

Deed - Approval to Enter into a Deed with Sydney Water for the Naturalisation Works of Johnstons Creek

File No: X018077

Summary

Sydney Water is undertaking a stormwater channel renewal program and has selected Johnstons Creek Canal as a priority site for upgrade. Sydney Water have approached the City as a stakeholder for in-principle support for the project.

Originally a natural watercourse flowing into Rozelle Bay, Johnstons Creek was converted into a brick and concrete channel in the 1890s in order to improve sanitation in Sydney. The channel runs through a number of City suburbs and parklands, as well as endangered salt marsh plant communities and the nearby heritage listed viaduct. It is Sydney's oldest concrete-lined stormwater channel, with the stonework at the end of the channel at Rozelle Bay having historical significance.

The channel, owned by Sydney Water, has now reached the end of its useful life and major works are required to address the degraded concrete walls and base. Sydney Water proposes to naturalise the channel, replacing the concrete with natural materials, giving a softer landscape feel, improving fauna and flora habitats and creating additional salt marsh environments. The major works will cover the 600-metre section of Johnstons Creek Canal that runs through Bicentennial Parks 1 and 2, Federal Park and Jubilee Park, Glebe, as well as immediately adjoining Council owned or managed Crown land (shown at Attachment B).

Council adopted the Johnstons Creek Masterplan in 2014. The Johnstons Creek Masterplan provides a vision to guide improvements to the existing Glebe Foreshore parks near the channel. This Plan identified naturalisation of the Johnstons Creek Canal zone as a future project opportunity (after consultation with Sydney Water in the development of the recommendations). This Sydney Water project is fundamental to achieving this component of the Masterplan.

This report seeks Council's approval to enter into a Deed with Sydney Water for the naturalisation works on Johnstons Creek, which will include construction works, new landscaping, maintenance and compound areas in Bicentennial, Jubilee and Federal Parks.

The Deed will be for a term of up to 18 months commencing in January 2019.

Council approval is being sought as Sydney Water is seeking to offset the City's fees and charges that would be incurred for Site Compounds against the value of the works in kind on the Council lands that will provide public benefit to the City.

Further, an Exemption from Tender for Sydney Water to undertake the works on the Council lands is being sought, given the highly integrated nature of the construction and cost efficiencies inherent in combining it with Sydney Waters work on their land.

Recommendation

It is resolved that:

- (A) Council approve to enter into a Deed with Sydney Water for construction works, new landscaping, maintenance and compound areas in Bicentennial, Jubilee and Federal Parks, as shown at Confidential Attachment C to the subject report;
- (B) Council approve offsetting the City's land use costs for compounds against Sydney Water's naturalisation works that will improve the City's park land adjacent to the Johnstons Creek Channel against the value of these works;
- (C) authority be delegated to the Chief Executive Officer to negotiate, execute and administer a Deed to Sydney Water which provides, amongst other matters, Sydney Water's obligations regarding the naturalisation of the Johnstons Creek Canal and the agreed scope of work on the City of Sydney lands;
- (D) authority be delegated to the Chief Executive Officer to execute any other reasonably necessary documentation relating to clause (A) above; and
- (E) Council approve an Exemption from Tender for Sydney Water to undertake the components of the project on Council-owned and managed Crown land.

Attachments

- Attachment A.** Plan of Property Ownership
- Attachment B.** Plan of Locations of Sydney Water's Construction Works
- Attachment C.** City's Fees and Charges and Sydney Water's Works in Kind (Confidential)

Background

1. Sydney Water is undertaking a stormwater channel renewal program and has selected Johnstons Creek as a priority site for upgrade. The portion being upgraded runs through land owned or Crown land managed by Council (the Council lands - shown at Attachment A). Sydney Water have approached the City as a major project stakeholder.
2. Originally a natural watercourse flowing into Rozelle Bay, Johnstons Creek was converted into a brick and concrete channel in the 1890s to improve sanitation in Sydney. The channel runs through a number of City suburbs and parklands, as well as endangered salt marsh plant communities and the nearby heritage listed viaduct. It is Sydney's oldest concrete lined channel with the stonework at the end of the channel also of historical significance.
3. The channel, owned by Sydney Water, has now reached the end of its useful life and major works are required to replace the degraded concrete walls and base. Sydney Water proposes to replace the 600-metre section of Johnstons Creek that runs through Bicentennial Parks 1 and 2, Federal Park and Jubilee Park, Glebe (shown at Attachment B).
4. The impacted Council lands are included in the Johnstons Creek Masterplan. This Masterplan, adopted by Council in 2014, provides a vision to guide improvements to the existing Glebe Foreshore parks near the channel. The naturalisation of the Johnstons Creek Canal was identified as a future project opportunity.
5. Options for replacing the channel, including like for like, widening the channel on Sydney Water's land or a naturalised channel extending over portions of the Council lands were explored.
6. After public consultation and working with Council on the Johnstons Creek Masterplan, Sydney Water are proposing to rebuild the Channel in a naturalised form. This will provide a more natural design, replacing the existing concrete channel walls with sandstone along the creek base and bank, tidal pools, expanded marsh areas, boardwalks and new vegetation, and improve the habitat for native birds and animals. The naturalisation will also extend the design life of the channel, ensuring the asset is better suited to a tidal, estuarine environment than reinforced concrete.
7. Native vegetation will be re-planted bordering the channel, particularly saltmarsh along the channel bank. Saltmarsh is an identified endangered species, and this planting meets the objectives of the City's Urban Ecology Strategic Action Plan. The naturalisation is also in accordance with the Johnstons Creek Masterplan.
8. A significant portion of this work will take the form of improvements and new assets on Council lands. The scope of this has been developed in conjunction with Council officers to align with the Masterplan and allow early implementation related components to be cost effectively integrated with the base work of replacing the channel.
9. Sydney Water has undertaken community engagement for the naturalisation, with 86 per cent of respondents supporting the project, believing it will improve the visual amenity of the park and provide ecological benefits. Given the current state of the channel, the upgrade is in line with community and stakeholder expectations. It will improve the overall visitor experience of Bicentennial Park and its status as an iconic park.

10. A joint project team has been set up with representatives from both Sydney Water and the City to review designs and ensure acceptable outcomes. City staff will also consider associated park or asset upgrades around the creek at the same time to minimise disruption. These works could include upgrades/repairs to bridges across the creek or realignment of adjacent footpaths. The naturalisation work will not affect the program for the skatepark and playground on The Crescent (shown at Attachment B), given its location in relation to the channel. Any proposed upgrades to Federal Park sports field would need to be aligned with Sydney Water's construction program.
11. Some of the benefits of the channel naturalisation and wetland include:
 - (a) provide a productive ecosystem;
 - (b) provide high biodiversity value;
 - (c) create a highly valued recreational area;
 - (d) increase amenity and liveability for the area;
 - (e) provide wet areas during heat waves; and
 - (f) provide a nature-based solution for cities facing extreme heat events from climate change.
 - (g) cost effective implementation of related portions of Johnston Creek Masterplan (by combining work with Sydney Water channel replacement).
12. Sydney Water's work outside of their channel will take place predominately on Crown Land, ie. Bicentennial, Jubilee and Federal Parks, where the City has care and control of these assets, highlighted at Attachment A. A small portion of Council-owned land is also impacted.
13. Under the Sydney Water Act 1994, Sydney Water has "Entry on to land" rights to operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that the Corporation considers are necessary or appropriate to any of its works or construct new works and, for these purposes, to carry out any work on, below or above the surface of the land,..."
14. There will be some construction impacts on the City lands. These impacts include closing areas of the park for site compounds (shown at Confidential Attachment C), and tree and vegetation loss, particularly along the channel walls, access points for construction vehicles and areas where new assets are constructed. The City is working with Sydney Water to minimise these impacts, and ensure any vegetation lost is replaced.
15. Compound 2 is in close proximity to the Tramsheds. Once the naturalisation work is complete Sydney Water have proposed to fund and construct a freshwater wetland in this location. This wetland will be funded through Sydney Water's Waterway Health Improvement Program. The design detail, maintenance regime and ownership, and size of the wetland is currently being negotiated with Sydney Water, but its location is in accordance with the Johnstons Creek Masterplan.
16. A Deed, to be signed by the City and Sydney Water, will govern all construction works, new landscaping, maintenance and compound areas and timeframes for construction.

17. Sydney Water are anticipating the project will take 12 months to complete, with construction starting by January 2019. The City will extend the Deed up to 18 months.
18. The option for Council to separately undertake the works on its land (separate from the work by Sydney Water on their land) was considered, but determined to be impractical given the highly integrated nature of the work and the cost efficiencies arising from a single contract. The preferred procurement model is for the total project with associated construction risk to be undertaken by Sydney Water. Accordingly an Exemption from Tender for the work on Council's land is proposed.

Key Implications

Strategic Alignment - Sustainable Sydney 2030 Vision

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 plan is aligned with the following strategic directions and objectives:
 - (a) Direction 2 provides a road map for the City to become A Leading Environmental Performer - this proposal is consistent with and assists implementation of Urban Ecology, Environmental Sustainability and Floodplain Management strategies and plans.
 - (b) Direction 6 - Vibrant Local Communities and Economies - provides an improved recreational and aesthetic space and safety for users of the parklands, particularly those living in high density residential environments.
 - (c) Direction 9 - Sustainable Development, Renewal and Design - the overall project incorporates sustainable design principles to provide improved parkland space for local communities consistent with the City's Park design principles.
20. Council adopted the Johnstons Creek Masterplan in 2014. The Johnstons Creek Masterplan provides a vision to guide improvements to the existing Glebe Foreshore parks near the channel. This Plan identified naturalisation of the Johnstons Creek Canal as a future project opportunity (after consultation with Sydney Water in the development of the recommendations).
21. Sydney Water proposes to carry out integrated naturalisation of the banks, creating ecological, environmental and aesthetic benefits. The scope would include naturalising the channel where feasible by removing the old concrete walls and replacing the concrete with vegetated banks. This approach improves the aesthetic appeal and ecological benefits of the Johnstons Creek canal while improving flood mitigation to the area. It also improves safety elements of the canal in terms of the steepness of the banks. Flood modelling undertaken by Sydney Water shows that the naturalisation does not exacerbate flooding in the area.
22. The naturalisation of the Johnstons Creek Canal is in line with the City's environmental strategy to transition to a water sensitive city. Water sensitive cities efficiently use the diversity of water resources available within them to enhance and protect the health of urban waterways and mitigate flood risk. They provide enhanced amenity through attractive public spaces that also harvest, clean and recycle water, increase biodiversity and reduce urban heat island effects.

Organisational Impact

23. The City will need to provide resources to review the design and delivery of the naturalisation works in the park, as well as managing access routes and staging to minimise the impact on park users.
24. The project risks are owned by Sydney Water. The City will need to collaborate with Sydney Water to ensure access routes are provided in a timely manner to minimise any project delays or impacts on park users.

Social / Cultural / Community

25. The benefits to the community are outlined in this report and include delivery of the City's Urban Ecology Strategy Action plan objectives, improved biodiversity, improved climate change mitigations and improved parks aesthetics and infrastructure, eg. pathways, tree planting and landscaping.

Environmental

26. The project will ensure that the stormwater function of the channel is not impacted. Further, environmental benefits of the channel naturalisation and wetland include:
 - provide a productive ecosystem;
 - increase the amount of protected salt marsh by about 30 per cent;
 - provide high biodiversity value;
 - create a highly valued recreational area;
 - increase amenity and liveability for the area;
 - provide wet areas during heat waves; and
 - provide a nature-based solution for cities facing extreme heat events from climate change.

Budget Implications

27. There is currently no budget allocated in the City's long term financial plan for delivery of Johnstons Creek Master Plan works adjoining Sydney Waters channel and included in this project.
28. Sydney Water has estimated the total project costs are in the order of \$20 million which includes (as detailed at Confidential Attachment C) cost of works being undertaken on the City's property and the Crown Land that is under the care and control of the City.
29. For Sydney Water to undertake these works in the Bicentennial, Jubilee and Federal Parks, two construction compounds will be established. Based on the proposed construction program, the City's fees and charges for the occupancy is estimated and detailed at Confidential Attachment C. As a result, Sydney Water are seeking to offset the value in kind works that they will provide on the City's land against the City's fees and charges.

Relevant Legislation

30. Local Government Act 1993.
31. Sydney Water Act 1994.
32. Crown Lands Act 1998.

Critical Dates / Time Frames

33. Sydney Water intends to go to Tender in July 2018 and is planning to commence works on the Naturalisation Program in January 2019.

Options

34. Sydney Water held workshops to discuss the upgrade proposal with City staff on 23 August 2016 and 7 November 2016. Sydney Water presented three options for renewal:
 - (a) To renew the canal like for like, leading to poor ecologically and aesthetic outcomes similar to the current form.
 - (b) To slightly widen the canal using sandstone blocks to create niche environments and expand the flow capacity of the channel. This is unlikely to affect Council land, however, we are waiting for the concept plan from Sydney Water to clarify land ownership impacts.
 - (c) To carry out integrated naturalisation of the banks, creating ecological, environmental and aesthetic benefits. The scope would include naturalising the channel, where feasible, by removing the old concrete walls and replacing the concrete with vegetated banks. This option widens the Sydney Water canal and will encroach on Council-owned land on either side. This approach improves the aesthetic appeal and ecological benefits of the canal while improving flood mitigation to the area. It also improves safety elements of the canal in terms of the steepness of the banks. This is Sydney Water's recommended option and the option that aligns with the City's Johnston Creek Masterplan.
35. Sydney Water have recently successfully undertaken similar works to 'naturalise' channels in nearby local government areas, including along the Cooks River and Powell's Creek.

Public Consultation

36. Sydney Water held a Community Consultation Day on 26 November 2016. The consultation sought feedback on the concept plan and to determine the community's preferred option for the canal. The City's Community Consultation team have been assisting Sydney Water with consultation promotion, survey work and stakeholder contacts.
37. Sydney Water have prepared a Communication and Engagement Plan and Strategy with input from City Staff. They propose to undertake a program of community notification and updates on the project. This program includes notification letters, newsletters, drop-in sessions and education packages for local schools. They are also intending to update local community groups and the local bush care group.
38. City staff have also provided guidance to Sydney Water on the preparation of a Reconciliation Action Plan for Johnstons Creek. This Plan is currently being finalised.

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