

Item 12.**Negotiation Outcome - Tender T-2023-1041 - Sydney Park Brick Kilns Precinct Upgrade**

File No: X082505.008

Tender No: T-2023-1041

Summary

This report provides details of the negotiation process for the construction of the Sydney Park Brick Kilns Precinct Upgrade.

The Sydney Park Brick Kilns Precinct contains substantial remains of the brickmaking industry which once dominated the area. Throughout the twentieth century there were 4 separate brick manufacturing facilities operational on different sites within Sydney Park. The structures that remain on this site constitute a striking landmark and a powerful example of this brickmaking history that contributes to the streetscape of the Princes Highway and act as a significant gateway into Sydney Park.

The objectives of the current project are to deliver the stabilisation and preservation of the Sydney Park Brick Kilns structures, to renew the surrounding landscape of the precinct and interpret the significant industrial and cultural history of the site.

The project scope for the Sydney Park Brick Kilns Precinct Renewal works was endorsed by Council on 22 August 2022, forming the basis for the development application and future tender for the renewal works. An updated scoping report was endorsed by Council on 11 March 2024 for the design refinement including accessibility, structural works, services and waterproofing to the Down Draught Kilns.

On 29 July 2024, Council resolved to decline to accept the tender offers received and enter into negotiations with suitable vendors for the construction of the Sydney Park Brick Kilns Precinct Upgrade.

This report recommends that Council accept the negotiated offer from Respondent M for Sydney Park Brick Kilns Precinct upgrade and approve additional funds to increase the project budget as outlined in Confidential Attachment B.

Recommendation

It is resolved that:

- (A) Council note the outcome of the negotiations for the construction of the Sydney Park Brick Kilns Precinct Upgrade as detailed in Confidential Attachment B to the subject report;
- (B) Council accept the offer from Respondent M for Sydney Park Brick Kilns Precinct Upgrade for the price and contingency, outlined in Confidential Attachment B to the subject report;
- (C) Council note that the total contract sum and contingency for Sydney Park Brick Kilns Precinct Upgrade is outlined in Confidential Attachment B to the subject report;
- (D) authority be delegated to the Chief Executive Officer to finalise, execute and administer the contracts relating to the negotiation outcome; and
- (E) Council approve additional project funding as outlined in Confidential Attachment B to the subject report.

Attachments

- Attachment A.** 29 July 2024 Council Resolution and Report – Tender T-2023-1041 Reject and Negotiate – Sydney Park Brick Kilns Precinct Upgrade and Contract Variation – Head Design Consultant - (includes Confidential Attachment) (Confidential)
- Attachment B.** Negotiation Process and Financial Implications (Confidential)

Background

1. Sydney Park occupies a large parcel of land in the southern part of the local area between St Peters and Alexandria. It is owned and managed by the City. The Brick Kilns are located in the north-western portion of the park, adjacent to the intersection of the Princes Highway and Sydney Park Rd, St Peters.
2. The former Bedford brickworks kilns, chimneys and machinery are listed heritage items. The brick kilns stand as a unique and significant example of the industrial heritage and the previous vast brick making works which was the dominant industry in the area now known as Sydney Park.
3. The condition of the kiln and chimney structures is under constant review and to date the City has undertaken a series of projects to ensure the stability of the structures and maintain public safety.
4. Due to their age and, in part, the nature of their original construction detail, the brick kilns have dilapidated to the extent that it has been determined major works are required to stabilise and restore the brick kiln structures to help protect and maintain the heritage fabric of the precinct and improve the overall visual aesthetic. The works will include landscape renewal and associated services upgrade works.
5. The project will deliver the stabilisation and restoration of the existing Sydney Park Brick Kiln and Chimney structures including reinstatement/renewal of roofs, services renewal, provide heritage interpretation and an upgraded public domain and park entry which integrates the kilns as structures within the landscape of Sydney Park.
6. In late 2023, Expressions of Interest were undertaken to select suppliers to proceed to a selected Tender process. In early 2024, the City invited tenders from the 4 short listed suppliers for the construction of the Sydney Park Brick Kilns Precinct Upgrade.
7. On 29 July 2024, Council declined to accept the tender offers for the construction of the Sydney Park Brick Kilns Precinct Upgrade and delegated authority to the Chief Executive Officer to enter into negotiations with any person with a view to entering into a contract on terms that are appropriate in relation to the subject matter of the tender.
8. Three suppliers were invited to participate in negotiations for the construction of the Sydney Park Brick Kilns Precinct Upgrade.

Risks

9. This approach is within the City's risk appetite, which states:
 - The City has a responsibility to ensure that it has sufficient resources in the short, medium and long term to provide the levels of service that are both affordable and considered appropriate by the community.
 - We acknowledge our responsibility to protect and enhance the social and environmental wellbeing of our community. Our risk appetite emphasises the integration of sustainable practices into infrastructure asset management, considering environmental impacts, climate change resilience and community engagement.

- We aim to strike a balance between achieving our strategic objectives and ensuring the long-term sustainability of infrastructure assets; and preserving and promoting culture and heritage, embracing innovation, and ensuring the long-term sustainability and accessibility of cultural/heritage assets.

Financial Implications

10. Additional funds are required for this project due to the preferred proposal exceeding pre-tender estimates and the current endorsed project budget. Acceptance of the recommended proposal will therefore require Council to increase the budget, as detailed in Confidential Attachment B.
11. The total contract sum and contingency for Sydney Park Brick Kilns Precinct Upgrade is detailed in Confidential Attachment B.

Relevant Legislation

12. The tender related to this report was conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2021 and the City's Procurement and Contract Management Policy.
13. By Resolution of Council dated 29 July 2024, the Chief Executive Officer was authorised to enter into negotiations with any person with a view to entering into a contract on terms that are appropriate in relation to the subject matter of the tender.
14. 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.
15. Attachment A and 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.
16. 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

17. The following key dates apply to this project:

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| (a) Contract execution | March 2025 |
| (b) Site establishment | mid 2025 |
| (c) Date for construction completion | mid 2027 |

Public Consultation

18. Two periods of community consultation have been undertaken to date. The first period of early engagement consultation was on exhibition from 14 March 2022 to 8 April 2022. The second period of concept design community consultation was on exhibition from 1 July 2022 to 29 July 2022.
19. Following earlier public consultation, surrounding properties were sent a project update in September 2023, which also advised of the opportunity to provide feedback as part of the Development Application notification process.
20. Detailed plans were included as part of the Development Application notification and statutory consultation process during the Public Exhibition period.
21. Additional public, community and property owner consultation will be undertaken throughout the project as it progresses.

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Chief Operating Officer

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