

Full Council

26 June 2025

Report for Agenda Item | Rīpoata moto e Rāraki take [12]

Department: Property & Infrastructure

Title | Taitara: Retrospective Approval of the Procurement Plan for the Engineering & Specialist Support Services Panel

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to seek Council's retrospective approval of the Procurement Plan for the Engineering & Specialist Support Services Panel which will give effect to the completed procurement process.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;
2. **Approve** retrospectively the Procurement Plan for the Engineering & Specialist Support Services Panel;
3. **Note** that retrospective approval of the Procurement Plan for the Engineering & Specialist Support Services Panel gives effect to the full procurement process, including the subsequently executed Panel Agreements and all past and future secondary procurement activity;
4. **Approve** the Panel rules and secondary procurement processes for the Engineering & Specialist Support Services Panel;
5. **Note** a legal review of all contracts executed under Engineering & Specialist Support Services Panel procurement process will be undertaken to ensure that the processes used were, or are now, compliant with the Delegations Register;
6. **Delegate** authority to the General Manager Property & Infrastructure to undertake any necessary corrective action that may become necessary from the legal review; and
7. **Notify** Council through the Chief Executive's Report should the delegated authority identified in number 6 above be utilised.

Prepared by:



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Title: Commercial & Procurement Manager

5 June 2025

Reviewed and Authorised by:



Name: Tony Avery

Title: General Manager Property &
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5 June 2025

Context | Horopaki

Background

1. Queenstown Lakes District Council (QLDC) utilises Panel agreements to procure works, goods and services. Property & Infrastructure (P&I) uses Panel agreements to support the delivery of its capital programme and operating needs.
2. During the second half of 2024, P&I commenced procurement planning for the expiring Three Waters Design Services Panel and the Engineering & Specialist Support Services Panel (ESSS Panel).
3. Procurement planning considered the capability and capacity of the professional services needed, the supply market's ability to deliver, and the forward works programme. The outcome of the procurement planning process was that a single Panel covering eight professional service disciplines should replace the two expiring Panels.
4. A procurement plan was developed for a new ESSS Panel. This is provided as Attachment A.

Approval of the ESSS Panel Procurement Plan

5. The Procurement Policy provides that approvals of procurement plans are governed by the limits set out in the Delegations Register (Delegations from Council to the Chief Executive and Sub Delegations Financial).
6. To determine the estimated whole of life spend through the new Panel, the Procurement Plan for the ESSS Panel used a proxy calculation of 15% of 2024-34 LTP budgets for 3 Waters and Solid Waste. This equated to \$73.8m.
7. Based on the calculated spend contemplated by the ESSS Panel, approval of the procurement plan should have been with Council.
8. However, an error occurred in determining the delegated authority necessary to approve the procurement plan for the ESSS Panel, and the procurement plan was incorrectly approved by the General Manager Property & Infrastructure. Because the ESSS Panel itself does not have a budget, and all works arranged under the provisions of the Panel are funded out of capex budgets for each project, the value of the Panel for assessing the approval of the procurement plan was considered incorrectly as being a zero based contract, i.e. a contract that has no dollar value. All services commissioned under the Panel provisions would be approved under Council's existing financial delegations.
9. But for the incorrect approval of the Procurement Plan for the ESSS Panel, subsequent procurement processes have followed the Procurement Policy, the Procurement Guide, have been transparent and have delivered sound business outcomes.

Summary of the ESSS Panel

10. The purpose of the ESSS Panel is to provide an administratively efficient mechanism to pre-qualify and engage with a wide range of suppliers on standardised and pre-approved contractual terms, hourly rates and key personnel.
11. Based on the procurement planning process, it was decided to approach the open market and seek responses from suppliers who could offer services under the following Panel disciplines:
 - a. Project Management Vertical
 - b. Project Management Horizontal
 - c. Three Waters Design & Advisory
 - d. Cost Management Vertical
 - e. Cost Management Horizontal
 - f. Engineer to Contract - Vertical
 - g. Engineer to Contract – Horizontal
 - h. Planning Services
12. The procurement planning process also considered the Government Procurement Rules, the Procurement Policy and the Procurement Guide when developing the Panel principles, and the operation of the Panel and the Panel rules for secondary procurement.

Summary of the ESSS Panel Rules & Secondary Procurement

13. As provided for in the Government Procurement Rules (Rule 57¹), once a Panel has been established through an open market process, there is no need to openly advertise individual contract opportunities, and purchases may be made directly from the Panel. This is secondary procurement.
14. QLDC's Procurement Guide sets out the high-level principles that a Panel should consider, including that the Panel should have an "*...efficient and effective secondary procurement process*". It also notes that "*Panel Agreements should have their own Panel rules that guide the operation of the Panel and in particular the secondary procurement processes.*"
15. Both the Government Procurement Rules and the Procurement Guide therefore contemplate Panel specific Panel rules for secondary procurement, eg the need to not always approach the open market, and the methods Council will use to award contracts under the Panel.
16. For the ESSS Panel, as suppliers have already been prequalified through a robust evaluation process, have agreed standard contract terms and have been awarded Panel Agreements based on their capability and capacity – the ESSS Panel follows the above Rules and Guide by adapting and amending Council's Procurement Policy thresholds.
17. The ESSS Panel's Panel Rules differ from the Procurement Policy and Procurement Guide by:

¹ Rule 57, [Panel of suppliers | New Zealand Government Procurement](#)

- a. Utilising a customised Secondary Procurement Plan that reflects the RFP's full evaluation of the Suppliers capability to undertake the services
- b. Amending the Sourcing Method so as not to require approaching the open market; and
- c. Amending the Financial Thresholds to reflect the large values in the capital budgets.

Amended Thresholds

1	Direct appointment with high level scope	Less than \$10,000
2	Scoped RFP / SoW to One Panel Member	>\$10,000 to <\$100,000
3	Scoped RFP / SoW to Three Panel Members	>\$100,000 to <\$400,000
4	Scoped RFP / SoW to All Panel Members; or RFP to the Open Market (GM Approval)	Over \$400,000
Note: QLDC reserves the right to Go to Market at any stage.		

18. For clarity, in approving the procurement plan for the ESSS Panel, Council are also adopting the above Panel Rules.
19. On the basis that the Procurement Plan had been approved internally (but noting it requires Council approval), staff proceeded with establishing the Panel given the urgency to put in place robust arrangements for delivering the Council's capital programme, the following procurement activities have now been completed:
 - a. Open market Request for Proposal (RFP) sought for eight disciplines was uploaded onto GETS on 11 October and closed 26 November 2024.
 - b. 98 RFP Responses received across the eight disciplines from 47 different suppliers
 - c. Assessment of responses and scoring undertaken and
 - d. Procurement Recommendation Reports (covering attribute scoring and probity) produced for each discipline; and
 - e. 26 Panel Agreements executed with 14 suppliers (noting a number of suppliers were successful in multiple disciplines).
20. Since the Panel Agreements were executed during this calendar year, and as at the date of this report, there have been eight completed secondary procurement processes undertaken, for a total value of approximately \$3.5m.
21. Each of the contracts executed for the eight secondary procurement processes have been correctly executed as per the Delegations Register.
22. But for the incorrectly approved Procurement Plan for the ESSS Panel:
 - a. The procurement processes have been robust
 - b. All secondary procurement has been carried out in line with the Panel Agreements and in particular the Panel Rules.
23. Once the incorrect approval of the ESSS Panel was identified by QLDC's Procurement Manager, P&I in consultation with the Procurement Manager, have put in place a number of remedial processes. These included:
 - a. Putting on hold the use of Panel Rules; and

- b. Reverting to the Procurement Policy's Financial Thresholds, and Procurement Planning Requirements.

24. In parallel to this report, a legal review of the executed contracts will be undertaken to ensure that the processes used were, or are now, compliant with the Delegations Register. This includes undertaking any remedial action that may be required.

Analysis and Advice | Tatāritaka me kā Tohutohu

25. This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002.

26. Option 1 Retrospectively approve the ESSS Plan Procurement Plan.

Advantages:

- Remedies compliance with the Procurement Policy.
- Validates and gives effect to the Procurement Plan.
- Removes ambiguity:
 - with the subsequent procurement process; and
 - execution of the Panel Agreements, including the secondary procurement processes.
- Provides an administratively efficient remedy to correct a single error.
- Enables the efficient procurement of services to assist QLDC's delivery of capital and maintenance activities.
- Maintains QLDC's credibility with suppliers by not having to rerun the procurement process.

Disadvantages:

- There are no clear disadvantages to this option.

27. Option 2 Do not retrospectively approve the ESSS Plan Procurement Plan and undertake a new procurement process.

Advantages:

- By undertaking a new procurement process, this would ensure compliance with the Procurement Policy.

Disadvantages:

- An otherwise sound procurement process with solid commercial outcomes would need to be cancelled and rerun.
- There would be negative time and cost impacts on QLDC staff and suppliers.
- This would negatively impact the supply market's perception of QLDC as a client of choice.
- Until a new procurement process is completed, the procurement processes would be less time and cost efficient, which may put at risk some elements of the delivery of QLDC's capital and maintenance activities.

28. This report recommends **Option 1** for addressing the matter because it effectively and efficiently provides compliance with the Procurement Policy and gives full effect to the procurement process.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

29. This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy 2024, however it is acknowledged that procurement is an important area of focus for Council and the community.

30. The persons who are affected by or interested in this matter are QLDC suppliers and the community.

Māori Consultation | Iwi Rūnaka

31. The Council has not consulted with Iwi in the preparation of this report.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

32. This matter relates to the Financial risk category. It is associated with RISK10028 Ineffective procurement within the QLDC Risk Register. This risk has been assessed as having a high residual risk rating.

33. Applying the Risk Management Policy specifically to this report and assuming the Likelihood is Unlikely and the Consequence is Moderate, the Residual Risk rating relating to this report is Low.

34. The approval of the recommended option will allow Council to avoid the risk. This will be achieved by ensuring the appropriate approval to the procurement plan, which then gives effect to the full procurement process, including the subsequently executed Panel Agreements and all past and future secondary procurement activity.

Financial Implications | Kā Riteka ā-Pūtea

35. There are no financial implications arising specifically from this report. However, if this report is not approved, there will be additional time and cost to rerun the procurement process, these costs would be covered within existing approved budgets.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

36. The following Council policies, strategies and bylaws were considered:

- QLDC Procurement Policy
- QLDC Procurement Guide
- QLDC Risk Management Policy
- QLDC Long Term Plan 2024-34
- Our Vision and Mission.

37. The recommended option is consistent with the principles set out in the named policies.

38. This matter supports the Long Term/Annual Plans through ensuring that effective procurement is in place to support the delivery of plan objectives.

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

39. A legal review of the executed contracts will be undertaken to ensure that the processes used were, or are now, compliant with the Procurement Policy and Delegations Register, including any necessary corrective action.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

40. Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future, by providing procurement that supports QLDC in achieving its strategic and operational objectives. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.

41. The recommended option:

- Can be implemented through current funding under the Long Term Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not significantly alter 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 | Kā Tāpirihaka

A	Procurement Plan for the Engineering & Specialised Support Services Panel
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