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ITEM: 6

SUBJECT: CURRENT SITUATION OF LEGAL SERVICES UNDER WHOLE OF GOVERNMENT AND LOCAL BUY ARRANGEMENTS

AUTHOR: SENIOR PROCUREMENT OFFICER

DATE: 22 JULY 2019

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### EXECUTIVE SUMMARY

This is a report concerning a refresh of the Legal Services engagements under the Whole of Government and Local Buy arrangements currently being utilised by Ipswich City Council.

In 2017 Council undertook a procurement process to establish a panel of legal service providers accessing the Whole of Government and Local Buy Panels. Each engagement under the panel is managed through Legal Services branch and appropriately authorised. Following a recent review of the panel arrangements detailed below; based on expenditure to date and forecast over the remaining time of the contracts, the total forecast expenditure for legal services provided by all providers on the panel is approximately \$4 million.

Accordingly, Council approval is sought to continue the engagements of providers under the existing Whole of Government and Local Buy panels.

### RECOMMENDATION/S

**That the Interim Administrator of Ipswich City Council resolve:**

- A. That the Interim Administrator of Ipswich City Council ("Council") resolve that Council continue the engagement of external legal service providers from the existing Whole of Government and Local Buy arrangements noting the estimated financial expenditure as outlined in the report by the Senior Procurement Officer dated 22 July 2019.**
- B. That the Chief Executive Officer be authorised to negotiate and finalise the terms of the appointment to be executed by Council and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the *Local Government Act 2009*.**

### INTERIM MANAGEMENT COMMITTEE COMMENTS

The Interim Administrator highlighted the fact that with development applications for waste there was a significant risk to council that these matters will result in significantly increased legal expenses for Council. He advised that he has written to the Minister for State Development, Manufacturing, Infrastructure and Planning about this matter.

## **RELATED PARTIES**

The legal services providers are as currently listed on the Whole of Government and Local Buy Arrangements

## **ADVANCE IPSWICH THEME LINKAGE**

Listening, leading and financial management

## **PURPOSE OF REPORT/BACKGROUND**

Ipswich City Council has an established in-house Legal Team (Legal and Governance Branch within the Corporate Services Department) to provide advice and facilitate the provision of legal services to Council. The in-house Legal Team has five (5) in-house Lawyers and one (1) Para-legal who provide the core legal services for Council. When additional resources and expertise are required, external legal firms are engaged to provide these legal services.

The Legal and Governance Branch is responsible for coordinating, instructing, managing and supervising the legal work undertaken by Law Firms engaged by Council, including monitoring the quality of work and the services provided, payment of related invoices and managing any performance issues which may arise. Prior to 2017 Council implemented its own approved Preferred Supplier Arrangement (PSA) which was utilised by the then Legal Services branch on behalf of all departments throughout Council.

However early in 2017 Corporate Procurement and Legal Branch, as part of the procurement strategy, identified the Whole of Government and Local Buy arrangements had established contracts with various and different suppliers, which had been developed from a public tender process. In accordance with the Local Government Regulation, Council was able to ascertain that the sound contracting principles were considered during the evaluation processes undertaken by both the State Government and Local Buy. Council identified from the two arrangements in place that there were several suppliers on each arrangement who provided legal services to Council.

Also as part of the market analysis that was undertaken at the time by Corporate Procurement, it was clearly evident that the legal services industry had price pressures for external legal work as their clients had increased demands for value for money and were expanding their use of small to mid-tier firms. Therefore, Council's view at that time was that it would not be in the best interests of Council to approach the market, given that there were two sufficient arrangements established with clear pricing schedules and suppliers that could support Council in our service requirements.

Council entered into the Whole of Government arrangement for Legal Services until 31/03/2020 which is the expiry date of the arrangement. Similarly, Council entered into the Local Buy Legal Services arrangement in June 2017 until 31/05/2022 which is the expiry date of the arrangement. Due to the increased level of expenditure that was not foreseen at time of opting into these arrangements, it is now necessary as part of our refresh process to also ensure the necessary and appropriate financial approvals are obtained.

## **FINANCIAL/RESOURCE IMPLICATIONS**

The estimated value of all legal services engagements under these arrangements in its entirety based on expenditure to date and forecast requirements, since Councils initial opt in commencement date, is approximately \$4 million.

## **RISK MANAGEMENT IMPLICATIONS**

A risk analysis has been undertaken in relation to this report, with all potential risks assessed and identified between low and not applicable.

## **LEGAL/POLICY BASIS**

This report and its recommendations are consistent with the following legislative provisions:

*Local Government Act 2009*

*Local Government Regulation 2012*

For Local Buy arrangements - Pursuant to section 234 of the *Local Government Regulation 2012* – A local government may enter into a contract for goods and services without first inviting written quotes or tenders if the contract is entered into under an LGA arrangement.

For Whole of Government arrangements - Pursuant to section 235 (f) of the *Local Government Regulation 2012* – A local government may enter into a medium-sized contractual arrangement or large-sized contractual arrangement without first inviting written quotes or tenders if – the contract is made with , or under an arrangement with a government agency.

## **COMMUNITY AND OTHER CONSULTATION**

Legal and Governance Branch is the major stakeholder and has been consulted regarding this refresh process.

## **CONCLUSION**

- It is recommended that Council continue the current engagement for Legal Services under the Whole of Government arrangement
- It is recommended that Council continue the current engagement for Legal Services under the Local Buy arrangement
- It is recommended that the CEO sign the letters of engagements to the listed suppliers for the supply of Legal Services to Council.

Wanda Schoenfisch

**SENIOR PROCUREMENT OFFICER**

I concur with the recommendations contained in this report.

Barbara Clarke

**PROCUREMENT MANAGER**

I concur with the recommendations contained in this report.

Jeffrey Keech  
**FINANCE MANAGER**

I concur with the recommendations contained in this report.

Andrew Knight  
**GENERAL MANAGER - CORPORATE SERVICES**

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