

## RESOLUTION OF COUNCIL TO CALL EXPRESSIONS OF INTEREST FOR WASTE SERVICES COLLECTION CONTRACT

**Datworks Filename:** WM Kerbside Collection Contract 2016

**Responsible/Authorising Officer:**



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### PURPOSE

This report seeks resolution of Council in accordance with section 228 of the *Local Government Regulation 2012* (LGR 2012) to invite Expressions of Interests from suitably qualified service providers for the collection and transport of kerbside waste, recycling and greenwaste, and transfer station waste prior to inviting written tenders from shortlisted respondents to the Expression of Interest for the selection of a contractor to enter into a waste and recycling collection contract with Council.

### BACKGROUND

Council's current waste and recycling collection contract expires on 29 June 2016 and there are no further extension provisions available. Procurement for the new waste and recycling collection contract must commence now given that a lead-in time of approximately two years is required for a replacement contract to manufacture new fleet and mobilise to ensure continuity of service.

Council faces some unique challenges in planning the replacement service beyond this timeframe. Strategically, Council sees merit in exploring regional collaboration opportunities with neighbouring Councils to determine if there are mutually beneficial financial efficiencies to be gained.

Council also has no confirmed disposal location beyond 30 June 2020 for household waste.

These challenges provide a significant number of risks associated with inviting written tenders without first inviting Expressions of Interest.

### ISSUES

A lead-in time of approximately two years is required for a replacement contract to manufacture new fleet and mobilise, therefore it is necessary to immediately assess the market's response to what is an interim arrangement, and therefore a limited contract term, and determine how best to achieve Council's requirements and best achieve value for money when inviting and evaluating written tenders.

All other procurement methods including market sounding and proceeding immediately to inviting written tenders and exceptions to inviting written tenders available under the LGR 2012 have been considered, and it was determined that none of the options are appropriate.

It was also necessary to consider the risk of the market not offering any reasonable solution in accordance with the proposed service terms, or response to a limited contract term. Council cannot commit to a form of contract at this time and may need to respond to solutions provided by the market. Inviting Expressions of Interest will:

- provide the information necessary for Council to understand the opportunities and constraints in the current waste collection market environment;
- provide Council financial intelligence in terms of the exposure to costs outside of the current collection contract;
- assist Council with achieving better value for money by letting the market, and current contractor, know that the market has been canvassed, irrespective of the result;
- provide the information necessary to seek the necessary resolution from Council, if necessary, to proceed to negotiate a contract extension pursuant to section 235 of the LGR 2012.

Further, proceeding directly to inviting written tenders is not considered appropriate in these circumstances. In particular:

- information and input is required from the market;
- inviting expressions would save Council and prospective tenderers from wasting time and resources responding to a tender, particular where the tender will involve a major contract;
- Council needs to evaluate the possible supplier base in advance of determining the best solution to deliver the required services and establishing detailed contract information;
- Council's exact requirements for the contract are too uncertain to enable tenders to be called because it will depend on information, input and possible solutions from suppliers.

In this regard, the Expression of Interest document will include terms that allow Council to enter into negotiations with one or more respondents.

To ensure that the procurement process is effective in execution and outcome, it is proposed that Expressions of Interest be called and shortlisted. Should suitable responses be provided, Council may invite written tenders from suitable contractors, or determine if it is necessary to enter into negotiations with one or more respondents. This will also ensure value for money, not only through the use of a competitive process, but by having considered and determined the most suitable terms before inviting tenders.

Representatives from Council's waste management and legal units have also met with Council's probity adviser for this procurement to consider the probity risks associated with a market sounding plan and given those risks, and the potential need to still proceed with inviting written Expressions of Interest (noting the lead-in time required and limited time available), it was determined to proceed with inviting Expressions of Interest.

By resolving to invite Expressions of Interest before inviting written tenders from suitable contractors for the selection of a contractor to enter into a waste and recycling collection contract with Council, the resulting procurement will afford Council:

- the opportunity to scope the relevant industry to provide Council with greater certainty of the technical, safety and financial implications to guide improved decision making, planning and specification of solutions for Council;
- the ability to determine the best solution, and terms, for delivering Council's services in the particular circumstances, namely in the lead-in time available and for the reduced contract term;
- greater certainty that those suppliers submitting tenders are those most suited to meet Council's needs for the delivery of the required services, thereby improving outcomes and reducing risk;
- better ability to evaluate tenders against a pre-determined solution, relevant evaluation criteria and the sound contracting principles;
- the ability to secure improved financial information and better value for money; and more effective use of Council resources

## STRATEGIC IMPLICATIONS

### Legislative Requirements

It is a requirement of section 228 of the LGR 2012 that Council may only invite expressions of interest if:-

- Council decides, by resolution, that it would be in the public interest to invite expressions of interest before inviting written tenders; and
- Council records its reasons for making the resolution in the minutes of the meeting at which the resolution was made.

The expression of interest is required to be conducted in accordance with the legislative requirements of the *Local Government Act 2009* (LGA 2009) and the LGR 2012.

### Risk Management

The risks associated with inviting expressions of interest are managed by conducting the process in accordance with the legislative requirements of the LGA 2009 and LGR 2012 and also by the appointment of an external probity adviser to ensure compliance with all legislative requirements, and adherence to all Council policies, guidelines and procedures relating to the procurement process, and probity principles.

### Financial

There are no direct financial impacts to Council resulting from the expression of interest as the cost has been incorporated in the 2014/15 annual budget.

The expressions of interest will provide a clearer indication of the financial impacts of the waste services collection contract on future Council budgets.

## People

Suitably qualified and experienced staff are available to ensure the Expressions of Interest and Tender process are delivered.

## Environmental

There are no identified environmental impacts in calling Expressions of Interest for waste and recycling collection services.

## Social

There are no social impacts identified resulting from the report.

## Alignment with Council's Policy and Plans

This report supports Council's Corporate Plan outcome as an efficient and effective organisation by delivering procurement practices to increase value for money within an effective governance framework.

## CONSULTATION

In developing the waste and recycling collection contract strategy and invitation for Expressions of Interest, consultation has included the following:

- Principal Waste Planner, Water & Waste Infrastructure
- Group Manager Water and Waste Infrastructure
- General Manager, Infrastructure & Operations
- Service Manager, RedWaste
- Senior Contracts Advisor, RedWaste
- Solicitor, General Counsel
- Probity Adviser, CBP Lawyers

## OPTIONS

In accordance with section 228 of the LGR 2012, the RedWaste Services Unit invite Expressions of Interest prior to inviting written tenders for the selection of a contractor to enter into a waste and recycling collection contract with Council.

## OFFICER RECOMMENDATION/ COUNCIL RESOLUTION

Moved by: Cr M Elliott

Seconded by: Cr A Beard

That Council resolves as follows:

1. In accordance with section 228 of the *Local Government Regulation 2012*, the RedWaste Services Unit invite Expressions of Interests from suitably qualified service providers for the collection and transport of kerbside waste, recycling and greenwaste and transfer station waste; and
2. That, in the best interest of Council, invite written tenders from shortlisted respondents for the selection of a contractor to enter into a waste and recycling collection contract with Council.

CARRIED 11/0