

Item 10.

Exemption from Tender - Barges and Tugs for 2024 and 2025 Sydney New Year's Eve

File No: X100794.003

Summary

This report seeks an exemption from tender for Barge and Tug services for 2024 and 2025 Sydney New Year's Eve.

Sydney New Year's Eve is a local and global celebration that reaches an audience of more than 425 million people worldwide and is attended by more than one million people around the harbour foreshore. Research conducted found that Sydney New Year's Eve has a direct economic impact of \$280 million to Sydney.

Fireworks displays and associated services are an essential element of the event. Barges are required to serve as the main firing platforms for the fireworks displays on Sydney Harbour, along with tugs to move the barges to and from their allocated positions.

In August 2017, the City entered into an agreement with Polaris Marine Pty Ltd (ABN: 47 147 809 667) as Trustee for Polaris Marine Trust No 1 (ABN: 84 343 204 460) for the provision of barges and tugs for the 2017 and 2018 Sydney New Year's Eve events, with the option to extend for a further term to cover the 2019 to 2021 events. The option to extend was utilised for 2019 and 2021. Due to uncertainties relating to the event caused by the pandemic, the City's procurement timeline was unavoidably delayed. Council resolved to extend the existing contract by a further one-year, to cover 2022 Sydney New Year's Eve, to allow time to complete the tender process for the combined pyrotechnics and barges and tugs services.

In December 2022, a Request for Tender was released for Firework Displays for 2023 and 2024 Sydney New Year's Eve (with two 24-month options to extend to cover the 2025 and 2026 events, and further 2027 and 2028 events), which combined the pyrotechnic services with the provision of tugs, barges and support vessels as well as the delivery of the fireworks loading site. At the close of this tender, no conforming offers were received and Council resolved to cancel the tender. Following feedback from the market it was ascertained that a new tender process should be undertaken separating the barges and tugs components from the pyrotechnic services and returning to the delivery model used for previous engagements.

Further to this, Council approved a contract variation with Polaris Marine Pty Ltd as the Trustee for Polaris Marine Trust No 1 for the provision of barges and tugs for Sydney New Year's Eve for the period of one year to cover the 2023 New Year's Eve event. The contract is due to expire on 30 June 2024.

During the contract negotiations for barge and tug services for 2023 Sydney New Year's Eve event, it was identified that the industry is experiencing unprecedented demand and capacity issues for barges. On 13 November 2023, following a Request for Tender process, the pyrotechnics contract was awarded and the City has worked with the pyrotechnics service provider to negotiate flexible firing platform specifications to address these barge capacity issues. Given the pyrotechnics were already in delivery for the 2023 event, it took some time to work with the pyrotechnic service provider to discuss possible options for barge configurations to address barge capacity issues in the market.

To ensure barges and tugs are secured for the Sydney New Year's Eve event, this report recommends that Council grant an exemption from tender for Barge and Tug services for 2024 and 2025 Sydney New Year's Eve for up to two years. This will ensure adequate time to undertake industry consultation with service providers to ensure the proposed or alternative contract models are viable, with consideration to current market constraints, prior to a new procurement process being undertaken. As these services are a high risk activity, consultation and scoping takes longer than other procurements.

Recommendation

It is resolved that:

- (A) Council approve an exemption from tender in accordance with section 55(3)(i) of the Local Government Act 1993 to engage with a suitable service provider for Barge and Tug services for the 2024 and 2025 New Year's Eve events;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders for this work because:
 - (i) given the industry capacity issues and ongoing discussions with the pyrotechnic service provider for the 2024 Sydney New Year's Eve event; there is insufficient time to undertake required market consultation, scoping discussions and then conduct a tender process for these services; and
 - (ii) the industry is currently experiencing ongoing high levels of demand and capacity issues. As a result, the City needs to work with service providers to determine the scope that can be delivered within the remaining timeframes and the appropriate engagement model;
- (C) Council approve the maximum total contract value under (A) for the provision of Barge and Tug services as outlined in Confidential Attachment A to the subject report, for a period of up to two years; and
- (D) authority be delegated to the Chief Executive Officer to negotiate, finalise, execute and administer the contract for Barge and Tug services for up to two years.

Attachments

Attachment A. Financial Implications (Confidential)

Background

1. The City produces the Sydney New Year's Eve event with support from a number of government agencies. The event is one of the largest annual celebrations in the world, attracting over one million spectators along the foreshore of Sydney Harbour and a global audience of more than 425 million.
2. The focus of the annual event is the fireworks displays. The displays are broadcast live nationally and internationally, and feature heavily in media coverage both prior to and following the event.
3. Barges are required as the main firing platforms for the fireworks displays on Sydney Harbour, along with tugs to move the barges to and from their allocated positions. The firing positions are in addition to the use of Sydney Harbour Bridge, Sydney Opera House, and other land-based firing locations.
4. In August 2017, the City entered into an agreement with Polaris Marine Pty Ltd as Trustee for Polaris Marine Trust No 1 for the provision of barges and Tugs for the 2017 and 2018 Sydney New Year's Eve events, with the option to extend for a further term to cover the 2019 - 2021 events.
5. Historically the City has tendered/contracted the provision of pyrotechnic services for Sydney New Year's Eve as its own contract.
6. With the contract expiring on 30 June 2022, and following a review of event operational processes, the City decided to merge barge and tug services, along with pyrotechnic services and support vessel hire, into one contract under a single delivery model to mitigate risk and streamline delivery efficiencies.
7. Due to uncertainties relating to the event caused by the pandemic, the City's procurement timeline was unavoidably delayed. Council resolved to extend the existing contract by a further one year, to cover 2022 Sydney New Year's Eve, in order to allow time to complete the tender process for the combined pyrotechnics and barges and tugs services.
8. The new combined tender process was undertaken, however, in February 2023, it was resolved that Council cancel the tender for Fireworks Displays for 2023 and 2024 Sydney New Year's Eve (with two 24-month options to extend to cover the 2025 and 2026 events, and further 2027 and 2028 events) as no conforming offers were received. Council resolved to extend the contract for the provision of barges and tugs for Sydney New Year's Eve for the period of one year to cover the 2023 New Year's Eve event and undertake separate procurement processes for pyrotechnics and the barges and tugs services.
9. During the negotiation of the contract variation for 2023 Sydney New Year's Eve, it was identified that the industry was experiencing unexpected demand and capacity issues in the supply of barges and tugs. Specifications were varied within the contract to allow flexibility to address these constraints for the 2023 event.
10. On 13 November 2023, following the Request for Tender process, the new pyrotechnics contract was awarded. The City continues to work with the pyrotechnics service provider to determine flexible firing platform specifications to address these barge capacity issues.

11. There are two known (potential) local service providers that would have capability to provide the required barge and tug services for the City's NYE event. Both companies rely on sub hiring and cross hiring arrangements to meet the quantity of barges and tugs required by the City. Interstate service provider options result in higher transport costs therefore, local sourcing has generally been the preferred method of procuring these services.
12. The City has been informed that the provision of barges and tugs for the NYE event is becoming increasingly difficult due to availability and the requirement to source barges and tugs from further afield. In March 2024, the City was advised that there were supply shortages that would impact the 2024 NYE event. These shortages are being caused by infrastructure projects that require barges on long term hire contracts, and other large-scale events. The City has been informed that there are approximately 100-150 projects that require the provision of barge services in NSW throughout 2024.
13. To ensure barges and tugs are secured for the 2024 Sydney New Year's Eve event, further market research is required to determine true industry capacity. Additionally, further consultation with the pyrotechnics service provider is required to solidify barge specifications for inclusion in the tender for Barges and Tug services, and due to the high-risk nature of the services, these consultations and scoping activities take longer than for other procurements. There will not be adequate time to conduct these consultations and complete a new tender process.
14. It is intended to engage a service provider for the NYE event in 2025 through an open Request for Tender process. Tender documents are currently being developed for release later in 2024. Given the high-risk nature of these services and the complexity of negotiating an agreement, an additional year is being sought in case a tender process cannot be completed to meet event timings.
15. An exemption from tender is sought to secure supply of barges for the 2024 event and also undertake market consultation, scoping discussions and ensure the proposed contract model are viable, with consideration to current market constraints, prior to the new procurement process being undertaken.

Financial Implications

16. There are sufficient funds allocated for this project within the current year's operating budget and future years' forward estimates.

Relevant Legislation

17. The exemption from tender process has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021.
18. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

19. Attachment A contains confidential commercial information of the tenderers and details of Council's tender evaluation and contingencies which, if disclosed, would:
 - (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person who supplied it.
20. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

Critical Dates / Time Frames

21. Industry consultation needs to be undertaken for a contract to be in place by the end of July 2024 in order to secure the required services for the 2024 Sydney New Year's Eve event.

Options

22. An alternative option is to proceed to tender for barge and tug services. This option is not recommended there will not be adequate time to conduct these consultations and complete a new tender process.
23. Not proceeding with these services will limit the firing locations for the pyrotechnical display for Sydney New Year's Eve, limiting the delivery of the creative concept for the event.

Public Consultation

24. No public consultation was undertaken.

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