

3.3 INDUSTRIAL SPECIAL RISKS (ASSETS) INSURANCE RENEWAL (ST/DW: INSUR22)

Responsible Director: Danny Wain

RECOMMENDATION

1. *That Council renews its Industrial Special Risks (Assets) insurance with the Jardine Mutual Asset Protection Plan (JMAPP) scheme for the period 4pm, 30 June 2019 to 4pm, 30 June 2020 for an estimated sum of \$449,391.45 (GST exclusive).*
2. *That Council delegate the authority to the Chief Executive Officer to approve and renew ongoing insurance for the Asset and Artworks portfolio.*

INTRODUCTION

This report recommends the renewal of Council's Industrial Special Risks (Assets) insurance cover and delegate the authority to the Chief Executive Officer to approve the renewal of future insurance policies in this category with a report provided to Council at the July meeting each subsequent year.

BACKGROUND

As the premium for this class of insurance is above the delegated authority of the Chief Executive Officer to approve, Council is required to approve the placement of the policy which is required at 4pm on 30 June each year. Negotiations with reinsurers for this class of insurance usually continues into mid-June, making it very difficult to inform Councillors of the final premiums in time for the June Council meeting. It is instead recommended that the Chief Executive Officer be delegated the authority to renew Council's Industrial Special Risks (Assets) policy at the renewal time, 4pm 30 June. To maintain transparency and governance, a full report on the outcome of the insurance renewal would be provided in the July meeting cycle commencing in 2020 and continuing each year thereafter.

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) Victorian local government clients 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 \$6,000,000 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 2019/2020 renewal, therefore requiring a tender process.

ANALYSISAPPOINTMENT OF AN AGENT

The City of Monash, along with 32 other Victorian Council's appoint JLT as its agent to undertake a Public Tender in relation to the procurement of affected insurance in conformity with Section 186 of the Local Government Act 1989 (Vic).

TENDER EVALUATION PANEL

Tenders were considered and evaluated by a representative of JLT and a Council representative from Cardinia Shire 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 7 May 2019. The Expression of Interest closed at 5.00pm on 13 May 2019. The formal quotations were submitted by the tender closing date of 4.00pm on 5 June 2019.

The following organisation responded to the EOI and were able to comply with the conditions contained within the tender.

- JMAPP

The following companies were contacted but did not submit:

- Allianz Australia Insurance Limited
- Zurich Financial Services Australia Limited
- Chubb Insurance
- AXA/XL Catlin

TENDER EVALUATION

As only one tender was received evaluation against other submissions was not required.

Information on the replacement value of Council's assets was provided to JLT after confirmation of values from Council's property management system. The policy is based on current replacement value of assets. Councils' assets were re-valued in 2018. The agreed replacement value for Council assets is \$448,545,868.00 with artworks being valued at \$7,465,875.00. The total replacement value for Council's assets and

artworks is \$456,011,743.00. The previous year total replacement value being \$429,987,631.00.

FINANCIAL IMPLICATIONS

Historically, 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 with a contribution of \$449,391.45 (GST exclusive) for the period 4pm 30 June 2019 to 4pm 30 June 2020 is recommended.