

## Item 10.

### **Cancellation of Tender – T-2021-569 and Exemption from Tender- Improvement and Construction Work at Minogue Crescent Reserve, Tote Park and Park on Lyons Road**

**File No: X025396.001**

**Tender No: T-2021-569**

#### **Summary**

This report provides details of the tender for the refurbishment of Minogue Crescent Reserve, Tote Park and Park on Lyons Road.

It is recommended that Council not accept any of the late tender offers received, not call for fresh tenderers for the proposed refurbishment contract works on Minogue Crescent Reserve, Tote Park and Park on Lyons Road and cancel the tender process.

The City has a 10 Year Parks Renewal Capital Works Program which was endorsed by Council on 22 January 2018. The objective of the program is to restore and improve the quality and amenity of existing parks across the local government area.

The renewal of Minogue Crescent Reserve, Tote Park and Park on Lyons Road forms part of the renewal program and the scope was endorsed by Council on 26 October 2020.

The Minogue Crescent Reserve Improvement proposal will protect and enhance the existing landscape character and habitat planting, provide a local scale play space which improves the play opportunities for children aged 0-10, provide a useable turf area, provide a range of seating opportunities which encourage social interaction and use simple, robust, high quality materials which reflect the local neighbourhood character.

The Tote Park improvement proposal will protect and enhance the existing landscape character, provide a local scale play space which improves the play opportunities for local children, provide a range of seating opportunities which encourage social interaction and use simple, robust, high quality materials which reflect the local neighbourhood character.

The Park on Lyons Road project principles are to develop a welcoming and functional park with a strong landscape character, to provide a park framework which is flexible, containing a variety of park spaces and settings, useable turf areas, a range seating opportunities which encourage social interaction and use simple, robust, high quality materials which reflect the local neighbourhood character and facilities to provide a rich recreation facility for local residents.

The Tender was advertised in accordance with the Local Government Act 1993 and no submissions were received for this tender through the tendering portal by the designated 11am closing time.

This report recommends that, in accordance with the Local Government Act 1993 and Local Government (General) Regulation 2021 that the Council cancel Tender T-2021-569 and grant an exemption from issuing a fresh tender. This report further recommends that authority be delegated to the Chief Executive Officer to approach and enter into negotiations with suitable contractors to deliver the improvements and construction work at the Minogue Crescent Reserve , Tote Park and Park on Lyons Road.

## Recommendation

It is resolved that:

- (A) Council cancel Tender T-2021-569 – Improvement and Construction Work at Minogue Crescent Reserve, Tote Park and Park on Lyons Road as no tenders were received prior to the tender closing date and time;
- (B) Council approve an exemption from tender for the Improvement and Construction Work at Minogue Crescent Reserve, Tote Park and Park on Lyons Road in accordance with section 55(3)(i) of the *Local Government Act 1993* noting that, a satisfactory result would not be achieved by inviting fresh tenders to deliver the improvements and construction work at the Minogue Crescent Reserve , Tote Park and Park on Lyons Road;
- (C) Council note the reason why a satisfactory result would not be achieved by inviting fresh tenders is that going to tender will not result in any submissions in addition to the submissions received as part of the tender process that is recommended at (A) to be cancelled, and will extend the time and cost associated with the project;
- (D) authority be delegated to the Chief Executive Officer to enter into negotiations with any person with a view to entering into a contract in relation to the subject matter of the tender;
- (E) authority be delegated to the Chief Executive Officer to execute and administer the contracts relating to the tender; and
- (F) Council be informed of the successful vendor via the CEO Update.

## Attachments

**Attachment A.** Location and General Arrangement Plans

## Background

1. The City has an ongoing small parks and playgrounds improvement program. This program is for parks which need upgrade or enhancement works, the replacement of end-of-life equipment, and to generally provide appropriate facilities for local residents.

## Minogue Crescent Reserve

2. The project scope for Minogue Crescent Reserve was endorsed by Council on 26 October 2020.
3. Minogue Crescent Reserve is a triangular piece of land which is bound to the west by Minogue Crescent, to the north by the Johnston's Creek Sewage Aqueduct (State Heritage Listed) and to the south by public housing. It is zoned RE1 - Public Recreation. The site is approximately 1,900 square metres.
4. There are three landowners which make up the site: Sydney Water, Land and Housing Corporation and the City of Sydney.
5. The existing site is predominantly a sloped turf area. There are a random range of trees of different ages and species. The play area consists of a large sloping rubber pad with a double swing and a small play structure. There are two non-compliant seats, no path access from the road and a single flood light.
6. Minogue Crescent Reserve was identified for an upgrade due to the overall condition of the reserve including the condition of the existing playground, the limited access into and through the park and limited seating. Currently there are two key user groups: residents at the adjacent public housing units and individuals or groups associated with the Police and Citizens Youth Club.
7. The proposed works include:
  - (a) a new on-grade path connecting from the street, through the park and towards the Police and Citizens Youth Club;
  - (b) an open lawn area for passive recreation and informal ball games;
  - (c) a range of seating in both sun and shade, including a low seating wall and new bench seats with backs and arm-rests;
  - (d) a new basket swing;
  - (e) a new hill slide and nature play area;
  - (f) preparation works for new tree planting;
  - (g) new planted swale to manage site stormwater;
  - (h) extension of the existing habitat planting;
  - (i) improved access to the adjacent public housing units;
  - (j) footpath widening on Minogue Crescent; and
  - (k) interpretive playspace that relates to local Aboriginal history of the area.

**Tote Park**

8. The project scope for Tote Park was endorsed by Council on 26 October 2020.
9. Tote Park is bound by Joynton Avenue, Grandstand Parade, Austin Grove and Wolseley Grove in Zetland. It is owned by the City of Sydney. The playground is located on the southern edge of the park, on Austin Grove. The total area of the park is 3,050 square metres while the playground is approximately 200 square metres. The scope of works is limited to the playground.
10. Tote Park Playground was identified for an upgrade due to the playground's overall condition, including failing play equipment, seating and soft-fall surfacing. No broader park works are proposed.
11. The existing play equipment includes a double swing set, sand play, a series of timber balance beams and decks, and a large timber play structure. The current play offering provides a good range of play experiences including active, imaginary, dynamic, manipulative, and sensory.
12. There is no shade structure, however, shade is provided by a series of Jacaranda trees throughout the play area. Planting provides a buffer to the road and there is some well-established plant material within the playground which will be retained as part of the upgrade.
13. Tote Park is an off-leash dog park. Across the local government area, dogs are not permitted within 10 metres of a playground. At Tote Park there is some conflict between playground users and dog owners. A low fence is located on Austin Grove to provide separation between the playground and footpath. There is currently no fence between the grass areas / off leash areas and the playground. A low fence is proposed between the play area and the lawn to improve separation between the different user groups.
14. The proposed works include:
  - (a) extend paving to improve an accessible entry;
  - (b) replace existing rubber soft-fall;
  - (c) a new see-saw;
  - (d) a new play tower with slides for children (0-8);
  - (e) a new sand play area;
  - (f) replace existing double swings with similar;
  - (g) retain existing rock boulders and planting;
  - (h) replace and extend the existing timber balance beams and nature play elements;
  - (i) provide a new entry on the eastern edge;
  - (j) provide planting and a low fence on the park side including a defined entry point;
  - (k) replace existing bench seats with similar; and

- (l) retain and protect the existing planting and fence on Austin Grove.

### **Park on Lyons Road**

15. The project scope for Park on Lyons Road was endorsed by Council on 26 October 2020.
16. The name of the site is currently documented as Western Block. For the purposes of this report, the site is referred to as the Park on Lyons Road, noting the park name will be developed in parallel to this project.
17. The Park on Lyons Road, Camperdown, is an L-shape piece of land bound by Lyons Road to the east, Purkis Street to the south, Lambert Street to the north and the Booler Community Centre to the west. The site is approximately 1,745 square metres. The site is owned by the City of Sydney.
18. The existing site is predominately turf with a slight fall towards the corner of Lambert and Lyons Road. The temporary works included park tree planting and bench seats. A clear desire line is marked diagonally through the park.
19. The Park on Lyons Road was identified for upgrade as a phase two development of the site. These works aim to develop a clear park identity and character, a functional path network, clear and flexible programming of the site and general improvements to landscape amenity. Consultation undertaken by both the City and the University of Sydney identified interest in provision of a community garden, fitness equipment, playground and additional seating and picnic facilities.
20. The park is currently used by a range of residents for passive recreation including informal fitness and dog walking. The park has also been used for community events facilitated by the City and other community organisations including the Glebe Community Development Project such as tenant barbecues.
21. The proposed works include:
  - (a) open and clear entries to the park;
  - (b) a new central path connecting Lyons Road to Lambert Street;
  - (c) new seating area on the Lyons Road edge to create a buffer to the park, and a variety of other seating areas;
  - (d) two distinct turf areas;
  - (e) widened footpaths on Lambert Street and Lyons Road;
  - (f) a new fitness area with fixed equipment such as chin-up bars and bench press;
  - (g) new bins and bubbler with dog bowl;
  - (h) improvements to the site drainage through grading and rain gardens/swales;
  - (i) preparation works for new tree planting
  - (j) mass planting; and
  - (k) an area allocated for a future community garden.

## Invitation to Tender

22. The Tender was advertised for three weeks on the City's E-tender website from 15 November 2021, closing at 11am on 6 December 2021.

## Tender Submissions

23. No submissions were received through the tendering portal by the designated 11am closing time on 6 December 2021.
24. Two late submissions were received from the following organisations. Both organisations failed to load their submissions by 11am. Both organisations emailed their submission directly to the Procurement Representative after 11am. The two organisation include:
  - (a) Ceecorp Pty Ltd; and
  - (b) Growth Civil Landscapes Pty Ltd.
25. In accordance with clause 177(2) of the Local Government (General) Regulation 2021, a tender not submitted by the deadline for the closing of the tender must not be considered by Council.

## Tender Evaluation

26. All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.
27. The Tender Evaluation Panel acknowledged the submissions were late and not acceptable under clause 177(2) of the Local Government (General) Regulation 2021.
28. Noting no advantage would be gained by undertaking a new tender, it is recommended that extenuating circumstances exist because the market has not responded to the initial tender offer and calling fresh tenders will extend the time and cost for the delivery of the projects. For these reasons a satisfactory result would not be achieved by inviting fresh tenders.
29. All submissions will be assessed in accordance with the approved evaluation criteria being:
  - (a) Company information, demonstrated experience of the Supplier/Tenderer in carrying out works of a similar size and nature, Indigenous engagement.
  - (b) Personnel allocation, qualifications, relevant experience, percentage of time on the project, including sub-contractors, current commitments.
  - (c) Proposed program - program showing stages of the works as required in the schedule and is within the determined duration.
  - (d) Proposed methodology, including pedestrian and traffic management, Site Management Plan and sustainable outcomes and environmental management.

- (e) Work, Health and Safety.
- (f) Financial and commercial trading integrity, including insurances.
- (g) The lump sum price and schedule of prices.

### **Performance Measurement**

30. Subject to a successful conclusion and being able to enter into a contract award. The City will ensure that performance standards are achieved during construction through regular assessment of the following Key Performance Indicators:
- (a) Safety and Environment - Works are carried in a safe manner, to not only avoid incidents but have no non-conformances. All means will be used to reduce undue impact on the environment.
  - (b) Communication - Day-to-day liaison (including weekly site meetings) and inspections with the contractor.
  - (c) Planning - Works are carried out in a planned manner and with a proactive rather than reactive approach to reducing technical and community issues.
  - (d) Program and Resources - Timely completion of separate phases in a co-ordinated manner, reducing the overlapping of various phases, the resources allocated to the project to manage time, and the capacity of the contractor to add resources when required to mitigate delays.
  - (e) Quality assurance - Inspections undertaken by the head contractor in conjunction with the City's representative during construction.  
Cost Variations - All efforts made to reduce the number and value of variations and variation amounts and options provided in a timely manner to give the City the opportunity to mitigate the impact of a variation.
31. The City will ensure the works are in accordance with the contract documents including the Drawings and Specifications, Preliminaries and General Conditions of Contract.

### **Financial Implications**

32. There are sufficient funds available to carry out the proposed works.

### **Relevant Legislation**

33. The tender has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2021 and the City's Procurement and Contract Management Policy.

34. This report recommends that Council cancel the tender for proposed improvements and construction work at Minogue Crescent Reserve , Tote Park and Park on Lyons Road and grant an exemption from tender to allow the Chief Executive Officer to enter into negotiations with any person with a view to entering into a contract in relation to the subject matter of the tender.

### **Critical Dates / Time Frames**

35. The proposed program comprises the following activities:

(a)	Engage and negotiate with suitable suppliers	February – March 22
(b)	Engage the Contractor	May 2022
(c)	Contractor to commence on site	May – June 22
(d)	Approximate Date for Practical Completion	November 2022

### **Options**

36. An alternative option is available to Council in the form of cancelling the tender and going back out to the market with another open tender. This option is not recommended after considering the consequential impacts of cost and time on the project to prepare a revised tender package and manage the tender process.

### **Public Consultation**

37. Consultation was undertaken in two parts: pre-consultation and public consultation. Public Consultation was held between 20 July 2020 to 24 August 2020. Thirty submissions were received with the majority in support of the proposed works. Refinements to the detailed design were made in line with the feedback.
38. As part of the required contract conditions, the successful contractor will be required to nominate a dedicated Community Liaison Officer.
39. The successful contractor will be required to notify local residents and neighbouring property occupants prior to commencement of works.

### **AMIT CHANAN**

Director City Projects and Property

Belinda Graham, Delivery Manager