

A large, colorful mosaic artwork of a lizard, possibly a spiny-tailed lizard, is positioned on the left side of the page. The lizard is depicted in profile, facing right, with its body and tail covered in intricate mosaic patterns of various colors including black, grey, yellow, orange, and blue. The background of the mosaic features a blue sky with white clouds and green foliage.

**DISTRICT COUNCIL OF  
KIMBA**

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**1.4**  
**CONTRACTS, TENDERS &  
PURCHASING POLICY**



**2023**

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## DOCUMENT APPROVAL

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This document has been endorsed and approved for use by:

*Debarwood*

21/06/2023

Deb Larwood  
Chief Executive Officer

Date

### Document Version Control

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<b>Author:</b>	Deb Kemp, Financial Coordinator
<b>Authorised By</b>	Deb Larwood, Chief Executive Officer

### Change History

Version	Issue Date	Author	Reasons for Change
1	09/09/2009	D Cearns	
2	13/04/2011	D Cearns	Review
3	10/04/2012	D Larwood	Review
4	10/07/2013	D Cearns	Review
5	13/11/2013	Norman Waterhouse Lawyers	Legal Review
6	11/02/2015	D Larwood	Review
7	09/09/2015	Senior Management Team	Review
8	11/05/2016	D Cearns	Review
9	10/05/2017	D Larwood	Review
10	09/08/2017	D Larwood	Interim Audit Report Findings
11	13/03/2019	L Keane	Review
12	May 2020	EM & KF	Review
13	May 2021	D Larwood	Review, Changes to GC & FC limits
14	May 2022	K Francis	Review
15	June 2023	D Kemp	Review

## 1. INTRODUCTION

- 1.1 In compliance with section 49 of the *Local Government Act 1999* (“**the Act**”), Council should refer to this policy (“**the policy**”) when acquiring goods and services.
- 1.2 Section 49 of the Act requires Council to prepare and adopt policies on contracts and tenders on:
  - 1.2.1 the contracting out of services; and
  - 1.2.2 competitive tendering and the use of other measures to ensure that services are delivered cost-effectively; and
  - 1.2.3 the use of local goods and services.
- 1.3 Furthermore, Section 49(a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:
  - 1.3.1 obtaining value in the expenditure of public money; and
  - 1.3.2 providing for ethical and fair treatment of participants; and
  - 1.3.3 ensuring probity, accountability and transparency in procurement operations.
- 1.4 This Policy seeks to:
  - 1.4.1 define the methods by which Council can acquire goods and services;
  - 1.4.2 demonstrate accountability and responsibility of Council to ratepayers;
  - 1.4.3 be fair and equitable to all parties involved;
  - 1.4.4 enable all processes to be monitored and recorded; and
  - 1.4.5 ensure that the best possible outcome is achieved for the Council.
- 1.5 However, this Policy does not cover:
  - 1.5.1 non-procurement expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts; or
  - 1.5.2 the leasing or licensing of tenancies in the Kimba Pioneer Memorial Village;
  - 1.5.3 the disposal of land and other assets owned by the Council; or
  - 1.5.4 the purchase of land by the Council.

## 2. POLICY OBJECTIVE

Council aims to achieve advantageous procurement outcomes by:

- 2.1 enhancing value for money through fair, competitive, non-discriminatory procurement;
- 2.2 promoting the use of resources in an efficient, effective and ethical manner;
- 2.3 making decisions with probity, accountability and transparency;
- 2.4 advancing and/or working within Council's economic, social and environmental policies;
- 2.5 providing reasonable opportunity for competitive local businesses to supply to Council;
- 2.6 appropriately managing risk; and
- 2.7 ensuring compliance with all relevant legislation.

### 3. **PROCUREMENT PRINCIPLES**

Council must have regard to the following principles in its acquisition of goods and services:

- 3.1 Encouragement of open and effective competition
  
- 3.2 Obtaining Value for Money
  - 3.2.1 This is not restricted to price alone.
  - 3.2.2 An assessment of value for money must include, where possible, consideration of:
    - 3.2.2.1 the contribution to Council's long term plan and strategic direction;
    - 3.2.2.2 any relevant direct and indirect benefits to Council, both tangible and intangible;
    - 3.2.2.3 efficiency and effectiveness of the proposed procurement activity;
    - 3.2.2.4 the performance history, and quality, scope of services and support of each prospective supplier;
    - 3.2.2.5 fitness for purpose of the proposed goods or service;
    - 3.2.2.6 whole of life costs;
    - 3.2.2.7 Council's internal administration costs;
    - 3.2.2.8 technical compliance issues;
    - 3.2.2.9 risk exposure; and
    - 3.2.2.10 the value of any associated environmental benefits.
  
- 3.3 Probity, Ethical Behaviour and Fair Dealing

Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

### 3.4 Accountability, Transparency and Reporting

### 3.5 Ensuring compliance with all relevant legislation

### 3.6 Encouragement of the development of competitive local business and industry

The Council will consider and, where appropriate, incorporate the principles in the South Australian Industry Participation Policy in its procurement practices.

This may include, but not be limited to the following:

- 3.6.1 the creation of local employment opportunities;
- 3.6.2 increased availability of local servicing support;
- 3.6.3 increased convenience with communications with the supplier for contract management;
- 3.6.4 economic growth within the local area;
- 3.6.5 benefit to Council of associated local commercial transaction; and/or
- 3.6.6 the short and long term impact of the procurement on local business.

### 3.7 Environmental protection

Council will seek to:

- 3.7.1 adopt purchasing practices which conserve natural resources;
- 3.7.2 align the Council's procurement activities with principles of ecological sustainability;
- 3.7.3 purchase recycled and environmentally preferred products where possible;
- 3.7.4 integrate relevant principles of waste minimisation and energy;
- 3.7.5 foster the development of products and services which have a low environmental impact;
- 3.7.6 provide leadership to business, industry and the community in promoting the use of environmentally sensitive goods and services.

### 3.8 Work, Health and Safety

The Council believes that a bi-partisan approach to workplace health and safety is beneficial to all persons at the workplace. Employees and where appropriate their elected Health and Safety Representatives or Committee have the right both legally and morally to be kept informed of any changes to the workplace which might affect their health or safety.

It is the policy of Council that prior to making a decision to purchase plant, equipment, substances or anything that may affect the health, safety or welfare of employees at the workplace, management will consult with duly elected health and safety representatives and health safety committees.

All plant equipment and substances will be purchased from manufacturers, suppliers or distributors who comply with the *Work Health and Safety Act 2012*, Duties of Manufacturers etc. ensuring that plant and substances are safe, have been tested or examined, are supplied with relevant documentation where necessary, and comply with prescribed standards and codes, that adequate information is available to ensure safe use, handling, processing, processing storage, transportation or disposal etc. Preference will be given to manufacturers of equipment from SA and/or Australia.

In accordance with the *Work Health and Safety Act 2012*, all purchasing specifications should specify the uses or functions of the plant and equipment and where possible the general performance characteristics required to reduce the risk to health and safety. All purchase of plant and equipment, in excess of \$10,000, except for hazardous substances, shall require a pre-purchase risk assessment.

All purchasing contracts will be endorsed with the requirement that all prescribed standards of the *Work Health and Safety Act 2012* are met. All plant equipment will be inspected prior to commissioning to ensure that all relevant requirements have been met.

- 3.9 The Council will ensure that conflicts of interest are identified, disclosed and managed as required by the Act and to ensure that the Policy Objective is met without compromise.

#### 4. PROCUREMENT METHODS

Generally, open and fair competition is best achieved by undertaking a process which provides all interested parties with an opportunity to participate. However, there may be procurements in which such a process will not necessarily deliver the most advantageous outcome for the Council – in such instances, other market approaches may be more appropriate.

The Council may, having regard to its Procurement Principles and any other factors considered relevant by the Council, in its absolute discretion determine to utilise one or more of the following procurement methods:

##### 4.1 Direct Purchasing

- 4.1.1 This is where Council purchases from a single source, without first obtaining competing bids.
- 4.1.2 This method may be suitable for low value, low risk goods and services, and where the supplier already has a successful service history with the Council.
- 4.1.3 It may also be appropriate if the Council has identified a particular product as the only one which is suitable for the relevant purchase, and there is only one supplier.

##### 4.2 Quotations (Informal)

- 4.2.1 This is where Council obtains quotations from prospective suppliers.
- 4.2.2 Generally, a minimum of two quotations are sought.
- 4.2.3 Where possible, the Council should insist on written quotes.
- 4.2.3.1 If a written quote cannot be obtained, the Council must keep detailed written records of the oral quote obtained, including details of the commercial terms of the quote.

- 4.2.4 This method may be suitable for low value, low risk goods and services.
- 4.3 Request for Quotations (RFQ)
  - 4.3.1 This is where Council obtains written quotations from prospective suppliers.
  - 4.3.2 Generally, a minimum of three written quotations are sought.
  - 4.3.3 This method may be suitable for simple, largely price-based purchases.
  - 4.3.4 A “Short Form Request for Quotation” can be used for purchases with minimal specifications.
  - 4.3.5 A “Long Form Request for Quotation” can be used for purchases with detailed specifications.
- 4.4 Requests for Expressions of Interest (REOI)
  - 4.4.1 This is where Council issues an open invitation for a proposed goods and/or service.
  - 4.4.2 This method may be used where there is potentially a large market for the proposed goods and/or service, and the Council would like to be able to prepare a short list of suppliers to then invite to participate in a further procurement process.
- 4.5 Request for Proposals (RFP)
  - 4.5.1 This is where the Council issues a request for proposals to meet the requirements of the Council, but the Council is not committed to a particular method or solution and is seeking proposals from the market to deliver the outcomes desired by the Council.
  - 4.5.2 This could follow a REOI, or be the initiating stage of a procurement process.
  - 4.5.3 This is suitable where the Council seeks innovation, or the Council does not have a precise specification or outcome in mind.
- 4.6 Request for Tenders (RFT)
  - 4.6.1 This is where the Council issues a tender for proposed goods and/or services.
  - 4.6.2 Council may issue a “Select” Request for Tender where it has already issued a REOI, or where it has reasonable grounds for only dealing with a select group of potential suppliers.
  - 4.6.3 Otherwise, Council may issue an “Open” Request for Tender.
- 4.7 Panel contracts
  - 4.7.1 This is where the Council establishes panel arrangements with a select group of suppliers – generally, this occurs once the Council has completed its appointment of such suppliers in accordance with this Policy, and can include either:
    - 4.7.1.1 a standing offer from a pool of suppliers for the provision of goods and services on agreed terms; or

4.7.1.2 the prequalification of certain suppliers who may or may not be engaged on terms to be agreed.

4.7.2 Once a panel has been established, the Council may purchase the particular goods and/or service through such panel arrangements.

#### 4.8 Strategic alliances

4.8.1 This is where the Council undertakes procurement through contract arrangements already established and administered by other organisations, including:

4.8.1.1 LGA Procurement;

4.8.1.2 a purchasing group of which the Council is a member, or which is formed with the intention of undertaking procurement activities for or on behalf of the Council;

4.8.1.3 Procurement Australia;

4.8.1.4 State Government contracts.

### 5. Considerations for the Council

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

#### 5.1 Value of the Purchase

Value of Purchase (\$)	Possible Method of Procurement
Up to \$5,000	Direct purchase, Informal quotes
\$5,000 – \$9,999	Informal quotes, RFQ
\$10,000 - \$49,999	Request for Quotation (RFQ), RFT
\$50,000 and over	RFT
Any value – subject to complexity and specification	REOI, RFP

The value of the purchase will be calculated as follows:

- *single one-off purchase* – the total amount, or estimated amount, of the purchase (excluding GST);
- *multiple purchases* – the gross value, or the estimated gross value, of the purchases (excluding GST); or
- *ongoing purchases over a period of time* – the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).

5.2 cost of an open market approach versus the value of the acquisition and the potential benefits;



- 5.3 the particular circumstances of the procurement activity;
- 5.4 the objectives of the procurement;
- 5.5 the size of the market and the number of competent suppliers;
- 5.6 the Council's leverage in the marketplace;
- 5.7 time constraints;
- 5.8 a global 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.

## 6. Documenting arrangements

The Council acknowledges that in procuring goods and services it enters into legal agreements with suppliers. When doing so, the Council has identified that there are a number of different ways to negotiate and document these arrangements.

### 6.1 Purchase Orders

- 6.1.1 This is where Council is purchasing routine, low value and low risk goods and services.
- 6.1.2 Generally, Purchase Orders have limited terms and conditions and should not be used for non-routine, high value and high risk goods and services.

### 6.2 Supplier standard contracts

- 6.2.1 This should only be used where Council is purchasing routine, low value and low risk goods and services.
- 6.2.2 Supplier standard contracts should be used with caution as they will be drafted in favour of the supplier, and may not suit the requirements of the Council.

### 6.3 Council prepared contracts

- 6.3.1 Where the Council is using procurement processes other than direct purchasing, RFQ or informal quotes, the Council prefers to use its own contracts, whether standard or bespoke.
- 6.3.2 These documents will protect the Council's interests and should be used for procurements which are medium to high risk and cost.

## 7. RECORDS

The Council must record written reasons for utilising a specific procurement method in each activity and where it uses a procurement method other than tendering.

## 8. EXEMPTIONS FROM THIS POLICY

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

In certain circumstances, the Council may, in accordance with this clause, waive application of this Policy and pursue a method which will bring the best outcome for the Council. The Council must record its reasons in writing for waiving application of this Policy. Examples include:

- 8.1 Genuine concerns for public safety;
- 8.2 Avoiding major expenses;
- 8.3 Activation of the Emergency Response Plan;
- 8.4 Ensuring that residents or occupants of Council-owned buildings are not subject to undue discomfort or hardship due to breakdown of building facilities or equipment;
- 8.5 Security of Council's assets;
- 8.6 Best interests of the Council in all the circumstances; or
- 8.7 Activation of the Business Continuity and Community Emergency Operation Plan.

Determination of whether these situations apply will be at the discretion of the Chief Executive Officer on a case by case basis.

Where a purchase is made under this section, the following will apply:

- 8.8 Expenditure must be within Delegated Financial Authority;
- 8.9 Expenditure should be limited to that required to alleviate the relevant situation only.

## 9. **DELEGATIONS**

Regardless of the manner of procurement, Council officers may only commit the Council to financial obligations within their financial delegations and, in any event, within the approved budget of the Council for such goods and services. Authorised delegations are identified in Schedule 1 of this policy.

## 10. **MAYORAL CREDIT CARD**

Council passed a resolution 55.2016 at a meeting held on 11 May 2016 to make available to the Principal Member (and to any acting Principal Member appointed during the Principal Member's absence) use of a Council credit card facility in accordance with the rules of use as set out below to assist the Principal Member in performing and discharging their official functions and duties, pursuant to the provisions of section 78 of the Act. Council has resolved that the provision of this facility to the Principal Member is necessary or expedient to enable the Principal Member to perform and discharge official functions and duties.

### 10.1 Credit Card Facility Rules of Use

- (a) The credit card remains Council's property regardless of whether it is used off site or not.
- (b) The credit card may only be used by the Principal Member to facilitate the purchase of meals, beverages, accommodation and fuel consistent with the Council's approved budget and is not to be used for a private purpose or any other purpose unrelated to official Council functions and duties.
- (c) The Principal Member is solely responsible for the credit card released into the Principal Member's care and/or control for the duration of their term in office.

(d) The credit card must be returned to Council at the end of each term in office, upon the office of the Principal Member being vacated, or earlier at the request of the Chief Executive Officer.

(e) If the credit card provided to the Principal Member is damaged or lost the Principal Member must lodge a written report with the Chief Executive Officer.

(f) The Principal Member must retain all receipts and tax invoices for purchases made using Council's credit card facility. If the Principal Member does not supply a receipt and tax invoice to the Chief Executive Officer in respect of a particular purchase, the Principal Member is personally liable, and must reimburse Council, for the expense.

## 11. FURTHER INFORMATION

11.1 This Policy was adopted at the Ordinary Meeting of Council on Wednesday 21<sup>st</sup> June 2023.

11.2 This Policy will be reviewed on or before the second anniversary of its commencement.

11.3 However, Council may revise or review this Policy at any time (but not so as to affect any process that has already commenced).

## SCHEDULE ONE

### POLICY FOR THE SUPPLY OF GOODS and SERVICES

All goods and services must be procured by purchase order (where not deemed petty cash, i.e. < \$250).

The following officer designations are authorised to sign orders on Council's behalf:

- Chief Executive Officer                      Subject to Budget Allocations and Council Purchasing Policy
- Works Manager                                to a limit of \$100,000
- Finance Coordinator                        to a limit of \$15,000
- Governance Coordinator                    to a limit of \$15,000
- Administration staff                         to a limit of \$1,500
- Workshop Supervisor                        to a limit of \$2,500
- Town Supervisor                              to a limit of \$1,500

This authorisation is for commitment of goods and services within budget programs.

Deb Larwood  
Chief Executive Officer

Date

## SCHEDULE TWO

### NOMINATED GOODS, WORKS OR SERVICES EXEMPT FROM PURCHASE ORDERS.

All goods and services must be procured by purchase order (where not deemed petty cash, i.e. < \$250). The following goods have been identified as exempt from this process:

- Accommodation charges
- Legal services
- Accounting services
- Professional services i.e. external audits
- Insurance and freight charges
- Fees/payments imposed under any relevant Acts
- Payments pursuant to any award binding upon a council
- Payments pursuant to court costs

Deb Larwood  
Chief Executive Officer

Date