

Procurement Policy

Date Adopted: 6 December 2022

Version: 3.1

Policy Objectives

Council operates in alignment with the principles of sound financial management, as established in the Local Government Act 1993. These principles include responsible and sustainable spending and consideration of social justice principles.

The objective of this policy is to establish guidelines to ensure Council's procurement practices comply with relevant legislation, are conducted with probity and transparency and ensure optimal value to the Maitland community in the procurement of goods, works and services

This policy will enable positive social, environmental and economic impacts through Council procurement, in accordance with priorities established in its Delivery Program and annual Operational Plan activities,

Policy Scope

This policy applies to anyone who undertakes or is involved in procurement activities including Councillors, staff and delegates.

The policy applies to all procurement processes and activities undertaken by Council, including purchasing, ordering, quotations, tendering, contracting and disposals. This policy does not apply to the purchase, lease or disposal of land or real property.

Policy Statement

Throughout the procurement process, Council will:

- Comply with the requirements of the Local Government Act (NSW) 1993 and Regulations
- Ensure the process is open, fair, transparent and consistent and in accordance with Council's Code of Conduct and all other relevant policies and procedures
- Encourage competitive procurement of goods, works and services, giving preference to procurement that maximises social, environmental and economic benefits to the Maitland community
- Consider sustainability outcomes across the entire lifecycle of the goods or services procured taking into account whole-of-life costs such as future operational costs, water and energy consumption, after sales service, warranty, safety, repair costs, spare parts, future re-sale and disposal
- Consider circular economy principles to minimise environmental impact, increase demand for recycled products and keep products and material in use longer

- Identify and manage risks, acknowledging procurement has inherent risks that need to be managed through comprehensive oversight and process
- Promote a culture of learning and continuous improvement in Council’s procurement practices
- Ensure segregation of duties in the requisitioning, approval and payment functions.

1. Principles for Procurement

1.1. Ethical Practice

Council officials are at all times required to conduct business that is ethical and of the highest integrity. This includes the following standards:

Legislative compliance	All procurement and tendering activities must comply with legal obligations including the requirements of <i>the NSW Local Government Act 1993</i> and <i>Local Government (General) Regulation 2021</i> , as well as the <i>Competition and Consumer Act 2010</i> and <i>Modern Slavery Act 2018</i> .
Honesty and fairness	Council officials must conduct all procurement and tendering with honesty, fairness and probity and must not disclose any confidential information.
Accountability and transparency	All procurement and tendering activities are undertaken through a process that is open, clear, documented and defensible
Consistency	Consistency is maintained throughout all stages of procurement and tendering processes
Declaration of conflicts of interest	Any conflicts of interest (actual or potential) during the procurement process must be declared and managed. For information regarding conflicts of interest, refer to Maitland City Council Code of Conduct.
No anti-competitive practices	Council officials must not engage in practices that are anti-competitive or engage in any form of collusive practice.
No improper advantage	Council officials must not engage in practices that aim to give any supplier an advantage over other suppliers.
Intention to proceed	The procurement process must be undertaken with an intention to proceed with the purchase, including having funding available for the purchase.
Cooperation	Council officials must encourage business relationships based on open and effective communication, respect and trust.
Probity	All procurement and tendering activities will encourage competition and be open, fair, consistent and transparent, in compliance with all applicable legislation and Council’s Code of Conduct, and in accordance with ICAC Guidelines.
Modern Slavery	Council will take reasonable steps to ensure the goods and services procured are not the product of modern slavery, being any conduct occurring in the supply chain that involves the use

of any form of slavery, servitude or forced labour to exploit a person.

Work Health and Safety

All procurement and tendering activities will ensure the protection of staff and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks

Circular economy

All procurement and tendering activities will consider circular economy principles including use of recycled content, designing out waste and pollution and keeping products and material in use for longer

1.2. Responsible financial management

The principle of responsible financial management is to be applied to all procurement activities.

Council funds are to be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the cost of the procurement process without compromising any of the procurement principles set out in this policy.

1.3. Value for money

Procurement activities are to be carried out on the basis of obtaining value for money. This does not automatically mean the lowest price, but rather minimising the total cost of ownership over the lifetime of the good or service consistent with acceptable quality, reliability, safety and delivery considerations.

Value for money factors include experience, reliability and reputation of supplier, after sales service, and both upfront and ongoing costs.

Contracts will be sized and packaged with a view to maximising the economies available through the quotation/tender process and ensuring that the process provides real competition.

1.4. Environmental sustainability and circular economy

Procurement decisions will incorporate consideration of environmental sustainability impacts such as:

- Eliminating inefficiency and unnecessary resource consumption
- Minimising waste and maximise recycling and reuse
- Minimising pollution
- Avoiding toxic chemicals
- Saving water and energy
- Reducing greenhouse gases
- Further stimulate the demand for sustainable products.

Procurement decisions will also incorporate consideration of circular economy principles, such as use of recycled content, designing out waste and pollution and keeping products and material in use for longer.

1.5. Social inclusion

Council is committed to generating positive social benefits through its procurement practices. Procurement decisions should consider preferencing, where appropriate and permissible under legislation as follows:

- Suppliers established as disability employment organisations
- Suppliers that are creating opportunities for inclusion of people who have been excluded from work
- Suppliers that can demonstrate workforce diversity and inclusion
- Suppliers that are Aboriginal-owned businesses, as recognised by a suitable organisation such as Supply Nation of NSW Indigenous Chamber of Commerce.

1.6. Local preference

Council is committed to fostering increased local economic capacity through its procurement processes, ensuring local small to medium size enterprises are provided with opportunities within Council's procurement processes.

Procurement decisions should seek to include, where appropriate and permissible under legislation:

- Suppliers located within the Maitland LGA and broader Hunter Region
- Australian-made goods

Council's preference is to source low cost goods or services locally, and will seek to request at least one quotation from a business located in the Maitland LGA when purchasing low cost goods and services.

Council will give preference to local suppliers if assessment against selection criteria is equal/within tolerances, and in formal tenders and quotations ensure criteria is included for local economic benefit.

2. Key Responsibilities

2.1 Elected body

- Ensure understanding of, and compliance with, this policy and associated procedures.
- Resolve tenders called by Council with a value of more than \$250,000, unless otherwise delegated to the General Manager

2.2 General Manager

- Lead staff in their understanding of, and compliance with, this policy and associated procedures.
- Approve resources to develop, implement and review this policy and supporting protocols and procedures
- Resolve tenders in accordance with level of delegated authority

2.3 Group Managers, Executive Managers and Managers

- Set an example for staff by complying with this policy and associated procedures in relation to all procurement activities.
- Communicate and enforce the principles of the policy and associated procedures to staff.

2.4 Finance and Procurement Department

- Lead the management and implementation of this policy and associated protocols and procedures
- Maintain systems and processes for purchasing, tendering and contracts
- Maintain oversight of strategic procurement of goods
- Procure goods as required for effective operations of Depot Store
- Provide probity advice.

2.5 Legal Counsel

- Provide specialist advice in regard to tender processes where required
- Undertake contract reviews and develop contract clauses where required
- Support staff in negotiating contract terms
- Provide advice to staff involved in contract disputes, including engagement of external advice where required

2.6 Council staff

- Ensure any procurement activities for which the staff member is responsible are undertaken in accordance with this policy and associated procedures.
- Undertake purchasing and y participate in tendering processes in accordance with their level of delegated authority
- Ensure they do not undertake order or job splitting to avoid compliance requirements.
- Maintain all required records in Council’s corporate records system
- Report any suspected breaches of the policy.

2.7 Suppliers

- Conduct business with Council in an ethical manner, as expressed in our Statement of Business Ethics
- Comply with all work health and safety requirements
- Comply with provisions pertaining to modern slavery
- Must not lobby Councillors or staff or seek favour or advantage pertaining to procurement activities.
- Report any suspected inappropriate conduct of Council officials engaged in procurement processes.

3. Procurement Requirements

All Council staff are responsible for initiating the appropriate procurement process based on the approximate value of the contract or goods, works or services required. (See Table 1 below).

The General Manager has discretion to vary the process in writing as required (up to \$249,999).

Suppliers contracted under Council panels, joint regional arrangements and prescribed organisations should be considered prior to undertaking procurement processes.

Table 1- Procurement Requirements

PURCHASE VALUE (INC. GST)	PROCESS	QUOTATION TYPE
\$0 - \$5,000	Purchase Order /Purchasing Card	Not Applicable
\$5,001 - \$24,999	1 Formal quote	Written quotation
\$25,000 - \$99,999	2 x Formal Quotes	Written quotation
\$100,000 - \$249,999	3 x Formal Quotes with specification (Selected / Open)	Selected- written quotation Open- written quotation, as specified in the 'request for quotation' documentation. Formal tender for works/services provided by Council staff
\$250,000 and above	Prescribed agency purchase or tender in accordance <i>Local Government Act (NSW) 1993</i> and regulations	Formal Tender Process or approved exemption

3.1 Quotations

The assessment of quotations will be objective, consistent, documented, transparent and undertaken in accordance with Council's Procurement Procedures.

Council will only accept one quotation from each supplier; suppliers will not be given an opportunity to re-quote for the supply of goods and services unless the scope of work changes.

3.2 Tendering

All Tenders will be conducted in accordance with Section 55 of the Local Government Act (NSW) 1993 and the NSW Office of Local Government Tendering Guidelines.

Whilst a formal tendering process is not required for purchases under \$250,000, a formal tendering process can be utilised for any purchase under the threshold. This is advisable in the following situations:

- The purchasing amount is close to \$250,000
- The goods or services are of significant public interest.
- The purchase may be considered to be controversial or contentious
- The procurement process is complex
- The expected price of procurement is unknown.

3.3 Prescribed Agencies

Section 55 of the Local Government Act (NSW) 1993 provides Council with an exemption from tendering requirements where such items are available under contract by prescribed authorities. Prescribed agencies include Local Government Procurement, Regional Procurement and Procurement Australia Pty Ltd.

Prescribed agencies seek to undertake group tenders on behalf of NSW Councils to obtain competitive contracts from time to time. Council may utilize these supply arrangements where appropriate

3.4 Exemption to assist Council in natural disaster response

Section 170A of the Local Government (General) Regulation 2021, provides Council with an exemption from tendering requirements for a contract of up to \$500,000, if the contract is primarily for the purpose of response to or recovery from a declared natural disaster, and is entered into within 12 months after the date on which the natural disaster is declared.

4. Purchasing Methods

4.1 Petty cash/reimbursement of incidental expenses

Petty cash will be used to meet the need for the procurement of small incidental goods and urgent situations and is limited to \$100 per transaction. Employees can also make claim for such expenses after they have been incurred, and will be reimbursed by electronic funds transfer.

4.2 Credit Cards

The use of corporate credit cards must be in accordance with the Council's Credit Card Protocol, and limited to situations where use of a Purchase Order is not possible due to the nature of the supplier or expense.

4.3 Fuel Cards

Council fuel cards will only be used for the purchase of fuel for Council vehicles.

4.4 Purchase Orders

All purchases (other than exemptions below) require a purchase order to be generated in Council's corporate system prior to the order being made. This will allow Council to adequately reconcile goods ordered with goods received; monitor ordering approvals as well as monitoring Council cash flow.

Exemptions from purchase orders apply only to the following – statutory payments; payments for utilities; employee reimbursements; loans and investments; payments made under grant or other donation policies of Council; works undertaken or services performed under awarded contract.

4.5 Plant and Equipment

The procurement of plant and equipment is based on a fifteen (15) year plant replacement program which is approved by Council and is to be undertaken in accordance with this Policy and in accordance with Council's Plant and Equipment Replacement Policy.

4.6 Passenger Vehicles

The procurement of passenger vehicles will be undertaken in accordance with this Procurement Policy.

5. Probity

Under the Code of Conduct, all Council Officials have an obligation to disclose potential or actual conflict of interests. Any declared potential or actual conflict of interest in a Contract, must be declared and managed in accordance with the code.

Individuals and advisors may be removed from involvement in the process where the conflict cannot be otherwise managed.

Policy Definitions

Appropriate Person:	In relation to a tender submitted to a Council, means a person designated by the General Manager to receive or deal with tenders submitted to the Council and, if a person is not designated, means the General Manager.
Business ethics	All procurement is underpinned by Council's statement of business ethics, provides guidance to Council officials and staff as to the values, ethical standards and expectations when working with Council
Circular Economy	A circular economy is an economic system aimed at minimising waste and promoting the continual reuse of resources. The circular economy aims to keep products, equipment and infrastructure in use for longer, thus improving the productivity of these resources.
Contract:	The written agreement between the Council (as the purchaser) and the Service Provider.
Council Officials:	General Manager, Mayor, Councillors, employees, delegates and volunteers.
Modern Slavery	The use of coercion, threats, violence or deception to exploit or deprive a person of their freedom.. Examples include human trafficking; slavery; forced labour; deceptive recruiting; debt bondage; forced marriage; and sexual exploitation.
Procurement:	The acquisition of works, goods and services. Includes the evaluation of suppliers, preparation of purchase orders, receipt of goods / services, approval of payment.
Project Manager:	The requestor of the goods, works or services.

Purchase Order:	The authority to the supplier to supply and invoice items called for at the prices shown under Council’s purchase conditions imposed. The purchase order is a legal and binding contractual agreement.
Quotation:	Any offer including verbal pricing, bids and consultant proposals for projects under \$250,000 and containing any requested information and accompanying documentation.
Tender:	Any offer for projects valued \$250,000 and over invited and administered in accordance with the Local Government Act and Regulation for tendering and containing any requested information and accompanying documentation.
Tender Panel:	A panel comprising the Project Officer and a minimum of two (2) other appropriate persons for the purpose of assessing and recommending tenders valued at \$250,000 and over.

Policy Administration

Business Group:	Finance
Responsible officer:	Kim Swan
Council reference:	Ordinary Council Meeting 6 December 2022 Item 14.1
Policy review date:	Three (3) years from date of adoption
File number:	35/1
Relevant legislation	<ul style="list-style-type: none"> • Local Government Act (NSW) 1993 • Local Government (General) Regulation (NSW) 2021 • Government Information (Public Access) Act (NSW) 2009 • Competition & Consumer Act 2010 • Modern Slavery Act (Cth) 2018
Related documents	<ul style="list-style-type: none"> • Code of Conduct • Credit Card Protocol • Fraud Control Policy • Plant and Equipment – Replacement Policy • Public Interest Disclosures Internal Reporting Policy • Right to Information Policy

Policy History

VERSION	DATE APPROVED	DESCRIPTION OF CHANGES
1.0	14 June 2005	New policy adopted
2.0	25 November 2014	Periodic review
3.0	6 December 2022	Major revision - including updated policy objective, addition of new principles of environmental sustainability and circular economy, local preference and social inclusion and additional responsibilities.
3.1	-	Updated to new branding and alignment to organisation structure. No change to content.