

### 1. Purpose

To provide the framework for Warrumbungle Shire Council to procure goods and services that meet the expectations of the community and stakeholders in the Warrumbungle Local Government area (LGA) at an affordable cost.

### 2. Objectives

The objectives of this policy are to ensure Council's procurement of goods and services:

- is legal, ethical and to Council's best advantage;
- demonstrates sustained value and achieves value for money;
- considers benefits to the local economy;
- is environmentally sustainable; and
- considers social outcomes.

The expected outcomes of this policy are:

- Governance, Legislative and Regulatory Compliance
- Open, fair and effective competition
- Achieving value for money
- Encouragement of local business
- Enhancing the Capabilities of Local Business and Industry
- Ethical behaviour and fair dealing
- Proving Safe Workplaces and Practices
- Environmental Protection

#### 2.1 Demonstrated Sustained Value and Achieving Value for Money

Council's procurement activities will be carried out on the basis of obtaining 'value for money'.

This means minimising the total cost of ownership over the lifetime of the requirement consistent with acceptable quality, reliability, servicing or maintenance costs and delivery charges eg freight considerations. Lowest price is not the sole determinate of value for money.

Value for money purchasing decisions made by Council are made on the basis of whole-of-life cost and non-price factors including contribution to Council's Strategic Business Plan objectives which includes the principles around economic, environmental and social outcomes.

#### 2.2.1 Economic Considerations and Local Support

'Local Support' as distinct from 'Local Preference' provides good practice rather than preference. Council endeavours to support Local Suppliers by:

- Education / training sessions for local suppliers
- Working with local chambers of commerce
- Providing locals with the opportunity to supply
- Providing good onboarding and induction for local suppliers
- Debrief meetings with unsuccessful tenderers, when requested, to help raise their capability for the next opportunity

#### 2.2.2 Environmentally Sustainable Procurement

### General

Council is committed to achieving sustainability and programs that have an impact on or contribute to the environment including but not limited to the following:

- waste management;
- recycling;
- energy management;
- emissions management;
- water conservation;
- green building design; and
- procurement methods.

Council recognises that in some cases the selection of environmentally preferable products and materials may be less competitive in terms of upfront price but may represent the best value for money when environmental impacts and/or the long-term operational costs of a purchase are taken into consideration.

Council is committed to reduce resources, consumption and minimise waste during the procurement life cycle including:

- (a) Council shall encourage and prefer eco-friendly products that are more power efficient.
- (b) Selecting energy, fuel and water efficient products.
- (c) Council shall prefer to purchase from a source which is less polluting or uses clean technology.
- (d) Council's procurement projects should consider the provision of re-usable products and recycling as part of the project planning process, including the consideration of whole-life costs and disposal considerations.
- (e) Council is committed to buy recycled/part recycled products to optimise consumption and stimulate demand for recycled products, promoting the collection and reprocessing of waste and working towards zero discharge to landfill.

### **2.3.3 Social Procurement**

Social procurement involves using procurement processes and purchasing power to generate positive social outcomes in addition to the delivery of efficient goods, services and works. Social procurement can assist Council to:

- (a) Address complex local challenges.
- (b) Ensure procurement practices are sustainable and strategically aligned with Council objectives and achieve greater value for money.
- (c) Build and maintain strong communities by generating local employment (particularly among disadvantaged residents), promoting social inclusion and strengthening the local economy.

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- (d) Strengthen partnerships with a diverse range of community and government stakeholders.

### 2.3.4 Approach

Council's procurement processes will support the generation of positive social outcomes where it can be justified on a value for money basis including but not limited to:

- (a) Buying from local businesses.
- (b) Giving support to businesses that employ local or socially disadvantaged residents of the Warrumbungle Shire Council.

### 3. Scope

Council procurement covers a wide range of goods and services necessary to discharge its functions and to meet the aspirations of the community it serves. Procurement procedures are undertaken on a daily basis by a wide range of staff employed by Council. This policy provides overall guidance to those staff members required to acquire goods and services. This policy also provides guidance to elected representatives when they are required to make procurement decisions.

### 4. Legislation and Associated Documents

<b>ASSOCIATED POLICIES</b>	<ul style="list-style-type: none"> <li>• Code of Conduct</li> <li>• Gifts and Benefits Policy</li> <li>• Privacy Management Plan</li> <li>• Statement of Business Ethics</li> </ul>
<b>ASSOCIATED LEGISLATION</b>	<ul style="list-style-type: none"> <li>• <i>Local Government Act 1993 (NSW)</i></li> <li>• <b><i>Modern Slavery Act 2018 (NSW)</i></b></li> <li>• <i>Work Health and Safety Act 2011 (NSW)</i></li> <li>• <i>Local Government (General) Regulation 2021 (NSW)</i></li> </ul>
<b>ASSOCIATED DOCUMENTS</b>	<ul style="list-style-type: none"> <li>• Council's Integrated Planning and Reporting framework documents, eg Workforce Management Plan, Operational Plan, Delivery Program</li> <li>• <b>Council's</b> <ul style="list-style-type: none"> <li>○ <b>Enterprise Risk Management Plan</b></li> <li>○ <b>Supplier questionnaire</b> <ul style="list-style-type: none"> <li>▪ <b>Questionnaire explanatory notes</b></li> </ul> </li> </ul> </li> <li>• Delegations of authority – sub-delegations from General Manager to Staff</li> <li>• <b>'Guidance on Reasonable Steps' – Office of the Anti-slavery Commissioner;</b></li> <li>• <b>GRS Inherent Risk Identification Tool (IRIT) – Department of Communities and Justice;</b></li> <li>• NSW Procurement Policy Framework – April 2022</li> <li>• 'Tendering Guidelines for NSW Local Government', NSW Office of Local Government, October 2009</li> </ul>

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## 5. Definitions

Term	Definition
Conflict of Interest and Confidentiality forms	All members of Tender Evaluation Committees must complete Conflict of Interest and Confidentiality forms prior to the commencement of the evaluation process.
Council's Standard Terms and Conditions	Council has a set of 'Standard Terms and Conditions' to accompany the issue of Council Purchase Orders. The terms and conditions apply to any Council purchase order for goods and/or services placed by Council and must be read in conjunction with any contract specified in an individual Purchase Order. If there is any inconsistency between these conditions and of the contract, the contract terms and conditions will prevail.
Ethics	A set of moral principles that govern a person's behaviour or the conducting of an activity.
Governance	Is the framework of rules, relationships, systems and processes within and by which authority is exercised and controlled in organisations and controlled in organisations and encompasses the mechanisms by which councils and those in control, are held to account.
Local supplier	An organisation that operates from permanently staffed premises within the boundaries of the Warrumbungle LGA and has operated from those premises for a minimum period of three months before submitting a quotation or tender.
<b>Modern slavery</b>	<b>'Modern slavery' describes situations where offenders use coercion, threats or deception to exploit victims and undermine their freedom. It is an umbrella term used to encompass a number of exploitative practices including forced labour, slavery, servitude, debt bondage, human trafficking, deceptive recruiting for labour services, the worst forms of child labour and forced marriage.</b>
Probity	Probity in the context of procurement is the demonstration of strong moral principles and ethical behaviour in all the dealings with suppliers. All involved with suppliers or commercial issues should always consider the probity issues relating to the purchase, project, negotiations or contracts. One of the roles of the Tender Evaluation Committee chair is to review the appointment of a probity advisor/auditor if one has been appointed and to provide transparency in any tender processes undertaken.
Procurement	All activities involved in acquiring goods or services either outright or by lease (including disposal and lease termination). Includes acquiring consumables, capital equipment, real property, infrastructure, services under

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	consultancies, professional services, facilities management and construction.
Tender Evaluation Committee	<p>A tender evaluation committee is responsible for ensuring that a government procurement process is transparent and that procurement related actions are documented, defensible and validated in accordance with probity obligations. Among other things, their job is to protect the Council from allegations of impropriety in government purchasing.</p> <p>A tender evaluation committee will be constituted to include staff involved in the preparation of the tender documentation. The Committee shall include an independent member, not involved in the preparation of the documentation. The Committee is responsible for making recommendations to the General Manager concerning tender acceptance or denial.</p>

## 6. Policy Statement

The cost of obtaining and providing goods and services, including disposal of assets, will be determined by either a quotation process or a tender process. Staff and elected representatives will use the process that best meets the objectives of this policy.

In accordance with section 355 of the Act, Council may choose to engage in joint purchasing arrangements with other councils or groups of councils such as voluntary regional organisations of councils.

Council will consider preference to local suppliers where evaluation criteria outlined in Section 6.4 are utilised. Furthermore, all suppliers whether by tender or quotation will be advised of the evaluation criteria and Council's support to use local suppliers.

### 6.1 Tenders

Council will seek tenders where required by the Act and when deemed appropriate by the General Manager. An Open Tender process will be followed by Council unless otherwise resolved.

The Tender Evaluation Committee shall meet prior to tenders being called, for probity of documentation and conditions for the tender being requested. The Committee will meet once tenders have been closed, and an evaluation is required.

The tender assessment criteria and weighting are to be identified before the tendering process is commenced. This includes how the prices/rates are to be requested and evaluated, whether it be lump sum, by schedule of rates, price adjustments and whether other incentives or sanctions will be applied.

The tendering process will follow the guideline document produced by the Office of Local Government (OLG) called 'Tendering Guidelines for NSW Local Government, October 2009'. Particular attention will be paid to the process checklist included in the guidelines.

### **6.1.1 Tender Documentation**

Whether open tenders are invited or tenders are invited from a selected list from a call for expression of interest, the following sections will appear in the overall tender document:

- Advertisement
- Information for Tenderers
- Conditions of Tender
- General Conditions of Contract
- Job Specific Requirements (or Services to be Provided)
- Specifications
- Selection criteria
- Tender Schedules
  - Pricing Schedule
  - Schedule of Insurances
  - Project Schedules
  - Consultants / Contractors Resources.

The Tender Evaluation Committee will meet prior to tenders being invited, for probity of documents.

### **6.1.2 Non-Refundable Fee for Tender Documents**

The cost of producing a set of tender documentation will be set by the relevant Officer to recover the expected costs, if a tenderer requires a hardcopy of the tender documents.

### **6.1.3 Consideration of Tender Information in Closed Council**

In accordance with section 10A, if tender information being considered by Council will either prejudice the commercial position of a tender or confer a commercial advantage on a competitor or reveal a trade secret, Council is obligated to consider the matter in closed Council.

### **6.1.4 Invitation to Tender to Recognised Contractors on Council's List**

From the Guidelines:

*'Clause 169 of the Regulation allows Council to establish a list of contractors who are interested in tendering for proposed contracts of a special kind'.*

*'Selective tender lists of recognised contractors are established where there is a continuing workload in a particular category of work and this workload justifies the cost of setting up and maintaining the list.'* (p35 OLG Tendering Guidelines).

### **6.1.5 Tender by a Regional Procurement Company**

Council may from time to time join with other councils for various products and services through a procurement company to attract price savings for a particular product or service.

The procurement company undertakes the administrative process associated with tendering and Council has the opportunity to procure products and services at the

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tendered price. However, Council is required, by resolution, to formally accept or reject a particular tender proposal by the procurement company.

#### 6.1.6 State Government Procurement Contract

Council is able to access products and services through providers that are recognised by the NSW Treasury (Buy NSW) and the Commonwealth Department of Administrative Services.

State Contracts are the principal method of purchasing for Government agencies across New South Wales. Over 100 State Contracts have been approved under the authority of NSW Treasury. A complete list and information about all NSW Government State Contracts can be found on the Buy NSW website [buy.nsw](http://buy.nsw).

#### 6.1.7 Prescribed Organisations

Local Government Procurement Partnership is a prescribed provider pursuant to clause 163 of the Regulation.

#### 6.2 Quotations

The cost of obtaining and providing goods and services must be determined by quotation where a tender process is not used. The quotation process must keep in mind the objectives of this policy.

The ordering of any goods or services as a result of quotation must be authorised by a staff member with the appropriate level of delegation.

The scale, complexity and political sensitivity of the procurement will usually determine if formal or informal quotations are sought and the number of quotations. Table 1 outlines minimum procedural requirements in relation to procurement by quotation.

**Table1 – Monetary Thresholds for Quotation Procedures**

Purchase Value	Procedure
Purchase value less than \$10,000 (GST inclusive)	Verbal request for quotation permitted however, quotation must be in a documented form. At least one quotation must be received.
Purchase value between \$10,001 and \$70,000 (GST inclusive)	The quotation must be sought by formal request. Documentation associated with the request must include a brief outline of the services to be provided. At least three quotations must be sought and at least one formal quotation must be received.
Purchase value between \$70,001 and \$250,000 (GST inclusive)	The quotation must be sought by formal request. Documentation associated with the request must include a specification or brief for the services, assessment criteria, pricing schedule and closing date. At least three quotations must be sought and at least two quotations must be received addressing the evaluation criteria.

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### 6.3 Order Splitting

Purchase Orders must not be split to avoid the monetary thresholds outlined in Table 1.

### 6.4 Evaluation Criteria

Value for money assessment of tenders and relevant quotations will be based on set performance criteria as well as price as per Table 2.

Within the Table 2 a Local Support Assessment Criteria will also be required to be addressed by tenderers. The criteria must be included with documentation made available to potential service providers.

The relevant Council officer will establish the criteria and weight them accordingly, however the list of criteria included in Table 2 must be included as a minimum. The weighting attached to each criterion will not be made known to potential providers.

A score will be given by the assessment panel against each Table 2 criterion and when the score and weighting are multiplied out an overall assessment score will be determined out of a maximum 100 evaluation points.

**Table 2 – Minimum List of Performance Criteria for Assessment of Tenders and Relevant Quotations**

Assessment Criteria – as per 6.1 these are set before the tender process is commenced.	Weighting	Score	Assessment Score
<b><u>Mandatory Criteria:</u></b> <ul style="list-style-type: none"> <li>• Submission in on time</li> <li>• Comply with conditions of Tender</li> <li>• All schedules completed</li> <li>• Insurances</li> <li>• WHS management practices and performance.</li> </ul>	NA	NA	Pass or Fail
<b><u>Qualitative Criteria:</u></b> <ul style="list-style-type: none"> <li>• Previous experience or track record in completion of similar projects.</li> <li>• Capacity or suitability of proposed personnel, plant, equipment and subcontractors.</li> <li>• Qualifications needed.</li> <li>• Suitability of proposed works methodology.</li> <li>• Details and logic of the proposed method of works including sustainability and whole of life.</li> </ul>			Range 40% to 70% dependent on the nature of the services or goods required and includes 5% Local Support.



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<ul style="list-style-type: none"> <li>• Tenderer’s workplace and industrial relations management practices and performance.</li> </ul>			
<p>Local Support Assessment Criterion includes the following:</p> <ul style="list-style-type: none"> <li>• Locally sourced materials (grown, manufactured, assembled, made within the Warrumbungle Shire Local Government Area) specific to the contract.</li> <li>• Locally sourced labour (actual /potential as result of the contract).</li> <li>• Locally sourced services (eg. fuel, accommodation) as a result of the contract.</li> <li>• Supplier is a business operating within the Warrumbungle Shire Local Government Area.</li> </ul>			Set at 5%
<p><b>Price Criteria</b> Set before tender process commenced – in scoring the price criteria a Normalised Price scoring method is recommended being: <i><u>the lowest tender price x 10</u></i> <i>tender or quoted price</i></p>			Range 30% to 60% dependent on the nature of the services or goods required.

**6.5 Managing Modern Slavery**

NSW councils have an obligation to take reasonable steps to ensure that goods and services procured by and for the organisation are not the product of modern slavery. Reasonable steps (Office of the Anti-slavery Commissioner *Guidance on Reasonable Steps*) include:

- **Commit** effectively to address modern slavery risks. This requires stakeholder engagement, risk assessment, development of a Modern Slavery Policy and potentially a Modern Slavery Risk Management Plan, as well as workforce training.
- **Plan** effective modern slavery risk management, particularly in their procurement environment. This may involve integrating inherent risk analysis into procurement planning, supply-chain mapping, sourcing strategy and early market engagement.
- **Source** the right suppliers, go to market and contract in ways that ensure buyers are not sourcing products of modern slavery. This may involve integrating modern slavery risks into prequalification, supplier evaluation and contracting processes.

- **Manage** modern slavery risks and effective relationships with suppliers, while meeting obligations. This may include monitoring and assessment of supplier performance against modern slavery expectations, as well as developing supplier capabilities.
- **Remedy** modern slavery harms to which the organisation is connected. This involves access to effective grievance mechanisms, taking safe immediate steps to remedy harms, using leverage to remediate deficient practices, and in some cases, responsible withdrawal from supplier relationships.
- **Report** modern slavery and the organisation's responses to modern slavery risks. This may involve reporting concerns about modern slavery risks or harms to law enforcement authorities or civil society organisations, as well as complying with statutory reporting obligations.
- **Improve** the effectiveness of modern slavery risk management efforts. This may involve drawing lessons from grievance mechanisms and stakeholder feedback, engaging in staff training, and participating in collaborative learning processes.

Council will utilise tools including, but not necessarily limited to:

- 'Guidance on Reasonable Steps' published by the Office of the Anti-slavery Commissioner;
- GRS Inherent Risk Identification Tool (IRIT) published by the Department of Communities and Justice;
- Council's
  - Enterprise Risk Management Plan
  - Supplier questionnaire
    - Questionnaire explanatory notes

## 7. Responsibilities

### Councillors

- Ensure that individually, councillors ensure they have undertaken procurement training (at least two yearly) and/or within a year of taking up a role of councillor in how to undertake their respective roles in the procurement process.

### General Manager

- Shall ensure the development of Procurement Guidelines and Procedures, including Warrumbungle Shire Council Purchase Order - Standard Terms and Conditions, that conforms to Council's Policy.
- Shall monitor the effectiveness of the Procurement Guidelines and Procedures in operation and authorise changes to improve the procedures to conform to Council's Policy.
- Ensure the availability of procurement training (at least two yearly) be provided to councillors and/or within a year of taking up a role of councillor in how to undertake their respective roles in the procurement process.

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### 8. Getting Help

The staff member/s who can assist with enquiries about the policy:

Position: Directors, Chief Financial Officer

Department: Corporate and Community Services, Technical Services, Environment and Development Services.

### 9. Version Control

Staff Member Responsible for Review: Director Corporate and Community Services

Policy Name	Action	Resolution No.	Date
Procurement Policy (including Local Preference Policy)	Endorsed	319	17 March 2011
Procurement Policy (including Local Preference Policy)	Endorsed	26/1718	20 July 2017
Procurement Policy (including Local Support Policy)	Adopted	50/2021	20 August 2020
Procurement Policy (including Local Support Policy)	Draft		December 2023