



muswellbrook shire council

Draft Procurement Policy

MSC01E

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Community Strategic Plan Goal	6 Collaborative and responsive community leadership that meets the expectations and anticipates the needs of the community		
Community Strategic Plan Strategy	6.2 Ensure Council is well managed, appropriately resourced, effective, efficient, accountable and responsive to its communities and stakeholders		
Delivery Program activity	6.2.1 Maintain a strong focus on financial discipline to enable Council to properly respond to the needs of the communities it serves		

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1. Policy objective

This Policy outlines the principles under which Muswellbrook Shire Council (Council) makes its procurement decisions and conducts its procurement activities.

Council is committed to the competitive provision of services which meet best practice standards as a key organisational value. Council not only wishes to guarantee that its procurement, disposal and contract management practices comply with legislative requirements, but wishes to ensure that these practices are conducted in an ethical manner that maximises probity, fairness and transparency at every step.

Council's Procurement Framework consists of this Policy, the Modern Slavery Policy, the Procurement Procedure, the Contract Management Procedure and the Contractor Management Procedure and is supported by Council's Procurement Software systems, and the Procurement Contract Suite.

Council's procurement activities must be fair, ethical and transparent from planning and sourcing to managing delivery under contract, and achieve best value for money by leveraging technology for procurement processes to improve efficiency and transparency in the expenditure of public funds.

2. Risks being addressed

This Policy establishes a framework within which all procurement will be managed to a best practice professional standard that ensures:

- compliance with legislation;
- that superior financial controls are exercised over procurement;
- that procurement-related risks are identified prior to approaching the market;
- that procurement-related contracts entered into by Council are on favourable terms;
- that procurement activity is cost effective, efficient, accountable, ethical, appropriately risk sensitive, safe and sustainable; and
- that procurement-related contracts are managed appropriately.

3. Scope

This Policy:

- applies to all procurement activities undertaken for and on behalf of Council and binds all Councillors, Council staff and all temporary and contract employees as well as contractors and consultants while engaged by Council; and
- extends across the entire procurement cycle from procurement planning and sourcing to contract management and renewal.

4. Definitions

Term	Definition
Australian Business	A business that: <ul style="list-style-type: none"> (a) has 50 percent or more Australian ownership, or be principally traded on an Australian equities market; and (b) have Australian tax residency; and

Term	Definition
	(c) has its principal place of business in Australia.
Australian Made Products	Products manufactured in Australia.
Contractor Management System	BeSafe online contractor management software.
Elected Body	Councillors and the Mayor of Muswellbrook Shire Council.
Evaluation Plan	A plan created by Council staff prior to issuing any Method of Procurement with an expected value that is greater than \$50,000 that details how responses will be assessed.
Financial Delegation of Authority	The financial authority delegated to an individual by the General Manager listed on the register of financial delegations.
EDRMS	Records Management System as defined in the Records Management Policy MSC07E.
GIPA Act	Government Information (Public Access) Act 2009
Indigenous Business	A business recognised by an organisation such as Supply Nation or the NSW Indigenous Chamber of Commerce as being an 'indigenous business'.
Local Content	The extent to which a supplier contributes to the Muswellbrook Shire Council economy. This includes goods, materials or services procured from a Local Supplier, utilisation of local accommodation during provision of the works/services and employment of staff living within the Muswellbrook Shire Council Local Government Area.
LGA	Muswellbrook Shire Council Local Government Area
Local Supplier	A Supplier of goods, materials or services who has an office or its registered address at a location within the LGA.
LG Act	Local Government Act 1993 (NSW)
LG Regulation	Local Government (General) Regulation 2021 (NSW)
Method of Procurement	(a) Request for Quotation; (b) Request for Tender; (c) Request for Expressions of Interest; (d) Aggregator Purchase; or (e) purchase under a NSW Government Scheme.
NSW Government Scheme	A contract or pre-qualified list established by the New South Wales state government with permitted use for local councils.
Operational Plan	The annual plan of this name published by Council.
Procurement Aggregator	(a) Regional Procurement Initiative (a division of Arrow Collaborative Services on behalf of the Hunter Regional Organisation of Councils); (b) Entities prescribed in the LG Regulation S163(1A) for the purposes of s55(3)(a) of the LG Act:

Term	Definition
	<ul style="list-style-type: none"> i. The Trustee for LGP (LGA NSW) Trust & the Trustee for LGP (SA NSW) Trust, trading as Local Government Procurement Partnership (ABN 34 578 553 267); and ii. Procurement Australasia Ltd (ABN 45 058 335 363).
Procurement Contract Suite	Council's bespoke suite of standardised procurement contracts.
Procurement Plan	A plan created by Council staff prior to issuing any Method of Procurement with an expected value that is greater than \$150,000 that details market approach and key risks to be managed.
Procurement Software	Software provided by VendorPanel Pty Ltd: <ul style="list-style-type: none"> (a) Go-to-Market platform (Sourcing Platform); (b) Advanced Contract Management platform (Contract Management System); and (c) Policy Guide module (Self-Service Procurement Advice).
Project Governance Group	A group assembled on a case-by-case basis to provide subject matter expertise and oversight on strategic or high-risk projects.
Purchasing Card	Any Credit or Debit card issued by Council in accordance with the Corporate Card Policy.
Quadruple Bottom Line	The balancing of profits (in this case best value for money), people (social procurement), planet (environmental considerations) and culture.
Request for Expressions of Interest	A request by Council to the open market for expressions of interest to provide goods, works or services classified as procurements.
Request for Tender	A request by Council for tenders for goods, works or services.
Request for Quotation	A request by Council for quotations for goods, works or services.
SME (small-to-medium enterprise)	An organisation with less than 200 employees.
Social Enterprise	An organisation whose primary purpose is to provide employment to persons belonging to disadvantaged groups.
Spot Purchase	The meaning in clause 5.3.3.
Standing Offer	Contracts established for supply of goods and/or services, including construction, as and when required by Council at agreed rates.
Supplier	Any company providing goods and/or services to Council, including construction.
Tendering Threshold	The meaning in clause -5.5
Quotation Thresholds	The meaning in clause 5.5
WHS Legislation	The <i>Work Health and Safety Act 2011</i> and <i>Work Health and Safety Regulation 2017</i> .

5. Policy Statement

5.1 Procurement principles

Council bases its procurement decisions on the following principles:

5.1.1 Value for money

Value for money means minimising the total cost of ownership over the lifetime of a procured good or service, while taking into account factors such as quality, reliability, the ability to integrate with existing infrastructure, safety, risk reliability and sustainability and delivery considerations. Price will not be the sole determinant of suitability and value for money. Additional factors to be considered include the Supplier's experience and capability, reputation, after sales service and warranties as well as upfront and ongoing costs.

5.1.2 Risk management through procurement planning

For each procurement, Council must consider the associated risks with each quotation, expressions of interest or tender process. This extends to proactive variation management by assessing the Supplier's understanding of the project and contingencies or exclusions referenced in the quotation or tender submission. Council must verify the financial capacity of a Supplier to undertake the project or deliver the services prior to contract execution.

5.1.3 Modern slavery mitigation

Council's commitment to mitigating modern slavery in its supply chains as outlined in the *Modern Slavery Policy*.

5.1.4 Management of work health and safety

In compliance with the WHS Legislation, Council will consider the impact on the health and safety of Council staff and the community when procuring goods and services. Suppliers must meet a minimum standard of demonstrated work health and safety competence in accordance with the WHS Legislation and all relevant Council policies. This competence is assessed prior to contract award and compliance is monitored throughout the contract via Council's Contractor Management System.

5.1.5 Consideration of environmental sustainability and circular economy

Sustainability factors must be considered in all procurements. This includes only purchasing goods or services where necessary to incorporating considerations of the Quadruple Bottom Line in all procurements. It is understood that, in some cases, the selection of environmentally superior products may be less competitive than environmentally inferior products on the basis of price alone, but will be most appropriate when taking into account all procurement principles.

In assessing sustainability, Council must consider procurements on a whole-of-life basis having regard to the relevant Supplier's ability to:

- reduce or eliminate inefficiency and unnecessary resource consumption, including water and electricity usage;
- minimise waste and pollution and maximise opportunities for recycling and reusing products;
- reduce utilisation of virgin materials in favour of recycled products with comparable specifications;

- eliminate toxic products (including packaging) that are harmful to human health and ecosystems;
- reduce greenhouse emissions;
- achieve biodiversity and habitat protection where practicable;
- prioritise products with longer life expectancies, better durability and options for repair, rather than replacement;
- outline of end-of-life plans including upcycling and resource recovery; and
- maximise opportunities to further stimulate innovation and demand for sustainable products.

5.1.6 Provision of equal opportunities and social inclusion

Council is committed to where practicable:

- providing all Suppliers with equal opportunity to participate in its procurement processes and using such processes to generate positive social benefit;
- stimulating Indigenous entrepreneurship, business and economic development by providing Indigenous Businesses with enhanced opportunities to participate in Council procurement processes;
- providing advisory resources to the public on how to participate in Council procurement processes, as well as removing barriers to entry for SME's where possible; and
- considering unsolicited proposals from Social Enterprises where permissible under legislation and up to:
 - \$50,000 in total value by General Manager approval; or
 - \$250,000 in total value by Council resolution.

5.1.7 Prioritisation of local procurement

To stimulate economic development within the Muswellbrook Shire Council Local Government Area, Council staff must, where feasible, prioritise purchasing from Local Suppliers or offers which maximise Local Content.

Local Content is to be assessed as a key criterion in all Evaluation Plans and Council must seek to maximise Local Content by:

- advertising on Council's website and by other means considered appropriate for any procurements; and
- encouraging the use of Local Suppliers by Suppliers whenever goods or services are sourced from outside of the Muswellbrook Shire Council Local Government Area.

Offers submitted to Council must be sufficiently detailed to enable Council to assess Local Supplier status or the level of included Local Content.

A minimum non-price weighting of 5% will be applied for Local Content in any procurement requiring an Evaluation Plan.

Any Supplier who is deemed to be a Local Supplier will be awarded the maximum score for this criterion. In assessing offers, Council must be reasonably satisfied as to Local Supplier status or the level of Local Content in accordance with the weighting guidelines.

5.1.8 Buy Australian

Where appropriate, and to the extent permissible by law, Council will support Australian Businesses and Suppliers who manufacture in Australia.

Council staff must, where feasible, identify options for procuring Australian Made Products, and goods from Australian Businesses. Council staff must, where feasible, encourage Suppliers to utilise products from Australian Businesses and Suppliers who manufacture in Australia in provision of services to Council.

5.2 Procurement conduct

Council must ensure that procurement, disposal and contract management practices comply with all relevant legislative requirements and ethical guidelines in order to achieve probity, fairness and transparency throughout the procurement process.

5.2.1 Conduct of Council staff

All procurement activities must be undertaken with integrity and in a manner that will withstand the closest scrutiny and procedural compliance. Council staff must conduct all procurement in a manner that is ethical and in accordance with Council's Code of Conduct, the Statement of Business Ethics, this Policy and associated procedures and all relevant legislation.

Council staff must at all times:

- demonstrate utmost professionalism, honesty and fairness in all dealings with current or potential Suppliers;
- maintain business relationships in good faith, based on open and effective communication, respect and trust, and adopt a non-adversarial approach to dispute resolution;
- be accountable and transparent in all procurement processes by disclosing the assessment criteria to Suppliers and providing feedback at the end of the procurement process, when requested and to the extent permitted by law;
- declare any actual, potential or perceived pecuniary or non-pecuniary conflicts of interest in accordance with the Code of Conduct to ensure impartiality;
- maintain confidentiality of commercial in confidence information provided by Suppliers except in relation to disclosures required by law, such as, but not limited to, disclosures required by the *Government Information (Public Access) Act 2009* (NSW); and
- ensure all procurement decisions are made in accordance with this Policy, the *Procurement Procedure* and associated documentation.

5.2.2 Promotions and incentives

The offering or acceptance of promotional goods, rewards, benefits or any other form of incentive in relation to any procurement is strictly prohibited. Refer to Council's *Gifts, Bribes & Benefits Policy*.

5.2.3 Supporting competition

Council recognises the need to allow Suppliers the opportunity to fairly compete for Council business and, as such, Council has set parameters around the number and nature of quotes that Council is to obtain at various price levels.

Council staff must ensure equal dealings with Suppliers and refrain from engaging in practices that aim to give a party an improper advantage over another or could be perceived as anticompetitive.

5.2.4 Splitting of orders

Council staff are prohibited from splitting orders for the purposes of acquiring goods or services above their delegated financial and procurement levels or to avoid the necessity to obtain quotes or call for tenders. An order will be considered to be split where the goods, works or services across each order are:

- similar in scope or would usually be able to be completed by the same type of Supplier at the same time;
- requested by Council within close time proximity of each other and Council staff were aware or should have been aware of the upcoming requirement; and
- not required to be received or completed immediately due to a safety concern.

The reasonable person test should be applied when assessing if an order is to be considered to have been split.

5.2.5 Responsible financial management and allocation of funds

Council staff must ensure that Council funds to be used for procurement are used:

- efficiently;
- so as to obtain maximum benefit for Council and the community from the procurement; and
- without compromising the principles detailed in this Policy.

With the exception of non-binding expressions of interest processes where detailed scope and cost information is unknown, Council staff must consider budgetary limitations and only seek to procure goods and services for which:

- sufficient funding is available within the properly designated and approved Council budget; and
- Council has a “firm intention to proceed”, substantiated by the availability of adequate funds prior to approaching the market.

For special projects, contribution works and grant works not specifically detailed in the Operational Plan, approval to procure is dependent upon all relevant funds being available and received or committed in writing by the funding body and accepted by Council.

5.2.6 Responsible record keeping

Council staff must ensure that a level of record keeping commensurate with the relevant transaction is maintained in accordance with the *Procurement Procedure*. In determining the appropriate level of records to maintain, consideration must be given to matters such as the price and degree of scrutiny the transaction is likely to attract. Such records may include all substantial communications between Council and the Supplier as well as minutes of all relevant meetings. Records of procurement must be kept and recorded in Council’s EDRMS.

5.2.7 In-house tendering

If a Council business unit lodges a tender as part of an open procurement process, the relevant Council Director must, prior to the commencement of the relevant tender process:

- separate and clearly define the roles of Council in undertaking the tender submission from those undertaking the tender preparation and assessment;

- ensure that separate chains of management decision-making and reporting for those involved are established; and
- ensure that the in-house tender will be treated as if it is an external tender.

5.2.8 Conduct of current or potential Suppliers

Council must discontinue all dealings with Suppliers who engage in unethical conduct. Council staff found not to be acting in accordance with this Policy will be subject to applicable disciplinary processes.

Canvassing of Councillors and/or Council staff (other than Council's nominated contract staff member specified for the tender process) at any stage of the procurement process is an unacceptable practice and will result in the applicant being disqualified from the procurement process.

5.3 Market Approach

Council may approach the market in a number of different ways, as outlined below. The Method of Procurement utilised by Council must be appropriate to the value, risk and complexity of the procurement.

5.3.1 Procurement Aggregator purchases

Where it represents best value for money to do so, Council must undertake its procurement processes through contracts established by Procurement Aggregators.

Where a Procurement Aggregator's contract is created through an open tender process, consideration must be given to factors such as price, value for money, quality and the Supplier's compliance with all relevant safety requirements and legislation.

5.3.2 Standing Offer purchases

Council will establish its own Standing Offer contracts with one Supplier or multiple Suppliers on a panel arrangement, where it identifies a need for reoccurring purchases of goods, and/or services, including construction, in order to obtain best pricing and streamline day-to-day purchasing activity whilst maintaining the required level of probity.

5.3.3 Spot Purchases

Council will engage the market for Spot Purchases in accordance with its Quotation Thresholds:

- for any goods, services or works for which a Standing Offer or Procurement Aggregator contract is not available or where such contract does not maximise value for money; or
- where the available Procurement Aggregator contracts do not include Local Suppliers; or
- where the complexity of the project warrants a standalone procurement process.

5.4 Purchase Orders

Subject to the exceptions detailed below:

- all purchases made by Council must be accompanied by a purchase order to allow for the obtaining of all relevant financial approvals;
- all relevant contracts must be executed prior to a purchase order being issued; and
- Suppliers must quote the Council provided purchase order number on all relevant invoices as a precondition to payment.

Notwithstanding the position above, a purchase order may not be required in relation to the following procurements:

- Purchases made using a Purchasing Card in accordance with Council's Corporate Card Policy;
- statutory payments;
- employee reimbursements;
- loans and investments;
- insurance renewals;
- water usage and/or rates charges; and
- refunds on overpayments on rate and/or water accounts.

For the avoidance of doubt, all purchases made in accordance with the Council's *Corporate Card Policy* must be made in accordance with the Procurement Principles and Quotation Thresholds outlined in this Policy.

5.5 Quotation thresholds

Quotations must, unless excluded in accordance with the below table, be called:

- by Council staff via Council's Sourcing Platform; and
- in accordance with the quotation thresholds detailed below (**Quotation Thresholds**):

Estimated value of goods or services exclusive of GST	Minimum requirements
\$0 to \$2,000	Minimum of one (1) verbal or written quotation.
\$2,001 to \$10,000	Minimum of two (2) written quotations.
\$10,001 to \$50,000	Minimum of three (3) quotations obtained via the Sourcing Platform.
\$50,001 to \$150,000	1. Creation of Evaluation Plan; and 2. Minimum of three (3) written quotations obtained via the Sourcing Platform OR expressions of interest process and three (3) quotations obtained via the Sourcing Platform.
\$150,001 to \$224,999	1. Creation of Procurement and Evaluation Plans; and 2. Minimum of three (3) written quotations obtained via the Sourcing Platform OR expressions of interest process and three (3) quotations obtained via the Sourcing Platform.
\$225,000 and above (Tendering Threshold)	Tender process in accordance with legislation or Procurement Aggregator purchase. Process to be administered by the Procurement Department. All purchases exceeding the Tendering Threshold are reported to the Elected Body for resolution, except where determination has been delegated to the General Manager.

5.5.1 Outsourcing of Council services

For any services currently provided by Council staff, the legislated tender threshold is \$150,000 including GST.

Should any procurement effect a change in organisational structure or directly require a change in position descriptions to remove services, it will be deemed to currently be provided by Council staff.

5.5.2 Emergency procurement

Contracts made under extenuating circumstances in an emergency are exempt from tendering under Section 55(3)(k) of the LG Act, irrespective of value. Any purchase classified as emergency procurement under this Clause must be authorised by the General Manager. Any emergency procurement in exceeding the Tendering Threshold must be reported to Elected Body as soon as reasonably possible.

5.5.3 Disaster recovery procurement

Pursuant to regulation 170A of the *Local Government (General) Regulation 2021 (NSW)*, Council is not required to conduct a tender process prior to entering into a contract with a value of less than \$500,000 including GST, where the contract is:

- primarily for the purpose of responding to or recovery from a declared Natural Disaster (as defined in the *Local Government (General) Regulation 2021 (NSW)*); and
- entered into within 12 months after the date on which the Natural Disaster is declared,

however, any such purchases must be documented on a procurement process exemption form, reviewed by the General Manager, signed off by the Mayor in accordance with section 226 of the LG Act and reported to the Elected Body as soon as reasonably possible.

5.5.4 Exemption process

In case of non-conformance with procurement process requirements including the ability to obtain the required number of quotations in accordance with the Quotation Threshold:

- the reason must be documented on a procurement exemption form; and
- any such form must thereafter be reviewed by the person with the appropriate Financial Delegation of Authority, except where the requestor themselves holds the appropriate Financial Delegation of Authority, in which case the exemption must be reviewed and approved by the requestor's manager to ensure that probity and secondary oversight are maintained.

5.6 Contract management principles

To facilitate effective management of contracts, Council staff will abide by the following principles:

5.6.1 Utilisation of appropriate contract terms

Council maintains the Procurement Contract Suite to mitigate risk associated with entering contracts on unfavourable terms. Any material amendment to a template contract or utilisation of non-standard contract terms must be undergo legal review and be signed off by the relevant Director prior to execution.

5.6.2 Establishment of contract governance processes

Council must implement appropriate contract governance structures commensurate to the value, complexity and risk rating of the contract.

5.6.3 Clear definition and communication of key contract outcomes

Council staff will take reasonable steps to ensure all parties have been fully made aware of their obligations in performance of contracts for Council. This extends to ensuring involvement of the contract manager at procurement stage to ensure key contract outcomes are understood.

5.6.4 Proactive variation and change management

Council is committed to proactively managing its Suppliers to ensure that maximum benefits are achieved, and variations are minimised. Council staff must ensure proactive communication is maintained with Suppliers in alignment with the complexity and risk level of the contract.

Council staff will use reasonable endeavours to anticipate areas of contract risk and addressing requirements for change management with Suppliers.

5.6.5 Measure contract performance and drive continuous improvement

Council is committed to driving best value outcomes and continuous improvement in delivery of services and encourages Suppliers to highlight opportunities for efficiencies or innovation. To ensure a high standard of quality is maintained, Council retains records on Supplier performance, which may be consulted as a reference in future procurement processes. Suppliers will be afforded the opportunity to request feedback regarding their performance of the contract and key areas for improvement.

5.6.6 Modern slavery remediation

Council provides a reporting and remediation framework for modern slavery in the *Modern Slavery Policy*.

5.6.7 Contract lifecycle management

The Procurement Function will support Council staff to manage end of contract transitions proactively to ensure continuity of service.

5.7 Disposal of assets

Where the disposal of Council assets is expected to yield a return, the disposal process must be conducted in a manner that ensures competitiveness and utmost transparency.

For disposal of fleet and plant, bids for the asset must be obtained from Suppliers such as auction houses in accordance with the Quotation Thresholds, except where the relevant asset is traded in on a replacement.

Where the asset in question is real estate, the appropriate disposal method will be assessed and planned in accordance with market conditions and any such disposal must be conducted in consultation with the Procurement Department, except where the disposal process is specified in another Council policy.

6. Application of the policy

This Policy is binding on all Council staff, Suppliers, contractors and consultants working on behalf Council and such people may only authorise procurements within the limit of their Financial Delegation

of Authority. Any inconsistency between this Policy and other Council Policies will be referred to the General Manager for determination.

6.1 Key responsibilities

At all times when undertaking any procurement activity, all Council staff must:

- be fully aware and comply with the terms of this Policy; and
- act only within the limits of their Financial Delegation of Authority.

6.1.1 Elected Body

The Elected Body must:

- ensure a Council-wide understanding of and compliance with this Policy and associated procedures when making procurement decisions;
- resolve all tenders called by Council with a value of more than \$225,000 excluding GST; and
- resolve all tenders called by Council with a value of more than \$150,000 including GST where the services are currently being provided by Council staff.

6.1.2 General Manager

The General Manager must:

- lead Council Staff in their understanding of and compliance with this Policy and associated procedures;
- ensure adequate resourcing to develop, implement and review this Policy and associated procedures;
- review and approve procedures related to this Policy;
- take appropriate action in response to instances of non-compliance with this Policy, relevant guidelines or legislation;
- lead all investigations related to allegations of fraud and corruption, maladministration and serious or substantial waste;
- report any reasonably suspected Corrupt Conduct (as defined in the *Independent Commission Against Corruption Act 1988 (NSW)*) to the Independent Commission Against Corruption;
- participate in Project Governance Group meetings for high risk and/or value projects; and
- execute contracts as resolved and/or delegated by Council.

6.1.3 Directors and managers

Council directors and managers must:

- ensure that all procurement undertaken by their business unit complies with this Policy and associated procedures;
- monitor and ensure that Council's project officers have relevant training and skills and are suitably qualified to undertake all relevant procurement and contract management activities;
- when requested, partake in the assessment of tenders as part of the evaluation panel;

- if requested by the General Manager, partake in Project Governance Group meetings for high risk and/or value projects; and
- execute contracts in accordance with the Financial Delegation of Authority.

6.1.4 Procurement Department

The Procurement Department must:

- review Council's Procurement Framework and the Procurement Contract Suite to ensure their alignment with best practice and legislation;
- develop, facilitate and implement procurement training within Council;
- facilitate tender processes called by Council, including delegation for tender opening;
- lead negotiations with Suppliers for strategic contracts;
- provide advice on how to manage contracts and Supplier relationships;
- report any identified non-compliance with this Policy to the General Manager;
- maintain Council's GIPA and procurement conflict of interest registers;
- manage and administer Procurement Software systems;
- provide subject matter expertise to Council staff when requested; and
- conduct annual process efficiency audits to be reported to the Director Leadership Group (DLG).

6.1.5 Finance Department

The Finance Department must:

- oversee purchase orders raised for procurements, including undertaking compliance checks where appropriate;
- facilitate financial pre-approval of Suppliers;
- facilitate payments; and
- administer contract securities.

6.1.6 Manager Governance and Risk

The Manager Governance and Risk must:

- Facilitate periodic audits of Council's business units including their procurement activities; and
- report all findings to the Audit Risk and Improvement Committee (ARIC).

6.1.7 Legal Counsel

Council's legal counsel must:

- provide specialist advice as and when requested; and
- undertake reviews or facilitate external review of contracts which differ from the Procurement Contract Suite.

6.1.8 WHS Advisors

Council's WHS Advisor(s) must:

- provide guidance to staff on suitability of Suppliers from a WHS perspective;
- partake in evaluations of Tenders to assess WHS capability;
- facilitate Supplier pre-qualifications and inductions; and
- provide guidance to Council staff on how to manage Suppliers' WHS performance.

6.1.9 Council officers

Council officers must:

- conduct procurement processes in accordance with this Policy;
- partake in assessments of Quotations and Tenders when requested;
- manage contracts with Suppliers in accordance with this Policy and the Contract Management Procedure;
- assess Supplier performance upon conclusion of the contract to be retained as internal Supplier reference; and
- report any suspected or actual breaches of this Policy to the Procurement Department.

6.1.10 Suppliers

Suppliers are expected to:

- conduct business with Council in accordance with the Supplier Code of Conduct;
- comply with Council's WHS policy and other relevant work health and safety requirements;
- use its best endeavours to prevent contract variations where possible; and
- promptly provide any information reasonably required by Council to comply with its legislative obligations.

7. Compliance and references

In all of its procurement activities, Council must comply with all applicable legislation, guidelines and Council policies, procedures and related documents including, but not limited to:

- legislation and guidelines:
 - Australian Consumer Law;
 - Government Information (Public Access) Act 2009 (NSW);
 - Local Government (General) Regulations 2021 (NSW);
 - Local Government Act 1993 (NSW);
 - NSW Government – Code of Practice for Procurement 2005;
 - Public Interest Disclosures Act 2022 (NSW);
 - Waste Avoidance and Resource Recovery Act 2001 (NSW);
 - WHS Work Health and Safety Act 2011;
 - Work Health and Safety Regulation 2017;
 - National Completion Guidelines; and

- all relevant procurement and Tendering guidelines adopted by the Chief Executive of the Office of Local Government from time-to-time.
- Council policies, procedures and codes:
 - Statement of Business Ethics MSC24E;
 - Contract Management Procedure MSC02P;
 - Contractor Management Procedure MSC04P;
 - Corporate Card Policy MSC28E;
 - Disciplinary Procedures MSC06I-2
 - Financial Delegations of Authority Register;
 - Gifts, Bribes & Benefits Policy MSC070E;
 - Code of Conduct MSC34E;
 - Modern Slavery Policy MSC076E;
 - Motor Vehicle Fleet Policy MSC01I;
 - Procurement Procedure MSC01P;
 - Public Interest Disclosure Policy MSC16E
 - Records Management Policy MSC07E;
 - WHS Policy MSC059I.

8. Specific Disclosure

Suppliers, tenderers and contractors should be aware that they:

- may be subject to public scrutiny by bodies such as the Independent Commission Against Corruption (ICAC); and
- may be afforded protections under the *Public Interest Disclosures Act 2022* (Cth).

9. Review

This Policy must be reviewed by the Procurement Department and submitted to Council for resolution:

- within twelve (12) months after the date of the election of a new Council;
- every four (4) years;
- should organisational structure change affect the key responsibilities; and
- as required by legislative changes which affect this Policy.

Version History

The below table identifies authors who have reviewed this Policy and the date that this Policy became effective.

Version no.	Date changed	Modified by	Amendments/previous adoption details
1	8/11/2016	Manager of Corporate Services	
2	11/9/2018	Manager of Corporate Services	Authorised by Council – minute no 95
3	19/04/2021	Manager of Corporate Services	Adopted by MANEX on 19/04/2021. Report item 5.3
3	01/06/2023	Contracts & Procurement Officer	Draft policy on public exhibition 30/06/2023-28/07/2023.
4	14/08/2023	Contracts & Procurement Officer	Amendments to draft policy for second round public exhibition. Draft policy on public exhibition 17/08/23-14/09/23. Adopted by Council 26 September 2023, minute number 112.
5	20/03/2025	Coordinator Procurement & Contracts	Revised version for new Council term 2024-2028.