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Objective

This Policy provides an overview of the Council Procurement and Contract Framework and principles that **MUST** be followed by all Council Officers and representatives when purchasing goods and services and managing associated contracts.

The outcomes of this Policy are:

- Value for money
- Align with business needs
- Improve service delivery
- Ensure legislative compliance and probity; and
- Support a competitive local economy

This policy supports the delivery of Councils 'Community Strategic Plan' to achieve a sustainable Local Region.

Legislative requirements

- Local Government Act 1993
- Local Government (General) Regulation 2021
- NSW Local Government Tendering Guide 2009
- NSW Model Code of Conduct
- GIPA Act 2009
- WHS Act 2011

Related policies and plans

- Procurement & Contract Management Procedure
- Local Preference Policy
- Contractor Management Policy
- Code of Conduct
- Statement of Business Ethics
- Enterprise Risk Management Policy

- Disposal of Assets Policy
- Fraud and Corruption Control Policy

Scope

The Policy applies to all Council Officers and representatives who have delegated authority to purchase goods and services and manage the associated contracts on behalf of the Council.

It commits every individual involved in procuring and managing contracts for goods and services to actively ensure that all activities are:

- legal
- accountable and auditable
- fair and competitive
- ethically, environmentally, and socially responsible
- economically effective
- conducive to maintaining the Council's ability to exploit appropriate technological, commercial, and organisational developments as they arise
- capable of identifying, minimising, and managing risks that may threaten projects, procurements, or contracts, and
- free of any direct or indirect conflict of interest
- maintaining confidentiality

The scope of the Policy commences from when Council has identified a need for procurement, and continues through to the award, delivery, management and closing of the contract.

The word 'MUST' is used throughout this Policy to describe key principles against which Council will be audited and non-compliance identified. Non-compliance may result in disciplinary actions.

Focus on Sustainability

Sustainable procurement & contract management takes responsibility for the Economic, Environmental, Social and Governance impacts of any purchase – goods or services. These four factors are referred to as the Quadruple Bottom Line (QBL) and relate to a total lifecycle impact, and not just the upfront price.

More broadly, Sustainable Procurement considers:

1. The cost and **economic** impact of the procured product or service,
2. The **environmental** impact,
3. Any **social** and ethical implications, and
4. The application of good **governance**.

Sustainability is now an essential part of procurement. A sustainability lens ensures purchasing decisions are based on sound principles that maximise the benefit to the environment and society, and meets community expectations.

There is a clear duty of care to spend public funds responsibly, and in a way that protects, nurtures, and grows the environment and the economy and supports local businesses, local jobs and guards against modern slavery or any other unethical practices.

Council acknowledges its responsibility to ensure the environmental, social, and economic sustainability of the local community, and to contribute positively to the overall health of the planet.



Roles and Responsibilities

POSITION	RESPONSIBILITIES
Council Officers and Representatives	Accountable for managing procurement and contracts in accordance with council's financial delegations, Legislation, and this Policy. Council Officers are required to demonstrate due diligence in each of the PLAN, SOURCE, MANAGE stages based on the value and risk of the project.
Procurement Manager / Team	Overall responsibility of this Policy, its implementation and ongoing operational compliance. Provide support and guidance in the interpretation and use of this Policy and associated Procurement and Contract Management Framework and Legislation.
Executive Leadership Team (ELT)	Demonstrate leadership through commitment to Sustainable Procurement and Contract Management. Provide stewardship, oversight through review of "health checks" of procurement and contract management through consideration of regular reporting.

Procurement and Contract Management Framework

The Council Framework consists of 3 broad stages: **PLAN**, **SOURCE** and **MANAGE**.

When applying this framework and utilising the supporting templates, best practice and legislative requirements will be adhered to. This, in turn, will provide the best chance of reaching a successful

Procurement outcome, achieving value for money, mitigating risks and establishing appropriate contract management standards.

Processes and guidance are balanced with the risk and value of projects, procurements, and contracts. Complex projects with a high risk and high value, require careful planning, stringent peer review of Requirements Documents (Specifications) prior to any approach to the market.

Conversely, for low risk and low value simple procurement requirements, there is greater flexibility to minimise indirect administrative costs and improve efficiency.

Procurement Principles (PLAN AND SOURCE)

Accountability – Council is committed to ensuring accountability and transparency in its procurement activities. Accountability means that Council Officers are responsible for the actions and decisions that they take in relation to procurement and for the resulting outcomes. Council Officers **MUST** be able to demonstrate the basis of all decisions that can withstand any scrutiny.

Conflicts of Interest – A conflict of interest exists when a reasonable person might perceive that a public official's personal interest(s) could be favoured over their public duties corrupt conduct can arise when a conflict of interest is concealed, understated, mismanaged, or abused. Staff **MUST** declare, record, and save on file all identified conflicts in accordance with Council's Code of Conduct.

Record Keeping – The Council records provide evidence of actions and decisions and represent a vital asset to support its daily functions and operations. Council Officers **MUST** ensure appropriate documents and records are maintained in accordance with Council's Records Management Policy.

Confidentiality – Council Officers and consultation stakeholders **MUST** maintain the integrity and security of confidential information in their possession, or for which they are responsible. In addition to general obligations relating to the use of council information, Council Officers **MUST** only access confidential information that they have been authorised to access for the purposes of exercising official functions and only release confidential information authorised. Refer to the Council's Code of Conduct for further information.

Risk Analysis and Management – Risk analysis and management are techniques applied to ensure that procurement process contracts are successful. Council officers are required to identify and assess the risks and prioritise them by aligning relevant resources to monitor, control and minimise or overcome the impact. Consideration of Risk should be managed in accordance with the Council's Enterprise Risk Management Policy and Procedures.

Sustainability (QBL) – Council's top priority is to procure sustainably and with positive Planetary Health outcomes a focus wherever possible (i.e., socially, environmentally, and economically sustainable results delivered through excellent governance and leadership practices). When procuring or contract managing for Council, Council Officers **MUST** demonstrate that opportunities for sustainable outcomes have been adequately assessed and enacted, in accordance with Council's current procurement and contract management framework.

Emergencies – From time-to-time there may be a need to purchase goods or services due to an emergency whereby the requirements of Legislation and this Policy cannot be applied. An emergency is a situation that poses an immediate risk to health, life, property, or environment. Emergency procurement is only an option where Council must act immediately and take all reasonable and necessary action to mitigate any continuing risk associated with the emergency. This may only be used in cases of genuine emergency and not to remedy poor planning. Authorisation for emergency procurement MUST only be given under delegation by the General Manager (GM).

Spend Threshold Requirements – The estimated value of the contract is inclusive of Goods and Services Tax (GST) for all goods and services for the life of the contract including any options to extend. The current tender threshold is \$250,000 including GST for the life of the contract. Council Officers MUST not split Purchase Orders or contract value estimates to avoid a defined or legislative process.

Purchase Orders – Suppliers MUST not be engaged to supply any goods or commence any services without first being issued with a valid Purchase Order (where specified in the Spend Thresholds below). Invoices issued by Contracted Suppliers must have a valid Council Purchase Order reference number that is referenced on their invoice, or it may not be paid.

Credit Cards – Council provides a credit card facility to enable the secure purchase of goods and services in support of legitimate Council business. Credit cards are intended to provide an efficient method of purchasing ad-hoc materials, travel, accommodation and minor expenses or urgent items where no preferred supplier agreement is in place. Council Officers issued with a corporate credit card are in a position of trust regarding the use of public funds. Expenditure on a credit card MUST be in accordance with financial delegations and the fundamental requirements set out in this Policy and Council's Purchase Cards Policy and Corporate Cards Procedure.

Spend Threshold

The procurement methodology is dependent on the value threshold and/or risk of the purchase as shown below. All amounts include GST. The value threshold to determine the methodology is the total accumulated spend for the procurement including any anticipated variations for the procurement activity.

Council has access to a range of Common Use Arrangements (CUA's). CUA's are pre-established panels of providers that should be used for commonly purchased goods and services. These arrangements have been established by either Council (or group of councils), Local Government Procurement, Procurement Australia, NSW Procurement (State Government).

CONTRACT SPEND	METHOD	DESCRIPTION
Unlimited	Expression of Interest (EOI)	<p>An EOI provides the opportunity to undertake market tests and can lead to a selective approach to your procurement.</p> <p>An EOI may lead to one of the below Procurement actions. It does not replace any action.</p>
All Spend Thresholds	Review Common Use Arrangements (CUA) and access where possible	CUA's are in place to reduce red tape and time. These should be accessed wherever possible for any spend level. Consider any opportunity to incorporate quadruple bottom line (QBL) initiatives.
Up to \$5,000	Credit cards to be utilised where possible	Credit card reconciliation is the process of ensuring that the transactions made match the transactions, are complete, correct, and valid. Reconciliation is an essential part of the closing process, and it's how we ensure the integrity of our records. Council Officers MUST reconcile credit cards as directed OR
	No quotes required, however best practice	<p>A Stores/Workshop order docket can be issued prior to goods or services being provided.</p> <p>OR</p> <p>A Purchase Order with Standard Terms and Conditions can be issued but not preferred</p>
	Petty Cash	Petty Cash is available for purchases \$100 or less
\$5,000 - \$50,000	MUST obtain 2 written quotes or an exemption is to be obtained	<p>It isn't always practical to obtain quotes. If, for any reason you can't obtain the required quotes value for money must still be considered. A procurement exemption MUST be obtained prior to goods or services being provided.</p> <p>*A Council Purchase Order MUST be issued</p>

\$50,000 - \$150,000	<p>MUST use Simple Request for Quote (RFQ) and MUST obtain three written quotes.</p> <p>Consider a detailed evaluation and award process.</p> <p>Consideration of QBL</p>	<p>Due to elevated spend and risk, an 'Open Market or Publicly Advertised' RFQ process should be conducted in line with the Council Framework guidance.</p> <p>If for any reason the RFQ process or public advertising cannot be undertaken, a procurement exemption MUST be obtained prior to goods or services being provided.</p> <p>*A Council Purchase Order MUST be issued</p>
\$150,00 - \$250,000	<p>MUST use Simple Request for Quote (RFQ) or Invitation to Quote process and MUST utilise a detailed evaluation and award process.</p> <p>Consideration of QBL</p>	<p>Due to elevated spend and risk, a 'Publicly Advertised' RFQ process MUST be conducted in line with the Council Framework guidance.</p> <p>If for any reason the RFQ process or public advertising cannot be undertaken, a procurement exemption MUST be obtained prior to goods or services being provided.</p> <p>Council Officers MUST prepare and utilise a detailed evaluation and award process.</p> <p>*A Council Purchase Order MUST be issued</p>
Greater than \$250,000	<p>MUST use Public Request for Tender (RFT) including</p> <p>Consideration of QBL</p>	<p>As per Legislative Requirements and the Council Framework guidance.</p> <p>*A Council Purchase Order MUST be issued</p>
\$500k	<p>Increased tender threshold for natural disaster response and recovery related contracts</p>	<p>Councils are not required to tender prior to entering into a contract with a value of less than \$500k where the contract:</p> <p>is primarily for the purpose of response to or recovery from a "declared natural disaster", and</p> <p>is entered into within 12 months after the date on which the natural disaster is declared.</p> <p>Refer to Clause 170(a) Local Government Regulation</p> <p>*A Council Purchase Order MUST be issued</p>

* For various services involving recurrent payments, such as telephone and electricity accounts, gas, subscriptions, credit card purchases, it is impractical to raise orders prior to receipt of the invoice

Contract Management Principles (MANAGE)

This section provides the mandatory requirements for managing contracts. Council recognises that the effective management of contracts with suppliers is essential in maximising the business benefits, achieving value for money and minimising contractual risks.

A contract is an agreement made between two or more parties that creates rights and obligations enforceable in law. This Policy applies until all contractual obligations have been completed.

The following are excluded from this Policy:

- Employment contracts,
- Non-binding Memoranda of Understanding,
- Partnering and collaborative contracts with other Local or State organisations

Stages in the Contract Management Life Cycle

Contract Commencement (Stage 1) – starts before a contract is signed

Successful Contract Management is highly influenced by activities performed prior to contract award. Ensuring that contract terms, conditions, scope and deliverables, KPI reporting and relationship management are clearly established in the signed Contract and understood by all parties, is fundamental for effective Contract Management.

Contract Management (Stage 2) – runs until formal closure

Properly managing supplier performance with respect to outcomes and deliverables clearly specified and agreed in the Contract will help ensure Council and its customers obtain the business benefits and value for money within target timeframes.

Contract Closure (Stage 3) – the formal conclusion

The contract close-out is the stage for closing-out Contract obligations and liabilities with suppliers. It may also include transitioning to another supplier for the goods/services.

Mandatory Requirements applying to contracts

- All Council Contracts valued at \$50,000 (including GST) or more must be registered and identified with a Contract Number - issued by Council's Contract Management System (CMS) Portt.
- A contract manager must be formally appointed. The Contract Manager may manage a contract valued at more than their level of financial delegation. However, the Contract Manager must not approve or incur expenditure on goods, services or a project valued at more than their level of financial delegation. Note, this also applies to any changes (variations) to the original price of procurement.
- Staff must use Council developed and recommended contract templates at all times. These include contracts based on Australian Standard, Standard Form Documents available from NSW Procurement and Purchase Order Term and Conditions.

All formal Contracts must include appropriate Sustainability clauses in the areas of;

- Work Health & Safety; Quality Assurance; Environmental; Financial Capability; Insurance; Industrial Relations; Performance; Code of Conduct; Business Ethics; Exchange; and Disclosure of Information.
- That allow and support contract compliance and risk management, with having regard to project value, requirements and complexity.

All formal Contracts must include appropriate Commercial clauses in the areas of:

- Payments and Retentions (or security); Price Adjustments; Delay to Completion (or delivery); and Processes to Resolve Claims and Disputes.
- That allow managing or regulating variations to the original Contract, having regard to project value, Contract requirements and complexity
- Obtain all relevant approvals and licenses prior to commencement: of the contract planning and engagement (entering into a contract).

Contract Variations

All Contract Variations must be approved in writing in accordance with the Contract and be approved by the appropriate delegate.

Ethics and Probity

Council's Code of Conduct must always be adhered to in the management of Contracts on behalf of Council, in particular ensuring: responsible decision making, declaring and appropriately managing any Conflicts of Interest and appropriate decline of any offered Gifts or Benefits.

Contract Disclosures

In accordance with Part 3, Division 5 of the Government Information (Public Access) Act 2009 (GIPA Act), Council will maintain and publish a register of all Council contracts that records key information about each contract Council enters into with the private sector which has or is likely to have a value of \$150,000 (including GST) or more.

Modern Slavery Prevention

Council is committed to ensuring:

- its operations and supply chains do not cause, involve, or contribute to modern slavery; and
- its suppliers, relevant stakeholders, and others with whom we do business respect and share our commitment regarding minimising the risk of modern slavery.

This applies to all persons employed by Council or on Council's behalf in any capacity. The prevention, detection, and reporting of modern slavery in any part of Council's operations or supply chain is their responsibility.

Statement of Intent

Council is committed to combating Modern Slavery by:

- Identifying where our modern slavery risks are in our supply chain and assessing the degree of those risks.
- Where Modern Slavery may be present, completing a risk checklist prior to making a purchase.
- Where risk is identified, engaging with our suppliers to provide further information on their commitment to minimising the risk of modern slavery in their own supply chains and operations. This will primarily be done by asking suppliers to complete a Modern Slavery Questionnaire.
- Including modern slavery criteria in Request for Tender documents and Contracts.
- Providing adequate training for all staff to ensure they are aware of what modern slavery is, what Council's modern slavery risks are and how to raise any identified or potential concerns.
- Utilising Council's complaint process to enable staff and others to raise concerns about modern slavery.