



# Policy

## Procurement and Purchasing

2022

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## Information about this document

Date Adopted by Council	16 December 2010
Resolution No	10-1103
Document Owner	Director Corporate and Community Services
Document Development Officer	Strategic Contracts and Procurement Coordinator
Review Timeframe	4 years
Last Review Date	9 March 2022
Next Scheduled Review Date	9 March 2026

## Document History

Doc No.	Date Amended	Details/Comments eg Resolution No.
425022	20 April 2004	04-384 Now repealed by this Policy
1049387	16 December 2010	10-1103
E2017/88145	8 September 2017	References to legislation and administrative documents updated
E2020/9716	10 February 2020	References to legislation and administrative documents updated; Policy title updated in line with current titling convention (removed policy number, inserted year)
E2022/12569	9 March 2022	Updated review timeframe to 4 years for consistency with other Council policy review timeframes Updated reference to Business Ethics Statement from Business Ethics Policy Addition of Reporting section for demonstrated accountability Minor formatting changes and update to accessible template

## Further Document Information and Relationships

Related Legislation	Local Government Act 1993 Local Government (General) Regulation 2021
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	<p>Competition and Consumer Act 2010</p> <p>NSW Modern Slavery Act 2018</p> <p>NSW Work Health and Safety Act 2011</p> <p>NSW Work Health and Safety Regulation 2011</p> <p>Competition and Consumer Act 2010</p> <p>NSW Department of Premier and Cabinet Division of Local Government – Tendering Guidelines for NSW Local Government</p> <p>Government Information (Public Access) Act 2009</p> <p>(NSW legislation is available at: <a href="http://www.legislation.nsw.gov.au">http://www.legislation.nsw.gov.au</a>)</p>
Related Policies	<p>Code of Conduct Policy</p> <p>(Policies are available from Council's website: <a href="http://www.byron.nsw.gov.au/policies">http://www.byron.nsw.gov.au/policies</a>)</p>
Related Standards, Procedures, Statements, documents	<p>Guideline - Procurement</p> <p>Sustainable Procurement Plan</p> <p>Business Ethics Statement</p>

Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.



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# 1 Objectives

Byron Shire Council is committed to implementing procurement procedures and practices in support of Council's activities which comply with legislation, industry and internal performance standards, Council's Code of Conduct and Council's commitment to ethical, sustainable, transparent and accountable purchasing practices.

Through this Policy, Council aims to achieve the following objectives:

- a) To ensure that Council complies with all relevant legislation and statutory requirements, including guidelines, in relation to the procurement of goods, works and services;
- b) To provide a framework to enable Council to implement competent and contemporary procurement procedures and practices which ensure transparency, probity, accountability, consistency and sustainability;
- c) To provide clear guidelines to ensure that Council's procurement of goods, works and services is conducted to achieve best value for money on a whole of life cycle basis, generating benefits to Council, the community and the local economy while minimising impacts on the environment;
- d) To contribute to the combined purchasing power of local government to further stimulate supply of sustainable products and services and increase opportunities to maximise value for money.
- e) To assist Council to deliver on its commitments to ecologically sustainable development (ESD) and ethical and social wellbeing principles;
- f) To work in partnership with businesses, suppliers, contractors and the community and to establish networks to encourage and promote continuous improvement in procurement practices and long term social and environmental sustainability.

# 2 Scope

This policy applies to all Council operations and the acquisition by Council of all goods, services and/or works and to all different types of procurement processes, for example tenders, expressions of interests and direct engagement.

# 3 Key procurement principles

The following Key Procurement Principles must underpin all of Council's procurement practices, procedures and decisions:

## 3.1 Value for money and sustainability

- a) Council should base purchasing decisions on the principle of achieving best value for money over the life cycle of the product, work or service.
- b) Value for money considerations will include both price and non-price considerations such as sustainability, social impact and safety.



- c) Depending on the difference in price, Council may prefer to purchase more expensive products, works or services where there is a definable environmental and/or social benefit that on balance outweighs the additional monetary cost to the Council.

### 3.2 Fair, honest and consistent dealings

- a) Council and Council staff must at all times comply with all statutory obligations and obligations under Council's Code of Conduct, Policies and Procedures.
- b) Council must not invite tenders without a firm intention and the capacity to proceed with a contract, including having funds available.
- c) To promote confidence and accountability in Council's procurement systems, Council must ensure:
- there is consistency in all aspects of its purchasing and procurement procedures and practices;
  - that all aspects of its purchasing and procurement procedures and practices are open, clear, transparent, well documented and defensible.

### 3.3 Local and Australian Content

- a) Where appropriate and to the extent permissible by law\*, Council supports promotion of use of:
- Australian owned suppliers and/or suppliers who manufacture in Australia; and
  - local contractors and suppliers and use of suppliers and contractors who promote benefits to the local community and economy and local employment opportunities.

*\*Council will be prohibited by law in some instances from preferring local or Australian suppliers, products or contractors. In each case Council will have to rely on its own legal advice to determine whether such a preference is legally permissible.*

### 3.4 Ethical behaviour

- a) Council has a Business Ethics Statement which must be read and applied in conjunction with this policy. The policy is available on Council's website at: <http://www.byron.nsw.gov.au/policies>.

### 3.5 Risk management

- a) Council is committed to reducing workplace hazards by ensuring that all suppliers, contractors and goods comply with all Work Health and Safety legislative requirements and Council's procedural requirements.
- b) Suppliers and contractors must comply with all laws, including environmental protection laws, during the supply of goods, works or services to Council.
- c) Suppliers and contractors are expected to be aware of risk management and legislative requirements and consider these when preparing quotations or tenders for Council.



- d) Suppliers and contractors must have all appropriate insurance policies in place at all times during the period of supply of goods, works or services to Council.

### **3.6 Competitiveness**

- a) Council must ensure that all potential contractors or suppliers are afforded an equal opportunity to compete for all goods, works or services purchased or procured by Council.
- b) Council must not engage in practices that are anti-competitive or engage in any form of collusive practice.
- c) Council will use competitive processes to the greatest extent possible in its purchasing and procurement activities, even where competitive processes are not mandated at law.

## **4 Key procurement and sustainability goals**

### **4.1 Governance and Administrative Efficiencies**

- a) Council will strive to eliminate waste, duplication and inefficiency from Council's procurement systems.
- b) Council will investigate, identify and consider potential alternative and innovative methods of delivery of goods, works and services to Council to strive to maximise efficiencies in delivery and administration and maximise value for money.

### **4.2 Minimise waste, pollution and environmental impacts and maximise conservation of water, energy and resources**

- a) Council will strive to make purchasing and procurement decisions wherever possible that:
- Reduce use of goods or services, or procurement practices, that generate waste, pollution or health risks
  - Maximise reuse of goods and services and use of recycled content
  - Reduce greenhouse gas emissions
  - Maximise use of energy and water efficient products, goods or services
  - Maximise use of renewable energy and resources
  - Encourage biodiversity and habitat protection

### **4.3 Community economic and social well being**

- a) Council's will strive to make purchasing and procurement decisions wherever possible that:
- Promote and support the local community and the local economy



- Promote positive cultural, economic and/or social outcomes for the community
- Promote use of goods or service which demonstrate social responsibility
- Encourage the use of locally-grown, manufactured or value-added products
- Encourage employment or training opportunities in the local area

## 5 Reporting

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

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

## 6 Legislative and strategic context

There is a significant and strict legal framework for local government procurement contained in the Local Government Act 1993, Local Government (General) Regulations 2021 and Guidelines issued from time to time by the Division of Local Government.

In addition, other legislation also imposes statutory obligations on Council for example the Competition and Consumer Act 2010 and Work Health and Safety legislation.

Council also has obligations under various guidelines, circulars, directions and advice issued by State Government agencies for example by the Independent Commission Against Corruption and the Division of Local Government.

Those statutory and other obligations can vary at times due to changes in the legislation and/or issuing of new guidelines, directions or advice and the information under the headings "Related Legislation" and "Related Policies" is current as at the date of adoption of this Policy only.

Council must abide by all statutory obligations and legislative and other requirements as they apply at any particular point in time.