

QLDC Council
16 December 2021

Report for Agenda Item | Rīpoata moto e Rāraki take : 6

Department: Property & Infrastructure

Title | Taitara New Procurement Policy

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

The purpose of this report is to consider the adoption of the new Procurement Policy.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Adopt** the Procurement Policy in all respects, except for section 9 - Financial Thresholds for Procurement Planning & Procurement Methods;
3. **Approve** the review date for the Procurement Policy as June 2023;
4. **Note** that the Procurement Guidelines (Adopted 2016, Revised 2021) including section 6 – Financial Thresholds, remain operable; and
5. **Note** the intention to present a report to the April 2022 Council meeting for the adoption of the new Procurement Guidelines.

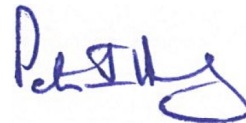
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2/12/2021

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CONTEXT | HOROPAKI

Procurement Policy

- 1 The current Procurement Policy has expired.
- 2 During 2020 there were a number of procurement related requests from media, and via the Local Government Official Information and Meeting Act 1987. In January 2021 the Mayor requested a report from the Chief Executive regarding QLDC's procurement of services from ZQN.7 Limited.
- 3 That report identified a number of procurement issues, including that there was a common misconception by staff that direct appointing lower value contracts without a competitive process or documented and approved departure was acceptable.
- 4 Subsequently, staff provided a report to Council that proposed updates to QLDC's Procurement Guidelines (Adopted 2016, Revised 2021) (the Guidelines), Attachment A, including:
 - a. a new Financial Thresholds table; and
 - b. a new Appendix 1, that set out classes of activities, procurement methods and contract types that are compliant with the Guidelines.

The report updating the guidelines was adopted at the 25 February 2021 Council meeting.

- 5 On 19 May 2021 the Office of the Auditor-General (OAG) wrote to QLDC regarding correspondence received that raised concerns with respect to procurement practices at QLDC, and in particular, procurement associated with consultancy firm, ZQN.7 Ltd.
- 6 The OAG's recommendations to QLDC can be summarised into the following:
 - a. the use of Government procurement resources
 - b. updating policies and reviews for alignment
 - c. engagement of consultants:
 - i. the lack of appropriate documentation and evidence
 - ii. contract & cost management.
- 7 QLDC has since been working through the OAG's recommendation, including updating and aligning QLDC's Procurement Policy ('the new policy'), Attachment B.
- 8 This process has involved:
 - a. researching best practice from NZ Government Procurement and other local authorities; and
 - b. overlaying that with QLDC specific requirements.

- 9 To understand the QLDC specific requirements the following has occurred:
 - a. interviews with staff
 - b. ELT engagement
 - c. multiple workshops with Councillors and the Audit Finance & Risk Committee (AF&RC).
 - 10 At the AF&RC meeting of 14 October 2021, the AFRC:
 - a. accepted the recommendation that they would recommend to Council that the draft Policy is fit for purpose; and
 - b. agreed in principle, subject to further work, that the financial thresholds [currently in the Guidelines] be updated to:
 - i. include procurement planning as well as procurement methods
 - ii. simplified so that all procurement methods are available up to \$100,000, with Open Tender mandated above \$100,001.
 - iii. amended so that operationally, procurement activity is governed by the Delegations Register.
 - 11 The QLDC specific requirements have been incorporated into the new policy.
- Procurement Guidelines**
- 12 The new policy explicitly references the Guidelines (the new Guidelines).
 - 13 The new policy sets out the purpose of the new Guidelines, which includes:
 - a. the application of the policy
 - b. how procurement will be operationalised within QLDC
 - c. assisting staff to balance the multiple aims of the policy; and
 - d. reporting and compliance requirements.
 - 14 Work is continuing to develop meaningful new Guidelines.
 - 15 It is intended that the new Guidelines will be the topic of a Council Workshop in Quarter 1 of 2022, with a report seeking adoption of the new Guidelines at the April 2022 Council meeting.
 - 16 It is intended to review the operability of the new policy, and the new Guidelines, in mid-2023.

Transfer of the Financial Thresholds Table from Guidelines to Policy

- 17 The Guidelines include a Financial Thresholds table at section 6.
- 18 The new Guidelines will not include a Financial Thresholds table.
- 19 The new policy at section 9 has provisioned for this change, and now includes a new Financial Thresholds table.
- 20 The rationale for the proposed change is that the Financial Threshold table, along with the policy principles, are seen as critical to the governance of procurement at QLDC.
- 21 The new Guidelines, however, are expected to have more regular reviews and updates, and overtime, become the vehicle for continuous procurement improvement at QLDC.
- 22 With the first iteration of the new Guidelines not scheduled for adoption until the April 2022 Council meeting, the adoption of the new policy with the inclusion of the Financial Threshold Table will create ambiguity.
- 23 It is for this reason that we are seeking adoption of the new policy in all respects, excluding section 9 – Financial Threshold for Procurement Planning & Procurement Methods.
- 24 This means that:
 - a. until the new Guidelines have been adopted, the Financial Threshold Table in Guidelines remains operative.
 - b. on adoption of the new Guidelines, the Financial Threshold Table in the new policy becomes operative.

Financial Thresholds – Procurement Planning

- 25 Best practice has planning as the first stage of the Procurement Lifecycle (Plan / Source / Manage).
- 26 The addition of Procurement Planning to the policy's Financial Thresholds table signals a fundamental change for procurement at QLDC, i.e. the mandating of Procurement Planning.
- 27 Operationalising this will impact the organisation across people, process and technology.
- 28 Staff will not be in position to rollout the organisational change needed in time for the adoption of the policy; but will make the necessary changes in time for adoption of the new Guidelines.
- 29 This is another reason that we are seeking adoption of the policy in all respects, excluding section 9 – Financial Threshold table.

Procurement Planning & Reporting

- 30 There are two types of Procurement Planning contemplated by the new policy, i.e. Lite and Full.
- 31 A *full procurement plan* will be based on the NZ Government Procurement model. Procurement plans at QLDC are often produced as standalone Word documents, with little or no automation. It is our intention to enable the majority of these to be completed and approved through the use of on-line forms within the TechOne system.
- 32 A *lite procurement plan* will seek to integrate with existing processes and capture additional information through the TechOne system. The first iteration will focus on the “what” and “why” of procurement planning. This means that we will seek to capture – “what” sourcing method staff have chosen, and “why” that decision was made.
- 33 The use of the TechOne system should enable us to commence procurement reporting.

Delegated Authority for Procurement Activity

- 34 Historically, internal processes had some procurement activity operating differently to the delegated authority associated to specific roles. The new policy seeks to standardise and align procurement decisions in line with the Register of Delegations.
- 35 The new policy in section 10 formalises this change by providing for procurement activity, including Procurement Planning and Procurement Departure Requests, will be approved under delegated authority.
- 36 It is intended that this change becomes operable with the new policy.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 37 Option 1 Adopt the policy in all respects, excluding section 9 – Financial Threshold for Procurement Planning & Procurement Methods.

Advantages:

- 38 QLDC will have a current, fit for purpose policy, that clearly sets out:
- the principles for procurement at QLDC
 - (on adoption of the new Guidelines) a clear financial threshold model for procurement planning and sourcing methods
 - alignment of procurement with the Register of Delegations
 - the consideration of Broader Outcomes; and
 - clarity of what is in and out of scope.

Disadvantages:

- 39 Possible short term ambiguity with Financial Thresholds in both the new policy and the Guidelines.
- 40 Option 2 Direct Officers to make further amendments to the policy.
- Advantages:*
- 41 Advantages will be amendment specific.
- Disadvantages:*
- 42 Amendments may create further delay for the introduction of the policy and/or development of the new Guidelines.
- 43 This report recommends **Option 1** for addressing the matter because it provides QLDC with a fit for purpose Procurement Policy and the best opportunity to develop and align the new Guidelines.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 44 This matter is of low significance, as determined by reference to the Council’s Significance and Engagement Policy because the intent of the new policy is not materially different from the existing Procurement Policy and it will not materially change a level of service.
- 45 While the ‘Impact Level Guidance’ provided in Council’s Significance and Engagement Policy suggests the significance of the new Procurement Policy has a “Lower impact”, QLDC acknowledges that procurement is an important issue for our community.
- 46 Procurement is critically important to the operation of QLDC. The new policy will require that we are “... fair to all suppliers” and “Play by the rules”¹ and that we get the best public value² from our considerable spend.
- 47 The persons who are affected by or interested in this matter are
- a. Elected members
 - b. Audit Finance & Risk Committee
 - c. Staff
 - d. Suppliers – “local”, national and to a much lesser degree international
 - e. The Queenstown Lakes District community
 - f. Other local authorities.

¹ Key principles of the Procurement Policy, see s5.1

² Public value is defined in the Procurement Policy, see s7.1

48 Engagement via workshops and/or briefings have been provided to Elected Members, the Audit Finance & Risk Committee, and a selection of senior QLDC staff. Their feedback has been considered in developing the new policy.

> MĀORI CONSULTATION | IWI RŪNANGA

49 The Council will consider the impact on Iwi, particularly with respect to the use of Broader Outcomes, and will engage where appropriate.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

50 This matter relates to the Financial risk category. It is associated with “Ineffective Procurement Process” risk (RISK00022) within the QLDC Risk Register. This risk has been assessed as having a moderate inherent risk rating.

51 The approval of the recommended option will support the Council by allowing us to implement additional controls for this risk. This shall be achieved by providing an updated, fit for purpose policy and new guidelines.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

52 There are two main resource and financial implications:

- a. External expertise and capacity to support the further development of the new guidelines, procedures, and technology solutions; and
- b. The further development of QLDC’s enterprise resource planning system to enable the efficient and effective operation of the Procurement Lifecycle, including procurement reporting.

53 These will both be managed within existing budgets.

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

54 The following Council policies, strategies and bylaws were considered:

- Procurement Policy
- Procurement Guidelines
- P-Card Policy
- Sensitive Expenditure Policy
- Engagement of Contractors and Consultants Policy
- Reference alignment with and consideration of the principles of the Vision Beyond 2050: <https://www.qldc.govt.nz/vision-beyond-2050/>

55 The recommended option is consistent with the principles set out in the named policy/policies.

56 This matter is not specifically included in the Ten Year Plan/Annual Plan.

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHA KA WAETURE

57 Relevant legislation and statutory guidance associated with local government procurement includes (but is not limited to) the:

- Local Government Act 1974
- Government Procurement Rules
- Office of the Auditor-General:
 - Procurement guidance for public entities (2008)
 - Local government procurement (2020)

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

58 The recommended option:

- Will help to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.
- Will help meet local public services needs and the provision of good quality local infrastructure for current and future communities, and performance of regulatory functions in a way that provides the most value for communities, households and businesses by improving the effectiveness of our procurement activities towards best practice.

As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act;

- Can be implemented through current funding under the Ten Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

ATTACHMENTS | NGĀ TĀPIRIHANGA

A	Procurement Policy
B	Procurement Guidelines (Adopted 2016, Revised 2021)