

Exemption From Tender - Curatorial Services - Eora Journey - Yananurala

File No: S110607.005

Summary

This report seeks an exemption from tender to award Emily McDaniel (ABN: 6745690104) the contract to provide curatorial services for the Eora Journey: Recognition in the Public Domain – Yananurala for a three-year term from 1 July 2024, with the option to extend by two additional 12-month terms.

In July 2018, after an open and competitive Expression of Interest (EOI) process, the City engaged Curator, Emily McDaniel, to prepare the Harbour Walk Research and Engagement (Storytelling) Report.

On 9 December 2019, Council resolved to enter into a contract with Ms McDaniel, as Harbour Walk Curator for three years with the option to extend for a further year, based on exceptional circumstances, as a satisfactory result would not have been achieved by inviting quotations due to the social and cultural complexities of the project and given the professional insights gained during Ms McDaniel's engagement in developing the Harbour Walk Storytelling Report.

This report also notes that Hetti Perkins (ABN: 95104809256) is electing not to continue to provide the services of Eora Journey Curatorial Advisor and recommends that Council award Emily McDaniel a new contract to oversee the City's Eora Journey projects undertaken by Ms Perkins in addition to Yananurala projects.

The current contract with Emily McDaniel ends on 30 June 2024.

This report recommends that Council grant an exemption from tender to award Emily McDaniel the contract to provide curatorial services for the Eora Journey: Recognition in the Public Domain – Yananurala for a three-year term from 1 July 2024, with the option to extend by two additional 12-month terms.

Recommendation

It is resolved that:

- (A) Council approve an exemption from tender, in accordance with section 55(3)(i) of the Local Government Act 1993, to enter into a contract for curatorial services for the Eora Journey: Recognition in the Public Domain – Yananurala with Emily McDaniel (ABN: 6745690104) for a three year term, with the option to extend for two additional 12-month terms, if appropriate, for the total contract value outlined in Confidential Attachment B to the subject report;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders for this work because of the following extenuating circumstances:
 - (i) the social and cultural complexities of the Eora Journey - Yananurala projects and the risk of the loss of goodwill and relationships built-up by the Yananurala Curator from engaging with Aboriginal and Torres Strait Islander artists and community members in the City of Sydney and more broadly over the past four years;
 - (ii) Ms McDaniel has developed cultural and community knowledge by working with local Aboriginal and Torres Strait Islander community members and consultants and changing now would be high risk to the City for the development of projects; and
 - (iii) the loss of professional insights gained by the Yananurala Curator in the development of Eora Journey - Yananurala projects which includes working with NSW government authorities on whose land Yananurala projects will be located;
- (C) Council note the total contract value for curatorial services for the Eora Journey: Recognition in the Public Domain – Yananurala is outlined in Confidential Attachment B to the subject report;
- (D) authority be delegated to the Chief Executive Officer to negotiate, finalise, execute and administer (including exercising options, if appropriate) the contract relating for curatorial services for the Eora Journey: Recognition in the Public Domain – Yananurala for the term and total contract sum detailed in Confidential Attachment B to the subject report;
- (E) Council note the revised project timeline at Attachment A to the subject report for Yananurala which forms the basis of the contract award; and
- (F) Council note the expanded role of the Eora Journey – Yananurala Curator to include the implementation of the remaining Eora Journey: Recognition in the Public Domain projects relating to Aboriginal and Torres Strait Islander people in addition to Council endorsed Yananurala projects - the Redfern Terrace, in development as part of the Redfern Community Centre park upgrade; and future projects, the Avenue of Hope; the Eora Journey walk from the harbour to Redfern; and Redfern Tours.

Attachments

Attachment A. Project Timeline

Attachment B. Financial Implications (Confidential)

Background

1. Following extensive community consultation in 2007, the Eora Journey was one of the key projects envisioned in Sustainable Sydney 2030, endorsed by Council in 2008, to recognise the ongoing significance and vitality of Aboriginal and Torres Strait Islander heritage and culture to the City of Sydney.
2. Of the four pillars of the Eora Journey, the Recognition in the Public Domain program responded to calls from Aboriginal and Torres Strait Islander and broader communities, to celebrate and share the story of the world's oldest living culture in our city's public spaces.
3. In 2012, Council endorsed the Eora Journey: Recognition in the Public Domain Implementation Plan and allocated \$5.15M to deliver the seven initial project ideas including funding for the Harbour Walk project.
4. Following a competitive tender process, Council resolved to engage Hetti Perkins as the Eora Journey Curatorial Advisor on April 2, 2012.
5. Since that time Ms Perkins has helped guide and deliver significant Eora Journey projects: Welcome to Redfern by Reko Rennie and local Aboriginal youth in 2013, born into darkness before dawn, 2013 a temporary projection work on the Australian Museum by Nicole Forsehew, YININMADYEMI, thou didst let fall by Tony Albert in Hyde Park in 2015, and bara by Judy Watson launched by the community 2022.
6. As Eora Journey Curatorial Advisor, Ms Perkins played a key role in important consultations from meeting the former NSW Governor and hosting a morning tea for Aboriginal historians and curators to discuss the program and the Monument for the Eora project, to discussing an artwork to honour Aboriginal and Torres Strait Islander servicemen and woman who have served their country with organisations who had previously not recognised this service.
7. Ms Perkins current contract is due for renewal. However, due to other commitments Ms Perkins is electing not to continue to provide these services.
8. This report recommends that Council award Emily McDaniel the contract to provide curatorial services for the Eora Journey: Recognition in the Public Domain – Yananurala. This contract will expand the services provided by Ms McDaniel to date, and will fill the organisational need for curatorial expertise to guide the City's Eora Journey – Yananurala projects.
9. In July 2018, after an open and competitive Expression of Interest (EOI) process to engage an Aboriginal or Torres Strait Islander curator to prepare a Harbour Walk Research and Engagement (Storytelling) Report, the City engaged Aboriginal curator Emily McDaniel to provide the foundational 'storytelling' framework and recommendations to guide the implementation of the Harbour Walk.
10. Ms McDaniel's Harbour Walk Storytelling report was developed with guidance from Hetti Perkins, Eora Journey Curatorial Advisor, expanding on Ms Perkin's Eora Journey Harbour Walk project idea originally proposed in 2012, to encompass a greater number of stories and locations that highlight Aboriginal and Torres Strait Islander people's significant and enduring connection to Sydney Harbour.

11. With the support of the Metropolitan Local Aboriginal Land Council and the City's Aboriginal and Torres Strait Islander Advisory Panel, the Harbour Walk Storytelling report was endorsed by Council in December 2019.
12. The report provides the important storytelling component of Yananurala and the continuing engagement of the Yananurala (Harbour Walk) Curator is critical to maintaining key relationships with Aboriginal and Torres Strait Islander communities and artists and partnerships with key stakeholders for the development and delivery of projects.
13. At the same time as endorsing the Harbour Walk Storytelling report in 2019, Council resolved to enter into a contract with Ms McDaniel as Harbour Walk Curator for three years, with the option to extend for a further year, to develop the projects recommended in the report.
14. The key services to be provided by the Yananurala Curator, as detailed in the City's Curator Consultancy Agreement with Ms McDaniel in 2020, were to:
 - (a) Work with the Eora Journey Curatorial Advisor (Hetti Perkins), to provide curatorial services to develop projects, and in particular the concept of 'Sitelines' that will encourage people on Yananurala (the Harbour Walk) to better understand and engage with Aboriginal history and culture.
 - (b) Ensure that the appropriate Indigenous cultural protocols are observed and developed as part of the project.
 - (c) Attend regular meetings with the Eora Journey Curatorial Advisor and City staff including City Design, Indigenous Leadership and Engagement and History (and others as required) to review and develop community engagement, consultation, project development and delivery.
 - (d) Participate in consultation with key community stakeholders and undertake additional research to develop artist briefs for public art, design and interpretation projects outlined in the Harbour Walk Storytelling Report.
 - (e) Present project updates to the Aboriginal and Torres Strait Islander Advisory Panel, Public Art Advisory Panel, State Government representatives and key stakeholders as required to develop projects.
 - (f) Participate and develop communications and co-ordination with Artists, Designers, and Artist Teams to develop and deliver projects.
15. Council resolved to award the contract to Ms McDaniel based on exceptional circumstances, as a satisfactory result would not have been achieved by inviting quotations due to the social and cultural complexities of the project and given the professional insights gained during Ms McDaniel's engagement in developing the Harbour Walk Storytelling Report.
16. The current contract with Emily McDaniel ends on 30 June 2024.

17. Since Council's endorsement of the Harbour Walk Storytelling Report by Ms McDaniel in 2019 (which laid the foundations for Yananurala), and the subsequent engagement of Ms McDaniel as Yananurala (Harbour Walk) Curator, the following progress has been made:
 - (a) Supported by the Metropolitan Local Aboriginal Land Council, the first project was the creation of the new name for the Harbour Walk, Yananurala (Walking on Country), and included the installation of 10 storytelling markers in 2022, requiring licence agreements with three State Government landowners.
 - (b) An open, competitive Expression of Interest and separate Tender process for the selection of an artist team for Yananurala Sitelines and Conversations was completed in 2023. The selected team are developing concept renders for further consultation with landowners and Aboriginal community members, and a structural engineer has been engaged to assist developing detailed design documentation for necessary planning approvals to be lodged in August 2024. A Heritage and Planning team is also be engaged to assist with the planning approvals as the placement of some of the elements will be within the State Heritage listed Royal Botanic Garden and in proximity to the UNESCO World Heritage listed Sydney Opera House.
 - (c) Historical research on Patyegarang was completed in 2023 to inform the artist brief for this project and highlight Patyegarang's role in the survival of Sydney Aboriginal language. A First Nation's led videography company has been engaged to interview Aboriginal community members to communicate the artist brief to potential artists and the community, which is planned to be advertised in August 2024. With the support of the City's Indigenous Leadership and Engagement staff, significant community engagement is underway including with the Metropolitan Local Aboriginal Land Council, La Perouse Local Aboriginal Land Council and Gujaga Foundation. First Nations consultant Rowena Welsh-Jarrett has been engaged to support Ms McDaniel to undertake this community engagement.
18. The award of the contract to provide curatorial services for the Eora Journey: Recognition in the Public Domain – Yananurala to Emily McDaniel for term of three years, with the option to extend for an additional two 12-month periods is recommended to oversee and ensure the continued successful development and implementation of projects in the Eora Journey: Recognition in the Public Domain / Yananurala program.
19. Through the development of the initial projects underway, developed alongside Hetti Perkins, Ms McDaniel clearly understands the social and cultural complexities of the program.
20. There has been significant and invaluable goodwill built-up by Ms McDaniel with Aboriginal and Torres Strait Islander artists and communities in the City of Sydney over the past four years.
21. Equally, Ms McDaniel continues to develop irreplaceable professional insights through her participation in and contribution to Yananurala. As a recognised curator her growing networks are essential to the success and integrity of the program.
22. Ms McDaniel has demonstrated an ongoing commitment to Yananurala and acts as an ambassador on behalf of this unique City program.

23. The Yananurala project timings are summarised in Attachment A.
24. Projects in addition to Yananurala that Ms McDaniel as the Eora Journey – Yananurala Curator would oversee in providing the services previously delivered by Eora Journey Curatorial Advisor Hetti Perkins, include: the Redfern Terrace, in development as part of the Redfern Community Centre park upgrade; and future projects, the Avenue of Hope; the Eora Journey walk from the harbour to Redfern; and Redfern Tours.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

25. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. The award of the contract to provide curatorial services for the Eora Journey: Recognition in the Public Domain – Yananurala aligns with and supports the first guiding principle in City of Sydney's Sustainable Sydney 2030-2050 Continuing the Vision Community Strategic Plan to:

“be accountable to the voices and elevate the knowledge and cultures of Aboriginal and Torres Strait Islander peoples. The City of Sydney strives to reflect the needs and wants of Sydney's Aboriginal and Torres Strait Islander communities and recognise their contribution. We will work to authentically strengthen relationships with Aboriginal and Torres Strait Islander peoples and help build self-determining communities.”
26. This also aligns with and supports Direction 3 in the Sustainable Sydney 2030-2050 Continuing the Vision Community Strategic Plan - Public places for all at 3.1, “Aboriginal people, their history and cultures of this place are evident in the public realm.”
27. This also supports the key principle in the City of Sydney's City Art Public Art Strategy, to “recognise and celebrate Aboriginal stories and heritage in public spaces.”

Organisational Impact

28. The services provided continues to significantly build capacity within the organisation in the engagement of Aboriginal and Torres Strait Islander people and communities.
29. The services provided also supports the recognition of the work being undertaken by the City of Sydney as part of the Eora Journey: Recognition in the Public Domain program that Yananurala is part of, as being of national and international significance.

Risks

30. Not proceeding with curatorial services for the Eora Journey: Recognition in the Public Domain – Yananurala means the City would risk losing the goodwill established with the Aboriginal and Torres Strait Islander community over the past four years, which is invaluable in developing future projects.

Social / Cultural / Community

31. The participation of Ms Perkins and Ms McDaniel has been invaluable in building relationships between the City and the Aboriginal and Torres Strait Islander community in Sydney and more widely.
32. The public profile of Ms Perkins and Ms McDaniel has also contributed significantly to garnering project partner support for Yananurala, for instance, with Placemaking NSW, Infrastructure NSW, and the Royal Botanic Garden.
33. Ms McDaniel will be required to provide greater services to support the Eora Journey Public Domain Recognition program and the City's Indigenous Leadership and Engagement staff to implement community and stakeholder engagement, particularly with the development of the Patyegarang project, for the reasons indicated above.

Economic

34. The award of the contract to provide curatorial services for the Eora Journey: Recognition in the Public Domain – Yananurala will provide confidence in the Aboriginal and Torres Strait Islander community toward the realisation of future projects as part of the Eora Journey: Recognition in the Public Domain program that Yananurala is part of.
35. The preferred suppliers' network of professional and community contacts will be critical to the success of the next stages of the program.

Financial Implications

36. The contract for the award of the contract to provide curatorial services for the Eora Journey: Recognition in the Public Domain - Yananurala will be funded from the City's draft operating budget for 2024/25 and future years forward estimates which is seeking approval as part a separate council report in the current reporting cycle. Confidential Attachment B outlines financial implications.

Relevant Legislation

37. The exemption from tender process has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021.
38. 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.
39. Attachment B 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.
40. 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

41. The development of Yananurala projects as part of the Eora Journey Recognition in the Public Domain program have involved significant community consultation affecting project timing. The table at Attachment A indicates the current project timing.
42. The award of the contract to provide curatorial services for the Eora Journey: Recognition in the Public Domain – Yananurala is critical to continuing to facilitate the delivery of the program.

Options

43. Council could choose to undertake a tender process for the provision of these services. However, because of the extenuating circumstances described in this report, a satisfactory result is unlikely to be achieved by inviting tenders and the projects cannot proceed without specialist curatorial services given their social and cultural complexity.

Public Consultation

44. The Aboriginal and Torres Strait Islander Advisory Panel was involved in the development of the Harbour Walk Storytelling Report and has been updated by the Yananurala Curator and City staff as Yananurala projects progress.
45. The City has separately engaged an additional Community Engagement Consultant to assist in the development of Eora Journey-Yananurala projects and facilitate improved engagement with the Aboriginal and Torres Strait Islander communities.
46. The Yananurala Curator provides other important advisory services, including to the City's Design Advisory Panel, guiding the shaping of Sydney's public domain and works to inform the City and external organisations to recognise Aboriginal and Torres Strait Islander people and their culture in works being undertaken.

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Chief Operating Officer

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