

Version: 1

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Responsible Department – Procurement Unit

## 1 Purpose

The council is required under section 186 of the Local Government Act 1989 (the Act) to prepare, approve and comply with a Procurement Policy. In accordance with the Act, this Policy sets out the key principles, processes and procedures applied to all purchases of services and works by Council.

The purpose of this Policy is to:

- provide a procurement framework that seeks to achieve best value in price, quality and timeliness through consistent, competitive and transparent processes;
- provide a framework to achieve ethical behaviour in all procurement;
- prioritise, where practical, the procurement of environmentally responsible, locally sourced and socially responsible goods and services; and
- minimise and manage risks in procurement.

## 2 Scope

The Policy represents the principles, processes and procedures that will be applied to all procurement activities, which includes sustainable practices of environmental, economic and social performance, undertaken by Council. The scope of this Policy commences from when Council has identified a need for procurement and it continues through to the delivery / completion of that procurement.

This Policy applies to all contracting and procurement activities at Council and is binding upon Councillors, Council officers and temporary employees, contractors and consultants while engaged by Council.

## 3 Context

Procurement is the process through which an organisation establishes contracts for goods, services, works and utilities. Procurement starts with an identified need, and seeks to put in place a contract or contracts, which effectively meet the need. This involves research, planning and market engagement, the conducting of procurement exercises such as tenders and quotations, Memorandums Of Understanding (MOU's), the formal award of contracts and the management and monitoring of contracts once in place.

## 4 Relevant Legislation, Policy and Other Documents

The key legislative requirements for this Policy include:

- Section 186 of the Act (power to enter into contracts)
- Section 186A of the Act (Procurement Policy)
- Section 3C of the Act (Objectives of a Council)
- Section 208B of the Act (Best Value Principles)
- Sections 77A, 77B, 78, 78A to 78E, 79, 79B to 79D, 80, 80A to 80C, 81, 95 and 95AA of the Act (Conflict of Interest)
- Section 98 of the Act (Accounts and Records)
- The relevant provisions of the Competition and Consumer Act 2010 (Cth)

Key Policies and other documents relating to this Policy:

- Councillor code of Conduct
- Staff Code of Conduct
- Gifts, Benefits and Hospitality Policy
- Promulgated guidelines (including Victorian Local Government Best Practice Procurement Guidelines 2013)
- Wyndham City Staff Sustainable Procurement Guide
- Wyndham City Staff Procurement Guide
- Other policies that interact with procurement

## 5 Policy

The following principles apply to all aspects of Council procurement:

### 5.1 Value for Money

Council will undertake efficient and effective procurement activities to ensure that value for money is obtained. All persons engaged in purchasing decisions must aim to obtain best value for money. Value for money will take account of all relevant costs and benefits of each proposal throughout the procurement cycle.

Value for money purchasing decisions made by Council are made based on whole-of-life cost and non-price factors including contribution to Council's objectives as set out in Wyndham City's 2040 Vision, which, includes the triple-bottom line principles around economic, environmental and social outcomes (see section 6).

### 5.2 Ethics, Probity and conflict of Interest

Members of staff (and all persons engaged in procurement on Council's behalf) must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. All members of staff have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest (section 95 of the Act).

At all times, Councillors, Council staff and other persons undertaking procurement on Council's behalf must:

- conduct themselves ethically and with integrity
- comply with the Gifts, Benefits and Hospitality Policy
- declare and effectively manage real, perceived and potential conflicts of interest

- maintain confidentiality and security of information; and
- comply with the code of conduct

### 5.3 Competition and Consumer Act Compliance

Council will comply with the Competition and Consumer Act 2010 and other fair trading legislation applicable to its operations. Council is committed to the public policy goals embodied in these laws which include the protection and promotion of competition.

Council is committed to observing and ensuring that staff observe the obligations arising under competition and consumer legislation, and to not allow the following to occur:

- restrictive trade practices (including price fixing and exclusionary provisions relating in a division of territories)
- market sharing (including allocation of customers), anti-competitive agreements, exclusive dealing and misuse of market power
- inaccurate communication or promotion (including misleading or deceptive conduct, false claims and unsubstantiated predictions); and
- unconscionable and unfair business practices

### 5.4 Delegation of Authority

Delegations define the limitations within which Council staff are permitted to work. Delegation of procurement authority allows specified Council staff to approve certain purchases, quotations, tender and contractual processes without prior referral to Council. This enables Council to conduct procurement activities in an efficient and timely manner while maintaining transparency and integrity. This includes the application of the sustainability elements of Social, Economic and Environmental procurement.

Council's instrument of delegation determines the seniority levels of staff authority, required for expenditure on each instance of procurement.

Measures which intentionally seek to avoid the requirement to give public notice, for example, contract splitting, placing multiple orders, seeking multiple quotations with a single supplier or engaging in effect a single supplier under different guises, are considered to breach the requirement to call public tenders where threshold values would otherwise be reached.

### 5.5 Accountability and Transparency

All persons engaged in procurement must be able to explain and provide evidence of the process followed in purchasing on behalf of Council. The test of adequate accountability is that an independent third party must be able to clearly see that a process complying with this Policy has been followed and that the process is fair and reasonable.

A consistent approach will be undertaken in all procurement across council. Council will conduct its procurement activities in a fair, honest, and open manner, demonstrating the highest level of integrity, consistent with the public interest and in line with its sustainability outcomes where appropriate.

### 5.6 Fair and Honest Dealing

All prospective providers must be afforded an equal opportunity to tender or quote, and impartiality must be maintained throughout the procurement process so that it can withstand public scrutiny.

The commercial interests of existing and potential providers must be protected. Confidentiality of information provided by existing and prospective providers must be maintained at all times, particularly commercially sensitive material such as, but not limited to process, price, discounts, rebates, profit, margin/mark-up, manufacturing and product information.

## 5.7 Tender Evaluation and Negotiation

Should the procurement activity warrant a public tender (as identified in table 1 – Spend Thresholds) then the following will apply:

- Late tenders and quotes will not be accepted unless explicitly outlined in the conditions of contract
- The tender selection criteria and weighting for each criterion will be agreed by the panel and documented prior to the requesting of tenders and quotes. This will include sustainability weighting criteria where appropriate
- An appropriately qualified Evaluation Panel will be established to evaluate each tender submission against the tender selection criteria
- External representatives may be part of, or an advisor to, the panel to ensure expertise skills, experience and/or probity
- The evaluation process must be robust, transparent and unbiased
- Contract negotiations can be conducted in order to obtain the best outcome for Council, providing negotiations remain within the intent and scope of the tender
- Council may conduct a shortlisting process. Shortlisted tenderers may be invited by Council to submit a Best and Final Offer (BAFO)
- The results of the tender evaluation and demonstration of the robustness of the process must be documented in a report and approved by the relevant delegate

## 6 Sustainability

Council's supply chain has a material impact on the organisation's sustainability performance, therefore; Council has a strong focus on sustainable procurement. To deliver on Council's commitment to the local community and the environment, Council uses procurement as an opportunity to generate social, environmental and economic benefits beyond the purchases required. This demonstrates Corporate Social Responsibility (CSR) which is about taking positive action to demonstrate the Council's commitment to the local community and environment on which its procurement activities impact.

When making purchases, Council will consider the following:

### 6.1 Environmental Sustainability

Council has committed to reducing its impact on the natural environment by making decisions which reduce natural resource and biodiversity depletion. Council works from the premise that every purchase has an impact on the environment and has developed this guide to advance the purchasing of greener products and services to ensure better social and environmental outcomes. A "Wyndham City Staff Sustainable Procurement Guide" has been developed and embedded into the organisation. Procurement considerations will include:

- reducing greenhouse gas emissions
- reducing waste to landfill and increasing amount of waste recycled
- reducing water consumption and improving water management

- encouraging improved environmental management in Council's supply chain
- selecting products/services that have minimal effect on the depletion of natural resources and biodiversity; and
- improving our ability to adapt to climate change

## 6.2 Economic Sustainability

Council is committed to procurement that supports local businesses and economic diversity and viability by:

- generating local employment
- taking into account the life cycle impacts of products purchased (purchase, operation and disposal)
- building relationships and encouraging purchasing from local suppliers; and
- fostering innovation and emerging sectors

## 6.3 Social Sustainability

Council is committed to pursuing – social value and positive social outcomes through its purchasing and procurement activities in order to strengthen social equity, and build community cohesion, wellbeing and livability within Wyndham.

Procurement considerations will include:

- undertaking procurement processes which promote inclusion through social capacity building
- exploring joint ventures with Council and social benefit suppliers
- the ethical procurement of goods and services
- engaging businesses on a local level to achieve social outcomes
- improving equity of access to opportunities
- supporting social and service innovation
- using procurement to reinvigorate depressed or marginalised communities; and
- helping build the capacity of social enterprises and exploring opportunities in engaging Social Enterprises for the procurement of goods and services where the nature of the procurement allows

Council is committed to embedding social procurement in line with its *Wyndham 2040 Vision*.

The outcomes are aligned with the four themes of the *Wyndham 2040 Vision* as follows:

- People and Community – social procurement helps Council to improve engagement with disadvantaged groups by encouraging and enhancing their contribution to the Wyndham community.
- Places and Spaces – providing local businesses and social enterprise with the opportunity to contribute to the sustainability of Wyndham's built and natural environment. This will increase the liveability and community wellbeing and connection where they live, work and play.
- Earning and Learning – partnering with local businesses and social enterprises will contribute to generating opportunities for greater investment and jobs growth, to provide a diverse and increasing range of education and career opportunities in Wyndham.

- Leadership and Participation – social procurement will enable Council to build stronger relationships with the Wyndham community. It will also provide a conduit for business and community to come together to better understand how we can improve the environment of Wyndham for the benefit of all residents and stakeholders.

## 7 Internal Controls

Council will establish, document and maintain a framework of internal controls over procurement processes in order to ensure:

- more than one person is involved in and responsible for each transaction
- transparency in the procurement process
- a clearly documented audit trail exists for procurement functions; and
- the required authorisations are obtained and documented

All persons engaged in procurement processes must diligently apply all internal controls.

## 8 Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

When procuring goods and services for the organisation; staff should read this policy in conjunction with the Wyndham City Staff Procurement Guide. The Wyndham City Staff Procurement Guide is a working document that details how this policy is to be applied and is reviewed on a regular basis.

Table 1: Spend Thresholds

Range of total value of goods or services (inclusive of GST)	Procurement Action	Management Requirement
Up to \$5,000	A minimum of one quotation (can be verbal, email or screen shot)	A procurement card to be used or a purchase order to be raised at the time of ordering
\$5,001 to \$20,000	A minimum of one written quotation	A procurement card to be used or a purchase order to be raised at the time of ordering
\$20,001 to \$50,000	A minimum of two written quotations are to be obtained.	A procurement card to be used or a purchase order to be raised at the time of ordering. Records of quotations should be stored in the financial system prior to the goods being received
\$50,001 to \$150,000 (goods & services) or \$50,001 to \$200,000 (works)	A minimum of three written quotations through Request for Quotation (RFQ) process.	Quotations must be submitted through Tenderlink. A report seeking approval must be made in line with the instrument of delegation. A purchase order must be approved by a Council Officer with the delegated authority. The quotations must be retained and recorded against the quotation file with the Councils file management system.
\$150,000 plus (goods and services) or \$200,000 plus (works)	Public tender process or eligible panel contracts	In accordance with Wyndham City Staff Procurement Guidelines