



# VARIATION ORDER

VARIATION ORDER No.: 01

DATE: 28/02/2018

PROJECT TITLE: Leichhardt Oval concrete stairs & retaining wall works  
PROJECT LOCATION: Mary Street, Lilyfield

ACCOUNT No.: 300990-4000-63143

CONTRACT No.: 106073

ORIGINAL CONTRACT SUM: \$81,880.00 (exc gst)

CONTRACTOR: Ballyhooly Civil Pty Ltd

## COST TO IMPLEMENT INSTRUCTIONS (exclude GST)

ITEM	ADDITIONAL SCOPE DESCRIPTION	REASON/S FOR VARIATION	QTY	UNIT	RATE	AMOUNT	
						ADDITIONAL (+\$.00)	DEDUCTION (-\$.00)
VO-01	Extra over rock excavation	Latent condition - unexpected rock formation	17	m3	\$ 180.00	\$ 3,060.00	\$ -
						\$ -	\$ -
						\$ -	\$ -
						\$ -	\$ -

TOTAL \$ 3,060.00

Net Change to this Contract Sum VO \$ 3,060.00

Contract Sum \$ 81,800.00

Overall Net Change to Contract \$ 3,060.00

Revised Contract Sum \$ 84,860.00

### REVIEWED & RECOMMENDED BY:

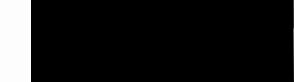


TONY NGUYEN

Property Project Manager

Date: 28/02/18

### FOR APPROVAL:



PATRICK CERAN

Properties Capital Projects Manager

Date: 28/2/2018

SUPPORTING DOCUMENTATIONS





# Statement of **Business Ethics**

# Statement of Business Ethics

This statement reinforces Council's ethical values and provides guidance for all sectors in the community when doing business with Council. Council's ethical standards are enshrined in our Code of Conduct and other governance policies. They are also summarised in this Statement of Business Ethics.

It is Council's expectation that contractors and other providers of goods and services to Council will comply with these standards when conducting business with, or on behalf of, Council. This Statement also outlines what you can expect from Council when conducting business with us.

## Our Key Business Principles

Council expects all its representatives, staff and Councillors to behave ethically. Our standards of conduct and ethics are outlined in our Code of Conduct and staff and other representatives of Council are required to uphold these standards of conduct and ethics at all times. Council also expects private industry and its representatives to maintain similar standards of ethical conduct in their dealings with, and on behalf of, Council.

## Procurement Principles

### Value for money

In all of our business decisions we will strive to obtain the best value for money. We will do this by taking into account all relevant costs and benefits of each proposal including factors such as initial costs, suitability, flexibility, reliability, on-going costs, reputation and performance history of the supplier, occupational health and safety requirements, relative risk, legal compliance and environmental sustainability.

### Open and Effective Competition

Potential Vendors will be treated equitably based upon their legal, commercial, ethical, technical and financial capabilities. All other factors being equal, Council may choose to support Small and Medium Enterprises in accordance with State Government procurement reforms to increase opportunities for small and medium enterprises (SMEs) to gain government business.

### Efficient, Effective and Ethical Use of Resources

The Council will select a procurement processes to commensurate with the fit for purpose, size and risk profile of the particular procurement activity and shall be conducted in accordance with Council's procurement policies, processes and procedures. In all procurement activities, the process should identify critical factors that need to be considered to ensure the maximum possible contribution and relevant outcome are being delivered to all stakeholders. In most circumstances, goods and services estimated to cost over \$150,000 (including GST) will be subject to a tender process to be carried out. Other procurements may be the subject of specific contracts and agreements with the Council, NSW Department of Finance, Services and Innovation (NSW Procurement), Local Government Procurement (LGP), Procurement Australia, Southern Sydney Regional Organisation of Councils (SSROC), or by competitive quotations. Low value items will be obtained through Council's standard ordering processes.

At all times Council officers will act ethically, embracing the principles of honesty, integrity, probity, diligence, fairness, trust, respect and consistency. Ethical behaviour identifies and avoids conflicts of interest ensuring an individual does not make improper use of their power and position.

Council will not seek to benefit from vendors practices that may be dishonest, unethical or unsafe.

Council will not enter into contracts with vendors who have had a judicial decision made against them (not including decisions under appeal) relating to employee entitlements and have not paid the claim. Council will require a declaration on these matters from all tenderers.

### Accountability and Transparency

Council will ensure that procurement processes are conducted soundly and that the related decisions are documented, defensible and substantiated in accordance with legislation and Council policies. Council officials are accountable and responsible for the actions and decisions they take in relation to procurement and the resulting outcomes, of which, may be the subject of public scrutiny.

## What You can Expect from Us

Council will ensure that all policies and procedures relating to its procurement process are consistent with legislative requirements, best practice and the highest standards of ethical conduct.

Under our Code of Conduct, Council staff are accountable for their actions and are expected to:

- act with integrity and avoid conflicts between their personal interests and professional duties;
- respect and follow the letter and spirit of Council's policies and procedures;
- use public resources effectively and efficiently;
- make decisions solely on merit;
- treat all tenders equitably and promote fair and open competition;
- protect confidential information;
- never solicit or accept payment, gifts or other benefits from a supplier for the discharge of official duties; and
- record and give reasons for decisions (where appropriate).

## What We Expect of You

We expect tenderers, suppliers, contractors and consultants to:

- respect the conditions set out in documents supplied by Council, including complying with relevant Council policies and procedures;
- provide accurate and reliable advice and information when required;
- declare actual or perceived conflicts of interest as soon as you become aware of them;
- act ethically, fairly and honestly in all your dealings with, and on behalf of, Council;
- respect the obligation of Council staff to abide by Council's Code of Conduct and other policies;
- not engage in collusive practices;
- prevent the unauthorised release of privileged information, including confidential Council information;
- refrain from discussing Council dealings with the media, except with Council's consent;
- not offer Council employees or Councillors any financial or other inducement which may give any impression of unfair advantage; and
- report to Council's General Manager any suspected breach of these ethical standards.

## Why You Need to Comply

Council only wishes to do business with people and entities that share our values and ethics. By complying with our Statement of Business Ethics you will be able to advance your business interests in a fair and ethical manner and be certain in the knowledge that others dealing with Council are doing the same.

Consequences for not complying with Council's ethical requirements could include:

- termination of contracts;
- loss of future work opportunities;
- loss of reputation;
- investigation for corruption;
- Potential legal proceedings; and
- referral to the NSW Police for criminal investigation.

## Additional Things You Should Know

### Legislation, Codes, Policies, Procedures and Guidelines

The Council is committed to promoting stakeholder behaviour and best practice tendering that complies with relevant legislation, codes, policies, procedures and guidelines.

### Conflicts of Interest

A conflict of interest exists where a reasonable and informed person would perceive that an individual could be influenced by a private interest when carrying their public duty. A conflict of interest may involve avoiding a personal disadvantage as well as gaining a personal advantage. Conflicts of interest that lead to partial decision-making may constitute corrupt conduct. Perceptions of a conflict of interest can be as important as actual conflicts of interest.

Conflict of interests must be avoided or managed in order to uphold the probity of Council decision-making. Councillors, Council officers, delegates, consultants, contractors and customers doing business with the Council are required to disclose, in writing, any perceived or actual conflicts. Such disclosures will be recorded on the relevant file.

### Related Party Interests

Related party relationships are a normal feature of commerce and business, however there is the possibility of an entity having the ability to affect the financial and operating policies of Council through the presence of control, joint control or significant influence.

Council is required to disclose all material and significant related party transactions and outstanding balances, including commitments, in its annual financial statements. To facilitate this, you are advised that Council's key management personnel are required to declare full details of any related party transactions (other than non-material ordinary citizen transactions). Council maintains this information in Registers of Related Parties and Related Party Transactions.

### Confidentiality

All Council information must be treated as confidential unless otherwise indicated in writing.

### Communication

All communication between Council and its business partners should be clear, direct and accountable to minimise the risk of perception of inappropriate conduct.

### Use of Council Equipment, Resources and Information

All Council equipment, resources and information should only be used for its proper official purpose, except where Council's Code of Conduct permits otherwise. Those parties conducting business with the Council are expected to use and manage Council resources, including staff time, in an efficient, effective and ethical manner.

### Contracting Employees

All contracted and sub-contracted employees are expected to comply with Council's Statement of Business Ethics. If you employ sub-contractors in your work for Council you must make them aware of this Statement.

### Incentives, gifts and benefits

Council expects its staff to decline gifts, benefits, travel or hospitality offered during the course of their work. You should not offer any such incentives to Council staff. All offers will be formally reported by staff for recording on Council's Gifts and Benefits register, regardless of whether the gift or benefit has been refused or accepted by staff.

### Intellectual Property Rights

In business relationships with Council, parties will respect each other's intellectual property rights and will formally negotiate any access, license or use of intellectual property.

## Public Comment

Only those Council officers who have a specific delegation to do so may make public comment about matters concerning the Council. If an officer does not have the delegation, he or she must not make any public comment that would lead anyone to believe that they are representing the Council, or expressing its views on the policies of the Council. This includes comments or statements made at public and community meetings, through the media and the like where it is reasonably foreseeable that the comments, or the statements, will become known to the wider public.

All matters requiring a public comment on behalf of the Council shall be directed to the Council's Media Spokesperson.

## Sponsorship, Grants and Community Resourcing

Council regularly considers requests from the community members and groups for financial assistance, in-kind support or sponsorship towards their activities or events. These applications are considered under the Council's Financial Assistance Policy, and Grants and Community Resourcing Policy. From time-to-time, Council may seek financial or in-kind support from the business community to support specific activities it conducts such as major events and community based programs.

Sponsorship, grants or donations, whether in-kind or financial, must not interfere with the ability of the Council to carry out its functions and such processes must be open and transparent.

## Work Health and Safety

It is expected that Council and those who conduct business with the Council will ensure that workers and visitors' health and safety is of paramount importance and that all legislative and procedural safety requirements are complied with.

## Important Contacts in reporting Unethical Behaviour or Other Wrongdoing

If you have any questions regarding this Statement of Business Ethics or to provide information about suspected unethical behaviour, fraud, corrupt conduct, maladministration or substantial waste please contact Council directly by letter, phone, fax or email at the contact details provided.

Public officials reporting about this type of conduct can be protected by the Public Interest Disclosures Act 1994. This Act protects public officials disclosing corruption related matters from reprisal or detrimental action and ensures reports are properly investigated and dealt with. You are encouraged to make these reports to Council if you believe you are aware of wrongdoing. Reports may also be made to:

IWC Internal Ombudsman

The Independent Commission Against Corruption (ICAC) ph. 8281 5999

NSW Ombudsman ph. 9286 1000

NSW Office of Local Government ph. 4428 4100

For a copy of Council's Code of Conduct, visit [www.innerwest.nsw.gov.au](http://www.innerwest.nsw.gov.au)







10 August 2021

The Senior Property Officer  
 Independent Commission Against Corruption  
 Level 7 255 Elizabeth St  
 Sydney NSW 2000

By email [kpatterson@icac.nsw.gov.au](mailto:kpatterson@icac.nsw.gov.au)

**Notice to attend and produce a statement of information and documents - Ref: E19/1595/AS-25-002**

Dear Karen,

Please find below, Inner West Council's response to the abovementioned Notice:

1. What mechanisms did Inner West Council use to detect potential order splitting between 21 July 2015 and 3 October 2020?
  - a. All orders are approved by a financial delegate prior to release.
  - b. Goods receipts over \$20,000 require a financial delegate to release.
  - c. IWC engaged a consultant in July 2021 to develop real time dashboards to give Manager's better oversight of procurement in their areas.
  - d. A specific dashboard that identifies potential order splitting has been developed as part of this engagement.
  
2. What mechanisms did Council use to detect potential dummy bidding between 21 July 2015 and 3 October 2020?
  - a. The IWC Statement of Business Ethics was adopted by Council in 2017.
  - b. A link to the Statement of Business Ethics was added to RFX documents in June 2020. Prior to June 2020 the Statement of Business Ethics was referred to in documentation.
  - c. Clause 3.7 in the attached RFT and RFQ templates sets out the ethical standards required by a tenderer. (See attached RFT and RFQ templates).
  - d. RFX respondents are required to complete a declaration stating that they have complied with the Local Government model code of conduct and Statement of Business Ethics. They have no Conflict of interest and have not engaged in Collusive tendering. (See attached RFT and RFQ returnable schedules).
  - e. Leichhardt Council standard RFT document had a similar returnable schedule dating back to 2015 (See Leichhardt RFT).
  - f. From June 2020 the Procurement team lowered the threshold for procurement to be undertaken through VendorPanel. Previously, only procurement exceeding \$150,000 had to be lodged in VendorPanel. It is now mandatory that all quotations above \$10,000 are in VendorPanel and it is recommended for quotations between \$5,000 and \$10,000.

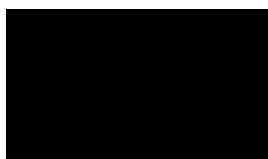
3. Between 21 July 2015 and 3 October 2020, what checks or other due diligence processes were routinely performed on suppliers and potential suppliers to verify their bona fides?
  - a. Due diligence checks are completed when the supplier is added to the Finance system. Further checks are complete if there are any changes to supplier details such as ABN, Banking etc.
  - b. EFT Sure was engaged in February 2018 to verify Bank account details.
  - c. Procurement Services has just completed writing to all suppliers in the database asking them to confirm their details. Suppliers that do not confirm their details will be paid by cheque until they confirm.
  - d. Financial due diligence checks are performed on suppliers for contracts over \$250,000. This was recommended prior to mid-2020 and mandated from mid-2020.
  
4. Between 21 July 2015 and 3 October 2020, what checks or other due diligence processes, if any, were undertaken at Inner West Council with respect to the following companies/business entities:
  - a. Constructicon Pty Ltd (ABN 88 618 405 191)  
  
Creditor brought across from former Leichhardt Council creditor list (unable to locate new creditor form as it is archived).
  - b. Innocon Pty Ltd (ABN 53 604 773 560)  
  
Creditor brought across from former Leichhardt Council creditor list (unable to locate new creditor form as it is archived).
  - c. Innocon Residential Pty Ltd (ABN 58 613 224 221)  
  
Not a creditor in the IWC system.
  - d. Marble Arch Pty Ltd (ABN 68 168 740 529)  
  
Creditor created in new Inner West Council system 28/3/18 - New Creditor form completed by creditor and signed by Tony Nguyen (attached). New Creditor Form and ABN Extract attached to creditor account.
  - e. MMTM & Co Pty Ltd (CAN 616204712)  
  
Not a creditor in the IWC system.
  - f. RJS Infrastructure Group Pty Ltd t/a RJS Projects (ABN 85 626 627 941) g. SDL Project Solutions Pty Ltd t/a SDL Projects (ABN 83 169 440 804)  
  
No supplier in IWC system under ABN 85 626 627 941. There is a supplier under RJS Civil which is not listed in the request for information – ABN 18608860242. Brought across from Leichhardt Council creditor list.
  
5. What activities did Inner West Council undertake to detect potential conflicts of interest related to procurement or contract management between 21 July 2015 and 3 October 2020?
  - a. All members of evaluation panels are asked to declare any conflict of interest.
  - b. Staff must declare they do not have a conflict of interest when requesting a new supplier to be created and Manager must approve,
  - c. The following two internal audits were completed:

- i. Contract Management completed in February 2018; and
    - ii. Lilyfield Road Cycle way Procurement in August 2019.
  - d. Internal Audit will audit Procurement in one area of the Infrastructure Services Unit each year moving forward.
  - e. RFX respondents complete schedule declaring they have no COI.
6. What activities did Inner West Council undertake to educate its staff, contractors and suppliers regarding its policies, procedures, requirements and expectations with respect to conflicts of interest and/or secondary employment between 21 July 2015 and 3 October 2020?
- a. With Council forming on 12 May 2016, any arrangements prior to this fell under the former three Councils and there is evidence that the former Councils provided such training.
  - b. Ethics and Code of Conduct training was delivered in-house face to face for all new starters from August 2017 – July 2018, following this the Governance team started reviewing the training.
  - c. All employees had a goal as part of their development plans to complete Code of Conduct training as a mandatory requirement in 2019-2020.
  - d. Face to face code of conduct training which included conflict of interest and secondary employment was provided by an external provider as a result of Council adopting the new Model Code of Conduct. The training was given to Councillors, the Leadership team, all manager sessions and then rolled out to all staff during September – November 2019.
  - e. Council's Internal Ombudsman has been asked to deliver training to the capital projects staff on conflicts of interest. The training will cover pecuniary interests, non-pecuniary interests, significant and non-significant interests. The training has been delayed due to Covid restrictions
  - f. From January 2019 all new starters have been sent a full copy of the Model Code of Conduct as part of their onboarding paperwork and asked to sign off that they have read and understand its contents.
  - g. As IWC has adopted a new Code of Conduct, this has been communicated to all staff via email and references to the document and related documents on the IWC Intranet page, eg March 2019 email from Michael Deegan.
  - h. Conflict of Interest awareness has been included in online inductions since August 2020.
  - i. IWC worked with the Internal Ombudsman's office to set up Public Interest Disclosure Officers (PID), rolling out training to them in October 2019, with refresher training in March 2021.
  - j. The Internal Ombudsman provided training to HR and Governance staff covering Code of Conduct, PIDs etc in February 2021.
  - k. In conjunction with the Internal Ombudsman's office, PID awareness campaign was provided including posters for all locations and weekly all staff updates and on the intranet in March 2021.
  - l. It is planned that face-to-face Code of Conduct training take place every two years, supplemented by an on line training module that all staff will be required to complete in alternate years.
7. What activities did Inner West Council undertake to detect unapproved secondary employment between 21 July 2015 and 3 October 2020.

- a) The secondary employment approval process has been managed by the Governance team and the Policy and Risk Departments.
- b) An addition was added to the secondary employment application form that HR reviewed which provided an extra step of review and sign off after the relevant employee, manager, director and before the forms are sent to the GM/CEO.
- c) HR has worked with the relevant Director and or the General Manager where risks were identified to provide mitigation or appropriate controls where a conflict of interest was identified, then HR has fed this down to the relevant Director or Manager, this is put in writing along with the form and communicated to the employee.
- d) HR ensures the approved forms are lodged on the employee's personnel file and Governance teams also keep copies to add to the Secondary Employment register.
- e) Secondary employment approval is granted from 1 July to 30 June each year. If staff still have secondary employment, they are required to fill in a new form and obtain approval each year.
- f) Councillors and the Executive team are required to complete a declaration of interests form each year which identifies all sources of income and any interests or positions in corporations. The forms are placed on Council's website.

As advised to Karen Patterson this week, I am leaving Inner West Council with my last day being 18 August, 2021. If you require any further information or assistance, please contact Robert Wilcher, Senior Lawyer, at [robert.wilcher@innerwest.nsw.gov.au](mailto:robert.wilcher@innerwest.nsw.gov.au).

Sincerely,



Marcia Doheny  
General Counsel  
Inner West Council