

Attachment A: Green Square South Sydney Hospital Site – Green Square Creative Centre Community Facilities and Park and the Green Square Childcare

Attachment B: Financial and Contractual Implications (Confidential)

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

BACKGROUND

1. The South Sydney Hospital Site sits within the Green Square Town Centre. The town centre development, when complete, will be a high density, vibrant and diverse place with residential, community and recreational facilities, public transport, retail and commercial spaces. The new Community Centre, park and private wire network are on the former South Sydney Hospital Site.
2. On 29 July 2013, Council endorsed the Masterplan for the former South Sydney Hospital Site and progression to the next stage of design allowing for integration between the infrastructure, community facilities and open space projects at the South Sydney Hospital Site. The Masterplan proposed:
 - (a) community facilities, consisting of creative art spaces, technical workshops and classrooms, offices and shared work spaces, community lounge room, exhibition area and amenities in the Esme Cahill Building;
 - (b) a community shed in the Pathology Building with adjoining public toilets; and
 - (c) a new park defined by the surrounding heritage buildings and new affordable housing.
3. The site consists of three local listed heritage buildings, including the former Esme Cahill Building, Pathology and Administration Buildings and surrounding public space connecting all the buildings.
4. The Esme Cahill Building will transform into a creative and cultural centre with artists' studios, workshops, classrooms, gallery spaces and community hire space. It will feature a sheltered outdoor area for use by the local community and centre users, with the roof form expressing the heritage building's arches. The Pathology Building will house a community shed with workshops and extend to include public toilets.
5. Matron Ruby Grant Park will provide non-structured open space with enhanced entrances, improved connections through and within the site, as well as landscaping for the precinct, in accordance with the South Sydney Hospital Site Public Domain Coordination Plan. Public Domain improvements around the building curtilages and along Joynton Avenue and Hansard Street will improve streetscape amenity and safety.
6. Included in the scope of works for the Private Wire Network project, endorsed by Council on 15 September 2014, is a consolidation of electricity connections for the City's own buildings and facilities associated with the former South Sydney Hospital Site, nearby street lighting and the Green Square Aquatic Centre into a single electricity connection to benefit from lower ongoing network tariffs and facilitate sharing of energy between buildings.
7. On 27 June 2016, Council endorsed the naming of the new community facilities within the South Sydney Hospital site as the Green Square Community and Cultural Precinct including the Joynton Avenue Creative Centre – formerly the Esme Cahill Building (nurses' quarters) and the Banga Community Shed – formerly the Pathology Building (Banga means "make or do").

HEAD CONTRACTOR CONTRACT

8. On 23 November 2015, Council resolved to engage the Contractor for the delivery of the Green Square Creative Centre Community Facilities and Park at 3 Joynton Avenue, Zetland.
9. The Contractor commenced the works on the South Sydney Hospital Site on 19 January 2016.
10. The current status for the contract works is 67% complete and remediation works 95% complete.
11. Since commencement of the project, a significant quantum of hazardous materials and contamination has been identified. As a result, the required amount of contamination and remediation works has increased throughout the South Sydney Hospital site which includes external soil remediation, lead paint removal and lead dust removal from internal ceiling spaces.
12. The City undertook an analysis of the site risks, including contamination, in allocating a contingency to the construction contract. The increase in costs and associated delay claims has impacted the allocated construction contingency.
13. It is recommended that Council increase the contract contingency to the existing Head Contractor's contract due to the requirement for treatment and removal of contamination as outlined in the report and confidential Attachment B.

QUANTITY SURVEYOR SERVICES CONTRACT

14. The Quantity Surveyor services were engaged in 2014 under request for quotation for the Green Square Town Centre, including both the Green Square Creative Centre Community Facilities and Park and the Green Square Childcare.
15. The original request for quotation detailed the project as a single project contained within two existing sites, however, the project evolved into two separate projects to correspond with the existing sites due to constraints on approvals and timing for the design documentation. This created a requirement for the quantity surveyor services to be expanded to accommodate each separate project and site.
16. The Quantity Surveyor services scope has been increased with the inclusion of additional works packages, prolongation of the contract through extended construction and an increase in the quantum of progress claims and variations submitted by the construction contractor.
17. Due to the extended construction period, there are additional quantity surveyor services required for review of variations and progress claims to completion of the construction works as outlined in the report and confidential Attachment B. It is recommended that Council increase the value of the Quantity Surveyor contract.

FINANCIAL IMPLICATIONS

18. Budget shortfall to be brought forward from the South Sydney Hospital Stage 2 project forward estimates in 2022/23 into the 2016/17 financial year of this project.

RELEVANT LEGISLATION

19. This exemption from tender is in accordance with section 55 of the Local Government Act 1993.
20. 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.
21. Attachment B 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.
22. 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

23. Program Key Milestones:
- (a) Construction works commenced: 19 January 2016
 - (b) Construction Work Completion 30 June 2017

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