

Audit, Finance & Risk Committee
11 March 2021

Report for Agenda Item | Rīpoata moto e Rāraki take 8

Department: Property & Infrastructure

Title | Taitara Update on the Review of Procurement Policy & Procurement Guidelines

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

- 1 The purpose of this report is to provide an update on Council's approval to amend the Procurement Guidelines; an updated review pathway for the Procurement Policy and Procurement Guidelines; and to rescind a previous approval.

RECOMMENDATION | NGĀ TŪTOHUNGA

- 2 That the Audit, Finance & Risk Committee:
 1. **Note** the contents of this report.
 2. **Note** that Council has approved interim amendments to the Procurement Guidelines.
 3. **Approve** the updated Review Pathway.
 4. **Revoke the decision that** transferred the Procurement Guidelines from Governance to Management accountability.

Prepared by:



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Manager
2/03/2021

Reviewed and Authorised by:



Mike Theelen
Chief Executive Officer
2/03/2021

CONTEXT | HOROPAKI

- 3 At the 2 July 2020 meeting of the Audit, Finance & Risk Committee (AFRC), staff presented a report titled [Review of Procurement Policy & Procurement Guidelines](#). The report's recommendations, which were accepted, provided that the AFRC:
 1. **Note** the contents of this report.
 2. **Direct** Officers to review the Procurement Policy.
 3. **Approve** the Review Pathway.
 4. **Approve** the transfer of the Procurement Guidelines from Governance to Management accountability.
- 4 Unfortunately the onset of COVID-19, the subsequent infrastructure stimulus and setting up of the Whakatipu Transport Programme Alliance have delayed this review.
- 5 The Mayor's recent report on procurement practice, and specifically ZQN.7, refocused attention on the Procurement Policy (Policy) and the Procurement Guidelines (Guidelines) and the common misconception by staff that direct appointing lower value contracts without a competitive process or documented and approved departure, was acceptable.
- 6 At a Council Workshop on 15 February 2021 staff:
 - a. Set out areas of the Policy and Guidelines that were contradictory
 - b. Proposed an updated education of staff in the operation of the Guidelines
 - c. Proposed that staff take a report to the March meeting of the AFRC seeking endorsement and recommendation, and subsequently seek approval by the full Council, for an "Interim review of the guidelines (especially direct sourcing) and align with the Policy".
- 7 On further investigation staff identified that it would not be practicable to operate the organisation under the current Guidelines and that interim changes were needed in advance of the AFRC March meeting.
- 8 An extraordinary Council meeting was called for 25 February 2021. At that meeting, Council accepted various recommendations, including:
 5. **Approve** amendments to the Guideline's:
 - a. Financial Threshold table to explicitly provide for Direct Appointment / Sole Source Negotiation up to \$10,000; and
 - b. To include an addendum of classes of activities, existing procurement methods and contract types that are compliant with the Guidelines.
- 9 Council also resolved that the review of the Policy & Guidelines be complete by, and presented to, the 2 September 2021 Council meeting.
- 10 The 25 February 2021 Council Report is attached to provide wider context.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

Updated Review Pathway

- 11 The following high level activities will be needed to ensure new, fit for purpose, Policy and Guidelines are provided to the 2 September 2021 Council meeting:
 - a. Review other organisations procurement Policies and Guidelines
 - b. Engage with key QLDC staff and Leadership Group
 - c. Iterative AFRC workshops and feedback
 - d. Council workshop.
- 12 Prior to the 2 September Council meeting our proposal is that the ARFC has its opportunity to Endorse & Recommend the new Policy and Guidelines.
- 13 Acknowledging the AFRC's strong mix of commercial and audit experience, our proposal is that ahead of the AFRC formally receiving the final Policy and Guidelines, we would seek to progressively work with the AFRC to review, develop and share feedback on the revisions as they develop.
- 14 The AFRC is also encouraged identify areas of consideration it would like staff to explore, and we are happy to be guided by that expertise.
- 15 It is recognised that during the formulation of the new Policy and Guidelines this process may involve the AFRC in a mix of informal dialogues and formal meetings to enable the timeframe set by Council to be met.

Revoking Previous Approval – to transfer “the Procurement Guidelines from Governance to Management accountability”

- 16 A question was raised as to whether the AFRC had the delegated authority to approve the transfer accountability of the Procurement Guidelines from Governance (Council) to Management (staff).
- 17 The terms of reference for the AFRC do not expressly make reference to decisions pertaining to the Procurement Guidelines. Accordingly, while the AFRC's powers to act are broad, and could encompass this decision making, it was suggested that there might be an issue or at least a perception of one in relation to the transfer of accountability. Given the current environment, it is appropriate for this decision to be put to Council.
- 18 Noting the above, the principle of governance and management, and that the review of the Policy and Guidelines will soon be commencing, it is agreed to request that the AFRC rescind point 4 from the 2 July 2020 Report, namely:
 4. **Approve** the transfer of the Procurement Guidelines from Governance to Management accountability.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 19 This matter is of [low] significance, as determined by reference to the Council's Significance and Engagement Policy because the matter generally relates to the review methodology, not the Policy. The report presenting the New Policy may have a different significance rating.
- 20 The persons who are affected by or may be interested in this matter are:
- a. Audit Finance & Risk Committee
 - b. Elected members
 - c. Staff
 - d. Suppliers – “local”, national and to a much lesser degree international
 - e. Queenstown Lakes district community
 - f. Other local authorities.

- 21 The Audit, Finance & Risk Committee, elected members and QLDC's Leadership Group will be engaged through workshops to provide input into and consideration of the updated Policy and Guidelines.

> MĀORI CONSULTATION | IWI RŪNANGA

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

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 23 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. This risk has been assessed as having a moderate inherent risk rating
- 24 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 updated Policy and fit for purpose Guidelines.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 25 The main financial implication is any external expertise sought as part of the review process. This will be managed within existing budgets.

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

26 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

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

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

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

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

- Local Government Act 1974
- Government Rules of Sourcing
- 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

30 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;
- 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	Council Report of 25 February 2021: Interim Changes to the Procurement Guidelines <i>*refer to Report 7 - Attachment C of this agenda*</i>
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