

ITEM 11 TENDER T1000188 - LEASE TO OPERATE STANWELL PARK BEACH CAFE

This report recommends that Council declines to accept the tender submitted for the lease to operate Stanwell Park Beach Café in accordance with Section 178(1)(b) of the *Local Government (General) Regulation 2021*. The report further recommends proceeding to negotiate firstly with the tenderer, or in the event of failure of negotiations with the tenderer, any other party with a view to entering into a Lease agreement.

RECOMMENDATION

- 1 a In accordance with Section 178(1)(b) of the *Local Government (General) Regulation 2021*, Council decline to accept any of the tenders received for the lease to operate the Stanwell Park Beach Café and resolve to enter into negotiations with the tenderer or any other party with a view to entering into a Lease 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 demonstrate a capacity and ability to undertake the terms and conditions of the Lease agreement.
- 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 those tenderers, any other party, with a view to entering into a Lease 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 Lease Agreement and any other documentation, should it be required, to give effect to this resolution.

REPORT AUTHORISATIONS

Report of: Roisin OSullivan, Manager Commercial Operations + Property (Acting)
Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

There are no attachments for this report.

BACKGROUND

The Stanwell Park Beach Café is a commercial property located at the entrance to Stanwell Park Reserve. The previous tenant vacated the premises on 13 April 2025. This purpose-built café offers an excellent commercial business opportunity for an experienced operator serving the public, including the many visitors to our beautiful region. It comprises of a commercial kitchen fit out for the provision of takeaway or alfresco dining which incorporates a covered outdoor seating area with approval for seating for up to 50 people. The building also includes staff amenities, a dry store, cool room, freezer area, male and female accessible patron toilets and disabled access.

Tenders were invited by open tender for the lease to operate Stanwell Park Beach Café for an initial term of five (5) years plus a five (5) year option to extend in accordance with the lease provisions. Tenders closed at 10am on Thursday 27 March 2025.

One tender was received at the close of tenders and was deemed by the Tender Panel as a non-conforming Tender – details of which have been circulated to Council under separate cover.

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

Mandatory Criteria

1. Referees
2. Financial capacity
3. Operating Objectives
4. Workplace Health and Safety Documentation

5. Attendance at a Site Inspection

Evaluation criteria

1. Proposed Annual Rental Payable to Council – 30%
2. Demonstrated Experience and satisfactory performance in operating premises of similar operation – 20%
3. Staff Qualifications and Experience – 20%
4. Proposed Business Plan – 20%
5. Demonstrated strengthening of local economy – 10%

PROPOSAL

The Tender Evaluation Panel has concluded that the one (1) tender received is non-conforming and has recommended that this tender be declined and negotiations be undertaken with this tenderer, or 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 Evaluation Panel
- 2 Council's Procurement and Governance Divisions
- 3 Tenderer's nominated referee.

As the Stanwell Park Reserve is classified Crown land, a Native Title Report was completed on 12 February 2025 which concluded that the granting of the Lease for the use of the existing building as a kiosk/café is deemed a valid future act for the purposes of the *Native Title Act 1993*.

Statutory advertising of the Lease was carried out for a 28-day period closing 24 February 2025. Four (4) submissions were received which were supportive of the Lease and there were no objections.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2032 Goal 5 'We have a healthy community in a liveable city'. It specifically delivers on core business activities as detailed in the Community Strategic Plan 5.4 'Provide a variety of quality and accessible public places and opportunities for sport, play, leisure, recreation, learning and cultural activities in the community'.

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 agreement.

SUSTAINABILITY IMPLICATIONS

The following sustainability implications have been considered:

- Sustainable procurement by providing open and selective Tender method to give local companies the opportunity to provide a submission for the lease.
- Weighting in the Tender assessment provided for using local services, labour and materials.
- The Lease agreement promotes sustainable business practices including mandatory use of sustainable packaging and sourcing of products and limited wastage.

FINANCIAL IMPLICATIONS

It is anticipated that by negotiating with the current tenderer or another party, that a satisfactory commercial outcome will be achieved in an efficient timeframe.

CONCLUSION

Whilst there was only one tenderer for this Lease, Council officers are of the view that a satisfactory outcome will be achieved through a negotiation process with either this Tenderer or another party conducted in accordance with Council's Procurement Policies and Procedures resulting in a satisfactory value for money outcome for Council. Council should endorse the recommendations of this report.