

Resolution of Council

25 June 2018

Item 6.10

Exemption from Tender to Appoint a Barrister for Compensation Proceedings Following the Compulsory Acquisition of Land within Sydney Park for the WestConnex Motorway

It is resolved that:

- (A) Council note that, because of extenuating circumstances and the unavailability of competitive tenders, a satisfactory result would not be achieved by inviting tenders for barristers to represent the City in proceedings against the Roads and Maritime Services for compensation proceedings relating to the Westconnex project for the following reasons:
 - (i) Roads and Maritime Services is undertaking a large volume of compulsory acquisitions in connection with Westconnex and other road projects in NSW. Many barristers represent Roads and Maritime Services in these matters and are unavailable to act for the City. As a result, there is a very limited number of suppliers who can provide the services required by the City;
 - (ii) generally, Senior Counsel are briefed at the time that proceedings are lodged, generally being 12 months before the hearing. Due to unexpected circumstances, the City has had to arrange alternative Senior Counsel on very late notice for this kind of matter. The preferred Senior Counsel has the appropriate experience and is the only one available for all of the required dates. For these reasons, the goods or services are urgently required and the need for expedition is able to be substantiated; and
 - (iii) the preferred Senior Counsel's fee estimate and daily rate represents value for money for the City when compared with other Senior Counsel's rates who work in this jurisdiction;
- (B) Council approve entering into a contract with the preferred Senior Counsel for compulsory acquisition court proceedings concerning Sydney Park, in accordance with the fee estimate contained in Confidential Attachment B to the subject report;

- (C) Council note and approve that it may be necessary to further engage the preferred Senior Counsel in accordance with the daily and hourly rate contained in Confidential Attachment A to the subject report, depending on the progress of the proceedings; and
- (D) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the contract with the preferred Senior Counsel, and otherwise on terms acceptable to the City.

Carried unanimously.

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