

CONTRACTS APPROVAL SPECIAL COMMITTEE

TERMS OF REFERENCE

1. BACKGROUND

- 1.1 By this Terms of Reference document, the Ballarat City Council (**Council**) establishes the Contracts Approval Special Committee (**Committee**) pursuant to section 86 of the *Local Government Act 1989 (LGA)*. The Committee is established as an on-going Special Committee.
- 1.2 The Committee has the powers, duties and functions of Council as set out in these Terms of Reference and the Instrument of Delegation. These Terms of Reference set out the structure and basis on which the Committee can make decisions for and on behalf of Council.
- 1.3 This Terms of Reference Instrument is authorised by a resolution (R309/18) of Council passed on 24 October 2018.
- 1.4 Prior to this date, under Council's delegations to the CEO, contract approvals were limited to \$250,000, meaning that all contracts over this value required the approval of Council. The Council meeting cycle meant that contract approvals required three weeks to go through Leadership Team, Councillor Briefing and an Ordinary Council meeting before being approved.

2. PURPOSE

The Committee is established for the purpose of:

- 2.1 Making decisions on Council contracts between \$250,000 and \$1,000,000, thereby expediting the contract approval process.

3. OBJECTIVES

The objective of the Committee is:

- 3.1 To significantly streamline decision-making processes of Council.

4. ROLES AND RESPONSIBILITY

The role of the Committee is:

- 4.1 To exercise Council's powers and carry out Council's duties and functions, in accordance with these Terms of Reference and as permitted by the Instrument of Delegation; and
- 4.2 To only consider contracts that meet the following criteria:
 - 4.2.1 Contracts of value between \$250,000 and \$1,000,000;
 - 4.2.2 Recommended contracts within the Council approved budget;
 - 4.2.3 Full contract evaluation reports have been prepared in accordance with Council's procurement policy, including the consideration of local content;
 - 4.2.4 Contract evaluation reports are authorised by the relevant Director and the CEO.

5. DELEGATION OF POWERS, DUTIES AND FUNCTIONS

- 5.1 In order to fulfill and carry out its purposes and objectives Council delegates to the Committee, pursuant to section 86(3) of the LGA, the powers, duties and functions set out in the Instrument of Delegation passed at Council on 24 October 2018 (R309/18) and attached to these Terms of Reference.
- 5.2 The powers, duties and functions of Council conferred on the Committee by this Terms of Reference and Instrument of Delegation must be exercised in accordance with any guidelines or policies that Council may from time to time adopt.
- 5.3 Committee members are at all times expected to act in accordance with their responsibilities set out in Division 1A of Part 4 of the LGA.

6. MEMBERSHIP

- 6.1 The Committee will consist of three (3) Councillors as appointed by Council from time to time.
 - 6.1.1 Three (3) Sustainability Portfolio Councillors.
- 6.2 Council Officers who attend the meetings of the Committee are to provide advice and support to the Committee and are not considered Committee members and do not have voting rights.
- 6.3 Each member of the Committee has and may exercise one equal vote on any question before the Committee for determination.
- 6.4 Councillors, other than Councillors appointed under clause 6.1.1, who attend a meeting are not to be classed as members of the Committee and do not have voting rights.
- 6.5 Council will revise the membership and voting rights of each Committee member after a general election.
- 6.6 A Councillor appointed under clause 6.1.1 will be the Chairperson of the Committee.
- 6.7 Where more than one Councillor is appointed to the Committee, Council will, by resolution, appoint one of those Councillors to be the Chairperson of the Committee.
- 6.8 If a Chairperson is not appointed under clause 6.6 or 6.7, as the case may be, before the Committee's first meeting, the Committee members must appoint a Chairperson at the first meeting.
- 6.9 If the Chairperson is absent from a Committee meeting, the Committee will select a temporary Chairperson to chair the Committee meeting.
- 6.10 All of the Committee members must submit primary and ordinary returns to Council in accordance with section 81 of the LGA.
- 6.11 The Committee has the discretion to refer any contract submitted to it to the full Council for decision if the Committee so determines.

7. MEETINGS

- 7.1 Unless Council resolves otherwise, Committee meetings must be conducted in accordance with:
 - 7.1.1 Council's Meeting Procedure Local Law (as amended from time to time and adopted by Council);
 - 7.1.2 Part 4, Division 2 of the LGA; and
 - 7.1.3 The Committee's discretion, as exercised from time to time.
- 7.2 The Committee will meet weekly or as required.
- 7.3 A quorum of the Committee will be two (2) Councillors.
- 7.4 Voting will be by majority of votes by a show of hands. Only members in attendance are entitled to vote. The Chairperson shall have the casting vote in the event of an equality of votes.
- 7.5 Administrative support to the Committee will be provided by the Business Services Executive Assistant.

8. REPORTING

- 8.1 The Committee is responsible for taking proper minutes of all meetings and preparing reports for the Committee's consideration in accordance with:
 - 8.1.1 Council's Meeting Procedure Local Law (as amended from time to time and adopted by Council);
 - 8.1.2 Part 4, Division 2 of the *Local Government Act 1989*; and
 - 8.1.3 The Committee's discretion, as exercised from time to time.
- 8.2 The Committee must report to Council following each meeting.
- 8.3 Where requested by Council, the Committee must report its activities and performance to a meeting of Council.

9. CREATION AND DISSOLUTION

- 9.1 By these Terms of Reference the:
 - 9.1.1 Committee is established; and
 - 9.1.2 Powers, duties and functions of the Committee, as set out in this Instrument, are delegated.
- 9.2 The Terms of Reference and the Instrument of Delegation:
 - 9.2.1 come into force immediately the resolution of Council adopting them is made; and
 - 9.2.2 remain in force until Council determines to vary or revoke it.
- 9.3 The Committee can be dissolved by resolution of Council.
- 9.4 These Terms of Reference must be reviewed in the 12 months following a general election.

Dated: 24 October 2018

SCHEDULE

Powers and functions

To exercise Council's functions and powers to perform Council's duties in relation to streamlining Council's contract procurement process and improve Council's ability to deliver its capital works program and for these purposes:

1. to function in accordance with the Council endorsed Terms of Reference;
2. the power to consider and/or approve contracts between the values of \$250,000 and \$1,000,000 that form part of the Council budget;
3. the power to refer any contract submitted to the Committee to the full Council for decision.

Exceptions, conditions and limitations

The Committee is not authorised by this Instrument to:

1. consider and/or approve contracts greater than the value of \$1,000,000;
2. consider and/or approve contracts which are not within the Council approved budget for the relevant year;
3. consider and/or approve contracts for which full evaluation reports have not been prepared in accordance with Council's Procurement Policy, including the consideration of local content;
4. consider and/or approve contracts which have not been authorised by the relevant Director and the Chief Executive Officer of Council; and
5. exercise the powers which, by force section 86 of the *Local Government Act 1989* cannot be delegated.