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MR20/005 CLEAN UP OF FIRE DAMAGED PROPERTIES

File Ref: S008-T00025

Attachments: Nil

**EXECUTIVE SUMMARY**

The widespread bushfires across the Eurobodalla Shire during late 2019 and early 2020 generated unprecedented volumes of waste, including hazardous materials such as asbestos.

The NSW Government is coordinating the clean-up of fire damaged properties. To assist in undertaking the clean-up, the NSW Government have contracted Laing O'Rourke (LOR). Council has been engaging with the NSW Government and LOR to understand the volumes of waste and to develop a strategy for the management of bushfire waste. Under an agreed strategy Council will have to manage this considerable volume of materials (including hazardous substances) at Brou and Surf Beach Waste Management Facilities.

To implement the prompt response required to handle the volume of waste at our waste management facilities, Council will need to engage additional resources to help coordinate this activity in meeting the NSW Government's time frame for the clean-up.

Under Section 55 (3)(i) of the *Local Government Act 1993 (Act)*, the tendering requirement under the Act does not apply where a contract is entered into because of extenuating circumstances.

Due to the scale of the bush fire event, volumes of waste required to be managed, the timeframe for the clean-up to be undertaken and the importance to the community that this occur, the extenuating circumstances exist to engage additional resources in accordance with Section 55 (3)(i) of the *Act*.

**RECOMMENDATION**

THAT

1. Due to extenuating circumstances of the time frame set by the NSW Government to clean-up the large volume of waste from fire damaged residential and commercial properties and the time to run a competitive tender process, Council delegates authority for Eurobodalla Shire Council's General Manager to enter into direct negotiations with Suez Australia.
2. Council delegates authority for Eurobodalla Shire Council's General Manager to execute any resulting contractual arrangement with Suez Australia.

**BACKGROUND**

The widespread bushfires across the Eurobodalla Shire during late 2019 and early 2020 generated unprecedented volumes of waste, including hazardous materials such as asbestos.

Council has engaged with the NSW Government to develop a strategy to manage the volume of waste that will be generated by the clean-up. More detailed planning has recently been undertaken in consultation with the NSW Government and LOR, which has determined the likely daily traffic and waste volumes that will need to be managed at the Brou and Surfbeach

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facilities. The significant increase in daily volumes are outside the capacity of normal resources and therefore additional resources will be required to efficiently and safely operate the sites.

Council has commenced negotiations with its existing waste collection provider, Suez Australia, who have the equipment and experienced staff required to provide the additional capacity to manage the volumes of waste to be received at the site within the time frames established by the NSW Government for the clean-up. Direct negotiation regarding pricing and terms will save substantial lead-times associated with tendering, avoiding significant delays which would prohibit the clean-up being undertaken in the desired time frames.

Suez Australia, which have an existing local presence through their waste collection contract with Council, have been assessed as the only source capable of both operationally managing the works and providing a suitable fleet of machinery, available at the short notice period required. Additionally, they are already inducted to both the facilities and Council's policy framework. Engaging Suez Australia would mean a significantly shorter contract implementation period than that associated with an alternate provider.

**CONSIDERATIONS**

**Legal**

The estimated value of the proposal would under normal circumstances would require public tendering.

Section 55(3)(i) of the *Local Government Act 1993* states:

*a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders,*

**Extenuating circumstances.** Allowing for a 14-day evaluation period, the minimum timeframe required to administer a public tender, from advertisement to contract signature is nine weeks, depending on the Council meeting schedule. This factors in both the statutory advertisement period of 21 days and also Council briefing and resolution deadlines. It is also based on the assumption that satisfactory tendering documents are ready to publish.

This timeframe would prevent the clean-up occurring in the timeframe established by the NSW Government and would reduce the ability of the sites to safely manage the waste volumes that would be coming to the site, resulting in likely stockpiling and additional risks to staff, contractors and the community.

**Unavailability of competitive and reliable tenderers.** The nature of the services required is specialised in terms of waste management policy, Work Health and Safety, plant and operators with the necessary experience. For this reason, a coordinated approach from a company with advanced administrative systems and operational capability in the waste facility context, will be required. Suez Australia has been assessed as the only provider to meet this capacity and has already been assessed as compliant during other tendering exercises with Council. Market research conducted by Council has been unable to identify an alternate source with adequate

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capability and able to establish operations in the required timeframe. This is influenced by the scale of the clean-up across NSW and interstate, and the associated demands on resources.

**Policy**

The proposal has been given thorough consideration under Section 55 of the Local Government Act 1993 and Council's Procurement Policy.

Suez Australia has registered with the NSW Government's Bushfire-affected Communities Rebuild Scheme SCM8371.

**Financial**

The NSW Government will fund the bushfire clean-up. There will be no financial disadvantage to Council as a result of the bushfire cleanup, all additional costs will be met by the NSW Government.

**Community and Stakeholder Engagement**

The NSW Government is coordinating the bushfire clean-up and has engaged LOR to undertake the clean-up. Effective management of the associated waste once it arrives at Council's facilities is consistent with public expectation.

**CONCLUSION**

Council has undertaken reasonable steps to determine the most suitable sourcing method for the proposal and, whilst in normal circumstances a public tender process would be administered, time and market constraints do not allow it on this occasion. For this reason, exemption is sought under Section 55(3)(i) to allow for direct negotiation with Suez Australia.