

**ITEM 4. ASHMORE PRECINCT TRUNK STORMWATER PROJECT – PROJECT AGREEMENT WITH SYDNEY WATER****FILE NO: X005007****SUMMARY**

The Ashmore Precinct urban renewal area is currently transitioning from an old industrial precinct to a new high density residential and commercial centre. The Precinct is located on a floodplain and, during periods of heavy rainfall, significant flooding problems have been identified that affect the ability for both public infrastructure and private development to take place.

The Alexandra Canal Floodplain Risk Management Plan (May 2014) proposed a flood mitigation solution for the Ashmore Precinct urban renewal area. This solution involves the construction of approximately 650 metres of stormwater pipes from Coulson Street, Erskineville to the Alexandra Canal (trunk drain). It was identified that the construction of this trunk drain would reduce high hazard flooding and mitigate flood risks for the additional 6,000 people who will ultimately live in this precinct.

The City and Sydney Water both recognise the importance of this flooding solution and have held discussions to determine the options available for delivering the trunk drain. In late 2015, the parties commenced discussions to jointly deliver the project, with key terms to be documented in a Project Agreement detailing each parties' share of the project cost, asset ownership share, the project scope and an estimated project cost.

A draft Project Agreement has been prepared and is at Attachment A and confidential Attachment C for the approval of Council. It is proposed that the City and Sydney Water would equally share the project costs (that is, each party bears 50 per cent of the costs).

The City and Sydney Water have worked together with a specialist drainage and construction engineering company to assess possible options for the works required to deliver the project. This options assessment, along with a recommended preliminary project scope and cost estimate, has now been prepared and is at Attachment B and confidential Attachment D.

**RECOMMENDATION**

It is resolved that:

- (A) Council approve the substantive terms of the draft Project Agreement between the City and Sydney Water Corporation for the Ashmore Precinct Trunk Stormwater Project, as detailed in confidential Attachment C to the subject report;
- (B) authority be delegated to the Chief Executive Officer (CEO) to finalise negotiations, execute and administer the Project Agreement, based on the same terms shown at confidential Attachment C to the subject report;

- (C) Council not invite tenders in accordance with the tendering requirements set out in section 55 of the Local Government Act 1993 for procuring third party service providers or to deliver the works because a satisfactory result would not be achieved by inviting such tenders, given the following extenuating circumstances:
- (i) the procurement process for these works will be undertaken by Sydney Water. Sydney Water may procure services through a process of negotiation once shortlisted proponents have been selected. However, the tendering requirements prescribed by section 55 of the Local Government Act 1993, and the Local Government (General) Regulation 2005, do not allow for direct negotiations with shortlisted proponents; and
  - (ii) Council can achieve a commitment to a fair and accountable procurement process that achieves value for money, has competitive tension, manages probity risks and is a public process by adopting the process that Sydney Water follows. Sydney Water's procurement is conducted in accordance with the NSW Procurement Policy Framework for NSW Government Agencies 2015;
- (D) Council note that, on execution of the Project Agreement, the City and Sydney Water will engage relevant third party service providers to provide services to support the delivery of the project. As detailed in the draft Project Agreement, shown at confidential Attachment C to the subject report, the City is to pay 50 per cent of third party service provider costs, the cost of the works and Sydney Water's related internal costs;
- (E) authority be delegated to the CEO to negotiate and approve the engagement of third party service providers as required for the project, and to make the necessary payments to them and to Sydney Water for the external consultant costs and its related internal costs, as described in clauses (C) and (D) above; and
- (F) Council note that the tendering process for works will be undertaken jointly by the City and Sydney Water and that a report detailing the outcomes of the tendering process will be presented to Council for approval.

## ATTACHMENTS

**Attachment A:** Draft Project Agreement for Ashmore Precinct Trunk Stormwater Project (redacted version)

**Attachment B:** Ashmore Precinct Flood Mitigation – Trunk Drainage Options Review (redacted version)

**Attachment C:** Draft Project Agreement for Ashmore Precinct Trunk Stormwater Project (Confidential)

**Attachment D:** Ashmore Precinct Flood Mitigation – Trunk Drainage Options Review (Confidential)

**(As Attachments C and D are confidential, they will be circulated separately from the agenda paper to Councillors and relevant senior staff only.)**

**BACKGROUND**

1. On 17 March 2014, Council adopted the Alexandra Canal Flood Study, Alexandra Canal Floodplain Risk Management Study and the Alexandra Canal Floodplain Risk Management Plan (updated May 2014). The Munni Street – Erskineville catchment area is a sub-catchment of the Alexandra Canal catchment and is approximately 2.2 square kilometres. The area has in the past experienced significant flooding problems during periods of heavy rainfall.
2. Stormwater flows are currently conveyed through a series of underground pipe networks. Flows that exceed the capacity of the existing pipe network are conveyed on ground, along streets, open spaces and, in some instances, private property.
3. The Ashmore Precinct urban renewal area, which falls within this catchment, is currently undergoing a major urban renewal phase, transitioning from an old industrial precinct to a high density residential, retail and commercial precinct with community facilities, including open recreational spaces (refer to image below). Within the urban renewal area, trapped low points have been identified at Macdonald Street, Mitchell Road and Coulson Street and, during high rainfall events, these low points have been known to reach flood levels of over one metre.



Image: Aerial view showing Ashmore Precinct and the Alexandra Canal.

4. The development of the Ashmore Precinct is dependent on a flooding solution being implemented to mitigate the flood risks through the precinct. If a flood mitigation solution is not implemented, then development outcomes will be poor, and the City will fail to meet one of the commitments of the Alexandra Canal Floodplain Risk Management Plan as required under the NSW Government Flood Prone Land Policy.

5. The Alexandra Canal Floodplain Risk Management Study reviewed the current status of flooding and identified a number of flood mitigation solutions for the catchment area. One recommendation involved the construction of a large trunk stormwater drain from Coulson Street, Erskineville to the Alexandra Canal. The trunk drain would:
  - (a) reduce high hazard flooding on Macdonald Street, Mitchell Road and Coulson Street;
  - (b) mitigate flood risks in the Ashmore Precinct; and
  - (c) provide opportunities to improve flooding risks to Erskineville.
6. Together with Sydney Water, the City has conducted a number of stormwater modelling investigations and planning-related works to identify the feasibility of constructing a trunk drain of an appropriate size and to also determine a suitable alignment for the proposed trunk drain.
7. The City and Sydney Water both recognise the significance of this project and both parties are in the process of allocating and securing funds to support its delivery. The City and Sydney Water intend to work collaboratively to deliver this proposed new infrastructure for the catchment area serving the Ashmore Precinct.

#### **Proposed Project Delivery Mechanism**

8. It is understood that the project will need to be delivered to enable private development and public infrastructure works within the Ashmore Precinct to proceed and, as a result, construction on the project must commence by 2019 to ensure that the trunk drain is fully operational before the precinct is fully developed.
9. The Ashmore Precinct Trunk Stormwater Project will be delivered through a series of project phases. These phases are:
  - (a) Initiation and Options Approval Phase – activities in this phase include procurement of studies and services, including field survey information, detailed hydraulic modelling and the determination of preferred infrastructure works. The project consultation plan and draft Review of Environmental Factors (REF) will also be prepared during this phase. Once the preferred infrastructure option is endorsed by the City and Sydney Water, a project Reference Design, risk-based cost estimate, REF and a procurement strategy will also be finalised; and
  - (b) Delivery Phase – this phase will include procurement and completion of design and construction works.

#### **Project Agreement**

10. A draft Project Agreement has been prepared which contains the following requirements:
  - (a) to deliver a stormwater asset from Coulson Street, Erskineville to the Alexandra Canal to significantly reduce flood risk in the Ashmore Precinct;
  - (b) to significantly reduce flood risk in the Ashmore Precinct, as well as minimise any downstream flooding impacts;

- (c) to deliver the project according to the defined project milestones;
  - (d) for both parties to equally share the cost to deliver the project (the City's share is 50 per cent);
  - (e) that the City and Sydney Water will work to develop a Reference Design and performance requirements for inclusion as the project scope;
  - (f) that the ownership of the asset will be equally allocated to the City and Sydney Water (the City's share is 50 per cent). The allocation of assets owned by each party will be determined following an independent valuation of the completed work;
  - (g) Sydney Water will assume the lead project management role in the delivery of the project and the City will provide support to Sydney Water throughout the project;
  - (h) Sydney Water will undertake all necessary consultations with relevant authorities or entities and obtain all planning and other approvals, as required for the project; and
  - (i) the project will be delivered to achieve a 'value for money' outcome.
11. In the draft Project Agreement, Sydney Water will also be responsible for preparing the necessary tender documentation, and managing the engagement of external consultants and third party service providers.
12. For any future studies or services that are required for this project, the City and Sydney Water have agreed that:
- (a) Sydney Water will manage the engagement of these services in accordance with its procurement procedures and the conditions of the Project Agreement;
  - (b) both parties will jointly engage the service providers; and
  - (c) the costs associated with the joint engagement will be shared equally (the City's share is 50 per cent) and the parties will be separately and directly invoiced by the service provider.
13. It is recommended that Council approve the substantive terms of the draft Project Agreement between the City and Sydney Water Corporation, and delegate authority to the Chief Executive Officer to finalise negotiations, execute and administer the Project Agreement substantially on the same terms shown in Attachment A and confidential Attachment C. The City understands that Sydney Water will shortly be seeking approval from its Board to execute the Project Agreement.

### **Proposed Tendering Process**

14. The tendering process for these works will be undertaken by Sydney Water. Sydney Water may procure services through a process of negotiation once shortlisted proponents have been selected. Accordingly, the tendering requirements for this project mean that an alternative tendering process is required. The tendering requirements prescribed by section 55 of the Local Government Act 1993, and the Local Government (General) Regulation 2005, do not allow for direct negotiations with shortlisted proponents.

15. It is recommended that an alternative tendering process be put in place for the procurement of third party service providers or to deliver the works. Council can achieve a commitment to a fair and accountable procurement process that achieves value for money, has competitive tension, manages probity risks and is a public process by adopting Sydney Water's procurement requirements. Sydney Water's procurement is conducted in accordance with the NSW Procurement Policy Framework for NSW Government Agencies 2015.
16. Further, to manage probity risks, a probity plan will be prepared and a probity advisor will be jointly engaged by the City and Sydney Water for the tendering process.
17. Submissions are proposed to be assessed based on both non-price and price criteria. The assessment criteria, including appropriate weightings, will be developed jointly and agreed to by both the City and Sydney Water. Both parties will also equally participate in the tender evaluation process.
18. It is anticipated that works will commence as soon as possible after both the City and Sydney Water have received the necessary approvals to proceed with the project:
  - (a) the Delivery Approval Phase will commence immediately;
  - (b) the Procurement and Works Delivery Phase will commence in 2018;
  - (c) a report documenting the outcomes of the project procurement is expected to be brought to Council for endorsement in 2019; and
  - (d) an agreement with the successful tenderer is expected to be executed in 2019.

#### **Proposed Governance Framework**

19. To deliver the project, an effective governance arrangement is required to:
  - (a) ensure the project delivers the requirements of the project sponsors;
  - (b) promote effective working relationships amongst the project sponsors;
  - (c) encourage decisions to be made in a timely and efficient manner; and
  - (d) manage project scope, project costs and project timeframe.
20. As documented in the draft Project Agreement, Sydney Water will act as the project manager and lead the delivery of the project. The City will be actively involved throughout the delivery of the project and will support Sydney Water where required. The City and Sydney Water will have equal authority in decision-making and approval processes for all project decisions.

## KEY IMPLICATIONS

### Strategic Alignment - Sustainable Sydney 2030

21. *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 project is aligned with the following strategic directions and objectives:
- (a) Direction 6 - Vibrant Local Communities and Economies – the Ashmore Precinct will incorporate a commercial hub that will provide a vibrant and active place where residents and visitors can enjoy a range of cultural and social activities. Construction of the trunk drain will enable this retail and residential precinct to be developed.
  - (b) Direction 10 - Implementation through Effective Governance and Partnerships – to deliver this project, a project committee will be established comprising City and Sydney Water representatives with experience in technical, legal and financial matters. The purpose of the project committee is to provide guidance to the project management team. The project management team is responsible for the day-to-day management of the project, ensuring it is delivered to project scope, quality, time and cost.

### Organisational Impact

22. The City will provide a dedicated project management resource and technical resource (two full time equivalents). It is expected that City staff from the following units will be required to provide assistance in the delivery of the project, as required:
- (a) City Engagement;
  - (b) City Infrastructure and Traffic Operations;
  - (c) City Projects and Property;
  - (d) Finance;
  - (e) Legal and Governance; and
  - (f) Procurement.

### Risks

23. The delivery of this project is subject to a number of key risks that can be categorised as either process risk or project risk.
24. Process risks are defined as risks that would impact the project prior to contract award. These risks include:
- (a) failure to obtain approvals and agreement by stakeholders to undertake the project;
  - (b) failure to undertake sufficient environmental studies to inform the delivery of the project;
  - (c) probity risks;

- (d) unclear project expectations, including design requirements and specifications; and
  - (e) inability for the project sponsors to agree with the proposed procurement delivery mechanism and project governance framework.
25. Project risks refer to risks that affect the delivery of the project and typically involve time and cost. Key project risks that may affect the delivery of this project include:
- (a) unexpected environmental constraints and issues identified during the construction of the project;
  - (b) poor performance of the trunk drain;
  - (c) poor construction and quality of the finished trunk drain;
  - (d) increase in project costs as a result of poor tender documentation and specifications; and
  - (e) failure to meet project delivery timeframes and milestones resulting in delays of other projects within the Ashmore Precinct and surrounding developments.
26. The City and Sydney Water understand the impacts associated with these risks and, as part of our mitigation strategy:
- (a) are currently working on a preferred alignment that will then be the subject of independent validation to ensure the design is able to meet the project objectives and performance requirements;
  - (b) are to complete specialist studies to inform the design and construction of the proposed trunk drain, which includes preparation of the Review of Environmental Factors; and
  - (c) have developed a draft Project Agreement that outlines the key terms associated with project expectations, project delivery mechanisms, and project behaviours, decision-making and governance.

### **Social / Cultural / Community**

27. The Ashmore Precinct is located on a floodplain. During periods of heavy rainfall, major flooding hazards have been identified at Macdonald Street, Mitchell Road and Coulson Street, which present a significant safety risk for the public and community. The construction of the trunk drain will alleviate high hazard flooding at these known sag points, improving public safety.
28. The project will also allow private development of the Ashmore Precinct to proceed, which includes residential and commercial development, along with public infrastructure works. This development will provide a benefit to the Ashmore Precinct and surrounding communities.

### **Environmental**

29. The construction of the trunk drain is expected to generate some environmental and community impacts. The project will undertake specialist environmental studies, which include heritage, acoustic, traffic, contamination, noise, vibration and geotechnical assessments, to support the delivery of the trunk drain.



30. A Review of Environmental Factors will be prepared by Sydney Water. The review of environmental factors will assess the impacts of constructing and operating the proposed stormwater trunk drain. The review of environmental factors will be placed on public exhibition prior to the procurement of the design and construction works. Consultation with key stakeholders will be undertaken by Sydney Water during the public exhibition process.

### **Economic**

31. The Alexandra Canal Flood Study (May 2014) states the estimated average annual cost to the community for the whole Alexandra Canal floodplain is approximately \$13 million (excluding GST). The sub-catchment that the Ashmore Precinct is located within has an estimated average annual cost to the community of \$2.5 million per year due to flooding. Improving the stormwater infrastructure for this area will result in substantial cost savings to the community.
32. The revitalisation of the Ashmore Precinct is expected to contribute significant economic benefits to the region. By 2025, it is anticipated that the urban renewal area will create 3,000 new residential dwellings, with an expected population of 6,300 residents. The current site is a known flood hazard and, in its present condition, developers must accommodate elevated floods levels. This can result in poor development outcomes and compromised public domain. The construction of the trunk drain will reduce the risk of flooding within the Ashmore Precinct, the adjacent railway line and the surrounding areas, which will facilitate private and public development to take place.

### **BUDGET IMPLICATIONS**

33. A draft Options Approval Business Case has been developed that incorporates an indicative cost estimate for the delivery of the project. The cost estimate is based on the preferred alignment and also a number of known risks and hazards, which may affect the delivery of the project as shown in Attachment B.
34. The City has previously committed funds to contribute towards the delivery of this project. The City's Draft Long Term Financial Plan for 2016/2017 includes funding for this project. The most recent estimate for the works indicates that this budget provision is appropriate.

### **RELEVANT LEGISLATION**

35. Local Government Act 1993 and Local Government (General) Regulation 2005.
36. Attachments C and D contain confidential commercial information and details of the project 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.
37. 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**

38. The project is expected to have construction works commence in 2019 and be completed by 2020.
39. To meet the project milestones, the following timeline is anticipated:
  - (a) the procurement and appointment of specialists required for the Delivery Approval Phase will commence immediately;
  - (b) the Chief Executive Officer to approve the Reference Design and Procurement Plan in 2018;
  - (c) tendering will follow in 2018. A report detailing the final offer of each shortlisted tenderer with a preferred tenderer recommendation will then be brought to Council for endorsement;
  - (d) an agreement with the successful tenderer will be executed in 2019; and
  - (e) construction to commence by 2019.

**GEORGE ANGELIS**

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