



# Private Works POLICY

**Policy Version 3.0**

**Category: Management**

**Adopted: September 2022**



# Private Works Policy

## Purpose

The purpose of this Winton Shire Council (Council) **Private Works Policy** is to regulate the engagement of and management of Council in relation to private works, to ensure Council's processes for undertaking private works are undertaken in a fair, equitable and transparent manner.

This policy defines Council's position on the undertaking of the services, facilities or activities as outlined in the scope. Works of this nature shall herein be referred to as Private Works and the occupier of land shall be referred to as the applicant.

## Scope

This policy applies to sections:

- Section 91 (2) of the Local Government Act 2009 (Rates and Charges) allows Council to impose rates and charges for a service, facility or activity that is supplied or undertaken by the local government. Section
- 92 (3) of the Act defines 'Special rates and charges' being those for services, facilities and activities that have special association with particular land because the land or its occupier receive special benefit from the service/facility/activity.

This policy applies to all private works including:

- Minor works, performed on the basis of an estimate.
- Work carried out with a firm quote.
- Reactionary or opportunistic works.
- Works carried out by specific Council Departments i.e., tree trimming, gardening, plumbing, roads etc.

## Definitions

|                             |                                                                                                                                                                                                                                                                              |
|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant                   | The person requesting private works. The applicant must be either the landowner (rate payer) or person directly in control of the property (in the case of a lessee or property manager) and is financially responsible for the costs incurred.                              |
| Contract                    | A formal, legally binding agreement between two or more parties drawn up to facilitate the completion of a project. Contract, in this policy specifically means a contract conforming to one of several Australian Standards for delivery of Works.                          |
| Chief Executive Officer CEO | A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> or is acting in this position.                                                                                                                                                   |
| Council                     | Winton Shire Council (WSC)                                                                                                                                                                                                                                                   |
| Dial-Before-You-Dig         | Dial Before You Dig is a national not for profit group of State Associations made up of member organisations that own Australia's underground assets. Relevant services provided by this organisation in relation to this policy are largely limited to locational services. |
| Dry Hire                    | Hiring of plant, vehicles, or a tool without an operator. Due to regulations outlined in the Electrical Safety Act 2002 and Work                                                                                                                                             |



|                  |                                                                                                                                                                                                                                                                                                                                            |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                  | Health and Safety Act 2011 Winton Shire Council may not dry hire any plant, tools or equipment.                                                                                                                                                                                                                                            |
| Estimated Price  | The estimated price is the best possible price given the information provided by the applicant at the time of the request. An estimate is not a firm price and the final cost of works may meet or exceed the estimate depending on several variables. Every effort is made for estimates to include all reasonable and foreseeable costs. |
| Formal Quote     | This is a firm estimate of the cost of a project. Due to the financial risk being carried by Council and not the applicant quotes may attract additional costs such contingency, risk, administration overheads, engineering services and supervision.                                                                                     |
| Director         | The Council Director who is directly in control of that part of Council to which the project (or majority of the project) is most relevant.                                                                                                                                                                                                |
| Council Resource | Means employees, labour, plant, tools, equipment, vehicles, material, stores items, consumables as well as Council contractors or sub-contractors.                                                                                                                                                                                         |
| Councill Officer | Means an employee of Council who is engaged under a Federal Award. An employee of Council who is engaged under a Contract is also a Council OFFICER.                                                                                                                                                                                       |

## Policy

### Works to the Value of \$20,000 (exc. GST)

All minor works up to the value of \$20,000 will require a private works application prior to works commencing and acknowledgement of goods or services once received.

**Note:** In some cases, a letter or verbal request for private works may be accepted by the CEO who will then require the relevant DIRECTOR to complete the form on the applicants' behalf.

### Works Above the Value of \$20,000 (exc. GST)

All works in excess of \$20,000 will require a formal written contract between Council and the applicant. The applicant may request a written quote at any time. This more formal approach to private works involves a substantially higher risk to Council and will attract additional costs such as allowance for contingency, escalation, and administration expenses.

Unless part of a formal quote or contract, any costs stated by Council are strictly an estimate only.

Council may refuse to undertake private works should the applicant have significant outstanding fees, owed to Council, for any reason (including, but not limited to prior private works, town common fees or rates).

A compliant Tax Invoice shall be issued for any monies due as per relevant contract details. All works are subject to GST and if person(s) requesting works are not subject to GST then they must provide evidence of this in writing to Council upon application for works and/or services.

Priority for the use of Council's resources is to be given to Council's own works in all cases except an emergency. All requests for work outside the Shire must be approved by the CEO.

**Note:** if a ratepayer owns land adjoining the Shire but just out of the Shire, that property is to be considered as if it was in the Shire.



Supervisory functions pertaining to private works will be on a case-by-case basis as decided by the relevant DIRECTOR based on the nature of the project.

- Works of complex or technical nature must be delivered under a formal contract arrangement whereby Council will provide all engineering, technical and supervisory functions.
- For works of a minor nature it is the responsibility of the applicant to liaise with the COUNCIL OFFICER to ensure that the works are delivered to a satisfactory standard.

Only approved Council employees shall operate plant engaged on private works. Under special circumstances plant may be operated by other experienced persons as approved by the relevant DIRECTOR.

Council is responsible for the payment of Council staff and any of its own sub-contractors engaged on private works. No other payment arrangements are permissible.

All private works jobs will be costed independently to the applicant, where it is acknowledged the applicant may be a Council employee or Councillor. Where the applicant is a Council employee then the work shall be inspected by a COUNCIL OFFICER to ensure the works that are carried out are consistent with the application.

Where a Council employee engages Council to conduct Private Works then that work is undertaken independently of the applicants' status as an employee. That is to say if an employee applies to use a piece of equipment, then that employee must pay the wet hire of the machine as well as other applicable fees or charges.

**Note:** Private works shall only be performed on land or property owned or controlled by the applicant.

## Department Application

### Parks and Gardens

Only council staff are to use plant, tools, or equipment. Under no circumstances will any Parks and Gardens plant, tools or equipment be 'dry hired'.

Labour as well as items of plant such as lawnmowers, vehicles, trailers, tractors, slashers, and elevated work platforms attract an hourly rate and are charged out in half hour increments. Plant that is captive to a job is charged to the job. For example, if Parks and Gardens are performing mowing under private works then the trailer and utility, if they are on site for the duration of works, are considered captive and charged appropriately.

The elevated work platform requires a minimum of two trained operators – one is aloft and the other functions as spotter. This is a requirement for operating an elevated work platform.

Parks and Gardens staff engaged in manual or labour-intensive activities (particularly during hot or humid days) must take 5-minute breaks every 15-minutes (totalling 15-minutes per hour) in accordance with Council work health and safety procedures.

### Works

Only council staff are to use plant, tools, or equipment. Under no circumstances will any works department plant, tools or equipment be 'dry hired' unless directed by the relevant DIRECTOR (or CEO).

Where private works is opportunistic in nature (such as a property owner requesting that Council perform private works while the workers are in the vicinity) then the applicant is encouraged to use the verbal request (as outlined above) to the relevant DIRECTOR who shall direct Council resources and arrange for invoicing independently of the typical application process.



**Note:** This applies only to the scenario where plant is highly mobile and likely to only be in the vicinity for a very short period of time.

## Water and Sewerage

Water & Sewerage staff are permitted to carry out private works provided that a 20% levy is applied to all labour required to complete the works/project. The 20% levy is to be applied to the hourly rate of only Water & Sewerage staff engaged on a private Council's Water & Sewerage staff hourly rates up to comparable rates with those being charged in the private sector while still being competitive.

All plant and ancillary equipment used by the Water & Sewerage staff in the performance of private works shall be charged at the applicable rate per hour for the duration of time that the plant or equipment is used for or is captive to the works/project.

All materials used by Water & Sewerage staff in the performance of private works shall be charged at the cost of the material plus the applicable Creditors on cost rate.

## Workshop

The workshop may not engage in private works of any form without express permission of the CEO.

## Indemnity

In requesting and authorising Council to carry out private works, the applicant shall indemnify Winton Shire Council against any claim, action or process for damage or injury which might arise during the progress of such works and shall keep indemnified Winton Shire 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 Winton Shire Council, its employees or agents.

Council will not be held responsible for any loss or damage incurred by recall or withdrawal of plant or staff from any works.

Council will not be held responsible for conducting dial-before-you-dig or any service location prior to commencing private works other than those assets owned by Council (water and sewerage).

Works will be completed with all care and efficiency, but no responsibility will be taken for the effectiveness or quality of the completed works.

## Private Works Process

### Request of Works

Applicants shall request private works in one of several ways:

- A Private Works Application Form, completed in full which details:
  - The person for whom the work will be carried out.
  - The address or location of the work.
  - The nature of the work.
  - The type and quantity of material or plant expected.
  - The timeframe requested in which the work is to be completed.
- A written request for private works (including details similar to those mentioned above) addressed to the CEO. The CEO will forward the letter to the relevant DIRECTOR who shall complete the application form on the applicants' behalf.



- A verbal request for private works (in the event that the person is unable to make the request in any other way) made to the relevant DIRECTOR who shall then complete the application form on the applicants' behalf. The acceptance of verbal requests is at the discretion of the relevant DIRECTOR.

## Administration

The relevant DIRECTOR is responsible for then:

- Checking with debtors to ensure the applicant does not have excessive outstanding fees or charges.
- Estimating the cost to complete the works.
- Estimating the timeframe for delivery.
- Specifying the COUNCIL OFFICER who will 'deliver' the works.

If the applicant is not clear about, or unsure of, the scope of the works then the DIRECTOR will arrange for a COUNCIL OFFICER to visit the site and assess the works.

## Estimated Price and Delivery of Works

The cost of assessing and pricing the works shall constitute part of the private works only if the scope of the works is sufficiently complicated, in that it takes a significant amount of time to assess the works (in 30-minute increments).

The relevant DIRECTOR will then notify the applicant of the estimated cost and timeframe for delivery.

It is at the discretion of the relevant DIRECTOR as to whether or not they require written consent by the applicant prior to works commencing. Otherwise, the DIRECTOR may take verbal affirmation as permission to proceed.

The DIRECTOR will facilitate the private works and engage a COUNCIL OFFICER to deliver the work, providing them with a copy of the private works application form.

The COUNCIL OFFICER will liaise with the applicant in regard to the precise nature of the private works.

If the COUNCIL OFFICER, at any time, believes that the value of the work will exceed the estimate they must inform the applicant immediately and proceed in accordance with any further instructions provided by the applicant regarding the continuation of the project or works. Failing a solution, the relevant DIRECTOR shall mediate and/or direct a suitable outcome.

## Completion of Works

On completion of works the COUNCIL OFFICER will fill in the 'delivered' section of the private works application form and get a signature from the applicant.

If the works are minor in nature and have been delivered by way of staff writing times on timesheets, the COUNCIL OFFICER then places the hours on the corresponding employee timesheet and attach the now signed private works application.

If the works were delivered under a formal quote or contract, the COUNCIL OFFICER gives the completed application to the relevant DIRECTOR who will then direct the DEBTORS CLERK to generate an appropriate invoice.

**Note:** In either case the DEBTORS CLERK shall attach a copy of the completed application to the invoice prior to posting.



## Communication

Council's management team shall ensure that:

- Councillors, Council employees and members of the public have access to this policy.
- Councillors and Council employees be provided with the opportunity to be involved in the review of this policy.
- Changes and/or amendments made to this policy shall be communicated to Councillors, Council employees and members of the public.

## Related Council Documentation

- Council Work, Health, and Safety Policy/Procedures
- Complaints Management Policy WSC-GOV-POL-003
- Privacy and Confidentiality Policy WSC-HR-POL-002

## Legislation, Recognised Authorities and Other Sources

- *Anti-discrimination Act 1991 (Qld)*
- *Human Rights Act 2019 (Qld)*
- *Information Privacy Act 2009 (Qld)*
- *Local Government Act 2009 (Qld)*
- *Local Government Regulation 2012 (Qld)*
- *Right to Information Act 2009 (Qld)*
- Winton Shire Council Website <https://www.winton.qld.gov.au/>
- *Work Health and Safety Act 2011*
- *Work Health and Safety Regulation 2011*

## Review of Policy

This policy remains in force until amended or repealed by resolution of Council. This document will be reviewed biannually or as required.

| RECORD OF AMENDMENTS and ADOPTIONS |             |                              |                    |
|------------------------------------|-------------|------------------------------|--------------------|
| DATE                               | REVISION NO | REASON FOR AMENDMENT         | ADOPTED BY COUNCIL |
| May 2014                           | Version 1.0 | Drafted for Council adoption | May 2014           |
| September 2016                     | Version 2.0 | Review                       | September 2016     |
| September 2022                     | Version 3.0 | Review                       | 15 September 2022  |

