

## CT7063 PROVISION OF FIRE SLASHING SERVICES - UPDATE

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Report Author: Executive Officer - Climate and Nature  
Responsible Officer: Director Planning & Sustainable Futures  
Ward(s) affected: (All Wards);

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*The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.*

### CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

### SUMMARY

This report summarises the process undertaken by Council Officers to seek to comply with the alternate motion unanimously carried at the Council Meeting on 23 May 2023 with regards to contract CT7063 Provision of Fire Slashing Services. The alternate motion sought changes to the contract specification with regard to slashing within *Fence to Fence* areas (New Contract Specification).

Yarra Ranges Council have an existing exemption under the *Road Safety Act 1986* from the State Department of Energy, Environment and Climate Action (DEECA) for slashing, with clear parameters regarding what is appropriate and how this is determined alongside authorised fire prevention duties under the *Country Fire Authority Act 1958*. The fire slashing program, along with all applicable Council activities, are detailed within Council's annual fire readiness program (see Attachment 3).

Upon investigation and consultation with the DEECA Native Vegetation Regulation Team, Officers have identified that the New Contract Specification is beyond the scope of Council's existing exemption under the above acts and incapable of being implemented by Council. This report provides an update to Council on how we will execute contract CT7063 in line with the original contract specification as presented to Council on 23 May 2023.

## RECOMMENDATION

### *That Council*

1. ***Note the current practice of fire slashing will be executed in line with the original CT7063 contract wording:***

***Where accessible, all exotic grasses shall be cut with side arm or box slasher for fence-to-fence slashing leaving any indigenous grasses, shrubs and trees, including regenerating species, in areas other than batters and table drains.***

***As Council is incapable of implementing a full fence to fence slashing treatment on indigenous vegetation outside of Council's existing exemption.***

2. ***Note a further report will come to Council outlining Council Fire Preparedness activities, including confirmation of the locations of Neighbourhood Safer Places.***

## RELATED COUNCIL DECISIONS

Council Meeting Tuesday 23 May 2023:

### **RECOMMENDATION made to Council on 23 May 2023**

#### *That*

1. *Council awards the tender for CT7063 Provision of Fire Slashing Services for an initial three-year contract term, with a combined first year lump sum price of \$995,599.00 exclusive of GST and a total estimated lump sum price for the full contract term of six (6) years of \$6,639,040.92 exclusive of GST (\$7,302,945.01 inclusive of GST and all extension options) to the following:*
  - (a) *Group 1, Area 1: I & P Yeoman Slashing Pty Ltd*
  - (b) *Group 1 Areas 2 & 5: Fern Earthmoving Pty Ltd*
  - (c) *Group 1 Areas 3 & 4 and Group 2: Bells Civil Excavations Pty Ltd*
2. *The Director of Planning and Sustainable Futures be delegated authority to sign the contract documents.*
3. *The Director of Planning and Sustainable Futures be delegated authority to extend the contract term by a minimum of one month to a maximum of 36 months for each contract on the terms set out in the original contract.* 4. *The confidential attachment to this report remains confidential indefinitely as it relates to matters specified under Section 3(1) (g)(i), (g)(ii) of the Local Government Act 2020.*

## **ALTERNATE MOTION made to Council by Cr McAllister on 23 May 2023**

*Moved: Cr McAllister*

*Seconded: Cr Higgins*

*That*

1. *Council awards the tender for CT7063 Provision of Fire Slashing Services for an initial three-year contract term, with a combined first year lump sum price of \$995,599.00 exclusive of GST and a total estimated lump sum price for the full contract term of six (6) years of \$6,639,040.92 exclusive of GST (\$7,302,945.01 inclusive of GST and all extension options) to the following:*
  - (a) Group 1, Area 1: I & P Yeoman Slashing Pty Ltd*
  - (b) Group 1 Areas 2 & 5: Fern Earthmoving Pty Ltd*
  - (c) Group 1 Areas 3 & 4 and Group 2: Bells Civil Excavations Pty Ltd*
2. *Council note:*
  - (a) an error in the wording on page 123 of the report, relating to fence to fence slashing, and*
  - (b) that the wording be amended to read "Where accessible, all grass shall be cut with side arm or box slasher for fence to fence slashing, in areas other than batters and table drains"*
3. *The Director of Planning and Sustainable Futures be delegated authority to sign the contract documents.*
4. *The Director of Planning and Sustainable Futures be delegated authority to extend the contract term by a minimum of one month to a maximum of 36 months for each contract on the terms set out in the original contract. The confidential attachment to this report remains confidential indefinitely as it relates to matters specified under Section 3(1) (g)(i), (g)(ii) of the Local Government Act 2020.*

***The motion was Carried unanimously.***

## **DISCUSSION**

### ***Purpose and Background***

Council undertakes a number of bushfire mitigation and preparedness activities in preparation for the annual Fire Danger Period, including:

- Bushland Reserve, Parks and Trails slashing program
- Roadside Fuel Reduction Program
- Powerline Clearance works -Tree Pruning
- Fire Hazard Inspection Program (private property)
- Issuing Burning Off Permits during Fire Danger Period
- Auditing and maintaining Neighbourhood Safer Places (locations) and fire assets, including water tanks, hydrants, fire access tracks etc
- Coordinate Council's bushfire related preparedness works and community messaging.

As outlined above, the annual Fire Readiness Program is made up of a variety of fire prevention activities, the Roadside Vegetation Slashing Program plays a critical role in Councils bushfire preparedness each year.

At the Council Meeting on 23 May 2023 Council approval was sought to award the tender for CT7063 Provision of Fire Slashing Services for an initial three-year contract term, with a combined first year lump sum price of \$995,599.00 exclusive of GST and a total estimated lump sum price for the full contract term of six (6) years of \$6,639,040.92 exclusive of GST, \$7,302,945.01 inclusive of GST.

The contract is for annual fire slashing of Council owned and/or managed roadsides, fire access tracks, unused road reserves, general reserves and other land.

The objective of awarding the Fire Slashing contract is to:

- Manage fire risk to road users and the surrounding landscape.
- Ensure sight lines and road clearance envelopes are managed in accordance with Council obligations under the *Road safety Act 1986*.
- Ensure fire risk is managed within reserves and other areas.

Yarra Ranges Council have an existing exemption under the *Road Safety Act 1986* from the State Department of Energy, Environment and Climate Action (DEECA) for slashing, with clear parameters regarding what is appropriate and how this is determined, along with exemptions under the *Country Fire Authority Act 1958*.

Cr McAllister moved an alternate motion that changed the contract specification with regard to slashing within *Fence to Fence* areas. Item 2 of this alternate motion outlines an amendment to be made to page 123 of the tender documentation due to an "error in the wording of page 123."

Since this alternate motion was carried, Council Officers have sought to understand the implications of the amended wording, working extensively to determine if the alternate motion can be carried out. This process included consultation and advice from Officers in the Bushlands Team, Biodiversity Team, Planning Team, and the DEECA Native Vegetation Regulation Team (see Attachments 1 and 2).

Officers have determined that Item 2 of the motion, relating to *Fence 2 Fence* slashing treatment, is not in line with regulatory requirements and therefore Council is incapable of implementing this decision.

### ***Options considered***

The paragraph below shows the changes made by the amendment to the original contract wording:

*Where accessible, all ~~exotic~~ grasses shall be cut with side arm or box slasher for fence to fence slashing ~~leaving any indigenous grasses, shrubs and trees, including regenerating species~~, in areas other than batters and table drains.*

The *Planning and Environment Act 1987* contains a table of exemptions under Clause 52.17, which identifies an exemption for slashing of native grasses to a height no less than 100mm. The amended contract wording refers to "all grass." This means that in some areas covered by the contract, a planning permit would be required by Council (from Council) to remove native grasses.

A separate permit would need to be obtained for each distinct area covered under the contract and would be valid for two (2) years only. After this time a fresh permit application would need to be made. This would be an irregular and time intensive process for Officers and generate additional costs. Additionally, Council's offsetting obligations would need to be considered and built into project costs.

### ***Recommended option and justification***

The original contract *Fence 2 Fence* specification was reviewed by officers, and it was determined that the current program is carried out appropriately to manage fire risk, adhering to requirements detailed under the *Country Fire Authority Act 1958*.

It is also important to note that the amended wording also removes mention of protecting indigenous vegetation. This conflicts with the *Flora and Fauna Guarantee Act 1988*. Accordingly, any works outside of the current exemption would be in breach of this Act and may cause significant damage to protected indigenous vegetation.

Officers also reviewed the *Road Safety Act 1986* and the *Planning and Environment Act 1987* to determine whether alternate possible exemptions exist that could facilitate the amended wording. It was determined that no alternate avenues were available in this scenario.

We recommend that the following original contract wording being retained:

*Where accessible, all exotic grasses shall be cut with side arm or box slasher for fence to fence slashing leaving any indigenous grasses, shrubs and trees, including regenerating species, in areas other than batters and table drains.*

## **FINANCIAL ANALYSIS**

The combined first year lump sum price for the proposed contract is \$995,599.00 exclusive of GST.

The full contract term of six (6) years is expected to cost \$6,639,040.92 exclusive of GST (\$7,302,945.01 inclusive of GST and all extension options).

Rates are to be adjusted each year of the contract in line with Consumer Price Index and Fuel Index up to the maximum value equivalent to Council's Rate Cap (3.5% for 2023/2024 Financial year).

## **APPLICABLE PLANS AND POLICIES**

This report contributes to the following strategic objective(s) in the Council Plan:

- Protected & Enhanced Natural Environment; and
  - A healthier environment for future generations
- High Performing Organisation
  - An innovative, responsive organisation that listens and delivers quality, value for money services to our community.

## **RELEVANT LAW**

This report seeks Council approval to award a contract that complies with Section 108 of the *Local Government Act 2020*.

The Fire Slashing Services are in accordance with the *Country Fire Authority Act 1958*. The fire slashing program responds to the outcomes of the 2010 Bushfires Royal Commission and the Victorian Fire Risk Register.

## **SUSTAINABILITY IMPLICATIONS**

### ***Economic Implications***

This has been considered as part of the project specification and evaluation process. The recommended successful tenderers are located in Yarra Ranges and all employ staff that live in Yarra Ranges working on the contract.

### ***Social Implications***

This has been considered as part of the project specification and evaluation process and relates to the business employing staff that live in Yarra Ranges along with the outcome of the works improving social wellbeing of residents.

### ***Environmental Implications***

This has been considered as part of the project specification and evaluation process. The recommended tenderers are required to follow local, state and federal legislation to protect native vegetation.

## **COMMUNITY ENGAGEMENT**

Over previous years, the Fire Slashing Services Program has been comprehensively reviewed with reference to the outcomes of the 2010 Bushfires Royal Commission and the Victorian Fire Risk Register (VFRR). As a result, all roads in the program have been assessed and appropriate slashing treatments applied. The establishment of Neighbourhood Safer Places (NSP) and Fire Refuges also influenced program review. Program assessment tools and rationale was explained to and endorsed by Regional Officers and Vegetation Management Officers from the Country Fire Authority (CFA) Region Offices in Yarra Ranges. Information as to when specific roads are to be slashed each year can be found on Council's public website.

## **COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT**

In developing the tender specification Council worked with the CFA, DEECA and other key Governments statutory bodies.

## **RISK ASSESSMENT**

This has been considered as part of the project design, contract terms and conditions and evaluation process.

There are three main risks to Council: protection of assets, reputational risk and most importantly community safety.

This program is required under the CFA Act and the program mitigates risk through the management of roadsides ensuring potential fuel loads for bushfires (i.e., grass) are at appropriate levels to allow for the protection of assets and life.

This program mitigates community safety through rural roadside fuel load management during times of high fire risk, appropriate fire break widths across the landscape, CFA access, and safe travel of the community.

The program is delivered to coincide with grass curing and before fire risk becomes critical, mitigating reputational risk.

## **CONFLICTS OF INTEREST**

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

## **ATTACHMENTS TO THE REPORT**

Nil