

7 December 2020

At 2.00 pm

**Corporate, Finance, Properties and
Tenders Committee**

Agenda

- 1. Disclosures of Interest**
- 2. Revised 2020/21 Operational Plan - Adoption**
- 3. Investments Held as at 30 November 2020**
- 4. Al Fresco City - Acceleration of Covid-19 Recovery - Implementation Update and Delegations**
- 5. Land Reclassification - Harold Park, Forest Lodge**
- 6. Land Classification - Lot 2, 506-518 Gardeners Road, Alexandria**
- 7. Lease Variation - Pedestrian Link Stratum, Wynyard Lane - Brookfield**
- 8. Head Contractor - The Crescent Lands at Johnstons Creek, Annandale - Additional Contingency**
- 9. Contract Variation - Tree Maintenance**
- 10. Contract Variation and Exemption from Tender - Head Design Consultant - 119 Redfern Street, Redfern**
- 11. Tender - Integrated Workplace Management System - TRIRIGA**
- 12. Tender - Legal Services Panel**
- 13. Tender - Provision of Graffiti Removal Service**
- 14. Property Matter (Confidential)**

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1. Register to speak by calling Secretariat on 9265 9310 or emailing secretariat@cityofsydney.nsw.gov.au before 10.00am on the day of the meeting.
2. Check the recommendation in the Committee report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker (with a warning bell at two minutes) and prepare your presentation to cover your major points within that time.
4. Avoid repeating what previous speakers have said and focus on issues and information that the Committee may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.

Committee meetings can continue until very late, particularly when there is a long agenda and a large number of speakers. This impacts on speakers who have to wait until very late, as well as City staff and Councillors who are required to remain focused and alert until very late. At the start of each Committee meeting, the Committee Chair may reorder agenda items so that those items with speakers can be dealt with first.

Committee reports are available at www.cityofsydney.nsw.gov.au

Item 1.

Disclosures of Interest

Pursuant to the provisions of the City of Sydney Code of Meeting Practice and the City of Sydney Code of Conduct, Councillors are required to disclose pecuniary interests in any matter on the agenda for this meeting.

Councillors are also required to disclose any non-pecuniary interests in any matter on the agenda for this meeting.

This will include receipt of reportable political donations over the previous four years.

In both cases, the nature of the interest must be disclosed.

Item 2.

Revised 2020/21 Operational Plan - Adoption

Document to Follow

Item 3.

Investments Held as at 30 November 2020

Document to Follow

Item 4.

**Al Fresco City – Acceleration of Covid-19 Recovery – Implementation Update
and Delegations**

Document to Follow

Item 5.

Land Reclassification - Harold Park, Forest Lodge

File No: X030693.001

Summary

On 11 July 2014, the City of Sydney received 3.8 hectares of land for public open space as part of the redevelopment of the former Harold Park Paceway and Rozelle tram depot site (Harold Park). Prior to acquisition, it was resolved that the land be temporarily classified as operational to facilitate the City's construction of the new public park, subsequently completed in 2018.

During redevelopment, a master plan (Johnstons Creek Parklands Master Plan) was prepared encompassing Harold Park, The Crescent Lands and adjoining Crown reserves, setting a strategic vision for the precinct.

This report seeks to reclassify Harold Park as community land in accordance with the Resolution of Council dated 12 May 2014 (Attachment A). Upon reclassification, Harold Park is proposed for inclusion within the Johnstons Creek Parklands Plan of Management, currently under development. This plan of management includes all land previously referenced within the 2013 adopted master plan, ensuring continuity in the management of the open spaces located within this precinct.

Recommendation

It is resolved that Council:

- (A) endorse the proposed resolution: "It is resolved to reclassify Lot 104 of Deposited Plan 1179442 being known as Harold Park, as community land with a park categorisation in accordance with sections 31, 36(1) and (4)(c) of the Local Government Act 1993" for public notification;
- (B) endorse the inclusion of Harold Park into the proposed Johnstons Creek Parklands Plan of Management; and
- (C) note that a further report to inform the outcomes of public notification and a recommendation on the reclassification to Council will follow a public notification period of 28 days.

Attachments

- Attachment A.** Resolution of Council - 12 May 2014 - Land Classification of Harold Park
- Attachment B.** Johnstons Creek Parklands Plan
- Attachment C.** Identification Plan - Proposed Land Reclassification

Background

1. On 17 August 2011, the City and Mirvac entered into a voluntary planning agreement in relation to the provision of public benefits associated with the proposed Harold Park redevelopment including, but not limited to, the dedication of not less than 3.8 hectares of land to Council for use as open space. The City was required to complete the construction of the new public park.
2. In July 2012, the Central Sydney Planning Committee approved the overall master plan for the site, known as the stage 1 development application, and subsequently approved detailed development applications for buildings in precincts 1 and 2 in September 2012.
3. On 26 August 2013, following extensive public consultation, Council adopted the Johnstons Creek Parklands Master Plan which encompasses Harold Park, "The Crescent Lands" and adjoining Crown Reserves (Attachment B).
4. On 12 May 2014, Council resolved to classify Lot 104 of Deposited Plan 1179442 (Harold Park), as operational land on the basis that:
 - the primary use of the land is for park, open space, and active and/or passive recreation;
 - the classification is on an interim basis to minimise any delay in construction of the new park; and
 - following completion of the park and conclusion of obligations set out in the planning agreement, the open space will be reclassified as community land.
5. Lot 104 of Deposited Plan 1179442 was transferred in ownership to the City of Sydney on 11 July 2014.
6. Upon completion of the park embellishment works and developer obligations set out within the planning agreement, Harold Park was officially opened to the public 27 October 2018.
7. In accordance with the Resolution of Council dated 12 May 2014, it is proposed to reclassify Harold Park as community land as noted in the identification plan (Attachment C), applying a park categorisation that is consistent with its intended use of public recreation.

Plan of Management

8. The Resolution of Council dated 12 May 2014 recommended the preparation of a draft plan of management for Harold Park, as referenced in the adopted Johnstons Creek Parklands Master Plan.
9. As a requirement of the Crown Land Management Act 2016, the following Crown reserves previously identified within the Johnstons Creek Parklands Master Plan also require a plan of management:
 - (i) Bicentennial Park;

- (ii) Federal Park,
 - (iii) Jubilee Park;
 - (iv) Pope Paul VI Reserve; and
 - (v) Tram Stop Reserve.
10. As the Johnstons Creek Parklands Master Plan recognises both City-owned land and adjoining Crown reserves, a consolidated Plan of Management is in development for all of these parks - ensuring a single strategic framework is adopted for the precinct.

Key Implications

Social / Cultural / Community

11. Community land is intended to be managed for use by the community for purposes including environmental protection, recreational, cultural, social and educational activities. Community land is intended to benefit the community, both now and in the future.
12. The reclassification of Harold Park to community land and inclusion within the proposed Johnstons Creek Parklands Plan of Management will ensure that this land is preserved for community use and managed in accordance with an adopted framework for the precinct.

Financial Implications

13. The classification of land under the Local Government Act 1993 does not have any direct budgetary implications.

Relevant Legislation

14. The following sections of the Local Government Act 1993 are relevant:
- (a) Section 25 requires all public land to be classified as either community or operational land;
 - (b) Section 33(1) permits Council to resolve that public land classified as operational land is to be reclassified as community land;
 - (c) Section 34 requires the proposed resolution to reclassify be publicly notified and made available for inspection by the public for a period of 28 days. The outcome of the notification process and recommendation on classification and categorisation will be subsequently reported to Council;
 - (d) Section 35 requires community land to be used and managed in accordance with a plan of management; and

- (e) Section 36 provides that Council must prepare a draft plan of management for community land and the plan of management must categorise the land. The land will be included within the proposed Johnstons Creek Parklands Plan of Management and will be managed in accordance with s 36(G) core objectives for management of community land as a park.

Critical Dates / Time Frames

- 15. Subject to Council endorsing the recommendation, and at the earliest opportunity thereafter, the proposed resolution will be publicly notified for a minimum period of 28 days.
- 16. The proposed Johnstons Creek Parklands Plan of Management requires adoption by Council by 30 June 2021 to ensure compliance with the Crown Land Management Act 2016.

Public Consultation

- 17. Subject to Council endorsing the recommendation, and at the earliest opportunity thereafter, the proposed resolution will be publicly notified for a minimum period of 28 days.
- 18. All submissions will be considered in the subsequent Council report to endorse the classification.
- 19. Community consultation for the proposed Johnstons Creek Parklands Plan of Management will be conducted throughout November-December 2020 and is subject to public exhibition prior to Council adoption. This is to occur in 2021.

AMIT CHANAN

Director City Projects and Property

Cailin Martin, Crown Lands Manager

Attachment A

**Resolution of Council – 12 May 2014 –
Land Classification of Harold Park**

Resolution of Council

12 MAY 2014

ITEM 6.6 LAND CLASSIFICATION – PUBLIC RESERVE LAND, HAROLD PARK (S120438)

It is resolved that:

- (A) Council classify all public reserve land within the Harold Park development which is currently referred to as lot 104 and stratum lot 302 within a proposed plan of subdivision and being the aggregate total of Harold Park public reserve lands as operational land in accordance with section 31 of the Local Government Act 1993, and on the basis that:
 - (i) the primary use of the land is for park, open space, and active and/or passive recreation;
 - (ii) the classification is an interim basis to minimise any delay in construction of the new park; and
 - (iii) following completion of the park and conclusion of obligations set out in the planning agreement, the open space be reclassified as community land; and
- (B) Council note the strategy to develop a draft plan of management for the Harold Park parklands referenced to the adopted Johnston Creek Parklands Master Plan and make recommendation to Council on the proposed land categorisation for its ongoing management.

Carried unanimously.

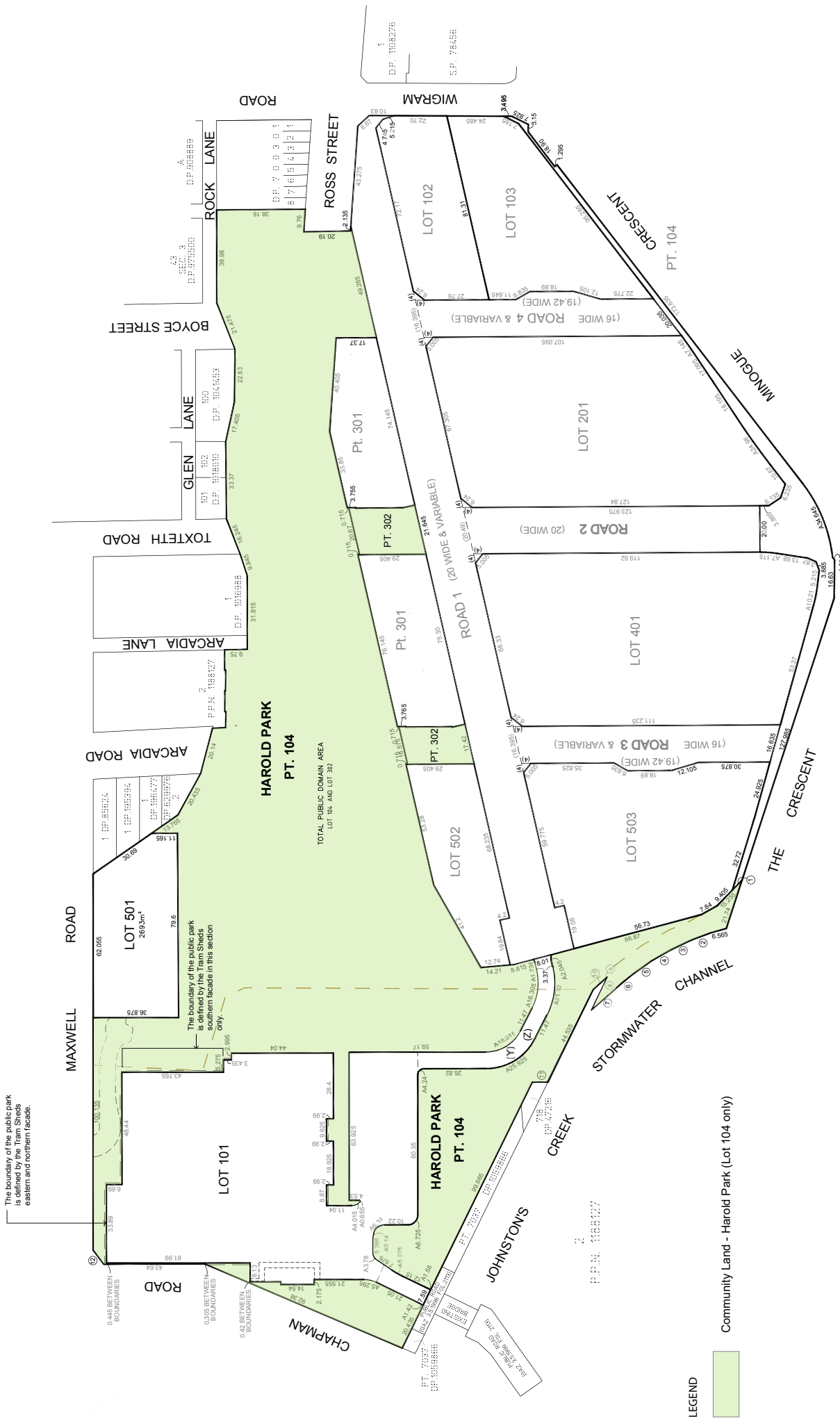
Attachment B

Johnstons Creek Parklands Plan



Attachment C

**Identification Plan –
Proposed Land Reclassification**



The boundary of the public park is defined by the Team Sheets eastern and northern facade.

The boundary of the public park is defined by the Team Sheets southern facade in this section only.

LEGEND
 Community Land - Harold Park (Lot 104 only)



Item 6.

Land Classification - Lot 2, 506-518 Gardeners Road, Alexandria

File No: X038472

Summary

On 26 October 2020, Council endorsed the public notification of a proposed resolution to classify proposed Lot 2 in Deposited Plan 1231238, being land proposed to be transferred to the City for future public purposes as road, at 506-528 Gardeners Road, Alexandria, as operational land in accordance with section 31 of the Local Government Act 1993.

The proposed land classification was publicly notified for a period of 29 days commencing 2 November and closed on 30 November. No submissions were received.

In August 2018, the City entered into a Planning Agreement with the Developer in relation to development at 506-518 Gardeners Road, Alexandria. The Planning Agreement requires the Developer to transfer portions of the land to the City for a future road. A Deed of Variation to the Planning Agreement was executed on 12 August 2020 to defer the completion of the temporary landscaping works to the transferred land until either the issue of the final Occupation Certificate, or within 36 months of the issue of the first Occupation Certificate, whichever is the earliest. The effect of the Deed was to allow the development to be completed in stages.

A Subdivision Application was lodged with the City in May 2020, to create two new parcels of land. In conjunction, the Developer is now preparing to transfer the relevant parcel of land (Lot 2 in DP 1231238) to the City, once the application is approved.

Following the transfer, the Developer will continue to occupy the land under a Construction Access Licence (Licence) for a maximum period of 36 months, or until the construction of the adjacent building is complete, whichever is the earliest. At the conclusion of the term of the Licence, the Developer will return the land to the City's control, landscaped in accordance with the requirements of the Planning Agreement as amended.

It is essential that the parcel of land be classified as operational for the duration of the construction access licence to facilitate the Developer's construction works, and until such time as the City has secured the adjacent land to allow the future construction of the road.

Recommendation

It is resolved to classify proposed Lot 2 in Deposited Plan 1231238, being land proposed to be transferred to Council for future public purposes as road at 506-518 Gardeners Road, Alexandria, as operational land, in accordance with section 31 of the Local Government Act 1993.

Attachments

Attachment A. Identification Plans including Future Road and Green Links

Background

1. On 5 July 2018, deferred commencement consent was granted for a concept proposal for a staged construction of a part 3 and 4 storey data centre to be operated 24 hours, 7 days per week. The proposal includes the detailed design and approval of Stage 1 works, including construction and use of a three-storey building to the northern portion of the site for data centre operations, new internal roads, 33 at grade car parking spaces, fencing and landscaping at 506-518 Gardeners Road, Alexandria.
2. Concurrent to the development consent, the City entered into a Planning Agreement with the owner, Equinix Australia Pty Ltd. The Planning Agreement provides for the transfer of land to the City and the construction of temporary landscaping for a future road reserve prior to the issue of the first Occupation Certificate.
3. On 12 August 2020, the City entered into a Deed of Variation to the Planning Agreement to defer the completion of the temporary landscaping works until either the final Occupation Certificate, or within 36 months of the issue of the first Occupation Certificate, whichever is the earliest. The effect of the Deed was to allow the development to be completed in stages.
4. In May 2020, the City received a subdivision application providing for the creation of two lots, as per the following schedule:
 - (a) Lot 1, development lot; and
 - (b) Lot 2, future road reserve of 2,245 square metres.
5. Lot 2 is presently owned by Equinix Australia Pty Ltd (the Developer) and is due to be remediated and transferred to the City in accordance with the Planning Agreement, following approval of the subdivision application.
6. The Developer will be required to enter into a Construction Access Licence with the City to occupy Lot 2 during the continued construction activity.
7. Lot 2 will be landscaped at the conclusion of the Construction Access Licence in accordance with the requirements of the Planning Agreement as amended.
8. Lot 2 will remain landscaped until such time as the City has secured the adjacent land to allow the future construction of the road and will then be dedicated as a public road.
9. To facilitate the construction of the development and of the road by the City in the future, the operational land classification is to be applied in the interim.

Key Implications

Organisational Impact

10. There is no organisational impact arising from this resolution to classify this lot as operational land.

Financial Implications

11. The classification of land under the Local Government Act 1993 does not have any direct budgetary implications. Once the abovementioned parcel of land is transferred to the City, it will be recognised as in-kind contributions income, and held as a land asset in accordance with the City's Infrastructure, Property, Plant and Equipment (IPPE) Asset Recognition and Capitalisation Policy.

Relevant Legislation

12. The following sections of the Local Government Act 1993 are relevant:
 - (a) Section 25 requires all public land to be classified as either community or operational land;
 - (b) Section 31(2) permits Council to resolve to classify land prior to acquisition;
 - (c) in satisfaction of section 31(3), the proposed resolution is consistent with the planning agreement (as registered on title), other Acts and the terms of any trust applying to the land; and
 - (d) Section 34 requires the proposed resolution to classify, be publicly notified and made available for inspection by the public for a period of 28 days.

Critical Dates / Time Frames

13. The land is to be classified as operational prior to transfer to the City, which addresses the timing requirement to classify within three months of land transfer to the City.

Options

14. If the land is not classified as operational within three months of transfer to the City, it will revert to a community classification under the Local Government Act 1993. A community classification for unimproved land to be embellished by the City would restrict and impede the City's capacity to undertake the construction of the public infrastructure and unnecessarily complicate the ultimate dedication as public road and public reserve.

Public Consultation

15. The proposed resolution land classification was publicly notified for a period of 29 days commencing 2 November and closed on 30 November 2020.
16. No submissions were received.

AMIT CHANAN

Director, City Projects and Property

Nicholas Male-Perkins, Commercial Manager

Attachment A

**Identification Plans including Future Road
and Green Links**

Item 7.

Lease Variation - Pedestrian Link Stratum, Wynyard Lane - Brookfield

File No: S094584.062

Summary

Brookfield Office Properties One Carrington Developer Pty Ltd received Development Consent from the Department of Planning on 30 November 2016 to build a 27-level office building with an area of 59,400 square metres of office space. The approval included part of the building which will be positioned over Wynyard Lane requiring a stratum lease to enable a pedestrian link over the site.

On 19 November 2018, Council approved the granting of a proposed stratum lease and the essential lease terms. The original approval by Council provided for a stratum to be utilised as a pedestrian bridge cantilevered over Wynyard Lane and comprising an area of between 77 square metres to 182 square metres, subject to final survey.

This report seeks Council's approval to vary the Agreement for Lease to include an additional area of 185.7 square metres, which extends from the pedestrian bridge area, under the lease. The additional area is required to provide services to the entire precinct.

The Agreement for Lease will also be varied to provide for an additional upfront rental payment and the security amount will also be increased to reflect the additional use of the extended area. All other terms will remain the same as previously approved by Council.

The precinct is well under construction and Brookfield have advised that the structure which forms the pedestrian bridge area and the newly proposed services area has been largely constructed. As part of Brookfield obtaining its subdivision certificate to create a lot for the pedestrian bridge premises, Brookfield requested that the lot comprising the pedestrian bridge area, and in turn, the lease for the pedestrian bridge area, be varied to include the new additional services area.

The City has agreed in principle to vary the lease terms with Brookfield, subject to Council approval. The summary of the varied essential lease terms is detailed at Confidential Attachment A.

Council approval is required for:

- (a) an additional area of 185.7 square metres;
- (b) an additional use as a services area; and
- (c) an additional upfront payment fee as set out in Confidential Attachment B.

The Director of the Department of Planning has delegated its right of consent for leases over land above or below a public road pursuant to Section 149 of the Roads Act 1993 to Council.

Recommendation

It is resolved that:

- (A) pursuant to Section 149 of the Roads Act 1993, Council approve the granting of a variation to the stratum lease to BSREP Wynyard Place Retail Landowner Pty Ltd as trustee for BSREP Wynyard Place Retail Landowning Trust Pty Ltd ABN 91 865 529 217 for proposed stratum over Wynyard Lane as part the proposed office development known as One Carrington Street Sydney; and
- (B) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the variation to the stratum lease referred to in clause (A) above consistently with the Essential Lease Terms and Conditions in Confidential Attachment B to the subject report.

Attachments

Attachment A. Proposed Subdivision of Wynyard Lane

Attachment B. Essential Lease Terms and Conditions (Confidential)

Background

1. Brookfield Office Properties One Carrington Developer Pty Ltd received development consent issued by the Department of Planning on 30 November 2016 to build a 27-level office building with an area of 59,400 square metres and with links to Wynyard Station. The development will be known as One Carrington Street. The site includes the following buildings: 301 George Street, Menzies Hotel, Shell House at the corner of Margaret Street and Carrington Street, and 285 George Street. All buildings with the exception of Shell House have been demolished.
2. Development Consent Final Approval, Determination of Modification Application for One Carrington (SSD 5824 MOD 9) was approved on 19 December 2019, by a delegate on behalf of the Minister for Planning.
3. The development will feature a highly anticipated commercial precinct in the northern precinct of the Sydney CBD. The project is described as a premium grade commercial office space which will be strategically located next to a major transport hub at Wynyard Station. The development will require a stratum lease to enable a pedestrian link over the site.
4. The proposed stratum, which is to be utilised as a pedestrian bridge, will have an area of 77.7 square metres, and the proposed stratum, which is to be utilised for services which will service the entire precinct, will have an additional area of 185.7 square metres.
5. A lease term of 99 years for the stratum lease was previously agreed for the pedestrian bridge area and is proposed for the additional services area.
6. An upfront rental sum has been paid for the area which will be used as a pedestrian bridge link. An additional upfront rental sum will be paid for the additional area which will be used as a services area.
7. The security amount will be increased to reflect the additional services area.
8. The diagram in Attachment A shows both the pedestrian bridge area and the services area.
9. The City's appointed Valuer, BEM Property Consultants and Valuers, undertook an assessment of the commencing annual rental for the stratum lease for the pedestrian bridge area and has assessed the rental for 99 years to provide the lump sum instalment, shown at Confidential Attachment B.
10. The City's appointed Valuer, BEM Property Consultants and Valuers, also undertook an assessment of the commencing annual rental for the stratum lease for the services area in accordance with the City's Fees and Charges and has assessed the rental for 99 years to provide the lump sum instalment, shown at Confidential Attachment B.
11. As the Brookfield tenant entity is now foreign owned, the proposed variation to the Agreement for Lease needs to be conditional on Brookfield obtaining the Foreign Investment Review Board's approval of the additional leased area before the lease commencement date. If Brookfield cannot obtain this approval, the variation will not proceed.

Key Implications

Strategic Alignment - Sustainable Sydney 2030

12. 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 report is aligned with the following strategic directions and objectives:
 - (a) Direction 10 - Implementation through Effective Governance and Partnerships – specifically, Action 10.5.1- Expand revenues from commercial operations, property portfolio and other income generating assets.
13. The outcome of the high-level lease terms negotiated with Brookfield is consistent with the above action.

Financial Implications

14. Income for the additional services area stratum was not anticipated, and therefore was not included in the City's operating budget for the financial year 2020/21.
15. There will be no ongoing operational costs to Council arising from it granting the proposed stratum lease.
16. The lump sum amount will be recognised as income entirely within the 2020/21 financial year, reflecting the 99-year tenure, during which the City will not retain operational control of the service area stratum.
17. Brookfield will be responsible for the cost of establishing the structure and maintaining the stratum.

Relevant Legislation

18. Roads Act 1993 - Section 149 of the Roads Act 1993 permits the roads authority (Council), with the consent of the Director of Planning, to lease the air space above, or land below the surface of, any public road (other than a Crown road) that is owned by the authority for a term, together with any option to renew, not exceeding 99 years. This proposal is in accordance with this section of the Act. The Director of Planning has delegated its consent right under Section 149 of the Roads Act to Council.
19. 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 or prejudice the commercial position of the person who supplied it.
20. Attachment B contains confidential commercial information and details of Council's valuation 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. Brookfield is required, as a condition of its subdivision development approval, to enter into a stratum lease with the City for the services area. It is understood that this condition is the last condition remaining to be satisfied, so the entering into a variation to the stratum lease to include the services area will allow Brookfield to progress its subdivision.

Options

23. The City has the option not to proceed with the lease of the stratum. This will likely result in a claim against the City and a significant loss of potential commercial revenue.
24. This construction work has been largely completed.
25. The City has considered the option to lease the stratum and believes it will achieve significant commercial income for the City of Sydney.

AMIT CHANAN

Director City Projects and Property

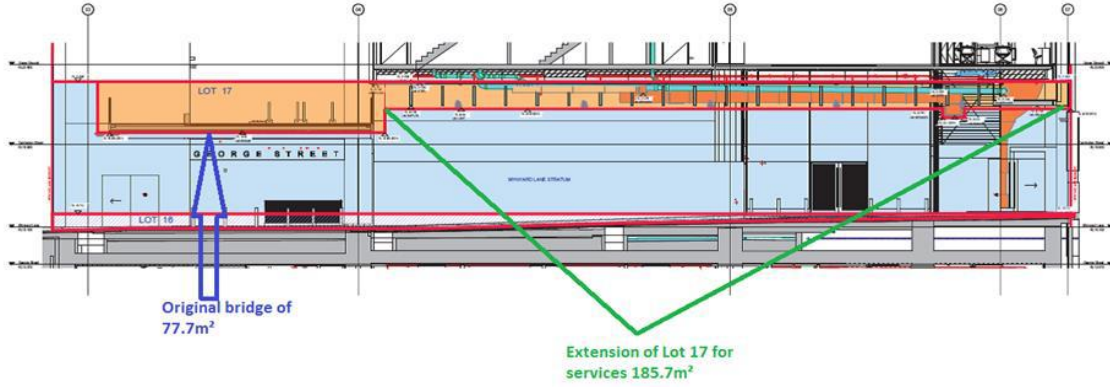
Matthew Woodroffe, Portfolio Manager Commercial

Attachment A

Proposed Subdivision of Wynyard Lane

CITY OF SYDNEY
 CITY PLANNING DIVISION
 APPROVAL
 D/2020/287
 28 May 2020
 These plans must be read in
 conjunction with the decision notice

SECTION BB
 ALL



Surveyor: CAMERON PIRRIE & ASSOCIATES Date of Survey: 01.08.2019 Plan/Project Ref: 200861 PDP 001	PLAN OF SUBDIVISION OF WYNWARD LANE	L.O.A.: SYDNEY Locality: SYDNEY Authorisation:	Registered	D.P. CONCEPT PLAN 15.01.2020
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Document is Restricted

Item 8.

Head Contractor - The Crescent Lands at Johnstons Creek, Annandale - Additional Contingency

File No: S123802

Tender No: 1868a

Summary

This report seeks approval to increase contract contingency for the Head Contractor for the delivery of The Crescent Lands at Johnstons Creek project.

Johnstons Creek parklands is new open green space on the western edge of Glebe foreshore parks, located between The Crescent, Johnstons Creek and the Light Rail viaduct adjacent to Federal Park. The works will open up the five archways of the Glebe railway viaduct, create a large play area near Federal Park playing field, and create a new open space.

On 18 May 2020, Council resolved to engage Ford Civil Contracting for the construction of the Crescent Lands at Johnstons Creek, Annandale.

During construction, there have been several events that have generated additional works under the contract, including latent conditions and additional contamination scope required to progress the delivery of this project.

This report recommends Council approve an increase to the budget for the construction works under contract as outlined in Confidential Attachment A.

Recommendation

It is resolved that Council:

- (A) approve an increased contract contingency to the existing Head Contractor for the construction of The Crescent Lands at Johnstons Creek, Annandale, project to cover works associated with remediation and works to assets owned by third parties; and
- (B) approve the additional funds sought as outlined in Confidential Attachment A to the subject report to be sourced from the 2020/21 Capital Works Contingency.

Attachments

Attachment A. Financial Implications (Confidential)

Background

1. The proposed scope of works at The Crescent Lands will deliver new green open space and constitutes a significant step towards realising the long term Johnstons Creek Parklands Masterplan adopted by Council on 26 August 2013.
2. The project will deliver new recreational open space and a skate space with related works in Federal Park, including refurbished playground and picnic facilities. It will create a freestanding mini skate ramp to replace the existing mini ramp at Chapman Road, a fitness hub located adjacent Federal Park Oval, modifications to Chapman Road south to improve parking arrangements, and path and cycle connections from Chapman Road.
3. On 21 January 2020, following the liquidation of the previously appointed contractor, the City entered into discussions with the next preferred supplier (Tenderer A) from the 2018 tender and discussed their capacity and interest to complete the balance of the works remaining on the project.
4. On 18 May 2020, Council resolved to approve an exemption from tender for the provision of construction services and delegated authority to the Chief Executive Officer to negotiate, execute and administer the contract with Tenderer A, Ford Civil Contracting, for the construction of The Crescent Lands at Johnstons Creek, Annandale, after the previous supplier had gone into liquidation in early 2020.
5. On 7 July 2020, Ford Civil commenced works on site.
6. During construction, additional remediation work and costs associated with management of contamination, as well as work required to assets owned by third parties, including RailCorp, Transport for NSW and Sydney Water, has led to increased cost variations to the contract.
7. The works to third party assets include the installation of a new Sydney Water watermain, and the approval and requirements of Transport for NSW for the non-destructive excavation required around and for the location of their electrical high voltage lines.
8. There are additional works associated with latent conditions to manage remediation requirements that were more extensive than known prior to entering into the contract.
9. The variations to the contract require additional construction contract contingency be approved by Council.

Performance Measurement

10. An independent quantity surveyor is engaged to review all variations against current market rates and their methodology cost effectiveness.
11. A Hygienist and Site Auditor have been appointed to this project to monitor construction methodologies, confirm contamination extent and validate remediation.

Financial Implications

12. Additional funds are required, as detailed in Confidential Attachment A.

Relevant Legislation

13. 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.
14. Attachment A contains confidential commercial information 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.
15. 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

16. Construction is scheduled to be complete early in 2021.

Options

17. The impact of not proceeding with this option would mean the construction of the project would stop. It is not feasible from a time or cost perspective to complete this scope of works later. Continuing with the current contractor who is currently undertaking the works, provides the best value for money.
18. Any option that explores removing these works from this project for completion later, is not recommended due to the additional time and cost that later delivery would require. Delay would extend the impacts on the community in terms of access to existing and improved facilities in the park.

Public Consultation

19. The community has been updated through the City's website, on-site signage and contractor's notifications of the works.

AMIT CHANAN

Director City Projects and Property

Brendan Barrett, Project Manager

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Item 9.

Contract Variation - Tree Maintenance

File No: X007081

Tender No: 1743

Summary

This report provides details for the change in service delivery for southern parks tree maintenance.

The City currently has three service providers maintaining trees located in our parks, streets and City owned/leased properties.

Council appointed Active Tree Services Pty Ltd (Active Trees) and Treescape Australasia Pty Ltd (Treescape) to maintain our street and council owned trees across the entire local government area, and park trees in the northern area under the Tree Maintenance Contract, at its meeting of 19 February 2018, following a public tender.

The City's in-house tree team currently maintain the remaining park trees, which forms approximately 15 per cent of the tree maintenance activities.

A comprehensive review of the service delivery has been undertaken to ensure consistent, efficient and cost-effective operations are being provided. This report recommends the City streamlines service delivery to two providers to make savings and achieve the most efficient service delivery.

Approval is sought to vary the contract to accept the contract variation offer from Active Tree Services Pty Ltd to increase the contract value to include the additional scope of services for park tree maintenance works as described in Confidential Attachment B.

Recommendation

It is resolved that:

- (A) Council approve a variation (lump sum and schedule of rates) to the Tree Maintenance Contract (Contract 1743 - North) to provide for an increase to the overall contract price for Active Tree Services Pty Ltd for the additional scope of services for park tree maintenance as detailed in Confidential Attachment B to the subject report; and
- (B) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the contract variation with Active Tree Services Pty Ltd as detailed in Confidential Attachment B to the subject report.

Attachments

- Attachment A.** Map Showing North and South Park Tree Service Areas
- Attachment B.** Financial Implications (Confidential)
- Attachment C.** Schedule of Rates (Confidential)

Background

1. The City of Sydney manages approximately 48,000 trees throughout the local government area (LGA), with approximately 33,500 trees located in streets, 13,950 located in parks, and 550 located within council owned and managed properties.
2. Trees are much loved by the community, due to an increased acknowledgement and understanding of the numerous social, environmental and economic benefits that they provide. They are one of the City's most important assets, being critical in making Sydney an attractive, healthy and liveable city. They are also an important contributor to the City's urban canopy target of 23 per cent by the year 2030, which was adopted by Council in the Greening Sydney Plan 2012.
3. Trees are large, living structures, located in high use areas, over roads and close to buildings and other infrastructure. As a result, the City correctly places a high value on ensuring the trees are well maintained through an annual maintenance program. The key tree maintenance services provided include:
 - tree inspection and assessment;
 - tree pruning;
 - tree base maintenance;
 - tree removal;
 - tree planting and establishment;
 - tree root inspection and maintenance;
 - tree pest and disease management;
 - emergency response relating to tree incidents; and
 - customer service relating to tree issues.
4. As tree maintenance works are high risk (working at heights, around power lines, over roads, using chainsaws and chippers) it is very important that the services are undertaken by qualified and experienced personnel, with service providers that integrate industry best practises into their daily operations.
5. Currently tree maintenance is split geographically between north and south, with the majority of works (85 per cent) being maintained under contract services.
6. The northern area includes all trees in parks, streets and City owned/leased properties. These trees are managed by Active Tree Services Pty Ltd. The southern area includes all trees in streets and city owned/leased properties. These trees are managed by Treescape Australasia Pty Ltd.
7. Currently the parks trees in the southern area are maintained by in-house staff. The team consists of four positions; three arborists, and one crew member.

8. A review of the service delivery was undertaken to ensure the unit is able to efficiently and effectively manage the additional assets and services resulting from increasing population density and development.
9. The review identified an opportunity to consolidate the tree maintenance service arrangements and make savings by transferring the remaining 15 per cent of tree maintenance in the southern area parks to contract service delivery.

Contract Variation

10. Council resolved to engage Active Trees to deliver the contract services at its meeting on 19 February 2018 following a public tender. The contract started on 3 April 2018 and expires in April 2023. There is an option to extend the contract for one year at the City's discretion subject to satisfactory performance.
11. The contract was developed to provide flexibility and capacity should the City need to amend in-house service delivery in the future. Both contracted service providers were requested to provide a variation cost to perform the parks tree maintenance services. The prices were assessed and are outlined in Confidential Attachment B.
12. The variation is based on a schedule of services for ongoing proactive inspection and maintenance programs requiring fixed annual prices (using CPI for annual increases thereafter) and a schedule of rates for reactive or programmed work of variable quantity (such as tree removal, tree planting etc.).
13. Council approval is required for the proposed variation as it will exceed expenditure above 10 per cent of the contract sum.

Organisational Impact - Staff

14. There will be no loss of staff from the service delivery amendment. The current staff will be reallocated to associated horticultural work maintaining parks and open space and will retain their existing salaries and conditions.
15. Staff and unions have been consulted on the recommended changes.
16. The staff currently have a substantial works program to complete. It is recommended that the contracted service delivery gradually transition from 16 December 2020, delivering reactive and emergency works, with full services to commence on 1 February 2021. All programmed works allocated to the internal team up to this date would remain with them to complete, which is expected by 31 January 2021. The staff will then transfer into the horticultural parks maintenance duties.

Risks

17. There are contract management practices in place to manage any transitional risks, including transition planning, regular contractor meetings, and adequate time for performance management.

Environmental

18. The change in service will ensure the current high standard of park tree maintenance is continued and maximises the environmental benefits provided to the community.

Strategic Alignment

19. 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 report is aligned with the following SS2030 strategic directions and objectives:
 - (a) Direction 2 provides a road map for the City to become a Leading Environmental Performer - The City's trees are critical in providing a healthy, attractive and safe city. The trees are a significant component of the overall canopy cover, and provide numerous environmental, social and economic benefits. This request ensures that City continues to fulfil core responsibilities to deliver safe, high quality and well-managed tree assets.
 - (b) Direction 4 - A City for Walking and Cycling – Trees are important in ameliorating the city's streets and open spaces, and by cooling the city, they increase people's thermal comfort, health and wellbeing, with more people able to walk and cycle in the city.
 - (c) Direction 10 - Implementation through Effective Governance and Partnerships - The service delivery review has been carried out with consideration to this directive, including the long-term financial sustainability of the City of Sydney.

Financial Implications

20. This change to tree maintenance services delivers savings to the City which are outlined in Confidential Attachment B. There are funds available in the 2020/21 operational budget and future years for the service.

Relevant Legislation

- 21. Local Government Act 1993.
- 22. Local Government (General) Regulation 2005 .
- 23. 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.
- 24. Attachments B and C contain confidential commercial information 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.
- 25. 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.

Options

- 26. The City could continue to deliver park tree maintenance under existing arrangements however this would not provide the additional park maintenance resources required or be as efficient and effective.

Critical Dates / Time Frames

- 27. If approved, the contract variation is intended to commence on 16 December 2020 for reactive and emergency works. Full proactive service provision is intended to commence from 1 February 2021.

MARY-ANNE PRIEST

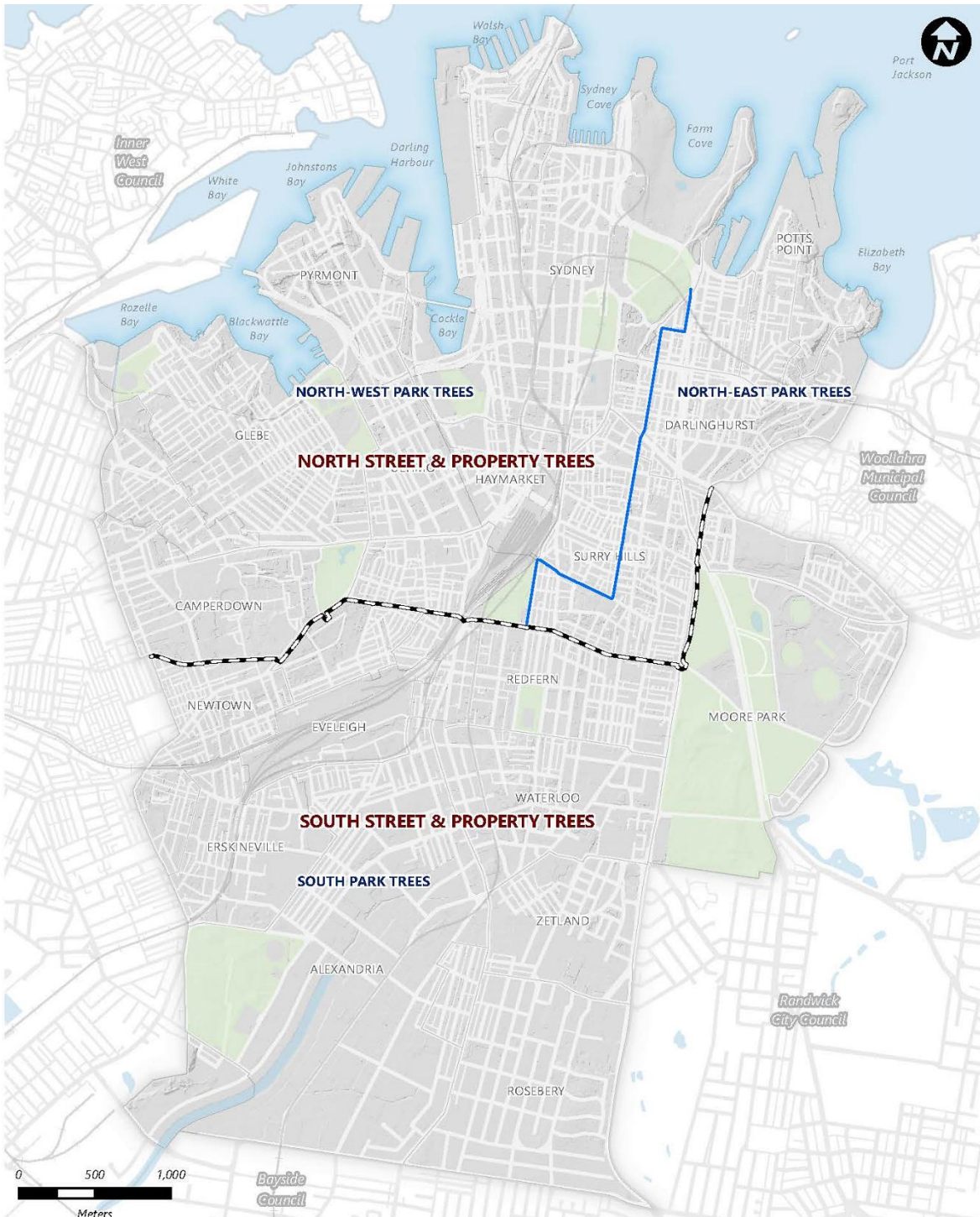
Acting Director City Services

Joel Johnson, Manager City Greening and Leisure

Attachment A

**Map Showing North and South Park Tree
Service Areas**

Attachment A – Map showing North and South Park Tree Service Areas



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--- North and South Street and Property Boundary
 — North-West North-East Park Tree Boundary

Date: 2/08/2017
 Created by: cadremont
 StreetTreesTenderProject.aprx
 1:33,000 @ A4

Sydney2030/Green/Global/Connected

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Item 10.

Contract Variation and Exemption from Tender - Head Design Consultant - 119 Redfern Street, Redfern

File No: X025821

Summary

This report seeks an exemption from tender for the head design consultancy services for 119 Redfern Street, Redfern, and requests Council approve a contract variation for the head design consultant.

The City purchased 119 Redfern Street, Redfern, to upgrade as a local Aboriginal knowledge and culture centre. The initial stage of these works is the installation of a lift and accessible entry to ensure all members of the community have access to the building.

During the preliminary investigations for the lift and accessible entry, issues relating to building services, latent conditions and design outcomes were identified that require additional services from the head design consultant to resolve.

The fee variation proposal from the current head design consultant for these additional services increases the total amount of the contract to an amount that requires the approval of Council to proceed if tenders are not invited. Inviting tenders for these additional services from other consultants would not achieve a satisfactory result.

Recommendation

It is resolved that:

- (A) Council approve an exemption from tender for 119 Redfern Street, Redfern, for head design consultancy services;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders for this work because:
 - (i) the current head design consultant has in-depth knowledge of the project and the concept design to be documented;
 - (ii) the fee variation proposal from the current head design consultant has been assessed by the project Quantity Surveyor as fair and reasonable for the work involved; and
 - (iii) the lengthy time periods required for a tender process would delay access to the building for members of the community; and
- (C) authority be delegated to the Chief Executive Officer to negotiate, execute, administer and vary the head design consultant contract relating to 119 Redfern Street, Redfern.

Attachments

Attachment A. Financial Implications (Confidential)

Background

1. In November 2018, the City purchased the former Redfern Post Office for use as a local Aboriginal knowledge and culture centre. The building is state heritage listed and level 1 is currently only accessible by stairs.
2. In June 2019, a project for the installation of a lift and related accessibility works at 119 Redfern Street, Redfern (i.e. former Redfern post office), was approved to proceed to implementation.
3. In November 2019, the existing tenant vacated the building and City staff commenced part-time occupation of the building. Penetration of traffic and pedestrian noise to the building interior was found to be a considerable impediment to the use of the building.
4. Investigations of the building services also determined that the existing electrical supply is insufficient to operate a lift and upgrade of the supply is required.
5. In February 2020, the head design consultant was engaged for architectural and associated services for the project following the competitive Request for Quotation process detailed in the confidential attachment.
6. At the time of engagement, it was believed that the lift would be located internally within the existing building envelope.
7. Shortly after engagement, additional scope was approved to incorporate acoustic works into the project to mitigate penetration of traffic and pedestrian noise to the building interior, and the investigation of applying thermal insulation to doors and windows.
8. The head design consultant assessed nine potential locations for the installation of the new lift and accessible entry. The preferred location of the new lift and accessible entry:
 - (a) replaces an existing 1-storey addition on the south-west corner of the building, whose roof is currently occupied by multiple air-conditioning condensers;
 - (b) is located away from traffic and pedestrian noise generated on Redfern and George Street on the existing right of way to the east of the building; and
 - (c) ensures continuing use of the four major rooms within the existing building by the community.
9. Due to the location of the new lift and accessible entry on the exterior of the building in response to significant heritage elements, unforeseen additional works will have to be documented by the head design consultant, including:
 - (a) incorporating waterproofing into building elements, such as the lift shaft;
 - (b) relocation and upgrade of mechanical plant;
 - (c) design and specification of new bathrooms; and
 - (d) regrading and repaving of the existing right of way.

10. The head design consultant will have to engage additional sub-consultants to design and document these additional works including civil, hydraulic and mechanical services engineers.
11. Additional building elements were also incorporated that will have to be documented by the head design consultant including a flagpole, banners and additional signage.
12. In September 2020, the City requested the head design consultant provide a fee variation proposal to document the additional works required. The amount of the fee variation takes the total amount of the contract, with the head design consultant, inclusive of GST, above the tender threshold of \$250,000.
13. Approval of the exemption from tender and contract variation will allow the head design consultant to prepare construction documentation and provide construction stage services for the additional works for which they have already prepared concept design and development approval documentation.
14. Timely preparation of construction documentation and provision of construction stage services will ensure the entire facility at 119 Redfern Street is accessible to all members of the community.
15. A satisfactory result would not be achieved by inviting tenders for this work because:
 - (a) the current head design consultant has in-depth knowledge of the project and the concept design to be documented;
 - (b) the fee variation proposal from the current head design consultant has been assessed by the project Quantity Surveyor, VG Consulting, as fair and reasonable for the work involved; and
 - (c) the lengthy time periods required for a tender process would delay access to the building for members of the community.

Financial Implications

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

Relevant Legislation

17. The request for quotation process was conducted in accordance with relevant sections of the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Procurement and Contract Management Policy. The exemption from tender is sought in accordance with the Local Government Act 1993.
18. 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.
19. Attachment A 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.
20. 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

21. The following key dates apply to this project:

(a) Construction documentation prepared	Late 2020 - April 2021
(b) Project scope endorsement	Early 2021
(c) Construction tender and contract execution	April - August 2021
(d) Construction phase	Late 2021 - mid 2022
(e) Completion	Mid 2022

Options

22. The City could invite tenders for the preparation of construction documentation and construction stage services for the installation of the lift and accessible entry at 119 Redfern Street, Redfern. However, other consultants would have less knowledge of the project and concept design to be documented than the current head design consultant. This is likely to cause delays to the delivery of the project.
23. Work on the project could be stopped at the end of concept design. This will mean that some members of the community will not have access to all parts of the building and will limit the utility of the building as issues such as acoustics and installation will not be attended to.

Public Consultation

24. Presentations on the installation of the lift and accessible entry at 119 Redfern Street, Redfern, were made to the City's Aboriginal and Torres Strait Islander Advisory Panel on 12 August and 23 September 2020.

AMIT CHANAN

Director City Projects and Property

Matthew Taylor, Development Manager

CONFIDENTIAL
By virtue of the Local Government Act 1993 Section 10A Paragraph 2

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Item 11.

Tender - Integrated Workplace Management System - TRIRIGA

File No: X039337

Tender No: T-2020-422

Summary

This report provides details of the tenders received for services to implement and support the City's Integrated Workplace Management System TRIRIGA.

In the past, the City's property service delivery model was an integrated contract with BGIS which utilised BGIS's own Management Information Systems to carry out their services. In 2018, this model changed into four separate maintenance, real estate, compliance and utility services engagements. Ventia, the newly engaged facility management supplier, was chosen to implement a new Management Information System to support the City's property services.

Phase one was an "out of the box" delivery of facility management and limited property management functionality using the chosen IBM TRIRIGA platform. The City reviewed the system implementation at the end of phase one and decided to engage with the market for the delivery of the next phase. Hence this tender for Integrated Workplace Management System TRIRIGA implementation and support services.

The Tender consists of Part A - Requirements and Solution Design, Part B - Implementation and Transition, and Part C - Support and Maintenance. The City is proposing to enter into an initial three-year agreement with two optional two-year extensions for a possible total of seven years.

Recommendation

It is resolved that:

- (A) Council accept the tender offer of Tenderer A for the delivery of Parts A, B and C of the Integrated Workplace Management System TRIRIGA project for the amounts outlined in Confidential Attachment A to the subject report, for a period of three years, with the option of two extensions of two years each if appropriate;
- (B) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the contracts relating to the tender; and
- (C) authority be delegated to the Chief Executive Officer to exercise the options referred to in clause (A), if appropriate, and negotiate the price to extend the contract accordingly.

Attachments

Attachment A. Tender Evaluation Summary (Confidential)

Background

1. Utilising an outsourced service model, the City's Property Services team leverage several supplier partners to manage the City's building assets with a value exceeding \$2b, delivering an annual revenue of circa \$80m, at an annual cost and expenses budget of circa \$40m.
2. To improve and optimise property management services, the City has changed its service delivery model from an integrated contract (previously with BGIS) delivering maintenance, real estate, compliance and utility services, to four separate engagements with "best of breed" suppliers in each of the specialist areas.
3. The previous integrated model utilised the supplier's Management Information Systems to record, track and manage operational and financial transactions for all four service streams. This is no longer possible due to the disaggregation of the services across four separate engagements.
4. As such, the City made a decision to adopt a model whereby the City will have a license to use TRIRIGA and manage the Management Information System, requiring all four specialist providers to transact within the new singular system.
5. To ensure operational stability and minimise operational risk during the critical transition period the implementation of the new system was planned in two distinct phases.
6. Phase one was a fast "out of the box" implementation delivering facility management and limited property management functionality with minimal configuration and customisation to meet the City's needs.
7. The City required its newly engaged facility management supplier, Ventia, to undertake the implementation of this initial phase as Ventia was the first contracted entity. This commenced in January 2018. The system selected was IBM's TRIRIGA product, which was identified as a leading Integrated Workplace Management System platform and provided the functionality required by the City.
8. Following phase one completion, the City reviewed the implementation and decided to engage with the market for the delivery of the next phase. This included the procurement of the services of an experienced TRIRIGA implementation partner. A deed of variation to the facility management agreement has been negotiated with Ventia to remove the Management Information System from the scope of their services, once the new implementation partner is appointed (through this Tender).
9. Phase two of the implementation of the system, which is the subject of the current tender, includes required functions associated with utility management and compliance management, as well as required configurations and customisations. This is needed following the engagement of the remaining specialist suppliers, utility and compliance management, Energetics in June 2019, and MBM pl in September 2019.
10. The scope of the Integrated Workplace Management System TRIRIGA tender is the enhancement of the property management and facility management functionality, implementation of space management and capital project management as an option. The scope also includes the ongoing TRIRIGA licensing and managed support services.

11. The implementation of phase two of this project is the final and essential stage in the new property service delivery model, delivering a single source of truth for all property related functions and transactions.

Invitation to Tender

12. The process commenced with an Expression of Interest, followed by the selection of the three top scoring tenderers to participate in Early Contractor Involvement workshops within a selective Request for Tender.
13. On 24 July 2020, the Expression of Interest was promoted via social media, direct contacts, LinkedIn and professional associations websites, and released on the same day.
14. By mid-August 2020, twelve tenderers responded to the Expression of Interest within the designated timeframe, and in early September 2020, the Tender Evaluation Panel shortlisted the top four tenderers. One Tenderer withdrew from the process post shortlisting.
15. On 11 September 2020, the City released a draft Request for Tender, with the three remaining tenderers signing a Participation Agreement and taking part in a series of Early Contractor Involvement workshops. The workshops concluded on 7 October 2020.
16. The City released the finalised Request for Tender and contract documents on 14 October 2020 to the three tenderers. The tender was open for a further three weeks, closing 3 November 2020.
17. All three tenderers responded to the Request for Tender within the designated timeframe.
18. The process was overseen by an independent probity advisor.

Tender Submissions

19. All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.
20. Twelve Expression of Interest submissions were received from the following organisations:
 - Asset People BV;
 - Certus Solutions Pty Ltd;
 - eCIFM Solutions Inc / eCIFM Solution Pty Ltd;
 - Elaine Chivers Consultancy Services Limited;
 - IBM Australia Ltd;

- Indicore ICT Pty Ltd;
 - Jones Lang Lasalle (NSW) Pty Limited;
 - MACS EU Ltd;
 - QDoT Solutions Private Limited;
 - Trixi Fm Pty Ltd;
 - Whitesmiths Group Pty Ltd; and
 - Wipro Limited.
21. No late Expression of Interest submissions were received.
22. Four tenderers were shortlisted and invited for a select Tender, with one withdrawing from the process and the other three providing submissions.
23. No late Request for Tender submissions were received.

Tender Evaluation

24. The relative ranking of tenders as determined by the total weighted score is provided in the Confidential Tender Evaluation Summary – Attachment A.
25. The tenders were scored in two parts, with the City having the option to choose a different tenderer for each part:
- (a) Parts A and B - Requirements and Solution Design, Implementation and Transition; and
 - (b) Part C - Support and Maintenance.
26. All submissions for Part A and B - Requirements and Solution Design, Implementation and Transition, were assessed in accordance with the approved evaluation criteria being:
- (a) demonstrated company experience in the successful provisioning of relevant IT Services, per TRIRIGA module, including alignment of the City's values, experience in delivering the same or similar service in recent projects and experience in TRIRIGA modules.
 - (b) proposed project team, knowledge and qualifications of staff/sub-contractors had relevant recent experience and qualifications that will be assigned to this project and demonstrated capacity and technical ability to carry out the work under the contract.
 - (c) a sound proposed program and methodology for the delivery of all TRIRIGA modules and their proposed schedule.

- (d) responses that met capabilities outlined for proposed product/solution/service attributes including user interfaces, architecture, service/solution management and integration.
 - (e) demonstrated commitment to Work, Health and Safety performance and its associated practices, procedures and management.
 - (f) demonstrated financial and commercial trading integrity, including insurances.
 - (g) the lump sum price.
27. All submissions for Part C - Support and Maintenance, were assessed in accordance with the approved evaluation criteria being:
- (a) demonstrated company experience in the in the successful provisioning and delivery of support and maintenance services, per TRIRIGA module, including alignment of the City's values, experience in delivering the same or similar service in recent engagements with other organisations and experience in TRIRIGA modules.
 - (b) proposed project team, knowledge and qualifications of staff/sub-contractors had relevant recent experience and qualifications that will be assigned to this project and demonstrated capacity and technical ability to carry out the work under the contract.
 - (c) a sound approach for the delivery of support services, including account management, change request and issue management and escalation procedures, and performance management against agreed service levels and performance targets.
 - (d) responses that met capabilities outlined for proposed product/solution/service attributes including user interfaces, architecture, service/solution management and integration.
 - (e) demonstrated commitment to Work, Health and Safety performance and its associated practices, procedures and management.
 - (f) demonstrated financial and commercial trading integrity, including insurances.
 - (g) the lump sum price.

Performance Measurement

28. The City will use the following General Key Performance Indicators to evaluate and monitor performance of the successful tenderer for Parts A and B and Part C:
- (a) service delivery;
 - (b) quality of works;
 - (c) timeliness;
 - (d) reporting;

- (e) communication; and
 - (f) Work, Health and Safety compliance.
29. For Part C the following repeating Key Performance Indicators are used:
- (a) service up-time (excluding planned outages);
 - (b) support availability;
 - (c) issues resolved within target SLA timeframes;
 - (d) KPI Reporting – timeliness; and
 - (e) planned maintenance.

Financial Implications

30. There are sufficient funds allocated within the 2020/21 Technology and Digital Services Capital Budget and future year forward estimates to implement core components as set out in Confidential Attachment A. Funding for optional additional services will be sought in future budget iterations. Operating costs are included in future year operating expenditure forward estimates.

Relevant Legislation

31. The tender has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Contracts Policy.
32. 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.
33. Attachment A 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.
34. 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

35. No statutory, external or internal deadlines exist.

36. Contract execution will take place in December 2020.
37. Commencement of Part A and B - Requirements and Solution Design, Implementation and Transition will take place in January 2021.
38. Transfer of Part C - Support and Maintenance Services from existing service provider will take place in June 2021.

Options

39. Maintaining the current limited system functionality is not recommended, as it exposes the City to operational risks due to use of manual data tracking across multiple systems.
40. Progressing with phase two of the project as recommended will enable the City to realise the full benefits of the new property service delivery model.

Public Consultation

41. Public consultation was not undertaken prior to this tender being released.

AMIT CHANAN

Director City Projects and Property

Merryl Naughton, Senior Program Delivery Manager

Document is Restricted

Item 12.

Tender - Legal Services Panel

File No: X034622

Tender No: T-2020-361

Summary

This report provides details of the tenders received for the provision of legal services through the re-establishment of a legal services panel.

The City uses a combination of in-house and external legal support to assist Council to deliver its services. Historically, panels for ten different areas of law have been established to allow staff to call on external legal support in circumstances where in-house legal support is not appropriate or when additional resourcing is required. Under the current tender, it is proposed to reduce the number of panels to seven, combining several of the areas into a general commercial panel.

The establishment of these legal panels provides the City's internal legal, insurance and workforce services staff with access to an approved panel of legal firms to deliver legal services within the nominated areas of law as and when required. Much of the City's legal work is done by in-house lawyers, but the panel is needed to provide additional support in relation to specialised areas of expertise, support in high volume work areas such as the preparation of leases, for occasions where additional resources are required or in circumstances where a potential conflict of interest arises.

This report recommends that Council accept the tender offers of Tenderers A, B, E, F, G, H, K, M, Q, S, T, Y, BB and CC for appointment to the legal services panels listed in Confidential Attachment A. The identity and number of recommended tenderers vary across the different panels, reflecting requirements for different skills and experience, and to ensure adequate coverage of the City's requirements in the different areas. The report also recommends that authority be delegated to the Chief Executive Officer to enter into individual contracts over \$250,000 without a report to the Tender Review Group for the few engagements when legal fees for a matter are anticipated to exceed that amount.

Recommendation

It is resolved that:

- (A) Council accept the tender offers of Tenderers A, B, E, F, G, H, K, M, Q, S, T, Y, BB and CC for appointment to the legal services panel in the areas of law noted in Confidential Attachment A to the subject report, and at the rates set out in Confidential Attachment B to the subject report, for a period of four years, with the option of two further extensions, each of one year if appropriate;
- (B) authority be delegated to the Chief Executive Officer to:
 - (i) negotiate, execute and administer all contracts relating to the tender; and
 - (ii) enter into individual contracts with law firms on the legal services panel with a value of over \$250,000 without following the process set out in Delegation 5 of the Instrument of Delegations from Council to the Chief Executive Officer; and
- (C) authority be delegated to the Chief Executive Officer to exercise the option referred to in clause (A), if appropriate, and negotiate the price to extend the contract accordingly.

Attachments

Attachment A. Tender Evaluation Summary (Confidential)

Attachment B. Price and Schedule of Rates (Confidential)

Background

1. On 21 November 2016, Council resolved to appoint various legal service providers to ten legal services panels for a three year initial term, together with two further options, each of one year. The period of appointment to the panel is due to come to an end on 16 December 2020, as the option for the final year has not been exercised.
2. The establishment of a legal services panel allows internal legal, insurance and workplace relations staff efficient access to a pre-approved panel of qualified law firms to deliver legal services within the nominated areas of law.
3. Much of the City's legal work is done by in-house lawyers, but the panel allows staff to access additional support in circumstances including:
 - (a) in relation to specialised areas of expertise;
 - (b) to support in high volume work such as the preparation of leases;
 - (c) in circumstances where additional resources are required; or
 - (d) in circumstances where a potential conflict of interest arises.
4. External law firms are engaged on an "as-needs" basis, with no guarantee being given as to the volume of work provided to any law firm appointed to any panel.

Invitation to Tender

5. The tender was advertised on 25 August 2020 on Tenderlink, City of Sydney website, LinkedIn and other social media.
6. Tenders closed Tuesday 22 September 2020 at 11am.

Tender Submissions

7. 30 submissions were received from the following organisations:
 - Ashurst;
 - Bartier Perry;
 - BBW Lawyers;
 - Bird & Bird;
 - Clayton Utz;
 - Craddock Murray Neumann;
 - DWF Law Australia Pty Limited trading as DWF Australia;
 - Ernst & Young;

- Gadens;
 - Hall & Wilcox;
 - Holding Redlich;
 - Jaramer Pty Limited;
 - K&L Gates;
 - KPMG;
 - Kreisson Legal Pty Limited;
 - Love Food Australia Pty Limited;
 - Maddocks;
 - Marsdens Law Group;
 - Massons Commercial Law Pty Limited;
 - Matthews Folbigg Pty Limited;
 - McCabe Curwood Pty Limited;
 - McCulloch & Buggy Pty Limited;
 - McCullough Robertson;
 - Moray & Agnew;
 - Norton Rose Fulbright;
 - PeGFinfo;
 - Pendlebury Workplace Law;
 - Redenbach Lee Lawyers;
 - Thomson Geer; and
 - Wotton & Kearney Pty Limited.
8. No late submissions were received.

Tender Evaluation

9. All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.
10. The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Summary – Attachment A.

11. All submissions were assessed in accordance with the approved evaluation criteria being:
 - (a) the schedule of rates and any charging models for particular types of legal work;
 - (b) demonstrated experience and expertise of the law firm and the relevant staff in carrying out services of a similar size and nature for each nominated area of law;
 - (c) proposed methodology for providing the services, including but not limited to:
 - (i) demonstrated ability to deliver quality outcomes for clients;
 - (ii) proposed allocation of staff to matters; and
 - (iii) approach to developing and maintaining a relationship with the City;
 - (d) the form of costs agreement;
 - (e) environmental management;
 - (f) Work Health and Safety; and
 - (g) financial and commercial trading integrity, including insurances.

Performance Measurement

12. All law firms appointed to the panel will be required to sign a standing offer deed, which will govern the terms of appointment to the relevant panels, and will set out the performance obligations of the law firms.
13. The decision to extend the term of the panel will be at Council's sole discretion. There is no guarantee that any of the appointed law firms will receive any amount of work as a result of being appointed to a panel.
14. Law firms appointed to the panel will be required to meet minimum service standards, and meet key performance indicators relating to managing their legal spend, regular reporting and continuous improvement.
15. Law firms appointed to the panel who are receiving instructions from the City will be assessed annually against all key performance indicators.

Financial Implications

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

Relevant Legislation

17. The tender 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.
18. 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.
19. Attachments A and B 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.
20. 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.
21. It is recommended that Council also delegate authority to the Chief Executive Officer to enter into contracts with law firms without a report being provided to the Tender Review Group for the few engagements when legal fees for a matter are anticipated to exceed \$250,000. It is anticipated that there would be only one or two of these matters per year. Engagement of a law firm for these types of matters are generally time-sensitive and require engagement of a specialised law firm.

Critical Dates / Time Frames

22. The current legal services panel comes to an end on 16 December 2020.

Options

23. Legal services could be provided wholly internally by existing internal staff, with ad-hoc request for tender or request for quote processes for each individual engagement of an external law firm. This option is not recommended due to the nature of the legal work required by the panel. The work is either routine and repetitive (for example, leasing work) or urgent and requiring immediate involvement from an external law firm.

Public Consultation

24. No public consultation was required for this tender.

KIRSTEN MORRIN

General Counsel, Director, Legal and Governance

Hannah Reid, Principal Lawyer, Legal Services

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Item 13.

Tender - Provision of Graffiti Removal Service

File No: X027344.001

Tender No: T-2020-404

Summary

This report provides details of the tender submissions received for the provision of Graffiti Removal Services.

The City provides rapid graffiti removal services throughout the Local Government Area by contracting a service provider to deliver the City's Graffiti Maintenance Program. The current contract finishes on 28 February 2021.

The Graffiti Removal contract involves the removal of graffiti on both public and private property through rapid removal and cleaning methods to help prevent the reoccurrence of graffiti and maintain the high presentation and quality of the City's public domain.

The Graffiti Removal Services contract term is for three years with two optional extensions, each of two years, based on performance. The contract is based on a schedule of rates for Standard Services, Service Adjustments to be Added to the Standard Services and One Off Services contract prices. All schedule of rates are CPI adjusted annually.

The key changes to the specifications of this contract include:

- All present and additional services have been included into the Standard Services rate in the scope of services.
- Agreement provision for future growth in additional areas and assets to be included in the Standard Services rate.
- Light rail corridor assets graffiti removal.
- Smart poles - monthly cleaning and increased poster removal frequency.
- Wayfinding and parks signage graffiti removal and cleaning.
- Graffiti removal from street art.

This report recommends that Council accept the tender offer of Tenderer 'A' for the provision of Graffiti Removal Services.

Recommendation

It is resolved that:

- (A) Council accept the tender offer of Tenderer 'A' for the provision of Graffiti Removal Services for a period of three years, with the option of two extensions, each of two years, if appropriate;
- (B) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the contracts relating to the tender; and
- (C) authority be delegated to the Chief Executive Officer to exercise the options referred to in clause (A), if appropriate, and negotiate the price to extend the contract accordingly.

Attachments

Attachment A. Tender Evaluation Summary (Confidential)

Attachment B. Schedule of Rates (Confidential)

Background

1. The current contract for Graffiti Removal Services expires on 28 February 2021.
2. For the purpose of this contract and the City's Graffiti Management Policy, graffiti includes any unlawful inscription that is marked, drawn, sprayed, painted and any poster or sticker pasted, applied or otherwise affixed to a surface of an asset. This includes posters, notices and bill posters.
3. The tender requires that the service provider must deliver the following scope of works:
 - (a) Remove graffiti that can be viewed from, and is within three metres of any council or public authority road, street or highway from:
 - (i) All City owned assets
 - (ii) City's Parks and Open Spaces located in the south and east of the LGA.
 - (iii) Residential property assets subject to agreement with the owners at the City's cost.
 - (iv) Privately owned, government, commercial, retail and industrial property assets subject to agreement with the owners/occupiers, at the City's cost.
 - (b) Prepare and operate under an agreed works program within the Quality and Operational Plan.
4. Graffiti removal is carried out in accordance with the contractor's scheduled routine inspections and in response to site specific requests.
5. Graffiti removal services are delivered in accordance with the Contract specifications and the City's Graffiti Management Policy.
6. The specification for the services has been comprehensively reviewed to ensure it meets current legislative requirements, industry best practice and community expectations have been incorporated. Whilst minor changes have been made to the specification, the core services are essentially unchanged.
7. Key changes in the revised specification are as follows:
 - (a) accounting for future growth;
 - (b) addition of approximately 500 Smart Poles;
 - (c) graffiti removal from street art; and
 - (d) Way Finding Signage (all of the LGA) and Park Signage (South East Parks only).

Invitation to Tender

8. The tender for the provision of Graffiti Removal Services was advertised in the Sydney Morning Herald, the Daily Telegraph and Tenderlink on 21 October 2020.

9. A briefing session was held on 4 November 2020 to present the nature of works, Schedule of Rates structure and assets included in the scope of services to attending Tenderers.
10. The tender period closed 16 November 2020.

Tender Submissions

11. Six submissions were received from the following organisations:
 - Graffiti Systems Australia;
 - Masta Maintenance Services NZ Ltd;
 - Modern Painting Group;
 - Techni-Clean (Aust) Pty Limited;
 - Urban Maintenance Systems Pty Ltd; and
 - Workzone Pty Ltd.
12. No late submissions were received.

Tender Evaluation

13. All members of the Tender Evaluation Panel signed Pecuniary Interest Declarations. No pecuniary interests were noted.
14. The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Summary – Attachment A.
15. All submissions were assessed in accordance with the approved evaluation criteria being:
 - (a) demonstrated capacity and technical ability to carry out the work under the contract;
 - (b) demonstrated managerial capability, qualifications, experience, number of personnel, sub-contractors and suppliers;
 - (c) Transition Plan;
 - (d) proposed Quality and Operations Plan;
 - (e) Environmental Management;
 - (f) Work Health and Safety;
 - (g) financial stability and financial position of the tenderer including insurances; and

- (h) Schedule of Rates for - Standard Services, Service Adjustments to be Added to the Standard Services and One-Off Services.

Performance Measurement

16. The performance of the service provider will be measured against the Key Performance Indicators listed below and specified in Clause 5.6 - Key Performance Indicators of the Agreement Specifications, and through routine audits and inspections carried out by the Contract Manager to ensure the following service levels:
- Sustainable Safe Service.
 - Quality of Service.
 - Effective Contract and Commercial Management.

Financial Implications

17. The successful tenderer's cost slightly exceeds the Cleansing and Waste budget for graffiti removal for the final five months of the current financial year. The Unit will absorb the increase within their overall operating budget. The slight increase, over the life of the contract, will be incorporated into the next iteration of the City's Long-Term Financial Plan.

Relevant Legislation

18. The tender has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Procurement and Contracts Policy.
19. 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.
20. Attachments A and B 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.
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. The current Graffiti Removal Services contract expires on 28 February 2021.

Public Consultation

23. While no public comment is required in respect of the tender, community feedback accumulated over the life of the current contract has been incorporated into the new specification to improve customer satisfaction.
24. The successful tenderer will be required to demonstrate to the City on an ongoing basis that the delivery of services is in accordance with the specification and customer expectations.
25. The successful tenderer will be required to build and maintain a strong connection with the community during the day to day operations, and appropriately respond to any requests or feedback received.

MARY- ANNE PRIEST

Acting Director City Services

Catherine Price, Manager Cleansing and Waste

Sash Vasilevski, Contract Manager Cleansing and Waste

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By virtue of the Local Government Act 1993 Section 10A Paragraph 2

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Item 14.

Property Matter (Confidential)

Document to Follow