

### 3.3 INDUSTRIAL SPECIAL RISKS INSURANCE RENEWAL

(ST/DW: INSUR22)

Responsible Chief Financial Officer: Danny Wain

#### **RECOMMENDATION**

*That Council renews its Industrial Special Risks (Assets) insurance with the Jardine Mutual Asset Protection Plan (JMAPP) scheme for the period 4pm, 30 June 2018 to 4pm, 30 June 2019 for an estimated sum of \$440,092.80 (GST exclusive).*

#### **INTRODUCTION**

This report recommends the renewal of Council's Industrial Special Risks (Assets) insurance cover.

#### **BACKGROUND**

Industrial Special Risks insurance covers Council's assets, such as building and contents, Councils' Art Collection and the costs of business recovery from disaster situations. Existing asset insurance is with the Jardine Municipal Asset Protection Plan (JMAPP). This is a mutual discretionary fund scheme established for Jardine Lloyd Thompson's (JLT) Local Government clients in Victoria with a primary cash pool established from members' contributions. A key strength of the scheme is that it provides stability and confidence to its local government clients regardless of the volatility within the insurance market.

JLT manages the scheme in addition to its role as broker to Councils.

The scheme pool meets the first \$6,500,000 aggregate of claims from members. The maximum contribution by the trust towards this annual aggregate for any one event will be \$1,500,000. This means that the members are insuring the first level of claims themselves from the pool.

This aggregate limit is collected from each member. Reinsurance provides the remainder of cover for the aggregate of claims exceeding the primary level. Should claims experience be less than that of the aggregate limit in any given year, the remaining amount is returned proportionately to members.

JMAPP provides protection from market volatility which ensures a consistent premium contribution. It also provides membership benefits including surplus and interest returns, nominated risk management services, business continuity management subsidy, cyber liability subsidy, strategic support and advice.

#### **TENDER FOR SERVICE**

Local Government Victoria (LGV) has previously advised that contracts for insurance are contracts for services and subject to the provisions of Section 186 of the Local Government Act 1989 (the Act). There are two exceptions to this requirement:

- Public and professional liability insurances taken out through a scheme approved by the Minister for Local Government, i.e. MAV, Liability Mutual Insurance.
- Statutory compulsory monopoly insurance schemes such as third party motor vehicle and Work Cover insurances.

LGV has previously provided clarification regarding insurance cover obtained via a broker and the Municipal Asset Protection Plan (JMAPP), run by Jardine Lloyd Thompson. It advised that insurance cover procured via a broker represents, in effect, two contracts for services:

- The first being with the broker and the contract value being represented by the brokerage fee.
- The second being with the insurance underwriter and the contract value being represented by the insurance premium and statutory charges.

Given that these are contracts for service, they are both subject to the requirements of Section 186 of the Act.

LGV considers that the JMAPP scheme is a contract for services, characterised by a “single spend”, i.e. the annual total membership contribution comprising itemised fees and contributions for specific matters, including payments to JLT and its subsidiaries, as well as insurance, which is purchased by JLT for JMAPP.

A council's total membership contribution to JMAPP is the relevant amount for determining the threshold in relation to Section 186.

The JMAPP cover will exceed the \$150,000 threshold under Section 186 of the Act for the 2018/2019 renewal, therefore requiring a tender process.

## ***ANALYSIS***

### ***APPOINTMENT OF AN AGENT***

The City of Monash, along with 43 other Victoria Councils appointed JLT as its agent to undertake a Public Tender in relation to the procurement of affected insurances in conformity with Section 186 of the Local Government Act 1989 (Vic).

### ***TENDER EVALUATION PANEL***

Tenders were considered and evaluated by 2 representatives of JLT and 2 representatives from Victorian Councils, the City of Casey and Warrnambool City Council. Each representative was required to sign a Declaration of Confidentiality and a Conflict of Interest Statement prior to the advertising of the tender.

The appointed probity manager is Mark Hayes, Maddocks Lawyers.

To ensure transparency and impartiality, the JMAPP Manager is not be part of the Tender Evaluation Panel.

TENDERS

Expression of Interest were advertised via Tenderlink on 8 May 2018. The Expression of Interest closed at 5.00pm on 14 May 2018, however due to a lack of responses the tender panel extended the close date to 18 May 2018. The formal quotations were submitted by the tender closing date of 4.00pm on 6 June 2018.

Unfortunately, no complying tenders were received with final pricing for the Industrial Special Risks insurance policy. This is reflective of the rapidly hardening insurance cycle with insurers becoming increasingly difficult to deal with, from an increasing premium, restricting of cover and reduction of capacity perspective. Councils, who due to their diverse service/asset nature and volatile claims experience are becoming a medium to high risk for insurers.

In light of the lack of responses from the s186 tender, Council has continued to pursue placement of the Industrial Special Risks insurance cover with our appointed broker JLT who continue to negotiate with underwriters for the Jmapp scheme. Current expectations are expecting an approximate 10% increase on premiums. For those Councils with a poor claims history, premium increases will be higher.

TENDER EVALUATION

No conforming tenders were received.

CRITERIA	TENDER EVALUATION PANEL'S ASSESSMENT
COST	
POLICY COVERAGE	
EXPERIENCE & CAPABILITY	
SECURITY	
CLAIMS HANDLING EXPERIENCE	

**FINANCIAL IMPLICATIONS**

The saving by this type of insurance over conventional commercial cover is made as the discretionary fund is not a conventional insurance policy under the Insurance Act and therefore certain fees and Stamp Duty are not payable. The scheme also represents a general financial advantage through the combined asset values of the members.

**CONCLUSION**

While the mutual discretionary scheme is a form of cross-subsidisation of all councils, there is financial recognition for Councils with good claims records. For losses that do not fall within the Excess of Loss policy wording coverage, the Trustee will use their discretion in considering whether to make payment or not (within the available funds). The discretion is applied in consideration of the interest of all members.

Membership of the Jardine Mutual Asset Protection Plan at an estimated contribution of \$440,092.80 (GST Exclusive) is recommended for the period 4pm 30 June 2018 to 4pm 30 June 2019 which represents a 10% increase on the 2017/2018 premium of 400,084.34 (GST Exclusive).