

2019/20 Contract Manual

Corporate Plan reference	<i>A smart economy</i> <i>An outstanding organisation</i>
Endorsed by Council on	
Manager responsible for policy	Manager, Business and Innovation

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1 Purpose

The purpose of this Contract Manual (Manual) is to outline how Sunshine Coast Council (Council) will carry out Contracting Activities in the most effective manner that complies with applicable legislation and Council's Procurement Policy.

2 Outcome

Council's objectives and desired outcomes are to conduct Contracting Activities in a manner that:

- (a) Provides an effective and efficient framework that delivers sound contracting outcomes;
- (b) Complies with the Procurement Policy; and
- (c) Complies with all applicable laws including the *Local Government Act 2009* (Qld) (LGA 2009) and the *Local Government Regulation 2012* (Qld) (LGR 2012).

2.1 Conflict

Legislation will prevail overall to the extent of any inconsistencies. The Procurement Policy will prevail over any inconsistencies with this Manual.

3 Guideline Statement

The LGA 2009 and LGR 2012 impose specific obligations upon Local Governments when conducting Contracting Activities. Contracting Activities are the processes by which Council forms contracts with suppliers for the provision of goods, services and works, and through which it disposes of valuable non-current assets or surplus assets.

Pursuant to Chapter 6, Part 2 of the LGR 2012, Council resolved to apply the Strategic Contracting Procedures to its Contracting Activities and as a result Council's Procurement and Contracting Framework comprises:

- Procurement Policy;
- Contract Manual;
- Contracting Plan and any Significant Contracting Plan/s;
- Local Preference in Procurement Guideline;
- Social Benefit Procurement Guideline;
- Indigenous (Aboriginal and Torres Strait Islander) Procurement Guideline;
- Innovation and Market-Led Engagement Guideline.

4 Scope

This Manual applies to Council Officers and elected members of Council who undertake Contracting Activities on behalf of Council.

4.1 Prohibition on undertaking a Contracting Activity

This Manual applies to Council Officers and elected members of Council. Persons engaged by Council in Contracts for Service, such as consultants and project managers, are not authorised to initiate any procurement process, sign any letters, or Contract on behalf of Council.

5 Sound Contracting Principles

Council will have regard to the Sound Contracting Principles when entering into Contracts for the supply of goods, services and works and the disposal of assets.

The **Sound Contracting Principles** are:

- (a) value for money;
- (b) open and effective competition;
- (c) the development of competitive local business and industry;
- (d) environmental protection; and
- (e) ethical behaviour and fair dealing.

Regard must be had for these principles whenever a relevant Contract is formed, irrespective of the value. This includes Contracts for even the smallest amounts, or those formed under Exceptions that are established in this Manual. There is never an exception to having regard to the Sound Contracting Principles. Council must only form a Contract with a supplier who provides the most advantageous offer to it, having regard to the Sound Contracting Principles.

6 Governance and Probity

To ensure that Council is accountable, effective, efficient, and sustainable, anyone performing a function under the LGA 2009 must do so in a manner that is consistent with the Local Government Principles. To meet these obligations the following Probity Framework sets out the governance and probity requirements for Contracting Activities.

6.1 Probity Requirements

A sound probity environment must be maintained during any Contracting Activity for any value. Promoting probity and having a framework to embed probity in Council's Contracting Activities is an integral element in ensuring that regard has been had for the Sound Contracting Principles as well as ensuring our conduct reflects the ethical principles and local government principles. The ethical principles are those outlined in the *Public Sector Ethics Act 1994* (Qld) and are:

- Integrity and impartiality;
- Promoting the public good;
- Commitment to the system of government; and
- Accountability and transparency.

It is the responsibility of all Council officers and Councillors associated with a Contracting Activity to ensure probity is achieved as outlined in the Procurement Policy.

Probity is underpinned by the ethical principles, the local government principles and the fifth Sound Contracting Principle, ethical behaviour and fair dealing, and the broad objectives of probity in Contracting Activities are to:

- ensure conformity to Council's Procurement Policy, principles and processes that are designed to achieve the most advantageous outcome for Council;
- improve accountability;
- encourage commercial competition on the basis that all offers will be assessed against the same criteria;
- preserve public and Respondent confidence in Council processes;
- improve defensibility of decisions to potential administrative and legal challenge;
- underpin a transparent and competitive process; and
- identify and resolve any conflicts of interest.

The framework for probity in Council's Procurement and Contracting Activities includes:

- Having a Probity Plan for Contracting Activities of a certain value
- Setting evaluation criteria where applicable
- Declaring and managing conflict of interests
- Ensuring security and confidentiality in the process
- Having effective and appropriate communication including:
 - requests for clarification
 - negotiations
 - feedback to respondents
- Consistent process for how Tenders, EOIs and Quotes are received and opened
- Undertaking evaluations
- Identifying critical issues and risks
- Engaging with probity advisors
- Dealing with breaches of probity

6.2 Probity Plan and Probity Checklist

A Probity Plan (refer to **11.2.2**) needs to be completed and signed by each evaluation panel member, the Branch Manager, and/or the Contract Sponsor for a Contracting Activity with value of \$25,000 or greater where submissions (Tenders/EOIs/Quotes) will be received from Prospective Respondent/s. The Probity Plan also requires the evaluation panel members to declare that they have read and understood Council's probity requirements. Submissions (Tenders, Quotes, and any other submission or offer) cannot be released to evaluation panel members prior to signing the Probity Plan.

Evaluation criteria weightings in the Probity Plan must be set prior to signing so as to ensure that these are pre-determined before submissions are viewed and evaluated.

A Probity Checklist is provided for guidance on probity related matters for a Contracting Activity of any value.

6.3 Conflict of Interest

Members of the evaluation panel need to declare any relationships or connections they currently have, or previously had, with any of the Respondents or their employees. Throughout any Contracting Activity, members of the evaluation panel or advisors to the panel cannot accept offers of gifts, meals or any other benefit from any interested party and/or Prospective Respondent. Furthermore, members of the evaluation panel and advisors will be expected to declare in writing to the chair of the evaluation panel the existence of any actual, perceived, or potential conflict of interest as soon as they become aware of it.

In the case where a member of the evaluation panel has declared a conflict of interest with a Prospective Respondent, and due to the nature of the conflict, either the member or the evaluation panel feel that the person could not continue their involvement without potentially compromising the procurement process, that member should be replaced on the evaluation panel and not take further part in the evaluation.

6.4 Confidentiality

It is essential for the integrity of the Contracting Activity that confidentiality is maintained. Respondents have a right to expect that commercial information will be treated in confidence. Lapses on the part of any evaluation panel member may seriously jeopardise the Contracting Activity. Similarly, the panel must maintain the confidentiality of all documentation relating to the evaluation including evaluation reports and other information generated during the evaluation process.

At the end of the procurement process all documents received from Respondents and records created throughout the Contracting Activity are to be captured into Council's Electronic Document Management System in a secure manner.

While it is understood that requests under the *Right to Information Act 2009* or related legislation could ultimately lead to the disclosure of confidential information, this does not diminish the need for the evaluation process to be conducted in a secure and confidential manner. Confidential information is to be shared only within the evaluation panel environment, unless otherwise authorised by the Chair of the Procurement Contracts Committee.

6.5 Receipt and opening of submissions

Tenders and EOIs will not be publicly opened, but will be electronically opened by a Procurement and Contracts staff member via an encryption key after the closing date. For QTenders submissions, the opening will be witnessed by another Procurement and Contracts staff member who will electronically sign in to verify their presence. A Download Response Report will be held by Procurement and Contracts staff. Council's Procurement and Contracts staff will forward Tenders to the evaluation panel.

Quotes submitted via [Council's Contract Management System](#) will be opened electronically by the chair of the evaluation panel after the closing date.

6.6 Probity Advisor or Auditor

Advice in relation to probity matters can be obtained internally from the Procurement and Contracts Teams or Legal Services, however there will be instances where an external probity advisor and/or auditor may be required. Consideration should be given to engaging an external probity advisor for Contracting Activities that are high value, high risk, or complex; this should be identified in the procurement planning phase. This decision should be monitored throughout the Contracting Activity and if circumstances arise that a procurement becomes complex, protracted, probity risks are identified, the risks of the activity increases, or the value increases, then engagement of an external probity advisor or auditor may be required.

Engagement of external probity advisors/auditors will be undertaken by the chair of the Procurement Contracts Committee. An external probity advisor/auditor may also be appointed at the direction of the CEO, Group Executive, or Manager Business and Innovation.

6.7 Probity Check-in Points

During the course of a Contracting Activity, probity is revisited whenever required but is specifically considered at the following key points in the Contracting Activity:

1. At the commencement of developing the procurement strategy for the Contracting Activity
2. Prior to approaching the market
3. Prior to and upon the close of a tender box or receipt of submissions
4. Prior to releasing submissions to evaluation panel members
5. During the evaluation
6. Prior to the award of the Contract
7. When providing submission feedback to Respondents.

6.8 Breach of Probity

Should any breach or suspected breaches of probity processes occur at any time, Council Officers are required to report the breach in writing to the chair of the Procurement Contracts Committee.

7 Responsibilities, Delegations and Authorities

Before a Contracting Activity can be undertaken it is necessary to know and understand who has responsibility for the Contract/project, who has the necessary authority to approve the process and expend Council funds, and who has the necessary delegated authority to bind the Council in a lawful Contract with a supplier.

A brief description of the stakeholders and their responsibilities are as follows:

7.1 Contract Administrator

A Contract Administrator is the person appointed by the stakeholder branch or group to coordinate and manage the Contracting Activity. This requires a direct and 'hands-on' management of the project from its inception, through to Contract formation and throughout the life of the Contract. The tasks that a Contract Administrator is responsible for include:

- Identifying the expected value of a Contract.
- Obtaining a Contract Number from the Contracts and Supply Services team for Contracts worth \$200,000 or more (irrespective of the procurement route).
- Ensuring sufficient budget is available for the project/Contract and have Branch Manager confirmation.
- Inclusion of a contract performance management framework within the Contract or arrangement, including but not limited to Key Performance Indicators (KPI's).
- Contract performance management throughout the life of the contract.

7.2 Procurement Specialists

Procurement Specialists are allocated to work with Contract Administrators to develop the procurement strategy and necessary documentation for all Expressions of Interest (EOI), Written Tenders, and high value Request for Quote (RFQ) processes. They provide guidance and support throughout the process to ensure Council meets its legislative and policy obligations and has regard for the Sound Contracting Principles.

Procurement Specialists are also able to provide advice in relation to RFQ processes, although they are not normally allocated to work on those projects (unless they are high value) in the same manner as for Written Tenders.

The Procurement Specialists also provide guidance, advice and support on how to develop KPIs and on how to manage the performance of a Contract once it has been established following a procurement process. For further information on Contract Performance see Managing Established Contracts at Part 18.

7.3 Coordinator Contracts and Supply Services

The Coordinator Contracts and Supply Services is responsible for Council's Contract Register, publishing Contracts in accordance with the LGR 2012, and provides guidance, advice and support relating to the contractual aspects of Contracting Activities.

7.4 Coordinator Procurement and Contract Performance

The Coordinator Procurement and Contract Performance is responsible for leading and supporting the Procurement Team, and providing guidance and advice to Council Officers on procurement and contract performance related matters.

7.5 Procurement Contracts Committee (PCC)

The purpose of the PCC is to provide a consolidated and consistent approach to Council's Contracting Activities for high value contracts, including the formation of certain supplier arrangements. It also provides a key governance mechanism in Council's [Governance and Probity](#) framework. PCC is primarily responsible for:

- approving release of Written Tenders, EOIs and high value RFQs;
- considering the recommendations of evaluation panels for advertised Written Tenders, EOIs and high value RFQs;
- making contracts with Respondents who provide the most advantageous offers to Council;
- considering and approving the establishment and the exercise of exceptions to the general Written Tender or RFQ obligations where necessary;
- considering and approving:
 - contract variations;
 - contract extensions; and
 - discharge of contracts, for Written Tenders and high value RFQs

The Procurement Contracts Committee is governed by its Terms of Reference.

When the procurement (or disposal) documentation has been completed, the project is placed on the agenda for the next PCC meeting, held every Wednesday in accordance with the Terms of Reference. PCC agenda closing time is noon on the Monday prior to the PCC meeting. All reports and accompanying documentation must be finalised and with the Procurement Specialist by this time.

PCC reviews the documentation to ensure compliance with legislation and Council policies, and that relevant commercial considerations and procurement objectives have been met, before approving their release.

The Manager, Business and Innovation Branch has the necessary delegated authority to invite Written Tenders, high value RFQs and EOIs.

Minutes of PCC meetings are recorded and retained. They provide a clear explanation and justification of the recommendations made by the committee and the exercise of the powers of the delegated officer.

PCC also acts as Gate 3 of the Gateway Process for Project Delivery.

7.6 Delegations

There are two types of delegated authorities relating to a Contracting Activity; these are an authority to make, amend or discharge a Contract, and the expenditure authority (sometimes referred to as a Financial Delegation). It should be noted that there is a significant difference between a delegated authority to make, amend and discharge Contracts (Contracting Delegation), and the authority to expend Council money.

The relevant power in relation to conducting a Contracting Activity is a power to make, amend and discharge contracts. However, the expenditure authority (Financial Delegation), is given by the CEO to specific positions or officers within the organisational structure authorising them to make payments and expend money, including expenditure relating to contracts, up to a designated threshold. The expenditure authority is an internal departmental management process whereby the CEO permits persons to expend money, up to a certain limit for already established contracts.

It is a combination of the delegated authority to make, amend or discharge a contract and the delegated authority to expend money that operate in concert to provide a structured process for binding Council in contract, and approving payments once Council has an existing contract.

Where a Council Officer has both a delegated authority to make, amend and discharge contracts and an authority to expend Council money, that Council Officer may bind Council in contract, however the maximum value of that contract is limited to the threshold of the expenditure authority.

Where a Council Officer only has an authority to expend money, they are only permitted to approve payments on established contracts up to the limit of their expenditure authority.

7.7 Contracting Delegation and Financial Delegation

The Contracting Delegation and Financial Delegation have been combined into the one delegation document. A copy of Delegation No. 2 – Delegation of Authority to conduct Contracting Activities and Payments from CEO to Council Officers may be found on the [Procurement Intranet Site](#).

7.8 Budget - Unauthorised spending

Council may only spend money in a financial year if it is adopted in the budget for the financial year; or before adopting its budget for the financial year, if it then provides for the spending in the budget for that financial year.

Contract Administrators must therefore ensure sufficient budget is available for and committed to the contract being sought, before it is formed. It is the responsibility of the Branch Manager from the branch seeking to make a contract to confirm that sufficient budget is available and committed to a contract before it is formed. Evidence of this budgetary commitment will be required during the Contracting Activity.

The only exception to this requirement is where Council expends money for a genuine emergency or hardship. In this instance, Council must make a resolution about spending the money, either before, or as soon as practicable after the money is spent. The resolution must state how the spending is to be funded.

7.9 Publishing details of contracts

Section 237 of the LGR 2012 requires that a local government must publish details of contracts it enters that are worth \$200,000 or more. These details must be published on the local government's website and displayed in a conspicuous place in the local government's public office.

To ensure this occurs, the Contract Administrator is responsible for submitting a Contract Number Request Form and advising the Coordinator Contracts and Supply Services when a Contract worth \$200,000 or more has been entered into by Council.

7.10 Training

Training is provided by the Business and Innovation Branch in relation to procurement, contracting and purchasing as detailed on Council's intranet.

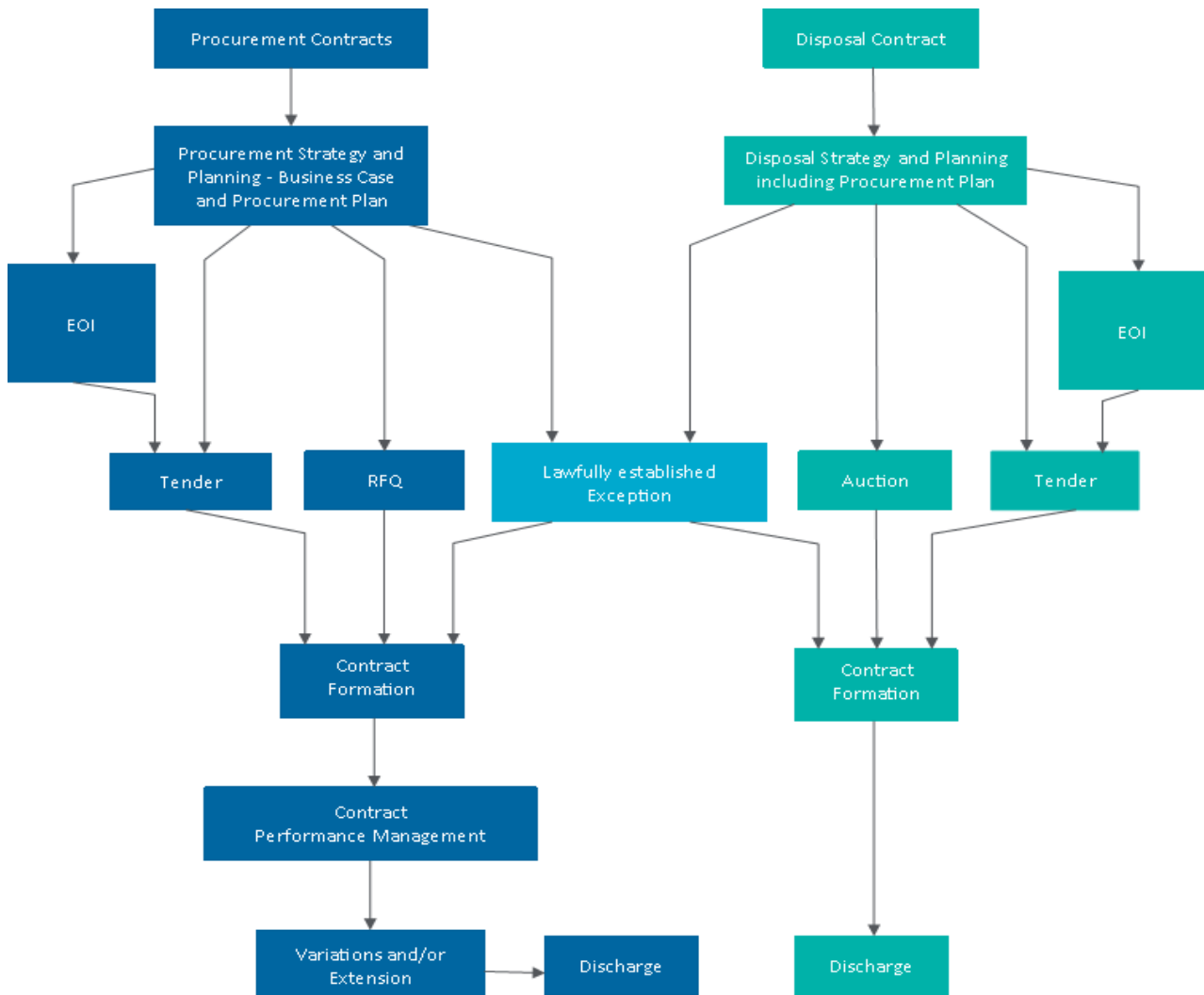
8 Contract Type and Method of Procurement

The types of contracts which may be formed under the Strategic Contracting Procedures are outlined in Table 1.

Table 1: Types of contracts

Contract type:	Contract for:	Go to:
Procurement Contracts	Contracts to purchase goods and services, including the provision of works.	Part 9
Exceptions relating to Procurement Contracting Activities	Procurement contracts via alternative procurement routes.	Part 15
Disposal Contracts	Contracts for the disposal of Valuable Non-Current Assets, including Land, and Surplus Assets.	Part 16
Disposal of Land and Exceptions	Contracts established under legislative Exceptions for the Disposal of Land.	Part 17

A diagrammatic explanation of the processes is as follows:



9 Procurement Contracts (Contracts for Supply of Goods and Services)

The primary step in establishing a Procurement Contract is to determine which of the procurement processes should be adopted to lawfully procure the goods or services.

Council will conduct its Contracting Activities using an appropriate procurement process having regard to relevant value thresholds. Those values and corresponding processes are as follows:

Table 2: Contract value and related procurement routes

Contract Value	Procurement Routes	Council requirements
<p>\$5,000,000 and greater</p> <p>OR</p> <p>High Risk/Complex Contracts</p>	<ul style="list-style-type: none"> Written Tender EOI Available Exception 	<p>A Significant Contracting Plan is required for any Contract that is:</p> <ul style="list-style-type: none"> expected to reach this Contract Threshold; or of a high risk; or of a complex nature. <p>A Significant Contracting Plan must:</p> <ul style="list-style-type: none"> be made before the Contract starts identify the chosen procurement strategy be adopted by a resolution of Council and may only be modified by resolution of Council.
<p>\$1,000,000 up to \$5,000,000</p>	<ul style="list-style-type: none"> Written Tender EOI Available Exception 	<p>Progress through the Procurement Process:</p> <ul style="list-style-type: none"> Written Tender (refer to Part 11) EOI (refer to Part 12) Exceptions (refer to Part 15)
<p>\$250,000 up to \$1,000,000</p>	<ul style="list-style-type: none"> Written Tender EOI Request for Quote issued to at least five (5) suitably capable suppliers (high value RFQ) Available Exception 	<p>Progress through the Procurement Process:</p> <ul style="list-style-type: none"> Written Tender (refer to Part 11); EOI (refer to Part 12) RFQ (refer to Part 13) Exceptions (refer to Part 15)
<p>\$25,000 up to \$250,000</p>	<ul style="list-style-type: none"> Written Tender EOI Request for Quote issued to at least three (3) suitably capable suppliers Available Exception 	<p>Progress through the Procurement Process:</p> <ul style="list-style-type: none"> Written Tender (refer to Part 11) EOI (refer to Part 12) RFQ (refer to Part 13) Exceptions (refer to Part 15)
<p>Up to \$25,000</p>	<ul style="list-style-type: none"> Quotes requested from at least one (1) suitably capable supplier 	<p>For services (including works) obtain one written Quote minimum.</p> <p>For goods obtain one verbal Quote minimum.</p> <ul style="list-style-type: none"> Note: Notes should be made of the quote and recorded in a safe and accessible location, sufficient to demonstrate that sufficient regard was had for the Sound Contracting Principles.

9.1 Order Splitting Prohibited

Order splitting, whereby the required goods, services, or works are divided into smaller order values for the purpose of circumventing the procedures and delegation levels of upper thresholds, is not permitted.

10 Procurement Planning & Development of Procurement Strategy (Written Tender, EOI and RFQ)

Regardless of which procurement process is adopted, consideration must be given to the planning and development of the procurement strategy. Council's objectives when conducting procurement planning and development are to:

- encourage strategic procurement decision making;
- establish innovative contracts;
- deliver value for money;
- promote an open and competitive market place;
- develop competitive local business and industry;
- achieve sustainable procurement practices;
- select the best business partners; and
- manage exposure to risk.

Contract Administrators and any other person undertaking Contracting Activities should be guided by the following:

10.1 Business Case

A business case should be completed to identify Council's need to procure any goods, services or works. If the project is a capital works project, this will be the project brief delivered to the Investment Steering Committee.

10.2 Procurement Plan

A Procurement Plan must be prepared for a Written Tender, EOI, or high value RFQ. The Procurement Plan must be completed in conjunction with the Procurement Specialist assigned to the procurement. The Procurement Plan template is available in [Council's Contract Management System](#) and covers the following aspects:

- procurement and operational objectives;
- an analysis of internal demand;
- an analysis and summary of the supply market;
- an assessment of procurement strategies;
- procurement implementation plan including performance management; and
- an assessment of potential risks and mitigation strategies.

Sound planning is essential to achieving a successful project outcome. Sufficient time should be allocated to the planning process to allow assessment of the market, and development and implementation of the procurement strategy, before approaching the market to establish a contract.

Outlined in **10.3** to **10.8** below are items to be considered in procurement planning.

10.3 Significant Contracting Plan

Contracts that have been identified as Significant Contracts due to their value, risk, or complexity, require a Significant Contracting Plan in addition to a Procurement Plan. Significant Contracting Plans must be prepared prior to commencement of the Significant Contract, and require resolution of Council. They will state:

- the objectives of the significant contract;
- how the objectives are to be achieved;
- how achievement of the objectives will be measured;
- any alternative ways of achieving the objectives, and why the alternative ways were not adopted;
- proposed contractual arrangements for the activity; and
- a risk analysis of the market in which the contract is to happen.

The Significant Contracting Plan template is available on the [Procurement Intranet Site and Council's Contract Management System](#), and will be prepared in consultation with the Procurement Specialist assigned to the procurement.

10.4 Sustainable procurement

Council is committed to stimulating the sustainability of our region, protecting the environment, delivering social benefits and supporting the local economy by adopting a sustainable procurement approach.

Council recognises that as a major contract provider, it has the ability to drive sustainability practices and influence supply chains across the Sunshine Coast. Council's preference is to engage with suppliers who are working towards upholding sustainability principles and environmental performance standards.

The application of sustainable procurement practices will differ depending on the goods or services being procured. General sustainability principles to be considered include:

- **Eliminate unnecessary purchasing** by determining if the goods or services are necessary, if existing items could be reused or if demand management approaches could reduce the apparent need.
- **Adopt a whole-of-life cost approach (value for money)** by considering all the costs and benefits associated with the goods or service over its entire life (including purchase, maintenance, operational and disposal costs).
- **Reduce greenhouse gas emissions** by considering goods and services that reduce or avoid greenhouse gas emissions.
- **Minimise waste** by choosing recycled products, minimising the use of raw materials, and seeking options that facilitate the long-term reuse and recycling of materials (i.e. adopting circular economy principles).
- **Encourage innovation** in the development of goods and services that lead the market in sustainability and environmental performance.
- **Promote sustainability in our region and supply chains** by supporting and rewarding sustainable goods, services and business practices.
- **Manage exposure to and future risk from policy and market changes** environmental conditions and climate change by applying beyond-compliance environmentally sustainable standards to Council's procurement.

The social and economic components of sustainable procurement are addressed in the respective guidelines (Local Preference in Procurement Guideline and Social Benefit Procurement Guideline), which include the following considerations:

- **Support social procurement** by engaging social enterprises and suppliers that provide community benefits.
- **Support suppliers that have fair and ethical sourcing practices** that improve the conditions of their employees (e.g. Fairtrade).
- **Support local businesses and industry** by contracting with local suppliers.

Key steps to ensuring sustainability and environmental performance addressed as part of procurement include:

- **Identifying opportunities to reduce or avoid consumption** of new goods and services prior to undertaking procurement
- **Identifying key sustainability and environmental impacts and opportunities** relating to the goods and services to be procured
- **Writing specifications** that include consideration of the relevant sustainability and environmental impacts into the performance criteria, scope and specifications for the methodology.
- **Requesting information on supplier commitment and credentials** to environmental management and sustainability, to support and recognise businesses who actively manage and improve their own sustainability and environmental performance.
- **Seeking verification of sustainability and environmental performance commitments and statements** during the evaluation procedure.
- **Establishing ongoing contract performance monitoring** to ensure the supplier delivers in accordance with the sustainability and environmental performance requirements, contract terms, and /or action plans.

Integrating sustainability and environment aspects early in the process ensures that sustainability risks, opportunities, innovation are incorporated into procurement decision-making.

10.5 Market Research and Design

The encouragement of competitive markets by:

- Building procurement capability by analysing demand and supply pressures, tracking extent of competition, and guarding against public sector organisations competing against one another and bidding up prices due to market scarcity;
- Seeking to avoid over-reliance on a small number of industry participants;
- Encouraging deeper markets by developing industry capacity and capability;
- Maintaining a fair market by preventing bias in favour of particular industry participants.

There is no prescribed method for market research; it typically involves researching and identifying capable suppliers within the relevant market/industry. Contacting Prospective Respondents prior to release of a Written Tender or RFQ to assess their capacity and interest in responding to the proposed procurement is acceptable; as is forwarding Tender Alerts to Prospective Respondents. However, it is important to remain transparent and treat suppliers fairly in order to maintain a level playing field.

When researching the market in which the contract is to happen, Council Officers should consider whether a closed or restricted process could be warranted, whereby submissions will only be accepted from Respondents who are Social Benefit Suppliers and/or Indigenous Businesses. Refer to the Social Benefit Procurement Guideline and the Indigenous (Aboriginal and Torres Strait Islander) Procurement Guideline for further information and guidance.

10.6 Procurement design

The way in which the procurement process is structured will:

- Clearly specify the supply or disposal needed;
- Ensure complete scoping and effective staging before signing a contract or commencing work;
- Prevent overestimating benefits and underestimating risks;
- Pre-qualify potential industry participants;
- Construct the evaluation criteria carefully;
- Look for 'win-win' outcomes for all parties.

10.6.1 Aggregating Contracts

To determine which procurement process should be adopted, it is necessary to determine the anticipated value of the contract. When preparing to undertake a procurement activity, Contract Administrators should consider whether others within or outside their branch may require the same goods, services, or works for aggregation into one contract. This may achieve better value and reduce the administrative and contract management effort, and avoid conducting multiple procurement activities.

10.7 Procurement management

The conduct of the process will:

- Maintain competitive tension to deliver value for money;
- Prevent using competition to drive down price at expense of quality;
- Benchmark against in-house delivery where a market is weak;
- Survey the market to establish level of interest;
- Structure the project in a way that is attractive to industry;
- Engage with potential industry participants to inform them of opportunities and to ascertain their needs and priorities;
- Be explicit about the evaluation criteria;
- Avoid 'project drift' by careful planning; and
- Facilitate avoidance of unanticipated and directly related contract variations.

10.8 Contract design

Good contract design is the essence of successful procurement achieved by:

- Aligning public and private interests in defining the contractual terms;
- Maintaining control over public pricing particularly for monopolistic facilities and services;
- Proper use of specification or outcome contracts;
- Recognising that output-based contracts transfer risk to industry and need careful management;
- Making sure that the performance regime delivers the core outcomes; and
- Including terms and conditions in the contract that Council can and intends to enforce.

11 Written Tender Process

The following process relates to the Written Tender process only. The process for RFQ's is addressed at Part 13.

11.1 Written Tender development

Conducting procurement by Written Tender has a number of legislative and policy influences that necessitate it being conducted by following a particular process. To assist with navigating through the process, a Procurement Specialist will be allocated to partner with the Contract Administrator throughout the procurement process. The tender development process will be dependent on the type of contract, its complexity and the associated risks, and may include market sounding and extensive consultation.

11.2 Written Tender documentation

All documents required for conducting a Written Tender may be found in [Council's Contract Management System](#).

These documents are updated and modified on as needs basis, having regard to changes in the law, Council policies and best-practice procurement process. As a result, any person undertaking a Written Tender process is required to download clean template documents at the commencement of each Contracting Activity.

Using any other version of the documents may result in avoidable errors being made, resulting in time loss when the correct documents have to be prepared; or at worst, expose Council to unnecessary risk in its contracting.

The documents required to undertake the Written Tender Process include:

11.2.1 Contract Number Request Form

When a Written Tender process is being used to obtain goods or services, or to dispose of Valuable Non-Current Assets, the Contract Administrator must obtain a contract number from the Contracts and Supply Services Team by completing the [Contract Number Request Form](#).

11.2.2 Probity Plan

An integral part of Council's probity framework, and one of the first documents that should be completed in accordance with Council's [Governance and Probity](#) framework, is the Probity Plan. This plan contains details of the Tender evaluation panel and the Evaluation Criteria weightings. The second page of the Probity Plan contains the probity requirements for each member of the evaluation panel.

11.2.3 Invitation to Tender

The Invitation to Tender document is the first document that a Prospective Respondent will view when accessing information about a Written Tender. This document provides a brief description of the goods and/or services sought. It also references other documents, which form part of the Written Tender process by hyperlink or attachment.

11.2.4 Tender Process Terms

A hyperlink in the Invitation to Tender document links to Council's Tender Process Terms (TPTs).

The TPTs might be considered the 'rule book' for conducting a Written Tender, EOI or RFQ. It outlines the process to be adopted and the rights and obligations of the parties throughout the Tender process. In this instance the Tender process commences with the issue of the invitation and continues to the point of contract award. It applies to Council and to any party submitting an offer.

Case law on the issue of tender process has found the party conducting the tender enters into a 'process contract' with each Respondent. Consequently, Council could breach that contract by

forming a contract with a Respondent to an Invitation to Tender, in a manner not consistent with the TPTs.

11.2.5 General Terms and Conditions of Contract

The General Terms and Conditions of Contract will be an attachment to the Invitation to Tender. This document contains the legal terms and conditions of the contract that will be formed with the successful Respondent.

The Contracts and Supply Services Team maintains a suite of Australian Standard General Conditions of Contracts through a licence with SAI Global. The contracts are for the following:

- AS 2124 Major construction
- AS 4122 Consultants
- AS 4902 Design and construct
- AS 4906 Minor works (Principal administered).
- AS 4910 Supply of equipment with installation

Council also maintains its own General Terms and Conditions of Contract for:

- Goods and services; and
- Purchase orders.

These conditions of contract must be used for any contracts formed by Council, unless internal or external legal advice is obtained to establish a bespoke contract tailored to the particular needs of the contract/project. A Procurement Specialist will assist with any such engagement should it be identified by the Contract Administrator and confirmed as necessary by the Coordinator of Contracts and Supply Services.

The benefit of using a suite of General Terms and Conditions of Contract is consistency across Council's contracts. The more consistency that is maintained in Council's contracting, the more secure the market may feel in making offers to Council, and the easier it can be for addressing issues that arise with individual contracts.

Contract Administrators need to ensure that a Respondent has not proposed their own (or changes to Council's) General Terms and Conditions of Contract, and if so, that these are resolved prior to entering into a contract with a Respondent.

11.2.6 Special Terms and Conditions of Contract

On occasion, specific projects may require special conditions be included. These special conditions should be incorporated into the General Terms and Conditions with the assistance of the Procurement Specialist and the Coordinator of Contracts and Supply Services. They should be prepared in consultation with the appointed Procurement Specialist and included only after appropriate consultation with the relevant managers, or following legal advice.

11.2.7 Specification and Scope

A central element to procuring the appropriate goods, service or works from a supplier is having an effective and sufficiently detailed Specification (technical or otherwise) and/or Scope document/s, which will usually be an attachment to the Invitation to Tender. This document contains the detail of what is required and may include or refer to:

- plans, drawings and/or maps;
- prescriptive outline (exactly what Council is seeking to obtain);
- health and safety performance criteria;
- sustainability and environmental performance criteria.

The Scope will include a list of what is required under the contract and another list outlining what is not included within the contract. This document should not contain any items which would be considered a General Term and Condition of Contract.

When drafting the specification and scope, consider ways in which the environmental and sustainability aspects of the required goods, services, or works can be incorporated or improved. Refer to part **10.4** for guidance.

This Specification/Scope document/s are central to a Prospective Respondent being able to price the goods, services or works that are required. Poorly framed Specification and Scope documents often result in unnecessarily wide variation in the offers made by Respondents. This can have serious consequences for the entire project, including lost time or financial implications.

The degree of specificity regarding how the contract is to be performed will often be determined by the nature of the contract. For example, construction projects necessitate a prescriptive specification, whereas an outcome-based approach for a service contract would allow Respondents to be innovative in their proposed delivery.

It is the responsibility of the Contract Administrator to ensure that the Specification and Scope is suitable for the project being undertaken. In the event that an external consultant has prepared the Specification or Scope, it remains the responsibility of the Contract Administrator to ensure that the Specification and Scope procured from an external consultant is fit for purpose.

11.2.8 Tender Response Form

The Tender Response Form (TRF), released by Council with a Written Tender for completion by a Respondent, when returned, contains the offer made to Council, and along with the aforementioned documents will form part of the contract with the successful Respondent.

It is critical that the TRF be given due and diligent consideration in the preparation stage of the procurement process. It should be tailored to the individual procurement, having regard to the specifics of the goods, services or works required. Consideration must be given to the information sought in the TRF, as this is what will be evaluated. The effects of a poorly framed TRF are equally poor responses, difficulties in evaluation, variation in prices offered, and poor contract form. Combined, these issues represent increased opportunity of awarding to a less than desirable Respondent, with higher probability of requiring contract variations and extensions.

A way to ensure the TRF is correctly framed is to first consider the Specification and Scope document/s, as this should outline what Council is seeking. Then consider what information should be sought from the Respondent in order to establish that they can deliver the project or services. Finally, it is worthwhile putting yourself in the position of a Prospective Respondent and asking, "If I was asked to provide that information, would I understand what was asked and could I reasonably respond to it?"

It should be noted that the TRF is broken into schedules that align with the evaluation criteria established in the Probity Plan. The information sought within each of those schedules should be assessed within that schedule. After each schedule is scored, the scores combine in the evaluation to identify the most advantageous Respondent.

11.2.9 Contract performance management

Contract performance management will need consideration at two critical points in the contract lifecycle process. Firstly, as part of the Written Tender development stage detailed above, where what will be included in the documentation is ascertained to determine how the established contract will be performance managed. This will result in the contract documents having suitable Key Performance Indicators (KPI's) included. The second point will be at relevant times during the contract execution, where contractor performance can be evaluated and managed.

The Procurement and Contracts Performance Team will work with the Contract Administrator to develop an effective performance management framework. Contracts performance management is comprehensively explained at Part **18**.

11.3 Tender advertising

All approved Written Tenders are advertised via Council's Tender Alert Service and on the Queensland Government electronic tender system, QTenders. This facility provides for Prospective Respondents to download Written Tender documentation and upload their Tender submissions.

Contracts for larger or more complex projects may be published in newspapers with a wider circulation base. Contracts targeted at niche businesses may be advertised in publications focused on the niche industry for the relevant goods, services, or works sought.

Written Tenders are to remain open for a period of no less than fourteen days after the advertisement has been released. Consideration should be given to the complexity of the project, and how long it would reasonably take to appropriately complete the TRF. Public holidays that fall within this advertising period are also to be considered.

11.4 Communications with Respondents during Written Tender process

The chair of the evaluation panel is the only panel member authorised to deal with Prospective Respondents. Should any other panel member receive an enquiry relating to a Contracting Activity, that officer must direct them to the chair. Any questions or requests from Prospective Respondents are to be put in writing and submitted via proper channels (e.g. Tender Enquiries Mailbox). Should telephone or personal contact be unavoidable, the officer will make file notes of all discussions and forward to the chair for record keeping.

The chair of the evaluation panel is to use good judgment in responding to questions and all contact with Prospective Respondents is to be documented, transparent and unbiased. These processes are to ensure the [Governance and Probity](#) of the Tender is maintained, and that all Respondents are treated fairly and equitably.

Under no circumstances is information to be provided which gives, or has the potential to give, an unfair advantage to the enquirer.

The membership of the evaluation panel will not be disclosed to Respondents under any circumstances. This will minimise the likelihood of Respondents contacting evaluation panel members to solicit information and/or influence the evaluation process.

In any situation where an evaluation panel member is concerned he or she may have been compromised, or that such a perception may exist, they should document details promptly and raise the matter with the chair of the evaluation panel.

11.4.1 Notice to Respondents (NTR)

Where a question or inquiry is received from a Prospective Respondent, the response is to be issued by NTR. NTRs are issued to all Prospective Respondents in response to specific queries, or where the need arises to convey information to Prospective Respondents. The Procurement and Contracts Performance Team distribute NTRs via QTenders; the appointed Procurement Specialist will assist with this activity.

11.4.2 Seeking clarification from a Respondent

The evaluation panel may (but is not obligated to) seek clarification from a Respondent where information is missing or unclear, or where pricing is significantly lower or higher than other tenders or independent estimates. This is undertaken in a structured format through direct written contact with the particular Respondent only. The appointed Procurement Specialist will assist with this activity.

11.4.3 Information Session

Information sessions and/or site inspections are often held for Written Tenders. The Contract Administrator and Procurement Specialist run the sessions jointly.

At an information session or site inspection, Council emphasises the critical elements that Prospective Respondents need to address in their Tender, and Respondents can seek clarification of requirements.

Minutes of the information session, including questions raised and responses provided, are distributed via NTR as soon as possible after the session to all parties that have downloaded the Tender documents via QTenders.

11.4.4 Evaluation criteria weightings to remain confidential

Council's proposed budget and evaluation criteria weighting details are to remain confidential at all times. They are not to be released to Prospective Respondents, successful contractors, or any other non-Council personnel.

In some very unique situations, an indicative maximum and minimum budget price may be included in the Written Tender documentation. An example may be where a Written Tender to contract with a consultant for a large project is being conducted and release of the figure will be beneficial to Council in encouraging competitive tenders within Council's expected range. This will only occur in consultation with the appointed Procurement Specialist.

11.4.5 Post Tender Negotiations

In cases where post tender negotiations are required, the negotiation panel is to be kept to a minimum, but at least two Council representatives must be present at all negotiations. The negotiations are to be minuted and emailed to the Respondent within 24 hours to initial and date the minutes and return. The Council officers are also required to initial the minutes and then forward to the chair of the evaluation panel for record keeping.

11.5 Tender box close

Following tender box close, Contracts and Supply Services Team members download submissions from QTenders and distribute to the evaluation panel. A copy of the submissions is filed in Council's electronic document management system by the Contracts and Supply Services Team.

11.6 Evaluation process for Written Tenders

The appointed evaluation panel listed on the Probity Plan undertakes the evaluation process in accordance with Part 14. The Procurement Specialist will adopt either an approved Evaluation Workbook (in Microsoft Excel format) to evaluate and record all tender evaluations, or alternatively, [Council's Contract Management System](#) to set up the evaluation and record all tender evaluations. Which tool is used will depend upon the complexity of the evaluation being undertaken.

11.7 Contract award for high value RFQs and Written Tenders

The Contract Administrator and Procurement Specialist draft a PCC Award Report recommending the most advantageous offer based on the outcome of the evaluation, and attach appropriate supporting documents.

Key sections of the report include budget implications, probity issues, risk management, and local contribution.

The report is placed on the agenda for the next PCC meeting. PCC review the report and consider the officer recommendation, and if accepted, the resolution is agreed and minuted. The Manager, Business and Innovation may exercise the delegation following a recommendation from PCC to make, amend or discharge contracts and establish arrangements. This also acts as Gate 4 of the Gateway Process for Project Delivery.

Contract formation is the point where Council becomes bound to fulfil its obligations under the Contract. This can result in Council becoming bound to significant expenditure to those contracts. As such, only those with the appropriate delegated authority may form a Contract.

11.8 Post award communications with Respondents

11.8.1 Acceptance letters

An acceptance letter, signed by the Delegated Officer, is sent to the preferred Respondent. The acceptance letter confirms acceptance of their Tender and has the effect of forming a binding contract. The letter will also confirm the General Terms and Conditions of Contract and list the documents that comprise the contract. The successful Respondent must return a signed duplicate copy of the letter acknowledging receipt of the letter.

A copy of all contract documents, is to be sent to the successful Respondent electronically via Council's secure file sharing system.

Copies of the acceptance letter and contract documents are made available electronically to the Contract Administrator and other relevant staff.

11.8.2 Unsuccessful Respondent advice and feedback

The standard letter to unsuccessful Respondents, signed by the Coordinator Procurement and Contract Performance, informs all other Respondents that their Tender has been unsuccessful. It also provides a brief outline of the evaluation process. The letter invites the Respondent to request feedback on their submission.

The Contract Administrator and Procurement Specialist jointly provide feedback on request, which in the first instance will generally be in writing, but may include meeting with the unsuccessful Respondent. The feedback should identify the relative strengths and weaknesses of the Respondent's submission, but must not provide information relating to the submissions of other Respondents, nor provide any comparison of submissions.

12 Expression of Interest Process (EOI)

An EOI is normally used where Council is seeking input from the market on achieving a particular solution or outcome for a complex project. Examples include establishment of a public lighting services contract, and the solar farm. There are a number of conditions to using the EOI process. The conditions and process for using an EOI are as follows:

12.1 Conduct of EOI

When Council uses the EOI process it must:

- (a) be advertised via Council's Tender Alert service and QTenders; and
- (b) accept responses for at least fourteen days after the advertisement is published.

Where Council invites EOIs before considering whether to invite Written Tenders, Council may:

- (a) prepare a short-list from Respondents to the EOI invitation; and
- (b) invite Written Tenders from that shortlist.

The above does not apply to EOIs for the disposal of Land, which must be undertaken in compliance with the LGR 2012.

12.2 Procurement and Contracts Performance Team to assist

Where a branch of Council is considering utilising the EOI process, the Procurement and Contracts Performance Team will assist that branch through the process. To facilitate this, a Procurement Specialist will be appointed to assist the branch. The Procurement Specialist should be engaged at the earliest possible opportunity, well before any efforts are committed to developing the EOI.

13 Request for Quote Process (RFQ)

The RFQ and Written Tender processes are largely the same with both being designed to procure necessary goods, services, and works through Contracts that are the most advantageous for Council.

The primary difference between the Written Tender process and the RFQ process is that a Written Tender process must be released to the public at large via Council's Tender Alert Service and QTenders, inviting any supplier to submit a Tender, whereas the RFQ process leaves the decision of whom to invite quotes from to Council. The Written Tender process, which is explained at Part 11 and the evaluation at Part 14, should therefore be followed when conducting an RFQ, with some exceptions, which are outlined below.

13.1 RFQ Documentation

All documents for conducting an RFQ may be found in [Council's Contract Management System](#).

These documents are updated and modified on an as needs basis having regard to changes in legislation, Council policies, and the procurement process. As a result, any person undertaking the RFQ process is required to download clean documents at the commencement of each activity.

Using any other version of the documents may result in avoidable errors being made, resulting in time loss when the correct documents have to be prepared; or at worst, expose Council to unnecessary risk in its contracting.

13.2 Inviting Quotes

The primary method of inviting Quotes from suppliers is through [Council's Contract Management System](#). The invitation should be sent to those from whom a Quote is being requested, outlining the project, referring to a scope and/or specification, and stating a clear submission (closing) date. All emails and attachments should be retained for later reference in the process or where an audit is conducted. When Quotes are returned by suppliers via email, the Quotes must not be opened until after the closing date and are to be uploaded into Council's Contract Management System.

The time for which quotes must be returned should be determined having regard for the complexity of the project and the time it would reasonably take a supplier to prepare a useful and competitive offer. High value RFQs (valued between \$250,000 and \$1,000,000) are to remain open for a period of no less than fourteen days following release. This period may be reduced following written approval from the Coordinator Procurement and Contract Performance.

13.3 Conduct when Limited Quotes Received

For Contracts valued between \$25,000 and \$250,000, Quotes are to be invited from a minimum of three suppliers capable of delivering the required goods, services, or works. For Contracts valued between \$250,000 and \$1,000,000, Quotes are to be invited from a minimum of five suppliers capable of delivering the required goods, services, or works.

On occasion, invited suppliers will not respond with a Quote. In such instances, it is necessary to consider whether a Contract should be established following evaluation of two, or even one quote. It may be difficult to demonstrate sufficient regard was had for the Sound Contracting Principle of value for money when only two prices were compared. It will be virtually impossible where only one price is received. Awarding a Contract in the belief that receiving a lesser number of Quotes than that sought justifies continuance of the process will attract negative review. In these circumstances, consideration should be given to reconducting the RFQ following further market sounding, or finding other means to demonstrate value for money. Other means may include some independent assessment of value for money.

13.4 Contract award for RFQ's

Following proper evaluation, contracts may be formed from an RFQ with the Respondent who provides the most advantageous offer to Council.

A member of the branch seeking the contract who has delegated authority to conduct Contracting Activities, may form the contract by sending an Acceptance Letter, provided the total contract value is within their expenditure authority (See Part 7.6 to Part 7.7 for more information on the appropriately delegated officer) and from an approved budget.

Once a contract is formed with the successful Respondent, all other Respondents must be notified that they were unsuccessful.

14 Evaluations of Written Tenders, EOIs, and RFQs

14.1 Evaluation

The evaluation will be undertaken by the evaluation panel. For a Written Tender, EOI or RFQ the Procurement Specialist will adopt either an approved evaluation workbook (in Microsoft Excel format) to evaluate and record all tender evaluations, or alternatively, [Council's Contract Management System](#) to set up the evaluation and record all evaluations. Which tool is used will depend upon the complexity of the evaluation being undertaken. For RFQs and Exceptions [Council's Contract Management System](#) is to be used to set up the evaluation process and record all evaluations.

In the first instance, each panel member conducts their own individual evaluation and allocates a score out of 10 (or out of 100 in Microsoft Excel workbook) against each predetermined evaluation criteria or sub-criteria. This information should be recorded on the individual members own evaluation. The evaluation panel then meets to undertake an evaluation moderation, where they discuss their individual findings and scores, and arrive at a consensus score for each of the criteria or sub-criteria (moderated scores). If evaluated using a Microsoft Excel evaluation workbook, a final evaluation spreadsheet is prepared and signed by the chair of the evaluation panel.

It is imperative to an effective, accountable, and transparent evaluation process that good and comprehensive notes are taken and that individual evaluations are followed by a moderation to ensure that a consensus has been reached.

14.1.1 Evaluation Panel

An appropriate evaluation panel must be formed to evaluate the submissions against the predetermined evaluation criteria. A two-tiered evaluation panel structure can be utilised with the first-tier members to conduct a full evaluation, while the second-tier members provide subject matter advice on relevant parts of the submissions. They do not directly participate in all of the evaluation. The evaluation panel should comprise of:

Tier 1 - Evaluation Panel Members (compulsory)

- Contract Administrator (Chair of the evaluation panel if no Procurement Specialist is chairing the Panel);
- Procurement Specialist (for EOIs, Written Tenders, or high value RFQs; Chair of the evaluation panel);
- Independent Member:
 - for a Contracting Activity over the value of \$250,000 independent of Contract Administrator's branch and can be a stakeholder where a Project Delivery Branch officer is the Contract Administrator;
 - for Contracting Activities up to the value of \$250,000 the independent evaluation panel member should be from outside the Contract Administrator's team, but need not be from outside their branch.
- Technical expert/ available officer (if required to establish a full evaluation panel).

Tier 2 - Evaluation Panel Members (optional)

- Health and Safety Advisor;
- Technical Expert (if required for subject matter evaluation);
- Financial Analyst;
- Other value adding contributors.

Refer to the [Procurement Thresholds Chart](#) on the Procurement Intranet page for more information on the evaluation panel requirements.

Each member of the panel must sign the Probity Plan acknowledging they have read, understood, and accept the probity requirements. This has the effect of binding the member to undertaking the evaluation in a manner consistent with the Employee Code of Conduct and Council's governance and probity framework.

Each Probity Plan is sponsored by the Branch Manager for contracts worth less than \$1,000,000 and by the Branch Manager and Group Executive for contracts worth more than \$1,000,000.

It is preferable that panel members from outside the branch seeking the contract outnumber members from the branch. This provides a useful governance mechanism to encourage transparency and fair dealing.

A fully signed copy of the Probity Plan must be forwarded to the Procurement Specialist or placed in the Contract Management System prior to the release of submissions to evaluation panel members.

An outline of the Evaluation Criteria, Mandatory Criteria, and recommended evaluation weightings is as follows:

14.1.2 Evaluation Criteria

Table 3: Table of Evaluation Criteria for Contracting Activities over \$100,000

Criteria	Percentage (%)
1. Price	Recommended range 35-50%. Weighting should be within identified range, unless there are justifiable reasons for it not to be.
2. Capability and Experience	Guide range of 15-20%. Weighting should be within identified range, unless there are justifiable reasons for it not to be.
3. Methodology. This includes: <ul style="list-style-type: none"> • Methodology for delivery, including resources. • Health and Safety • Environment and Sustainability • Innovation 	Guide range of 15-25%. Weighting should be within identified range, unless there are justifiable reasons for it not to be.
4. Contribution to Local Economy	Recommended minimum 15%. Weighting should be as recommended, unless there are justifiable reasons for it not to be.
5. Social Benefit Engagement or Indigenous Engagement	Guide range of 5-10%. Weighting should be within identified range, unless there are justifiable reasons for it not to be.

Table 4: Table of Evaluation Criteria for Contracting Activities up to \$100,000 (Short-Form RFQ)

Criteria	Percentage (%)
1. Price	Recommended 40%. Weighting should be as recommended, unless there are justifiable reasons for it not to be.
2. Capability and Methodology	Guide range of 35 - 40%. Weighting should be recommended, unless there are justifiable reasons for it not to be.
3. Contribution to Local Economy	Recommended minimum 15%. Weighting should be as recommended, unless there are justifiable reasons for it not to be.
4. Social Benefit Engagement or Indigenous Engagement	Guide range of 5-10%. Weighting should be within identified range, unless there are justifiable reasons for it not to be.

14.1.3 Mandatory Criteria

The chair of the evaluation panel (in conjunction with the evaluation panel where necessary) will assess the Mandatory Criteria. This criteria is outlined at Table 5 and includes financial capacity. The level of evaluation of financial capacity required is to be determined from Table 6.

Table 5: Table of Mandatory Criteria

Criteria	Disqualifying
1. Financial Capacity (where relevant, see Table 6 below)	Yes
2. Relevant Insurances for the Contract	Yes
3. Acceptance of the General Terms and Conditions of Contract	No but non-conforming (see 11.7)
4. Relevant Licences, Certifications and Qualification	Yes
5. Risk Assessment	No

Table 6: Evaluation of Mandatory Criteria – Financial Capacity

Type	Value of Contract/Resultant Project or Risk Level*	Evaluation or Analysis	Documentation and Process
1	\$0 to \$250,000 Standard Risk Profile (Low to Medium M44)	Evaluation criteria of Capability and Experience (or Capability) must be evaluated with consideration to: <ul style="list-style-type: none"> • Delivery of contracts of similar size and nature in recent times • Amount of sub-contracting required to deliver 	Detailed evaluation commentary Delegated Officer entering into the Contract to be briefed on risks before approving
2	\$250,000 to \$1,000,000 Standard Risk Profile (Low to Medium M44)	Evaluation criteria of Capability and Experience must be evaluated with consideration to: <ul style="list-style-type: none"> • Delivery of contracts of similar size and nature in recent times • Amount of sub-contracting required to deliver Company Search to be undertaken at a minimum by Procurement and Contracts Performance Team to ensure company is bona fide	Notes made on Procurement Plan Detailed evaluation commentary PCC Award Report to directly address the Financial Assessment undertaken
3	\$1,000,000 to \$5,000,000 Medium or High Risk Profile (M48 to H64)	Evaluation criteria of Capability and Experience must be evaluated with consideration to: <ul style="list-style-type: none"> • Delivery of contracts of similar size and nature in recent times • Amount of sub-contracting required to deliver A credit or procurement search on the company to be undertaken by Procurement and Contracts Performance Team to ensure no obvious issues with financial status of company	Notes made on Procurement Plan Detailed evaluation commentary PCC Award Report to directly address the Financial Assessments undertaken

4	Over \$5,000,000 OR Commercial and Community Leases High or Extreme Risk Profile (H64 or higher risk)	Evaluation criteria of Capability and Experience must be evaluated with consideration to: <ul style="list-style-type: none"> • Delivery of contracts of similar size and nature in recent times • Amount of sub-contracting required to deliver Evaluation criteria of Financial Capacity must be evaluated by a financial analyst (internal or external) A credit or procurement search to be undertaken by Procurement and Contracts Performance Team to ensure no obvious issues with financial status of company based on publicly available information.	Financial Capacity Evaluation Criteria to be included in Tender Response Form Notes made on Procurement Plan Detailed evaluation commentary PCC Award Report to directly address the Financial Assessments undertaken
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* All risk ratings are to be obtained using Council's [Risk Assessment Calculator](#)

15 Exceptions Relating to Procurement Contracting Activities

The procurement processes (Written Tender, EOI, and RFQ) are the default processes to be adopted for conducting Contracting Activities, unless an Exception exists. The following Exceptions may be exercised where the relevant pre-requisites for use have been met.

15.1 Not exceptions to the Sound Contracting Principles

It is important to note that the Exceptions are alternatives to the standard procurement routes, but are not exceptions to the Sound Contracting Principles or any other sections or obligations imposed by the LGA 2009 or LGR 2012.

Exceptions and the circumstances under which they may be exercised are outlined in the following table:

15.2 Exceptions for Procurement Contracts – Goods, Services, and Works

Council has a number of Exceptions available to the Written Tender and RFQ processes for entering into Procurement Contracts.

Table 7: Exceptions for Procurement Contracts

Exception	Process for establishing and/or exercising an Exception
Supplier Arrangements	<p>Council will create Supplier Arrangements where the goods or services are required frequently, in high volume or where it is important to understand the capability of the Suppliers.</p> <p>Council will maintain an open and transparent process for creating, managing, refreshing and finalising Supplier Arrangements.</p> <p>The Supplier Arrangement may be priced or non-priced.</p> <p>Supplier Arrangement with price provided</p> <p>Council will invite the highest ranked Supplier on the Supplier Arrangement to provide the goods or services. Where the highest ranked does not or cannot provide the goods or services, the next highest ranked Supplier may be engaged, and so on, until a Supplier is engaged.</p> <p>Supplier Arrangement without price provided</p> <p>Council will invite a quote or quotes from any Supplier Arrangement where price is not provided, having regard to the Procurement Contracting Activities Thresholds outlined in Table 1 above.</p> <p>Council will maintain and engage from the Registers of Pre-Qualified Suppliers and Preferred Supplier Arrangements that existed at the time of adoption of this Contract Manual until such time as those Registers of Pre-Qualified Suppliers and Preferred Supplier Arrangements are replaced, expire or are ended.</p>
Local Government Association Arrangement	The Contract is entered into under a LGA Arrangement.

Exception	Process for establishing and/or exercising an Exception
Sole or Specialised Supplier/s	Council determines that: <ul style="list-style-type: none"> • there is only one supplier who is reasonably available; or • because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for Council to invite quotes or tenders.
Genuine Emergency	A Genuine Emergency exists. If the money spent in response to the Genuine Emergency is not provided for in the annual budget, Council must make a resolution about spending the money; either before, or as soon as practicable after, the money is spent.
Auction Purchase	The Contract is for the purchase of goods and is made by auction.
Second-hand Goods	The Contract is for the purchase of second-hand goods.
Governmental Arrangement	The Contract is made with, or under an arrangement with, a Government Agency.
Innovation and Market-Led Engagement Guideline	Council has adopted an Innovation and Market-Led Engagement Guideline to identify the circumstances and processes for engaging with Suppliers who provide goods or services that fall within the contemplation of the Guideline.
Tender/Quote Consideration Plan/s	If a Tender/Quote Consideration Plan has been adopted, then Council may form a Contract from that Plan as contemplated by that Plan.

NOTE: Use of any of the aforementioned exceptions is limited to those with the delegated authority to conduct Contracting Activities, and within authorised expenditure limits.

15.2.1 Supplier Arrangements established by Council

Supplier Arrangements are valuable procurement tools for Council. The benefit of forming a contract via a Supplier Arrangement is that suppliers have been pre-qualified as capable of providing/performing the required goods/services, thus simplifying the engagement process.

A Supplier Arrangement is not a contract. A contract is formed with a supplier from a Supplier Arrangement on each occasion that a supplier is engaged. Council is not bound to use the arrangement when goods, services or works covered by the arrangement are required. However, it is neither good business nor effective use of resources to continually go outside an existing arrangement; as that would require a Written Tender or RFQ process to be conducted.

Only in justifiable circumstances should an arrangement not be used, when the goods, services or works to be procured fall within the scope of an established Supplier Arrangement. An example might be where the required services are more complicated than those generally sought and a belief exists that conducting a Written Tender or RFQ process will obtain a more advantageous outcome, considering all the circumstances of the project.

15.2.2 Establishing a Supplier Arrangement

Supplier Arrangements can be established by Written Tender or RFQ process, to identify and pre-qualify suppliers who have the technical, financial and managerial capability to perform contracts on time, and in accordance with agreed requirements of Council.

Respondents are evaluated against pre-determined criteria relating to the purpose of the arrangement being established. This criteria includes but is not limited to the Respondents' legislative safety and environmental obligations.

15.2.3 Engagement of Suppliers via a Supplier Arrangement

If only non-price criteria are evaluated at establishment of a Supplier Arrangement, then Quotes must be sought from the suppliers prior to forming a contract. This simplified RFQ process will involve an assessment of the Respondents' methodology and price to deliver what is sought.

To ensure regard is had for the Sound Contracting Principles of value for money and open and effective competition, it is necessary to request quotes from an appropriate number of suppliers from a non-priced, non-ranked Supplier Arrangement, having regard to the value of the contract. No less than three Quotes should be requested for a contract with an anticipated value between \$25,000 and \$250,000, and no less than five quotes should be requested for a contract valued at \$250,000 or greater.

When considering which suppliers will be invited to provide the work it is appropriate to have regard for the Sound Contracting Principle of ethical behaviour and fair dealing. The concept of fair dealing in this instance requires that each supplier be given fair opportunity to be considered to provide the goods or services.

If the price of the goods or services to be provided under the arrangement can be assessed at establishment, and fixed for the term of the arrangement, then suppliers can be ranked and engaged without the need to seek quotes. That said, quotes can still be sought from ranked Supplier Arrangements for large projects.

The preference ranking provides a prioritised order in which suppliers should be approached to provide goods or services. The prioritised order should be followed unless there are justifiable reasons not to. This is because selecting a supplier from lower on the preference list would be selecting a supplier when another supplier (higher on the list) has been evaluated as having provided a more advantageous offer to Council. Such a practice would not demonstrate that sufficient regard was had for the Sound Contracting Principles.

A lower ranked supplier may only be engaged if a Contract Administrator can demonstrate that the supplier is better placed to provide the required goods or services than a higher ranked supplier.

15.2.4 Scope of Supplier Arrangement

Each Supplier Arrangement has been established with a scope and specification. If the goods, services or works sought are outside of the scope and specification of the arrangement, it will be necessary to conduct an RFQ or Written Tender process. Attempts to use the arrangement wider than its design intention will attract negative review. However, when conducting the RFQ or Written Tender process, suppliers from the arrangements may be engaged.

15.2.5 Use of another local government contract or government agency

Subject to approval by the Procurement and Contracts Performance Team, there are other local government and government agency arrangements and contracts that Council can access such as Local Buy and Whole of Government Arrangements. These vary in their constitution and requirements and advice should be sought before utilising these arrangements and contracts.

15.2.6 Sole and Specialised Suppliers

Council maintains a list of suppliers that have been deemed sole or specialised for the provision of specific goods or services. Council Officers may apply to have a supplier added to the list in circumstances where:

- there is only one supplier who is reasonably available; or
- because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for Council to invite quotes or tenders.

The sole or specialised supplier application form can be found on the [Procurement Intranet Site](#), and requires support and signing by Manager and Group Executive of the business area from which the application generates, the Manager Business and Innovation, and the Chief Executive Officer.

16 Disposal Contracts

Council possesses or acquires various assets, which include almost any tangible property. When appropriate, including when no longer required, these assets should be thoughtfully disposed of. If an asset has some value, it should be disposed of in a manner that realises its value to Council. In these cases, the disposal will cause Council to enter into a Disposal Contract, which when executed will pass title or an interest in the property from Council to another entity.

Assets held by Council may be disposed of, having regard to type of asset they are. Assets considered for disposal fall into two types:

- Valuable Non-Current Assets (VNCA); and
- Surplus Assets.

Each of the types may have a different process for disposal.

16.1 Valuable Non-Current Assets

The LGR 2012 defines a Valuable Non-Current Asset as:

- Land, including an interest in land (see Part [17](#));
- Plant or equipment worth more than \$5,000; and
- Any other type of VNCA worth more than \$10,000.

16.2 Disposal of VNCA (Other than Land) and Surplus Assets

A Surplus Asset is any asset that is not a VNCA, which has been identified for disposal. Consequently, Surplus Assets will be the following:

- Plant or equipment worth \$5,000 or less; and
- Any other type of asset, which is not a VNCA, worth \$10,000 or less.

16.2.1 Reasons for disposal

Surplus Assets may be appropriate for disposal for many reasons, including:

- No longer required due to changed procedures, functions or usage patterns;
- No longer complying with occupational health and safety standards;
- Occupying storage space and will not be needed in the foreseeable future;
- Reaching their optimum selling time for maximisation of returns;
- Found to contain hazardous materials;
- Beyond repair but able to be sold for scrap;
- Identified for disposal by Council.

16.2.2 Planning for disposal

There are a number of issues to be considered in the planning phase of a disposal. These include:

Sustainability impacts

Environmental and social issues and their corresponding impacts must be considered when deciding if a Surplus Asset should be disposed of and how it is to be disposed.

From a sustainability perspective it may be preferable to delay disposal; however, it is important to note that this may result in a decrease in the value of the Asset. The 'end of life' management decision involves examining whether disposal is really necessary or if it is possible to extend the useful life of the Surplus Asset. Extension of useful life may be achieved by considering repairing,

refurbishing, modifying or upgrading the item, or the item may be able to be reused for another purpose elsewhere within Council.

When a decision is made to dispose of an Asset it is important to consider:

- Waste management - determine what Council's waste management policies are and ensure compliance.
- Sustainability impacts - subsequent impacts occurring from disposal, including hazardous substances in the item which may involve toxic leachates, or health consequences associated with improper disposal.

Take back options

Investigate whether there is a take back option included in the procurement or contract arrangement. Such an option would involve the supplier collecting the Asset/s and disposing of them as agreed in the terms of arrangements/contract.

16.2.3 Value of Surplus Assets

The Apparent Value of a Surplus Asset will partly determine requirements for disposal. The Apparent Value of the Surplus Asset can be obtained from the Asset Accounting Team. Where the Asset Accounting Team cannot provide the Apparent Value, other methods for the valuation of the Surplus Asset should be explored. These may include engaging the services of an independent registered valuer for Surplus Assets where the value is difficult to determine (for example, specialised equipment). If these methods are unavailable, informal methods of valuation may be used and include references to advertisements for sale of similar items.

16.2.4 Achieving best value when disposing of VNCA's (Other than Land) and Surplus Assets

To realise the highest value when disposing of Surplus Assets, the following should be considered:

Most cost-effective disposal method

An analysis of Net Disposal Return should be conducted to determine the most cost-effective method of disposal of the Asset while considering sustainability impacts and probity. Cost assessment should consider both economic and environmental costs and impacts.

The net disposal cost or revenue forms part of the whole-of-life cost of an Asset. Revenue received in the disposal process is offset against the costs incurred. Therefore, seeking to minimise disposal costs and maximise disposal revenue will contribute to a reduced overall whole-of-life cost.

Potential for a future serviceable life of an asset (life extension)

Factors that may affect an assets future useful life include:

- the nature of the item: this has a bearing on the Asset's possible length of service;
- maintenance costs of the item: these typically increase with age and use;
- compliance with legislation: specific disposal requirements for various 'dangerous goods';
- new technology: resale value drops rapidly when goods are superseded;
- compatibility of the Asset with new or changed working environment;
- capacity to repair, refurbish, modify or upgrade the item.

Optimum selling time

Once a decision has been made that an item has come to the end of its useful life, it is important to arrange for its disposal as soon as possible. This will maximise the Net Disposal Return and avoid unnecessary storage costs.

Sustainability impacts of disposal

Different disposal methods can give rise to very different social and environmental outcomes, and these should be fully considered. When evaluating and selecting a disposal method, consider the future environmental and social implications associated with the option, and ensure these are factored into the decision.

16.2.5 Methods of disposal

Any method of disposal must have regard for the Sound Contracting Principles and probity, ensuring the process is fair, open and competitive.

If the Apparent Value **exceeds** the limits set by the LGR 2012 or Council has outlined in the Procurement Policy, the item will be a Valuable Non-Current Asset and **must** be disposed of in the appropriate manner (see Part 16.1).

The available methods for disposal are:

Written Tenders

Disposal of Surplus Assets by Written Tender is normally conducted for items of high value or an unusual nature. Written Tender should also be considered for Surplus Assets located in remote areas, with a dispersed potential market. Contact the Procurement and Contracts Performance Team for assistance with the Written Tender process. The Written Tender process is outlined at Part 11.

Public Auction

Surplus Assets may be disposed of by public auction. Considerations for this method include:

- Is there market demand for the goods?
- How far away is the auction centre?
- Will transport and auction costs outweigh the return from selling the goods at auction?
- Are enough items available to make an on-site auction viable?
- Can items from elsewhere within Council be included in order to improve Net Disposal Return?

Recycling

Recycling ensures the reuse of recyclable components such as glass, plastic and metals; it assists in reducing demand for limited natural resources and also prevents harmful chemicals and toxins (such as mercury and lead) entering landfill.

All recycling **must** be managed by Council's Waste and Resource Management Branch.

Waste / dumping

Assets with little or no commercial value that cannot be recycled should be disposed of in an environmentally responsible manner.

Advice should be sought from Council's Waste and Resource Management branch before disposing of Assets which may contain dangerous chemicals, liquids or other substances. Such Assets are likely to be governed by restrictions or legislation concerning disposal.

Trade-in

Surplus Assets may be disposed of by trade-in on new equipment provided the trade-in meets the requirements of this Manual by having regard for the Sound Contracting Principles, probity, and realisation of the Net Disposal Return.

Scrap Materials

Council produces various types of scrap, surplus materials, low-value materials and waste. All scrap material disposal must be coordinated and managed by Council's Waste and Resource Management Branch to achieve the most advantageous revenue outcome for Council.

Government Agency or Community Organisation

A VNCA can be disposed of to a Government agency or Community Organisation without first inviting Written Tenders or by auction. This exception requires written approval from the Chief Executive Officer.

16.2.6 No warranties

Surplus Assets are to be sold or traded as is, with no warranty/guarantee provided except where there is a remaining warranty/guarantee provided by the manufacturer.

16.2.7 Responsibilities for disposal of Surplus Assets

The responsibilities for establishing Disposal Contracts for disposal of Surplus Assets, is as follows:

Fleet Management

The Manager, Business and Innovation, in consultation with the Coordinator Fleet Services, is responsible for coordinating disposal of all fleet Assets.

All fleet, plant, and equipment must be disposed of by:

- Trade-in on the procurement of a similar new item of equipment following best value analysis; or
- Public auction using a reputable auction provider.

Fleet Management will maintain the asset records in the Asset System Register and the Financial Asset System register following the sale of any item.

Property Management

Property Management Branch is responsible for coordinating disposal of all office furnishings.

Waste and Resource Management

Council's Waste and Resource Management Branch is responsible for coordinating disposal of all scrap material and surplus office furnishings on behalf of Property Management Branch.

Financial Accounting (Assets)

The Financial Accounting Team process the disposal consideration received against the Surplus Asset. The net profit or loss is reported in Council's Financial Asset Register and financial reports.

Other branches

Where members of branches not listed above have Surplus Assets for disposal, the manager of that branch should contact the Procurement and Contracts Performance Team for advice on disposal.

17 Disposal of Land and Exceptions

Disposal of land is a legal term, which simply means to sell the land. In this case, the owner will dispose of the entire interest, resulting in them having no rights over the land. Disposal of an interest in land means to do something less than sell, which results in the owner surrendering, and another party acquiring, some rights to it. An example would be when the owner/lessor enters into a lease. By entering into a lease, a lessor disposes of the interest that is their right to be on and use the land. Of course, this usually occurs in return for money.

Council will continue to dispose of land, or any interest in land in a manner consistent with the LGR 2012, Chapter 6 Contracting, Part 3 Default Contracting Procedures. These procedures require that, unless an exception applies, Council will dispose of land, or an interest in land by:

- EOI
- Tender
- Auction

Table 8: Exceptions for Disposal of Land

Exception	Legislative requirement
Previous offer for sale or auction <i>LGR 2012, s.236(1)(a)</i>	The land was previously offered for sale by tender or auction but was not sold; and is being sold for more than the highest tender or auction bid that was received.
Government Agency or Community Organisation <i>LGR 2012, s.236(1)(b)</i>	The land is disposed of to a Government Agency or a Community Organisation. <i>Point (b) immediately below this table does not apply to this exception.</i>
Forms of disposal for land or an interest in land <i>LGR 2012, s.236(1)(c)</i>	(a) For the disposal of <u>land</u> or an <u>interest in land</u> :
	The land will not be rateable land after the disposal;
	The land is disposed of to a person whose restored enjoyment of the land is consistent with Aboriginal tradition or Island custom; <i>Point (b) immediately below this table does not apply to this exception.</i>
	The disposal is for the purpose of renewing the lease of land to the existing tenant of the land.
Forms of disposal for land or an interest in land <i>LGR 2012, s.236(1)(c) continued.</i>	The land is disposed of to a person who owns adjoining land if: <ul style="list-style-type: none"> (i) the land is not suitable to be offered for disposal by tender or auction for a particular reason, including, for example, the size or the existence of infrastructure; and (ii) there is not another person who owns other adjoining land who wishes to acquire the land; and (iii) it is in the public interest to dispose of the land without a tender or auction; and (iv) the disposal is otherwise in accordance with the Sound Contracting Principles.
	All or some of the consideration for the disposal is consideration other than money, for example, other land in exchange for the disposal, provided: <ul style="list-style-type: none"> (i) it is in the public interest to dispose of the land without a tender or auction; and (ii) the disposal is otherwise in accordance with the Sound Contracting Principles.
	The disposal is for the purpose of a lease for a telecommunication tower.
	The disposal is of an interest in land that is used as an airport or for related purposes, provided: <ul style="list-style-type: none"> (i) it is in the public interest to dispose of the land without a tender or auction; and (ii) the disposal is otherwise in accordance with the Sound Contracting Principles.
Forms of disposal – Specific to leasing <i>LGR 2012, s.236(1)(e)</i>	The disposal of a VNCA, by the grant of a lease, if the grant of lease has been previously offered by tender or auction, but a lease has not been entered into.

Ministerial exemption <i>LGR 2012, s.236(1)(f)</i>	The Minister exempts Council from complying with section 227. An exemption given under this subsection may be given subject to conditions. <i>Points (a) and (b) immediately below this table do not apply to this exception.</i>
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Exercise of the aforementioned exceptions is subject to the following qualifications:

- a) For exceptions mentioned in subsections 236(1)(a) to (e), before the disposal, Council decides by resolution that the exception may apply to that particular disposal.
- b) For exceptions relating to disposal of land or an interest in land, the consideration for the disposal would be equal to, or more than, the market value of the land or the interest in land including the market value of any improvements. A written report about the market value from a valuer registered under the *Valuers Registration Act 1992* (not an employee of Council) will be sufficient evidence of the market value.
- c) Point (b) immediately above does not apply to disposal of land or an interest in land which is disposed of under sections 236(1)(b), (1)(c)(ii) or (1)(f).

18 Managing Established Contracts

18.1 Contract Performance Management

Regardless of the procurement process used to form a contract, once formed it becomes necessary to manage its performance. Contract Performance Management is a central element for ensuring that Council obtains from a supplier what they promised or were contracted to provide. Further, it is an important process for ensuring that Council meets its obligations to the Sound Contracting Principles, including obtaining value for money from the contracts that it enters into.

18.2 Contract Performance Specialist

The Contract Performance Specialist in the Procurement and Contracts Performance Team provides guidance, advice and support on how to manage the performance of a Contract once it has been established following a procurement process. It is recommended to seek support, if required, prior to contract formation.

18.3 Contract Performance Management Step by Step

It is the responsibility of the **Contract Administrator** to manage performance of the contract. Below are some useful steps that can be utilised to help manage a Contract:

- Step 1** Development of Key Performance Indicators (KPIs) aligned to the requirements for the delivery of the contract. This includes determining the frequency of performance evaluations. Development of KPIs occurs at the point of Tender/RFQ development, and form part of the specification.
- Step 2** When evaluating Tender and/or Quote submissions obtain any Council retained information of the performance track record of Respondents. This information can be obtained from the [Contracts Performance Database](#), through the assigned Procurement Specialist or by making contact with other areas of Council, if not centrally recorded.
- Step 3** Develop Contractor Performance evaluation measurement criteria and processes directly linked to the contract requirements and the defined KPI's. These items will be discussed with the contractor for further development and advice soon after the award of the contract.
- Step 4** On a frequent basis the Contract Administrator will be assessing the performance of contractor/s through required interactions and supervision. Any matters will be discussed openly with the contractor and recorded.
- Step 5** When the contract is on-foot, the Contract Administrator will formally evaluate contractor performance at the pre-determined frequency. This formal evaluation will be shared with the contractor/s to allow for a response and to negotiate any strategies for remedy and/or improvement.
- Step 6** The retention of all contract related and performance related communications and documentation and recording of all information in a central repository is to occur throughout each of the 5 steps above.

19 Variation, Extension & Discharge (Written Tender and RFQ)

Contracts may need to be varied from their original form, or extended in time from their originally anticipated end.

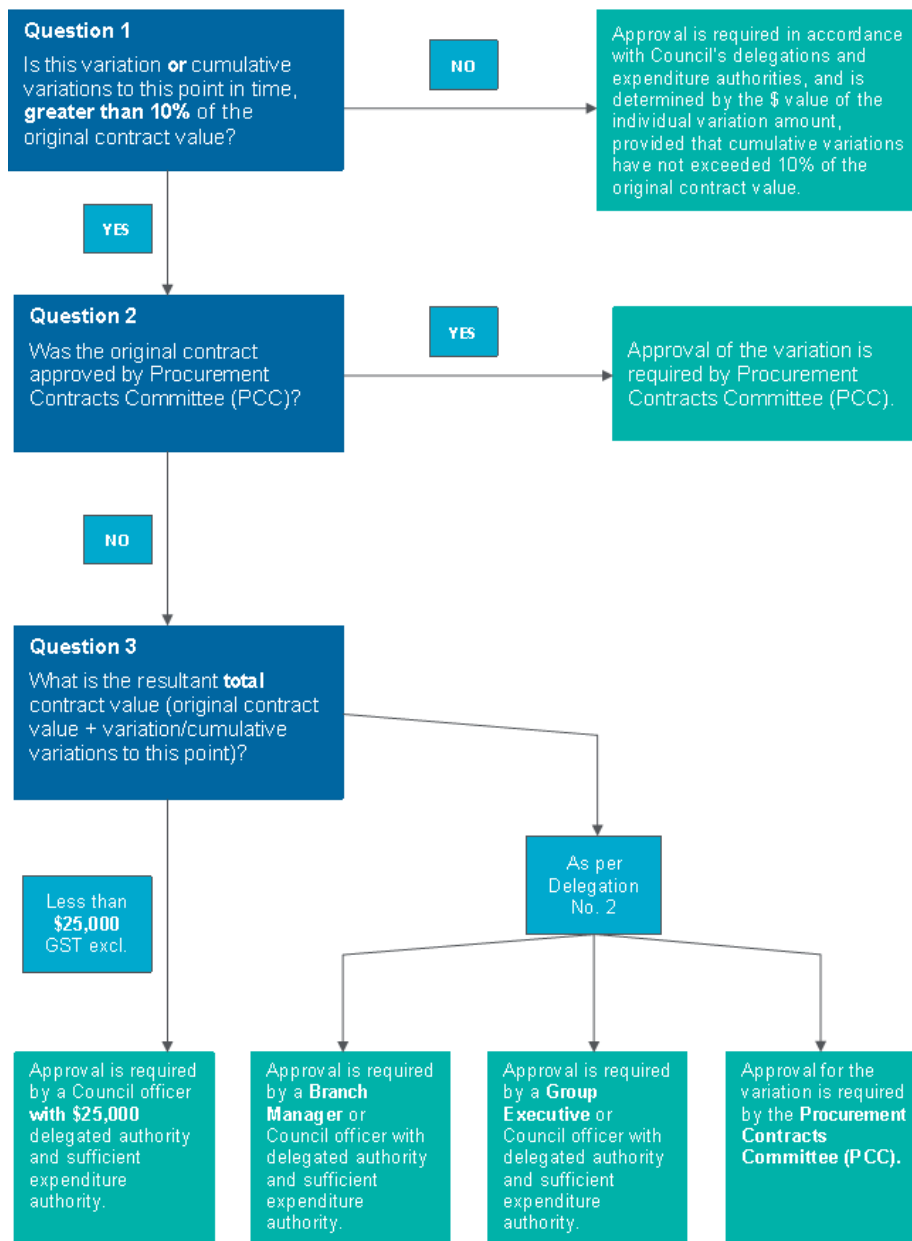
19.1 Variations

Contract variations are any material change to the specification and scope or any change that alters the price paid for completing the contract.

For price related variations, if a variation (or cumulative variations) exceeds 10% of the original contract value, the resultant value of the total contract (original price and variation/s) will dictate the process to be adopted for seeking approval for the variation. Contract variations are to be approved in accordance with Council's delegation and expenditure authorities. See 7.6 and 7.7.

The following diagram provides an explanation for approval of variations.

19.1.1 Determining the required authority for contract variations



19.2 Extensions

Contracts will generally contain a term regarding their discharge or end date. Council may include another clause providing a right to extend the contract for a fixed period, or a number of specific periods of time (Example – a one year extension or options of two by/times one year extensions).

Exercise of the extension periods must be carefully considered, taking into account various factors. Considerations include:

- contractor performance over the term;
- whether the contract, if extended, will provide value for money to Council over the life of the extension; and
- present market forces, including whether the market has grown, improved or diminished during the term, thereby placing Council in a better or vulnerable position if a new Tender was conducted.

Extensions may only be approved by the Manager, Business and Innovation, following consultation with the Chief Executive Officer.

19.3 Discharge

Discharge is the point at which a contract comes to an end. The common law provides that contracts may only be discharged by:

- performance (the contract is completed);
- termination for breach (following a breach of an essential term or serious breach of an intermediate term);
- frustration (due to some event, not the fault of either party, the contract cannot be performed as intended); or
- agreement (the parties agree that the contract is discharged).

The vast majority of contracts will be discharged by performance, with the time or method of discharge (e.g. following delivery of the goods purchased, or on a certain date) being included in the contract at the time of formation. When the contract is performed as required, it will discharge at its end, with nothing further required from the person with appropriate delegated authority.

However, in some circumstances it may be necessary to discharge a contract by one of the other means. Where consideration is given to discharging the contract via one of the other methods, significant investigation must be conducted and advice obtained to ensure that exercising the method is justified and will withstand scrutiny. Bringing a contract to an end when not justified may have significant legal consequences for Council.

Prior to seeking to discharge a contract by termination for breach, frustration or agreement, Contract Administrators or any person seeking to have the contract discharged must contact the Procurement and Contract Performance Team and/or the Chief Legal Officer, Legal Services. Critically, only Council Officers with delegated authority to conduct Contracting Activities, in particular the power to make, amend or discharge contracts, have the power to bring them to an end.

20 Purchasing and Contracting Systems

Council has two systems to manage purchasing and contracting; they are Council's Financials System (T1 Financials) and [Council's Contract Management System](#) (Open Windows):

20.1 T1 Financials

T1 Financials is Council's financial system where the accounting aspects of the Contracting Activities are to be managed through a Purchase Order. This section sets out the requirements and obligations of raising Purchase Orders and provides the guiding principles and processes for the Purchase Orders in T1 Financials.

20.1.1 T1 Financials Purchase Orders

Purchase Orders are a traditional method of purchasing, usually on account. A Purchase Order is usually sent to a supplier, who delivers the goods/service, and then invoices Council.

The lapsed time and labour cost of processing Purchase Orders can be increased if the most efficient process is not followed. System and purchasing controls can also be compromised if a knowledgeable person does not authorise the Purchase Order.

In brief, the process for a Purchase Order is as follows:

- Step 1** Person raises purchase requisition in T1 Financials (a T1 Financials Requisitioner) or requests for a Purchase Order to be raised.
- Step 2** The purchase requisition is created in T1 Financials (by a T1 Financials Requisitioner or an Order Controller) who understands the business and budget implications.
- Step 3** The Purchase Order is approved in T1 Financials by a person with appropriate financial delegation for the Contracting Activity (and in the instances of PCC approved Contracts, the requisition is to be sent to the Contract and Supply Services team for confirmation of the PO amount against the PCC awarded Contract and for approval).
- Step 4** The Purchase Order is sent to the supplier.
- Step 5** The supplier provides the goods and/or services.
- Step 6** The Purchase Order is receipted against once delivery of the goods and/or services have been provided to confirm the Purchase Order has been delivered.
- Step 7** The supplier invoices Council (which is sent directly to Accounts Payable).
- Step 8** Accounts Payable match the invoice to the Purchase Order receipt and pay the invoice.

Order Controllers are embedded in the business units of Council and have a good understanding of the business undertaken by the unit. This increases the proper use and control of Purchase Orders in a large organisation.

20.1.2 Purchase Order Efficiency

The process can become labour intensive if Purchase Orders are not delivered on in a timely manner or if invoice matching is difficult. For the system based procure to pay process to operate efficiently, it is important to have Purchase Order Receipts performed in T1 Financials prior to the invoice arriving at Accounts Payable.

Users of T1 Financials are encouraged where possible to process Purchase Order Receipts in T1 Financials once it is confirmed the goods and/or services have been provided to Council. It is not necessary to wait for the invoice to be submitted to Council to prompt this action. Timely processing of Purchase Order Receipts results in more accurate financial reporting, more efficient Accounts Payable (invoice matching) processes, and assists in getting suppliers paid within the required payment terms.

To ensure Council's terms and conditions are applied at all times, Purchase Orders must always be provided to the supplier at the time of ordering goods and/or services. This is to ensure that Council enters into a Contract with a supplier that has appropriate terms and conditions.

Council Officers involved in the purchasing process must apply the most efficient procure to pay processes. In particular, purchasing officers should use their best endeavours to procure/purchase with purchase cards for low value transactions (less than \$500).

20.1.3 Financial Delegation Limits in T1 Financials

The Expenditure Authority (Financial Delegation) limits referred to at **7.6** given to a role are reflected in T1 Financials and the limits are to be applied to all Purchase Requisitions (which result in the creation of a Purchase Order), Purchase Order amendments, and Purchase Order Receipts.

[Delegations](#)

Any amendments to delegation limits are to be submitted by completing the approved [Financial Delegation - New and/or Amendment Form](#) to the Contracts and Supply Services Coordinator signed by the relevant Manager.

Amendments to delegations may also be implemented based on higher duties. Amendments based on higher duties will only be implemented upon the satisfactory completion of the Employee Status Change Form signed and processed by People and Culture.

20.1.4 Contract Numbers in T1 Financials

A contract number is required for every Purchase Order in T1 Financials that is worth \$25,000 or more; this is a mandatory field and is data validated to ensure a contract number is provided. All contract numbers available in T1 Financials are maintained by the Contracts and Supply Services Team. This will either be a Contract Number issued in accordance with **7.1** or **11.2** or the Contract Number allocated by [Council's Contract Management System](#).

Where an Exception Contract is being formed using the exceptions detailed in **15**, then the following is to be used in the Contract Number field in the Purchase Order:

1. For an engagement from a priced Supplier Arrangement the Arrangement Number followed by a suffix letter is to be used from the SCC Contract Number field pick list that relates to the Contractor who is being engaged off that arrangement for example "SA131AA".
2. For an engagement off a non-priced Supplier Arrangement the Contract Number allocated in [Council's Contract Management System should be used](#).
3. For purchases utilising a sole supplier or specialised supplier, the Contract Number set out in the Sole or Specialised Supplier listing adopted by Council resolution is to be used, for example: "SPC123" or "SOL123".
4. For purchases at an auction "EXAUCTION".
5. For genuine emergencies "EXEMERG".
6. For purchases from a government entity "EXGOVT".

Where another government entity arrangement is being accessed by Council, such as Local Buy/Peak (LGAQ wholly owned companies) or a State Government Arrangement, Procurement & Contracts Performance Team must be consulted and a unique contract number obtained.

20.1.5 Purchase Order types

It is important that Purchase Orders are set up with the correct Purchase Order, and that the values and dissections are reflective of the true amount expected to be paid within the current financial year (part thereof if the Contract only spans part of a financial year) and these amounts are to be based on the value of the Contract, budget or estimated/anticipated spend based on what has been expensed in the previous financial year/s. It is in Council's best interest to take time to raise Purchase Orders correctly because ultimately this will reduce the necessity to amend the Purchase Order during the course of the year and/or 'topping up' the amount frequently.

Purchase Orders are to be raised in T1 Financials utilising the correct Purchase Order type depending on the purpose of the purchase. There are three Purchase Order types available in T1 Financials with Standard type and Blanket type utilised most frequently. Standing type Purchase Orders are also available and provide a template. Standing type Purchase Orders are used very infrequently. Consult Contracts and Supply Services Team prior to and for assistance with Standing Purchase Orders.

A Purchase Order types list is available on the Contracts & Supply Services intranet site and sets out the common attributes and distinguishing features of the different Purchase Order types, and provides examples where they may be used.

Depending on the type of Purchase Order, the management/approval process of amendments to the Purchase Order will vary.

If the Purchase Order is created with the incorrect Purchase Order type, the Purchase Order must be cancelled and recreated correctly. If the Purchase Order is still a Purchase Requisition (not approved or released), the Purchase Order may be amended and re-sent for approval and subsequently released with the correct Purchase Order type.

20.1.6 Responsibilities of the Requisitioner

The Requisitioner is to ensure all Purchase Requisitions / Purchase Orders are prepared in T1 Financials in accordance with Procurement Policy and this Manual. The Requisitioner role is responsible for raising the Purchase Requisition in T1 Financials. The Requisitioner has no financial delegation to authorise the purchase requisition, but does have the ability to perform Purchase Order Receipts in T1 Financials against a Purchase Order.

20.1.7 Responsibilities of the Order Controller

The Order Controller is one of Council's Procurement Policy management figures within the procure-to-pay process. Order Controllers are embedded within the business to best serve the needs of Council. The Order Controller is to ensure all Purchase Requisitions / Purchase Orders within their business area are prepared in T1 Financials in accordance with the Procurement Policy and this Manual.

Tasks will include raising Purchase Requisitions, approving and releasing Purchase Orders, referring Purchase Orders and Receipts on for approval in the T1 Financials workflow, amending or cancelling Purchase Orders, management of invoices from Accounts Payable, and Purchase Order reporting. The Order Controller is also responsible for monitoring purchasing practices in their area of responsibility and identifying and recommending improved purchasing practices such as blanket type Purchase Orders or the use of purchase cards when appropriate. The Order Controller will periodically (monthly as a minimum) undertake a review of outstanding Purchase Orders, Purchase Order Receipts and Purchase Requisitions, and cancel those transactions no longer required.

The Order Controller has a financial delegation of \$15,000 for Purchase Orders and \$15,000 for Receipts and is able to approve their own Purchase Orders to the limit of their financial delegation. This is known as self-approval.

20.1.8 Responsibilities of the Approval Officer

The approval officer is to ensure all purchases are appropriate and comply with Procurement Policy and this Manual, and they must ensure they have the appropriate Financial Delegation for all activities in T1 Financials and also the Contracting Delegation.

Any procedural or regulatory contraventions such as inappropriate or personal purchases are to be reported to your Manager and the Contracts and Supply Administration staff.

20.1.9 Contracts and Supply Administration Unit

Contracts and Supply Administration will assist each area to co-ordinate and control the administration of Purchase Orders within T1 Financials. Contracts and Supply Administration will maintain user access to T1 Financials based on a user's financial delegation and the identified role/function access based on a completed and signed TechnologyOne Financials New/Amendment User Request Form.

They will document any procedural or regulatory contraventions and report such breaches to the Manager Business and Innovation and where necessary Council's Board of Management.

They provide application administration of the T1 Financials Purchase Order Module, dealing with software issues, testing and enhancements, coordinating financial month-end and year-end activities, conduct training sessions (and refresher training sessions), and support for purchasing users ensuring they are fully aware of the Purchase Order system.

They produce and publish purchasing activity and performance reports from T1 Financials to ensure officers have the tools to ensure their Contracting Activities are compliant with the Procurement Policy and this Manual.

20.2 Open Windows Contract Management System

Council's Contract Management System is a system from a software vendor called Open Windows and it is the Council wide system to be used to manage the operational aspects of a Contracting Activity. The records created in this system in relation to a Contracting Activity also form Council's Contract Register.

The Contract Management System is to be used for all Contracting Activities worth \$25,000 or more.

In the Contract Management System, Council officers will undertake the following steps in relation to a procurement activity:

1. Create a record of their Contracting Activity which will automatically generate a Contract Number that will ultimately be used in T1 Financials;
2. Generate and save the documentation required for their Contracting Activity (including a Probity Plan);
3. Set their evaluation criteria;
4. Obtain approval to release the Contracting Activity to the market;
5. For Request for Quotes, detail those who have been invited to Quote and invite them to Quote through the electronic eTendering Portal;
6. Record and respond to Requests for Information and Questions and issue any Addenda;
7. For Request for Quotes, open the electronic Tender Box and download submissions from Respondents;
8. Undertake the evaluation electronically in the system;
9. Identify the successful and unsuccessful Respondents in the system;
10. Generate and record the Acceptance Letters that form the Contract with a Respondent;
11. Convert the Contracting Activity into a Contract in the system.

Contracts and Supply Services Team are the Application Administrators for the Contract Management System and provide support and training for this system.

21 Attractive items and restricted transactions

21.1.1 Restricted Transactions

Purchases of items such as mobile phones, plant, equipment, computer hardware and software are restricted. The table below lists those transactions that are restricted.

Table 9: Restricted Transactions

Good/Service	Requirement
Alcohol	Not to be purchased unless prior written approval has been given from Executive Management. Refer Entertainment and Hospitality Policy.
Computer Hardware or Software	Purchases of computer hardware and/or software are to be made by Digital and Information Services Branch.
Mobile Phones/Portable Devices	Purchases of mobile phones are to be procured through the Digital and Information Services Branch. Purchase Card <i>is available for purchase of mobile phone accessories such as cases and chargers.</i>
Motor Vehicles, Plant/Equipment, Power Tools for internal hire	Purchases of motor vehicles, plant/equipment, power tools internal hire are to be performed by Fleet and Quarry Services Branch.
Office Furniture	Purchases of office furniture are to be performed by the Property Management Branch.

21.1.2 Attractive Items

An Attractive Item is an item that is portable, valuable (> \$200), and 'Attractive' for personal use or resale.

The purchase and use of Attractive Items by Council need to be registered and tracked.

Below is a list of common Attractive Items:

Table 10: Attractive Items

Identifier	Description	Details
AC&K	Access Cards & Keys	Only Cards that are not already maintained/issued by Property Management Branch.
CDS	CDs - Specific Data	Only those that are not already maintained by Digital and Information Services Branch.
CTD	Cordless Tools - Drills	To be purchased by the Supply Depots (Stores) only. (A single Register is to be maintained by the Supply Depot Staff for whole of Council).
CTO	Cordless Tools - Other	To be purchased in consultation with Nambour Supply Depot. Contracts and Supply Services Team to record and maintain listing of these items
CPC	Corporate Purchasing Cards	Maintained by Accounts Payable separately
D	Dictaphones	
DC	Digital Cameras	
GPS	GPS Receivers	
PC	Pen Computers	
HHDEL	Hand Held Data Entry Loggers	
IDC	ID Cards	Only those Cards that are not already maintained/issued by Property Management Branch
KE	Kitchen Equipment	
LAB	Labellers	
LAM	Laminators	
LC	Laptop Computers	To be purchased by Digital Information Services Branch.
MS	Memory Sticks/USB	
MT	Mobile Telephones	Maintained by Digital and Information Services Branch separately

OTH	Other	All other items deemed attractive but not issued with a unique identifier on this list
P	Pagers	
PDA	Personal Digital Assistant	To be purchased by Digital Information Services Branch
PMEEMS	Portable Monitoring Equipment - EMS	
PMERC	Portable Monitoring Equipment - Road Counters	
PMEO	Portable Monitoring Equipment - Other	
PR	Projectors or Lite Pros	
SG	Safety Glasses	Restricted purchase – should be issued via Supply Depots and recorded separately.
SE	Safety Equipment	
SURE	Surveying Equipment	
T	Televisions	
V/DVD	Video Players & DVDs	
HHR	Hand Held Radios	
MB	Mountain Bikes	
MFP	Multifunction Colour Printers	To be purchased by Digital and Information Services Branch.

21.1.3 Method of Purchase

Attractive items should only be purchased through Council's Purchasing Systems (Purchase Order and Purchase Card). Council staff should not purchase these items personally and make claim for reimbursement.

21.1.4 Order Controllers and Attractive and Restricted Items

Order Controllers play a key role in identifying the acquisition of attractive items. As such, Order Controllers are primarily responsible for the upkeep of a register within their Branch. They are required to identify attractive items as they are purchased and ensure they are added to the Register.

21.1.5 Registration Process

When an attractive item is purchased, it is allocated to the Council Officer who has the highest frequency of use for the item, or where the item is provided for the use of a Team or Branch, it shall be allocated to the Supervisor, Team Leader or Manager responsible for the business area.

Each Council Branch is responsible to establish and maintain a register of all Attractive Items within their area. The register should contain the following information:

- An Identifier Code
- Date of Purchase
- Method of Purchase
- Purchase Order number
- Nominated Requisitioner on the Purchase Order or Purchase Card Holder name
- Supplier Name
- Purchase Price
- Full description of item
- Brand
- Model

- Serial number
- Council officer responsible for item.

21.1.6 Restricted Purchases

Items deemed as Attractive but not required to be recorded in this register include Mobile Phones, Laptop Computers, Security/ID Swipe Cards, Purchase Cards, as details of these items are recorded and monitored by the responsible area (refer Restricted Items list above). Items deemed restricted must only be purchased by the business area listed.

21.1.7 Employee Termination

Upon termination of employment of a staff member from that Branch, the register must always be consulted to ensure that any items registered to that employee have been surrendered.

If any items cannot be accounted for, a Stolen, Lost or Damaged (Beyond Repair) form must be completed and copies supplied to the Branch Manager.

21.1.8 Transfer of Attractive Items to Another Officer

If an item is to be transferred to another employee within the same Branch, ensure that the register is updated accordingly. If the item is to be retained for shared use, this must be stated on the register and the Branch Manager should be listed as the officer ultimately responsible for the item.

Should a Council Officer transfer to another position within Council, outside of the Branch, and agreement is reached with the Branch Manager that the Officer can retain the item listed in their new role, the transfer of the item must be denoted on both the old and new Branch registers.

21.1.9 Audit of Attractive Items

An audit of the items listed on the register for each Branch must be conducted on a quarterly basis.

A list of attractive items is to be produced for each employee by the Order Controller. Items listed are to be verified by the employee and validated by the Branch Manager; each officer is required to sign the listing.

21.1.10 Reporting

On an annual basis, a report is to be produced within the Branch which lists the attractive items that have been either lost or stolen throughout the preceding Financial Year. This list will be by attractive item Identifier Code and show the value of the item and the employee to who the item was assigned. This report will also show instances where an employee has lost more than one item in the preceding two-year period.

This report should be supplied to the Branch Manager for his/her attention and appropriate action.

Definitions

Apparent Value means the current depreciated value or written down value for the plant or equipment.

Attractive Item means an item that is valuable, portable and considered ‘attractive’ for use privately or for re-sale.

Branch Manager means an L3 manager within Council’s organisation structure who has responsibility for a branch of that structure.

Community Organisation means:

- (a) an entity that carries on activities for a public purpose; or
- (b) another entity whose primary object is not directed at making a profit.

Contract means a contract (including purchase orders and purchase card transactions) for:

- (a) the supply of goods or services;
- (b) the carrying out of work; or
- (c) the disposal of non-current assets.

In this instance, the term does not include a contract of employment between Council and a Local Government Employee (as defined in the *LGA 2009*).

Contract Administrator is as set out in 7.1 and also means Project Manager (if the Project Manager is a Council Officer)

Contract for Service means a contract to which an independent contractor is a party and that relates to the performance of work by the independent contractor.

Contract Management System means the electronic software/system implemented by Council to manage Council’s Contracting Activities.

Contracting Activity means a Procurement Contracting Activity and/or a Disposal Contracting Activity.

Council Officer means a Local Government Employee (as that term is defined in the LGA 2009) of the Sunshine Coast Regional Council, but does not include a person engaged on a Contract for Service for a defined time or designated project.

Disposal Contracting Activity means an activity to dispose of an asset, including Valuable Non-Current Assets, Surplus Assets and land, including an interest in land.

Exception Contract means a contract formed from exercise of the exceptions to Written Tender or RFQ processes.

EOI means an Expression of Interest.

Expression of Interest means an Expression of Interest process conducted by the Council.

Genuine Emergency includes:

- (a) Any time that the Local Disaster Coordinator is performing a function under the *Disaster Management Act 2003*; or
- (b) Any time an event occurs resulting in actual or likely loss of life or serious injury to person/s and where action from Council may prevent or reduce the actual or likely loss of life or serious injury to person/s, or aid and assist in response to the event; or
- (c) Any time an event occurs resulting in actual or likely serious damage to property and where action from Council may prevent or reduce the actual or likely serious damage, or aid and assist in response to the event.

Government Agency is:

- (a) the State, a government entity, a corporatised business entity or another local government; or
- (b) another Australian government or an entity of another Australian government; or
- (c) a local government of another State.

LGA Arrangement means an arrangement established by Peak Services and/or Local Buy Pty Ltd, LGAQ Ltd or other entity of which LGAQ Ltd is the only shareholder.

Net Disposal Return means the revenue from a Disposal Contract, less all costs associated with the disposal.

Notice to Respondents means a written notice sent by Council to either:

- (a) in situations where the tender box has not closed, all Prospective Respondents to a Written Tender, who have downloaded the tender information, or
- (b) in situations where the tender box has closed, all Respondents who submitted an offer in response to a Written Tender.

PCC means the definition provided under Procurement Contracts Committee.

Preferred Supplier Arrangement is an arrangement established by Council of ranked suppliers who Council has assessed as having the technical, financial and managerial capability necessary to perform contracts on time and in accordance with agreed requirements.

Procurement Contract means a contract for the purchase of goods or the supply of services.

Procurement Contracting Activity means an activity for the making of a contract for the provision of goods and services.

Procurement Contracts Committee means the committee established and governed by the Procurement Contract Committee Terms of Reference.

Project Manager (if a Council Officer) see Contract Administrator.

Prospective Respondent means a person or entity that has requested or received an Invitation to Tender or Request for Quote but has not submitted a Tender Response Form or Request for Quote Response Form.

Quote means a quote or quotes (including Alternative Quotes) submitted by Respondents in response to a Request for Quote.

Respondent means a person or entity that has submitted an offer in response to an EOI, Invitation to Tender or Request for Quote.

Request for Quote means the process of Council requesting quotes, the preparation and submission of quotes by Respondents, the communications and negotiations between Council and Respondents in relation to the process and quotes, evaluation of quotes by Council and the negotiation of and entering into a contract.

RFQ means Request for Quote.

Significant Contracting Plan means a Significant Contracting Plan prepared and adopted by Council, as required under the provisions of the *LGR 2012*, s. 221.

Sound Contracting Principles means the principles provided in the *LGA 2009*, s. 104 and described in section 5 of this Manual.

Supplier Arrangement means a list of suppliers established by Council to facilitate the procurement of goods or services required frequently, in high volume and/or where the capability of the suppliers has been determined.

Surplus Asset means an asset that is plant or equipment or another type of non-current asset that does not reach the value threshold of a Valuable Non-Current Asset as prescribed by Council.

Tender/s means a tender or tenders (including Alternative Tenders) submitted by Respondents in response to the Invitation to Tender.

Tender Response Form means the response form set out in the Invitation to Tender.

Valuable Non-Current Asset means land or another non-current asset that has a value equal to or more than the value threshold of a Valuable Non-Current Asset as prescribed by Council.

Verbal Quote means a verbal quote from a person or entity offering to supply goods to Council.

Written Quote means a completed written quote from an entity offering to supply goods or services to Council, which includes the price and methodology for supply of the goods, services or works.

Written Tender means the process of Council inviting written tenders, the preparation and submission of Tenders by Respondents, the communications and negotiations between Council and Respondents in relation to the process and Tenders, evaluation of Tenders by Council and the negotiation of and entering into a contract.

Related policies and legislation

- *Local Government Act 2009* (Qld)
- *Local Government Regulation 2012* (Qld)
- *Statutory Bodies Financial Arrangements Act 1982* (Qld)
- *Public Sector Ethics Act 1994* (Qld)
- *Disaster Management Act 2003* (Qld)

This Contract Manual is supported by the following organisational documents:

- Sunshine Coast Council's Corporate Plan 2018-2022
- Sunshine Coast Council's Operational Plan 2019/20
- 2019/20 Procurement Policy
- 2019/20 Contracting Plan
- Local Preference in Procurement Guideline
- Social Benefit Procurement Guideline
- Indigenous (Aboriginal and Torres Strait Islander) Procurement Guideline
- Innovation and Market-Led Engagement Guideline
- Significant Contracting Plan/s and Template
- Council's current delegations
- Employee Code of Conduct
- Code of Conduct for Councillors
- Purchase Cards Guideline
- Councillors Acceptable Request Guidelines

Note: In the event of conflict between any guideline/s or procedure/s and this policy, the policy will prevail to the extent of any inconsistency.

Version control:

Version	Reason/ Trigger	Change (Y/N)	Endorsed/ Reviewed by	Date
1.0	Create new		Council	14 June 2019

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