

ITEM 6

LATE REPORT: ILLAWARRA PERFORMING ARTS CENTRE (IPAC) - REFURBISHMENT WORKS

The Illawarra Performing Arts Centre (IPAC) is a regional performing arts facility owned by Council and operated by Merrigong Theatre Company. Major refurbishment works are planned to occur in the first months of the 2023 calendar year when bookings are low.

A tenderer recently awarded a significant component of the works has withdrawn their offer due to the current material volatility across all supply chains across the construction industry.

This report recommends that on this occasion, formal tenders not be invited for the reasons listed in the report and Council instead proceed with a request for formal quotations from tenderers that submitted on the original tender.

RECOMMENDATION

- 1 Pursuant to Section 55(3)(i) of the Local Government Act 1993, Council resolves not to re-tender for the contract (or contracts) because of extenuating circumstances due to the program time constraints for the replacement and / or renewal across several areas of the Illawarra Performing Arts Centre (IPAC) facility, including roof sheeting replacement, new theatre seating and carpets, foyer, bar area and toilet facility upgrades.
- 2 Council delegate to the General Manager the authority to undertake and finalise a formal quotation process, in accordance with Council's procurement policies and procedures with available contractors with demonstrated experience and ability to undertake the works with a view to enter a contract (or contracts) for these works.
- 3 Council delegate to the General Manager authority to enter a contract (or contracts) with the contractor or contractors selected following the process outlined at 2 above.
- 4 A report describing the outcome of the procurement process be submitted to the next available Council meeting following the successful engagement of contractor or contractors.

REPORT AUTHORISATIONS

Report of: Glenn Whittaker, Manager Project Delivery

Authorised by: Joanne Page, Director Infrastructure + Works - Connectivity Assets + Liveable City

ATTACHMENTS

There are no attachments for this report.

BACKGROUND

IPAC is a regional performing arts facility owned by Council and located in Burelli Street, Wollongong. The facility is operated and managed under a service agreement with Merrigong Theatre Company who are responsible for the delivery of the events program.

Council's IPAC facility first opened in 1988 and consists of two (2) main theatres, a rehearsal studio, several dressing rooms, amenities/utility rooms, offices, workshop and storage areas, bar facilities, café with kitchen area and two (2) mechanical HVAC plant rooms.

The roof sheeting, flashings and penetrations are original and are located in a corrosive environment with large sections showing significant corrosion. The roof area has reached end of life requiring replacement and forms a significant part of the refurbishment costs. Internal inspection of the IPAC facility has established a degree of general wear and tear of high use patron facilities, notably in the IMB and Bruce Gordon theatres. This internal refurbishment work is best carried out during a full shutdown of the facility. Council has now programmed to upgrade and internally refurbish the IPAC Building during the operational shutdown required for roof replacement for the benefit of facility patrons, show performers, users and tenants.

The scope of the refurbishment works includes.

- Removal and re-sheeting of the entire IPAC facility roof including installation of new box gutter system, flashings, penetrations and lightning arrest system.
- Removal of redundant electrical (lighting fixtures), carpet and tiles.
- Refurbishment and/or replacement of existing features including doors, walls, ceilings, carpet, tile, lighting and joinery.
- Installation and commissioning of a new hearing loop system to service the box office and IMB and Bruce Gordon theatres.
- Installation of new seating in IMB and Bruce Gordon theatres including replacement of existing wheelchair platform within the IMB theatre to ensure Disability Discrimination Act (DDA) compliance.
- Accessibility upgrade of existing female and male amenities servicing both theatres.

Consultation with Merrigong Theatre Company has indicated works should preferably occur in the first months of the 2023 calendar year when bookings are low. Henceforth, a shutdown period for a duration of 3.5 months commencing on 3 January 2023 has been agreed. Major construction and installation works are to take place during this period to provide safe access for the contractors and subcontractors.

The above work will be undertaken concurrently with Contract T20/42 Heating Ventilation and Air-conditioning (HVAC) Replacement Works awarded to Climax Air Conditioning Pty Ltd. The scope of this contract includes replacement of the existing HVAC system for the facility.

Due to the involvement of multiple contractors working concurrently, Climax Air Conditioning Pty Ltd will be appointed as the Principal Contractor to safely coordinate refurbishment works as required under NSW Work Health and Safety (WHS) Regulations.

Tenders were invited for the refurbishments works by the open tender method with a close of tenders of 10.00 am on 10 March 2022.

Four (4) tenders were received by the close of tenders and all tenders were scrutinised and assessed by a Tender Assessment Panel constituted in accordance with Council's Procurement Policies and Procedures and comprising representatives of the Project Delivery, Infrastructure Strategy and Planning and Governance and Customer Service Divisions.

A report on the tender was provided to Council at its meeting of 2 May 2022 and Council resolved to accept the tender of Momentum Built Pty Ltd for Illawarra Performing Arts Centre Building Refurbishment, in the sum of \$3,613,520.90, including GST. The tenderer has since withdrawn their offer due to current material volatility being experienced within the construction industry.

The withdrawal of the successful tenderer at this time presents Council with a number of challenges in the delivery of the IPAC refurbishment works within the agreed shutdown period.

PROPOSAL

It is proposed that Council seek formal quotations (rather than tenders) from tenderers that participated in the original tender. The tenderers familiarity with the scope of works and site conditions will permit them to respond in a short period of time.

Normally Council would undertake a new tender for these works as the estimated cost exceeds the Council's tender threshold of \$250,000 (incl. GST). The minimum duration to undertake a tender process is approximately 10-12 weeks (depending on the relationship between commencement of advertising and the actual date of the Council meeting) while a formal quotation process can be undertaken in approximately four (4) weeks if Council were to support the recommendation of this report. The combined refurbishment works of the IPAC building is an extremely challenging program with hard deadlines.

A formal quotation process carried out under Council's procurement policy mirrors the governance requirements of the tender process but does not require a formal report to Council with the resulting delays in preparing and publishing a report to Council. A formal quotation panel is constituted with the same technical, governance and procurement staff which normally constitute a tender panel to ensure probity concerns are addressed. Transparency to the community will be assured by reporting the outcome of the procurement process to the next available Council meeting following the engagement of the contractor.

Once the quotation process is complete, Council will immediately be able to appoint a recommended contractor to initiate procurement of materials and commence works. It is proposed that contractors be invited to submit quotations using the criteria normally used in the formal tendering process which addresses the following typical mandatory and non-mandatory criteria as outlined below.

Mandatory Criteria

1. Satisfactory references from referees for previous projects of similar size and scope
2. Financial assessment acceptable to Council which demonstrates the tenderer's financial capacity to undertake the works
3. As a minimum, WHS Management Systems that comply with AS-NZS 4801:2001 or ISO 45001:2018 and is certified to either of these standards by a JAS-ANZ accredited company OR WHS Management System accredited by an NSW Government Agency OR WHS Management System accredited by the Federal Safety Commission.

Assessable Criteria

1. Cost to Council – 35%
2. Appreciation of scope of works and design and construction methodology – 15%
3. Experience and satisfactory performance in undertaking projects of similar size, scope and risk profile including staff qualifications and experience – 20%
4. Proposed Sub-Contractors – 5%
5. Project Schedule, including shutdown – 10%
6. Demonstrated strengthening of local economic capacity – 10%
7. Workplace Health and Safety and Environmental Management systems – 5%

CONSULTATION AND COMMUNICATION

1. Officers from Governance and Customer Service and Legal Services Divisions.
2. Merrigong Theatre Company

The Merrigong Theatre Company has been briefed on the extent of the scope as well as difficulties, complexities and risks associated with some aspects of the work. The input provided has allowed Council to determine, on balance, the most appropriate approach to performing the works via a shutdown of the IPAC facility at a time when historically its show program is less active. Merrigong Theatre Company has been periodically updated on progress and when further information or input has been required.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 Goal 5 “We have a healthy community in a liveable city”. It specifically delivers on the following:

Community Strategic Plan	Delivery Program 2018-2022	Operational Plan 2021-22
Strategy	4 Year Action	Operational Plan Actions
5.5.1 Public facilities in key locations and transport routes are maintained and clean, accessible and inviting to our community and visitors.	5.5.1.2 Manage and maintain community infrastructure portfolio with a focus on asset renewal	Achieve our expenditure targets for capital renewal by programming these works with sufficient flexibility to allow re-phasing, deferral and/or the introduction of other deferred renewal works as required

RISK ASSESSMENT

The risk in accepting the recommendation of this report is considered low on the basis that the formal quotation process will fully comply with Council’s Procurement Policies and Procedures and the Local Government Act 1993. A formal quotation panel will be established to invite and assess quotations using procedures normally utilised in Council’s tender process.

SUSTAINABILITY IMPLICATIONS

The following sustainability implications have been considered:

- Energy efficiency options are considered in the design.
- Sustainable procurement by including local companies in the opportunity to quote for the work.
- Weighting in tender assessment provided for using local services, labour and materials.
- Undertaking multiple projects within the one building shutdown period to minimise impact to building occupiers and the general public.

FINANCIAL IMPLICATIONS

It is proposed that the total project be funded from the following source/s as identified in the Operational Plan –

2021/22 and 2022/23 – Capital Budgets

CONCLUSION

An opportunity currently exists to mitigate risk and delays with the refurbishment works on the Illawarra Performing Arts Centre. It is recommended that a competitive quotation process be used on this occasion (rather than a formal tender) to achieve these aims.