

**Exemption from Tender - George Street South Pedestrianisation****File No:** 2020/433827**Summary**

This report seeks an exemption from tender and Council approval to engage an existing City contractor for the detailed design and construction of the 'George Street South Pedestrianisation' project.

On 8 May 2020, the NSW Government announced the extension of the pedestrian zone in George Street to south of Bathurst Street as a response to new social distancing requirements created by the Covid-19 pandemic, to be implemented first as a temporary measure and then as a permanent measure.

The scope of this project was endorsed by Council on 21 September 2020. The project delivers an additional 9,000 square metres of additional public space for pedestrians through:

- (a) vehicular lane closure of George Street between Bathurst Street and Rawson Place on the eastern side and Ultimo Road on the western side;
- (b) vehicular lane closure of Devonshire Street between Chalmers and Elizabeth Streets;
- (c) vehicular lane closure of Hay Street between George and Sussex Streets;
- (d) vehicular lane closure of Campbell Street at George Street and its conversion to a two-way street;
- (e) vehicular lane closure on Thomas Street at Hay Street and its conversion to a two-way street; and
- (f) further pedestrian improvements along:
  - (i) George Street from Rawson Place to Pitt Street on the eastern side and Quay Street to Ultimo Road on the western side;
  - (ii) Hay Street between Sussex and Harbour Streets; and
  - (iii) Ultimo Road between George and Thomas Streets.

The City has an existing schedule of rates contract that is suitable to complete the majority of the project's scope of works. Where the existing contract does not include a rate for the works required, it is recommended that Council grants an exemption from tender to use the existing contractor to undertake those works. The reasons supporting the exemption from tender are:

- (a) there is a need for fast-tracked delivery of the project through the existing contract, to provide more space for pedestrians as a response to the Covid-19 pandemic. This fast-tracked approach is supported by Transport for NSW;
- (b) a review by an appropriately qualified quantity surveyor has confirmed that the City can achieve value for money by using the previously tendered, market tested and Council approved contract as the basis for undertaking the majority of the works on this project. To the extent that existing rates cannot be used, the quantity surveyor has confirmed that the rates quoted by the existing contractor represent market rates and provide value for money for Council; and
- (c) the City requires a high flexibility and control over the detailed design during construction given the unique requirements of this project being a pedestrianisation of a major City street immediately adjacent to a light rail corridor.

## Recommendation

It is resolved that:

- (A) Council approve an exemption from tender for the detailed design and construction of the 'George Street South Pedestrianisation' project, noting that because of extenuating circumstances, a satisfactory result would not be achieved by inviting new tenders;
- (B) Council note that a satisfactory result would not be achieved by inviting new tenders for the subject project because:
  - (i) the works involved for the 'George Street South Pedestrianisation' project are the same types of streetscape works envisaged under existing schedule of rates Contract 1840-A;
  - (ii) there is insufficient time to undertake a new tender without impacting on the time sensitive response to the Covid-19 pandemic through the provision of more space for pedestrians;
  - (iii) value for money is achieved by using the existing schedule of rates contract, as per the assessment and evaluation report in Confidential Attachment C to the subject report. To the extent that existing rates cannot be used, an independent quantity surveyor has confirmed that the rates quoted by the existing contractor represent market rates and provide value for money for Council;
  - (iv) going to tender would not deliver a better outcome as the market has already been tested for the same types of streetscape works through a previous tender and a schedule of rates contract exists; and
  - (v) the existing schedule of rates contract will assist the City to better manage costs and other contract risks;
- (C) authority be delegated to the Chief Executive Officer to finalise negotiations and enter into any documentation required to give effect to this exemption from tender in order to deliver the 'George Street South Pedestrianisation' project; and
- (D) Council approve the contingency and additional project budget as outlined in Confidential Attachment A to the subject report.

## Attachments

- Attachment A.** Financial and Contractual Implications (Confidential)
- Attachment B.** Detailed Design and Construction Quotation under Contract 1840-A (Confidential)
- Attachment C.** Assessment and Evaluation Report for Contract 1840-A Submission (Confidential)

## Background

1. The introduction of the CBD and South East Light Rail through Sydney's city centre has facilitated the removal of vehicular traffic off Sydney's George Street spine and its city centre. It has enabled the creation of a 'car-free' zone limited to local access between Hunter and Bathurst Streets.
2. On 8 May 2020, the NSW Government announced the extension of the pedestrian zone in George Street to south of Bathurst Street as a response to new social distancing requirements created by the Covid-19 pandemic; to be implemented first as a temporary measure and then as a permanent measure.
3. Temporary extension of the pedestrianised zones on George Street from Bathurst Street to Rawson Place on the eastern side and Ultimo Road on the western side has been implemented jointly by Transport for NSW and the City. The temporary extension of the pedestrianised zone on Devonshire Street between Chalmers and Elizabeth Streets has also been implemented.
4. The 'George Street South Pedestrianisation' project will implement permanent measures and deliver the public domain improvements and additional public space for pedestrians through:
  - (a) vehicular lane closure of George Street between Bathurst Street and Rawson Place on eastern side and Ultimo Road on western side;
  - (b) vehicular lane closure of Devonshire Street between Chalmers and Elizabeth Streets;
  - (c) vehicular lane closure of Hay Street between George and Sussex Streets;
  - (d) vehicular lane closure of Campbell Street at George Street and its conversion to a two-way street;
  - (e) vehicular lane closure on Thomas Street at Hay Street and its conversion to a two-way street; and
  - (f) further pedestrian improvements along:
    - (i) George Street from Rawson Place to Pitt Street on eastern side and Quay Street to Ultimo Road on western side;
    - (ii) Hay Street between Sussex and Harbour Streets; and
    - (iii) Ultimo Road between George and Thomas Streets.
5. The scope of this project was endorsed by the Council on 21 September 2020.
6. The construction works will be managed so there is no disruption to light rail operations and full access to adjacent businesses will be available at all times.

7. While the value of this project is greater in value than most projects generally undertaken using Contract 1840-A, it is recommended to use this existing contract for the following reasons:
  - (a) there is a need for fast-tracked delivery of the project through the existing contract, to provide more space for pedestrians as a response to the Covid-19 pandemic. This fast-tracked approach is supported by Transport for NSW;
  - (b) a review by an appropriately qualified quantity surveyor has confirmed that the City can achieve value for money by using the previously tendered, market tested and Council approved contract as the basis for undertaking the majority of the works on this project. To the extent that existing rates cannot be used, the quantity surveyor has confirmed that the rates quoted by the existing contractor represent market rates and provide value for money for Council; and
  - (c) the City requires a high flexibility and control over the detailed design during construction given the unique requirements of this project being a pedestrianisation of a major City street immediately adjacent to a light rail corridor. To ensure value for money is achieved, the City commissioned an independent Quantity Surveyor to undertake an assessment of the Detailed Design and Construction Quotation under Contract 1840-A and provide an evaluation report, as contained in Confidential Attachment C.
8. The proposed approach allows the City the necessary level of flexibility and control over the detailed design and any variations during construction, given the unique constraints of the site. The City's design team will work closely with the contractor's design team during the detailed design phase.

## **Performance Measurement**

9. The City will ensure all contractors meet the required performance standards by:
  - (a) assuring quality of design through direct access to contractor's design team, regular design meetings and review of design deliverables;
  - (b) ensuring there is an appropriate scope of work and the contract that clearly states the level of service required by the City and monitoring compliance with that scope;
  - (c) undertaking monitoring and quality assurance inspections of the works to ensure the City's standard civil work specifications are met; and
  - (d) completing all work instructions within the allocated timeframe.
10. Formal performance reviews will be conducted in accordance with the City's standard contract management practices.

## Financial Implications

11. The physical scope of the works has increased between the time the budget was approved by Council in June 2020 and the project scope report was approved by Council in September 2020. This has arisen following further investigations, concept design development and negotiations with key stakeholders including Transport for NSW. Additional funds are therefore required to complete the whole scope for this project as outlined in Confidential Attachment A.
12. The City has however confirmed a capital grant of \$1M from the NSW Government, and has been recently advised that it will also receive \$7M from the Australian Government under the 'Local Roads and Community Infrastructure (LRCI) program'. It is proposed to fully allocate both of these grants to the George Street South Pedestrianisation project to assist with funding the project delivery.

## Relevant Legislation

13. The exemption from tender process has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Procurement and Contract Management Policy.
14. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
15. Attachments A, B and C contain 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.
16. 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

17. The following are critical dates for project delivery:

(a) Concept design (undertaken in-house)	Completed
(b) Commence detail design	November 2020
(c) Permanent road closure approval	December 2020
(d) Authorities' approvals and permits (in stages)	January 2021
(e) Contractor mobilisation and commencement on site	February 2021

- (f) Complete construction works (in stages) July 2022
18. No permanent construction works will commence until permanent changes to the traffic arrangements including vehicular lane closures have been approved in accordance with the Roads Act 1993.
  19. No permanent construction works will commence until design and construction permits have been approved by Transport for NSW and Transport Rail (light rail) Operator.

## Options

20. Council has the alternate option to invite new tenders. The calling of new tenders will delay the works by approximately nine months and will not guarantee a better price. Firms may in fact price in any cost rises during that time. It is considered that the steps undertaken by the City as outlined in Confidential Attachments A, B and C have ensured that the recommended option presents the best outcome in terms of time, quality and value for money.

## Public Consultation

21. Community consultation seeking feedback on the City's proposed concept design and proposed traffic changes is ongoing.
22. Information about the subject project is available on the City's website. The information on the web page will be updated regularly during the detail design and construction phases.
23. Construction will be managed to allow local business to continue trading during construction, with the existing footpath to remain in place on George Street and so providing wide and clear access.
24. The City will work with George Street businesses and residents to minimise impacts during construction. The works will be delivered in stages and their sub-stages.

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