

28 Jun 2021

Interim Administrator  
Wingecarribee Shire Council  
PO Box 141  
Moss Vale NSW 2577

Dear Mr May,

**Tourism and Economic Development Branch Expenditure Review**

In accordance with a brief from the Acting General Manager dated 17 May 2021, we have been requested to undertake a review of the Tourism and Economic Development Branch expenditure incurred over the past three years to assess compliance with Council's Procurement Policy and Guidelines.

As there are commercial-in-confidence arrangements in place in relation to suppliers, we have submitted a more detailed report on our findings and relevant transactions to the General Manager.

Our review has been conducted with the assistance of the Council's Finance Team. We would like to thank the Acting DGM and Acting CFO and their team for their valuable assistance in providing the necessary information and documentation during the course of the review and responding to queries in a timely manner.

Our findings and recommendations arising from our review are attached pages 2 to 8.

We would be happy to respond to any questions in relation to this review.

Yours faithfully

Robert Finch  
*Finch Consulting*

As requested by the Acting General Manager we have undertaken a review of the Tourism and Economic Development Branch expenditure incurred over the past three (3) years to assess compliance with Council's Procurement Policy and Guidelines. Our review also considered the volume and justification of direct engagements approved by Senior Management.

### **BACKGROUND**

Effective procurement is important in ensuring councils achieve their objectives, demonstrate value for money and deliver benefits to the community when purchasing goods and services.

The Economic Development and Tourism department of Council operates as a business unit of Council (the Unit) under the name Destination Southern Highlands. The Unit has separate websites for business and tourism.

Tourism has been identified as a key industry for the Shire's economy in the draft Southern Highlands Destination Plan 2020-2030, which includes strategies to continue positioning the Shire as a world class tourist destination.

Council's financial records disclose that for the year ended 30 June 2020 the business unit incurred expenditure of \$1.9m (\$1.85m 2019). This expenditure was partly offset by \$.89m (\$.84m 2019) in income from grants and business revenue, resulting in a net cost to Council of \$1m (\$1m 2019). The net cost to Council for the current financial year up until 31 May 2021 is recorded as \$.96M.

### **Procurement Processes**

Council's procurement activities are governed by the Procurement Policy adopted 23 May 2018 and the GM Practice Note: Procurement Guidelines issued on 28 Jul 2020. Prior to the guidelines issued on 28 Jul, Council operated under the GM Practice Note of March 2018.

The current and previous Guidelines provide that Council Officers carrying out procurement activities on behalf of Council must:

- Comply with all applicable legislation, Council policies, guidelines and procedures;
- Carry out their procurement activities in accordance with Council's Code of Conduct and Code of Conduct Procedure;
- Not engage in procurement practices that are anti-competitive or engage in any form of collusive practice;
- Not engage in procurement practices that aim to give a potential Contractor an advantage over another Contractor;
- Not engage in intentional order splitting to avoid the appropriate process or delegation.

The Guidelines have established purchasing limits as follows:

Purchase Limit	Minimum Method	Minimum Process	Minimum Engagement	Procurement Initiation Plan
\$3,000 - \$20,000	Quotation	2 Written Quotes	Selective	Recommended
\$20,001 - \$50,000	Quotation	3 Written Quotes	Selective	Recommended
\$50,000 - \$250,000	Quotation	3 Written Quotes	Selective or Public	Mandatory
\$250,000 & Above	Tender	Tender	Public	Mandatory

Where a Procurement Initiation Plan (PIP) is recommended or mandated it is a requirement that the plan contain information such as the method of procurement and advertising, approved budget, proposed timeframes, evaluation criteria and weightings, evaluation panel and procurement risk assessment.

The guidelines also require that estimated value of a procurement activity needs to be calculated by taking into account the potential whole value costs over the life of the contract and identified as part of the PIP.

There is exemption from the guidelines for Direct Engagement which relates to exclusive dealings with a counterparty without first undergoing a competitive process. The exemption applies when:

- There is only one or limited known suppliers or contractors to be able to provide the goods or services;
- The goods or services Council requires are of a specialist nature;
- Council is required to engage a preselected contractor to maintain product or service standardisation;
- Council is required to engage a preselected contractor to maintain warranty on an existing item or service;
- Council intends to engage a person or a body under an approved social procurement arrangement;
- Other direct engagement requirements.

Where Direct Engagement is employed, there is a requirement, for expenditure under \$250,000, to complete a direct engagement approval form and obtain DGM approval. Council is also required to maintain a contracts register for contracts over \$150,000.

Council also imposes delegated procurement approval limits on Managers. In the case of the Unit, the Group Managers authorisation limit is up to \$90,909 (May 2021).

## FINDINGS

We have identified that over the last three years, the Unit has contracted five separate suppliers for the provision of the following services on what appears to be a “direct engagement” basis:

- Website development and management.
- Social media development and management.
- Direct media promotion and advertising.
- Promotion and advertising via an agent.
- Employment Initiative
- Marketing Plan Development
- Event Promotion

We understand that the Unit argues that some of its procurement activities satisfy the exemption for direct engagement as there are limited suppliers in the market or that the project interfaces with an existing system such as a web site.

In considering this argument, Council should be mindful of the whole-of-life costs associated with the developing and maintaining systems and whether there are alternative providers for the total package. Where direct engagement is unavoidable, there needs to be clear documentation, reporting and appropriate authorisation.

Our review involved reviewing Unit expenditure categories in the general ledger and testing high value items through the accounts payable system as well as reviewing associated procurement documentation for transactions that appeared to be undertaken on a direct engagement basis

As a result of this process, we noted non-compliance with Procurement Guidelines in the following cases.

### ***Supplier A***

Supplier A has been providing services to the Unit since 2006. The services include web site development, maintenance and hosting, graphic design and placement of digital and press advertising. Over \$1.9m has been expended with this supplier over this period. (A minor component of this expenditure related to the Library website). For the three year period of the review expenditure with this supplier totalled \$357,000.

Given the extent, length and cost of services provided by this supplier we would expect to observe some form of competitive contract or tender process which requires monitoring of supplier performance and ensures value for money. We have been unable to sight any documentation in this regard.

In reviewing the invoices submitted by Supplier A, we noted that Council's Accounts Payable or Document Management systems did not record any second or third quotes as required by the Guidelines. We also noted that the services provided did not appear to qualify for exemption under the direct engagement rules as there are similar providers in the market.

As a result of our testing, we identified the following transactions that we believe did not satisfy the requirements of the Guidelines:

**1. Project 1**

The services provided by Supplier A for this project included media site changes, photoshoots, digital and press advertising, video and TV production.

These services for this campaign were charged via fifteen separate invoices totalling \$159,346. Most invoices were dated in batches with common dates and were matched with identical separate quotes for each invoice. We further noted that the individual quotations had common dates for the same campaign.

**2. Project 2**

Services provided were similar to that of the Project 1. Eleven separate invoices totalling \$31,741 were matched with separate quotes.

**3. Other Projects**

We also noted website hosting, development and maintenance since 2008. The average cost of these services over the last three years was approximately \$28,000PA.

**4. Other Observations**

In the Units dealings with Supplier A, there is evidence to suggest that procurement processes were ad hoc and transacted on the basis of verbal or email communications without regard for the procurement processes required under the guidelines.

We also noted that many quotations appeared to be dated after the work was performed. We have provided evidence of these transactions in our report to the General Manager.

Council's accounts payable processes require that an invoice cannot be paid until a purchase order has been raised and purchase orders cannot be raised without a quotation (for expenditure over \$3,000). It is apparent from many of the transactions that we evidenced, that the request for quotes from Supplier A was simply to satisfy this requirement.

Our review did not disclose any evidence to suggest that the Supplier was colluding with Council officers in relation to these transactions but rather responding to the requests and instructions of the Unit.

From the above observations we have determined that procurement processes, for many of the services provided by Supplier A, did not comply with Council's Procurement Guidelines for one or more of the following reasons:

- No alternative quotes were obtained and therefore value for money could not be evaluated.
- No Procurement Initiation Plan was lodged for campaign expenses above \$50,000.
- Had specific campaign costs been consolidated into one quote, approval would have exceeded the delegated authority of the Manager.
- Invoice splitting may have been utilised to avoid authorisation processes.
- Quotations were invalid as they appeared backdated and based on the work actually performed.
- The engagement process was not undertaken by the Procurement Dept for high value items.
- The services did not qualify for exemption under the Direct Engagement rules as we believe that there are alternative contractors that could have potentially undertaken the work at a competitive price.
- If any of the services qualified for exemption as a direct engagement, the process of obtaining approval for the direct engagement was not followed.

### ***Supplier B***

Supplier B provides marketing services to the Unit. The total of invoices raised by Supplier B over the period of the review totalled \$372,000.

In Jan 2021 the Unit received a quotation for \$88,000 for Pie Time marketing and promotion for 2021. We have been unable to identify any competitive quotes or other supporting documentation on Council's databases. As the amount was over \$50,000 it should have been treated as a high value request for quotation under a procurement initiation plan.

The status of the "quotation" is questionable as it is described as "Budget and Proposed Split", with no mention of "quotation" and the quoted price is based on the budget amount disclosed to Supplier B by the Unit. The quotation goes on to recommend how the \$80k should be allocated to various media products together with Supplier B's management fees and influencer costs.

We noted a further quote for \$80,000 dated 16/1/20 for "campaign management and advertising" for the Pie Time 2020 campaign. We noted no additional detail to support the quote. No alternative quotes, procurement initiation plan or direct engagement approval form have been sighted.

For the Pie Time 2019 campaign we noted that the payment of an invoice dated 11 April 2019 for \$46,200 was supported by a number of communications dated between 4th and 9th April 2019, which clearly demonstrated that the Supplier B had undertaken the services before submission of a quote to match the marketing budget.

We are of the opinion that procurement processes, for Supplier B’s services described above did not comply with Council’s Procurement Guidelines for one or more of the following reasons:

- No alternative quotes were obtained and therefore value for money could not be evaluated.
- No Procurement Initiation Plan was lodged for campaign expenses above \$50,000.
- Quotations were not a valid competitive quotes as they were based on the budget amount provided by the Unit or was back dated to satisfy payment authorisation.
- The Services did not appear to qualify for exemption under the Direct Engagement rules.
- The engagement process was not undertaken by the Procurement Dept as stipulated by the Guidelines.

**Other Suppliers**

Our testing also identified similar transactions with the following suppliers that did not follow the required procurement process.

Supplier	Dates	Project	Total Value
Supplier C	Oct 2018	Employment Initiative	\$22,000
Supplier D	Sept 2018	Pavilion Hire	\$21,495
Supplier E	Various	Tupil Time Advertising	\$15,303
Supplier F	Aug 2019	SH internal modifications	\$15,016

**PROCUREMENT PRACTICES**

Our comments in relation to the timing of quotations, purchase orders and invoices is supported by a recent independent audit of Account Payable system which revealed that 78% of the Units invoices for the period July 20 to Nov 20 had requisitions/purchase orders raised after the invoice was received.

Our review has not revealed whether Council has received good value for money in relation to the services outlined in this report. Value for money is not necessarily the lowest price, nor the highest quality service, but requires a balanced assessment of a range of financial and non-financial factors. However, what is apparent is that the Unit has not operated in such a manner or followed due process which would ensure such a balanced assessment. The lengthy period of contract engagement with some suppliers also places doubt on whether Council received good value for money.

We also noted that supplier “performance reporting” under the Guidelines focuses on officer feedback, matching invoices to work performed and monitoring KPIs outlined in contracts. The Guidelines were silent on the need for outcome evaluations.

## PROCUREMENTS BY PAYMENT CARD

We have provided a separate report to the General Manager in relation to our review of senior management Purchase Card transactions over the past two years to assess compliance with Council's Purchase Card Guidelines.

That report disclosed that the Unit incurred questionable expenditure in relation to entertainment, media accommodation, and promotional giveaways. Whilst this type of promotional activity may be considered acceptable business practice for the Unit, we believed that the transactions did not satisfy the requirements of transparency and accountability.

## EXECUTIVE OVERSIGHT

The Group Manager of the Unit reported directly to the Deputy General Manager.

The extent to which the suppliers mentioned in this report were supplying regular, long term and costly services to Council without Unit management considering competitive quotations or tendering or at least satisfying the reporting obligations associated with direct engagement, should have been apparent to management at the Executive level.

## RECOMMENDATIONS

As a result of our findings, we make the following recommendations:

- Consider opportunities to improve procurement management to mitigate risks to transparency, accountability and value for money.
- Consider performance management and training for relevant council officers.
- Ensure appropriate Executive oversight.
- Ensure that the internal audit function focuses on procurement practices and risk mitigation.
- Modify the Procurement Guidelines to clarify direct engagement rules and require outcome evaluations for high value contracts.
- Review existing arrangements with direct engagement suppliers to ensure transparency and accountability.