

# Procurement Policy

## Council Policy

<b>Policy Reference Number</b>	5640220
<b>Responsible Department</b>	Corporate & Community Services
<b>Related Policies</b>	Administrative Policy for Employees, Internal Control, Internal Review of Council Decisions, Risk Management, Prudential Management, Unsolicited Proposal Guidelines
<b>Related Procedures</b>	Preferred Contractors Register Procedures
<b>Date of Initial Adoption</b>	18 September 2007
<b>Last Reviewed by Council</b>	16 May 2023

## 1. Purpose

The purpose of this Policy is to provide guidance to Employees in their procurement of goods, services, works and property on behalf of Council.

Procurement encompasses the:

- whole of life process of acquiring goods and services. It begins when a need has been identified and Council or Employees decide that it is a procurement requirement
- processes of risk assessment, seeking and evaluating alternative solutions, contract award, delivery of and payment for the property, goods or services and, where relevant, the ongoing management of a contract and the consideration of options related to the contract
- disposal of property at the end of its useful life and the ongoing monitoring and assessment of the procurement, including the goods and services procured.

This Policy establishes the framework which will be supported by Council's associated procedures and operational guidance related to procurement.

This Policy also demonstrates Council's commitment to procuring goods and services in an open, fair, transparent and effective manner that ensures the maintenance of appropriate standards of probity and ethics throughout procurement processes.

Where a project or commercial activity is required to be managed in accordance with prudential management legislation, Council will follow its Prudential Management Policy.

Amounts quoted throughout this Policy are listed as GST exclusive.

## 2. Power to Make the Policy

Specific legislative requirements govern the manner in which Council is permitted to conduct itself during procurement.

## **2.1 Legislative Provisions**

Relevant major legislative requirements include the:

- 2.1.1 Local Government Act 1999
- 2.1.2 Trade Practice Act 1974 (Commonwealth), and
- 2.1.3 Competition Policy Reform (South Australia) Act 1996.

## **2.2 Local Government Act 1999**

The Local Government Act 1999 governs the way the Council conducts itself during procurement. This Policy complies with the requirements of the Local Government Act 1999 at the time it was endorsed by Council. Employees undertaking procurement activities need to be aware of and observe the following provisions of the Local Government Act 1999:

- 2.2.1 Section 7, which outlines the functions of a Council
- 2.2.2 Section 8, which outlines the objectives of a Council
- 2.2.3 Section 48, which outlines the prudential requirements for certain activities conducted by Councils, and
- 2.2.4 Section 49, which deals with the requirements for contracts and tenders policies.

These requirements are addressed in this Policy.

## **3. Strategic Plan Link**

This Policy has the following link to Council's Strategic Plan 2024:

- Leading Our People (Goal 5)

## **4. Principles**

The objective of this policy is to provide clear direction and a framework that enables the Council to achieve best practice in relation to its purchasing and disposal functions.

In undertaking procurement activities, the Council should seek to strike an appropriate balance between the underlying need, timing and specific circumstances relating to the procurement and the following principles of procurement:

- Encouraging purchases to be made in an open, fair and transparent manner
- Promoting accountability, efficient purchasing practices and continuous improvement
- Ensuring consistency with Council's strategic and long-term financial directions
- Ensuring the integrity of all procurement processes conducted by Council and in accordance with its legislative and common law responsibilities
- Facilitating achieving value for money through the most appropriate provider

- Ensuring open and effective competition
- Encouraging local and Australian businesses and/or generates local employment
- Complying with Council's environmental obligations under the National Greenhouse and Energy Reporting Act 2007, where applicable
- Encouraging the maintenance of assets at acceptable standards in the most cost effective manner
- Appropriately managing risk
- Demonstrating sensitivity to the current and future needs of a diverse Community.

## 5. Definitions

In this Policy, unless a contrary intention appears, definitions have the following meaning:

<b>Approach to market</b>	a general collective term used to describe an invitation to suppliers to provide quotes, proposals, expressions or registrations of interest or tender responses
<b>Competitive tendering</b>	where suppliers offer to provide goods or services to Council through a formal tendering process
<b>Contracting out</b>	the use of an external provider for specific services
<b>Circular economy</b>	is a system in which resources and waste are reused, repurposed, recycled or upcycled for environmental benefit and sustainability
<b>Direct negotiation</b>	entering into negotiations with a single selected service provider
<b>Direct sourcing</b>	engaging directly with a supplier of the good/service
<b>Disposal</b>	where Council no longer has care and control of an asset and is subsequently removed from its Asset Register
<b>Evaluation criteria</b>	the individual points against which all received quotes, tenders or expressions of interest that have been received will be measured. The criteria are based on the specifications and weightings provided to potential suppliers, who have used them to prepare their response
<b>Expression of Interest</b>	the first stage of a two stage process, in which suppliers are invited to register interest for the supply of goods and services. Suppliers may then be short listed for a select tender or the Council may engage directly with an identified Supplier depending on the outcomes of the first stage.
<b>Goods and Services</b>	goods, services, works and/or property as it would apply in the relevant section of the Policy
<b>Limited tendering</b>	where one or more potential suppliers are approached directly to make a submission for the supply of goods and/or services without having to comply with the standard tender process

<b>Major Contract</b>	<p>a contract that has a value of \$300,000 or more, and at least two of the following conditions apply:</p> <ol style="list-style-type: none"><li>1. the contract was established through a tender process (excluding plant and equipment purchases, short term asset purchases and consultancies)</li><li>2. A prudential report was required for the project/procurement</li><li>3. the Chief Executive Officer (or nominee) considers that the procurement will result in risks for Council as the matter is of high or ongoing public interest, relates to significant historical or social value for the Community, or may result in significant reputational risk for Council.</li></ol> <p>Records relating to a Major Contract must be kept permanently</p>
<b>Minor Contract</b>	a contract that isn't a Major Contract
<b>Open tendering</b>	undertaking a formal tender process for a specific good or service in the open market
<b>Preferred supplier</b>	an arrangement under which Council and a supplier agree that goods or services will be supplied under agreed pricing and/or supply conditions for a stated period
<b>Preferred supplier panel</b>	a group of suppliers that have pre-qualified in accordance with Council's set criteria for the supply of goods and services to Council
<b>Panel arrangements</b>	entities established that can assist Council with group purchasing arrangements
<b>Probity</b>	a risk management approach to ensure that selection and decision-making processes will be found to be honest, fair, transparent and defensible if scrutinised. A process conducted with regard to proper standards of probity will achieve both accountability and transparency and provide all parties to the procurement process with fair and equitable treatment
<b>Procurement</b>	a series of activities undertaken when purchasing goods and services, which is based on planning, purchasing and, if applicable, contract management
<b>Purchase Order</b>	the official document used by Council to record its commitment to purchase goods and/or services. It contains advice to the supplier of Council's standard terms and conditions for the purchase
<b>Request documentation</b>	includes request for quotes, request for tender and expression of interest
<b>Request for quotes</b>	a process for inviting quotes to achieve a stated outcome
<b>Request for Tender</b>	a process in which an invitation to submit offers for clearly described goods or services is publicly advertised. Open

	tenders will be advertised via SA Tenders and Contracts website, which can be accessed via a link from Council's website as a minimum. Expressions of Interest may be publicly advertised or directly provided to a range of suppliers. In all instances, Council will utilise a process seeking to achieve the best procurement outcome
<b>Select Tender</b>	a process in which selected organisations or individuals are invited to submit offers or proposals for goods or services, through the SA Tenders and Contracts website
<b>Tender</b>	a proposal, bid or offer that is submitted in response to a Request for Tender
<b>Strategic Alliances</b>	<p>Council may engage a contractor pursuant to existing contracts or agreements established or administered by other parties including, but not limited to:</p> <ul style="list-style-type: none"><li>• the State Government of South Australia</li><li>• the Local Government Association of South Australia (LGA Procurement)</li><li>• a purchasing group of which Council is a member</li><li>• Council Solutions</li><li>• Procurement Australia</li><li>• an ERA (Eastern Region Alliance) Member Council</li><li>• any other South Australian Council, or</li><li>• any other joint venture, partnership, agreement, contract or strategic alliance entered into with any other South Australian Council, or pursuant to the ERA (Eastern Region Alliance) Memorandum of Understanding</li></ul> <p>and may also purchase goods, services and/or works by leveraging contracts or agreements with entities aiming to:</p> <ul style="list-style-type: none"><li>• reduce direct and indirect purchasing costs, and/or</li><li>• provide tangible benefits through joint purchasing, and/or</li><li>• improve delivery and/or quality of outcomes to residents, and/or</li><li>• attracting more competition or a more suitable field of providers to respond to a tender</li></ul>

<b>Value for money</b>	allows the relative benefits of different procurement options to be measured by taking into account all the costs incurred in respect of goods or services over their lifespan, such as installation, training, maintenance, disposal costs, quality and assurance systems, resources provided and innovation technology
<b>Whole of life cost</b>	the total net cost incurred when acquiring goods or services and is made up of all initial procurement costs, operating and maintenance costs, disposal costs and termination costs, less the residual value and sale proceeds, if applicable.

## 6. Policy

### 6.1 Contracting Out

Council will provide services to the Community in the most effective manner possible utilising an appropriate mixture of contractors and Council Employees so as to discharge its obligations pursuant to the Local Government Act 1999 and achieve value for money.

In determining whether to procure the services of contractors, Council will assess the need for specialist short term skills and equipment against the need to maintain a strong skills base of Council Employees and determine the appropriate mix, based on current and future service delivery requirements.

### 6.2 Value for Money

The Council strives to achieve value for money in its procurement activities by:

- Undertaking a comparative analysis of the costs and benefits of each proposal throughout the whole procurement cycle;
- Specifying clear conditions and evaluation criteria in approach to market documents (when utilising this procurement method); or
- Extending or reviewing existing contracts with existing third-party contractors, if the Council determines that such an approach will achieve better outcomes and value for money compared with a market engagement approach.

Council will take into account the following factors in determining value for money:

- The maturity of the market for the good, property or service sought;
- The performance history of each prospective supplier;
- The relative risk of each proposal;
- The flexibility to adapt to possible change over the life cycle of the good, property or service;
- Financial considerations, including all relevant direct and indirect benefits and costs over the whole procurement cycle;

- The anticipated price that could be obtained, or the costs that may be incurred at the point of disposal;
- The evaluation of contract terms (e.g. contract extension options);
- Discussions with, or lessons learned from, other Councils in the South Australian market that have engaged consultants and contractors to perform similar or identical services and / or works;
- Comparative analysis of other procurements pertaining to similar or identical services and / or works currently being undertaken by the Council;
- Any advice from an independent third-party consultant with the expertise or experience to provide the Council with a robust understanding of current market pricing, conditions constraints and/or opportunities;
- Any other value-add functions of relevance to Council that the supplier can provide (e.g. environmental performance of the product / service, contribution of supplier to the local economy / community, etc.).

### **6.3 Open and Effective Competition**

Open and effective competition is the central operating principle in pursuit of the best outcome. Openness requires procurement actions that are visible to Council, ratepayers and suppliers. The probability of obtaining the best outcome is increased in a competitive environment.

Council will create effective competition by maximising the opportunities for firms to conduct business with it through the selection of procurement methods best suited to current market conditions.

Council aims to promote efficient competition between public and private businesses through the application of competitive neutrality principles and practices to significant local government activities pursuant to the Competition Policy Reform (South Australia) Act 1996.

### **6.4 Selection of an Appropriate Procurement Process**

Council will generally select from one of the following procurement processes:

- Open tender
- Select tender
- Limited tender
- Staged tender
- Direct negotiation with a preferred supplier, group of suppliers or supplier panel
- Request for quotes
- The use of existing third party contracts
- Joint procurement arrangements with other Councils
- Direct sourcing
- Extension of existing contract with existing supplier on re-negotiated terms



- Panel arrangements (e.g. Local Government Association Procurement, Strategic Purchasing) or arrangements with prequalified suppliers.

The appropriate procurement method will be determined on a case by case basis. Consideration needs to be given to the aggregate spend for the life of the contract/agreement with each supplier to ensure that the aggregate amount remains within the appropriate procurement category.

Participation in a procurement process imposes both a monetary and time impost on Council and potential suppliers. These imposts will be considered when determining a process commensurate with the scale, scope and relative risk of the proposed procurement.

## **6.5 Justification Of Choice Of Procurement Method**

Employees will select a method of approaching the market which is suited to the procurement. Determining the best method in the circumstances will generally be based on the consideration of the following types of issues:

- The nature of the procurement
- The value of the procurement
- The risk associated with the procurement
- Whether the market for the procurement is known
- What is the most efficient process to achieve the Council's objectives in a timely and cost efficient manner
- The capacity of potential contractor/s to submit a proposal that adequately responds to the Council's procurement method.

Appendix 1 provides direction to Employees (unless as otherwise approved within the Chief Executive Officer's delegated purchasing authority) regarding the approach to market selection options available and decision making responsibility for procurements.

For agreements that span multiple years, the dollar ranges referred to in Appendix 1 relate to the value of the goods/services purchased for the potential life of the contract (including renewal options).

## **6.6 Delegated Purchasing Authority**

Council makes delegations to the Chief Executive Officer under the Local Government Act 1999 including the power to expend Council's approved budgeted funds. This power is sub-delegated by the Chief Executive Officer to other Council Employees in accordance with the schedule published in Council's Delegations and Subdelegations Register.

Only Council Employees with delegated authority under Section 137 of the Local Government Act 1999 can incur expenditure on behalf of the Council.



## 6.7 Documentation

Staff are required to use the template documents contained in Council's Records Management System when procuring goods and services through a contract or tender process, unless otherwise authorised by the Chief Executive Officer (or nominee).

Where Council or the Chief Executive Officer approve a contract that does not occur as a consequence of a tender process (in accordance with guidelines provided in 6.5), the reasons for entering into such contracts will be recorded in writing pursuant to Section 49(2)(c) of the Local Government Act 1999.

The retention periods for records related to Council contracts will be in accordance with the definitions listed in this Policy.

## 6.8 Use of Purchase Orders

Purchase Orders serve the following purposes:

- Ensures the purchase is approved by an Employee with the appropriate financial delegation
- Records a financial commitment in Council's financial system to allow accurate tracking of financial obligations at any point in time
- Establishes a set of Terms and Conditions for the purchase of goods and/or services.

Employees are encouraged to raise a purchase order prior to the purchase being made. However, a purchase order may not be required in the following circumstances:

- Purchases with a value of less than \$1,000 (excluding GST)
- Purchases made using a Corporate Credit Card (refer to Council's Corporate Credit Cards Procedure)
- Purchases made for nominated goods and/or services listed in Appendix 2 – Exemptions from Purchase Orders
- Purchases relating to an entity that is a wholly or partially owned subsidiary of Council
- A contract signed by Council and a supplier who was selected through a tender process
- Strategic Alliance Contracts, including contracts arising pursuant to the ERA (Eastern Region Alliance), unless required under the specific contracts arrangements.

## 6.9 Emergency Procurement

During an emergency event, flexibility in the procurement process may be required to ensure that necessary responses are not delayed and that Council's operations are maintained or restored as soon as practicable. Council will undertake procurements during an emergency incident utilising preferred suppliers if possible, taking into account Council's procurement principles, given the circumstances at hand.

Emergency incidents where exemption from this Policy applies are:

- A state of emergency declared under the Emergency Management Act 2004
- An event that requires activation of Council's Emergency Management Plan and/or Business Continuity Plan
- An event declared by the Chief Executive Officer (or nominee) where the safety or security of any person or property associated with Council is threatened
- An external event to which the Chief Executive Officer (or nominee) has authorised the provision of urgent support
- An event where an authorised person deems that a purchase is required in the best interest of public safety.

#### **6.10 Extending Existing Contracts**

Prevailing market circumstances may support the Council extending an existing contract rather than going back to market to procure certain goods or services. This is particularly the case where a current contractor/supplier may be prepared to extend the term of an existing arrangement such that the Council ascertains greater value for money compared to if it were to pursue another procurement process in the wider, prevailing market. In such circumstances, the extent to which the original arrangement is to be extended will be modest having regard to the original intent of the agreement.

Where the extension of the original arrangement is more substantial, then unless there are clear technical, commercial or operational reasons for doing so, the Council should consider other procurement methods as set out in this Policy.

At all times when considering whether to extend an existing agreement in accordance with this clause, the Council should ensure that it has a robust sense of the prevailing market and the unique circumstances applying to the existing agreement.

#### **6.11 Risk Management**

Risk is part of the environment within which Council operates. Risk management involves the systematic identification, analysis, evaluation, treatment, monitoring and, if appropriate, acceptance of risks. Risk management is integral to the cost effective delivery of services and the acquisition of goods and services by Council.

As a general principle, risks should be borne by the party best placed to manage them. Council will not accept risk which increases the risk and costs to Council where another party is better placed to manage it.

Council will carefully monitor the terms and conditions, including pricing, on which risk allocations are determined, to ensure that they reflect value for money and do not increase the risk to Council.

## 6.12 Professional Integrity, Ethical Behaviour and Fair Dealing

Employees involved in procurement will act in an ethical way.

Ethical behaviour encompasses the concepts of honesty, integrity, probity, diligence, fairness, trust, respect and consistency. Ethical behaviour identifies and appropriately handles conflicts of interest.

A procurement conducted in an ethical manner will enable Council and potential suppliers to deal with each other on a basis of mutual trust and respect. In conducting procurements, there is an implied obligation to treat all participating potential suppliers equitably.

The procurement process rules need to be clear, open, well understood and applied consistently to all parties to the process. All potential suppliers will have the same opportunities to compete for Council's business and will be treated equitably based on their legal, commercial, technical and financial abilities. For example, when providing further information to potential suppliers during the course of a procurement, Employees will follow procedures to treat all potential suppliers consistently.

The procurement of services should be conducted in a way that imposes as far as practicable the same level of accountability and responsibility on the service provider as would exist if Council carried out the service itself.

In pursuit of ethical behaviour during the procurement of goods or services:

- Employees will:
  - Disclose to the Chief Executive Officer any possible conflict of interest. Where a potential conflict relates to the Chief Executive Officer, it will be disclosed to the Council in accordance with Section 120 of the Local Government Act 1999
  - Deal with all suppliers in an honest, fair and equitable manner
  - Respect all in-confidence information received and not use it for personal gain, or to prejudice fair and open competition
  - Not personally accept money, goods, loans, credits, purchasing incentives, services or prejudiced discounts
  - Not use Council's name or purchasing power to make purchases other than for Council use.
- Suppliers/contractors will:
  - Disclose any possible conflict of interest when submitting a response to a procurement process.
  - Supply relevant business referees as part of their tender response, or as requested.

In this regard, Employees will ensure that their close associates also do not receive an advantage in relation to a Council procurement.

A supplier/contractor will be immediately excluded from a procurement process where one or more of the following circumstances occur:

- A conflict that is unable to be appropriately managed arises
- There is inappropriate lobbying of the Council
- There is a behaviour that might reasonably be regarded as seeking to solicit favourable treatment regarding the procurement process, including by the offering of gifts or benefits.

### **6.13 Probity, Accountability and Transparency**

The Council has the responsibility to ensure that any procurement process is transparent and that its decisions are justified.

Employees will advise the Chief Executive Officer prior to the purchase being undertaken where the procurement will result in:

- A higher Procurement Category being applied to the purchase
- the expenditure being 10% higher for projects that have a budget greater than \$100,000 (excluding GST).

If this is not possible, notification should be provided to the Chief Executive Officer as soon as practical.

### **6.14 Approaching the Market**

Council may issue a notice inviting potential suppliers to participate in a procurement by using an open or select approach to the market.

Open approaches to the market may include requests for tender, requests for expression of interest and request for applications for inclusion on a preferred supplier panel.

Select approaches to the market can include invitations to tender in a select process in accordance with a select tendering process or other requests for proposal or quotes.

### **6.15 Work Health and Safety**

All suppliers of goods and services will, as a minimum, be capable of and agree to comply with the standards prescribed by the Work Health and Safety Act 2012 (SA) and its Regulations.

Additional Work Health and Safety requirements will be outlined in the request documents, the resulting contract, or any other documents relating to the agreement between Council and the supplier.

If the purchase of goods, materials, plant or equipment involves implications for the work, health or safety of Council Employees, the Employees involved and Council's Risk Management Coordinator will be consulted prior to the purchase.

## 6.16 Environmental Considerations

Council has declared a climate emergency and is committed to and encouraging suppliers to protect the environment for a sustainable future and to promote a circular economy.

During a procurement process, prospective suppliers may be required to demonstrate whether they can offer products and services which conserve resources, save energy, minimise waste, contain recycled products and/or are environmentally sustainable. Council may also request prospective suppliers or contractor to provide their carbon emission calculation for the material or services provided. Documented quantified savings or actions undertaken will be considered as proof of environmental credentials and will be considered along with other parameters when a service or good is being requested by Council.

Similarly, where it is assessed that a potential environmental impact (risk) is associated with a particular procurement, prospective suppliers may be required to communicate their environmental management practices when responding to an approach to market from Council.

To the extent permitted by law, when all other considerations are equal, Council reserves the right to favour the engagement of suppliers who demonstrate that their service provision is undertaken using environmentally responsible practices.

## 6.17 Economic Development of South Australia

**6.17.1** Council procurement plays an important role in the economic development of South Australia. Promotion of employment, capital investment and support of supply chains in Council's immediate region and broader state should be actively favoured when procurement decisions are made.

Council adopts the IPP (Industry Participation Policy) and practices as implemented by the State Government of South Australia, where applicable.

Council recognises the geographical boundaries of the member Councils of ERA as its immediate region for the application of the IPP.

**6.17.2** To the extent permitted by law, when all other considerations are equal, Council will favour the engagement of local suppliers and the use of South Australian made goods and suppliers whose activities contribute to the economic development of the region and/or provide local employment opportunities.

## 6.18 Modification of Request Documents

If Council modifies the request documentation or any aspect of an approach to the market it must provide all amended documents:

- to all known potential suppliers who are participating at the time the information is amended, in the same manner as the original information was provided (ie via the SA Tenders and Contracts website), and

- in adequate time (a minimum of 3 working days prior to the closing date or extended closing date) to allow potential suppliers to modify and re-lodge their initial submissions.

### **6.19 Time Limits**

Council will provide sufficient time for potential suppliers to prepare and lodge submissions in response to an approach to the market. This will be determined on a case by case basis.

If Council intends to specify conditions for participation that require potential suppliers to undertake a separate registration or pre-qualification procedure, Council will include the time limit for responding to this process. Any such conditions for participation will be published in sufficient time to enable all interested parties to complete the registration and pre-qualification procedures within the time limit for the procurement.

All potential suppliers participating in a procurement must be required to lodge submissions in accordance with a common deadline. Any time limit imposed in relation to any aspect of a procurement will be applied equitably to all participating potential suppliers.

### **6.20 Receipting and Opening Submissions**

Council will observe established procedures for the receipt and opening of all submissions which guarantee fairness and impartiality.

Tender submissions are downloaded electronically from the SA Tenders and Contracts website in the presence of three Employees (not all from one Department) after the closing date and time. A 'Tender Opening Sheet' will be signed and dated by the Employees present and will include pricing and names of suppliers who have lodged submissions. A copy of the pricing page from each submission will also be printed and attached to the Tender Opening Sheet.

The Council will not consider a Tender submitted after the Closing Date unless a Tenderer is unable to upload its Tender due to a fault or malfunction with the SA Tenders and Contracts website or its associated system prior to the Closing Date. A Tender will only be accepted in such circumstances where the administrators of the SA Tenders and Contracts website can provide evidence of the fault or malfunction.

If Council provides potential suppliers with an opportunity to correct unintended errors identified between the opening of submissions and any decision, the Council must provide the same opportunity to all participating potential suppliers.

Council will assess tenders in accordance with the tender documentation received. However, Council is not bound to award the tender.

## **6.21 Sale and Disposal of Land and Other Assets**

### **6.21.1 Land**

Council will resolve to sell or dispose of land through one of the following methods:

- sale by open tender
- sale by auction
- sale by direct approach to potential purchasers in specific circumstances such as:
  - prior ownership of the land
  - owners of land adjoining the parcel of land for sale
  - prior contractual arrangement
- other means as deemed appropriate by Council.

When selling land, Council will consider potential development opportunities for the parcel of land prior to placing it on the market including size of land, zoning and subdivision opportunities.

#### **6.21.1.1 Land Valuation**

Prior to selling land the Chief Executive Officer will seek a valuation from a registered valuer for the purpose of setting a reserve price.

If the owner of abutting land seeks to purchase land from Council, two independent valuations will be obtained by Council at the cost of the intending purchaser. The higher valuation will be the minimum amount Council will accept for the sale of land. Alternatively, an exchange of land may be considered subject to consultation with all other owners of abutting land.

#### **6.21.1.2 Factors Determining the Method of Sale or Disposal**

The method of sale or disposal of land will be determined on a case-by-by basis. In determining the appropriate method of sale or disposal Council will consider factors including, but not limited to:

- the number of known potential purchasers
- the original intention for the use of the land when it was acquired by Council
- the current and potential future use of the land
- the existence of local purchasers
- the opportunities to promote local economic growth and development
- the estimated value of the sale
- compliance with statutory and other obligations.



### 6.21.2 Public Consultation

Council recognises its responsibility when considering the sale of Community Land and will undertake public consultation as required by the Local Government Act 1999 and in accordance with its Public Consultation Policy.

Public consultation will also occur for non-Community land that is being considered for sale and determined to be significant to the Community.

### 6.21.3 Assets Excluding Land

This Policy will apply to all non-land assets recorded in Council's Asset Register.

#### 6.20.3.1 *Acquisitions*

Council's asset acquisition processes will take into consideration the life cycle costs of the asset. Where appropriate, for major acquisitions, a cost/benefit analysis of the options will be prepared where a Prudential Report is required.

#### 6.20.3.2 *Sales/Disposal*

Council will sell or dispose of assets through one of the following methods:

- trade-in on new items
- direct sale by public advertisement
- sale by public auction
- sale by select tender
- sale by open tender
- sale by direct approach to potential purchasers in specific circumstances such as:
  - prior ownership of the asset
  - direct relationship with an asset (eg. painting commissioned or painted by a relative)
- other means as deemed appropriate by Council.

Where assets are to be sold or disposed in accordance with any of the approaches listed above, approval must be sought from the Chief Executive Officer or other Staff with appropriate Section 36(1)(a)(i) Local Government Act 1999 Subdelegations (Schedule of Financial Subdelegations).

#### **6.20.3.2.1 Factors Determining the Method of Sale or Disposal**

In determining the appropriate method of sale or disposal, Council will consider factors including, but not limited to:

- the number of known potential purchasers
- the original intention for the use of the asset when it was acquired by Council
- the current and potential future use of the asset
- the existence of local purchasers
- the opportunities to promote local economic growth and development
- the estimated value of the sale
- compliance with statutory and other obligations.

#### **6.20.3.2.2 Sale and Disposal Authority**

Where assets are not disposed of in accordance with 6.20.3.2 and the estimated value of an asset (other than land) does not exceed \$5,000, Council will delegate the sale or disposal of the asset to the Chief Executive Officer under the Local Government Act 1999. This power may be subdelegated by the Chief Executive Officer to other Council Employees in accordance with the schedule published in Council's Delegations Register. The Chief Executive Officer shall promptly report to Council any sale or disposal of an asset under a delegated authority.

### **6.21 Purchase of Land**

Council will seek to purchase land in accordance with a Council decision for a direct purpose or as a strategic acquisition.

Where an opportunity arises to purchase a relevant parcel of land, Employees will advise Council of the opportunity through a Council report. If Council decides to pursue the purchase, it will then establish a price or range (excluding any transfer costs or stamp duty) for negotiation and delegate the Chief Executive Officer to conduct the purchase within the relevant parameters.

### **6.22 Reporting**

Council adheres to its reporting obligations for mandatory and discretionary spending through the Annual Financial Statements, Annual Report, Annual Business Plan and Budget, Budget Reviews and maintaining associated registers.

## 7. Exemptions

This Policy contains general guidelines for Council to follow in respect of its procurement activities. There may be circumstances in which a competitive tendering process will not necessarily deliver the best outcome for Council, or where other market approaches may be more appropriate.

In these circumstances, Council or the Chief Executive Officer may waive application of this Policy and pursue a method which will bring the best outcome for Council.

Situations where it may be appropriate for the application of this policy to be waived include:

- the supply market is known to be limited or significantly impacted by external pressures
- potential for significant public risk, including emergency situations threatening life and property
- pressures of time ie to meet grant funding timeframes and obligations
- Council is able or expected to obtain better value for money from an existing supplier of goods, works or services, whose appointment was previously subject to a competitive process. This can include varying existing contractual arrangements or varying and extending existing contractual arrangements, provided that such variation, or variation and extension (as the case may be) is in line with established, prevailing market prices and conditions. In considering whether to grant an exemption under on these grounds, the Council must, at minimum, have regard to the following:
  - the value of the existing contract compared to the value of the proposed extension or variation;
  - the term of the existing contract compared to the term of the proposed extension or variation;
  - the significance of the extension or variation (including the nature and the extent to which it remains consistent with the contractual terms or purpose of the existing contract); and
  - whether, having regard to the above factors, the extent of the extension and variation warrants an alternative procurement method having regard to the Principles of procurement set out at clause 4.
- Council purchases goods at an auction
- the contract is made with the State, a government entity, a local government owned corporation or a Strategic Alliance.
- Force Majeure Event.

Any departure from this Policy must be appropriately documented and then approved by Council or the Chief Executive Officer (as relevant).

## **8. Innovative Proposals**

Council may consider innovative proposals.

An innovative proposal includes a proposal submitted to Council that has not been requested by Council through its regular Approach to Market process, is new and innovative and could assist Council to achieve its strategic objectives.

The nature of an innovative proposal can cover a wide range of areas and may include:

- delivery of goods and services to or on behalf of Council
- provision of infrastructure for the Community
- the purchase, lease or development of Council owned or managed land.

This Policy does not cover how the Council deals with or responds to innovative proposals. The Council will consider innovative proposals in accordance with the Council's Unsolicited Proposal Guidelines.

## **9. Review & Evaluation**

Within six months of each new Council term Council will review this policy. Following this initial review this policy will be reviewed annually by Employees with minor administrative adjustments being approved by the Chief Executive Officer.

## **10. Availability of the Policy**

Copies of this Policy will be available at Council's principal office during ordinary business hours and at Council's website [www.campbelltown.sa.gov.au](http://www.campbelltown.sa.gov.au).

## Appendix 1: Procurement Category – Approach to Market

Procurement Category	Estimated Value Range (ex GST)	Acceptable Approaches to Market	Decision Making Responsibility
1	\$1 - \$10,000	<ul style="list-style-type: none"> <li>• Direct sourcing / negotiation</li> <li>• Use of existing third party contracts</li> <li>• Panel arrangements / arrangements with prequalified suppliers</li> <li>• Joint procurement arrangements with other Councils</li> <li>• Strategic alliances</li> </ul>	Employees – within the limit of their delegated purchasing authority (see 6.6) and the approved budget
2	\$10,001 - \$30,000	<ul style="list-style-type: none"> <li>• Direct negotiation with preferred supplier(s) where market is known to be limited</li> <li>• Use of existing third party contracts</li> <li>• Extending existing contractual arrangements</li> <li>• Panel arrangements / arrangements with prequalified suppliers</li> <li>• Joint procurement arrangements with other Councils</li> <li>• Written quotes from at least two (2) suppliers</li> <li>• Strategic alliances</li> </ul>	Employees – within the limit of their delegated purchasing authority (see 6.6) and the approved budget
3	\$30,001 - \$300,000	<ul style="list-style-type: none"> <li>• Direct negotiation with preferred supplier(s) where market is known to be limited</li> <li>• Use of existing third party contracts</li> <li>• Extending existing contractual arrangements</li> <li>• Panel arrangements / arrangements with prequalified suppliers</li> <li>• Joint procurement arrangements with other Councils</li> <li>• Written quotes from at least three (3) suppliers</li> <li>• Strategic alliances</li> <li>• Open / Select / Limited / Staged Tender</li> </ul>	Chief Executive Officer or General Managers – within the limit of their delegated purchasing authority (see 6.6) and the approved budget
4	\$300,001 - \$1,000,000	<ul style="list-style-type: none"> <li>• Use of existing third party contracts</li> <li>• Extending existing contractual arrangements</li> <li>• Panel arrangements / arrangements with prequalified suppliers</li> <li>• Joint procurement arrangements with other Councils</li> <li>• Strategic alliances</li> <li>• Open / Select / Limited / Staged Tender</li> </ul>	Chief Executive Officer within the approved budget – based on recommendations by Employees provided in a report supported by the General Manager of the Department

Procurement Category	Estimated Value Range (ex GST)	Acceptable Approaches to Market	Decision Making Responsibility
5	Greater than \$1,000,000	<ul style="list-style-type: none"> <li>• Use of existing third party contracts</li> <li>• Extending existing contractual arrangements</li> <li>• Panel arrangements / arrangements with prequalified suppliers</li> <li>• Joint procurement arrangements with other Councils</li> <li>• Strategic alliances</li> <li>• Open / Select / Limited / Staged Tender</li> </ul>	Council – taking into account recommendations by Employees
		Electricity contracts tendered through LGA Procurement	Chief Executive Officer within the approved budget – based on recommendations by Employees provided in a report supported by the General Manager of the Department

## Appendix 2: Exemptions from Purchase Orders

The items listed below have been identified as being exempt from a Purchase Order being generated to proceed with this purchase:

- Legal and debt collection services
- Software licensing
- Vehicle registrations
- Refunds or reimbursement of expenses (including Petty Cash)
- Banking and cash collection services
- Borrowing and lease costs (principal and interest)
- Auditor's fees
- Statutory Government charges
- Courier services
- Insurance premiums and excess payments
- Leases and rentals
- Postal services
- Subscriptions and memberships
- Travel and accommodation (i.e. taxi fares)
- Utilities (water, electricity, gas, telephone, fuels)
- Elected Member allowances and payments
- Allowances for Independent Members on Council Committees
- Services delivered by Council owned Subsidiaries
- Contracts.

This list may change from time to time based on Council's operational requirements.