



# Nillumbik

## The Green Wedge Shire

# PROCUREMENT POLICY

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# Procurement Policy

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## Definitions and Abbreviations

Term	Definition
Act	<a href="#">Local Government Act 2020</a> .
Collaborative Procurement Arrangement	A contract established by the Council, government or a nominated agent, such as Procurement Australasia, Municipal Association of Victoria (MAV), Northern Councils Alliance (NCA) or local government entity, for the benefit of numerous state, federal and/or local government entities that achieves best value by leveraging combined economies of scale.
Commercial in Confidence	Information that, if released, may prejudice the business dealings or commercial interests of Council or another party, e.g. prices, discounts, rebates, profits, methodologies and process information, etc.
Contract Management	The process that ensures all parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the contract objectives and provide Value for Money.
Council	Nillumbik Shire Council
Councillors	Council's elected representatives (the Mayor and Councillors) or Administrator(s) appointed to act in this capacity.
Council Staff	Includes all Council officers, temporary employees, contractors, volunteers and consultants while engaged by Council.
IBAC	The Independent Broad-based Anti-corruption Commission
Indigenous Business (First Nation Business)	An Indigenous Business is one that is at least 50% owned by an Aboriginal or Torres Strait Islands person(s) (consistent with Supply Nation's definition).
Local Business	A commercial business with an operational premises that is physically located within the municipal borders of the 7 Northern Regional Councils.
Northern Councils Alliance (NCA)	The 7 Councils comprising the NCA, being the Cities of Banyule, Darebin, Hume, Merri-bek, Whittlesea and Mitchell and Nillumbik Shire Councils.
Probity	Within government, the term "probity" is often used in a general sense to mean "good process". A procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with the Council's policies and legislation, are established, understood and followed from the outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.
Procurement	Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.
Schedule of Rates Contract	A standing offer arrangement based on a Schedule of Rates contract that sets out rates for goods and services which are available for the term of the agreement but without a commitment to purchase a specified value or quantity of goods or services.

<b>Term</b>	<b>Definition</b>
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Total Contract Sum	<p>The potential total value of the contract including:</p> <ul style="list-style-type: none"> <li>• costs for the full term of the contract, including any options for either party to extend the contract;</li> <li>• applicable goods and services tax (GST);</li> <li>• anticipated contingency allowances or variations;</li> <li>• all other known, anticipated and reasonably foreseeable costs.</li> </ul>
Value for Money	<p>Value for Money in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including:</p> <ul style="list-style-type: none"> <li>• Non-cost factors such as contribution to the advancement of Council's priorities, fitness for purpose, quality, service and support; and</li> <li>• Cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.</li> </ul>

# I. Procurement Policy

## A. Overview

This Procurement Policy is made under Section 108 of the [Local Government Act 2020 \(the Act\)](#). The Act requires each council to:

- Prepare and adopt a procurement policy which specifies the principles, processes and procedures applying in respect of the purchase of goods and services and carrying out of works by the Council; and
- Review its Procurement Policy at least once during each 4-year term of the Council.
- This Policy has been developed collaboratively by the Northern Councils Alliance with a view to facilitating smooth collaborative procurement processes, consistent with *the Act*. This Policy also incorporates content that is specific to the Council and may differ from that of the other NCA councils and is intended to apply only to procurement involving the Council.

## B. Applicability

This Policy applies to all contracting and procurement activities at the Council and is applicable to Councillors and Council Staff.

It is recognised this will enhance achievement of the Council's objectives such as sustainable and socially responsible procurement, supporting local economies and obtaining Value for Money, leading to a better result in the provision of goods, services and works for the benefit of the community.

This Policy provides direction on the conduct of procurement activities throughout the sourcing, management and disposal phases. It also covers the general procurement framework but does not extend to the related accounts payable processes.

The Council must comply with this Procurement Policy before entering into a contract for the purchase of goods or services or the carrying out of works.

## C. Objectives

This Policy is consistent with the requirements of S108(2) of *the Act* and will:

- Seek to promote open and fair competition and provide Value for Money;
- Provide clear guidelines to the Council to allow consistency and control over procurement activities;
- Demonstrate accountability to ratepayers and residents;
- Provide guidance on ethical behaviour in public sector procurement;
- Demonstrate the application of best practice in procurement activities;
- Demonstrate the consideration of sustainability in procurement with respect to social, economic and environmental factors;
- Increase the probability of obtaining the best outcome for the municipal community when procuring goods and services; and
- Seek to undertake collaborative procurement in accordance with section 2.3.4 of this Policy;

These objectives will be achieved by requiring, that the Council's contracting, purchasing and contract management activities:

- Support the Council's corporate strategies, aims and objectives;
- Span the whole life cycle of an acquisition and take sustainability considerations into account;
- Achieve demonstrable Value for Money;
- Are conducted in, and demonstrate an impartial, fair and ethical manner;
- Seek continual improvement through innovative and technological initiatives; and
- Generate and support Local Business through inclusion wherever practicable.

## **1 Procedures**

### **1.1 Treatment of GST**

All monetary values stated in this policy include GST unless specifically stated otherwise.

## **2 Effective Legislative and Policy Compliance and Control**

### **2.1 Ethics and Probity**

#### **2.1.1 Requirement**

The Council's procurement activities shall be performed in an open, transparent and ethical manner with demonstrated integrity, fairness and accountability that meets relevant legal requirements.

All tender processes shall be conducted in accordance with the requirements of this Procurement Policy and any associated procedures, relevant legislation, relevant Australian Standards, Commercial Law and *the Act*.

#### **2.1.2 Conduct of Councillors and Council Staff**

Councillors and Council Staff shall at all times conduct themselves in ways that are in accordance with the Councillor Code of Conduct or the Staff Code of Conduct respectively, and will perform their duties ethically and with integrity and must:

- Treat potential and existing suppliers with equality and fairness;
- Not use their position to seek or receive personal gain in procurement matters;
- Maintain confidentiality of Commercial in Confidence information;
- Present the highest standards of professionalism and probity;
- Afford suppliers and tenderers with the same information and an equal opportunity to tender or quote for goods, services and works contracts;
- Be able to account for all decisions and demonstrate and provide evidence of the processes followed;
- Not perform any work under any Council contracts they are supervising i.e. Council Staff cannot also work for the relevant supplier;
- Query incidents, decisions or directions that appear to contradict or deviate from Council's standards of ethics or probity or established policies and procedures; and
- Ensure that this Procurement Policy and Council's Procurement Guidelines are adhered to in relation to any expenditure of Council funds.

#### **2.1.3 Conflict of Interest**

Councillors and Council Staff shall at all times avoid situations which may give rise to an actual or perceived conflict of interest. A conflict of interest may be a 'general' or a 'material' conflict of interest.

A member of Council Staff has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

A member of Council Staff has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit or loss may be direct or indirect and pecuniary or non-pecuniary. Affected persons include, among others, the member of Council Staff and their family members.

Council Staff involved in the procurement process, in particular preparing tender documentation, writing tender specifications, opening tenders, participating in tender

evaluation panels, preparing a recommendation report; and Councillors and Council Staff awarding tenders must:

- **Avoid** conflicts of interest, whether material or general or actual, potential or perceived;
- **Declare** that they do not have a conflict of interest in respect of the procurement. All Council Staff participating in tender evaluation panels must complete a Conflict of Interest declaration. Council Staff must declare any actual or perceived conflicts in line with Council's internal processes for reporting conflicts of interest; and
- **Observe** prevailing Council and Government guidelines on how to prevent or deal with conflict of interest situations; and not take advantage of any tender related information whether or not for personal gain.

#### 2.1.4 Fair and Honest Dealing

All prospective contractors and suppliers must be treated impartially and afforded an equal opportunity to tender or submit a quotation.

Any suspected improper conduct, including suspected fraud, corruption, substantial mismanagement of public resources, risk to public health and safety, risk to the environment, or detrimental action should be managed in accordance with Council's internal policies and processes.

#### 2.1.5 Probity, Accountability and Transparency

Accountability in procurement means being able to justify and provide evidence of the process followed. An independent third party must be able to see clearly that a process has been followed and that the process was fair and reasonable.

Council Staff must be able to account for all procurement decisions and ensure all procurement activities leave an audit trail for monitoring and reporting purposes.

#### 2.1.6 Gifts and Benefits

No Councillor or member of Council Staff shall seek or accept any immediate or future reward or benefit in return for the performance of any duty or work for Council or where it could be reasonably perceived as influencing them or their position or undermining their integrity or the integrity of the process in some way.

Any gift or benefit offered to a Councillor or Council Staff will be managed in accordance with Council's internal policies and processes.

Councillors and Council Staff, particularly contract supervisors:

- must not knowingly visit a current supplier's premises without invitation when acting in their official capacity; and
- must not knowingly engage a Council supplier for private benefit, unless that engagement is on proper commercial terms.

#### 2.1.7 Disclosure of Information

Commercial in Confidence information received by the Council must not be disclosed and is to be stored in a secure location.

Councillors and Council Staff must take all reasonable measures to maintain confidentiality of:

- Information disclosed by organisations in tenders, quotation or during tender negotiations; and

- Commercial in Confidence information.

Councillors and Council Staff are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests.

Discussion with potential suppliers during tender evaluations should not go beyond the extent necessary to resolve doubt on what is being offered by that supplier.

At no stage should any discussion be entered into which could improperly influence the procurement process or negotiation of a contract prior to the contract approval process being finalised, other than authorised pre-contract negotiations.

#### 2.1.8 Complaints & Reporting suspicious activities

### **Complaints Handling**

Members of the public and suppliers, are encouraged to report known or suspected incidences of improper conduct to the CEO or the Public Interest Disclosure Coordinator. Councillors and Council Staff will report and manage complaints in accordance with Council's internal policies and processes.

### **Reporting Suspicious Activities**

All Councillors, Council Staff and Council suppliers are required at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. Council is committed to protecting all revenue, expenditure and assets from any attempt to gain illegal benefits (financial or otherwise).

Council will take all reasonable steps to protect those who assist Council by providing information about suspected fraud. This will include confidentiality of identity and protection from harassment, to the extent possible.

Suspected improper conduct, offers of bribes, commissions and any other irregular approaches from suppliers, prospective suppliers or other individuals will be investigated and reported in accordance with Council's internal policies and processes.

The CEO or the Public Interest Disclosure Coordinator must notify IBAC of any matter they suspect on reasonable grounds to involve corrupt conduct occurring or having occurred in accordance with mandatory reporting requirements under the *Independent Broad-based Anti-Corruption Commission Act 2011*.

## **2.2 Governance**

### 2.2.1 Structure

Council has delegated a range of powers, duties and functions to the CEO in relation to procurement. The delegation aims to ensure that the Council's procurement structure operates according to processes that:

- Are flexible enough to procure in a timely manner the diverse range of goods, works and services required by Council;
- Guarantee that prospective contractors and suppliers are afforded an equal opportunity to tender or submit a quotation; and
- Encourage competition and collaboration,



### 2.2.2 Methods

The Council's standard methods for procuring goods, services and works shall be by any of the following:

- Purchase order following a quotation process from suppliers for goods or services that represent best Value for Money under the quotation thresholds adopted by the Council. An approved purchase order must be created prior to committing expenditure on behalf of Council for the provision of services, goods or works in accordance with the Council's procurement thresholds and guidelines;
- Under contract following a quotation or tender process;
- Using Collaborative Procurement Arrangements;
- Multi-stage tenders commencing with an EOI followed by a tender process;
- Under a sole-sourcing arrangement in line with the conditions contained in section 2.3.2.3;
- Purchasing Cards; and
- Petty Cash,

unless other arrangements are authorised by Council or under appropriate delegated authority on an 'as needs' basis as required by abnormal circumstances such as emergencies.

### 2.2.3 Responsible Financial Management

The principle of responsible financial management shall be applied to all procurement activities. Accordingly, to give effect to this principle, the availability of existing funds within an approved budget or source of funds shall be established prior to the commencement of any procurement action for the supply of goods, services or works.

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

## 2.3 Procurement Thresholds and Competition

Wherever it would likely achieve best value, procurements will be arranged under a relevant contractual arrangement established in accordance with section 108 of [the Act](#) and this Procurement Policy.

In every procurement activity all practicable efforts will be made to consider the sustainable procurement considerations as listed in Section 3.2.

Council will invite offers from the supply market for goods, services and works in accordance with the thresholds listed in [Appendix IA](#).

### 2.3.1 Procurement Principles

Council will apply the following fundamental best practice principles to procurement, irrespective of the value and complexity of that procurement:

- Value for Money;
- Sustainability (social, economic and environmental);
- Open and fair competition;
- Accountability;
- Risk management; and
- Probity and transparency.

### 2.3.2 Procurement Methodology

Section 108 of *the Act* details that each Council will set the public tender threshold above which tenders or expressions of interest for contracts must be publicly invited.

A public tender process must be used for all procurements valued at \$300,000 and above (incl. GST) for goods, services or works.

For procurements under \$300,000 (incl. GST), the procurement methodology and thresholds detailed in [Appendix IA](#) will apply.

#### 2.3.2.1 Exemptions from tendering

The following circumstances are exempt from the general publicly advertised tender, quotation and expression of interest requirements.

Exemption Name	Explanation, limitations, responsibilities and approvals
1. A contract made because of genuine emergency or hardship	<ul style="list-style-type: none"> <li>• Where the Council has resolved that the contract must be entered into because of an emergency (e.g. to provide immediate response to a natural disaster, declared emergency).</li> </ul>
2. A contract made with, or a purchase from a contract made by, another government entity, government-owned entity or other approved third party.	<ul style="list-style-type: none"> <li>• This general exemption allows engagements:               <ul style="list-style-type: none"> <li>○ With another government entity or government owned entity. For example, Federal, State or Local Government or an entity owned by the Federal, State or Local Government; and/or</li> <li>○ In reliance on contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, Municipal Association of Victoria (MAV) or National Procurement network members (e.g. Local Buy), Procurement Australia (PA).</li> </ul> </li> </ul>
3. Extension of contracts while Council is at market	<ul style="list-style-type: none"> <li>• Allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or are taking longer than expected.</li> <li>• This exemption may be used when the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.</li> </ul>
4. Professional services unsuitable for tendering	<ul style="list-style-type: none"> <li>• Legal Services.</li> <li>• Insurance.</li> </ul>
5. Novated Contracts	<ul style="list-style-type: none"> <li>• Where the initial contract was entered into in compliance with the Act and due diligence has been undertaken in respect to the new party.</li> </ul>
6. Information technology resellers and software developers	<ul style="list-style-type: none"> <li>• Allows Council to renew software licenses and maintenance and support, or upgrade existing systems, where there is only</li> </ul>

Exemption Name	Explanation, limitations, responsibilities and approvals
	one supplier of the software, who holds the intellectual property rights to the software.
7. Regional Waste and Resource Recovery Groups	<ul style="list-style-type: none"> <li>Situations where a Regional Waste and Resource Recovery Group constituted the Environment Protection Act 1970 had already conducted a public tender for and on behalf of its member councils.</li> </ul>
8. Statutory Compulsory Monopoly Insurance Schemes	<ul style="list-style-type: none"> <li>Motor vehicle compulsory third party</li> <li>WorkCover</li> </ul>
9. Operating Leases	<ul style="list-style-type: none"> <li>Where a lessor leases an asset (generally a vehicle or plant and equipment) to the Council and assumes the residual value risk of the vehicle.</li> </ul>
10. Other specific Council exemptions	<ul style="list-style-type: none"> <li>Defined in Appendix 5.</li> <li>Specific Council exemptions will be reviewed and updated in Appendix 5 from time to time, as per the Policy Review Process (section 5.1.2).</li> </ul>

### 2.3.2.2 Contract Variations

All contract variations must be assessed to determine whether they are properly characterised as variations, or whether they are in effect a new contract. This will depend on factors like:

- The monetary value of the proposed variation, i.e. the value of the variation in the context of the thresholds fixed by the Procurement Policy; and
- The subject matter of the proposed variation, and whether it is consistent with the scope of the original contract.

### 2.3.2.3 Sole or select sourcing

Supply of goods, services or works can be sought from one supplier (sole sourcing) or a restricted group of suppliers (select sourcing) where it is consistent with this Procurement Policy and:

- It is in the public interest;
- There is one or a limited number of available tenderers in the market or suppliers able to submit quotations;
- The marketplace is restricted by statement of license or third-party ownership of an asset (excluding public utility plant); or
- Council is party to a joint arrangement where Council jointly owns the Intellectual Property with a third party provider.

#### **Sole Sourcing:**

If there is a current procurement or disposal process in place, that process must be terminated prior to sole sourcing being implemented.

Sole sourcing is subject to existing delegations.

#### **Select Sourcing:**

Select sourcing is subject to existing delegations.

### 2.3.3 Public Tender Requirements

All public tenders invited by the Council will be published via Council's eTendering Portal and may be advertised in the media.

Information regarding Current Tenders and Awarded Tenders will be published on Council's website.

#### 2.3.3.1 Tender Evaluation

A tender evaluation panel will be established to evaluate each tender submission against the tender's selection criteria. Tender evaluation panels can include external personnel in order to ensure the best outcome for a procurement activity and must comprise of at least 3 persons as well as a chairperson.

A detailed Tender Evaluation Plan shall be developed, approved and strictly adhered to by that panel. Amongst other things, this involves the establishment of more detailed evaluation criteria (i.e. than those published with the tender) and the application of a pre-approved and robust weighted scoring system.

The Tender Evaluation Plan should be completed and signed off prior to the tender or quotation being issued.

#### 2.3.3.2 Evaluation Criteria

The Council may include the following evaluation criteria categories to determine whether a proposed contract provides Value for Money:

- Mandatory Compliance criteria (e.g. ABN registration, OH&S, Fair Work Act);
- Tendered price;
- Capacity of the Tenderer to provide the goods and/or services and/or works;
- Capability of the Tenderer to provide the Goods and/or Services and/or Works; and
- Demonstration of sustainability.

#### 2.3.3.3 Probity Advisor

A formal probity plan should be developed, and a probity advisor appointed in the following circumstances:

- Where the proposed Total Contract Sum exceeds \$10 million over the life of the contract or for a lesser value set by Council from time to time; or
- Where a proposed contract is considered by Council or the CEO to be particularly complex, of a high risk or controversial nature, and requiring a high level of public confidence.

A probity advisor may be appointed to any tender evaluation panel and may be appointed to oversee the evaluation process.

#### 2.3.3.4 Shortlisting and Negotiations

Council may conduct a shortlisting process during EOI, tender and quotation processes. Shortlisting can be based on any criterion or criteria but only in pursuit of the most advantageous outcome for the Council.

Shortlisted tenderers may be invited by the Council to submit a best and final offer in relation to all or certain aspects of their respective tenders. Once a preferred tenderer/s is/are selected, negotiations can be conducted in order to obtain the optimal solution and commercial arrangements, within the original scope and intent of the tender. Probity requirements apply to all negotiations.

#### 2.3.4 Collaborative Procurement

In accordance with section 108(c) of the Act, the Council will first give consideration to collaboration with other Councils and public bodies or utilise Collaborative Procurement Arrangements, when procuring goods, services and works in order to take advantage of economies of scale.

Council Staff must consider any opportunities for Collaborative Procurement in relation to a procurement process undertaken by Council. Any Council report that recommends commencing a procurement process must set out information relating to opportunities for Collaborative Procurement, if available, including:

- The nature of those opportunities, if any, and the councils or public bodies with which they are available; and
- Why Council did, or did not, pursue the identified opportunities for collaboration in relation to that procurement process.

When collaborating with the NCA, the Council will do so in accordance with the following:

- The NCA will develop a consolidated contract register to identify joint procurement projects on an annual basis.
- Council contracts with a minimum value of \$1 million per annum (per Council), for the ongoing supply of goods or provision of services or works, other than projects that are unique to an individual Council (e.g. unique construction or works projects), will be included in the consolidated contract register for collaboration consideration;
- Other contracts which, due to the subject matter, nature or scope, are likely to deliver operational efficiencies if procured in collaboration with the NCA, must be included in the consolidated contract register for consideration as a possible joint procurement opportunity;
- Where Collaborative Procurement is to be pursued:
  - A pre-market approval submission will be submitted to each Council and the NCA prior to commitment to collaboration, seeking delegation of contract approval to CEOs;
  - The NCA will establish a Heads of Agreement that gives authority for a lead council to act as each Council's agent in the Collaborative Procurement;
  - Each of the Councils who participate will be able to enter into a contract with the preferred supplier identified through the Collaborative Procurement process, or may choose as a group to enter into a contract using "jump in/opt-in" contract provisions during the contract term, or with the Council which conducted the public tender; and
  - Each participating council must be involved in:
    - The initial decision to undertake the Collaborative Procurement;
    - Preparation of, and agreement to, the specifications;
    - Ensuring probity for the Collaborative Procurement; and
    - The acceptance of tender(s) and awarding of contract(s).

Furthermore, Council may collaborate with other Councils or other bodies such as MAV Procurement or Procurement Australasia to procure goods, services or works, or utilise existing Collaborative Procurement Arrangements for the procurement of goods, services or works established through a public tender process where it provides an advantageous, Value for Money outcome for the Council.

Any Federal or State Government grant funded projects may be excluded from collaborative procurement.

## **2.4 Delegation of Authority**

### **2.4.1 Requirement**

Delegations define the limitations within which Council Staff are permitted to commit Council to the procurement of goods, services or works and the associated costs. The Instrument of Delegation allows specified Council Staff to undertake certain purchases, quotation, tender and contractual processes without prior referral to the Council. This enables the Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

Council has delegated responsibilities relating to the expenditure of funds for the purchase of goods, services and works, the acceptance of quotations and tenders and for contract management activities to the CEO. The CEO has further delegated some of those responsibilities to other members of Council Staff, subject to specified conditions and limitations.

## **2.5 Internal Controls**

The CEO will install and maintain a framework of internal controls over procurement processes that will ensure:

- More than one person is involved in and responsible for the authorisation and management of a transaction from end to end;
- Transparency in the procurement process;
- A clearly documented audit trail exists for procurement activities;
- Appropriate authorisations are obtained and documented;
- Systems are in place for appropriate monitoring and performance measurement; and
- A process is in place for escalation, where appropriate, of procurement matters (including procedural non-compliance) to the Executive Leadership Team, the Audit and Risk Committee and Council.

## **2.6 Risk Management**

### **2.6.1 General**

Risk assessments are a vital part of the procurement planning process, particularly for significant contracts. Risks will be identified for each part of the sourcing, transition, delivery and finalisation stages of procurement. Appropriate risk avoidance and mitigation strategies will be employed whenever practicable and appropriate.

## **2.7 Endorsement**

Council Staff must not publicly endorse any products or services without the permission of the relevant Director or the CEO.

## **2.8 Dispute Resolution**

Where relevant, all Council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes escalating to legal action.

## **2.9 Contract Management**

In order to continually improve its procurement and contract management processes and outcomes, Council will evaluate and seek to improve on all aspects of procurement and contract management, in accordance with its documented procurement processes and Contract Management Guidelines.

Good contract management ensures goods, services and works are delivered to the required standards of quality and quantity as intended by the contract through:

- Establishing a system monitoring and achieving the responsibilities and obligations of all parties under the contract;
- Providing a means for the early recognition of issues and performance problems and the identification of solutions;
- Adhering to the Council's risk management framework and relevant Occupational Health and Safety and sustainability requirements.

Council contracts are to include contract management requirements commensurate with the complexity of the procurement. Furthermore, contracts are to be proactively managed by the member of Council Staff responsible for the delivery of the contracted goods, services or works to ensure the Council and therefore the community, receives Value for Money.

Council awards some contracts that are strategically critical and of relatively high value. Council *will* provide additional senior oversight to the management of such significant contracts.

### **3 Demonstrate Sustained Value**

#### **3.1 Achieving Value for Money**

##### **3.1.1 Requirement**

The 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 and delivery considerations. Lowest price is not the sole determinant of Value for Money.

##### **3.1.2 Approach**

This will be facilitated by:

- Achieving continuous improvement in procurement activity in accordance with the direction set out in the Council's Strategic Procurement Plan;
- Developing, implementing and managing processes that support the co-ordination and streamlining of activities throughout the procurement lifecycle;
- Effective use of competition;
- Using existing Council contractual arrangement or Collaborative Procurement Arrangements where appropriate;
- Identifying and rectifying inefficiencies in procurement processes;
- Developing cost efficient tender processes;
- Council Staff responsible for providing procurement services or assistance within the Council providing competent advice in terms of available products and agreements; and
- Working with suppliers to create relationships that are professional, productive, and are appropriate to the value and importance of the goods, services and works being acquired.

#### **3.2 Sustainable Procurement**

##### **3.2.1 Sustainable procurement definition**

Sustainable procurement involves decision making that has the most positive environmental, social and economic impacts possible across the entire lifecycle of goods, services and works. The United Nations Environment Programme defines sustainable procurement as a "process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves Value for Money on a whole of life basis in terms of generating benefits

not only the organisation, but also to society and the economy whilst minimising damage to the environment.”

### 3.2.2 Applying sustainable procurement in Council

Sustainability will be embedded in the Council’s work. All Council Staff will have a clear and shared understanding about what it means and how they can apply it to their daily tasks. The Council commits to applying the principles of sustainability to all of its decision-making and activities.

Council demonstrates sustainable procurement by:

- Being accountable for its impacts on society, the economy and the environment including the impacts of the organisation’s supply chain;
- Examining anticipated organisational, project and/or community needs;
- Continually improving sustainability specifications, practices and outcomes; and
- Planning and undertaking sustainability evaluations as part of contracting activities.

### 3.2.3 Objectives

The following Economic, Environmental and Social objectives have been determined in line with these principles.

Area	Principles	Objectives
Economic	Council is committed to procurement that supports Local Business and economic diversity in the NCA. Where practicable and applicable Council will give preference to goods manufactured or produced in Australia and will actively seek quotations and tenders from Local Businesses in the Northern Region.	Council’s economic sustainability approach aims to: <ul style="list-style-type: none"> <li>• Achieve Value for Money on a whole of life (including disposal) basis, rather than just initial cost;</li> <li>• Consider broader life cycle impacts of products procured;</li> <li>• Ensure probity and accountability in the procurement process;</li> <li>• Commit to sourcing locally where practicable;</li> <li>• Build relationships with Local Business and encourage procurement from them to help build their capacity; and</li> <li>• Increase local employment.</li> </ul>
Environmental	Where applicable Council will purchase goods, services and works that reduce air, water and soil pollution, greenhouse gas emissions, waste production, natural resource depletion and biodiversity depletion whenever they present an acceptable Value for Money outcome, and in some cases where they might not.	Council’s environmental sustainability and approach aims to: <ul style="list-style-type: none"> <li>• Improve energy efficiency;</li> <li>• Reduce greenhouse gas emissions and contribution towards Council’s carbon footprint;</li> <li>• Minimise waste production;</li> <li>• Improve water efficiency;</li> <li>• Reduce air, water and soil pollution;</li> <li>• Reduce biodiversity impacts; and</li> <li>• Increase the use of recycled materials to: <ul style="list-style-type: none"> <li>○ Reduce demand for raw materials and non-renewable resources; and</li> <li>○ Close the loop on kerbside recycling.</li> </ul> </li> </ul>



Area	Principles	Objectives
Social	Council is committed to building stronger communities and meeting social objectives which benefit the municipality and commits to integration of measures in its procurement processes and documentation which promote improved social outcomes.	Council's social sustainability approach aims to: <ul style="list-style-type: none"> <li>• Ensure vendors do not exploit workers and provide fair wages, including inclusive business practices;</li> <li>• Ensure sourced products are accessible by all segments of the community;</li> <li>• Increase employment opportunities for indigenous people, people with a disability, disadvantaged people and long term unemployed;</li> <li>• Improve gender equity</li> </ul>

## 4 Build and Maintain Supply Relationships

### 4.1 Managing Suppliers

Council recognises the importance of effective and open working relationships with its suppliers and is committed to managing existing suppliers via performance measurements to ensure the benefits negotiated through contracts are delivered.

### 4.2 Supply Market Development

A wide range of suppliers are encouraged to compete for Council work. The focus for new work need not always be with the larger more familiar businesses. Other types of organisations offering business diversity include:

- Green suppliers;
- Local, small to medium sized enterprises (SMEs) and Social enterprises;
- Ethnic and minority businesses (e.g. Indigenous Business); and
- Volunteer and community organisations.

## 5 Policy Key Linkages and Governance

### 5.1.1 Standards and Linkages

The Council's procurement activities shall be carried out to the professional standards in accordance with best practice and in compliance with the *Act* and applicable policies and procedures including Codes of Conduct for Councillors, Council Staff and suppliers.

Compliance will be monitored by the Council's Procurement Team and minor issues identified will be addressed by Council Staff in leadership positions. Where required, serious compliance issues will be reported by the CEO to the Audit and Risk Committee and Council.

This Policy has clear linkages to a range of codes, charters, legislation and Council documents, including:

- [Local Government Act 2020](#)
- Procurement procedures and guidelines
- Purchasing and accounts payable manuals

- Codes of Conduct and associated policies

Other relevant legislative requirements include compliance with the [Competition and Consumer Act 2010](#), *Goods Act 1958*, *Fair Work Act 2009*, *Working with Children Act 2005*, *Working with Children Regulations 2016* and the *Environment Protection Act 1970* and *Environment Protection Act 2017* and other relevant Australian Standards.

#### 5.1.2 Policy Review Process

In accordance with *the Act*, Council will review its Procurement Policy at least once during each 4-year term of the Council.

Members of the NCA will endeavour to work together to keep this Policy under review and to prepare any amendments to Sections 1-5.

Any amendment to the Sections within Appendices, which is specific to the individual Council can be made at any time during the 4-year term of the Council and is only required to be reviewed and adopted by the individual Council.

#### 5.1.3 Policy Enquiries and Contact Details

For further information on this policy, please contact Council's Procurement Function via:

Email: [Procurement@nillumbik.vic.gov.au](mailto:Procurement@nillumbik.vic.gov.au)

## APPENDICES

All policy requirements contained within these Appendices Sections are only applicable to Nillumbik Shire Council.

### Appendix I – Nillumbik Shire Council Procurement Methodology Thresholds

#### A. Requirement for tenders, proposals and quotes

Council will invite tenders, proposals, quotes and expressions of interest from the supply market for goods, services, building and construction works in accordance with the thresholds listed below:

Procurement Threshold Inclusive of GST	Procurement Methodology
<\$1,000	<ul style="list-style-type: none"> <li>• Purchases which are once-off and are for non-contracted requirements</li> <li>• No quotation required.</li> <li>• Preference is to source from local suppliers, First Nations or Social Enterprise business where there are suppliers available for requirements.</li> <li>• Purchase can be made via Purchasing Card if permitted for type of purchase</li> <li>• Purchase Order is not required unless requested by Supplier.</li> </ul>
\$1,001 - \$5,000	<ul style="list-style-type: none"> <li>• Purchases which are once-off and are for non-contracted requirements</li> <li>• Obtain at least one written quotation.</li> <li>• Preference is to invite local suppliers, First Nations or Social Enterprise businesses where there are suppliers available for requirements.</li> <li>• Purchase Order must be created prior to purchase taking place.</li> </ul>
\$5,001 - \$20,000	<ul style="list-style-type: none"> <li>• Purchases which are once-off and are for non-contracted requirements</li> <li>• Obtain at least two written quotations.</li> <li>• Preference is to invite local suppliers, First Nations or Social Enterprise businesses where there are suppliers available for requirements.</li> <li>• Purchase Order must be created prior to purchase taking place.</li> </ul>
\$20,001 - \$50,000	<ul style="list-style-type: none"> <li>• Purchases which are once-off and are for non-contracted requirements</li> <li>• Preference is to invite local suppliers, First Nations or Social Enterprise businesses where there are suppliers available for requirements.</li> <li>• Obtain at least three formal quotations via Vendor Panel system.</li> <li>• Purchase Order must be created prior to purchase taking place.</li> </ul>

	<ul style="list-style-type: none"> <li>Where only one quote is received from those invited, Value for Money must be demonstrated.</li> </ul>
\$50,001 - \$300,000	<ul style="list-style-type: none"> <li>Obtain a Contract Number and</li> <li>Undertake a formal Request for Quote process as per Procurement Guideline and processes.</li> <li>Preference is to invite local suppliers, First Nations or Social Enterprise businesses where there are suppliers available for requirements.</li> <li>At least four formal quotes are to be invited from suppliers via VendorPanel system who are considered able to meet the requirements.</li> <li>Where only one quote is received from those invited, Value for Money must be demonstrated.</li> <li>Purchase Order must be created prior to purchase taking place</li> <li>The Senior Procurement Officer may direct that a public tender process be issued.</li> </ul>
\$300,000+	<ul style="list-style-type: none"> <li>A public tender process is required for the procurement of goods, services or works where once-off or ongoing cumulative spend over the full possible period (life) of the contract is expected to exceed \$300,000</li> </ul>

Procurement transactions will not be split to circumvent those thresholds. Obtaining sufficient quotations can sometimes be difficult, e.g. if there are few suppliers for the goods, services or works being sought or where the work is highly specialised. In such a case, an Executive Manager/Director/CEO may waive the requirement to request required quotations via the formal request for exemption process.

**NB:** Public Tender requirements cannot be exempted.

## **Appendix 2 Performance KPIs**

### **A. Procurement Performance Indicators**

Nillumbik Shire Council will seek to understand and improve its procurement performance by capturing and analysing data on key performance indicators including:

- New Collaborative Procurement contracts;
- New preferred supplier (panel) contracts;
- The number of Local, First Nation or Social Enterprise Businesses engaged and proportion of local spend;
- Value of savings;
- Level of compliance with the Procurement Policy;
- Performance of Panel Supplier Contracted arrangements – issued works;
- Extent of contracts delivered on time and on budget; and

A report detailing actual performance against these indicators will be presented annually to the Audit & Risk Committee and the Council.

## Appendix 3 Council Specific Exemptions

This section will include any additional exemptions not included in Section 2.3.2.1 from tendering applicable to Nillumbik Shire Council that are identified from time to time.

Exemption Name	Explanation, limitations, responsibilities and approvals
Limited selection of Hybrid/Electric Trucks and Vehicles within Australian Marketplace	Council reserves the right to issue a selective tender process to procure specific future Hybrid/Electric truck requirements where there is a limited range of Hybrid/Electric Trucks within the Australian Marketplace.
Traditional custodians of the lands within the Council region.	Allows Council to engage directly with the traditional custodians on indigenous or cultural heritage matters native to the region where no competition exists.

## **Appendix 4 Local, First Nations and Social Enterprise Businesses**

### **A. Identification of and engaging Local, First Nations and Social Enterprise Businesses**

As part of Nillumbik Shire Council procurement and purchasing practices, Council will seek to identify, engage with and encourage local, First Nations and Social Enterprise Businesses to participate in Councils purchasing requirements.

### **B. Identification of First Nations Businesses**

Council purchasing officers will conduct a search for suitable First Nations Businesses on Supply Nations and Kinaway business registers and advise suppliers of opportunities.

### **C. Verification of Registered or Certified First Nations Business**

First Nations Businesses must meet one of the following criteria to be a Registered or Certified First Nations Business;

- Certified businesses are 51% or more (and often 100%) Aboriginal and/or Torres Strait Islander owned, managed and controlled.
- Registered businesses are at least 50% or more Aboriginal and/or Torres Strait Islander owned. This caters for equal partnerships with non-Indigenous owners.

In the event a supplier states they are First Nations Business, but is not listed on Supply Nations or Kinaway registers, the First Nations Business must be able to provide evidence of their business eligibility before any purchasing will be undertaken or contracts awarded.

### **D. Identification of Local Businesses**

Council purchasing officers will conduct a search for suitable Local Businesses on VendorPanel.

### **E. Identification of Social Enterprise Businesses**

Council purchasing officers will conduct a search for suitable Social Enterprise Businesses via Social Traders website