
CCL 22/11/2022 – ADOPTION OF COUNCIL POLICIES

- ITEM-100** Page 2 **Attachment A: Donations Program Policy**
- Page 21 **Attachment B: Procurement Policy**
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CCL 22/11/2022 – ADOPTION OF COUNCIL POLICIES

ITEM-XX Attachment A: Donations Program Policy

Page 3 Attachment A.1: Summary of the Policy and proposed changes

Page 4 Attachment A.2: Donations Program Policy (clean version)

Page 12 Attachment A.3: Donations Program Policy (tracked changes)

POLICY TITLE: Donations Program Policy

POLICY OWNERS: Chief Executive Officer

SUMMARY OF POLICY

1. The Donations Program Policy (Policy) was adopted in June 2018. The purpose of the Policy is to establish a program to commit limited funds to assist Charitable Organisations that missed CN's funding available through City of Newcastle's Community Grants and Sponsorships, to achieve their objectives, for the benefit of residents of the Newcastle LGA.
2. In accordance with section 377(1A) of the *Local Government Act (Act)*, Council may only delegate its functions relating to the granting of financial assistance if the financial assistance is part of a specified program. This Policy is intended to establish a program for financial assistance by way of donations to Charitable Organisations, in accordance with Section 377(1A).

Further to comply with section 377 (1A) of the Act, details of the program are included in the council's draft operational plan, the adopted budget for donations is within limitations provided and the program applies uniformly across the local government area.
3. The proposed Policy is set out at **Attachment A.2** and a tracked changed version is set out at **Attachment A.3**.

SUMMARY OF PROPOSED CHANGES TO POLICY

4. Minor changes made throughout the policy to include:
 - CN's organisational structure effective 1 October 2022;
 - Inclusion of specific references to the Act and a new section 4 to ensure it is clear the policy establishes a specified program for financial assistance in accordance with section 356 and 377 (1A) of the Act.

CONSULTATION

5. As the policy is required to strictly align with the Act, and minimal changes have been made, publicly exhibiting the policy is not considered necessary.

Donations Program Policy

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Part A Preliminary

City of Newcastle (CN) acknowledges the contributions made by Charitable Organisations in the Local Government Area (LGA) and where possible commits limited funds to help these organisations achieve their objectives.

1 Purpose

- 1.1 The purpose of this policy is to:
 - 1.1.1 establish a consistent, equitable and transparent process for responding to requests for Donations of money;
 - 1.1.2 ensure all requests are given equitable consideration;
 - 1.1.3 ensure the funding of Donations represent value for money for CN;
 - 1.1.4 ensure funds provided by CN to Charitable Organisations are allocated in the most effective and accountable manner; and
 - 1.1.5 ensure this policy and associated procedures comply with the Local Government Act 1933 (**the Act**) Section 356 and Section 377(1A).

2 Scope

- 2.1 This Policy applies to all requests for Donations of money.

3 Principles

- 3.1 Council commits itself to the following principles:
 - 3.1.1 **Accountability and transparency** - the Policy provides a framework for the transparent and merit-based provision of support and a system of accountability; and
 - 3.1.2 **Equality** - equitable assessment of each request received.

4 Legislative framework

- 4.1 By adopting this Policy, Council is endorsing the Donations program as a specified program of financial assistance in accordance with sections 356 and 377(1A) of the Act.
- 4.2 The Donations program operates within the Newcastle LGA for the benefit of residents of the Newcastle LGA.
- 4.3 All Charitable Organisations in and outside the Newcastle LGA may apply, subject to meeting the Eligibility Criteria.

Part B Request, assessment and payment

5 Funding limits

- 5.1 CN resources are limited and not all requests will be funded.
- 5.2 CN does not guarantee to fund any Donation to the full amount requested.
- 5.3 The elected Council determines the budget for Donations and sets a minimum and maximum amount annually as part of the Operations process.
- 5.4 When the annual budgetary limit is reached, no further requests will be considered.
- 5.5 Applications will be assessed as per Annexure A.
- 5.6 Where a Donation is approved, this is not to be taken as an ongoing commitment to funding for following years.
- 5.7 Requests will be considered on a financial year basis, and Charitable Organisations may apply once per financial year.
- 5.8 To ensure equitable consideration of Donations, Charitable Organisations receiving two consecutive years of funding will not be considered for the following two years.
- 5.9 Donations will not be considered after 30 June in the year of a Council Election, until after the Returning Officer declares the election result in writing.

6 Eligibility Criteria

- 6.1 To be eligible, requests must:
 - 6.1.1 Be on the Donations Program Request Form, and all sections must be completed.
 - 6.1.2 Demonstrate a link to the Newcastle LGA, and any proposed activity must take place in the Newcastle LGA.
 - 6.1.3 Be submitted by a registered Charitable Organisation.
 - 6.1.4 Demonstrate how the Donation will benefit the people of Newcastle and be aligned to CN's [Community Strategic Plan](#).
 - 6.1.5 Not be from a Government Department, with the exception of educational institutions proposing an event that is open to students throughout the Newcastle LGA, and/or brings students from throughout the region to the City, and benefits the wider Newcastle community.
 - 6.1.6 Not be from individuals, commercial businesses, political parties or family of current Councillors.

7 Assessment and approval of requests

- 7.1 Requests must demonstrate how the Donation meets the eligibility criteria in section 6.
- 7.2 Requests will be reviewed and approved as per Annexure A, and an Assessment Panel will be established and made up of:
 - 7.2.1 Manager Finance, Property and Performance; and
 - 7.2.2 Two other CN staff nominated by the Manager Finance, Property and Performance;.

8 Payments and tax invoice

- 8.1 Upon authorisation from CN's Chief Executive Officer, the successful applicant will supply CN with a valid Tax Invoice for the authorised amount.

- 8.2 All invoices must be received before the end of the financial year in which the donation was awarded and the activity held.

9 Reporting

- 9.1 Organisations receiving funding will be required to complete a brief statement of account within 30 days of the expenditure of the donation, including a photograph if possible.
- 9.2 Acknowledgement of CN's donation should be made publicly where possible.
- 9.3 This information will be tabled as part of CN's Annual Report to Council.

Draft

Annexure A - Definitions

Donation is a financial contribution made by CN without consideration or conditions other than the Donation must be used in accordance with CN's objectives and have a demonstrated benefit to the community.

Council means Newcastle City Council

Charitable Organisation means a registered charity as listed on the Australian Charities and Not-for-profits Commission (**ACNC**) Register.

Draft

Annexure B - Authorisations

Request for Donation	Authority
Applications less than \$2,500	Chief Executive Officer in consultation with the Lord Mayor and Manager Finance Property & Performance
Applications greater than \$2,500 (maximum \$10,000)	Chief Executive Officer on recommendation from the Assessment Panel in consultation with the Lord Mayor

Draft

Document Control

Policy title	Donations Program Policy
Policy owner	Chief Executive Officer
Policy expert/writer	Manager Finance Property and Performance
Prepared by	Finance Property and Performance
Approved by	Council
Date approved	To be completed by Legal and Governance
Commencement Date	To be completed by Legal and Governance
Next revision date (date policy will be revised)	To be completed by Legal and Governance
Termination date	To be completed by Legal and Governance
Version	Version number 2
Category	Governance
Keywords	Donation, Charity, not-for-profit, funding
Details of previous versions	Version 1 – ECM: 6423243
Legislative amendments	N/A
Relevant strategic direction	Liveable 1.2 Connected and fair communities
Relevant legislation/codes (reference to specific sections)	Local Government Act 1993 - Section 356
Related policies/documents	2040 Community Strategic Plan Operational Plan Delivery Program Register of Delegations and Authorisations Register of Financial Authority Records Management Policy Code of Conduct Managing Conflicts of Interest in the Public Sector (ICAC)
Related forms	Donations Program Guidelines Donations Program Application
Required on website	Yes
Authorisations	Functions authorised under this Policy at Annexure B

Donations Program Policy

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Part A Preliminary

~~City of Newcastle (CN) council~~ acknowledges the contributions made by ~~charitable~~ Charitable Organisations in the Local Government Area (LGA) and where possible commits limited funds to help these organisations achieve their objectives.

1 Purpose

- 1.1 The purpose of this policy is to:
- 1.1.1 establish a consistent, equitable and transparent process for responding to requests for Donations of money;
 - 1.1.2 ensure all requests are given equitable consideration;
 - 1.1.3 ensure the funding of Donations represent value for money for Council;
 - 1.1.4 ensure funds provided by Council to ~~charitable~~ Charitable organisations Organisations are allocated in the most effective and accountable manner; and
 - 1.1.5 ensure this policy and associated procedures comply with the Local Government Act 1933 (the Act) – Section 356 (1), (2) and (3) and Section 377(1A).

2 Scope

- 2.1 This Policy applies to all requests for Donations of money.

3 Principles

- 3.1 Council commits itself to the following principles:
- 3.1.1 **Accountability and transparency** - the Policy provides a framework for the transparent and merit-based provision of support and a system of accountability; and
 - 3.1.2 **Equality** - equitable assessment of each request received.;

4 Legislative framework

- 4.1 By adopting this Policy, Council is endorsing the Donations program as a specified program of financial assistance in accordance with sections 356 and 377(1A) of the Act.
- 4.2 The Donations program operates within the Newcastle LGA for the benefit of residents of the Newcastle LGA.
- 4.3 All Charitable Organisations in and outside the Newcastle LGA may apply, subject to meeting the Eligibility Criteria.

Part B Request, assessment and payment

45 Funding limits

- [4.15.1](#) Council resources are limited and not all requests will be funded.
- [4.25.2](#) Council does not guarantee to fund any Donation to the full amount requested.
- [4.35.3](#) The elected Council determines the budget for Donations and sets a minimum and maximum amount annually as part of the Operations process.
- [4.45.4](#) When the annual budgetary limit is reached, no further requests will be considered.
- [4.55.5](#) Applications will be assessed as per Annexure A.
- [4.65.6](#) Where a Donation is approved, this is not to be taken as an ongoing commitment to funding for following years.
- [4.75.7](#) Requests will be considered on a financial year basis, and [Charitable Organisations](#) may apply once per financial year.
- [4.85.8](#) To ensure [equitability](#) consideration of Donations, [Charitable Organisations](#) receiving two consecutive years of funding will not be considered for the following two years.
- [4.95.9](#) Donations will not be considered after 30 June in the year of a Council Election, [until after the Returning Officer declares the election result in writing.](#)

56 Eligibility Criteria

- [5.16.1](#) To be eligible, requests must:
- [5.1.16.1.1](#) Be on the Donations Program Request Form, and all sections must be completed.
 - [5.1.26.1.2](#) Demonstrate a link to the Newcastle LGA, and any proposed activity must take place in the Newcastle LGA.
 - [5.1.36.1.3](#) Be submitted by a registered [charity-Charitable Organisation](#).
 - [5.1.46.1.4](#) Demonstrate how the Donation will benefit the people of Newcastle and be aligned to [CN's Council's Community Strategic Plan](#).
 - [5.1.56.1.5](#) Not be from a Government Department, with the exception of educational institutions proposing an event that is open to students throughout the Newcastle LGA, and/or brings students from throughout the region to the City, and benefits the wider Newcastle community.
 - [5.1.66.1.6](#) Not be from individuals, commercial businesses, ~~or~~ political parties [or family of current Councillors](#).

67 Assessment and approval of requests

- [6.17.1](#) Requests must demonstrate how the Donation meets the eligibility criteria in section [56](#).
- [6.27.2](#) Requests will be reviewed and approved as per Annexure A, and an Assessment Panel will be established and made up of:
- [6.2.17.2.1](#) Manager Finance, ~~and~~ [Property and Performance](#); and
 - [6.2.27.2.2](#) Two other Council staff [representatives](#) nominated by the Manager Finance ~~and~~, [Property and Performance](#).

78 Payments and tax invoice

~~7.18.1~~ Upon authorisation from ~~CN~~ouncil's Chief Executive Officer, the successful applicant will supply ~~CN~~ouncil with a valid Tax Invoice for the authorised amount.

~~7.28.2~~ All invoices must be received before the end of the financial year in which the donation was awarded and the activity held.

89 Reporting

~~9.1~~ Organisations receiving funding will be required to complete a brief statement of account within 30 days of the expenditure of the donation, including a photograph if possible.

~~8.19.2~~ Acknowledgement of CN's donation should be made publicly where possible.

~~8.2~~—This information will be tabled as part of CN's in an Annual rReport to Council.

Draft

Annexure A - Definitions

Donation is a financial contribution made by CN without consideration or conditions other than the Donation must be used in accordance with CN's objectives and have a demonstrated benefit to the community.

Council means Newcastle City Council

Charitable Organisation means a registered charity as listed on the Australian Charities and Not-for-profits Commission (**ACNC**) Register.

Draft

Annexure ~~A~~B - Authorisations

Request for Donation	Authority
Applications less than \$2,500	Chief Executive Officer in consultation with the Lord Mayor <u>and Chief Financial Officer</u> Manager Finance Property & Performance
Applications greater than \$2,500 <u>(maximum \$105,000)?</u> Should we put a maximum here?	Chief Executive Officer on recommendation from the Assessment Panel in consultation with the Lord Mayor

Draft

Annexure B - Definitions

Donation is a financial contribution made by Council without consideration or conditions other than the Donation must be used in accordance with Council's objectives and have a demonstrated benefit to the community.

Council means Newcastle City Council

Charitable Organisation means a registered charity as listed on the Australian Charities and Not-for-profits Commission (ACNC) Register.

Draft

Document Control

Policy title	Donations Program Policy
Policy owner	Chief Executive Officer
Policy expert/writer	Manager Finance and Property and Performance
Prepared by	Finance and Property and Performance
Approved by	Council
Date approved	26/06/2018 To be completed by Legal and Governance
Commencement Date	26/06/2018 To be completed by Legal and Governance
Next revision date (date policy will be revised)	26/06/2024 To be completed by Legal and Governance
Termination date	26/06/2022 To be completed by Legal and Governance
Version	Version number 21
Category	Governance
Keywords	Donation, Charity, not-for-profit, funding
Details of previous versions	N/A Version 1 – ECM: 6423243
Legislative amendments	N/A
Relevant strategic direction	Vibrant and Activated Public Places Liveable 1.2 Connected and fair communities
Relevant legislation/codes (reference to specific sections)	Local Government Act 1993 - Section 356
Related policies/documents	20 430 Community Strategic Plan Operational Plan Delivery Program Register of Delegations and Authorisations Register of Financial Authority Records Management Policy (NCC) Code of Conduct (NCC) Managing Conflicts of Interest in the Public Sector (ICAC)
Related forms	Donations Program Guidelines Donations Program Application
Required on website	Yes
Authorisations	Functions authorised under this Policy at Annexure B Yes

CCL 22/11/2022 – ADOPTION OF COUNCIL POLICIES

ITEM-100 Attachment B: Procurement Policy

Page 21 Attachment B.1: Summary of the Policy and proposed changes

Page 22 Attachment B.2: Procurement Policy (clean version)

Page 38 Attachment B.3: Procurement Policy (tracked changes)

POLICY TITLE: Procurement Policy

POLICY OWNERS: Executive Director Corporate Services / Manager Finance, Property and Performance

SUMMARY OF POLICY

1. The Procurement Policy (Policy) was adopted in December 2019. The purpose of the Policy is to provide a framework for all procurement at City of Newcastle (CN) and to demonstrate that all public monies have been spent in line with community objectives and expectations.
2. The Policy ensures that CN complies with the tendering requirements under Section 55 of the *Local Government Act* (Act) and Part 7 of the *Local Government (General) Regulations* (Regulation).
3. The proposed Policy is set out at **Attachment B.2** and a tracked changed version is set out at **Attachment B.3**.

SUMMARY OF PROPOSED CHANGES TO POLICY

4. The key differences between the revised Policy and CN's current Policy are as follows:
 - i. adding an exemption to tendering, where procurement is in response to a declared natural disaster (see clause 17.2 of the Policy), as a result of amendments to Section 55(3) of the Act;
 - ii. expanding upon sustainable procurement considerations when achieving value for money outcomes (see clauses 13.2 and 26 of the Policy);
 - iii. in response to a Council Resolution (NOM 27/07/21), construction companies with registered Enterprise Agreements will be given preference, via a mandatory assessment criteria for all tenders involving construction works over \$1 million (see clauses 22 and 28 of the Policy);
 - iv. expanding on Local Business definition in the Policy, whereby the intent is for CN to preference businesses that have a significant local presence and a significant investment in using local suppliers (see Annexure A of the Policy).

CONSULTATION

5. As the Policy aligns with the tendering requirements of the Act and Regulation and previous Council resolutions, publicly exhibiting the Policy is not considered necessary.

Procurement Policy

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INTRODUCTION

1 Purpose

- 1.1 The purpose of the Policy is to provide a framework for all procurement at CN and to demonstrate that all public monies have been spent in line with community objectives and expectations.

2 Scope

- 2.1 The Policy applies to Councillors and staff who undertake any aspect of Procurement on behalf of CN.
- 2.2 The Policy does not apply to the acquisition, disposal or lease of land and property.
- 2.3 A breach of this Policy is a breach of CN's Code of Conduct.

3 Principles

- 3.1 City of Newcastle (CN) commits itself to the following:
- a) **Accountability and transparency** – procurement and tendering processes will be open, clear, fully documented and defensible.
 - b) **Honesty and fairness** - procurement and tendering processes and business relationships will be conducted with honesty, fairness and probity at all levels. Confidentiality of information will be maintained.
 - c) **Value for Money** – procurement and tendering processes will be objectively assessed to ensure value for money by taking into account both price and non-price factors (including supplier risk and return on investment).
 - d) **Consistency** – consistent processes must be used in all stages of the procurement and tendering process.
 - e) **Probity** – procurement and tendering processes will encourage competitive tendering and be open, fair, consistent and transparent and comply with the Local Government Act 1993, the Local Government (General) Regulation 2005, CN's Code of Conduct and ICAC's Managing Conflicts of Interest in the Public Sector.
 - f) **Ethical Procurement** – procurement and tendering processes will seek to:
 - purchase sustainable/green products and services that are designed for minimal, or positive, environmental impacts across their whole lifecycle;
 - comply with the Modern Slavery Act 2018; and
 - support the UN Sustainable Development Goals.
 - g) **Supplier Diversity** – procurement and tendering processes will seek to include suppliers from:
 - Local Businesses;
 - Aboriginal Owned Businesses; and
 - Disability Employment Organisations.
 - h) **Work Health & Safety** - procurement and tendering processes will ensure the protection of CN staff and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks.

ROLES AND RESPONSIBILITIES

4 Elected Council

- 4.1 Adopt CN's Operational Plan.
- 4.2 Accept tenders called by CN with a value of \$1M or greater where the tender is pursuant to s55(1) of the Act.
- 4.3 Comply with legislative, policy and procedural requirements when determining tenders.
- 4.4 Comply with the Councillor Expenses and Facilities Policy.

5 CEO and Executive Directors

- 5.1 Make budgetary recommendations to the Council through CN's Operational Plan.
- 5.2 Oversee the development of program, project and strategic Procurement plans to support the delivery of projects within budget.
- 5.3 Ensure Service Units comply with legislative, policy and procedural requirements when undertaking Procurement and tendering.
- 5.4 Take appropriate action in response to instances of non-compliance with this Policy or relevant legislation.
- 5.5 Ensure probity principles and requirements are met.
- 5.6 Negotiate, review, execute and administer Procurement contracts in accordance with Financial Authorisation.

6 Service Unit Manager

- 6.1 Ensure all Procurement undertaken by their Service Unit complies with the principles and requirements of this Policy.
- 6.2 Ensure the Responsible Officer has completed relevant training and is suitably qualified in the area of procurement and contracts administration.
- 6.3 Ensure the Responsible Officer complies with legislative, Policy and procedural requirements when undertaking procurement and tendering.
- 6.4 Ensure that there is an approved budget before allowing the procurement to commence.
- 6.5 Completion of risk assessments in accordance with associated procedures to identify high risk procurement activities and escalate to the Legal and Governance Service Unit for advice as necessary.
- 6.6 Oversight of probity for tenders under \$1M and consultation and assistance to the Legal Service Unit (for tenders over \$1M) or external probity advisor (for tenders over \$5M).
- 6.7 Negotiate, review, execute and administer Procurement contracts in accordance with Financial Authorisation.
- 6.8 Identification of contract disputes and escalation to the Legal and Governance Service Unit in a timely manner.

7 Finance, Property & Performance Service Unit: Procurement

- 7.1 Oversight of purchase orders in the OneCouncil system.
- 7.2 For Procurement under \$250,000 (excluding Consultants), undertake compliance checks with this Policy and associated procedures.
- 7.3 Procurement of all inventory for CN's Depot Store.
- 7.4 Oversight of strategic procurement of goods.
- 7.5 Communicate to CN staff which suppliers qualify under the definition of Local Businesses, Aboriginal Owned Businesses and Disability Employment Organisations.
- 7.6 Monitor and provide advice to Responsible Officer(s) on Established Panels for Procurement under \$250,000.

8 Finance, Property & Performance Service Unit: Contracts

- 8.1 Provide specialist contract advice on:
- tenders and expressions of interest (with an estimated value of \$250,000 or more) to ensure compliance with legislative, policy and procedural requirements;
 - engagement of Consultants (regardless of value); and
 - other procurement processes where the Service Unit Manager considers the nature of the procurement to be high risk and seeks advice from the Legal Service Unit.
- 8.2 Undertake corporate-wide tenders where the goods, works and services span one or more CN's Service Units and where the expenditure levels exceed the \$250,000 tender threshold.
- 8.3 Notify the NSW Indigenous Chamber of Commerce whenever CN is advertising a tender for goods, works or services with an estimated value of over \$250,000.
- 8.4 Manage a centralised contracts register and maintain a contractor performance reporting system.
- 8.5 Provide advice on the negotiation of contracts when requested by Service Unit Managers.
- 8.6 Provide advice on contract disputes when requested by Service Unit Managers.
- 8.7 Conduct audits to confirm compliance with this Policy, as well as its associated procedures, and report any non-compliance to Executive Directors and Service Unit Managers.
- 8.8 Act as probity advisors for tenders between \$1M and \$5M in value.

9 Responsible Officer

- 9.1 Complete relevant and required training.
- 9.2 Undertake Procurement in accordance with this Policy, its associated procedures and legislative requirements
- 9.3 Ensure all program/project approvals and documentation as well as budget are in place prior to commencing Procurement.
- 9.4 Retain complete and comprehensive records of all Procurement activities and processes using CN's corporate system (OneCouncil).
- 9.5 Explore options to engage suppliers that meet the definitions of:
- Aboriginal Owned Businesses;
 - Disability Employment Organisations; and
 - Local Businesses.
- 9.6 Specify requirements having regard to CN's Risk Management Framework, WHS Management System, supplier diversity principles, environmental standards, technical standards and insurance requirements.
- 9.7 Accept the procured goods, works or services (acceptance may include verifying compliance with the specified requirements, standards, codes or the like).
- 9.8 Administer contracts including maintaining effective relationships with suppliers, ensure contract milestones are met and schedule regular contractor management/performance meetings.
- 9.9 Undertakes procurement planning, ensuring continuity of supply/service and implements transition plans for multi-year contracts over \$250,000.

10 Probity Advisor

- 10.1 Advise and report on compliance (or any non-compliance) with this Policy, its associated procedures and legislative requirements.
- 10.2 The Probity Advisor will be:
- Tenders under \$1M – the Service Unit Manager will be responsible for probity

reporting to their Executive Director;

- Tenders between \$1M and \$5M – A member of the Legal Service Unit reporting to the responsible Executive Director, and, where appropriate, the elected Council; or
- Tenders over \$5M – Externally appointed Probity Advisor reporting to the responsible Executive Director and, where appropriate, the elected Council. For projects assessed as being of low risk the responsible Executive Director, or a Project Control Group if one is in place, may request in writing that a member of the Legal Service Unit should act as the Probity Advisor.

11 Tenderer

11.1 Act ethically and in accordance with CN's business ethics statement.

11.2 Report suspected corrupt conduct in accordance with tender and contract requirements.

12 All Staff

12.1 Comply with this Policy, other relevant CN policies and legislative requirements in undertaking Procurement.

12.2 Ensure that all purchases made using a CN corporate credit card comply with this Policy and the Purchasing Procedure.

REQUIREMENTS

13 Value for Money

13.1 All Procurement must demonstrate how value for money is achieved regardless of the method of procurement. Value for money does not automatically mean the 'lowest price' and is a comparison of the benefits in the proposed contract with the whole-of-life costs of the proposed contract or project

13.2 Value for money factors, include but are not limited to:

- experience, quality, reliability and timeliness;
- service and risk profiles; lifecycle costs (including operating, maintenance, end-of-life management and replacement); and
- opportunities for repurposing existing resources in lieu of purchasing new materials/items.

14 Probity and Conflicts of Interest

14.1 Executive Directors, Service Unit Managers and Responsible Officers are responsible for oversight of probity including monitoring and/or managing any conflicts of interest, ensuring compliance with processes and procedures, checking completeness of documentation and records and providing a final probity checklist or report.

14.2 CN's Code of Conduct establishes standards of behaviour expected of staff and Councillors. All conflict of interests in relation to Procurement activity must be declared to the staff member's supervisor. Conflicts of interest must be managed in accordance with the requirements of the Code of Conduct.

15 Confidentiality

15.1 Confidentiality of information relating to quotes and tenders such as intellectual property, proprietary information or commercial-in-confidence information must be maintained and not be disclosed without prior consent of a contractor or where disclosure is required under the NSW Government Information (Public Access) Act 2009.

16 Thresholds

16.1 **Procurement of Goods, Works and Services** - The following minimum number of quotes must be obtained prior to purchasing or entering into a contract for goods, works and services:

Estimated value	Requirement
under \$3,000	No written quote required
between \$3,000 and \$150,000	Two written quotes
between \$150,000 and \$250,000**	Three written quotes
\$250,000 or more**	Tender or approved exemption

** Note: see Section 20.1 (Contracts)

16.2 **Procurement of Consultants** - The following minimum number of quotes must be obtained prior to engaging a Consultant:

Estimated value	Requirement
under \$30,000**	One written quote
between \$30,000 and \$150,000**	Two written quotes
between \$150,000 and \$250,000**	Three written quotes
\$250,000 or more**	Tender or approved exemption

** Note: see Section 20.1 (Contracts)

16.3 Measures which intentionally seek to avoid the requirement to tender or seek quotes, for example contract splitting, placing multiple orders, seeking multiple quotations with a single supplier or engaging in effect a single supplier under different guises, are considered to breach this Policy.

17 Exemptions from Thresholds

17.1 Where an exemption is provided for under section 55(3) of the Act for a contract more than \$150,000 involving the provision of services which are currently being provided by employees of CN, then the requirement is to call tenders.

17.2 Procurement is exempt from the thresholds set out in clause 16:

- where an exemption is provided for under section 55(3) of the Act (including but not limited to Procurement from a Disability Employment Organisation, an Approved Agency, an emergency or for extenuating circumstances); or
- where the Procurement is in response to a declared natural disaster, the \$250,000 threshold shall become \$500,000; or
- where the supplier is on an Established Panel (see clause 17.4 below); or
- where a single quote acceptance has been approved (see clause 17.5 below).

17.3 Notwithstanding the above, the Service Unit Manager, Executive Director or CEO must approve an exemption having regard to the Procurement being value for money, meeting probity principles and ensuring the Procurement is in compliance with this Policy and associated procedures.

17.4 When purchasing from an Established Panel, the Responsible Officer must demonstrate how the procurement is achieving value-for-money. If the Procurement is more than \$150,000 the Responsible Officer is still required to obtain 3 quotes.

17.5 A single quote acceptance exemption will only apply in the following circumstances:

- if the Procurement is under \$250,000; and
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- the specialist nature of the Procurement means that there is only one demonstrated supplier that meets the requirements.

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18.1 Compliance with this Policy and associated procedures will be audited. Breaches will be taken seriously and dealt with in accordance with CN's Code of Conduct.

18.2 Concerns of non-compliance with this Policy should be reported to Legal Service Unit. Alternatively, the Responsible Officer may choose to report a non-compliance under the Public Interest Disclosures Act.

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19.1 All Procurement must be undertaken in accordance with:

- Procurement under \$250,000 - CN's Purchasing Procedure.
- Procurement over \$250,000 - CN's Tendering & Contracts Procedure.

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20.1 The following types of Procurement are required to have a formal CN contract in place:

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- any Procurement that has been assessed as being high risk; or
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21.1 All projects that require a Project Management Plan (as set out in the CN Project Management Procedure) must consider and plan for Procurement as a specific phase in the project delivery.

21.2 As such, the Project Management Plan for major projects will address the following Procurement requirements:

- governance and probity;
- procurement planning and timeframes; and
- procurement budget and resourcing.

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22.1 In assessing quotes or tender submissions, the following assessment criteria and weightings will apply:

Assessment Criteria	% Weighting
Supplier Diversity	minimum 5%
Work Health & Safety ¹	minimum 10% (where applicable)
Enterprise Agreements ²	minimum 5% (where applicable)

Note:

1. WHS assessment criteria applies for any tender involving building and construction works (or services on a CN site).
2. Enterprise Agreements assessment criteria only applies for tenders involving construction works over \$1 million.

SUPPLIER DIVERSITY

23 Local Preference

Under \$250,000

23.1 When undertaking Procurement under \$250,000, the Responsible Officer will consider obtaining quotes from Local Businesses and will include Supplier Diversity as an evaluation criteria for assessing quotes.

Over \$250,000

23.2 When undertaking tenders over \$250,000, the Responsible Officer, in conjunction with the Service Unit Manager, will include Supplier Diversity as a tender assessment criteria.

24 Indigenous Procurement

Under \$250,000

24.1 When undertaking Procurement under \$250,000, the Responsible Officer will consider obtaining quotes from Aboriginal Owned Businesses and will include Supplier Diversity as an evaluation criteria for assessing quotes

Over \$250,000

24.2 When undertaking tenders over \$250,000:

- governance and probity;
- the Responsible Officer in conjunction with the Service Unit Manager, will include Supplier Diversity as a tender assessment criteria.

25 Disability Employment Organisation

Under \$250,000

25.1 When undertaking Procurement under \$250,000, the Responsible Officer will consider obtaining quotes from Disability Employment Organisations and will include Supplier Diversity as an evaluation criteria for assessing quotes.,

Over \$250,000

25.2 When undertaking tenders over \$250,000:

- in accordance with section 55 (3) (q) of the Act, the Responsible Officer may procure from a Disability Employment Organisation without the need to call tenders; or
- the Responsible Officer, in conjunction with the Service Unit Manager, will include Supplier Diversity as a tender assessment criteria.

SUSTAINABLE AND ETHICAL CONSIDERATIONS

26 Sustainable Procurement

- 26.1 CN will, in its procurement of goods, works and services pursue and implement effective ways of minimising waste, avoiding raw material extraction, and ensure efficient and sustainable use of energy and natural resources in support of the UN Sustainable Development Goals.
- 26.2 The Responsible Officer will preference environmentally and socially responsible materials, products and services whenever they perform satisfactorily, are deemed safe and demonstrate value for money over their lifecycle. The consumption of virgin and/or non-renewable materials is to be avoided whenever feasible.
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- 27.1 CN will ensure it complies with its obligations under the Commonwealth Modern Slavery Act 2018 and any other Modern Slavery legislation that may come into effect.
- 27.2 The CN will undertake ongoing due diligence to minimise or eliminate the risk of Modern Slavery occurring in its supply chain.
- 27.3 As part of its due diligence, CN will undertake an annual risk assessment of all CN suppliers. CN will not participate in any Procurement with a supplier that is found to be engaging in Modern Slavery.

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- 28.1 CN will, as far as practicable, procure services for its major construction projects from organisations with current Enterprise Agreements registered with the Fair Work Commission.
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- 29.2 Where there are changes to the original contract value/cost of the Procurement, approval must be sought in accordance with Financial Authorisations.
- 29.3 The CEO, Executive Director or Service Unit must take in account the following when approving variations:
- Financial Authorisations for variations;
 - Budget availability;
 - Ensuring the variation continues to achieve value for money; and
 - Significance of the change from the original scope or specification and consideration as to whether a new Procurement process is more appropriate.

ANNEXURE A - DEFINITIONS

Aboriginal Owned Business means a business that is recognised/accredited by the NSW Indigenous Chamber of Commerce or the First Australians Chamber of Commerce and Industry.

Act means Local Government Act 1993 (NSW).

Approved Agency means an agency approved as exempt from tendering under s55 of the Act. For the avoidance of doubt this means the NSW Procurement Board, Commonwealth Dept. of Administrative Services, Local Government Procurement or Procurement Australia.

CEO means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

City of Newcastle (CN) means Newcastle City Council.

Consultant means a person or company engaged to provide advice or recommendations and/or creates any intellectual property (i.e. creating new designs/ drawings/ reports/ images/ specifications/ etc.). For example, a consultant includes engineers, architects, environmental specialists, surveyors, planners, lawyers, doctors, auditors, IT software programmers, graphic designers, photographers, accountants, project managers and artists.

Council means the elected Council.

Enterprise Agreement means an agreement made at the enterprise level that contains terms and conditions of employment, including wages, that has been registered/approved by the Fair Work Commission.

Established Panel means a panel of suppliers or Consultants with whom CN has entered into a contract with subsequent to a tendering process.

Disability Employment Organisation means a business that is approved as a disability employment organisation under the *Public Works and Procurement Regulation 2019* (NSW).

Financial Authorisation means CN's *Register of Financial Authorisations*, which lists the relevant financial authority limits delegated to each staff member.

Local Business means a business that either has its head office or a branch office physically located within the Newcastle Local Government Area or an adjoining council Local Government Area (for the avoidance of doubt, this means Lake Macquarie, Port Stephens, Cessnock or Maitland). Note, the intent is for CN to preference businesses that have a significant local presence and a significant investment in using local suppliers (subcontractors). **Modern Slavery** means any conduct involving the use of any form of slavery, servitude or forced labour to exploit children or other persons taking place in the supply of goods, works or services.

Procurement means:

- all expenditure payable by CN to Consultants or for goods, works and services
- income payable to CN from contracted services; or
- entering contracts, whether through a contract agreement and/or quote, acceptance and purchase order.

Project Control Group means a project-specific group of key CN stakeholders who are responsible for oversight and governance of a CN major project.

Responsible Officer means the CN staff member tasked with undertaking the Procurement. (The Responsible Officer may include a Specific Talent Contractor, Service Unit Manager or Executive Director).

UN Sustainable Development Goals means the 17 sustainable development goals adopted on 1 January 2016 as part of the 202 Agenda for Sustainable Development.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

ANNEXURE B - POLICY AUTHORISATIONS

Title of authorisation	Description of authorisation	Position Number & Title
Nil		

DRAFT

DOCUMENT CONTROL

Policy title	Procurement Policy
Policy owner	Chief Financial Officer
Policy expert/writer	Contracts Coordinator
Associated Guideline or Procedure Title	- Tendering and Contracts Procedure - Purchasing Procedure
Guideline or Procedure owner	Chief Financial Officer
Prepared by	Finance, Property and Performance
Approved by	Council
Date approved	To be completed by Legal and Governance
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal and Governance
Next review date	To be completed by Legal and Governance
Termination date	To be completed by Legal and Governance
Version #	Version number 6
Details of previous versions	Version 5 - ECM: 6277772 Version 4a —ECM: 6277818
Keywords	Procurement, Purchasing, Contracts, Tendering, Supply
Relevant Newcastle 2040 Theme/s	Achieving Together
Relevant legislation/codes (reference specific sections)	This Policy supports CN's compliance with the following legislation: Government Information (Public Access) Act 2009 Local Government Act 1993 Local Government (General) Regulation 2005 Modern Slavery Act 2018 Public Interest Disclosures Act 1994 State Records Act 1998
Other related documents	Other related policies/ documents/ strategies; Code of Conduct Fraud & Corruption Strategy Records Management Policy Tendering and Contracts Procedure Purchasing Procedure Register of Financial Authorisations Managing Conflicts of Interest in the Public Sector (ICAC) Tendering Guidelines for NSW Local Government (OLG) Preparing, Reviewing and signing Legal Documents WHS Procurement of Goods (OP 3.6.26) WHS Procurement of Services (OP 3.6.27)
Related forms	See Tendering and Contracts Procedure and Purchasing Procedure
Required on website	Yes
Authorisations	Functions authorised under this Policy at Annexure B

Procurement Policy

[Month] 2022

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City of
Newcastle

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INTRODUCTION

1 Purpose

- 1.1 The purpose of the Policy is to provide a framework for all procurement at CN and to demonstrate that all public monies have been spent in line with community objectives and expectations.

2 Scope

- 2.1 The Policy applies to ~~the Elected Council~~[Councillors](#) and staff who undertake any aspect of Procurement on behalf of CN.
- 2.2 The Policy does not apply to the acquisition, disposal or lease of land and property.
- 2.3 A breach of this Policy is a breach of CN's Code of Conduct.

3 Principles

- 3.1 City of Newcastle (CN) commits itself to the following:
- Accountability and transparency** – procurement and tendering processes will be open, clear, fully documented and defensible.
 - Honesty and fairness** - procurement and tendering processes and business relationships will be conducted with honesty, fairness and probity at all levels. Confidentiality of information will be maintained.
 - Value for Money** – procurement and tendering processes will be objectively assessed to ensure value for money by taking into account both price and non-price factors (including supplier risk and return on investment).
 - Consistency** – consistent processes must be used in all stages of the procurement and tendering process.
 - Probity** – procurement and tendering processes will encourage competitive tendering and be open, fair, consistent and transparent and comply with the Local Government Act 1993, the Local Government (General) Regulation 2005, CN's Code of Conduct and ICAC's Managing Conflicts of Interest in the Public Sector.
 - Ethical Procurement** – procurement and tendering processes will seek to:
 - purchase sustainable/green products and services [that are designed for minimal, or positive, environmental impacts across their whole lifecycle](#);
 - comply with the Modern Slavery Act 2018; and
 - support the UN Sustainable Development Goals.
 - Supplier Diversity** – procurement and tendering processes will seek to include suppliers from:
 - Local Businesses;
 - Aboriginal Owned Businesses; and
 - Disability Employment Organisations.
 - Work Health & Safety** - procurement and tendering processes will ensure the protection of CN staff and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks.

ROLES AND RESPONSIBILITIES

4 Elected Council

- 4.1 Adopt CN's Operational Plan.
- 4.2 Accept tenders called by CN with a value of \$1M or greater where the tender is pursuant to s55(1) of the Act.
- 4.3 Comply with legislative, policy and procedural requirements when determining tenders.
- 4.4 Comply with the Councillor Expenses and Facilities Policy.

5 CEO and [Executive Directors](#)

- 5.1 Make budgetary recommendations to the Council through CN's Operational Plan.
- 5.2 Oversee the development of program, project and strategic Procurement plans to support the delivery of projects within budget.
- 5.3 Ensure Service Units comply with legislative, policy and procedural requirements when undertaking Procurement and tendering.
- 5.4 Take appropriate action in response to instances of non-compliance with this Policy or relevant legislation.
- 5.5 Ensure probity principles and requirements are met.
- 5.6 Negotiate, review, execute and administer Procurement contracts in accordance with Financial Authorisation.

6 Service Unit Manager

- 6.1 Ensure all Procurement undertaken by their Service Unit complies with the principles and requirements of this Policy.
- 6.2 Ensure the Responsible Officer has completed relevant training and is suitably qualified in the area of procurement and contracts administration.
- 6.3 Ensure the Responsible Officer complies with legislative, Policy and procedural requirements when undertaking procurement and tendering.
- 6.4 Ensure that there is an approved budget before allowing the procurement to commence.
- 6.5 Completion of risk assessments in accordance with associated procedures to identify high risk procurement activities and escalate to the Legal [and Governance](#) Service Unit for advice as necessary.
- 6.6 Oversight of probity for tenders under \$1M and consultation and assistance to the Legal Service Unit (for tenders over \$1M) or external probity advisor (for tenders over \$5M).
- 6.7 Negotiate, review, execute and administer Procurement contracts in accordance with Financial Authorisation.
- 6.8 Identification of contract disputes and escalation to the Legal [and Governance](#) Service Unit in a timely manner.

7 Finance, [Property & Performance](#) Service Unit: [Procurement](#)

- 7.1 Oversight of purchase orders in the OneCouncil system.
- 7.2 For Procurement under \$250,000 (excluding Consultants), undertake compliance checks with this Policy and associated procedures.
- 7.3 Procurement of all inventory for CN's Depot Store.
- 7.4 Oversight of strategic procurement of goods.
- 7.5 Communicate to CN staff which suppliers qualify under the definition of Local Businesses, Aboriginal Owned Businesses and Disability Employment Organisations.
- 7.6 Monitor and provide advice to Responsible Officer(s) on Established Panels for Procurement under \$250,000.

8 Legal Service Unit–Finance, Property & Performance Service Unit: Contracts

- 8.1 Provide specialist contract advice on:
- tenders and expressions of interest (with an estimated value of \$250,000 or more) to ensure compliance with legislative, policy and procedural requirements;
 - engagement of Consultants (regardless of value); and
 - other procurement processes where the Service Unit Manager considers the nature of the procurement to be high risk and seeks advice from the Legal Service Unit.
- 8.2 Undertake corporate-wide tenders where the goods, works and services span one or more CN's Service Units and where the expenditure levels exceed the \$250,000 tender threshold.
- 8.3 Notify the NSW Indigenous Chamber of Commerce whenever CN is advertising a tender for goods, works or services with an estimated value of over \$250,000.
- 8.4 Manage a centralised contracts register and maintain a contractor performance reporting system.
- 8.5 Provide advice on the negotiation of contracts when requested by Service Unit Managers.
- 8.6 Provide advice on contract disputes when requested by Service Unit Managers.
- 8.7 Conduct audits to confirm compliance with this Policy, as well as its associated procedures, and report any non-compliance to [Executive](#) Directors and Service Unit Managers.
- 8.8 Act as probity advisors for tenders between \$1M and \$5M in value.

9 Responsible Officer

- 9.1 Complete relevant and required training.
- 9.2 Undertake Procurement in accordance with this Policy, its associated procedures and legislative requirements
- 9.3 Ensure all program/project approvals and documentation as well as budget are in place prior to commencing Procurement.
- 9.4 Retain complete and comprehensive records of all Procurement activities and processes using CN's corporate system (OneCouncil).
- 9.5 Explore options to engage suppliers that meet the definitions of:
- Aboriginal Owned Businesses;
 - Disability Employment Organisations; and
 - Local Businesses.
- 9.6 Specify requirements having regard to CN's Risk Management Framework, WHS Management System, supplier diversity principles, environmental standards, technical standards and insurance requirements.
- 9.7 Accept the procured goods, works or services (acceptance may include verifying compliance with the specified requirements, standards, codes or the like).
- 9.8 Administer contracts including maintaining effective relationships with suppliers, ensure contract milestones are met and schedule regular contractor management/performance meetings.
- 9.9 Undertakes procurement planning, ensuring continuity of supply/service and implements transition plans for multi-year contracts over \$250,000.

10 Probity Advisor

- 10.1 Advise and report on compliance (or any non-compliance) with this Policy, its associated procedures and legislative requirements.
- 10.2 The Probity Advisor will be:
- Tenders under \$1M – the Service Unit Manager will be responsible for probity

reporting to their [Executive](#) Director;

- Tenders between \$1M and \$5M – A member of the Legal Service Unit reporting to the responsible [Executive](#) Director, and, where appropriate, the elected Council; or
- Tenders over \$5M – Externally appointed Probity Advisor reporting to the responsible [Executive](#) Director and, where appropriate, the elected Council. For projects assessed as being of low risk the responsible [Executive](#) Director, or a Project Control Group if one is in place, may request in writing that a member of the Legal Service Unit should act as the Probity Advisor.

11 Tenderer

11.1 Act ethically and in accordance with CN's business ethics statement.

11.2 Report suspected corrupt conduct in accordance with tender and contract requirements.

12 All Staff

12.1 Comply with this Policy, other relevant CN policies and legislative requirements in undertaking Procurement.

12.2 Ensure that all purchases made using a CN corporate credit card comply with this Policy and the Purchasing Procedure.

REQUIREMENTS

13 Value for Money

13.1 All Procurement must demonstrate how value for money is achieved regardless of the method of procurement. Value for money does not automatically mean the 'lowest price' and is a comparison of the benefits in the proposed contract with the whole-of-life costs of the proposed contract or project

13.2 Value for money factors, include but are not limited to:

- experience, quality, reliability and timeliness;
- ~~service and risk profiles; and lifecycle~~
- ~~initial and ongoing costs (including operating, maintenance, end-of-life management and replacement); and~~
- ~~opportunities for repurposing existing resources in lieu of purchasing new materials/items.~~

14 Probity and Conflicts of Interest

14.1 [Executive](#) Directors, Service Unit Managers and Responsible Officers are responsible for oversight of probity including monitoring and/or managing any conflicts of interest, ensuring compliance with processes and procedures, checking completeness of documentation and records and providing a final probity checklist or report.

14.2 CN's Code of Conduct establishes standards of behaviour expected of staff and Councillors. All conflict of interests in relation to Procurement activity must be declared to the staff member's supervisor. Conflicts of interest must be managed in accordance with the requirements of the Code of Conduct.

15 Confidentiality

15.1 Confidentiality of information relating to quotes and tenders such as intellectual property, proprietary information or commercial-in-confidence information must be maintained and not be disclosed without prior consent of a contractor or where disclosure is required under the NSW Government Information (Public Access) Act 2009.

16 Thresholds

16.1 **Procurement of Goods, Works and Services** - The following minimum number of quotes must be obtained prior to purchasing or entering into a contract for goods, works and services:

Estimated value	Requirement
under \$3,000	No written quote required
between \$3,000 and \$150,000	Two written quotes
between \$150,000 and \$250,000**	Three written quotes
\$250,000 or more**	Tender or approved exemption

** Note: see Section 20.1 (Contracts)

16.2 **Procurement of Consultants** - The following minimum number of quotes must be obtained prior to engaging a Consultant:

Estimated value	Requirement
under \$30,000**	One written quote
between \$30,000 and \$150,000**	Two written quotes
between \$150,000 and \$250,000**	Three written quotes
\$250,000 or more**	Tender or approved exemption

** Note: see Section 20.1 (Contracts)

16.3 Measures which intentionally seek to avoid the requirement to tender or seek quotes, for example contract splitting, placing multiple orders, seeking multiple quotations with a single supplier or engaging in effect a single supplier under different guises, are considered to breach this Policy.

17 Exemptions from Thresholds

17.1 Where an exemption is provided for under section 55(3) of the Act for a contract more than \$150,000 involving the provision of services which are currently being provided by employees of CN, then the requirement is to call tenders.

17.2 Procurement is exempt from the thresholds set out in clause 16:

- where an exemption is provided for under section 55(3) of the Act (including but not limited to Procurement from a Disability Employment Organisation, an Approved Agency, an emergency or for extenuating circumstances); or
- where the Procurement is in response to a declared natural disaster, the \$250,000 threshold shall become \$500,000; or
- where the supplier is on an Established Panel (see clause 17.4 below); or
- where a single quote acceptance has been approved (see clause 17.5 below).

17.3 Notwithstanding the above, the Service Unit Manager, Executive Director or CEO must approve an exemption having regard to the Procurement being value for money, meeting probity principles and ensuring the Procurement is in compliance with this Policy and associated procedures.

17.4 When purchasing from an Established Panel, the Responsible Officer must demonstrate how the procurement is achieving value-for-money. If the Procurement is more than \$150,000 the Responsible Officer is still required to obtain 3 quotes.

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21.1 All projects that require a Project Management Plan (as set out in the CN Project Management Procedure) must consider and plan for Procurement as a specific phase in the project delivery.

21.2 As such, the Project Management Plan for major projects will address the following Procurement requirements:

- governance and probity;
- procurement planning and timeframes; and
- procurement budget and resourcing.

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22.1 In assessing quotes or tender submissions, the following assessment criteria and weightings will apply:

Assessment Criteria	% Weighting
Supplier Diversity	minimum 5%
Work Health & Safety ¹	minimum 10% (where applicable)
Enterprise Agreements²	minimum 5% (where applicable)

Note:

- [1. WHS assessment criteria applies for any tender involving building and construction works \(or services on a CN site\).](#)
- [2. Enterprise Agreements assessment criteria only applies for tenders involving construction works over \\$1 million.](#)

SUPPLIER DIVERSITY

23 [Local Preference Major Projects](#)

Under \$250,000

23.1 When undertaking Procurement under \$250,000, the Responsible Officer will consider obtaining quotes from Local Businesses and will include [Local Business Supplier Diversity](#) as an evaluation criteria for assessing quotes.

Over \$250,000

23.2 When undertaking tenders over \$250,000, the Responsible Officer, in conjunction with the Service Unit Manager, will include [Supplier Diversity Local Business](#) as a tender assessment criteria.

24 Indigenous Procurement

Under \$250,000

24.1 When undertaking Procurement under \$250,000, the Responsible Officer will consider obtaining quotes from Aboriginal Owned Businesses and will include Supplier Diversity [Aboriginal Owned Businesses](#) as an evaluation criteria for assessing quotes

Over \$250,000

24.2 When undertaking tenders over \$250,000:

- governance and probity;
- the Responsible Officer in conjunction with the Service Unit Manager, will include [Supplier Diversity Aboriginal Owned Businesses](#) as a tender assessment criteria.

25 Disability Employment Organisation

Under \$250,000

25.1 When undertaking Procurement under \$250,000, the Responsible Officer will consider obtaining quotes from Disability Employment Organisations and will include [Supplier Diversity Disability Employment Organisations](#) as an evaluation criteria for assessing quotes.,

Over \$250,000

25.2 When undertaking tenders over \$250,000:

- in accordance with section 55 (3) (q) of the Act, the Responsible Officer may procure from a Disability Employment Organisation without the need to call tenders; or
- the Responsible Officer, in conjunction with the Service Unit Manager, will include [Supplier Diversity Disability Employment Organisation](#) as a tender assessment criteria.

SUSTAINABLE AND ETHICAL CONSIDERATIONS

26 Sustainable Procurement

- 26.1 CN will, in its procurement of goods, works and services pursue and implement effective ways of minimising waste, avoiding raw material extraction, and ensure efficient and sustainable use of energy and natural resources ~~in the procurement of goods, works and services,~~ in support of the UN Sustainable Development Goals.
- 26.2 The Responsible Officer will preference environmentally and socially responsible materials, products and services whenever they perform satisfactorily, are deemed safe and are demonstrate value for money over their ~~lifetime of the product lifecycle.~~ The consumption of virgin and/or non-renewable materials is to be avoided whenever feasible.
- 26.3 In assessing quotes and tenders, the Responsible Officer ~~may shall (where applicable)~~ incorporate considerations to address significant environmental and social impacts and/or risks into their assessment criteria, alongside other factors such as quality, cost, reliability etc.

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- 27.1 CN will ensure it complies with its obligations under the Commonwealth Modern Slavery Act 2018 and any other Modern Slavery legislation that may come into effect.
- 27.2 The CN will undertake ongoing due diligence to minimise or eliminate the risk of Modern Slavery occurring in its supply chain.
- 27.3 As part of its due diligence, CN will undertake an annual risk assessment of all CN suppliers. CN will not participate in any Procurement with a supplier that is found to be engaging in Modern Slavery.

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- 28.1 CN will, as far as practicable, procure services for its major construction projects from organisations with current Enterprise Agreements registered with the Fair Work Commission.
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FINANCIAL AUTHORISATIONS

28.29 Approved Levels

28.129.1 The Responsible Officer/Service Unit Manager must only undertake Procurement responsibilities within their limits of Financial Authorisation (see CN's Register of Financial Authorisations) [and the CN Legal Services Policy](#).

28.229.2 Where there are changes to the original contract value/cost of the Procurement, approval must be sought in accordance with Financial Authorisations.

28.329.3 The CEO, [Executive](#) Director or Service Unit must take in account the following when approving variations:

- Financial Authorisations for variations;
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References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

City of Newcastle (CN) means Newcastle City Council.

Consultant means a person or company engaged to provide advice or recommendations and/or creates any intellectual property (i.e. creating new designs/ drawings/ reports/ images/ specifications/ etc.). For example, a consultant includes engineers, architects, environmental specialists, surveyors, planners, lawyers, doctors, auditors, IT software programmers, graphic designers, photographers, accountants, project managers and artists.

Council means the elected Council.

Enterprise Agreement means [an agreement made at the enterprise level that contains terms and conditions of employment, including wages, that has been registered/approved by the Fair Work Commission.](#)

Established Panel means a panel of suppliers or Consultants with whom CN has entered into a contract with subsequent to a tendering process.

Disability Employment Organisation means a business that is approved as a disability employment organisation under the *Public Works and Procurement Act Regulation 2019/912* (NSW).

Financial Authorisation means CN's *Register of Financial Authorisations*, which lists the relevant financial authority limits delegated to each staff member.

Local Business means a business that either has [its head office or a branch or office physically located within the Newcastle Local Government Area or has its head office located within the Newcastle Local Government Area](#) or an adjoining council Local Government Area (for the avoidance of doubt, this means Lake Macquarie, Port Stephens, Cessnock or Maitland). [Note, the intent is for CN to preference businesses that have a significant local presence and a significant investment in using local suppliers \(subcontractors\).](#)

Modern Slavery means any conduct involving the use of any form of slavery, servitude or forced labour to exploit children or other persons taking place in the supply of goods, works or services.

Procurement means:

- all expenditure payable by CN to Consultants or for goods, works and services
- income payable to CN from contracted services; or
- entering contracts, whether through a contract agreement and/or quote, acceptance and purchase order.

Project Control Group means a project-specific group of key CN stakeholders who are responsible for oversight and governance of a CN major project.

Responsible Officer means the CN staff member tasked with undertaking the Procurement. (The Responsible Officer may include a Specific Talent Contractor, Service Unit Manager or [Executive](#) Director).

UN Sustainable Development Goals means the 17 sustainable development goals adopted on 1 January 2016 as part of the 202 Agenda for Sustainable Development.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

ANNEXURE B - POLICY AUTHORISATIONS

Title of authorisation	Description of authorisation	Position Number & Title
Refer to Financial Authorisations_Nil		

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DOCUMENT CONTROL

Policy title	Procurement Policy
Policy owner	Chief Financial Officer and Manager Legal
Policy expert/writer	Manager Business Finance and Contracts Coordinator Management Specialist
Associated Guideline or Procedure Title	- Tendering and Contracts Procedure - Purchasing Procedure
Guideline or Procedure owner	Chief Financial Officer and Manager Legal
Prepared by	Finance, Property and Performance Property / Legal
Approved by	Council
Date approved	To be completed by Legal and Governance
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal and Governance
Next review date	1/09/2024 To be completed by Legal and Governance
Termination date	1/09/2025 To be completed by Legal and Governance (one year post revision date)
Version #	Version number 56
Details of previous versions	Version 5 - ECM: 6277772 Version 4a – 2 September 2021 – ECM: #6277818
Keywords	Procurement, Purchasing, Contracts, Tendering, Supply
Relevant Newcastle 2040 Theme/s	Achieving Together
Relevant legislation/codes (reference specific sections)	This Policy supports CN's compliance with the following legislation: Government Information (Public Access) Act 2009 Local Government Act 1993 Local Government (General) Regulation 2005 Modern Slavery Act 2018 Public Interest Disclosures Act 1994 State Records Act 1998
Other related documents	Other related policies/ documents/ strategies; Code of Conduct Fraud & Corruption Strategy Records Management Policy Tendering and Contracts Procedure Purchasing Procedure Register of Financial Authorisations Managing Conflicts of Interest in the Public Sector (ICAC) Tendering Guidelines for NSW Local Government (OLG) Preparing, Reviewing and signing Legal Documents WHS Procurement of Goods (OP 3.6.26) WHS Procurement of Services (OP 3.6.27)
Related forms	See Tendering and Contracts Procedure and Purchasing Procedure
Required on website	Yes

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CCL 22/11/2022 – ADOPTION OF COUNCIL POLICIES

ITEM-100 Attachment C: Public Voice and Public Briefing Policy

Page 55 Attachment C.1: Summary of the Policy and proposed changes

Page 56 Attachment C.2: Public Voice and Public Briefing Policy (clean version)

Page 68 Attachment C.3: Public Voice and Public Briefing Policy (tracked changes)

Page 80 Attachment C.4: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy

Attachment C.1

POLICY TITLE: Public Voice and Public Briefings Policy

POLICY OWNERS: Executive Director Corporate Services / Manager Legal & Governance

SUMMARY OF POLICY

1. The current version of the Public Voice and Public Briefings Policy (the current Policy) was adopted in August 2019. The purpose of Public Voice and Public Briefings sessions is to provide a framework for members of the public to address the elected Council on issues relevant to City of Newcastle's (CN's) functions.
2. There are no legislative or regulatory obligations or requirements related to Public Voice and Public Briefings sessions and the sessions provide for participation above that of the requirements of the *Local Government Act 1993* (NSW) and the NSW Model Code of Meeting Practice.
3. CN has been a leader in providing opportunities for members of the public to address the elected Council, with our first public access provisions in 1992 and our first Public Voice Policy adopted in 1999. These have always been an opportunity for Council to set aside time for the exchange of information in an orderly process that enables people to bring before the Council important information concerning new ideas or recent developments that are relevant to local government.
4. At its meeting on 26 July 2022, Council resolved to exhibit a revised Public Voice and Public Briefings Policy for 28 days and receive a report on community submissions prior to adoption. CN exhibited the revised policy for 28 days from 4 August to 1 September 2022 and 10 submissions were received. Refer to **Attachment C.4** for the Summary of Submissions and CN comments and suggested amendments in response to the submissions.
5. The Public Voice and Public Briefings Policy, including amendments in response to submissions, is set out at **Attachment C.2** and a tracked changed version is set out at **Attachment C.3**.
6. In response to the public exhibition period, the following amendments have been proposed:
 - i. new cl. 2.2 to better reflect that all Public Voice and Public Briefings session are open to the public;
 - ii. new cl. 5.9 to confirm the current practice of ensuring the participation of as many parties as possible where there are more than two applications for a Public Voice session; and
 - iii. new clauses 5.11 and 9.6 to confirm the current practice of publishing a list of decisions on Public Voice and Public Briefings on CN's website including any reasons a matter has been declined.

CONSULTATION

7. The Policy was placed on public exhibition for 28 days from 4 August to 1 September 2022.

Public Voice and Public Briefings Policy

November 2022

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INTRODUCTION

1 Purpose

- 1.1 The purpose of this Policy is to provide a framework to allow members of the public to address the Council on issues relevant to City of Newcastle's (CN's) functions.
- 1.2 The Council does not make decisions at Public Voice or Public Briefings sessions. The sessions are an opportunity for discussion only.

2 Scope

- 2.1 This Policy applies to Public Voice and Public Briefings sessions.
- 2.2 In accordance with CN's Code of Meeting Practice, Public Voice and Public Briefings Committee Meetings are open to the public and all members of the public are welcome to attend or view online via webcast.
- 2.3 Public Voice sessions (refer Section 4) provide an opportunity for members of the public to make presentations to the Council on Development Applications (DAs) that are to be determined by CN's Development Applications Committee at a future meeting.
- 2.4 Public Briefings sessions (refer Section 5) provide an opportunity for members of the public to make presentations to the Council relating to significant issues of a general, strategic or policy nature relevant to CN's functions, facilities or services.

3 Principles

- 3.1 CN commits itself to the following:
 - a) **Accountability and transparency** – This Policy enables members of the public to bring before the Council issues of a general, strategic or policy nature relevant to CN's functions, facilities or services. This Policy ensures decisions are made in a way that is open and accountable.
 - b) **Alignment with Council strategies** - This Policy aligns with Council priorities outlined in CN's Newcastle 2040 Community Strategic Plan.
 - c) **Openness** – This Policy enables members of the public to communicate opinions or concerns directly to Councillors by way of an address to the Council in an open forum.

PUBLIC VOICE SESSIONS

4 What are Public Voice sessions?

- 4.1 Public Voice sessions provide an opportunity for members of the public to make presentations to the Council on (DAs that are to be determined by CN's Development Applications Committee at a future meeting.

5 Procedure for applying for Public Voice sessions and assessment criteria

Frequency of sessions

- 5.1 One Public Voice Committee Meeting per month (generally the third Tuesday of the month when scheduled) or in accordance with Council's adopted meeting cycle.
- 5.2 A maximum of four items will be scheduled for each Public Voice Committee Meeting.
- 5.3 Sessions are normally scheduled to occur at least one month prior to the DA being scheduled for determination by CN's Development Applications Committee.

Availability

- 5.4 Sessions will be offered where a matter is to be determined by the Development Applications Committee and either:
- a) 25 or more unresolved Individual Written Objections were received during the DA notification period; or
 - b) Two or more Councillors call the matter to the Development Applications Committee.

Invitation to submit application

- 5.5 When a session is to be offered in accordance with clause 5.4, an invitation to submit an application to address a Public Voice session will be made to any person who submitted an Individual Written Objection. Any application received prior to the invitation being issued will not be considered.

Assessment of applications

- 5.6 Applications will be registered in the order they are received.
- 5.7 The first two applicants will be invited to address the Public Voice session.
- 5.8 If no applications are received by the deadline provided in the invitation, the Public Voice session will not proceed.
- 5.9 If more than two applications are received, CN staff may request all applicants to nominate from among themselves the two parties who are to address the Public Voice session on the item. If the applicants are not able to agree on whom to nominate, the first two applicants will be invited to address the Public Voice session.
- 5.10 The final decision to accept or decline a Public Voice application rests with the Manager, Planning, Transport & Regulation in consultation with the CEO and Executive Director Planning & Environment.
- 5.11 A list of decisions relating to Public Voice applications will be published quarterly on CN's website including the reason any applications were declined.

Invitation to DA applicant

5.12 Once it is confirmed that a Public Voice session will proceed, the DA applicant will also be invited to address Council.

Notice to applicants of Public Voice session

5.13 Notice to all applicants advising of a Public Voice session will be provided as soon as possible after applications are received and assessed in accordance with clause 5.6.

5.14 Confirmation of the arrangements for the Public Voice session will be provided at least 7 days in advance of the scheduled meeting including an invitation to submit presentations or supporting materials in advance of the meeting.

6 Conduct of Public Voice sessions

6.1 Prior to a Public Voice session, Councillors are to be provided with an Agenda and Business Papers, including any reports outlining the key issues of each session. The Business Papers will be made available to the public on CN's website.

6.2 Sessions are 30 minutes in duration, subject to the discretion of the Chairperson and are conducted as a Committee of the Whole in accordance with CN's Code of Meeting Practice.

6.3 Each session is limited to (in the following speaking order):

- a) two speakers on behalf of objectors to the DA (10 minutes in total);
- b) two speakers on behalf of the DA applicant (10 minutes in total); and
- c) questions from Councillors (10 minutes in total).

6.4 Speakers are to confine their address to Council to the matters identified in their application.

6.5 The Chairperson may direct a speaker to cease their address if the speaker does not conduct themselves in accordance with this Policy or CN's Code of Meeting Practice.

6.6 All supporting material sought to be presented to Councillors must be provided to CN by close of business the day prior to the scheduled session. Speakers are not permitted to provide additional supporting material to Councillors immediately before, or during, a Public Voice session.

6.7 Sessions are webcast and open to the public. As such speakers should not:

- a) make personal reflections on any person; or
- b) make statements that may cause offence or be defamatory or insulting.

6.8 The minutes of the Public Voice session are a summary record of the session. The minutes are available to members of the public on CN's website after the Ordinary Council Meeting the following month.

6.9 Where the DA is to be determined by the Development Applications Committee, Councillors are provided with a report making a recommendation on determination of the DA, which will include a summary of the submissions made at a Public Voice session. The report will also be made available to the public in advance of the Council meeting.

7 Alternatives to a Public Voice session

- 7.1 As an alternative to applying for Public Voice, members of the public are encouraged to communicate or raise issues regarding a DA with CN by:
- a) submitting a Customer Service Request;
 - b) engaging with CN through DA assessment, public exhibitions, events and activities; or
 - c) writing to Councillors directly using the contact details available on the CN website.

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PUBLIC BRIEFINGS SESSIONS

8 What are Public Briefings sessions?

- 8.1 Public Briefings sessions provide an opportunity for members of the public to make short presentations relating to significant issues of a general, strategic or policy nature relevant to CN's functions, facilities or services.
- 8.2 Public Briefings sessions are not for DAs but can include matters relating to Planning Proposals.

9 Procedure for applying for Public Briefings session and assessment criteria

Frequency of sessions

- 9.1 One Public Briefings Committee Meeting per month (when scheduled) or in accordance with Council's adopted meeting cycle.

Lodging a Public Briefing application

- 9.2 Applications are to be submitted on the approved Public Voice/Public Briefings Application Form (available on CN's website) with all sections of the form being completed. Incomplete forms can not be processed.
- 9.3 Public Briefings may also be scheduled at the direction of the CEO or by resolution of Council.

Criteria for assessing Public Briefings applications

- 9.4 Public Briefings applications will be assessed against the following criteria:
- the application relates to an aspect of CN's functions, facilities or services;
 - the application does not relate to DAs;
 - the applicant has not presented on the issue to a Public Briefings session in the past two years or the application does not relate to the same subject matter of a Public Briefing application that has been refused by CN in the past two years, unless the CEO determines the matter has significantly changed or the Council request a Public Briefings session;
 - the application does not request a decision or commitment of Council (such an issue would need to go before a Council Meeting); and
 - the matter is not vexatious, defamatory, an abuse of process or outside the scope of CN.

Assessment of applications

- 9.5 The relevant Service Unit Manager/Director, in consultation with the CEO and Manager Legal & Governance, will assess and determine applications against the criteria in clause 9.4.
- 9.6 A list of decisions relating to the Public Briefings applications will be published quarterly on CN's website including the reasons any applications were declined.

Acknowledgement and notification to applicants

- 9.7 Public Briefings applications will be acknowledged within 5 business days of receipt.
- 9.8 Within 28 business days of receiving an application for a Public Briefings session, CN will advise the applicant:

- a) if the application is successful and associated details for the scheduled Public Briefings session; or
- b) if the application is unsuccessful with reasons (taking into account the criteria set out in clause 9.4).

10 Conduct of Public Briefings sessions

- 10.1 Prior to a Public Briefings session, Councillors are to be provided with an Agenda and Business Papers, including any reports outlining the key issues of each session. The Business Papers will be made available to the public on CN's website.
- 10.2 Sessions are 30 minutes in duration, subject to the discretion of the Chairperson and are conducted in accordance with CN's Code of Meeting Practice.
- 10.3 A maximum of two sessions will be scheduled for each Public Briefings Committee Meeting.
- 10.4 Each session is limited to:
 - a) speakers on an issue, which may include CN Staff (20 minutes in total); and
 - b) questions from Councillors (10 minutes in total).
- 10.5 Speakers are to confine their address to Council to the matters identified in their application.
- 10.6 The Chairperson may direct a speaker to cease their address if the speaker does not conduct themselves in accordance with this Policy or CN's Code of Meeting Practice.
- 10.7 Speakers should not attempt to provide additional supporting material to Councillors immediately before, or during, a Public Briefings session. Supporting material must be provided by close of business the day prior to the scheduled session.
- 10.8 Sessions are webcast and open to the public. As such speakers should not:
 - a) make personal reflections on any person; or
 - b) make statements that may cause offence or be defamatory or insulting.
- 10.9 The minutes of the Public Briefings session are a summary record of the session. The minutes are available to members of the public on CN's website after the Ordinary Council Meeting the following month.

11 Alternatives to a Public Briefings session

- 11.1 As an alternative to applying for a Public Briefings session, members of the public are encouraged to communicate or raise issues with CN by:
 - a) Submitting a Customer Service Request;
 - b) Engaging with CN through public exhibitions, events and activities; or
 - c) Writing to Councillors directly using the contact details available on the CN website.

ANNEXURE A - DEFINITIONS

Agenda has the same meaning as in CN's Code of Meeting Practice.

Application means a request submitted on the approved Public Voice/Public Briefings Application Form (available on CN's website).

Business Papers has the same meaning as in CN's Code of Meeting Practice.

CEO means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

Chairperson means the Lord Mayor, or Councillor, chairing the Public Voice Committee or Public Briefing Committee Meeting in accordance with CN's Code of Meeting Practice.

City of Newcastle (CN) means Newcastle City Council.

Council means the elected Council.

Development Application (DA) means a formal application for development that requires consent under the *Environmental Planning and Assessment Act 1979* (NSW).

Individual Written Objection means a written submission opposing a Development Application emanating from an individual household submitted during the DA public notification period. For clarity, more than written objection received from the same individual household will be counted collectively as one objection.

Planning Proposal means a document that explains the intended effect of a proposed Local Environmental Plan and sets out the justification for making that plan.

Public Voice session means a session to provide an opportunity for members of the public to make presentations to the Council on Development Applications (DAs) that are to be determined by CN's Development Applications Committee at a future meeting.

Public Briefings session means a session to provide an opportunity for members of the public to make short presentations relating to significant issues of a general, strategic or policy nature, relevant to CN's functions, facilities or services.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

ANNEXURE B - POLICY AUTHORISATIONS

In accordance with section 378 of the Local Government Act 1993, the Chief Executive Officer delegates the following functions to the positions listed:

Title of Authorisation	Description of Authorisation	Position Title and Number
Assess and determine Public Briefings applications	Authority to assess and determine, in consultation with the CEO and Manager Legal & Governance, applications for a Public Briefings session against the criteria of the Policy.	P60629 – Executive Director Corporate Services P60631 – Executive Director Creative & Community Services P60632 – Executive Director Planning & Environment P60630 – Executive Director City Infrastructure P40005 - Art Gallery Director P20107 – Chief Information Officer P60633 – Manager Assets & Facilities P20689 – Manager Civic Services P20679 - Manager Civil Construction & Maintenance P60638 - Manager Community & Recreation P30003 – Manager Customer Experience P60640 - Manager Environment & Sustainability P60636 - Manager Finance Property & Performance P60642 - Manager Legal & Governance P60639 - Manager Media Engagement Economy & Corporate Affairs P60635 – Manager People & Culture P60641 - Manager Planning, Transport & Regulation

		P60634 - Manager Project Management Office P60637 - Museum Director Archive Libraries & Learning
Assess and determine Public Voice applications	Authority to assess and determine, in consultation with the CEO, applications for a Public Voice session against the criteria of this Policy.	P60632 – Executive Director Planning & Environment P60641 - Manager Planning, Transport & Regulation

Approved by: _____

Jeremy Bath
Chief Executive Officer

Date:

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DOCUMENT CONTROL

Policy title	Public Voice and Public Briefings Policy
Policy owner	Manager Legal & Governance
Policy expert/writer	Manager Governance & Councillor Services
Associated Procedure Title	Nil
Procedure owner	Nil
Prepared by	Legal & Governance
Approved by	Council
Date approved	To be completed by Legal & Governance
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal & Governance
Next revision date	To be completed by Legal & Governance
Termination date	To be completed by Legal & Governance (one-year post revision date)
Version #	4
Category	Council
Keywords	Briefings, Council, Public Voice, Information, Session, Public
Details of previous versions	Version #3 - ECM 6108316
Legislative amendments	Nil
Relevant strategy	Nil
Relevant legislation/codes (reference specific sections)	Nil.
Other related documents	Code of Meeting Practice Codes of Conduct
Related forms	Public Voice/Public Briefings Application Form
Required on website	Yes
Authorisations	Refer to functions authorised under this Policy at Annexure B.

Public Voice and Public Briefings Policy

November 2022

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INTRODUCTION

1 Purpose

- 1.1 The purpose of this Policy is to provide a framework to allow members of the public to address the Council on issues relevant to City of Newcastle's (CN's) functions.
- 1.2 The Council does not make decisions at Public Voice or Public Briefings sessions. The sessions are an opportunity for discussion only.

2 Scope

2.1 This Policy applies to Public Voice and Public Briefings sessions.

2.2.2 In accordance with CN's Code of Meeting Practice, Public Voice and Public Briefings Committee Meetings are open to the public and all members of the public are welcome to attend or view online via webcast.

2.2.3 Public Voice sessions (refer Section 4) provide an opportunity for members of the public to make presentations to the Council on Development Applications (DAs) that are to be determined by CN's Development Applications Committee at a future meeting.

2.3.4 Public Briefings sessions (refer Section 5) provide an opportunity for members of the public to make presentations to the Council relating to significant issues of a general, strategic or policy nature relevant to CN's functions, facilities or services.

3 Principles

- 3.1 CN commits itself to the following:
 - a) **Accountability and transparency** – This Policy enables members of the public to bring before the Council issues of a general, strategic or policy nature relevant to CN's functions, facilities or services. This Policy ensures decisions are made in a way that is open and accountable.
 - b) **Alignment with Council strategies** - This Policy aligns with Council priorities outlined in CN's Newcastle 2040 Community Strategic Plan.
 - c) **Openness** – This Policy enables members of the public to communicate opinions or concerns directly to Councillors by way of an address to the Council in an open forum.

PUBLIC VOICE SESSIONS

4 What are Public Voice sessions?

- 4.1 Public Voice sessions provide an opportunity for members of the public to make presentations to the Council on (DAs that are to be determined by CN's Development Applications Committee at a future meeting.

5 Procedure for applying for Public Voice sessions and assessment criteria

Frequency of sessions

- 5.1 One Public Voice Committee Meeting per month (generally the third Tuesday of the month when scheduled) or in accordance with Council's adopted meeting cycle.
- 5.2 A maximum of four items will be scheduled for each Public Voice Committee Meeting.
- 5.3 Sessions are normally scheduled to occur at least one month prior to the DA being scheduled for determination by CN's Development Applications Committee.

Availability

- 5.4 Sessions will be offered where a matter is to be determined by the Development Applications Committee and either:
- 25 or more unresolved Individual Written Objections were received during the DA notification period; or
 - Two or more Councillors call the matter to the Development Applications Committee.

Invitation to submit application

- 5.5 When a session is to be offered in accordance with clause 5.4, an invitation to submit an application to address a Public Voice session will be made to any person who submitted an Individual Written Objection. Any application received prior to the invitation being issued will not be considered.

Assessment of applications

- 5.6 Applications will be registered in the order they are received.
- 5.7 The first two applicants will be invited to address the Public Voice session.
- 5.8 If no applications are received by the deadline provided in the invitation, the Public Voice session will not proceed.
- 5.9 [If more than two applications are received, CN staff may request all applicants to nominate from among themselves the two parties who are to address the Public Voice session on the item. If the applicants are not able to agree on whom to nominate, the first two applicants will be invited to address the Public Voice session.](#)
- 5.10 The final decision to accept or decline a Public Voice application rests with the Manager, Planning, Transport & Regulation in consultation with the CEO and Executive Director Planning & Environment.
- 5.85.11 [A list of decisions relating to Public Voice applications will be published quarterly on CN's website including the reason any applications were declined.](#)

Invitation to DA applicant

5.95.12 Once it is confirmed that a Public Voice session will proceed, the DA applicant will also be invited to address Council.

Notice to applicants of Public Voice session

5.105.13 Notice to all applicants advising of a Public Voice session will be provided as soon as possible after applications are received and assessed in accordance with clause 5.6.

5.115.14 Confirmation of the arrangements for the Public Voice session will be provided at least 7 days in advance of the scheduled meeting including an invitation to submit presentations or supporting materials in advance of the meeting.

6 Conduct of Public Voice sessions

- 6.1 Prior to a Public Voice session, Councillors are to be provided with an Agenda and Business Papers, including any reports outlining the key issues of each session. The Business Papers will be made available to the public on CN's website.
- 6.2 Sessions are 30 minutes in duration, subject to the discretion of the Chairperson and are conducted as a Committee of the Whole in accordance with CN's Code of Meeting Practice.
- 6.3 Each session is limited to (in the following speaking order):
 - a) two speakers on behalf of objectors to the DA (10 minutes in total);
 - b) two speakers on behalf of the DA applicant (10 minutes in total); and
 - c) questions from Councillors (10 minutes in total).
- 6.4 Speakers are to confine their address to Council to the matters identified in their application.
- 6.5 The Chairperson may direct a speaker to cease their address if the speaker does not conduct themselves in accordance with this Policy or CN's Code of Meeting Practice.
- 6.6 All supporting material sought to be presented to Councillors must be provided to CN by close of business the day prior to the scheduled session. Speakers are not permitted to provide additional supporting material to Councillors immediately before, or during, a Public Voice session.
- 6.7 Sessions are webcast and open to the public. As such speakers should not:
 - a) make personal reflections on any person; or
 - b) make statements that may cause offence or be defamatory or insulting.
- 6.8 The minutes of the Public Voice session are a summary record of the session. The minutes are available to members of the public on CN's website after the Ordinary Council Meeting the following month.
- 6.9 Where the DA is to be determined by the Development Applications Committee, Councillors are provided with a report making a recommendation on determination of the DA, which will include a summary of the submissions made at a Public Voice session. The report will also be made available to the public in advance of the Council meeting.

7 Alternatives to a Public Voice session

- 7.1 As an alternative to applying for Public Voice, members of the public are encouraged to communicate or raise issues regarding a DA with CN by:
 - a) submitting a Customer Service Request;

-
- b) engaging with CN through DA assessment, public exhibitions, events and activities; or
 - c) writing to Councillors directly using the contact details available on the CN website.

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PUBLIC BRIEFINGS SESSIONS

8 What are Public Briefings sessions?

- 8.1 Public Briefings sessions provide an opportunity for members of the public to make short presentations relating to significant issues of a general, strategic or policy nature relevant to CN's functions, facilities or services.
- 8.2 Public Briefings sessions are not for DAs but can include matters relating to Planning Proposals.

9 Procedure for applying for Public Briefings session and assessment criteria

Frequency of sessions

- 9.1 One Public Briefings Committee Meeting per month (when scheduled) or in accordance with Council's adopted meeting cycle.

Lodging a Public Briefing application

- 9.2 Applications are to be submitted on the approved Public Voice/Public Briefings Application Form (available on CN's website) with all sections of the form being completed. Incomplete forms can not be processed.
- 9.3 Public Briefings may also be scheduled at the direction of the CEO or by resolution of Council.

Criteria for assessing Public Briefings applications

- 9.4 Public Briefings applications will be assessed against the following criteria:
- the application relates to an aspect of CN's functions, facilities or services;
 - the application does not relate to DAs;
 - the applicant has not presented on the issue to a Public Briefings session in the past two years or the application does not relate to the same subject matter of a Public Briefing application that has been refused by CN in the past two years, unless the CEO determines the matter has significantly changed or the Council request a Public Briefings session;
 - the application does not request a decision or commitment of Council (such an issue would need to go before a Council Meeting); and
 - the matter is not vexatious, defamatory, an abuse of process or outside the scope of CN.

Assessment of applications

9.5 The relevant Service Unit Manager/Director, in consultation with the CEO and Manager Legal & Governance, will assess and determine applications against the criteria in clause 9.4.

9.6 [A list of decisions relating to the Public Briefings applications will be published quarterly on CN's website including the reasons any applications were declined.](#)

Acknowledgement and notification to applicants

9.59.7 Public Briefings applications will be acknowledged within 5 business days of receipt.

9.69.8 Within 28 business days of receiving an application for a Public Briefings session, CN will advise the applicant:

- a) if the application is successful and associated details for the scheduled Public Briefings session; or
- b) if the application is unsuccessful with reasons (taking into account the criteria set out in clause 9.4).

10 Conduct of Public Briefings sessions

- 10.1 Prior to a Public Briefings session, Councillors are to be provided with an Agenda and Business Papers, including any reports outlining the key issues of each session. The Business Papers will be made available to the public on CN's website.
- 10.2 Sessions are 30 minutes in duration, subject to the discretion of the Chairperson and are conducted in accordance with CN's Code of Meeting Practice.
- 10.3 A maximum of two sessions will be scheduled for each Public Briefings Committee Meeting.
- 10.4 Each session is limited to:
 - a) speakers on an issue, which may include CN Staff (20 minutes in total); and
 - b) questions from Councillors (10 minutes in total).
- 10.5 Speakers are to confine their address to Council to the matters identified in their application.
- 10.6 The Chairperson may direct a speaker to cease their address if the speaker does not conduct themselves in accordance with this Policy or CN's Code of Meeting Practice.
- 10.7 Speakers should not attempt to provide additional supporting material to Councillors immediately before, or during, a Public Briefings session. Supporting material must be provided by close of business the day prior to the scheduled session.
- 10.8 Sessions are webcast and open to the public. As such speakers should not:
 - a) make personal reflections on any person; or
 - b) make statements that may cause offence or be defamatory or insulting.
- 10.9 The minutes of the Public Briefings session are a summary record of the session. The minutes are available to members of the public on CN's website after the Ordinary Council Meeting the following month.

11 Alternatives to a Public Briefings session

- 11.1 As an alternative to applying for a Public Briefings session, members of the public are encouraged to communicate or raise issues with CN by:
 - a) Submitting a Customer Service Request;
 - b) Engaging with CN through public exhibitions, events and activities; or
 - c) Writing to Councillors directly using the contact details available on the CN website.

ANNEXURE A - DEFINITIONS

Agenda has the same meaning as in CN's Code of Meeting Practice.

Application means a request submitted on the approved Public Voice/Public Briefings Application Form (available on CN's website).

Business Papers has the same meaning as in CN's Code of Meeting Practice.

CEO means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

Chairperson means the Lord Mayor, or Councillor, chairing the Public Voice Committee or Public Briefing Committee Meeting in accordance with CN's Code of Meeting Practice.

City of Newcastle (CN) means Newcastle City Council.

Council means the elected Council.

Development Application (DA) means a formal application for development that requires consent under the *Environmental Planning and Assessment Act 1979* (NSW).

Individual Written Objection means a written submission opposing a Development Application emanating from an individual household submitted during the DA public notification period. For clarity, more than written objection received from the same individual household will be counted collectively as one objection.

Planning Proposal means a document that explains the intended effect of a proposed Local Environmental Plan and sets out the justification for making that plan.

Public Voice session means a session to provide an opportunity for members of the public to make presentations to the Council on Development Applications (DAs) that are to be determined by CN's Development Applications Committee at a future meeting.

Public Briefings session means a session to provide an opportunity for members of the public to make short presentations relating to significant issues of a general, strategic or policy nature, relevant to CN's functions, facilities or services.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

ANNEXURE B - POLICY AUTHORISATIONS

In accordance with section 378 of the Local Government Act 1993, the Chief Executive Officer delegates the following functions to the positions listed:

Title of Authorisation	Description of Authorisation	Position Title and Number
Assess and determine Public Briefings applications	Authority to assess and determine, in consultation with the CEO and Manager Legal & Governance, applications for a Public Briefings session against the criteria of the Policy.	P60629 – Executive Director Corporate Services P60631 – Executive Director Creative & Community Services P60632 – Executive Director Planning & Environment P60630 – Executive Director City Infrastructure P40005 - Art Gallery Director P20107 – Chief Information Officer P60633 – Manager Assets & Facilities P20689 – Manager Civic Services P20679 - Manager Civil Construction & Maintenance P60638 - Manager Community & Recreation P30003 – Manager Customer Experience P60640 - Manager Environment & Sustainability P60636 - Manager Finance Property & Performance P60642 - Manager Legal & Governance P60639 - Manager Media Engagement Economy & Corporate Affairs P60635 – Manager People & Culture P60641 - Manager Planning, Transport & Regulation

		<p>P60634 - Manager Project Management Office</p> <p>P60637 - Museum Director Archive Libraries & Learning</p>
<p>Assess and determine Public Voice applications</p>	<p>Authority to assess and determine, in consultation with the CEO, applications for a Public Voice session against the criteria of this Policy.</p>	<p>P60632 – Executive Director Planning & Environment</p> <p>P60641 - Manager Planning, Transport & Regulation</p>

Approved by: _____

Jeremy Bath
Chief Executive Officer

Date:

DRAFT

DOCUMENT CONTROL

Policy title	Public Voice and Public Briefings Policy
Policy owner	Manager Legal & Governance
Policy expert/writer	Manager Governance & Councillor Services
Associated Procedure Title	Nil
Procedure owner	Nil
Prepared by	Legal & Governance
Approved by	Council
Date approved	To be completed by Legal & Governance
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal & Governance
Next revision date	To be completed by Legal & Governance
Termination date	To be completed by Legal & Governance (one-year post revision date)
Version #	4
Category	Council
Keywords	Briefings, Council, Public Voice, Information, Session, Public
Details of previous versions	Version #3 - ECM 6108316
Legislative amendments	Nil
Relevant strategy	Nil
Relevant legislation/codes (reference specific sections)	Nil.
Other related documents	Code of Meeting Practice Codes of Conduct
Related forms	Public Voice/Public Briefings Application Form
Required on website	Yes
Authorisations	Refer to functions authorised under this Policy at Annexure B.

Attachment A: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy


Number	Submission	CN comment
1	<p>I am really concerned about the proposed changes to the Public Voice Policy and in particular the addition of 5.9 giving final say on an application for Public Voice to the Manager RR&A, CEO, Director Governance and CFO. This is not in the best interests of the community and is contrary to the “Principles of the Policy” in terms of community participation, transparency, and accountability. This is not in the current policy.</p>	<p>There has been no substantive change to the assessment and approval process with amendments to reflect position /structure changes only.</p> <p>Under the current policy, all applications are assessed and approved by the CEO in consultation with the Manager Legal & Governance, and the relevant Director and Service Unit Manager. Under the proposed policy, Public Voice sessions are assessed and approved by the CEO in consultation with the Executive Director Planning & Environment, and Manager Planning, Transport & Regulation. The assessment and approval process for Public Briefings sessions remains unchanged.</p> <p>For transparency on assessment and approval outcomes, a summary of Public Voice and Public Briefings matters is currently published on CN's website. In response to the submission, new clauses are proposed at 5.11 and 9.6 to incorporate this existing practice providing for the publication of the decisions made by staff under the Public Voice and Public Briefing Policy.</p>
2	<p>The addition of clause 5.9 is concerning as it removes the democratic process of allowing members of the public to have their say on planning applications without a final decision by the manager and others as to whether it can go ahead, and so it should be removed.</p>	<p>Refer to comments in response to submission 1.</p>
3	<p>I consider the removal of the ability of 2 councillors to call a public briefing session for general matters is a removal of the average citizens rights to bring matters to attention. By making the public apply for a public voice is making the situation more difficult to achieve and is only adding road blocks. This should not be the case for getting matters discussed at a public voice session.</p>	<p>The focus of the Public Voice and Public Briefings Policy is to provide members of the public with the opportunity to make a request to address the elected Council.</p> <p>There current and previous versions of the policy have not provided for two Councillors to call a Public Voice session on general matters.</p>

Attachment A: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy

Number	Submission	CN comment
		<p>Clause 6.2.2 of the current Policy provides for Public Voice (DA) sessions to be offered where two Councillors call in a DA matter to the Development Applications Committee. There is no proposed change to this provision (refer to cl. 5.4(b) of the proposed policy).</p> <p>Under CN's existing practice, anyone who has submitted a written objection to a DA which is to be determined by the Development Applications Committee, is invited to indicate, through the application process, if they would like to address Council via a Public Voice session. In practice it is not common to receive more than two applications. However, where this has occurred, CN staff facilitate opportunities for the parties to communicate and determine appropriate presenters to ensure that all issues can be best canvassed.</p> <p>In response to the submission and in order to formally incorporate this practice into the proposed policy, a new cl. 5.9 is has been included.</p> <p>Members of the public who wish to address the elected Council on non-DA related matters continue to apply under the same process which has existed for many years.</p>
4	<p>It will be a very sad day if the opportunity for the Citizens of Newcastle will not be able to address members of the Council to voice any grievances they may have towards the Administration. Most grievances would probably be around DAs.</p> <p>The members of the Administration as listed in clause 5.9 are I'm sure of impeccable honesty and integrity and serve the Council to the best of their ability but the public would still like to have a say in their rights when contentious matters occur. This opportunity lies in Public Voice.</p>	<p>Refer to comments in response to submission 1.</p>

Attachment A: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy

Number	Submission	CN comment
	<p>For this right to be withdrawn leaves a feeling that the populace are being dictated too and the abolition of choice is removed. Certainly not a good look. Please do not add clause 5.9 relating to Public Voice.</p>	
5	<p>Attachment: Assessment of applications 5.7 The first two applicants will be invited to address the Public Voice session.</p> <p>Comment and changes to be considered: In line with the draft policy's Principles of Accountability and Transparency, anyone who will or may be affected by the decision, or anyone who has an interest in the decision should be given an opportunity to be heard by all councillors and that those most impacted by the decision should be encouraged to express their views to council. The Accountability and Transparency Principle states that it's purpose is enabling members of the public to bring before the Council issues of a general, strategic or policy nature relevant to CN's functions, facilities or services. This Policy ensures decisions are made in a way that is open and accountable. By only allowing the first two applicants permission to address the DA committee it is not delivering on the CN's principle of accountability and transparency rather it's effect will be to curtail the opportunity for public participation in the CN's decision-making process.</p> <p>5.9 The final decision to accept or decline a Public Voice application rests with the Manager, Regulatory, Planning and Assessment in consultation with the CEO and Director Governance and Chief Financial Officer.</p> <p>Comment and changes to be considered: The final decision to accept or decline a Public Voice application should not be determined by council officers. This decision should lie with the city councillors—the city's democratically elected representatives—in line with the public voice policy, which states</p>	Refer to comments in response to submissions 1 and 3.

Attachment A: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy

Number	Submission	CN comment
	<p>that the process allows "members of the public to address the Council on issues relevant to the City of Newcastle's (CN's) functions. Council officers are there to advise the elected councillors NOT to usurp their power as community representatives by assuming their decision-making responsibilities.</p>	
6	<p>Email: This submission replaces the version previously submitted by our group on 29 August. We apologise for the confusion. NewWest Community Group represents the residents of the suburb of Newcastle West. We value the Public Voice process and appreciate that CN's policies offer more than the legislation and regulations require.</p> <p>It is pleasing to see the addition of the last sentence in Clause 3.1(a) Principles – "This Policy ensures decisions are made in a way that is open and accountable." It is good to see the principles of openness and accountability mindfully considered and articulated in policy. Residents and resident networks consider these principles critical and they are regularly raised in discussions.</p> <p>There is one proposed change to the policy that we would like to see reversed.</p> <p>Under the current Public Voice and Briefing (August 2019) policy there was the capacity for "two or more Councillors" to call a matter to a Session, including matters of "a general, strategic or policy nature relevant to CN's functions, facilities or services". Whereas this still applies for Public Voice Sessions (DA related issues), it has not been included for Public Briefings and we believe it is important that it be reinstated. Over the last two years we have attended a number of Public Briefings that we thought were critical for the residents of our suburb (for example, McDonalds and National Park).</p> <p>We appreciate the open lines of communication with our elected representatives, the Ward 1 Councillors, and especially their genuine interests in matters that concern our members. We believe it is imperative that our elected representatives are empowered to act on the petitions of residents and policy and procedures should be structured accordingly.</p>	<p>Refer to comments in response to submissions 1 and 3.</p> <p>Councillors are able to request a Public Briefings session through the CEO or by resolution of Council. The focus of the policy is to make provisions for members of the public to also request a Public Briefings session.</p>

Attachment A: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy

Number	Submission	CN comment
	<p>Attachment: NewWest Community Group represent the residents of the suburb of Newcastle West. We value the public voice process and are disturbed to see the addition of Clause 5.9, in relation to the assessment of applications from community members. which is not included in the current policy.</p> <p><i>“5.9 The final decision to accept or decline a Public Voice application rests with the Manager, Regulatory, Planning and Assessment in consultation with the CEO and Director Governance and Chief Financial Officer.”</i></p> <p>We also notice that the current policy provides for a Public Voice:</p> <ol style="list-style-type: none"> 1. <i>To be offered when twenty-five or more individual written objections to a DA are received.</i> 2. <i>When two or more Councillors call the matter to a Public Voice session.</i> <p>It seems that these provisions have been removed, which we believe is contrary to the principles of accountability, openness and especially community participation.</p> <p>We note the current Principles of the Policy:</p> <p><i>“3.1 City of Newcastle (CN) commits itself to the following: 3.1.1 Accountability and transparency - The Policy enables members of the public to bring before the Council issues of a general, strategic or policy nature relevant to CN’s functions, facilities or services 3.1.2 Alignment with Council strategies - The Policy aligns with Council priorities outlined in the Open and Transparent Governance Strategy. 3.1.3 Openness – The Policy enables members of the public to communicate opinions or concerns directly to Councillors by way of an address to the Council in open session.”</i></p> <p>These are excellent principles, and we would like to see any policy revisions strengthen those principles rather than water them down. We appreciate our open lines of communication with all of our Ward 1 Councillors, especially their genuine interests in matters that</p>	

Attachment A: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy

Number	Submission	CN comment
	<p>concern our members. We believe it is imperative that our elected representatives are empowered to act on the petitions of residents. We believe it is imperative that current clause 6.2 <i>Availability</i> be retained.</p>	
7	<p>The current policy needs to be changed to make it more responsive to community input, not less.</p> <p>Email: We object to the addition of the following in relation to “Assessment of applications“ for Public Voice: “5.9 The final decision to accept or decline a Public Voice application rests with the Manager, Regulatory, Planning and Assessment in consultation with the CEO and Director Governance and Chief Financial Officer.” There is no justification for the addition of the clause which is not in the best interest of an open, equitable process for community participation at Public Voice. SEE ATTACHED.</p> <p>Attachment: Cooks Hill Community Group strongly objects to the proposed addition of the following clause in relation to “<i>Assessment of applications</i>“ for Public Voice: “5.9 <i>The final decision to accept or decline a Public Voice application rests with the Manager, Regulatory, Planning and Assessment in consultation with the CEO and Director Governance and Chief Financial Officer.</i>” Given the procedure for applying for a Public Voice session and the assessment criteria for acceptance are clearly defined in the policy why is this overriding caveat being proposed? Cooks Hill Community Group has had the opportunity to present to Council at Public Voice on a number of occasions and found both the current application process and the sessions themselves to very fair and equitable. There looks to be no justification for the addition of the above clause which is contrary to the stated Principles of the Policy*. It is not in the best interest of an open, equitable process for community</p>	Refer to comments in response to submissions 1 and 3.

Attachment A: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy

Number	Submission	CN comment
	<p>participation at Public Voice and we respectfully request that it be deleted from the proposed policy.</p> <p>Requested Changes</p> <p>1. DELETION of "5.9 <i>The final decision to accept or decline a Public Voice application rests with the Manager, Regulatory, Planning and Assessment in consultation with the CEO and Director Governance and Chief Financial Officer.</i>"</p> <p>2. The previous process where all PV applicants (where more than 2) were given contact details and allowed to decide who was best to present to Council was a better process than "first two applications received". It allowed for the community to ensure Councillors received the best possible information at Public Voice with no repetition. A mechanism that would facilitate this through sharing of contact details among PV applicants (if individual permission given) should be included in the policy.</p> <p><i>*3 Principles</i></p> <p><i>3.1 CN commits itself to the following:</i></p> <p><i>a) Accountability and transparency – This Policy enables members of the public to bring before the Council issues of a general, strategic or policy nature relevant to CN's functions, facilities or services. This Policy ensures decisions are made in a way that is open and accountable.</i></p> <p><i>b) Alignment with Council strategies - This Policy aligns with Council priorities outlined in CN's Newcastle 2040 Community Strategic Plan.</i></p> <p><i>c) Openness – This Policy enables members of the public to communicate opinions or concerns directly to Councillors by way of an address to the Council in an open forum.</i></p>	
8	<p>HCF welcomes the opportunity to contribute to the discussion about Public Voice and Public Briefings.</p> <p>The new policy should provide the public with expanded opportunities to have their voices heard as befits a local and</p>	<p><u>Address on Council business papers</u></p> <p>It is noted that other councils have a different structure for their public address sessions as is suitable to their council and meeting structure.</p>

Attachment A: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy

Number	Submission	CN comment
	<p>democratic sphere of government. We are very concerned that the opposite appears to be the case here.</p> <p>Limitations of current (2019) policy</p> <p>1. Unlike ALL other councils in NSW, the Newcastle public have no opportunity to address items on Council's business paper. The new draft policy does nothing to correct this anomaly. [The example sometimes given of the City of Sydney's practice of not having the public address formal Council meetings is misleading because the public has access to all the decision-making committees of the City of Sydney Council].</p> <p>2. The restrictive nature of the policy's scope does not accord with principles 3.1(a) and 3.1 (c).</p> <p>We refer first to 3.1 (c) Openness – This Policy enables members of the public to communicate opinions or concerns directly to Councillors by way of an address to the Council in an open forum. We point out the following:</p> <ul style="list-style-type: none"> o There is no recognised right for the community to address issues of concern that might fall outside the specified criteria, as interpreted by the CEO or his delegate. o There are things that the public may wish to discuss that broaden the definition of what is council's business. This policy constrains the public's ability to introduce issues they want Council to take up on behalf of the community or to advocate on their behalf. These might include issues such as: <ul style="list-style-type: none"> ▪ Newcastle as a Nuclear free zone ▪ Social and affordable housing ▪ Public transport o The discretionary power that the CEO holds to approve or deny a voice to a community member or group shifts council decision-making from the elected Council to the administration. This gives undue power to the administration and denies the public its democratic right to due process. 	<p>CN's Public Voice and Public Briefings Policy has existed for many years at CN and is demonstrated to be an efficient and effective means of providing members of the public with the opportunity to address Councillors. Public Voice and Public Briefings sessions provide members of the public with a 30 minute session at least a week prior to a Council meeting and the sessions include the opportunity for members of the public to engage in a two way conversation with Councillors during an allocated question time. Holding the sessions in advance of the meeting allows Councillors time to consider the information presented and ask and clarify any follow up questions.</p> <p>Further the process allows for discussion on strategic matters well in advance of the items being listed on the agenda. For example, our current provisions allow for consideration of significant matters e.g. Erection of Basketball Courts on Newcastle Park. If discussion were limited to items on the agenda, this would not have been able to be accommodated and would not have allowed Councillors and opportunity to hear relevant matters well before being asked to make any related decision.</p> <p><u>Scope of sessions</u> The proposed Policy is broad in scope of provides for members of the public to address Councillors on any aspect of CN's functions, facilities or services.</p> <p><u>Assessment and approval</u> Refer to comments in response to submissions 1 and 3.</p> <p><u>Public attendance</u> Council meetings are open to the public this includes Public Voice and Public Briefings sessions which are formal meetings of Council. The Local Government Act provides limited</p>

Attachment A: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy

Number	Submission	CN comment
	<p>3. Secondly, we address 3.1 (a) Accountability and transparency – This Policy enables members of the public to bring before the Council issues of a general, strategic or policy nature relevant to CN's functions, facilities, or services. This Policy ensures decisions are made in a way that is open and accountable.</p> <p>While the policy purports to address accountability and transparency, in fact both accountability and transparency are severely restricted when</p> <ul style="list-style-type: none"> o The public are not made aware of secret contracts that are entered into by Council o the public are not aware of what is on the Council's business paper until it's too late. o Developers and other private interests have an unequal opportunity to engage with council administration without having to go through the procedures the procedures described in this policy. <p>4. Community presenters at Public Voice and “Public Briefing”. (7.10 and 11.7 in the 2019 version, 6.6 and 10.7 in the draft policy) are prohibited from providing additional supporting material to councillors immediately before or during a public voice or briefing session. This appears to be a deliberate manoeuvre to censor the public and deny the right of councillors to hear what may well be important and relevant new material.</p> <p>5. Councillors receive an agenda and business papers, including any reports outlining the key issues in each session in connection with the pv or briefing session in advance of the meeting. It is unclear whether councillors will be provided with all the material submitted by applicants and presenters prior to the session. If the material which councillors are provided is censored by the administration, councillors will be receiving an incomplete picture of the issues at stake which may bias their decisions.</p> <p>The 2022 Draft Policy The new policy represents a further step in the existing shift of decision-making away from the elected council to the administration.</p>	<p>circumstances under which a Council meeting can be closed to the public.</p> <p>A new additional cl. 2.2 has been proposed to clarify that Public Voice and Public Briefings sessions are open to the public and that members of the public.</p> <p><u>Supporting material</u> The current and proposed Policy provides for supporting material to be submitted the day before the session. This is so the supporting material can be distributed to Councillors as well as shared on the AV screens in the Council Chamber for the benefit of members of the public in attendance.</p> <p><u>Alternate forums</u> The focus on both Public Voice and Public Briefings is to allow Councillors to receive information. It is open to Councillors to request that a matter be referred to an Advisory Committee, or another forum, if Councillors wish matter to be considered further.</p> <p><u>Councillors calling in matters</u> The Public Voce (DA) sessions provides that a Public Voice session will be offered where a matter is to be determined by the Development Applications Committee. Therefore where two Councillors call in a DA, a Public Voice session will be offered.</p> <p>The focus of the Public Voice and Public Briefings Policy is to provide members of the public with the opportunity to make a request to address the elected Council.</p> <p>The current and previous versions of Policy have not provided for Councillors to call a Public Voice session on general matters.</p>

Attachment A: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy

Number	Submission	CN comment
	<p>As such it represents yet another diminution of the public's democratic right to be heard.</p> <p>1. Public Voice – less fair, no criteria, no public right of appeal The previous (2019) policy under 5.4 Assessment of Applications read The relevant service unit manager/director in consultation with the CEO and manager legal, will assess and determine applications against the criteria set out in clause 5.3 (Criteria for assessing applications). The new draft (2022) policy 5.9 Assessment of Applications reads The final decision to accept or decline a Public Voice Application rests with the Manager, Regulatory, Planning and Assessment in consultation with the CEO and Director Governance and Chief Financial Officer. It appears that there are no longer any criteria for assessing applications for Public Voice. While we believe that the current (2019) assessment criteria are generally expressed in the negative and are basically undemocratic and patronising, the new draft passes up the opportunity to create democratic and clear criteria. In fact, the final decision to accept to accept or decline a public voice application rests solely with the administration relying on no fair and clearly stated criteria. Furthermore, there remains no right of appeal for any member of the public whose application has been denied.</p> <p>2. Where is the democratic right to a Public Briefing? The draft policy does not take up the opportunity to make the initiation of a public briefing session more democratic. It should be possible for any 2 councillors to initiate a public briefing on behalf of community members just as it is the case for “calling in” DAs for Public Voice. It should not require the onerous and time-consuming process of a council resolution.</p> <p>3. Where is the right of the public to ask questions in public briefings? HCF believes that mechanisms should be developed whereby members of the public are enabled to ask questions during public briefings≥</p>	<p><u>Questions during Public Voice and Public Briefings sessions</u> Public Voice and Public Briefings sessions provide the opportunity for questions from Councillors to presenters. As Councillors are the decision makers on matters, this provides the opportunity for Councillors to clarify information. The structure of Public Voice and Public Briefings sessions being a committee meeting, provides for a more informal session with a number of question and answers.</p> <p><u>Staff presentations</u> Existing practice is for staff to provide a presentation and information where considered appropriate.</p> <p>No changes proposed.</p>

Attachment A: Summary of Submissions – Public Exhibition of Public Voice and Public Briefings Policy

Number	Submission	CN comment
	<p>4. Conduct of Public Briefing Sessions should not include CN staff The draft Public Briefing Policy now includes a provision that did not exist in the previous 2019 policy, for council staff to be included among the speakers within the 20 minutes allocated for speakers [10.4 (a)]. Surely council staff can clarify matters to councillors at any time and should not usurp the limited time available to members of the public to make their case? This inclusion of council staff in public briefings is a retrograde rather than a progressive step.</p>	

Note: In addition, two submissions were received that did not address the content of the Policy and have not been included or commented on.