

THE BAROSSA COUNCIL PROCUREMENT POLICY



1.	Purpose
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1.1. In compliance with Section 49 of the *Local Government Act 1999* (Act) and best practice principles in procurement, this policy seeks to:

- define the methods by which Council can acquire good and services;
- demonstrate probity, accountability and responsibility of Council to all stakeholders;
- be fair and equitable to all parties involved;
- enable consistency of approach in the application of procurement processes: and
- ensure that the best possible outcome is achieved for Council.

2.	Scope
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2.1. This policy informs procurement activities associated with the acquisition of goods, works, services or consultants and covers all aspects of the procurement lifecycle including planning, risk management, tendering, purchasing, contracting and financial control.

2.2. This policy applies to anyone who undertakes or is involved in procurement activities on behalf of Council. Compliance with the provisions set out in this policy is mandatory unless expressly indicated otherwise.

2.3. The procurement restrictions documented in Council's Caretaker Policy will apply during all periods when Council operates in Caretaker Mode.

2.4. This policy does not cover the following:

- non-procurement expenditure such as sponsorships, grants, funding arrangements, donations (refer to Community Assistance Scheme Policy) and employment contracts (Human Resource Management Policy);
- real property acquisitions;
- the disposal of land and other assets owned by Council; or
- the purchase of land by Council.

3.	Policy Statement
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3.1. Policy Objectives

Council is committed to ensuring that all procurement activities deliver the following objectives:

- providing for fair, equitable, competitive and ethical behaviour in all procurement activities;
- obtaining value for money;
- consideration of environmental protection principles; sustainability and circular procurement principles
- providing reasonable opportunity for local economic development and social inclusion
- ensuring probity, accountability and transparency;
- effective management of the end-to-end procurement lifecycle;
- identification and management of risk;
- providing reasonable opportunity for local economic development and social inclusion; and
- ensuring compliance with all relevant legislation.

3.2. Procurement Principles

Council's procurement is underpinned by the following key principles:

Principle 1 – Open and Fair Competition

Open and fair competition will be fostered and maintained by providing suppliers and contractors with appropriate access to Council's procurement opportunities. Council will ensure, where reasonably practicable, that:

- there is reasonable access for all suitable and competitive suppliers and contractors to the Council's business;
- where market circumstances limit competition, procurement activities recognise this and associated methodology takes account of it; and
- adequate, identical and timely information is provided to all suppliers to enable them to quote or tender.

Personnel authorised to engage in procurement activities on behalf of The Barossa Council will, at all times, undertake their duties in an ethical, open and impartial manner, act responsibly, behave professionally and exercise sound judgement.

Principle 2 – Value for Money

Value for money is not restricted to price alone. To ensure the best value for money, Council may assess the following:

- the contribution to Council's long-term plan and strategic direction;
- any relevant direct and indirect benefits to Council, both tangible and intangible;
- efficiency and effectiveness of the proposed procurement activity;
- the performance history, quality and scope of services, and support of each prospective supplier;
- fit for purpose of the proposed goods, works or service;
- the value of any associated environmental benefits;
- local economic development and social inclusion;
- whole of life costs including acquiring, using, maintaining and disposal;
- Council's internal administration costs;
- technical compliance issues;
- risk exposure;
- prevailing market forces and trends and;
- other relevant matters identified in specific procurement process documentation.

Principle 3 – Probity, Accountability and Transparency

Council will demonstrate accountability in procurement by ensuring that decisions are able to be explained, and evidence provided, to ensure that an independent third party can clearly see that a fair and reasonable process has been followed. Personnel must be able to account for all decisions and provide feedback on them. Additionally, an audit trail will be visible for all procurement activities for monitoring and reporting purposes.

Delegations define the limitations within which Council personnel are permitted to work. Council personnel will not incur expenditure unless they have a delegated authority and funds are allocated for that specific expenditure in a budget approved by Council (refer to Annual Budget/Business Plan Policy).

Principle 4 – Effective Management of the End-to-End Procurement Lifecycle

The procurement lifecycle includes all of the steps and tasks within the procurement process, from need identification and data gathering to contract management, delivery of goods/services/works and relationships with suppliers.

Council personnel will determine appropriate methodology within the various steps of the procurement lifecycle including planning, risk management, tendering, purchasing,

contracting and financial control with regard to the scale, complexity and importance of the goods, works, services or consultancies being acquired.

Principle 5 – Identification and Management of Risk

Risk Assessment

Council personnel will ensure that appropriate practices and procedures of internal control and risk management are in place for end- to-end lifecycle procurement activities, including risk identification, assessment and implementation of controls.

Procurement risk assessments will focus on assessing a potential supplier's capacity and capability to meet Council's requirements and identify any other factors which might result in works, goods or services not being successfully delivered or maintained.

Risk Based Approach to Market

Council's approach to market will be influenced by procurement risk assessments, with high risk acquisitions requiring more formal procurement planning methodologies and higher levels of management oversight.

Work Health Safety

Council is committed to protecting health, safety and welfare. Council personnel will ensure that its procurement activities protect the health, safety and welfare of its workers, elected members, customers and community.

Principle 6 - Environmental Sustainability

Council endeavours, where reasonably practicable, to promote environmental sustainability through its procurement processes. This may include;

- adopting purchasing practices that minimise waste and pollution and conserve the use of natural resources;
- purchasing goods with recycled content and advocating for recycled content traceability.
- Supporting suppliers and supply chains that have policies, practices and reporting capabilities that assist Council to lower the environmental and climate impact of goods and services procured.
- providing leadership to business, industry and the community in circular procurement.

Principle 7 – Encouragement of Competitive Local Business & Industry

With the aim of achieving a value for money outcome, Council will endeavour to, at its discretion and to the full extent permitted by law, support local businesses by:

- promoting to local businesses opportunities to supply to the Council;
- structuring the purchasing processes to be accessible to all businesses;
- giving preference to local business when all other commercial considerations are equal;
- ensuring, where possible, that specifications and purchasing descriptions are not structured so as to potentially exclude local suppliers and contractors; and
- consider economic and social inclusion elements such as employment creation and training opportunities.

Principle 8- Social Sustainability

Council supports procurement practices which seek to improve the lives of minority, marginalised or at-risk groups through equitable participation in procurement opportunities. Diversity should be a consideration in every procurement project and reflect corporate commitment to achieve the most positive economic, environmental, and social impacts possible over the life cycle of goods or services.

Principle 9- Confidentiality

Council undertakes to take all reasonable steps to preserve the confidentiality of the information it obtains from Tenderer or Supplier.

Principle 10- Ensuring Compliance with all Relevant Legislation.

Relevant legislative requirements include, but are not limited to:

- *Competition and Consumer Act (Cth) 2010*
- *Competition Policy Reform (SA) Act 1996*
- *Criminal Law Consolidation Act 1935*
- *Disability Inclusion Act 2018*
- *Environment Protection Act 1993*
- *Independent Commission Against Corruption Act 2012*
- *Industry Advocate Act 2017*
- *Local Government Act 1999, Section 48, 49 and Section 125 – Prudential Management, Expenditure of Funds & Procurement Policy, Practices & Procedures*
- *Freedom of Information Act 1991*
- *Local Government (Elections) Act 1999, Section 91A Modern Slavery Act (Cth) 2018*
- *Ombudsman Act 1971*
- *State Records Act 1997*
- *Trade Practices Act 1974*
- *Competition Policy Reform (South Australia) Act 1996*
- *Work Health and Safety Act (SA) 2012 and Regulations 2012*

3.3. Methods of Procurement

To meet requirements in relation to open and fair processes, Council will select an approach to market method best suited to ensuring that the procurement activity delivers the most advantageous outcome for Council and our community.

Council may, having regard to its Procurement Principles and any other factors considered relevant by the Council, at its absolute discretion determine appropriate procurement methods, the details of which are outlined within administrative processes supporting this Policy.

The appropriate method of procurement will be determined by reference to a number of factors including:

- value of the purchase;
- cost of an open market approach versus the value of the acquisition and the potential benefits;
- the particular circumstances of the procurement activity;
- the objectives of the procurement;
- the size of the market and the number of competent suppliers;
- Council's leverage in the market place;
- time constraints; and
- a comprehensive assessment of the risks associated with the relevant activity and/or project, including the risk profile of the procurement and any risks associated with the preferred procurement method.

3.4. Exemptions from this Policy

This Policy contains general guidelines to be followed by the Council in its procurement activities. There may be procurements in which a tender process will not necessarily deliver the best outcome for Council, and other market approaches may be more appropriate.

The authority to provide an exemption from using the required method of procurement will be delegated to the Chief Executive Officer or the relevant Department Director in accordance with expenditure sub-delegations as prescribed in Council's Delegations Register. Reasons for any exemption to the procurement method must be documented and registered in Councils Electronic Document Records Management System.

3.5 Emergency Procurement

An emergency is defined as circumstances that could not have been reasonably foreseen that creates a substantial risk of loss, damage, interruption of services, or threat to public health or safety.

As part of an emergency response the Chief Executive Officer or the relevant Department Director may authorise a flexible procurement method to meet urgent need.

This exemption applies only to the purchases that are part of Council's immediate and required response to an emergency, and only where adherence to existing policy and process would hinder the ability to respond effectively and appropriately.

3.6 Strategic Alliances

If Council enters into a strategic alliances procurement process under this policy (Strategic Alliances) then there will be no requirement for Council to approach the wider market or enter into a separate RFT/RFQ as an open tender process has already been undertaken. Council can meet its procurement requirements through contractual arrangements established and administered by other organisations that demonstrate adherence to the requirements of this policy. The use by Council of Strategic Alliances means that the methods of procurement set out in this policy will be undertaken pursuant to and in accordance with the arrangements set out under the Strategic Alliances.

These include, but is not limited to:

- LGA Procurement (via VendorPanel).
- A purchasing group of which the Council is a member.
- Some State Government contracts.
- Ad hoc alliances created with other Local Government entities.

3.7 Delegations

Expenditure sub-delegations, detailing authorised purchasers and purchasing limits are prescribed in Council's Delegations Register at Appendix 13 (Local Government Act 1999).

3.8 Authorised Agents

Council may, from time to time, and in accordance with section 37(b) of the Local Government Act 1999 appoint Authorised Agents to enter into a contract on behalf of Council, which includes expending Council's approved budgeted funds. Such authorisations will always be subject to provision of an approved budget allocation for the expense. The names, appointment dates and limitations of all Authorised Agents will be maintained in the Register of Authorised Persons.

4. Supporting Process

- Procurement Planning, Sourcing and Selection Process
- Purchasing Process
- Contract and Contractor Management Process

5. Related Policies and Codes

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- Annual Budget/Business Plan Policy
- Caretaker Policy
- Disposal of Land and Other Assets Policy
- Enterprise Risk Management Policy
- Fraud, Corruption, Misconduct and Maladministration Prevention Policy
- Prudential Management Policy
- Work Health Safety Contractor Management Policy
- Work Health Safety and Return to Work Policy

6. Legislation and References

- The Barossa Council Strategic Plan
- The Barossa Council Corporate Plan
- Council Delegations Register (*Local Government Act 1999*)
- Freedom of Information Statement

7. Review

- 7.1. This policy shall be reviewed by the Council / Policy Owner, in consultation with the relevant stakeholders, every four (4) years or more frequently if legislation or Council needs change.

8. Further Information

- 8.1. This Policy is available on Council's website at www.barossa.sa.gov.au It can also be viewed electronically at Council's principal office at 43-51 Tanunda Road, Nuriootpa and all Council branches, during ordinary business hours. A copy of this Policy can be obtained at those venues upon payment of a fixed fee.
- 8.2. Any complaint in relation to this Policy or its application should be forwarded in writing addressed to the Chief Executive Officer, PO Box 867, Nuriootpa SA 5355 or barossa@barossa.sa.gov.au.

9. Document Control

Corporate Plan Link:	BS11 Maintain and champion the implementation of Council's Procurement Framework		
Document Owner:	Director Corporate Services and Business Innovation	Document Control Officer:	Property and Procurement Coordinator
Version history			
Version No.	Date	Description of Change	
5.0	01/10/2023	Rewrite Policy into new template, align to updated legislation and improve readability.	
4.0	19/06/2018	Policy reviewed and updated	
3.0	21/06/2016	Policy reviewed and updated	
2.0	24/06/2014	Policy reviewed and updated	
1.0	15/06/2010	New Policy	

10. Definitions

Circular procurement	Involves purchasing goods and services that design out waste and pollution, keeps products and materials in use longer and reduces
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	the need for new material. It can include rethinking the need for purchase, the use of shared ownership models, reuse, or refurbishment of existing assets, choosing services instead of products, and purchasing recycled content products.
Council	The Barossa Council
Goods	A physical or tangible item that does not include a labour component.
Local Supplier	A supplier which is beneficially owned by persons who are residents or ratepayers of The Barossa Council, or has its principal business within The Barossa Council, or a business that substantially employs persons who are residents or ratepayers.
Non-Local Supplier	A supplier which is not a local supplier
Personnel	Employees (including trainees), Volunteers and Elected Members
Procurement	A series of activities that are undertaken when purchasing goods, works and services, based on three key phases: planning, purchasing and Contract Management.
Purchasing	The process by which an organisation contracts with another party to obtain the goods and services required to fulfil its business objectives.
Service	The performance of a task, duties or work for another, by an individual or an organisation, which normally involves the provision of labour and/or professional services.
Supplier	A person or entity that provides goods, works or services to The Barossa Council.
Worker	A person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as" a) an employee; or b) a contractor or subcontractor; or c) an employee of a contractor or sub-contractor; or d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking; or e) an outworker; or f) an apprentice or trainee; or g) a student gaining work experience; or h) a volunteer; or i) a person of a prescribed class. (as defined in the WHS Act, 2012 (7))
Works	All work necessary for the completion of the Contract including any variations ordered or agreed by the Superintendent.