

# COUNCIL POLICY



<b>Policy name</b>	Private Works
--------------------	---------------

## Abstract

Provides a framework for carrying out Private Works that is transparent, objective and consistent.

<b>Dates</b>	Policy or amendment approved Policy or amendment takes effect Policy is due for review (up to 4 years)	21/6/2023 21/7/2023 21/7/2027
<b>Endorsed by</b>	Executive Leadership Team at its meeting on 13 June 2023	
<b>Approved by</b>	Gunnedah Shire Council, at its Ordinary Meeting of Council held 21 June 2023 Resolution number: 17.6/23	
<b>Policy Custodian</b>	Director Infrastructure Services	
<b>Relevant to</b>	Council Officials and the Community	
<b>Superseded Policies</b>	Nil	
<b>Related documents</b>	Code of Conduct Statement of Business Ethics Revenue Policy within current Operational Plan POLICY – Debt Recovery MANAGEMENT DIRECTIVE – Use of Tracking Surveillance MANAGEMENT DIRECTIVE – Budget Management and Reporting	
<b>Related legislation</b>	Local Government Act 1993	

## Contents

1. Purpose
2. Scope
3. Definitions
4. Policy principles
5. Policy statement
6. Accountability, roles and responsibilities
7. Acknowledgements
8. Version control and change history
9. Annexures

### 1. Purpose

- 1.1 The purpose of this Policy is to create a standard framework for carrying out Private Works that is transparent, objective and consistent, and which ensures:
- (a) That all legislative requirements are met;
  - (b) There is a clear understanding of the roles and responsibilities of each party entering into Private Works activities; and
  - (c) That where Council does deliver Private Works, the costs incurred are recovered together with overheads and a commercial profit margin is realised.

### 2. Scope

- 2.1 This Policy applies to any work undertaken by Council upon agreement with a landowner on private lands or public lands located in the Gunnedah Shire LGA, but outside the responsibility of Council.
- 2.2 This Policy specifically excludes work performed on Council owned or controlled assets and State Roads.

### 3. Definitions

Competitive Neutrality	Is one of the principles of National Competition Policy which is being applied throughout Australia at all levels of Government, including Local Government. Competitive neutrality is based on the concept of 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.
Council Official	Includes Councillors, members of staff, administrators, Council committee members and delegates of Council.
GST	Goods and Services Tax
LGA	Local Government Area
Private Works	Council may carry out any kind of work that may lawfully be carried out, on any private land in agreement with its owner, in accordance with Section 67 of the Local Government Act. Private works may include (but

	is not limited to) road access construction, grading of roadworks, driveways, mowing/slashing of land and infrastructure works for subdivisions.
Quotation	A statement setting out the estimated cost for a particular job or service.

#### **4. Policy principles**

- 4.1 The Policy aims to provide ratepayers in the Gunnedah Shire LGA with access to Council's plant, equipment, labour and resources on a commercial fee-for-service basis, without disadvantaging local contractors.
- 4.2 Pricing for Private Works will adhere to the Competitive Neutrality requirements of the National Competition Policy.
- 4.3 Council's adopted processes for the completion of Private Works will comply with legislative requirements, in particular those outlined in Section 67 of the Local Government Act which specifically relates to Private Works as well as Division 2 of Part 10, Chapter 15 relating to Council fees for business activities.
- 4.4 Priority is to be given to Council's own works program. Private Works will be scheduled only when convenient, in order to minimise disruption to Council operations.

#### **5. Policy statement**

##### **5.1 Application Process**

- 5.1.1 Applications for Private Works must be completed using the approved form (see Annexure A – Application Form for Private Works). Verbal applications, applications not fully completed, or applications made not using the approved form, will not be accepted.
- 5.1.2 It is the responsibility of the applicant to provide complete details of the work to be quoted including any relevant plans, specifications, notices, approvals and any other legislative requirements. If the applicant fails to provide sufficient information to enable Council staff to prepare a reliable Quotation, then the application shall be declined.
- 5.1.3 On receipt of a completed Application Form, a check will be undertaken by the Finance Department to determine whether the applicant has a satisfactory credit rating and history. Should this not be the case, a bond or payment of works in advance will be required prior to Council undertaking any work.
- 5.1.4 On receipt of a completed Application Form, a written Quotation shall be provided to the applicant that:
- (a) outlines the costs (i.e. a breakdown of the rate basis for plant/labour/material) for the works;
  - (b) clarifies that the Quotation has been prepared on the basis of information provided by the applicant and no additional investigation, unless detailed in the Quotation, has been conducted; and

- (c) clearly states that the Quotation is an estimate only and that the applicant will be liable for the full cost of the invoice issued on completion of the works.
- 5.1.5 All Quotations and final invoices for Private Works will include GST and be based on charging full-cost recovery of the work carried out, plus a margin for profit in accordance with Council's Revenue Policy and adopted Schedule of Fees and Charges.
- 5.1.6 All Quotations will be valid for twenty-eight (28) days, after which time a new Quotation would need to be requested.
- 5.1.7 Where the applicant is a Council Official, the General Manager or another member of Council's Executive Leadership Team will be directly involved in approving the terms and conditions of any work.
- 5.1.8 Once the applicant has formally accepted the Quotation by returning it signed, works will be programmed for delivery and the applicant subsequently advised as to when the works can be undertaken.
- 5.2 Terms and conditions
- 5.2.1 Council reserves the right to refuse any application for Private Works.
- 5.2.2 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 indemnified 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.
- 5.2.3 All Private Works are carried out according to Council's standard operating procedures and in compliance with Council's risk management processes. This includes a risk assessment being completed by an approved Council officer prior to commencement of works.
- 5.2.4 Plant is not available for dry hire. Only suitably qualified Council employees are permitted to operate Council plant engaged on Private Works.
- 5.2.5 Council is responsible for payment of Council staff and any of its subcontractors engaged on Private Works. No other payment arrangement is permissible.
- 5.2.6 Misuse or unauthorised use of Council resources is strictly prohibited.
- 5.3 Payment for works
- 5.3.1 An invoice will be raised on completion of the works. Payment is to be made in accordance with Council's general payment terms and conditions.
- 5.3.2 Should the applicant default on payment of the amount payable, Council shall initiate proceedings for the recovery of the debt payable in accordance with the Debt Recovery Policy.

#### 5.4 Exceptional Circumstances

5.4.1 If Council utilise private land for the performance of their operations or for access to or storage of plant or materials, Council will use their resources to reinstate the asset(s) to a condition consistent with that prior to work taking place.

5.4.2 Council plant, equipment, labour and resources used in the event of a natural disaster or other emergency situation in conjunction with NSW Rural Fire Service, Fire and Rescue NSW, NSW State Emergency Services, NSW National Parks and Wildlife or other government agency will be in line with the established policies and procedures governing their use. Council will keep accurate records in these cases for reimbursement through the appropriate channels.

### 6. **Accountability, roles and responsibilities**

#### 6.1 Policy Custodian

Council's Director Infrastructure Services is Custodian of this Policy.

#### 6.2 Responsibilities

##### 6.2.1 Co-ordinators/Team Leaders:

- Assessing applications and making recommendations to Management; and
- Preparing Quotations.

##### 6.2.2 Management:

- Determining whether an application is approved or refused;
- Authorising Quotations; and
- Scheduling delivery of Private Works.

##### 6.2.3 The General Manager/Executive Leadership Team:

- Approving terms and conditions for applications made by Council Officials.

### 7. **Acknowledgements**

The following acknowledgments are made recognising organisations or documents that have provided a basis, instructive comment or template that has been used to develop this Policy:

- (a) National Competition Policy

### 8. **Version control and change history**

Date	Version	Approved by & resolution no.	Amendment
July 2023	V1.0	Resolution 17.3/23	Initial Policy

**9. Annexures**

**Annexure A - Application for Private Works**

## Application Form – Private Works

Last Updated 01/06/2023

Applicants shall make themselves familiar with Council's Private Works Policy which is available by contacting Gunnedah Shire Council or on Council's website [www.gunnedah.nsw.gov.au](http://www.gunnedah.nsw.gov.au)

APPLICANT DETAILS			
Business Name (if applicable)			
Surname			
Given name(s)			
Billing Address			
Email			
Contact Number			
PRIVATE WORKS DETAILS			
Proposed location (Include Lot and Plan No.)			
Description of works (Attach any relevant plans, specifications, notices, approvals or other legislative requirements)			
QUOTATION FOR COST OF WORKS (Valid for 28 days)			
Item	Quantity	Unit Rate (inc. GST)	Amount (inc. GST)
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
<b>Total (GST inclusive)</b>			\$

This Quotation has been prepared by:

Name:	Position:
Signature:	Date:

This Quotation has been authorised by:

Name :	Position:
Signature:	Date:

**TERMS AND CONDITIONS OF ENGAGEMENT**

The following Terms and Conditions of Engagement shall apply for works undertaken by Gunnedah Shire Council on behalf of the Applicant under this Private Works Agreement:

1. Council reserves the right to enter a Private Works Agreement at its discretion.
2. In requesting and authorising Council to carry out 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 indemnified 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.
3. This Quotation has been prepared on the basis of information provided by the Applicant and no additional investigation, unless detailed in the Quotation has been conducted.
4. This Quotation is provided as an estimate only and the Applicant will be liable for the full cost of the invoice issued on completion of the works.
5. The Applicant must formally accept the Quotation prior to the works being scheduled for delivery.
6. Once a Quotation has been accepted, no further works outside of the scope of the Quotation can be performed without the express authorisation of Council Management.

**APPLICANT'S CONSENT**

I have read and understand the Terms and Conditions of Engagement and hereby accept the Quotation for Cost of Works prepared by Gunnedah Shire Council.

Name:	
Signature:	Date:

**PRIVACY NOTICE:** GUNNEDAH SHIRE COUNCIL IS COLLECTING THE PERSONAL INFORMATION YOU SUPPLY ON THIS FORM FOR THE PURPOSE OF ASSESSING YOUR APPLCIATION. YOUR PERSONAL DETAILS ARE HANDLED IN ACCORDANCE WITH NSW PRIVACY LAWS AND WILL NOT BE DISCLOSED TO ANY OTHER PERSON OR AGENCY EXTERNAL TO COUNCIL WITHOUT YOUR CONSENT, UNLESS REQUIRED OR AUTHORISED BY LAW.