

Unsolicited Proposals Policy

Date policy was adopted:	24 June 2020	CEO Signature and date 
Resolution number:	171/20	
Next Policy review date:	2024	
Reference number:	52.5.4	
Strategic Pillar	Capability	
Responsible Branch	Legal & Risk	25 June 2020

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1. OUTCOMES

- 1.1 Council has developed this policy to provide guidance on dealing with approaches by the private sector and individuals with proposals for the Council dealing with land purchases, business development, participation in a joint venture and other proposals.
- 1.2 The aims of the policy are to:
 - (a) Ensure good governance is followed by Council in dealing with these proposals.
 - (b) A clear and transparent process is followed to assist the Council and private sector working together to develop and deliver innovative outcomes for the community.
 - (c) Provide consistency and certainty for proponents as to how their unsolicited proposal will be assessed within a transparent framework.

2. POLICY

- 2.1 In daily operations, the Council, Councillors and Council staff are sometimes approached by the private sector and individuals with specific proposals for the Council to consider. The Unsolicited Proposals Policy works in concert with Council's Unsolicited Proposals Procedure to provide guidance to both Council and proponents on proposals for which it has not publicly sought expressions of interest.

3. SCOPE OF THE POLICY

- 3.1 This policy applies to all unsolicited proposals submitted by the private sector and individuals as described in Section 1.1.

4. DEFINITIONS

Assessment criteria — the assessment upon which unsolicited proposals will be assessed.

Intellectual property — inventions, original designs and practical applications of good ideas protected by statute law through copyright, patents, registered designs, circuit layout rights and trademarks; also trade secrets, proprietary know-how and other confidential information protected against unlawful disclosure by common law and through additional contractual obligations such as Confidentiality Agreements.

Proponent — the person or organisation which submits an unsolicited proposal.

Unsolicited proposal — an approach to the Council from a Proponent with a proposal to deal directly with the Council over a commercial proposition, where the Council has not requested the proposal. This may include proposals to build and/or finance infrastructure, provide goods or services, or undertake a major commercial transaction.

5. LEGISLATIVE OBLIGATIONS AND/OR RELEVANT STANDARDS

- Unsolicited Proposals – Guide for Submission & Assessment, NSW Government, August 2017
- NSW Public Private Partnerships Guidelines 2017, NSW Treasury, TPP17-07
- *Environmental Planning & Assessment Act 1979*
- *NSW Local Government Act 1993*
- QPRC Unsolicited Proposals Procedure

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6. CONTENT

- 6.1 Council is sometimes approached by the private sector and individuals with specific proposals for it to consider including land purchases, business development, participation in a joint venture and other proposals. To assist with this process, Council has developed this policy and a procedure to consider these unsolicited proposals to ensure a transparent and streamlined approach to assist the Council and the private sector working together to develop and deliver innovative ideas.
- 6.2 The aim of this policy and procedure is to provide consistency and certainty to the private sector as to how any unsolicited proposal to the Council will be assessed within a transparent framework.
- 6.3 The focus of unsolicited proposals is on unique and innovative projects or services and is not designed to replace applicable environmental and planning assessment processes.
- 6.4 If Council decides to progress an unsolicited proposal, it should not be interpreted as any form of explicit or tacit support for the required planning approvals. All proposals will be required to meet the required approvals as set out in the relevant legislation.
- 6.5 Council will apply a three-stage assessment process to guide the evaluation of any unsolicited proposal consisting of:

STAGE 1

- 6.5.1 **Initial Submission and Preliminary Assessment** where Council staff will undertake a preliminary assessment of the proposal to determine if the submission constitutes an unsolicited proposal and if it contains sufficient potential grounds to justify direct dealing and a Stage 1 assessment.
- 6.5.2 **Strategic Assessment of Initial Submission** which includes a comprehensive initial assessment of the proposal to identify the potential benefit to Council of further consideration and development with the Proponent.

STAGE 2

- 6.5.3 **Detailed Proposal** which requires the Proponent and Council to work cooperatively in the development and assessment of a Detailed Proposal.

STAGE 3

- 6.5.4 **Negotiation of Final Binding Offer** which involves the finalisation of all outstanding issues with a view to entering into a binding agreement, should the Council accept the final offer.
- 6.6 The Guiding Principles for dealing with and assessing unsolicited proposals will be:
- 6.6.1 **Optimising Outcomes** - Proposals must be considered in light of the wider benefits and strategic outcomes that may be derived.

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- 6.6.2 **Uniqueness** - the uniqueness needs to apply to both the proposal and the proponent by clearly demonstrating the unique benefits of the proposal and the unique ability of the proponent to deliver the proposal. [*Note: Proposals that are NOT considered unique are unlikely to be progressed.*]
- 6.7 The following assessment criteria will be applied to any proposal consisting of:
- (a) Uniqueness
 - (b) Value for Money
 - (c) Return on Investment
 - (d) Capability and Capacity
 - (e) Affordability
 - (f) Risk Allocation
- 6.8 Where the Council assesses a proposal as not meeting the criteria, including uniqueness, the Council reserves its usual right to go to market. The Proponent will be provided with the opportunity to participate in the procurement process should the concept be offered to the market.
- 6.9 Council will take all the necessary steps to conduct its commercial dealings with integrity through the application of established probity principles and in accordance with the Council's adopted probity framework which will ensure it:
- (a) Maintains impartiality
 - (b) Maintains accountability and transparency
 - (c) Manages conflicts of interest
 - (d) Maintains confidentiality, particularly in respect of commercial confidentiality and the protection of intellectual property, and
 - (e) Obtains value for money.
- 6.10 Council's Unsolicited Proposal's Procedure will set out the steps and processes to be followed to ensure it addresses the guiding principles, assessment criteria and probity requirements for dealing with any such proposal.
- 7. REVIEW**
- 7.1 This policy will be reviewed every four years or earlier as necessary if:
- (a) legislation requires it, or
 - (b) Council's functions, structure or activities change.