

ITEM 14 POST EXHIBITION - SUSTAINABLE PROCUREMENT POLICY (LOCAL CONTENT)

An updated draft Sustainable Procurement Policy was recently placed on public exhibition. A total of 5 submissions were received during the exhibition period. A summary of the submissions is now presented to Council to consider in the adoption of the Policy.

RECOMMENDATION

The updated Sustainable Procurement Policy be adopted.

REPORT AUTHORISATIONS

Report of: Todd Hopwood, Manager Governance and Customer Service
Authorised by: Renee Campbell, Director Corporate Services - Connected + Engaged City

ATTACHMENTS

- 1 Sustainable Procurement Policy

BACKGROUND

Council's Sustainable Procurement Policy contains a requirement for the inclusion of a scoring criteria within the assessment of formal quotations and tenders to reflect suppliers that provide a "Demonstrated Strengthening of Local Economic Capacity".

At its meeting held on 27 April 2020 Council resolved to put on public exhibition an updated Policy that increased the value in tender assessment scoring for Demonstrated Strengthening of Local Economic Capacity from 5% to 10%.

PROPOSAL

The updated Sustainable Procurement Policy that was placed on public exhibition is now presented to Council for final adoption. The key change in the updated policy was the increase in the "Strengthening of Local Economic Capacity" mandatory criterion scoring to 10%.

Following the public exhibition process it is recommended that the increase in the "Strengthening of Local Economic Capacity" mandatory criterion scoring to 10% be confirmed as this scoring level is seen as a balance between providing additional assistance to the local economy, particularly in the current COVID-19 pandemic, and the risks of anti-competitive outcomes that may arise if such a change is not carefully implemented and monitored.

A small number of minor changes to the policy wording are proposed to the policy, following consideration of submissions made during the public exhibition period. A summary of the submissions made during the exhibition are detailed in the Consultation and Communication section of this report along with commentary and response, including some minor amendments.

CONSULTATION AND COMMUNICATION

The draft policy was placed on public exhibition on 4 May 2020 for a period of 28 days in which time the public could view the draft document and make comment. During the exhibition period the webpage for the policy exhibition was visited 47 times, with 13 copies of the document being downloaded and 5 submissions being received by the end of the exhibition period.

A summary of the 5 submissions received are provided below:

Submission No.	Received From	Details
1	Resident Submission	<p>"The policy is the "Sustainable" Procurement Policy. Yet the principles of sustainability do not feature at all in the policy intent - the policy intent is all about governance and controls.</p> <p>If this is truly a Sustainable Procurement Policy, then the following principles also need to be included in the Policy Intent:</p> <ul style="list-style-type: none"> • <i>Supporting the sustainability of the businesses and organisations within our region</i> • <i>Supporting environmental sustainability.</i> <p>Elaborate as you wish within the detail of the policy (as you have done) but without those things sitting front and centre in the Statement of Policy Intent, this is just a policy about making sure decisions are made ethically and transparently.</p>
2	Resident Submission	<p>In relation to section 4.6 Improving Local Economic Capacity. Formal Quotations and Tenders;</p> <p>The criterion weighting at 10% is insufficient for local businesses to be competitive with larger firms outside of Wollongong and the Illawarra Region.</p> <p>This mandatory figure should be lifted to 25% thus enabling local businesses to become more confident to Tender to Council. The goods and services providers within the Illawarra also procure their labour, materials and transport locally. A higher criterion weighting ensures more active participation in the opportunities presented by the Council and to benefit from the outcomes which further advances and the employment of local residents who in turn are ratepayers and the spenders enhancing the value of Wollongong and contributing directly to the growth of the Illawarra.</p>
3	i3Net	<p>Thank you for your timely review of WCC's "Sustainable Procurement Policy." With local businesses certainly feeling the impact of Covid-19, the proposed change and your commitment to shortened payment terms will make a real difference to our community.</p> <p>Our submission relates to point 4.6 in the policy. i3net would like to propose that the 10% weighting is increased to 25%. This change would be a significant signal to the community that WCC is committed to local business. After careful consideration, we believe this specific weighting would benefit ratepayers by ensuring the continuation of local businesses and allow for competitive rates to ensure ROI value remains for the Wollongong community. Of course, we appreciate that Council's other tender assessment criteria may also need careful adjustment to accommodate the local content to ensure a balanced and fair tendering process is maintained.</p>
4	Illawarra Business Chamber	<p>The IBC supports a local economic capacity criterion weighting of 10 percent or more. While this would benefit around 8 percent of tenders from local suppliers, representing \$3.2 million in value, it comes with minimal impact to, and financial incentive from, Council; \$71,000 across five (out of sixty) suppliers, based off modelling of tenders awarded in the preceding two years. Supporting this view is the example of City of Gold Coast's 'Buy Local' Procurement Policy highlighted in Council's Economic Development Strategy. The City of Gold Coast's policy comprises a target of 80 percent procurement spend with local suppliers and a 15 percent pricing advantage for tenders over \$200,000. City of Gold Coast saw minimal increases in procurement costs. Recommendations:</p> <ol style="list-style-type: none"> 1. Model the 2-year economic impact and consider adopting 15 percent local supplier weighting criteria. 2. Set and commit to a target of procurement spend with local suppliers for 2021, to

		assess the efficacy of measures to improve local economic capacity.
5	Neighbourhood Forum No.5	<p>The Forum welcomes this draft policy to increase of the “Strengthening of Local Economic Capacity” mandatory scoring criterion for all tender processes be increased from 5% to 10%.</p> <p>However, there are several points which need clarification:</p> <ol style="list-style-type: none"> 1. what is the definition of a local company? 2. what measures or scrutiny will Council employ to ensure it is not a shelf company or a local company employing foreign workers or non-local contractors? 3. what training or guidance will Council provide to local companies unfamiliar with Council processes and procedures? 4. The policy states that Australian Disability Enterprises (ADEs) shall be considered when making procurement decisions but what about local indigenous employment agencies?

Comments / responses are provided below in relation to each of the submissions.

Submission 1

This submission requests that an emphasis be placed in the policy intent section of the Policy in relation to sustainability. The policy does feature a section (4.4) on sustainable procurement however it is noted that Council’s commitment to sustainable procurement practices can be outlined in even greater detail by including a statement in the policy intent in relation to sustainability. An additional point in the Policy Intent section of the Policy is proposed as follows:

“6. Ensure that procurement decisions consider the sustainability of the environment and local economy.”

Submissions 2-4

All three submissions are supportive of an increase of the “Strengthening of Local Economic Capacity” mandatory scoring criterion, however, seek an even greater scoring of between 15-25%. As detailed in the risk management section of this report, the NSW ICAC has issued guidance in relation to use of local preference scoring and have indicated that it possesses inherent risks in terms of anti-competitiveness and the maintenance of defensibility, accountability and probity. The ICAC has further stated that these risks are magnified in a regional market.

For these reasons the proposed local preference scoring of 10% is recommended to be retained, as any further increase in the value of this scoring criteria will significantly increase the risks of the negative outcomes listed by the ICAC. It should be noted that it is proposed to conduct a review of the effectiveness and appropriateness of the increased (10%) local preference scoring after 12 months of implementation to ensure that no unintended risks or negative outcomes arise from the changes.

Submission 5

This submission is supportive of the increase of the “Strengthening of Local Economic Capacity” mandatory scoring criterion from 5% to 10%. However, raised several questions / areas for clarification.

The Formal Quotation and Tendering Procedures contain a defined approach to assessing companies under this criterion. Suppliers will only receive a 10/10 score for this criterion if they meet all five of the following, pro rata score achieved for partial satisfaction of criteria:

1. An existing legitimate business premises in WCC local area;
2. Locally sourced materials (grown, manufactured, assembled, made within the WCC local area)
3. Locally sourced labour (residing within the WCC local area), either sub-contractors or employees;

4. Locally sourced services as a result of the contract (eg maintenance); and
5. Locally sourced labour and materials from a business premise in the WCC local area.

Increasing locality scoring is only one mechanism at Council's disposal to attempt to strengthen local economic capacity. Council's Supply Chain and Logistics Unit and Economic Development Unit and other relevant Business Units will develop and deliver the following initiatives over the coming months:

- Workshops, and educational materials, on submitting tenders to Council
- Infrastructure Roadshow highlighting all the infrastructure / capital works detailed in Council's 4-year Delivery Program.
- Workshops on Local Government Procurement and State Contract processes.
- Hold pre-Tender information sessions for interested parties for a range of major panel contracts.
- Collaborate with the Illawarra and Shoalhaven Joint Organisation to take a regional focus to some of the above initiatives.

Council has an internal Management Policy – "Social Value and Social Procurement" that further identifies definitions of Socially Disadvantaged Communities for use in the Tendering and Quotation evaluation process, however, it is acknowledged that this concept should be included in this policy and the following alteration to the second point in section 4.5 (Social Procurement) is proposed:

- ***Diversity, Equality & Social Inclusion of Disadvantaged Communities*** – ensuring that all businesses have fair and equal access to procurement opportunities to build a supplier base that reflects the diversity of the community & that supplier diversity can generate social inclusion benefits, including employment and training opportunities for the most disadvantaged members of society, including youth, long-term unemployed, older people, Aboriginal and Torres Strait Islander community, and refugees and migrants.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 objective "Our council is accountable, financially sustainable and has the trust of the community".

It specifically delivers on core business activities as detailed in the Governance and Customer Service Division Service Plan 2019-20.

The policy changes as proposed align with the Economic Development Strategy, which was endorsed by Council in September 2019, and more specifically addresses action item 7.1 "Council review procurement of local goods and services to increase its role as a major lever for local job creation".

SUSTAINABILITY IMPLICATIONS

A key focus of the Sustainable Procurement Policy is to support sustainable work practices and minimal environmental impact in its procurement activities. The Policy requires staff to consider the entire life cycle of a product i.e. the production, distribution, usage and end of life stages, when determining the sustainability component of the overall value of any procurement. The policy identifies the following areas of sustainability focus:

- Elimination of unnecessary inefficiency, waste and expenditure
- Opportunities to utilise the combined purchasing power of local government
- Increase utilisation of quality sustainable products
- Play a leadership role in advancing long term social and environmental sustainability.
- Support local businesses and organisations
- Support procurement from social enterprises

RISK MANAGEMENT

The policy identifies that appropriate risk management principles are to be applied at all stages of procurement activities which will be properly planned and carried out in a manner that will protect and

enhance the Council's capability to prevent, withstand and recover from interruption to the supply of goods, services and works.

The Independent Commission Against Corruption has issued guidance in relation to use of local preference in the evaluation of tenders and awarding of contracts and have indicated that it possesses inherent risks in terms of anti-competitiveness and the maintenance of defensibility, accountability and probity.

The risks identified by the ICAC in relation to the use of local preference in the evaluation of tenders increase relatively as the percentage value attributed to local preference increases. For this reason, it is recommended that the public submissions to increase the local preference percentage to a figure greater than 10% not be supported, as there is a chance that any further increase may lead to a significant increase in anti-competitiveness and a reduction in the overall value achieved by Council in our procurement activities.

A review of the impact of the proposed increase in the local procurement scoring percentage will be undertaken after 12 months of implementation to ensure that all risks are being appropriately mitigated. The risks of processes becoming anti-competitive will further be addressed by initiatives to increase the number of local suppliers that participate in tender processes as well as increased education and awareness campaigns to improve the quality of tender submissions provided by local suppliers.

FINANCIAL IMPLICATIONS

Prior to placing the draft Policy on public exhibition, an analysis of a 2-year sample of recent tenders was analysed to determine the potential financial impacts of increasing the local supplier criteria to 10%. The analysis showed that an increase in the scoring criteria to 10% would have resulted in an additional five Tenders being awarded to an alternate local supplier with a net cost of approximately \$71,000 to Council. The value of tenders in this period was over \$53 million, equating to a less than 0.2% increase in total tender expenditure in that period.

However, it should be noted that the future financial impacts of an increased value in the scoring value of the local capacity criteria cannot be guaranteed to be similar to the figures from the 2-year sample.

CONCLUSION

The increase in scoring value for the "Strengthening of Local Economic Capacity" mandatory criterion in formal quotation and tender assessments is expected to have the effect of ensuring that additional procurement actions will result in local suppliers being selected to supply council, which will boost the local economy.

**SUSTAINABLE PROCUREMENT POLICY**
COUNCIL POLICY

ADOPTED BY COUNCIL: [TO BE COMPLETED BY GOVERNANCE]

1. PURPOSE

The purpose of this Policy is to provide policy and guidance to the Council and employees to allow consistency and control over Procurement activities and demonstrate accountability to the community in relation to procurement activities.

By the adoption of this Policy, Council's procurement activities will support Council's corporate strategies provide opportunities to use the community's money wisely and to deliver much needed goods and services in an environmentally, socially and sustainable way.

2. POLICY INTENT

This Sustainable Procurement Policy defines the framework for Council's procurement functions relating to the acquisition and use of goods and services. The principal aim of this policy is to provide optimal value to the community in council's procurement activities.

In addition to achieving value in all procurement activities, the main objectives of this policy are to:

1. Acknowledge that procurement is a function that is high risk in terms of corruption and therefore it is subject to strict oversight and defined process.
2. Ensure that a long-term strategic view of procurement needs is taken while continually assessing, reviewing and auditing procedures, strategy and objectives in a robust and transparent manner.
3. Provide a procurement function that manages risk and provides for the safety of Council officers, business partners and the community.
4. Provide clarity of accountabilities and guidance for officers engaged in purchasing, use of purchase cards, tendering and quotations, contract management, payments and asset disposal relating to the acquisition and use of goods and services.
5. Ensure that all business dealings are conducted in an open and transparent manner, meeting the highest ethical standards whilst delivering value to the community.
6. Ensure that procurement decisions consider the sustainability of the environment and local economy.

All officers involved in procurement activities must be aware of, and comply with this policy, and must be able to demonstrate through training or certification that they can address all the principles within the policy and associated procedures that support it.

This policy does not apply to the procurement or lease of land and property by Council.

3. WOLLONGONG 2028 Objectives

Procurement is a fundamental supporting element of all Council activities and as such it supports all six of our interconnected Community Goals outlined in Wollongong 2028, which are shown below:

1. We value and protect our environment
2. We have an innovative and sustainable economy
3. We have a creative, vibrant city
4. We are a connected and engaged community
5. We have a healthy community in a liveable city
6. We have affordable and accessible transport

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4. POLICY

4.1 Responsible Financial Management and Value for Money

The availability of existing funds within an approved budget, or source of funds, shall be established prior to the commencement of any procurement process. Council officers must not authorise the expenditure of funds in excess of their financial delegations or available budget.

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

Achieving value for money underpins responsible financial management and is an important element in Council's procurement framework. Council will achieve value for money by balancing the following:

- Relevant non-cost factors including quality, fitness for purpose, capacity and capability of service provider, timeliness, environmental, sustainability and social factors and any non-cost risks.
- All relevant cost factors such as whole of life costs from acquisition to disposal and any cost related risks.

The Procurement Procedures will provide guidance to staff on defining value for money and identifying benefits, costs and risks when determining value for money based on the guidance Statement on Value for Money produced by the NSW Procurement.

4.2 Ethical Principles

Council procurement processes shall be conducted in a fair, honest and open manner, with the highest levels of probity and integrity and in the public interest, with all suppliers / tenderers being treated fairly and having access to the same opportunities and information. There must be no improper advantage and all processes must withstand public and internal audit scrutiny. Council officials with an actual, perceived or a potential conflict of interest must declare and manage that interest without delay. Failure to do so may result in disciplinary action.

Suppliers will be eliminated from any procurement process if found to be lobbying Councillors or staff during the procurement process.

Except under exceptional circumstances, Council will not extend contracts with suppliers unnecessarily, and will ensure that regular periodic competitive quotation and tender processes occur to allow regular testing of the value Council is achieving.

4.3 Risk Management

Risk Management is to be appropriately applied at all stages of procurement activities which will be properly planned and carried out in a manner that will protect and enhance the Councils capability to prevent, withstand and recover from interruption to the supply of goods, services and works.

The provision of goods, services and works by contract potentially exposes the Council to risk. Procurement procedures will incorporate measures and controls to minimise Councils exposure to this risk.

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4.4 Sustainable Procurement

Council supports sustainable work practices and minimal environmental impact in all procurement activities and appropriate evaluation criteria shall be implemented in all procurements that will allow suppliers to demonstrate their commitment to the environment.

Staff should consider the entire life cycle of a product i.e. the production, distribution, usage and end of life stages, when determining the sustainability component of the overall value of any procurement as outlined in section 4.1, and be guided by:

- Elimination of unnecessary inefficiency, waste and expenditure
- Opportunities to utilise the combined purchasing power of local government
- Increase utilisation of quality sustainable products
- Play a leadership role in advancing long term social and environmental sustainability.
- Support local businesses and organisations

4.5 Social Procurement

Council will aim to generate positive social outcomes when acquiring goods, services and works. Staff shall consider the following when determining the social value component of the overall value of any procurement as outlined in section 4.1:

- **Employment & Training** – Create opportunities for inclusion of people who have been excluded from the workforce.
- **Diversity, Equality & Social Inclusion of Disadvantaged Communities** – ensuring that all businesses have fair and equal access to procurement opportunities to build a supplier base that reflects the diversity of the community & that supplier diversity can generate social inclusion benefits, including employment and training opportunities for the most disadvantaged members of society, including youth, long-term unemployed, older people, Aboriginal and Torres Strait Islander community, and refugees and migrants.
- **Fair trade** – ensuring that supply chains are adhering to fair trade practices to support equitable local, national and international trade.
- **Accessibility Requirements** – Australian Disability Enterprises (ADEs) shall be considered when making procurement decisions for goods and services.
- **Local Economic Development** - Local companies and contractors– including small to medium enterprises and social benefit suppliers shall not be disadvantaged or excluded from procurement processes.

4.6 Improving Local Economic Capacity

Local companies and contractors– including small to medium enterprises and social benefit suppliers shall not be disadvantaged or excluded from procurement processes.

Council will endeavour to strengthen local economic capacity through its procurement activities. Procurement Procedures shall include a mandatory scoring criterion that assists local firms obtain business with Council and shall be implemented as follows:

- **Quotations** - Council will give preference to a local supplier if the assessment of all selection criteria is equal;
- **Formal Quotations and Tenders** – A criterion weighted at 10% for strengthening of local economic capacity shall be included in all tenders (definitions will be included in the tender documents).

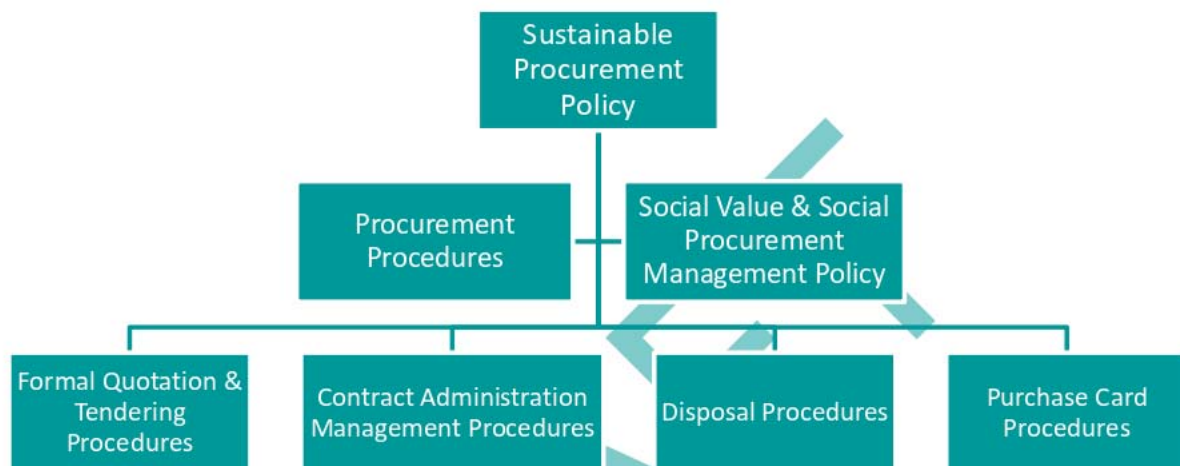
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4.7 Procurement Thresholds and Methodology

Council will implement Procurement Procedures and Formal Quotation and Tendering Procedures and other general Procurement Procedures detailed below, that will outline the relevant method of procurement and methodology to follow based on the estimated value of the supply, service or contract.

All purchasing procedures that are established are to align with procurement policies and guidelines issued by the Independent Commission Against Corruption, Office of Local Government and any other relevant oversight agency.



5. REPORTING

Procurement and purchasing processes shall be subject to audit / review on a timeframe to be determined by Council's Audit, Risk and Improvement Committee based on a risk-based Audit Program.

Scheduled and ad-hoc exception reporting will be undertaken to enable monitoring of procurement activity and associated compliance with this policy.

6. ROLES AND RESPONSIBILITIES

The Supply Chain and Logistics Manager will be the Responsible Officer for the Policy and will coordinate the following functions in relation to the Policy:

- Maintaining appropriate records relating to the Procurement Framework and its application
- Reporting – including supplier and category spend analysis
- Keeping the policy current, and undertaking regular reviews of both the policy and associated procedures
- Train and educate relevant employees with respect to policy and procedures and ensure documents, tools, templates and user guides are current and readily available.
- Provision of advice and ensuring adherence with the Policy

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6.1 Council

In accordance with the *Local Government Act, 1993*, the Council is responsible for accepting or declining tenders. Council may delegate to the General Manager the authority to accept tenders in certain circumstances.

6.2 General Manager

If delegated the authority by Council, the General Manager has the authority to accept but not decline tenders. The General Manager is responsible for the authorisation of delegations to employees for the acquisition of goods and/or services to the value specified.

6.3 Divisional Managers

Divisional Managers are responsible for ensuring their Division adheres to the requirements of this policy and provide guidance in respect of the strategic procurement goals of the division and organisation.

Divisional Managers should ensure that procurement spend is within Divisional budget and review purchasing reports for compliance with policy and unusual transactions. Divisional managers are responsible for ensuring their teams keep adequate records on procurements they undertake.

6.4 Staff

Staff shall adhere to the requirements of this policy and be able to demonstrate through training or certification that they can address all the principles within the policy and procedures that support it. Staff must also operate within the authorities of any financial or procurement delegations granted to them by the General Manager.

7. RELATED POLICIES AND PROCEDURES

Code of Business Ethics
Code of Conduct
Delegated Authority Limits for Purchasing
Formal Quotation and Tendering Procedures
Procurement Procedures
Social Value and Social Procurement Policy

APPROVAL AND REVIEW		
Responsible Division	Governance and Customer Service	
Date/s adopted	<i>Executive Management Committee</i> [updated by policy owner]	<i>Council</i> [DD Mmmm YYYY]
Date/s of previous adoptions	8 September, 2014	
Date of next review	May 2022	