

**Item 8.****Exemption from Tender and Contract Variation - Head Design Consultant - Perry Park Stage 2****File No:** X021328**Tender No:** 1191**Summary**

This report seeks an exemption from tender for Perry Park Stage 2 for extended Head Design Consultant services and requests Council approve an increase in contingency.

The consultant was first engaged in April 2012 for full design services for a six-court multipurpose indoor sports facility and external landscape works. In June 2014, Council endorsed a developed scope from a single-stage six-court facility to a two-stage two-plus-two court facility.

The change from a single to multi-staged project, as well as scope development, resulted in several significant amendments to the head consultant contract contingency, scope of services, timeframes and fees.

In June 2019, the Chief Executive Officer increased the contract contingency, allowing for amendments to the Stage 2 documentation as well as head consultant construction stage services capped up to 44 weeks.

This report recommends that Council grant an exemption from tender for Perry Park Stage 2 for extended head design consultancy services and approve an increase to the contract contingency to allow for the completion of the project scope.

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

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## **Recommendation**

It is resolved that:

- (A) Council approve an exemption from tender for Perry Park Stage 2 for additional contract contingency to allow for extended construction and post construction stage services;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders for this work because the consultant is already engaged, and work is well underway; and
- (C) authority be delegated to the Chief Executive Officer to negotiate, execute and administer/vary the contracts relating to Perry Park Stage 2.

## **Attachments**

**Attachment A.** Financial Implications (Confidential)

## Background

1. The Perry Park Multipurpose Recreation Centre Stage 2 scope is for the delivery of two indoor multipurpose recreation courts, associated facilities including amenities and administrative spaces, court seating and external landscape works. These Stage 2 construction works follow on from the Stage 1 works completed in March 2019.
2. The Head Design Consultant was engaged in April 2012 for Stage 1 full design consultancy services for the delivery of a six-court multipurpose indoor sports facility, amenities, changerooms, a multi-purpose synthetic field and a minor park upgrade. A contingency was approved.
3. In June 2014, a Scope Report and Exemption from Tender was endorsed by Council. The project scope was amended from a six-court facility to a staged two-plus-two court facility. Stages 1 and 2 were endorsed to proceed to planning approval and construction documentation, whilst Stage 1 only was recommended to proceed to construction. The head consultant contract contingency was amended to reflect the scope change.
4. In June 2019, the Chief Executive Officer increased the contract contingency, allowing for amendments to the Stage 2 documentation as well as head consultant construction stage services capped up to 44 weeks.
5. Stage 2 Construction works commenced in July 2020 with a construction program of 66 weeks (including delay allowance). The head consultant has now amended their fees to align with the contractor's program, include subconsultants construction stage services, as well as head consultant post construction stage services for a 12-month defect liability period.
6. The original consultancy contract sum and all previously approved contingencies for the Head Design Consultant have now been allocated and a further extension of the contract is required for additional construction stage services necessary for project completion.

## Key Implications

### Strategic Alignment - Sustainable Sydney 2030

7. 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 6 - Vibrant Local Communities and Economies. The completion of this development will make a substantial contribution to Perry Park by delivering accessible community level social infrastructure, services and programs; and
  - (b) Direction 9 - Sustainable Development, Renewal and Design – this project will contribute by improving the City's parks and encouraging active recreation.

## Financial Implications

8. There are sufficient funds allocated for this project within the current year's capital works budget and future years' forward estimates for the requested increased contract contingency.

## Relevant Legislation

9. The exemption from tender process has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Procurement and Contract Management Policy.
10. 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.
11. 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.
12. 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

13. If approved by Council, the timeframe for the project is:
  - (a) Completion of construction works December 2021
  - (b) Completion of Defect liability period December 2022

## Options

14. The City could go to tender for the remaining design consultant services required to complete the project. This option is not recommended as the consultant successfully completed the Stage 1 works and has commenced work on Stage 2. It would not present value for money to tender and engage someone else to do this work. The time taken to undertake a new tender process could further delay completion of the project.
15. Completion of the project without a head design consultant is not recommended as continuation of consultancy services is necessary to ensure the design integrity of the built outcome and compliance with architectural documentation and specifications.

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**Public Consultation**

16. No public consultation has been undertaken in relation to this contract extension.

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