

ITEM 14

TENDER T1000025 - LICENCE OF BALD HILL KIOSK, OUTDOOR SEATING AND OPERATION OF A MOBILE FOOD VAN

This report recommends that Council decline to accept any of the tenders submitted for the licence of Bald Hill Kiosk, Outdoor Seating and Operation of a Mobile Food Van at Bald Hill, Otford Road, Stanwell Tops in accordance with section 178(1)(b) of the *Local Government (General) Regulation 2021*.

This report recommends that Council decline to accept the tender submission and proceed to negotiate firstly with the tenderer, or in the event of failure of negotiations with that tender, any other party with a view of entering into a licence agreement in relation to the subject matter of the tender.

### RECOMMENDATION

- 1 a In accordance with section 178(1)(b) of the *Local Government (General) Regulation 2021*, Council decline to accept tenders received for licence of Bald Hill Kiosk, Outdoor Seating and Operation of a Mobile Food Van at Bald Hill, Otford Road, Stanwell Tops and resolve to enter into negotiations with the tenderer with a view to entering into a licence in relation to the subject matter or in the event of failure of negotiations with that tenderer, any other party with a view of entering into a licence agreement in relation to the subject matter of the tender.
- b In accordance with section 178(4) of the *Local Government (General) Regulation 2021*, the reason for Council hereby resolving to enter into negotiations with the tenderer or any other party and not inviting fresh tenders is that it is anticipated that a satisfactory outcome can be achieved with a party who can demonstrate a capacity and ability to perform all requirements under the licence provisions.
- 2 Council delegate to the General Manager the authority to undertake and finalise the negotiations, firstly with the tenderer, and, in the event of failure of negotiations with that tenderer, any other party, with a view to entering into a licence agreement in relation to the subject matter of the tender.
- 3 Council grant authority for the use of the Common seal of Council on the licence agreement and any other documentation, should it be required, to give effect to this resolution.

### REPORT AUTHORISATIONS

Report of: Lucielle Power, Manager Property + Recreation

Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

### ATTACHMENTS

There are no attachments for this report

### BACKGROUND

#### TENDER

Tenders were invited for this licence by the Open tender method with a close of tenders of 10.00 am on Thursday 28 October 2021.

One tender was received by the close of tenders. The tender was scrutinised and assessed by a Tender Evaluation Panel constituted in accordance with Council's Procurement Framework, and related policies and procedures. The evaluating members of the panel comprised representatives of the Property and Recreation and Library and Community Services Divisions in consultation with representatives from the Supply Chain and Logistics Management and Governance business units.

The Tender Evaluation Panel assessed all tenders in accordance with the following evaluation criteria and weightings as set out in the formal tender documents.

### **Mandatory Criteria**

1. Provision of satisfactory references from referees
2. Financial capacity
3. Operating Objectives
4. Workplace Health and Safety Documentation including Risk Management Policies and Procedures.

### **Evaluation Criteria**

1. Cost to Council - 30%
2. Demonstrated Strengthening of Local Economic Capacity – 10%
3. Demonstrated Experience and satisfactory performance in operating a kiosk &/or mobile food van - 40%
4. Variety of Foods and Drinks to be sold to suit a range of tastes and budgets - 10%
5. Demonstrated sustainable business practices, including but not limited to the mandatory use of sustainable packaging and sourcing of products - 10%.

### **PROPOSAL**

The Tender Assessment Panel has concluded that the commercial terms of the tender received was not acceptable and has recommended that the tender be declined, and negotiations be undertaken with the tenderer, or if those negotiations are unsuccessful, any other party, with a view to entering into a contract for the subject matter of the tender.

The Panel anticipates that a satisfactory outcome will be achieved through a negotiation process conducted in accordance with Council's Procurement Policies and Procedures.

### **CONSULTATION AND COMMUNICATION**

- 1 Members of the Tender Assessment Panel
- 2 Nominated Referees
- 3 Governance Business Unit – in relation to advice on rejecting tender submission and negotiating with tenderer.

### **PLANNING AND POLICY IMPACT**

This report contributes to the delivery of Our Wollongong 2028 Goal 2, "We have an innovative and sustainable economy" and Strategy 2.3.1 "Build our city as a tourist destination of choice for conferences, events and a place to live, learn, work and visit".

### **RISK ASSESSMENT**

The risk in accepting the recommendation of this report is considered low on the basis that the tender process has fully complied with Council's Procurement Policies and Procedures and the *Local Government Act 1993*.

The risk of the project works, or services is considered low based upon Council's risk assessment matrix and appropriate risk management strategies will be implemented such as an appropriate lease or licence agreement.

### **FINANCIAL IMPLICATIONS**

It is the intention of Council officers that by negotiating with the current tenderer or another party, a satisfactory commercial outcome will be achieved.

## CONCLUSION

Whilst there was only one tenderer for this Licence, Council officers are of the view that a satisfactory outcome will be achieved through a negotiation process conducted in accordance with Council's Procurement Policies and Procedures resulting in a satisfactory value for money outcome for Council.