

6. APPOINTMENT OF CONSULTANTS TO THE CENTRAL CITY PLAN PROJECT

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| General Manager responsible: | Mike Theelen, General Manager Strategy and Planning Group, DDI 941-8281 |
| Officer responsible: | Jake Rance |
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PURPOSE OF REPORT

1. In the course of Council's day to day business, the Council, the Chief Executive and various staff all acting under delegation have the authority to enter into, and to award contracts for services. These services are for a wide variety of functions and duties. In all cases the process for the identification and selection of any given consultant is a matter that is undertaken by relevant staff, and through agreed procedural processes.

The effect of the earthquakes, of 4 September, 26 December and 22 February have resulted in the organisation having to alter its work programme, address new tasks, and adjust to very different environments. In a large number of instances, enabling the organisation to respond has required staff to enter into contracts for service. This is part of doing the business of Council.

There has been some debate amongst some Councillors however over the appointment of Consultants to the Central City Plan. Initially this was expressed in respect of the decision to appoint Gehl Architects, though subsequently questions have been raised over how, why, and who should be responsible for their appointment. This report responds to those issues.

EXECUTIVE SUMMARY

2. The Canterbury Earthquake Recovery Act 2011 requires Council to lead the development of a recovery plan for the CBD and dictates that a draft recovery plan for the CBD must be developed within 9 months of enactment. To achieve this and due to the complexity and scale of the work involved, suitable experienced consultants were required to be engaged immediately to assist with the development of a "Central City Plan". On this basis, Council has entered into the contracts set out in the attached schedule, to the collective value of \$2,826,598.
3. Ordinarily, Council delegates the power of Council to enter into individual contracts not exceeding \$500,000 to any two of the Chief Executive, General Manager Corporate Services and General Manager Strategic Development - if the item is provided for in the Annual Plan.
4. The expenditure required to produce a Central City Plan is not provided for in the 2010-11 Annual Plan, However, the Annual Plan and LTCCP both contain funding for Central City Revitalisation. This has been a longstanding item in both plans. The work now encapsulated by the Central City Plan is entirely consistent with that programme of work, and has effectively taken over with certain urgency the programme of work that was that approved by the Annual Plan. It is therefore considered that the delegation to expend money on items to support the Central City Plan is entirely consistent with the Council's work programme, even if not specifically mentioned. There is no perceived conflict with Council's delegation in this respect.
5. One area of change was the speed, and process of appointment. In March 2011, in order to progress the project as a matter of urgency, and due to a scarcity of resources, the Strategy and Planning Group requested approval from the Chief Executive to enter into consultancy and service contracts. The Council Activity Management Plan for Procurement has had an established target that 90 per cent of all contracts exceeding \$50,000 in value should go to RFP. In 2011, the Council in adopting the February Performance report amended this target to exclude those purchases associated with emergency response or recovery activities. The appointments associated with the Central City Plan fall within this target. The consultants appointed through the attached schedule are all involved directly in producing the Central City Plan.

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6. Prior to entering into the contracts, Staff fully considered the requirements of Council and proceeded to appoint the particular consultants either because they:
- (a) have knowledge of the city/central city and the current planning Council is undertaking;
 - (b) have skills and experience which are relevant to the project, with strong track record;
 - (c) are already engaged by Council and have an existing working relationship;
 - (d) were recommended by relevant professional bodies.

Additionally, prior to their appointment, Council undertook a process with each consultant in order to bench-mark the hourly rates for the professional services engaged and compared those hourly rates within current contracts Council has for the supply of professionals in the relevant field. I am satisfied that given the nature of the task faced by Council, the urgency of the work, and the need to act swiftly to secure the right resources that the decision to approach and appoint the range of consultants for the Central City Plan was well justified.

7. The final area for Council to have regard to is the delegation exercised vis a vis the authority to award contracts of a certain value. The current procurement delegations provides for the Chief Executive to enter into contracts of up to \$500,000, and for different managers to approve contracts of lesser amounts. Reference to the attached Schedule demonstrates that the individual contracts signed were exercised within the various delegations held by staff. The single exception to this is the contract awarded to Impact Project Management which exceeded the delegation of the Chief Executive.. This contract is valued at a total of \$878,936. Impact were appointed after advice and recommendations were sought from the New Zealand Project Management Institute, and a capability assessment was completed. A contract with Impact was executed under the authority of the Chief Executive and two General Managers. Under normal circumstances, this contract would have required delegated authority from the Council as it exceeds \$500,000.
8. There may be ongoing requirements to engage the services of further consultants to assist with the project. To ensure that skilled and experienced consultants are engaged at the appropriate time and the project is not delayed, any additional resource or capability is likely to be sourced directly – therefore it is recommended that Council delegate authority to the Chief Executive to enter into any such contracts.

FINANCIAL IMPLICATIONS

9. The contracts signed to date are within the existing and proposed budget for the Strategy and Planning Group for the 2010/2011 and 2011/12 years.

LEGAL CONSIDERATIONS

Have you considered the legal implications of the issue under consideration?

10. As a public entity, Council is expected to follow the Procurement Guidelines prescribed by the Office of the Auditor General (“OAG”). These guidelines recommend that an open competitive process be followed for the appointment of contractors for the delivery of services. The guidelines ensure that open, fair and transparent processes are followed.
11. The present circumstances are exceptional and the OAG Guidelines contemplate non-compliance when such circumstances exist. The Ministry of Economic Development (“MED”) has also issued procurement guidelines for emergency situations. The MED emergency guidelines advise that agencies are permitted to forgo routine procurement procedures if the delay involved in following them will prevent the delivery of services. Agencies are permitted to purchase direct from a supplier, if that is the most reasonable approach in the circumstances.

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12. On the above basis, Council may depart from the OAG guidelines and its usual delegations where the circumstances require. Council's Legal Services Unit recommend that in these exceptional circumstances, it is acceptable for Council to deviate from the standard procurement process and usual delegations, however it is advisable to have Council confirm the existing consultancy appointments, and to provide explicit delegation to enter into any additional contracts.

ALIGNMENT WITH LTP AND ACTIVITY MANAGEMENT PLANS

13. Development of the Central City Plan was not provided for within the LTP or Activity Management Plans, and has arisen as a direct consequence of the February 22 earthquake event.

Do the recommendations of this report support a level of service or project in the 2006-16 LTP?

14. Not applicable

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

15. Not applicable

CONSULTATION FULFILMENT

16. Consultation regarding the appointment of consultants is not required.

STAFF RECOMMENDATION

17. That Council note both the process followed and the appointment of consultants listed in the **attached** schedule.