

## **POLICY OBJECTIVE**

This Policy aims to provide rate payers in the Edward River local government area with access to Council's plant, equipment, labour and resources on a commercial fee-for-service basis, without disadvantaging local contractors, and subject to private works not impacting on the delivery of Council's own works program.

Where is it not possible for works to be carried out by local contractors, this Policy outlines the procedures for undertaking works or services for landowners in the Edward River local government area.

## **SCOPE**

This policy applies to any work undertaken by Council upon agreement with a landowner on private lands or public lands located within the Edward River local government area, but outside the responsibility of Council. This specifically excludes works performed on Council-owned or -controlled assets and State Roads.

## **LEGISLATIVE REQUIREMENTS**

- *Local Government Act 1993*, section 67

## **POLICY STATEMENT**

### **1 Purpose**

1.1 The purpose of this Policy is to:

- (a) create a framework for performing private works that is transparent, objective and consistent;
- (b) limit the number of private works and services to permit Council to concentrate on maintenance and capital works projects;
- (c) ensure that there is a clear understanding of the roles and responsibilities of each party entering into private works activities; and
- (d) ensure that where Council does deliver private works, the costs incurred are recovered together with overheads and a commercial profit margin is realised.

### **2 Competitive Neutrality**

2.1 Competitive neutrality is one of the principles of National Competition Policy applied throughout Australia at all levels of government, including local government. Competitive neutrality is based on the concept of supporting a level playing field for competitors in a market, be they public or private sector competitors. Government business organisations should operate without net competitive advantages over businesses as a result of their public ownership.

2.2 Where Council competes in the marketplace with private businesses, it will do so on the basis that it does not utilise its public position to gain an unfair advantage over private businesses who may be in competition with Council.

2.3 Council will only deliver private works where works cannot be carried out by local contractors.

### **3 Eligibility**

- 3.1 Council will consider applications for private works where works cannot be carried out by local contractors and subject to the works being convenient to Council's works program.
- 3.2 Council will not carry out any private works on properties outside of the Edward River local government area. The following teams are exempt from this clause due to existing contract and agreement.
  - Noxious Weed Team
  - Street Sweeper
  - STABILCO agreement
- 3.3 Applications for private works must be completed using the approved form. Applications submitted not using the approved form, or verbally, will not be accepted.
- 3.4 All quotations/estimates will be based on the information provided by the applicant. It is the responsibility of the applicant to provide complete details of the work to be quoted/estimated, including all plans, specifications, notices, approvals and any other legislative requirements.
- 3.5 If the applicant fails to provide sufficient information to enable Council staff to prepare a reliable quotation or prepare an accurate estimate, then the application shall be declined.
- 3.6 Quotations/Estimates will be provided and broken down to a rate basis for plant/labour and material. The final works cost will be based on actual quantities used.

### **4 Procedure**

- 4.1 Priority for use of Council's plant, equipment, labour and other resources is to be given for Council's own works program at all times. Applications will only be accepted where the works requested do not impact on the delivery of Council's works program.
- 4.2 In requesting and authorising Council to carry out private works, the applicant shall indemnify Council against any claim, action or process for damages or injury which might arise during the progress of such works and shall keep Council against any claim, action or process for damage and /or injury which might arise from the existence of such works unless such damage and/or injury is due to or contributed to by an act or omission of Council, its employees or agents.
- 4.3 A project estimate shall be provided to the applicant, in writing, outlining the costs, the timeframe, clearly state that this is an estimate only and shall include:
  - a) clarification that the quote/estimate is provided on the basis of information provided by the applicant and no additional investigation, unless detailed in the quotation, have been conducted; and
  - b) provision for recouping additional funds should the cost of the project exceed the provided estimate.
- 4.4 Firm quotations may be provided to applicants upon request; however provision of such quotations is at the discretion of the Director Infrastructure.

- 4.5 All project estimates and quotes will be in accordance with Edward River Council's adopted Revenue Policy. Where items are not included in the Revenue Policy, a 40 per cent overhead shall be added to the cost of the item.
- 4.6 All project estimates and quotes must:
- (a) provide for administration cost;
  - (b) include a profit margin; and
  - (c) include GST, where applicable.
- 4.7 In situations where an applicant requests private work be performed which is consistent with Council works being performed in the same immediate locality and the work is deemed to 'value add' to Council's asset then the private work may be performed in conjunction with the Council works and the cost to the applicant determined (subject to the approval of the General Manager or appropriate Department Director) on a proportional cost basis.
- 4.8 Only approved, suitably licenced Council employees shall operate Council plant engaged on private works.
- 4.9 Council is responsible for payment of Council staff and any of its subcontractors engaged on private works. No other payment arrangement is permissible.
- 4.10 All private works jobs will be costed independently to the applicant. A separate work order must be created for each private work.
- 4.11 At the time of authorising the works, the applicant shall be advised as to when the works can be undertaken.
- 4.12 Plant is not available for hire.
- 4.13 Misuse or unauthorised use of Council resources may constitute a criminal offence.
- 4.14 Council reserves the right to refuse any application for private works.
- 4.15 If Council utilise private land for the performance of their works activities or for access to materials, Council will use their resources to reinstate the assets to a condition consistent with that prior to work taking place.
- 5 Applications made by Council Officials**
- 5.1 Where the applicant is a Council Official, the hire of services and plant will be on the condition that no third party is involved.
- 5.2 The General Manager and Director Infrastructure will be directly involved in approving the terms and conditions of any work.
- 5.3 An independent Council employee, i.e. one not related to the parties involved, will be responsible for developing a quotation or estimate. This employee will also ensure that the work delivered, and materials used are as approved by the General Manager and Director Infrastructure. No additional work or resource use will be permitted outside that approved as part of the quotation.

## 6 Payment

- 6.1 Once the applicant has accepted the quotation, the applicant must pay the value of the quotation at Council's Customer Service Centre by phone or in person prior to works proceeding.
- 6.2 Final costs for all works completed will be based on actual costs for the works. This must be made clear to the customer at the time of raising a quotation. A final invoice, credit note will be issued to the customer on completion of works.
- 6.3 Works will be programmed for delivery once the fee has been paid.
- 6.4 Should the applicant default on payment of the amount payable, Council shall initiate proceedings for the recovery of the debt payable with any costs associated with the recovery action added to the principal.

## ASSOCIATED POLICIES AND PROCEDURES

- Code of Conduct
- Revenue Policy

## DEFINITIONS

“**Council Official**” includes Councillors, members of staff, administrators, Council committee members and delegates of Council.

## POLICY VERSION CONTROL

Title	Private Works Policy			
ECM Doc Set ID	59424 V5			
Date Adopted	20 February 2020			
Council Minute No.	2020/27			
Responsible Officer	Director Infrastructure			
Version Number	Modified By	Modifications Made	Date modified and Approved by Council	Council Minute Number