



3 November 2020

Peter Newport

Sent via email to [peter.newport@crux.org.nz](mailto:peter.newport@crux.org.nz)

Dear Peter,

### **REQUEST FOR OFFICIAL INFORMATION – PARTIAL RELEASE OF INFORMATION**

Thank you for your request for official information dated 5 October 2020. You requested the following information from the Queenstown Lakes District Council (QLDC):

- In relation to the procurement of services from ZQN7 Ltd:
  - QLDC's procurement policy and guidelines calls for an open tender process at \$50,000 and above. Was there any open tender process re: ZQN7 - and if not, why not? Who agreed, and why, to waive such a departure from the QLDC procurement guidelines and policy if there was no tender process?
  - Did the two key people involved with ZQN7 have any previous experience of bylaw review? If so - what was that experience?
  - Can we please see the procurement plans that cover **all** of the ZQN7 work for QLDC?
  - Can we see emails from Peter Hansby that approve the initial/full expenditure by QLDC on ZQN7? Ms Stokes herself flags the high value of the consultancy work at an early stage to QLDC in emails already obtained by Crux.
  - Can we please see all emails between yourself, Ms Miller and Mr Crosby-Roe that mention ZQN7 and/or Crux over the past 7 months? This is important so that we can understand why our lengthy engagement with QLDC has failed to produce the answers that the Media Council feels should have been supplied. We agree with the Media Council that Crux' relationship and trust with QLDC has broken down - it is essential, in order to address this serious issue, that we understand the full details of the trust and relationship breakdown. Where does the problem lie?
  - Given that bylaw reviews have to happen every 5 years - why was there no budget for this work?
  - Is ZQN7 still working for QLDC - can you please supply all \$ amounts, associated documentation (contracts and procurement etc.) and what your forecast is for future ZQN7 work - with detail? We'd also like to see an updated total of all money paid to ZQN7.

- QLDC's own procurement policy and guidelines make it clear that "artificial" silos cannot be created to blur the total value of a proposed contract, and that all contract need to be seen as a combined supplier relationship - so the use of stage payments is surely covered by this clear policy? It is the **total amount** that is the focus of your own policy - and the use of stage payments and different purchase orders etc. seems specifically forbidden by QLDC in calculating the total contract value. Do you agree with that statement?

### **Decision to partially release information requested**

QLDC has decided to grant your request for information in part. The information requested is provided below.

### **QLDC response**

1. *QLDC's procurement policy and guidelines calls for an open tender process at \$50,000 and above. Was there any open tender process re: ZQN7 - and if not, why not? Who agreed, and why, to waive such a departure from the QLDC procurement guidelines and policy if there was no tender process?*

There was no open tender process due to the nature of the overall programme of work comprising a number of distinct separate project elements, each initially costed within the \$50,000 threshold.

During the third piece of work (for the Speed project), there was a payment of \$52,000. No one agreed to waive the need for an Open Tender process or an Approved Procurement Plan for this piece. This \$2,000 overspend in this particular project was an error on our part. In hindsight, we should have managed this differently.

2. *Did the two key people involved with ZQN7 have any previous experience of bylaw review? If so - what was that experience?*

Yes they did have previous experience. They had previously conducted bylaw reviews for Dunedin City Council (DCC) and Accident Compensation Corporation (ACC).

3. *Can we please see the procurement plans that cover **all** of the ZQN7 work for QLDC?*

There is only one procurement plan – we released that plan to you in a previous information request sent to you on 29 July 2020.

The majority of all other work did not require a procurement plan due to each separate piece of work being costed within the \$50,000 threshold (in accordance with QLDC's Procurement Guidelines).

There was one piece of work that cost \$52,000, which we did not complete a procurement plan for (our reasons for this are detailed earlier in this response).

4. *Can we see emails from Peter Hansby that approve the initial/full expenditure by QLDC on ZQN7? Ms Stokes herself flags the high value of the consultancy work at an early stage to QLDC in emails already obtained by Crux.*

There are no such emails. The decisions at this stage of the project were under delegation by the Asset Planning Manager, due to the earlier stages of the project being under \$50,000.

5. *Can we please see all emails between yourself, Ms Miller and Mr Crosby-Roe that mention ZQN7 and/or Crux over the past 7 months? This is important so that we can understand why our lengthy engagement with QLDC has failed to produce the answers that the Media Council feels should have been supplied. We agree with the Media Council that Crux' relationship and trust with QLDC has broken down - it is essential, in order to address this serious issue, that we understand the full details of the trust and relationship breakdown. Where does the problem lie?*

We conducted the following email archive search to answer this part of your request:

- The emails must:
  - Be between the following dates: 5 March 2020 – 5 October 2020, AND
  - Include the following word or phrase: 'ZQN7' or 'crux', AND
  - Be from, or to, the following email addresses: [mike.theelen@qldc.govt.nz](mailto:mike.theelen@qldc.govt.nz), [meaghan.miller@qldc.govt.nz](mailto:meaghan.miller@qldc.govt.nz), & [naell.crosby-roe@qldc.govt.nz](mailto:naell.crosby-roe@qldc.govt.nz).

The search produced 14 emails. One email was considered out of scope of the question asked. We therefore reviewed 13 emails.

Of the 13 emails, we are releasing the following three emails:

- (2) FW Heads - up
- (12) RE Heads - up
- (13) RE Heads - up

We are withholding the other ten emails in accordance with section 7(2)(g) of the Local Government Official Information and Meetings Act 1987 (LGOIMA) – legal privilege. We provide our rationale for this later in this response.

The three emails we are releasing can be accessed here:

[Emails](#)

6. *Given that bylaw reviews have to happen every 5 years - why was there no budget for this work?*

No council wide bylaws have previously held budget allocations in QLDC Long Term Plans (LTPs). A centrally-coordinated bylaw review approach is being implemented for the 2021-2031 LTP with oversight of all Council bylaws.

7. *Is ZQN7 still working for QLDC - can you please supply all \$ amounts, associated documentation (contracts and procurement etc.) and what your forecast is for future ZQN7 work - with detail? We'd also like to see an updated total of all money paid to ZQN7.*

There are no current contracts between ZQN7 Ltd and QLDC.

As mentioned earlier, we have already shared the relevant procurement plan with you. We have also shared the relevant contracts with you in our response dated 12 June 2020.

The table in appendix one provides a breakdown of all payments made to ZQN7 Ltd, as well as an updated total of all money paid.

8. *QLDC's own procurement policy and guidelines make it clear that "artificial" silos cannot be created to blur the total value of a proposed contract, and that all contracts need to be seen as a combined supplier relationship - so the use of stage payments is surely covered by this clear policy? It is the **total amount** that is the focus of your own policy - and the use of stage payments and different purchase orders etc. seems specifically forbidden by QLDC in calculating the total contract value. Do you agree with that statement?*

We are confident the approach adopted for this programme of work complies with the Procurement Guidelines.

You can see the following link to access our current guidelines: [Procurement Guidelines](#)

We trust the above information satisfactorily answers the relevant components of your request.

### **Decision to withhold remaining information requested**

#### *Legal privilege*

We have decided to withhold ten requested emails under section 7(2)(g) of the LGOIMA – legal privilege. Section 7(2)(g) of the LGOIMA provides that good reason for withholding official information exists if the withholding of the information is necessary to maintain legal professional privilege. In this case, the ten emails all formed part of an email chain between Mike Theelen, Meaghan Miller and Naell Crosby-Roe regarding a media request from yourself (on 6 April 2020), specifically relating to the Martin Jenkins airport study and its associated costs. The correspondence discusses the most appropriate response to the query you had made.

We consider the discussion to be legally privileged material because the request you made required consideration as to whether any withholding grounds under the LGOIMA applied. When such decisions are required, we treat the associated emails as legally privileged because they contribute to a legal decision under the LGOIMA.

#### *Public interest considerations*

QLDC has considered the interests of the public when making this decision to withhold the privileged correspondence, including considerations in favour of release, whether the disclosure of the

correspondence would actually promote those considerations, and whether those considerations outweighed the need to withhold the correspondence.

Promoting the accountability and transparency of local authority members and officials is in the public interest, as is the general public interest in “good government” – this would favour the release of these ten emails. However, it is important that QLDC can correspond internally on LGOIMA decision making, before responding to information requests, to ensure that QLDC is acting in accordance with the law. Consequently, we do not consider that the release of the ten emails would promote the considerations of accountability and good government referred to above, such that the public interest in the release of the information outweighed the considerations in favour of withholding the information. Rather, it is considered to be in the public interest that QLDC maintain its ability to correspond internally in order to reach the right decision in accordance with the LGOIMA.

### **Right to review the above decision**

Note that you have the right to seek an investigation and review by the Ombudsman of this decision. Information about this process is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

If you wish to discuss this decision with us, please contact [Naell.Crosby-Roe@qldc.govt.nz](mailto:Naell.Crosby-Roe@qldc.govt.nz) (Governance, Engagement & Communications Manager).

We trust this response satisfactorily answers your request.

Regards,

A handwritten signature in black ink, appearing to be 'Maddy Patterson', with a long horizontal line extending to the right.

Maddy Patterson  
Senior Governance and Official Information Advisor

Appendix one

ZQN 7 Limited invoices	Value Inc GST
<b>Bus Stops Policy review 2019</b>	
INV-0108	\$ 11,500.00
<b>Bus Stops Policy review 2019/20 Final</b>	
INV-0117	\$ 5,750.00
<b>Programme management of 2018 Speed Limit Bylaw review</b>	
INV-0001	\$ 3,363.75
INV-0009	\$ 8,117.63
<b>Programme management of 2018 Trade Waste Bylaw Review</b>	
INV-0002	\$ 3,838.12
INV-0011	\$ 1,653.12
INV-0017	\$ 3,378.12
<b>Programme management of the 2018 Traffic and Parking Bylaw</b>	
INV-0003	\$ 12,678.75
INV-0010	\$ 10,315.99
<b>Speed Mgmt Implementation 2019</b>	
<b>School Safety Engagement</b>	
INV-0112	\$ 6,051.66
INV-0115	\$ 5,994.37
<b>Stage 2 2018 Speed Limit Bylaw review</b>	
<b>Preparation of statement of proposal and draft bylaw (and associated council reporting)</b>	
<b>Completing public consultation process (including hearings)</b>	
<b>Analysis of submissions and associated council reporting</b>	
<b>Finalising bylaws for council adoption</b>	
<b>Final council reporting and public notification of decision.</b>	
INV-0009	\$ 4,570.23
INV-0018	\$ 12,161.25
INV-0021	\$ 14,504.37
INV-0024	\$ 22,784.73
INV-0035	\$ 9,947.51
INV-0041	\$ 10,508.14
INV-0045	\$ 7,633.12
INV-0049	\$ 4,398.75
INV-0055	\$ 1,552.50

<b>Stage 2 2018 Trade Waste Bylaw (replace 23246)</b>  <b>Preparation of statement of proposal and draft bylaw (and associated council reporting)</b>  <b>Completing public consultation process (including hearings)</b>  <b>Analysis )of submissions and associated council reporting</b>  <b>Finalising bylaws for council adoption</b>  <b>Final council reporting and public notification of decision.</b>	
INV-0061	\$ 2,902.51
<b>Stage 2 2018 Trade Waste Bylaw review</b>  <b>Preparation of statement of proposal and draft bylaw (and associated council reporting)</b>  <b>Completing public consultation process (including hearings)</b>  <b>Analysis of submissions and associated council reporting</b>  <b>Finalising bylaws for council adoption</b>  <b>Final council reporting and public notification of decision.</b>	
INV-0022	\$ 9,530.62
INV-0025	\$ 4,830.00
INV-0036	\$ 8,955.64
INV-0040	\$ 7,935.00
INV-0046	\$ 6,296.25
INV-0050	\$ 3,493.12
INV-0056	\$ 5,174.89
<b>Stage 2 2018 Traffic and Parking Bylaw</b>  <b>Preparation of statement of proposal and draft bylaw (and associated council reporting)</b>  <b>Completing public consultation process (including hearings)</b>  <b>Analysis of submissions and associated council reporting</b>  <b>Finalising bylaws for council adoption</b>  <b>Final council reporting and public notification of decision.</b>	
INV-0010	\$ 5,704.07
INV-0016	\$ 6,837.50
INV-0023	\$ 11,169.37
INV-0026	\$ 5,649.37
INV-0034	\$ 6,813.75

INV-0039	\$ 11,025.64
INV-0047	\$ 19,880.62
INV-0048	\$ 9,846.99
<b>Stage 3 2018 Traffic and Parking Bylaw</b>	
<b>Implementation plan as per T&amp;P Procurement Plan</b>	
INV-0053	\$ 41,011.87
INV-0060	\$ 28,405.34
INV-0067	\$ 34,155.00
INV-0069	\$ 23,977.50
INV-0077	\$ 5,520.00
INV-0086	\$ 18,802.50
INV-0092	\$ 10,350.00
INV-0097	\$ 4,140.00
INV-0104	\$ 3,967.50
<b>Stage 3 2019 Speed Limit Bylaw review</b>	
<b>Completing public consultation process (including hearings)</b>	
<b>Analysis of submissions and associated council reporting</b>	
<b>Finalising bylaws for council adoption</b>	
<b>Final council reporting and public notification of decision.</b>	
INV-0063	\$ 14,360.62
INV-0066	\$ 17,889.72
INV-0070	\$ 14,835.00
INV-0076	\$ 18,043.66
INV-0087	\$ 9,487.50
INV-0091	\$ 18,975.00
INV-0098	\$ 7,012.42
<b>Stage 4 2019 Speed Limit Bylaw review</b>	
<b>Completing public consultation</b>	
<b>Analysis of submissions and associated council reporting</b>	
INV-0118	\$ 8,280.00
INV-0124	\$ 2,760.00
INV-0127	\$ 7,935.00
INV-0132	\$ 1,380.00
<b>Trade Waste Customer Information and Data Collection.</b>	
INV-0027	\$ 12,582.07
INV-0037	\$ 9,805.35
INV-0038	\$ 12,179.31
<b>Grand Total</b>	<b>\$ 612,602.81</b>