

2021/22 Contract Manual

Corporate Plan reference	<i>Our resilient economy</i> <i>Our 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).

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/or 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 Disposal Framework comprises:

- Procurement Policy;
- Contract Manual;
- Contracting Plan and any Significant Contracting Plan/s;
- Local Preference in Procurement Guideline;
- Social Benefit Procurement Guideline;
- First Nations 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.

5 Limitations on Contractors conducting Contracting Activities

Council Officers and/or Councillors are the only persons authorised to initiate any procurement process, or to contract on behalf of Council.

Persons engaged by Council in Contracts for Service (e.g. consultants, project managers and labour hire organisations) are not permitted to commence a Contracting Activity or award a contract on behalf of Council. For clarity, some persons engaged in Contracts for Service that are considered Contingent Workers may participate in or manage the Contracting Activity through its various phases and provide, for example, technical advice during the evaluation of tenders. However, they are not permitted to undertake any action or make any decision that results in them commencing a procurement process or forming a contract on behalf of Council, or expending, or agreeing to expend money on behalf of Council.

Any conflicts of interests of the person must be managed appropriately before they are to be involved in any Contracting Activities. A Council Officer must remain the accountable person in relation to all aspects of the Contracting Activity if a person engaged in Contracts for Service is undertaking or being involved in any part of a procurement or disposal process.

6 Sound Contracting Principles

Council will have regard to the Sound Contracting Principles when entering Contracts for the supply of goods, services and/or 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 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, having regard to the Sound Contracting Principles.

7 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.

7.1 Probity Requirements

A sound probity environment must be maintained during any Contracting Activity of 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. 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 Contracting Activities includes:

- Having a Probity Plan for Contracting Activities of a certain value;
- Setting evaluation criteria where applicable;
- Declaring and managing conflicts of interests;
- Ensuring security and confidentiality in the process;
- Having effective and appropriate communication including during the course of the process;
- Consistent processes for how Tenders, EOIs and Quotes are received and opened;
- Undertaking evaluations;
- Identifying critical issues and risks;
- Engaging with probity advisors where applicable; and
- Dealing with breaches of probity.

7.2 Probity Plan and Probity Checklist

A Probity Plan 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, Quotes, and any other submission or offer) will be received from Prospective Respondent/s. The Probity Plan should be signed during the procurement planning and reflect the Procurement Plan where one is required. 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 the Probity Plan being signed to ensure that these are pre-determined well prior to submissions being viewed and evaluated.

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

7.3 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.

7.4 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 evaluation 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.

7.5 Probity Advisor or Auditor

Advice in relation to probity matters can be obtained internally from the Business and Innovation Branch 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 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.

7.6 Probity Check-in Points

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

1. At the commencement of developing the procurement strategy
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.

7.7 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.

8 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.

The following roles have responsibilities for various components of Contracting Activities as detailed in the “How to Guides” relevant to the process being undertaken:

- Contract Sponsor (Group Executive/Branch Manager/other Council Officer as required)
- Contract Administrator
- Procurement Specialist
- Chair of the Evaluation Panel (the Contract Administrator or Procurement Specialist)
- Evaluation Panel Members
- Financially Delegated Officer

8.1 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 Supplier Arrangements. It also provides a key governance mechanism in Council’s [Governance and Probity](#) framework. PCC is primarily responsible for:

- approving release of Public Tenders, EOIs, and high value RFQs;
- considering the recommendations of evaluation panels for advertised Public 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 Public Tender or RFQ obligations where necessary;
- considering and approving contract variations, contract extensions and discharge of contracts, for Public Tenders and high value RFQs.

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

The Manager, Business and Innovation Branch is the Chair of PCC and has the necessary delegated authority to invite Public 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.

8.2 Contracting and Financial 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.

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 Procurement and Contracting Activities and Payments from CEO to Council Officers may be found on the Council's [Procurement Intranet Site](#).

8.3 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.

8.4 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 at the time they are entered into by Council. These details must be published on the local government's website and displayed in a conspicuous place in the local government's public office.

8.5 Training

Training is provided by Council to relevant Council Officers in relation to procurement, contracting, and purchasing.

9 Contract Type and Procedure

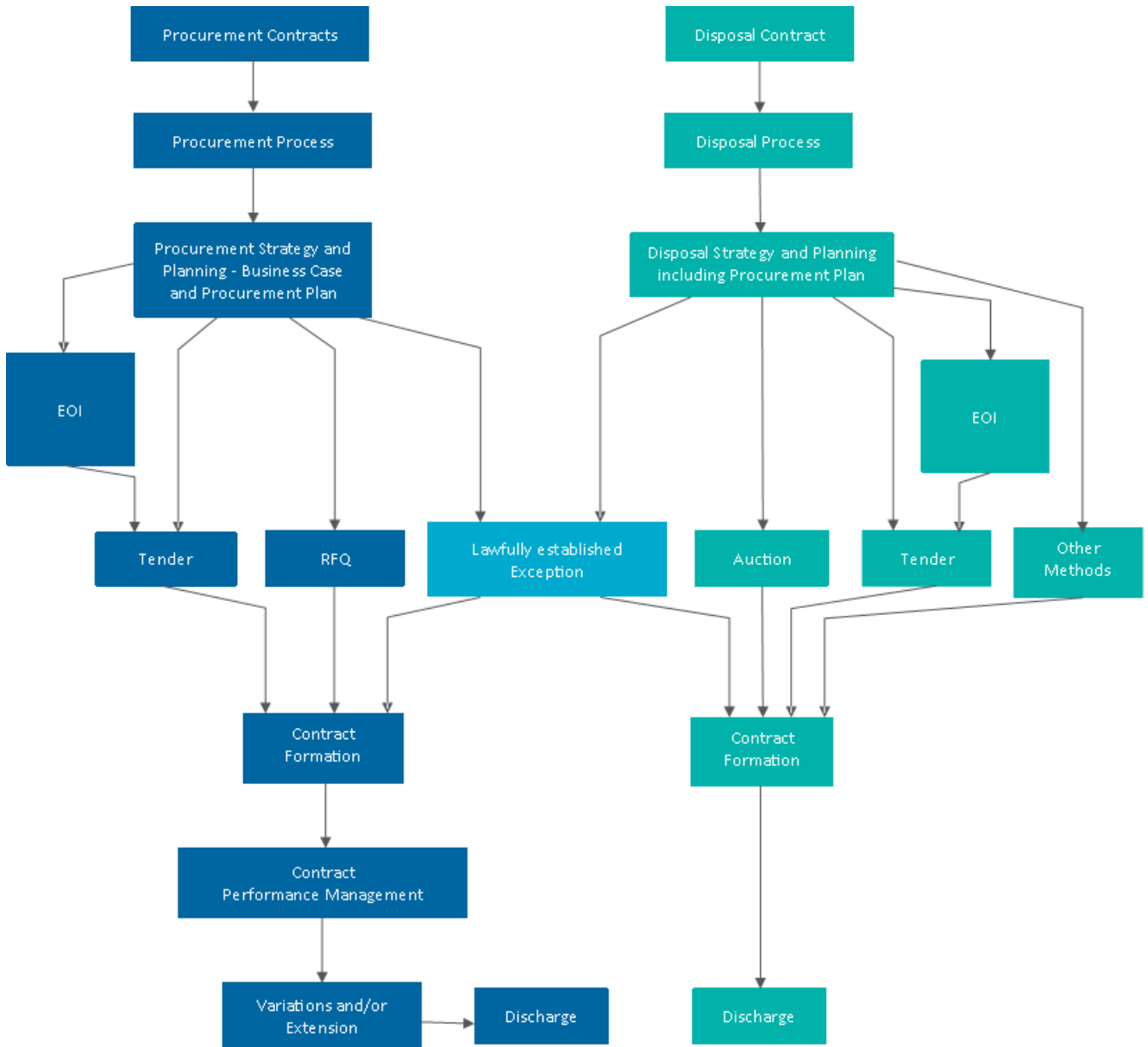
The types of contracts which may be formed under the Strategic Contracting Procedures are outlined in Table 1.

Table 1: Types of contracts

Contract type:	Contract for:
Procurement Contracts	Contracts to purchase goods and services, including the provision of works.
Disposal Contracts	Contracts for the disposal of Valuable Non-Current Assets (excluding Land*) and Surplus Assets.

* Other Contracts that Council can form under the LGR 2012 include Contracts for the Disposal of Land (selling and leasing of Council land). Council Officers are to refer to Council’s Procurement Policy and the “How to Dispose of Land Guide (including disposal by Leasing the land)”.

A diagrammatic explanation of the procedure for procurement contracts and disposal contracts are as follows:



10 Planning & Development of Strategy

One of the primary steps in procurement and disposal processes is the planning phase to determine which approach to market should be adopted to lawfully procure the goods, services and/or works or dispose of the assets.

Council will conduct its Contracting Activities using an appropriate process having regard to relevant value thresholds. Therefore, it is necessary to determine the anticipated value of the contract and relevant Council Officers should consider what other need there may be across Council for the same goods, services and/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 or disposal processes.

The values thresholds and corresponding processes are as follows:

Table 2: Procurement Contract value and related procurement routes to market

Contract Value	Procurement Routes	Council requirements
\$5,000,000 and greater OR High Risk/Complex Contracts	<ul style="list-style-type: none"> Public 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.
\$1,000,000 up to \$5,000,000	<ul style="list-style-type: none"> Public Tender EOI Available Exception 	<p>Progress through the Procurement Process:</p> <ul style="list-style-type: none"> Public Tender (How to Invite Tenders Guide) EOI (How to request Expressions of Interest Guide) Exceptions (How to utilise Supplier Arrangements and other Exceptions Guide)
\$250,000 up to \$1,000,000	<ul style="list-style-type: none"> Public Tender EOI Request for Quote issued to at least five suitably capable suppliers (high value RFQ) Available Exception 	<p>Progress through the Procurement Process:</p> <ul style="list-style-type: none"> Public Tender (How to Invite Tenders Guide) EOI (How to request Expressions of Interest Guide) RFQ (How to Request Quotes Guide) Exceptions (How to utilise Supplier Arrangements and other Exceptions Guide)
\$25,000 up to \$250,000	<ul style="list-style-type: none"> Public Tender EOI Request for Quote issued to at least three suitably capable suppliers Available Exception 	<p>Progress through the Procurement Process:</p> <ul style="list-style-type: none"> Public Tender (How to Invite Tenders Guide) EOI (How to request Expressions of Interest Guide) RFQ (How to Request Quotes Guide) Exceptions (How to utilise Supplier Arrangements and other Exceptions Guide)
Up to \$25,000	<ul style="list-style-type: none"> For services (including works) obtain one written Quote minimum from at least one suitably capable supplier For goods obtain one verbal Quote minimum from at least one suitably capable supplier 	<p>See the "How to undertake Low Value Procurements Guide"</p>

Table 3: Disposal Contract value and related disposal routes to market (excluding Land)

Contract Value	Disposal Routes	Council requirements
Plant or Equipment worth more than \$5,000 and any other VNCA worth more than \$10,000	<ul style="list-style-type: none"> Public Tender EOI Available Exception 	<ul style="list-style-type: none"> Public Tender (How to Invite Tenders Guide) EOI (How to request Expressions of Interest Guide) Exceptions (How to utilise Supplier Arrangements and other Exceptions Guide)
Surplus Assets (including plant and equipment worth less than \$5,000 and assets that are not a VNCA or a	<ul style="list-style-type: none"> EOI Public Tender Public Auction Other methods <ul style="list-style-type: none"> Recycle Waste/dumping 	<ul style="list-style-type: none"> Public Tender (How to Invite Tenders Guide) EOI (How to request Expressions of Interest Guide) All other disposal methods, see the "How to Dispose of Assets (excluding Land) Guide"

Contract Value	Disposal Routes	Council requirements
VNCA worth less than \$10,000)	<ul style="list-style-type: none"> ○ Trade in ○ Donating to Government Agency or Community Organisation 	
Sale or Lease of Land	See Table 1: Types of contracts above – Disposal of Land is not covered by the Strategic Contracting Procedures	Refer to the LGR, Procurement Policy and the “How to Dispose of Council Land Guide”

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

Planning for the procurement or disposal process and development of the strategy for the process need to be undertaken to ensure Council’s objectives are understood and can be achieved. Consideration during this planning and development phase should be given to:

- applying sustainable procurement practices;
- encouraging strategic procurement decision making;
- establishing innovative contracts;
- structuring the procurement to deliver value for money;
- promoting an open and competitive market place;
- developing competitive local business and industry;
- managing exposure to risk.

10.1 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 can 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 through a circular economy will depend on the goods, service and/or works being procured. General sustainability principles to be considered include:

- **Eliminate unnecessary purchasing** by determining if the goods, service and/or works 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, services and/or works over its entire life (including purchase, maintenance, operational and disposal costs).
- **Reduce greenhouse gas emissions** by considering goods, services and/or works 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 including managing the ‘end of life’ of assets by examining whether disposal is really necessary or if it is possible to extend the useful life of the 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.

- **Encourage innovation** in the development of goods, services and/or works 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 and considering impacts occurring from disposal, including hazardous substances in the item which may involve toxic leachates, or health consequences associated with improper disposal.
- **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 and disposal processes.

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, services and/or works prior to undertaking procurement.
- **Identifying key sustainability and environmental impacts and opportunities** relating to the goods, services and/or works to be procured or the assets being disposed of.
- **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 management** 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.

10.2 Market Research

To develop effective procurement strategies, Council must have an understanding of the market in which it seeks to engage with. Operating effectively within a marketplace helps to;

- Build 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;
- Avoid over-reliance on a small number of industry participants;
- Encourage deeper markets by developing industry capacity and capability;
- Maintain 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 Public 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 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 First Nations Businesses. Refer to the Social Benefit Procurement Guideline and the First Nations Procurement Guideline for further information and guidance.

10.3 Planning and Strategy Documentation

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

10.3.1 Business Case

A business case should have been completed to identify Council's need to procure any goods, services and/or works. If the project is a capital works project, this will be the project brief delivered to the Investment Steering Committee. This document should be used to assist with the planning phase of the process as it will have already given consideration to some aspects relevant to the planning phase such as the relevant need, the intended scope and the cost vs benefits.

10.3.2 Procurement Plan

A Procurement Plan must be prepared for a Public Tender, EOI, or high value RFQ 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 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.

10.3.3 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.

11 Procurement and Disposal Processes

Conducting procurement and disposal processes have a number of legislative and policy influences that necessitate them being conducted by following particular procedures. To assist, Council has a number of “How to Guides” to support Council Officers through the detailed procedures and systems Council utilises. In relation to the Strategic Contracting Procedures these guides are as follows:

- How to Invite Tenders
- How to Request Quotes
- How to request Expressions of Interest
- How to undertake Low Value Procurements
- How to Dispose of Assets (excluding Land)
- How to utilise Supplier Arrangements and other Exceptions Guide
- How to Manage Contracts

This Contract Manual will detail the overarching procedure for how Council will conduct these procurement and disposal processes.

11.1 Documentation

All documents required for conducting a procurement and disposal processes are detailed in the “How to Guide” relevant to that procurement or disposal process as identified in Table 2 and 3 above.

11.2 How the market is approached

11.2.1 Public Tender and EOI

All approved Public Tenders and EOIs 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 the documentation and upload their submissions.

Public Tenders and EOIs 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 their submission. Public holidays that fall within this advertising period are also to be considered.

11.2.2 Request for Quote

The primary method of requesting quotes from suppliers is through [Council’s Contract Management System eTenderbox](#). 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.

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.

11.2.3 Auctions and other disposal methods

Engage a licenced auctioneer, auction house or other platform to approach the market for an auction. The market will be approached for the other disposal methods in the most appropriate manner having regard to realising value.

11.2.4 Exceptions

How the market is approached will depend on the exception being utilised and Council Officers will be guided by the “How to utilise Supplier Arrangements and other Exceptions Guide” for the relevant exception being sought to the standard procurement and disposal routes being EOI, Tender and Request for Quote.

11.3 Communication with Prospective Respondents

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.

11.3.1 Information Session

Information sessions and/or site inspections are often held for Public Tenders and some EOIs and Requests for Quote. The Contract Administrator and Procurement Specialist run the sessions jointly where a Procurement Specialist is involved in the process.

At an information session or site inspection, Council emphasises the critical elements that Prospective Respondents need to address in their submission, 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 documents via the relevant electronic tender box.

11.4 Receiving submissions and tender box close

Following tender box close submissions received into an electronic tender box (i.e. QTenders or eTendering) are downloaded and made available to the evaluation panel. A copy of the submissions is to be filed in Council’s electronic document management system.

11.5 Evaluation of submissions

The evaluation of submissions will be undertaken by the evaluation panel who are the appointed evaluation panel detailed in the Probity Plan. The evaluation will be undertaken using the evaluation methodologies contained in Council’s Evaluation Workbooks or [Council’s Contract Management System](#) and will detail the scoring of each Respondent’s submission against the Evaluation Criteria and commentary relating to the evaluation.

In the first instance, each panel member conducts their own individual evaluation and allocates a score out of 10 against each predetermined evaluation criteria or sub-criteria. 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).

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.

11.5.1 Evaluation Panel

An appropriate evaluation panel must be formed to evaluate the submissions against the pre-determined 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. The second-tier members do not directly participate in all the evaluation.

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.

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.

The Probity Plan must be fully signed by all relevant persons listed on the Probity Plan and retained in the relevant document management system prior to the release of submissions to evaluation panel members.

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

11.5.2 Evaluation Criteria

Table 4: Table of standard Evaluation Criteria for procurement processes over \$100,000

Criteria	Percentage (%)
1. Price	Recommended range 30-45%. 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 20%. Weighting should be as recommended unless there are justifiable reasons for it not to be.
5. Social Benefit Engagement or First Nations Engagement	Guide range of 5-10%. Weighting should be within identified range, unless there are justifiable reasons for it not to be.

Table 5: Table of standard Evaluation Criteria for procurement processes over \$25,000 and up to \$100,000 (Short-Form RFQ)

Criteria	Percentage (%)
1. Price	Recommended 35-40%. Weighting should be as recommended unless there are justifiable reasons for it not to be.
2. Capability and/or 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 20%. Weighting should be as recommended unless there are justifiable reasons for it not to be. Not required for Request for Quotes sought from Supplier Arrangements.
4. Social Benefit Engagement or First Nations Engagement	Guide range of 5-10%. Weighting should be within identified range, unless there are justifiable reasons for it not to be.

	Not required for Request for Quotes sought from Supplier Arrangements.
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The Evaluation Criteria for a disposal process will be dependent on the type of asset being disposed on and may include some of the evaluation criteria in Table 4: Table of standard Evaluation Criteria for procurement processes over \$100,000 and Table 5: Table of standard Evaluation Criteria for procurement processes over \$25,000 and up to \$100,000 (Short-Form RFQ) above.

11.5.3 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 6: Table of Mandatory Criteria and includes financial capacity.

Table 6: Table of Mandatory Criteria

Criteria	Disqualifying
1. Financial Capacity (where relevant)	Yes
2. Relevant Insurances for the Contract	Yes
3. Acceptance of the General Terms and Conditions of Contract	No but a non-conforming Tender or Quote.
4. Relevant Licences, Certifications and Qualification	Yes
5. Risk Assessment	At the discretion of the approving Council Officer depending on the Risks identified.

11.6 Contract award

Following any procurement or disposal process, if Council seeks to proceed with an engagement, then the Contract needs to be awarded to the successful Respondent who provides the most advantageous offer to Council. This step will form the Contract with the Contractor and may be done slightly differently for each type of process. Some Contracts will only be awarded by both parties (Council and the Contractor) signing a Contract that has been specifically drafted for that process. For detailed information on awarding Contracts, see the relevant “How to Guide” for the process being undertake (see Table 2: Procurement Contract value and related procurement routes to market and Table 3: Disposal Contract value and related disposal routes to market (excluding Land)).

If the Contract is of the value and type that it is required to go to PCC, then 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. PCC will make the recommendation for award in this instance.

Contract formation is the point where both Council and the Contractor 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 and only where there is an approved budget for the expenditure (see Part 8.2 for more information on the appropriately delegated officer).

12 Exceptions to undertaking standard Procurement Processes

The procurement processes (Public Tender, EOI, and RFQ) outlined in Part 11 are 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.

12.1 Not exceptions to the Sound Contracting Principles

It is important to note that Exceptions are alternatives to the standard procurement and disposal processes and routes to market 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 below.

12.2 Exceptions – Procurement Processes

Council has a number of Exceptions available to the Public Tender, EOI 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 can create Supplier Arrangements to undertake procurement processes from to form contracts for goods, services and/or works that 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. Public Tender will be used to create a Supplier Arrangement, however an RFQ may be used to manage or refresh an existing Supplier Arrangement.</p> <p>The Supplier Arrangement may be priced or non-priced.</p> <p>Utilising Supplier Arrangement with price provided</p> <p>Council will invite the highest ranked Supplier on the Supplier Arrangement to provide the goods, services and/or works. Where the highest ranked does not or cannot provide the goods, services and/or works, the next highest ranked Supplier may be engaged, and so on, until a Supplier is engaged.</p> <p>Utilising Supplier Arrangement without price provided</p> <p>Council will undertake a Request for Quote from any Supplier Arrangement where price is not provided, having regard to the thresholds outlined in Table 2: Procurement Contract value and related procurement routes to market above.</p> <p>In exceptional circumstances, a contract valued over \$25,000 may be formed following a Request for Quote process with just one Supplier on a Supplier Arrangement. Please contact the Coordinator Procurement and Contract Performance prior to entering into a contract if this exception is required.</p>
Local Government Association Arrangement	The Contract is entered into under a LGA Arrangement.
Sole or Specialised Supplier/s	<p>Council determines that:</p> <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	<p>A Genuine Emergency exists.</p> <p>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.</p>
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, services and/or works that fall within the contemplation of the Guideline.
Tender/Quote Consideration Plan/s	If a Tender/Quote Consideration Plan has been approved or 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.

13 Managing Established Contracts

13.1 Contract Management

Regardless of the process used to form a contract, once formed it becomes necessary to manage its performance. Contract 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.

During a procurement process for contracts valued over \$1,000,000, the Contract Administrator must prepare a Contract Management Plan (CMP) which details the critical aspects of a contract and assesses key areas of risk that must be managed through the life of the contract. As short form CMP must be prepared for contracts with an anticipated value of \$1,000,000, and a long form CMP must be prepared for contracts valued over \$5,000,000. The CMP should also identify who is responsible and accountable for the management of the contract including the ongoing risk assessment during the life of the contract. If the contract is being awarded at a PCC meeting, the CMP should be presented to the PCC at award.

13.2 Managing the Contract

It is the responsibility of the Contract Administrator to manage performance of the contract. The “How to Manage Contracts Guide” will provide detailed guidance on Contract Management to assist Council Officers in managing Contracts. Some key components in Council’s Contract Management framework are:

1. Obtaining key deliverables under a Contract;
2. Measuring Key Performance Indicators;
3. Managing risk;
4. Managing variations and contract extensions;
5. Finalising Contracts and managing transition to new Contracts or Suppliers.

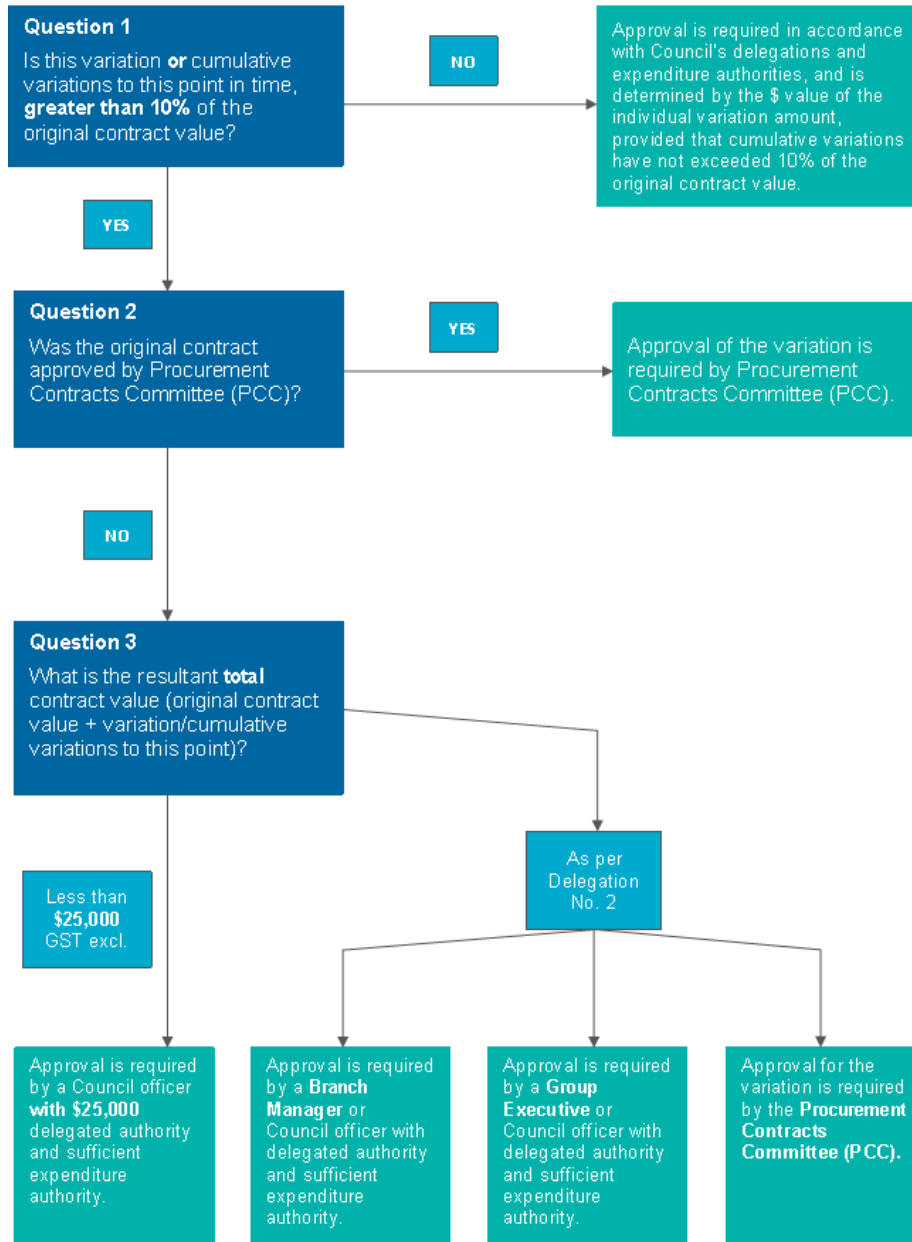
13.3 Variations

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 **8.2**).

The following diagram provides an explanation for approval of variations.

13.3.1 Determining the required authority for contract variations



13.4 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.

13.5 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 in which case, advice needs to be sought from the Business and Innovation Branch and/or the Chief Legal Officer, Legal Services.

14 Managing Supplier Arrangements

14.1 Supplier Arrangement Management

As with Contracts, Supplier Arrangements must also be managed appropriately. Arrangement Administrators are responsible for managing Supplier Arrangements. The usage and performance of Supplier Arrangements must be reviewed at intervals of the Supplier Arrangement, including prior to seeking to exercise an available extension.

If a Supplier on a Supplier Arrangement is performing poorly, and/or no longer meeting the requirements of the Supplier Arrangement, they may be removed in accordance with the General Terms and Conditions of the Supplier Arrangement. This may include temporarily suspending the Supplier from the Supplier Arrangement while affording them the opportunity of remedying the default.

If a Supplier Arrangement is not functioning to Council's expectations (e.g. Suppliers on the Supplier Arrangement are not responding to RFQs when invited, or some Suppliers have been removed from the Supplier Arrangement), or there has been significant change in the market since formation of the Supplier Arrangement, this may warrant refreshing the Supplier Arrangement (by conducting a Public Tender) to allow additional suppliers the opportunity to become pre-qualified. Incumbent Suppliers need not re-apply during a refresh, but if the Supplier Arrangement is priced/ranked, they must be afforded the opportunity to re-submit rates.

15 Purchasing and Contracting Systems

Council has two systems to manage procurement and disposal processes, purchasing generally and contract management and they are Council's Financials System (T1 Financials) and [Council's Contract Management System](#) (Open Windows):

15.1 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 and approved in accordance with Financial Delegations. Each "How to Guide" provides the guiding principles and processes for Purchase Orders in T1 Financials relevant to that procurement or disposal process.

15.2 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 as well as being Council's eTenderbox for some procurement and disposal processes.

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 a Council Officer responsible for a Contracting Activity as set out in relevant “How to Guide” 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 Procurement Processes and/or Disposal Processes.

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 Process means the process Council must undertake to enable it to enter into a Contract for the disposal 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 Public 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.

NTR means the definition provided under Notice to Respondents.

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 Public 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 Public 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 Process means the process Council must undertake to enable it to enter into a contract for the purchase of goods, the supply of services and/or the undertaking of works.

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, services and/or works 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 (VNCA) 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. The threshold prescribed by Council is:

- Plant or equipment worth more than \$5,000; and
- Any other type of Valuable Non-Current Asset worth more than \$10,000.

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, services and/or works to Council, which includes the price and methodology for supply of the goods, services and/or works.

Public Tender means the process of Council inviting public 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 Regulation 2012 (Qld)*
- *Statutory Bodies Financial Arrangements Act 1982 (Qld)*
- *Public Sector Ethics Act 1994 (Qld)*
- *Disaster Management Act 2003 (Qld)*

This policy is supported by the following organisational documents:

- Sunshine Coast Council's Corporate Plan 2021-2025
- 2021/22 Contract Manual
- 2021/22 Contracting Plan
- Local Preference in Procurement Guideline
- Social Benefit Procurement Guideline
- First Nations Procurement Guideline
- Innovation and Market-Led Engagement Guideline
- Significant Contracting Plan/s
- Council's current delegations
- Regional Economic Development Strategy 2013-2033 (REDS)
- Sunshine Coast Community Strategy 2019-2041
- Innovate Reconciliation Action Plan "Innovate RAP" or any subsequently adopted RAP
- 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 2018
2.0	Annual Endorsement	Y	Council	20 June 2019
3.0	Annual Endorsement	Y	Council	11 June 2020
4.0	Annual Endorsement	Y	Council	

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