

# ORDINARY MEETING OF COUNCIL 5 DECEMBER 2018



## 14.1 EXTENSION AND VARIATION OF VALUATION CONTRACT #1910

**EXECUTIVE MEMBER:** CHRIS CARROLL, GENERAL MANAGER, CUSTOMER AND CORPORATE SERVICES

**PREPARED BY:** YASMIN SANFORD, COORDINATOR REVENUE & VALUATIONS

### 1. PURPOSE

- 1.1 To seek Council's approval to extend and vary Valuation Contract 1910 for a five-month period (1 February 2019 to 30 June 2019), to enable Council to raise rates, charges, Fire Services Property Levy and provision of other statutory valuations on behalf of Council.

### 2. EXECUTIVE SUMMARY

- 2.1 Due to recent legislation changes, the Valuer General Victoria is now the 'Valuation Authority' and is responsible for the 2019 valuation cycle (general and supplementary valuations) onwards. However, councils are still responsible for the remainder of the 2018 valuation cycle ending 30 June 2019 and all other statutory valuation services.
- 2.2 Council's current Valuation Contract 1910 commenced 1 February 2015 and ends 31 January 2019. This contract allows Council to raise rates, charges and the Fire Services Property Levy, as required by legislation. It also includes the valuation of Council's property assets.
- 2.3 Council would normally retender for the continuation of these critical services, however, the Valuer General has awarded the contract for the next valuation cycles to our current valuation contractor Matheson Stephen Valuations. This leaves a gap of five months.
- 2.4 The production and delivery of the 2018 and 2019 cycles must be completed simultaneously within the same valuation system (VMOnline) by 30 June 2019. Having more than one contractor in the valuation system causes a risk to the work of each contractor and our statutory obligations. Both the Valuer General Victoria and the current contractor have advised against it.
- 2.5 In addition to the above contract extension, there is an opportunity to include other legislated and critical valuations services which also provide significant revenue for Council.
- 2.6 Council has received legal advice stating that we will not be in breach of procurement requirements under *Section 186 of the Local Government Act 1989 (S186,LGA)*, provided that '*Council resolves that the contract must be entered into because of an emergency*' under *Section 186(5)(a) of the Local Government Act 1989 (S186(5)(a),LGA)*.



### 3. RECOMMENDATION

That Council:

- 3.1 Endorses the use of *Section 186(5)(a)* emergency provisions of the *Local Government Act 1989*, to extend and vary the current valuation Contract 1910 from 1 February 2019 to 30 June 2019, to ensure the continuance of statutory valuation services.
- 3.2 Notes that due to changes to the *Valuation of Land Act 1960*, Victorian Councils have been advised that they must continue to perform all statutory valuation functions related to the 2018 Valuation Cycle ending June 2019. The Valuer General is responsible for the 2019 Valuation Cycle onwards. That the Valuer General has appointed our current contractors Matheson Stephen Valuations for the 2019, 2020 and 2021 Valuation Cycles (commencing 1 July 2018).
- 3.3 Notes that Council will not be in breach of the procurement requirements under *Section 186 of the Local Government Act 1989*, pending endorsement of 3.1 (above).
- 3.4 Notes that the projected value of the contract extension (including variation) is based on indicative volumes for services subject to a schedule of rates is \$ 370,000 (ex gst) to 30 June 2019.

### 4. KEY POINTS/ISSUES

- 4.1 The Municipal Valuation Contract (number 1910) was awarded to Matheson Stephen Valuations Pty Ltd at Council meeting held on the 9 December 2014, following a competitive tender process.
- 4.2 The contract provides valuations which enable Council to raise rates, charges and the Fire Services Property Levy, as required by the *Valuation of Land Act 1960*, the *Local Government Act 1989* and the *Fire Services Property Levy Act 2012*. State authorities also use these valuations to calculate land tax, water board levies, etc.
- 4.3 The Contract term comprised an initial two year period commencing 1 February 2015 to 31 January 2017, with an option for a further term of two years. The extension option was exercised on the 1 February 2017 and expires on 31 January 2019.
- 4.4 On 1 February 2017 a further variation to the contract was created to implement a new valuation system (VMOnline), as the previous system was at 'end of life' and was a major risk to Council's rate revenue (57% of Council's budgeted income).
- 4.5 Council would normally retender for the continuation of these services, however, the Valuer General has awarded the contract for the 2019, 2020 and 2021 valuation cycles to our current valuation contractor Matheson Stephen Valuations. This leaves a gap of five months without any contract.
- 4.6 *Section 186(5)(a)*, LGA provides that the usual public notice requirement does not apply if "Council resolves that the contract must be entered into because of an emergency". Therefore, given the short timeframe, statutory requirement, risk to



Council's budgeted income, impact to major stakeholders, current valuation Contractors and service to our community, Council sought legal advice which justifies the use of (S186(5)(a),LGA), dependent on endorsement by Council.

- 4.7 We have identified an opportunity to include other critical valuation services that were not in the original scope of the contract and that also provide significant revenue for Council as follows: Open space valuations as required under the *Subdivision Act 1988*, sale of Council property, sale of right of ways and market rental valuations etc.
- 4.8 The expected cost of the extension and variation to 30 June 2019 is \$370,000 (ex gst), based on indicative volumes subject to a schedule of rates.

## 5. CONSULTATION AND STAKEHOLDERS

### 5.1 External Consultation:

The Valuer General/s Office have advised that they *'do not support more than one contractor in the valuation system at any point in time, as the likelihood of a conflict of interest is high. Commercially this is not viable. One firm carrying out both functions is better able to manage this'*.

Matheson Stephen Valuations (Current Contractor) - Does not support *'engaging a new contractor to undertake these facets of the current contract would require significant handover and efficiency for a 4–5 month contract could potentially be low. There are also risks associated with having two separate valuation contractors working in the one system (as the completion of the 2019 Revaluation would still be undertaken by MSV. The valuer would need to meet all customer service requests (both internally and externally), that occur on daily basis with no knowledge of how the revaluation was done'* Practically you cannot have two sets of valuers sitting at the same desks and working in the same system.

### 5.2 Internal Consultation:

The Contracts Team sought legal advice regarding the extension and variation of the existing valuation contract, in order to avoid breaching the procurement requirements under S186, LGA.

## 6. LEGAL AND RISK IMPLICATIONS

- 6.1 General and supplementary valuations are a statutory requirement of the *Valuation of Land Act 1960*, the *Local Government Act 1989* and the *Fire Services Property Levy Act 2012* to allow Council to apportion rates, charges and the Fire Services Property Levy on properties within our boundary. Open Space Valuations are a requirement of the *Subdivision Act 1988*.
- 6.2 Failure to have a valuation contract in place, would result in Council not being able to process the required statutory functions such as supplementary valuations, objections, appeals and open space valuations etc. Therefore, Council would also be in breach of our State Government responsibilities.



- 6.3 Council will not be in breach of the procurement requirements under *S186, LGA*, if we endorse the use of *S186(5)(a)* due to emergency circumstances.

## 7. FINANCIAL IMPACT

- 7.1 Failure to have a valuation contract in place, would result in Council not meeting its budgeted rate revenue (including supplementary valuations), open space contributions and State Government commitments (Fire Services Property Levy).
- 7.2 The current contractor Matheson Stephen Valuations have confirmed that the current rates according to the current contract number 1910 (including the 2018 Valuation Cycle Schedule of costs and customer service model) will not alter and will apply to the extension.

## 8. ENVIRONMENTAL IMPACT

- 8.1 There is no direct environmental implication in extending the current valuation contract.

## 9. COMMUNITY IMPACT

- 9.1 Continuation of valuation services will ensure that rates are apportioned according to the latest market movements including any supplementary valuation and objection adjustments.
- 9.2 Customer service will also be impacted, should this extension not proceed.

## 10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 Valuations are a statutory requirement of the *Valuation of Land Act 1960, Local Government Act 1989, Fire Services Property Levy Act 2012 and Subdivisions Act 1988*. Valuations enable Council to raise rates, charges and open space contributions. Therefore, enabling all Council Plan objectives and ensures that our commitments to State Government are met.

## 11. IMPLEMENTATION STRATEGY

### 11.1 TIMELINE

- 11.1.1 Valuation Contract number 1910 (including customer service model) expires 31 January 2019.
- 11.1.2 On 27 November 2018, Council received legal advice from Hunt & Hunt Lawyers endorsing the use of *S186(5)(a)*, *LGA*, under the current circumstances.
- 11.1.3 Once endorsed, Contract number 1910 (including variation) will be extended from 1 February 2019 to 30 June 2019.

### 11.2 COMMUNICATION

- 11.2.1 The change in legislation has caused this impasse of five months.



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11.2.2 Council will not be in breach of *s186,LGA*, if Council endorses the use of *S186(5)(a), LGA*.

11.2.3 It is critical that that Contract 1910 (including customer service model) is extended, in order to meet our statutory requirements and to avoid impacting our major stakeholders, contractors and Council's budgeted income.

### **12. OFFICER DIRECT OR INDIRECT INTEREST**

12.1 One of the contract valuers Frank Carbone is a ratepayer in the City of Port Phillip. A Declaration of Impartiality is signed by all Contract Valuers at the commencement of each General Valuation.

**TRIM FILE NO:** 90/02/21

**ATTACHMENTS** Nil