

Audit, Finance & Risk Committee
11 March 2021

Report for Agenda Item | Rīpoata moto e Rāraki take 7

Department: Property & Infrastructure

Title | Taitara Review of QLDC Procurement Practices

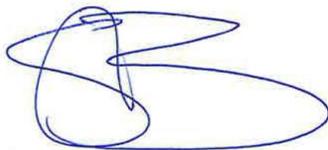
PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

- 1 The purpose of this report is to inform the Audit, Finance & Risk Committee of the findings of recent reviews of procurement activities and their alignment with the Procurement Policy and Guidelines.

RECOMMENDATION | NGĀ TŪTOHUNGA

- 2 That the Audit, Finance & Risk Committee:
 1. **Note** the contents of this report and its attachments:
 - a. Mayoral Report on ZQN.7 Procurement;
 - b. Councillor presentation re: Procurement (15 February 2021);
 - c. Paper for Extraordinary meeting of Council 25 February 2021;
 - d. Letter from OAG requesting information (Public Excluded); and
 - e. Response to OAG request for information (Public Excluded).
 2. As requested by Council, **confirm** that an external peer review of the attached reports be conducted.

Prepared by:



Stephen Batstone
Recovery Manager
25/02/2021

Reviewed and Authorised by:



Mike Theelen
Chief Executive Officer
25/02/2021

CONTEXT | HOROPAKI

- 3 Over 2020, QLDC received a number of media enquiries and LGOIMA requests for information pertaining to QLDC's procurement of professional services from ZQN.7, a local consultancy, over the period March 2018 – February 2020.
- 4 The services procured were primarily review, design, consultation and implementation of three pre-existing bylaws, which were due for statutory review.
- 5 Following concerns raised by individual councillors, in January 2021 Mayor Boulton instructed the Chief Executive to prepare a factual summary of the ZQN.7 engagement, and an assessment against the 2016 Procurement Policy and Guidelines. A copy of the report prepared by Stephen Batstone is appended to this paper, and was presented to the Mayor on Wednesday 4 February 2021.
- 6 This report was discussed with Council on 15 February 2021. At this meeting, it was agreed by Council to refer both the review and the committed work programme to the Audit, Finance & Risk Committee (AFRC) to address with urgency.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 7 The ZQN.7 report's conclusion is that while no illegal practice occurred, the procurement of ZQN.7's services did not align with a strict interpretation of the Guidelines, particularly in respect of the processes and approvals necessary to directly appoint suppliers the <\$50k spend category. The practice of direct appointing (or "sole-sourcing") without the process and approvals required by the Guidelines is common across council, and is also permitted in other government entities, such as Waka Kotahi/NZTA, for low-expenditure contracts.
- 8 The report also commented on the practice of separating a complex and interdependent programme of work into a number of separate contracts for procurement. There were logical reasons why the ZQN.7 services were the subject of 12 contracts over nearly 2 years, and there is no evidence whatsoever that this splitting was done with the intent of avoiding the requirements in the Guidelines. However, in hindsight - and without documentation of the reasons why the splitting was done - it raises questions about the practice of contract splitting. The Guidelines expressly forbid contract splitting with the intent of subverting the requirements of the Guidelines, but no guidance is given for when splitting can be considered if it would lead to better commercial outcomes and thus value for money for the community.
- 9 The report thus highlights that a strict interpretation of the Guidelines would, at best, create a significant amount of inefficiency in Council, and at worst be unworkable. Sticking with them is not a practical or sound business practice option. Hence a review of the Policy and Guidelines is long overdue. The Audit, Finance and Risk committee will be somewhat familiar with this need as staff reported to you in July 2020 seeking the opportunity to review the policy and guidelines. While that review was delayed due to pressure on the procurement staff regarding, amongst other things, the CIP shovel ready

programme and the formation of the Wakatipu Transport Project Alliance, getting that back on track is critical and, as outlined below, staff have undertaken to do so.

- 10 As noted above, staff reported to Council on Monday 15 February 2021 on the substance of the review, and also the wider practice of sole-sourcing (beyond ZQN.7) in the <\$50k category. Staff also proposed a programme of short term and medium term work to address the issues raised. Councillors added an action to this programme that asks staff to explore a change in policy that would see the publication of all approved contracts (appropriately redacted) on QLDC's website.
- 11 In parallel, the Office of the Auditor General received a complaint on the ZQN.7 matter. They sought additional material from QLDC staff, which we provided to them on Friday 19 February 2021. This additional request and material provided is also appended to this paper. At the time of writing, the OAG have made no decision as to whether a formal investigation is needed or justified.
- 12 Finally, on Thursday 25 February 2021 at an extraordinary meeting of Council, staff sought interim amendments and clarifications of the Guidelines to allow Council to function efficiently while the wider work programme takes place. These amendments and clarifications were agreed by Council, and the paper is attached for your reference.
- 13 We invite the committee to interrogate the initial QLDC report, the Council presentation, proposed work programme (outlined below) and the OAG response and seek independent advice or peer review if you wish to do so. We also ask the Audit, Finance & Risk Committee to consider whether it considers there are additional actions required as part of the proposed work programme.
- 14 Our commitment is to ensure we have a modern fit for purpose policy and guidelines that enable swift and fiscally sound procurement to support the activities of a very busy council.

Proposed Work Programme

- 15 By 31 March 2021:
- 16 Establish an internal "Procurement Steering Group" to guide the next phase, especially around ensuring consistent messaging to staff about the interpretation of the current guidelines, and any amendments that might be made. This Steering Group will be available to any staff member who seeks clarity regarding application of the Guidelines.
COMPLETE
- 17 We will review the use of panels and ensure panels that are being used for any reason have been established in accordance with the Guidelines.
- 18 We will propose a set of interim amendments to the Guidelines to Council, aligned with the current Procurement Policy, which will allow for a more reasonable set of requirements on staff making procurement decisions. These amendments are without prejudice to the more formal review of the Policy and Guidelines recommended below.
COMPLETE

- 19 Based on these interim amendments, we will conduct mandatory procurement training for all staff with financial delegations.
- 20 Report to Audit, Finance & Risk Committee, and Council, on progress with these actions in March.
- 21 The Audit, Finance & Risk Committee will also be asked to review the internal report into ZQN.7, and make recommendations to Council about any further action required.
- 22 Within 6 months:
- 23 Conduct a comprehensive review of the Procurement Policy and Guidelines, utilising independent expert advice. This will include the interaction of these documents with other policies (e.g., Engagement of Contractors and Consultants Policy). At the 25 February 2021 meeting, Council asked that this review be completed by 2 September 2021.
- 24 Review procurement resourcing, to ensure it is adequate to support our aspiration for best practice. We note that, in the draft Ten Year Plan (2021-2031), we have an additional FTE for procurement.
- 25 Increase the transparency of procurement decisions, in the first instance to the Audit, Finance & Risk Committee, to ensure the right level of management reporting is being received by that committee. There may be other initiatives associated with transparency – councillors have requested, for example, that management explore making contracts awarded a matter of public record by default.
- 26 Make greater use of our IT systems to integrate finance and procurement decisions, and also for monitoring and reporting. This should also improve the timely identification of material cost overruns, such as that observed in the bylaw reviews, so that remedial steps can be taken.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 27 This matter is of **low** significance, as determined by reference to the **Council's Significance and Engagement Policy** because it will:
 - Not significantly impact on the environment, culture and people of the District
 - Not significantly effect individuals, organisations, groups and sectors in the community
 - Not be inconsistent with existing policy and strategy
 - Will not significantly impact the objectives set out in the Financial Strategy, Ten Year Plan and Annual Plan
- 28 As the significance of this matter is low and only for noting, no consultation with the community or local iwi is required.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 29 This matters relates to the “Ineffective Procurement Process” risk (RISK00022) in the [QLDC Risk Register](#). The review has highlighted weaknesses in practice, but also the Procurement Guidelines and its alignment with the Procurement Policy.
- 30 The primary mitigation we are recommending is a full review of the Procurement Policy and Guidelines, in combination with an improvement to systems and processes that will result in a higher degree of rigour and transparency around procurement decisions.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 31 The main financial implication is the direct costs of any external expertise sought as part of any peer review or independent advice sought by the AFRC, or as part of the proposed work programme.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

- 32 The following Council policies, strategies and bylaws were considered:

- The Procurement Policy
- The Procurement Guidelines
- Engagement of Contractors and Consultants Policy

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

- 33 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by improving the effectiveness of our procurement activities towards best practice.

ATTACHMENTS | NGĀ TĀPIRIHANGA

A	Mayoral Report on ZQN.7 Procurement
B	Councillor presentation re: Procurement (15 February 2021)
C	Paper for Extraordinary meeting of Council 25 February 2021
D	Letter from OAG requesting information (Public Excluded – circulated separately)
E	Response to OAG request for information (Public Excluded – circulated separately)