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## Special Commission of Inquiry into Healthcare Funding

### Statement of Michael Gendy

**Name:** Michael Gendy  
**Professional address:** 1 Reserve Road St Leonards NSW 2065  
**Occupation:** Chief Procurement Officer, NSW Health

1. This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Special Commission of Inquiry into Healthcare Funding (**the Inquiry**) as a witness. The statement is true to the best of my knowledge and belief.

#### A. BACKGROUND

2. My name is Michael Gendy. I am the Chief Procurement Officer (**CPO**) of NSW Health. My role resides within the NSW Ministry of Health's Strategic Procurement Branch which sits in the Financial Services and Asset Management Division. A copy of my curriculum vitae is exhibited to this statement (Exhibit 1 NSW Health Tranche 2 Consolidated Exhibit List).
3. The purpose of my role is to provide leadership, vision, and direction to the procurement function of NSW Health to drive effective and efficient procurement planning, sourcing and contract management aligned with NSW Health's statewide priorities and business needs and ensure compliance with legislation and whole-of-government policy and direction.
4. As CPO it is my responsibility to establish and oversee the implementation of PD2023\_028 *NSW Health (Goods and Services) Procurement Policy and NSW Health Procurement Procedures (Goods and Services) June 2022 Version 1*, which are designed to be read together and are referred to collectively in this statement (**NSW Health Procurement Policy and Procedures**), along with related systems, structures and frameworks for all procurement related activities in order to deliver best practice procurement across NSW Health. Copies of the *NSW Health Procurement Policy and Procedures* are exhibited to this statement (Exhibit 13 and 14 respectively, NSW Health Tranche 2 Consolidated Exhibit List). The CPO has an assurance role to ensure compliance to NSW government procurement frameworks and *NSW Health Procurement Policy and Procedures*.
5. As part of my role as CPO, I am a member of the NSW Health Procurement Reform Steering Committee which has been established to provide program governance, assurance and oversight of the overall implementation and engagement strategy to ensure that the Procurement Reform Program delivers the agreed measures of success and associated

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Program benefits. It is the decision-making body within NSW Health that approves key decisions that may result in alterations to the overall program of work and have a material impact on the previously approved business case and associated baselined program of work. It also reviews and endorses/approves any additional procurement initiatives that may be deemed in the future to be part of the Procurement Reform Program of Work. The committee is chaired by the Deputy Secretary, Financial Services and Asset Management Division and Chief Financial Officer (**CFO**) with membership including Chief Executives of NSW Health entities, from Local Health Districts and Shared Service entities, and a representative from NSW Treasury.

## **B. SCOPE OF STATEMENT**

6. This statement addresses the questions raised in the Inquiry's letter dated 20 December 2023 and broadly addresses Term of Reference E. On direction from the Inquiry, this statement does not address procurement of capital or workforce.
7. In discussing delivery of services, this statement focusses on the shared services provided by HealthShare NSW (**HealthShare**) and eHealth NSW (**eHealth**) and the statewide health service provided by NSW Health Pathology (**NSWHP**). On direction from the Inquiry this statement does not address delivery of health treatment services.
8. In addressing procurement, this statement relies on the definition of procurement in section 162 of the *Public Works and Procurement Act 1912*, being:  
“procurement of goods and services means the process of acquiring goods and services by—
  - a. identifying the need to purchase goods and services, and
  - b. selecting suppliers for goods and services, and
  - c. Contracting and placing orders for goods and services,and includes the disposal of goods that are unserviceable or no longer required”.

The definition of ‘contracting’ above includes contract management.

9. This statement is made from the perspective of the system manager and in addressing advantages, disadvantages, and opportunities in the NSW Health procurement system, does so from a statewide rather than local perspective. For example, as system manager, the Strategic Procurement Branch is responsible for managing the implementation of the Procurement Reform Program to ensure it aligns with the *Future Health: Guiding the next decade of health care in NSW 2022-2032* (**Future Health**) strategy, made up of a Strategic

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Framework, a Summary and a Report, copies of which are exhibited to this statement (collectively Exhibit 23 NSW Health Tranche 2 Consolidated Exhibit List). The other NSW Health entities will execute the operational elements required to deliver the program.

10. For clarity, the Secretary, NSW Health is responsible for the management of the NSW Health system and chairs key system governance and system management committees, including the Ministry of Health Executive Committee. The Ministry of Health, under the Secretary's oversight, is the system manager for the NSW Health system (which includes Local Health Districts (**LHDs**), Specialty Health Networks (**SHNs**), Statewide Health Services, Shared Services and Pillars).
11. While matters relating to other NSW Health entities will be addressed to the extent relevant to the statewide perspective, I understand that matters relating to other NSW Health entities will be addressed in further detail by them in their statements.
12. Where whole-of-government policy refers to 'agency', are references to 'department' as provided in the *Government Sector Employment Act 2013*, being the Ministry of Health. References to a NSW Health entity in this statement, over rely on the meaning in s. 2.3 of the *Government Sector Finance Act 2018* which includes:
  - a. Statutory health organisations within the meaning of the *Health Services Act 1997* (this includes LHDs and Statutory Health Corporations being the SHNs and Pillars),
  - b. The Health Administration Corporation and each of its controlled entities (which includes the shared services entities such as HealthShare and eHealth and statewide health services entities such as NSWHP),
  - c. The Cancer Institute (NSW),
  - d. The NSW Health Foundation,
  - e. The Albury Base Hospital, and
  - f. Any other entity prescribed by the regulations as a NSW Health entity.

### **C. OVERSIGHT OF PROCUREMENT AND PROCUREMENT REFORM IN NSW HEALTH**

13. As CPO it is my responsibility to establish and oversee the implementation of the *NSW Health Procurement Policy and Procedures*, along with related systems, structures and frameworks for all procurement related activities in order to deliver best practice procurement across NSW

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Health. The CPO has an assurance role to ensure compliance to NSW government procurement frameworks and *NSW Health Procurement Policy and Procedures*.

14. The NSW Procurement Board governs the NSW Government Procurement Accreditation Program, administered by NSW Procurement within NSW Treasury. The accreditation program establishes minimum standards for agency procurement as a basis for improving the outcomes delivered across government. This is governed by the NSW Procurement Board and administered by NSW Procurement on behalf of the Board. Agencies such as NSW Health can attain one of two accreditation levels, being either "level 1" or "level 2". Each level has specific minimum requirements for accreditation and a different authority to procure. Once accredited, agencies are required to comply with the annual self-reporting process under the program.
15. An agency's accreditation level determines its authority to procure and its accreditation minimum requirements according to its assessed level of procurement capability and capacity.
16. The authority to procure is defined through the maximum contract value (**MCV**). The MCV is the dollar contract value up to which accredited agencies can undertake their own procurement activity without seeking concurrence. Contract value is the estimated value over the maximum proposed contractual term, this includes the initial term plus optional extension periods.
17. Level 1 accredited agencies are required to determine a risk-based MCV for each procurement event valued over \$20 million. Level 2 accredited agencies have no prescribed MCV and may undertake all procurement events in line with their approved budgets, financial and procurement delegations.
18. Accredited agencies have the authority to enter into any procurement arrangement consistent with its terms of accreditation.
19. Based on the minimum standards and requirements, NSW Health has attained a "level 2" procurement accreditation.
20. The NSW Ministry of Health's Strategic Procurement Branch sits in the Financial Services and Asset Management Division. It acts as the system manager for procurement within NSW Health and extends to overseeing procurement of all goods and services within NSW Health.
21. Generally, funding for the Ministry of Health, including for the Strategic Procurement Branch, is a recurring expense included in the fixed base in the NSW Health Budget.
22. Along with other branches of the Ministry of Health, the Strategic Procurement Branch:

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- a. Provides leadership and direction to drive value for money and effective procurement planning, sourcing and contract management,
  - b. Oversees, monitors and governs the accreditation requirements for NSW Health's level 2 procurement accreditation and liaises with NSW Treasury,
  - c. Develops procurement strategies to ensure value for money for NSW Health on a statewide basis,
  - d. Establishes and oversees the implementation of the *NSW Health Procurement Policy and Procedures*, related procedures, systems, structures and frameworks for all goods and services procurement related activities,
  - e. Implements statewide procurement governance and risk managements frameworks,
  - f. Manages NSW Health entities' compliance with procurement requirements,
  - g. Delivers training via the NSW Health Procurement Academy, as further expanded on below, and
  - h. Oversees procurement reform, including the NSW Health Travel Reform Program, as set out further below.
23. The Strategic Procurement Branch works in partnership with NSW Health entities to ensure the alignment of procurement strategies across the NSW Health system.
24. The Shared Service entities provide category strategy implementation and operational procurement management, thereby ensuring maximum value across the system.
25. The category strategies are managed and implemented by the respective category teams for each category. These category teams are led by the Shared Service entities across the system: HealthShare is the category lead for all goods and services categories; eHealth for Information and Communication Technology (ICT) and Ministry of Health Asset Management Branch for assets and facilities management.
26. The CPO is the sponsor for these category strategies, with the Ministry of Health Strategic Procurement Branch responsible for providing governance across all the strategies as part of the Savings Leadership Program. The Savings Leadership and Comprehensive Expenditure Review Steering committee are responsible for the approval and oversight of the category strategies, to act as an escalation point where category savings performance is at risk.

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27. HealthShare and eHealth are NSW Health's central point for goods and services tendering and contracting. These entities provide a central hub for procurement activity and help lower purchasing costs of goods and services.
28. The Strategic Procurement Branch is currently overseeing a Procurement Reform Program that was established based on learnings from COVID-19 and to address opportunities for improvement identified by the Audit Office of NSW in its 31 October 2019 report *Ensuring contract management capability in government - HealthShare NSW*, a copy of which is exhibited to this statement (Exhibit 15 NSW Health Tranche 2 Consolidated Exhibit List). This has involved examination of LHD and SHN purchasing to determine areas of duplication and the opportunity to convert individual local level contracts into whole-of-health contracts, as well as opportunities for supply chain improvement.
29. Systematic improvement initiatives are managed and led by the Strategic Procurement Branch through the Procurement Reform Program. The program has been established to promote improvements in governance, technology, and efficient and equitable procurement practices. Through a series of initiatives, the program will sustain and strengthen the core procurement and supply chain ecosystem within NSW Health. The program will develop a single platform for all procurement and supply chain activities based on the existing Oracle ERP platform. The system will support the end-to-end procurement process, to monitor inventory, pricing and price changes and ordering, as well as ensuring that data is secure, accessible and can be meaningfully analysed to provide insights to drive system improvement.
30. The key Procurement Reform Program workstreams are:
  - a. The Operating Model will expand and empower the procurement workforce statewide with additional resources, a new Contract Management Framework, refined contract implementation process, improved governance and greater role clarity, all supported by the *NSW Health Procurement Policy and Procedures*.
  - b. The NSW Medicines Formulary will develop a holistic framework governing the procurement and usage of pharmaceuticals to support optimum clinical governance and better value health care leading to improved patient outcomes.
  - c. DeliverEASE will transform the medical consumable supply chain by enabling faster and easier ordering and optimises processes around inventory management and visibility to facilitate tracking of products from the point of receipt of goods at the hospital dock to the ward storeroom.

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- d. SmartChain is creating a single integrated system to simplify and optimise our processes. Procurement and supply chain will be transformed by improving how data is collected, used and managed by NSW Health, ensuring decision making is based on reliable and trusted information.
31. The Procurement Reform Program's SmartChain solution is focused on five workstreams: sourcing and contracts, dataflow, supply chain traceability, business intelligence, and analytics. It aims to transition all procurement activity into a statewide platform. This will create a single end-to-end centralised procurement platform for all procurement and supply chain activities. The Procurement Reform Program is ongoing.

#### **D. LEGISLATION, FRAMEWORKS AND POLICY GOVERNING PROCUREMENT IN NSW HEALTH**

32. All NSW Health entities are subject to a range of statewide NSW Health frameworks and policies concerning procurement, primarily through the *NSW Health Procurement Policy and Procedures* and statewide service delivery, which incorporate:
- a. Legislative requirements,
  - b. NSW Government objectives and priorities,
  - c. the NSW Government Procurement Policy Framework,
  - d. All relevant NSW Government policies, and
  - e. NSW Health priorities.

##### **Requirements incorporated into NSW Health frameworks and policies**

###### ***Legislative requirements***

33. All NSW Health entities are required to comply with the following legislation relating to procurement, relevant parts of which are integrated into NSW Health policies:
- a. *Government Information (Public Access) Act 2009 (GIPA Act)*,
  - b. *Government Sector Finance Act 2018*,
  - c. *Health Administration Act 1982*,
  - d. *Health Services Act 1997*,

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- e. *Independent Commission Against Corruption Act 1988,*
  - f. *Modern Slavery Act 2018 (Cth),*
  - g. *Modern Slavery Act 2018 (NSW),*
  - h. *Plastic Reduction and Circular Economy Act 2021,*
  - i. *Public Works and Procurement Act 1912,*
  - j. *Public Works and Procurement Regulation 2019, and*
  - k. *State Records Act 1998.*
34. The *Public Works and Procurement Act 1912* establishes the NSW Procurement Board and requires all NSW Government agencies to comply with the directions and policies of the NSW Procurement Board.
35. The NSW Procurement Board governs and administers an Accreditation Program for Goods and Services Procurement. This program is formal recognition by the NSW Procurement Board certifying that an agency has passed assessment and meets required standards for accreditation and has the authority to procure. The NSW Health Secretary, jointly with the Ministry of Health, holds the highest accreditation (level 2) for procurement of goods and services and is responsible for overseeing compliance with the *NSW Government Procurement Policy Framework*, a copy of which is exhibited to this statement (Exhibit 16 NSW Health Tranche 2 Consolidated Exhibit List), the *NSW Health Procurement Policy and Procedures* and all other relevant policy, directions and legislation by all NSW Health entities. Agencies can attain one of two accreditation levels. Level 1 accredited agencies must adhere to a staggered risk and spend-based maximum contract value for each procurement event valued over \$20 million, and seek concurrence from a level 2 accredited agency or NSW Procurement if this value is exceeded. Level 2 accredited agencies may also have lead buyer status for a category where they establish and manage whole-of-government contracts, however this does require approval of the NSW Procurement Board.

***NSW Government objectives and priorities***

36. The NSW Procurement Board sets NSW Government procurement objectives and provides direction to NSW Government agencies. The NSW Procurement Board's objectives are set out in the *NSW Government Procurement Policy Framework*. The *NSW Government Procurement Policy Framework* has set the following objectives to guide procurement decision making by NSW Health entities:

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- a. 'Value for money',
  - b. 'Fair and open competition',
  - c. 'Easy to do business',
  - d. 'Innovation', and
  - e. 'Economic development, social outcomes and sustainability'.
37. In addition to the objectives set out in the *NSW Government Procurement Policy Framework*, NSW Health entities are subject to additional priorities set by the NSW Government. This is set by mechanisms such as:
- a. Election Commitments,
  - b. Premier's memoranda,
  - c. Charter Letter commitments,
  - d. Procurement Board Directions,
  - e. Ministerial Directions,
  - f. Treasury Circulars, Policies and Guidelines,
  - g. Audit Office recommendations, and
  - h. Inquiry recommendations.

#### ***NSW Government Procurement Policy Framework***

38. The *NSW Government Procurement Policy Framework* governs how all NSW government agencies are to procure goods and services.
39. The *NSW Government Procurement Policy Framework* states that it is critical to the governance of agency procurement that clusters or agencies appoint a Chief Procurement Officer.
40. The *NSW Government Procurement Policy Framework* provides that **value for money** is not necessarily the lowest price, nor the highest quality good or service. Value for money requires a balanced assessment of a range of financial and non-financial factors such as quality, cost and fitness for purpose. NSW Health considers ways to integrate the principles of value-based

healthcare into the value for money assessment through outcomes-focused specifications, evaluation criteria and contractual performance measures. Value for money is determined by comparing lifetime benefits (for example, non-financial factors) against lifetime costs (for example, financial factors). Assessing value for money generally falls into three categories:

- a. **Upfront:** savings, changes to revenue, costs avoided, transitioning in costs and risks.
- b. **After purchase:** total cost of ownership benefits and costs taking into consideration the contract period, transactional costs, transitioning out and contingency costs and contract management risks.
- c. **Fit for purpose:** alignment with policy, suitability of goods and services, flexibility.

#### **NSW Government policies**

41. The *NSW Government Procurement Policy Framework* mandates policies which all NSW Health entities are required to comply with, and which are in turn mandated by the *NSW Health Procurement Policy and Procedures*. The mandatory NSW Government policies are set out below, other than in relation to construction or infrastructure projects.
42. The *NSW Government Procurement Policy Framework* **objectives for fair and open competition** requires that NSW Health entities have transparent, competitive processes that drive fair and ethical behaviour, safeguard probity and foster healthy working relationships between government buyers and suppliers. Competition produces tangible outcomes such as cost savings, increased quality and innovation and supports market sustainability. These principles include:
  - a. **Fair and open competition:** treating potential suppliers equitably and not discriminating based on business size, location or ownership, except where targeted policy measures or preferences apply.
  - b. **Probity and fairness:** ensuring the procurement is fair, ethical and transparent and that probity is routinely **considered** in procurement decisions. Further, confidential supplier **information** must be safeguarded, and tenders must be treated fairly, impartially and securely.
  - c. **Supplier conduct: ensuring** that suppliers comply with the Supplier Code of Conduct, a copy of which is exhibited to this statement (Exhibit 17 NSW Health Tranche 2 Consolidated Exhibit List), and have awareness of agency expectations concerning conduct in respect to modern slavery risks and human rights.

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- d. **Supplier due diligence:** conducting supplier due diligence checks, in line with the value, nature and risk of the **procurement** and resulting contract. Due diligence also includes the ongoing monitoring of supplier compliance with contractual, regulatory and other obligations.
  - e. **Transparency:** keeping of appropriate records of procurement planning, management and decision making. The requirements of the GIPA Act, requiring the disclosure of certain contracts **with** private sector entities are monitored to ensure this principle is met.
43. To meet the NSW Government's **objective of being easy to do business with**, among other things, NSW Health entities:
- a. Notify the market on NSW eTendering as early as possible about upcoming opportunities to let them work through our processes and to cost their work accurately.
  - b. Use whole-of-government or whole-of-health contracts or prequalification schemes where these exist, including using the standard tender and contract templates to make it easier for suppliers to familiarise themselves with contract requirements.
  - c. Ensure suppliers are paid within contractual timeframes and that small businesses are paid within five business days of receipt of a correctly rendered invoice. Where a procurement is valued at \$7.5 million or more, NSW Government agencies must require large businesses to pay small business subcontractors within 20 business days.
44. NSW eTendering is a whole-of-government procurement platform that lists upcoming, current and closed business opportunities that have been provided by agencies. NSW Government buyers use eTendering to create and advertise current market opportunities such as tenders, contracts and schemes, and can also invite suppliers to respond. In line with the GIPA Act, NSW Government agencies must also disclose contracts valued over \$150,000 (incl. GST) on this platform.
45. In complying with the *NSW Government Procurement Policy Framework* **objective of innovation**, NSW Health encourages NSW Health entities to ensure broad industry engagement and flexible procurement practices to assist in adopting innovative services and solutions. Where an entity is approached with an unsolicited proposal, it should seek advice from Strategic Procurement Branch. In compliance with *C2017\_05 Unsolicited Proposals and the Unsolicited Proposals Guide for Submission and Assessment*, proponents must lodge an unsolicited proposal with the Department of Enterprise, Investment and Trade for detailed assessment and Cabinet approval.

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46. The *NSW Government Procurement Policy Framework objective of economic development, social outcomes and sustainability* requires NSW Health to:
- a. Comply with the *SME and Regional Procurement Policy* a copy of which is exhibited to this statement (Exhibit 18 NSW Health Tranche 2 Consolidated Exhibit List). In FY22/23, NSW Health spent \$1.64 billion on goods and services with small and medium enterprises. This is approximately 22 per cent of its entire goods and services spend for that financial year.
  - b. Comply with the *ICT/Digital SME Procurement Commitments*, a copy of which is exhibited to this statement (Exhibit 19 NSW Health Tranche 2 Consolidated Exhibit List), and apply a target to increase participation of SMEs in government procurement of ICT goods and services.
  - c. Comply with the *Small Business Shorter Payment Terms Policy*, a copy of which is exhibited to this statement (Exhibit 20 NSW Health Tranche 2 Consolidated Exhibit List), to support cash flow for small businesses that are subcontracted on NSW Government goods and services contracts.
  - d. Comply with the *NSW Government Aboriginal Procurement Policy* including meeting targets for direct spend with Aboriginal businesses, number of contracts awarded to Aboriginal businesses and Aboriginal participation in contracts valued \$7.5 million or more. A copy of which is exhibited to this statement (Exhibit 21 NSW Health Tranche 2 Consolidated Exhibit List):
    - i. In FY22/23, NSW Health spent \$41.9 million directly with Aboriginal businesses, exceeding the NSW Treasury assigned target of \$23 million. In FY21/22, NSW Health spent \$282.4 million with Aboriginal businesses against a target of \$19.6 million, however a large proportion of this was COVID-related spend.
    - ii. In FY21/22, NSW Health awarded 230 goods and services contracts valued over \$10,000 to Aboriginal businesses against the NSW Treasury set target of 66 contracts.
    - iii. In FY22/23, NSW Health awarded 152 goods and services contracts valued over \$10,000 to Aboriginal businesses, against a target of 63.

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- e. Comply with the *Public Works and Procurement Regulation 2019* permission to directly engage disability employment organisations with a single quote. In FY22/23, NSW Health engaged 46 disability employment organisations, to a total value of \$2.63 million.
- f. Comply with the *Government Resource Efficiency Policy*, a copy of which is exhibited to this statement (Exhibit 22 NSW Health Tranche 2 Consolidated Exhibit List), by ensuring goods and services forming part of construction and infrastructure projects meet minimum energy, water use and air emissions standards.
- g. Comply with the *Modern Slavery Act 2018 (NSW)* by ensuring reasonable steps are taken to ensure that goods and services procured by and for government agencies are not the product of modern slavery. NSW Health has completed the following actions to address modern slavery risks:
  - i. **Operations:** established pre-employment screening checks, developed policies, guidelines, accreditation and employment award requirements to provide consistent labour practice, maintains records of employee work visas and authorities to work in Australia.
  - ii. **Supply Chains:** updated tender documentation to ensure respondents comply with modern slavery laws, contracts include specific compliance clauses and requirements for suppliers to report any breaches, established an extensive supplier relationship management program which includes compliance with modern slavery requirements, conduct businesses with large multi-national suppliers who confirm their compliance with the Commonwealth Act as a condition of supply, engaged the support of a specialist third party to assess the effectiveness of a modern slavery action plan.

The Strategic Procurement Branch are members of the NSW Anti-Slavery Commissioner's working group to develop guidance and reporting metrics for NSW Government agencies. The Commissioner published guidance in December 2023, with annual reporting requirements commencing from 1 January 2024.

- h. Comply with the *Modern Slavery Act 2018 (Cth)*. Government agencies, as representatives of the Crown (such as the Health Administration Corporation), are not required to comply with this Act. NSW Health LHDs, the Sydney Children's Hospital Network, Justice Health and Forensic Mental Health Network and the Cancer Institute NSW fall under the definition of 'reporting entity' for the purposes of the Act as they have an annual consolidated revenue of more than \$100m a year (including government

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grants and subsidies) and do not represent the Crown in right of NSW. Reporting entities are required to submit to the Commonwealth an annual statement against the mandatory criteria set out in the Act. The Ministry of Health, in consultation with HealthShare and eHealth prepare and submit the annual joint statement on behalf of these reporting entities.

### ***NSW Health priorities***

47. The objectives and requirements of the *NSW Government Procurement Policy Framework* are adopted in NSW Health frameworks and policies, which consolidate the various whole-of-government requirements and provide guidance on the operation of those requirements within the NSW Health context. In providing this additional guidance, the NSW Health procurement and service delivery policies reflect particular NSW Health priorities and objectives.
48. The Ministry of Health's priorities are set out in *Future Health*, which is a ten-year plan to deliver a vision for a sustainable health system. The Strategic Procurement Branch has eight procurement related actions in the strategy, all of which are on-track for completion by 30 June 2024. The actions include:
  - a. Implementing an improved contract handover process across the system,
  - b. Delivering the NSW Health Procurement Academy to all NSW Health entities. The Procurement Academy has been developed to uplift NSW Health entities' procurement knowledge and capability. The objective of the Procurement Academy is to provide all NSW Health procurement and non-procurement staff with a clear and consistent understanding of the lifecycle of procurement activities, to enable them to have a greater impact on delivering better procurement outcomes for NSW Health (relevant to their role as outlined below). The Procurement Academy content has been developed with input from Chartered Institute of Procurement and Supply and customised further by Strategic Procurement Branch working in partnership with LHDs, SHNs and other NSW Health entities to develop specific case studies to illustrate key concepts across the procurement lifecycle,
  - c. The two training streams available for NSW Health entities are as follows:
    - i. Procurement Academy for procurement staff with five modules (delivered over five weeks). Course module includes:

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1. Introduction (Week 1): Probity & Conflicts of Interest, and Procurement Operating Model,
  2. Approach to Procurement (Week 2): Existing Arrangements, local Case Study Discussions, and Statewide Approach in developing Existing Arrangements,
  3. Approach to Procurement (Week 3): Outside Existing Arrangements and local Case Study Discussions,
  4. Managing for Value (Week 4): Contract Management and Implementation, and Supporting Value Based Healthcare and Sustainability, and
  5. Navigating Procurement Systems (Week 5): NSW Buy, PROcure and Portt Discover.
- ii. Procurement Academy for non-procurement staff with three modules comprising (delivered over three weeks):
1. Introduction (Week 1): Probity & Conflicts of Interest and Procurement Operating Model,
  2. Approach to Procurement (Week 2): Existing Arrangements, local Case Study Discussions, and Statewide Approach in developing Existing Arrangements, and
  3. Approach to Procurement (Week 3): Outside Existing Arrangements and local Case Study Discussions.
- d. The initial rollout of Procurement Academy training commenced in March 2023 with Sydney LHD and concluded in December 2023 with teams from HealthShare and Justice Health and Forensic Mental Health Network participating in training. As at end December 2023, 706 staff have been trained,
- e. Participating in whole-of-government Communities of Practice (for example, the Aboriginal Procurement Community of Practice, Modern Slavery Working Group, and Procurement Professionals Community of Practice),
- f. Implementing a NSW Health Community of Practice,

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- g. Enhancing whole of life asset planning and funding with a focus on cost models for asset refreshment/replacement,
  - h. Embedding value-based healthcare into system-wide procurement activity,
  - i. Reviewing and developing strategic asset management plan with procurement initiatives in collaboration with the Ministry of Health's Asset Management Branch and Health Infrastructure,
  - j. Analysing "on contract spend" against "off contract spend" of medical procurement using reporting dashboards developed,
  - k. Fostering information sharing, innovation and greater coordination between NSW Health and suppliers, and
  - l. Conducting performance reviews of ten whole-of-health goods and services categories, developing category strategies of the procurement initiatives to meet and exceed savings targets.
49. The Strategic Procurement Branch also supports the priorities set out in the *Regional Strategic Plan 2022 – 2032*, a copy of which is exhibited to this statement (Exhibit 24 NSW Health Tranche 2 Consolidated Exhibit List).

#### **NSW Health frameworks**

50. The *NSW Health Corporate Governance and Accountability Compendium (the NSW Health Governance Framework)*, a copy of which is exhibited to this statement (Exhibit 25 NSW Health Tranche 2 Consolidated Exhibit List), outlines the governance requirements that apply to NSW Health entities and sets out the roles, relationships and responsibilities of those entities. The framework recognises NSW Health's purpose, legislative, policy and ethical obligations, as well as its workforce and employment responsibilities. Section 12.1.2 of the *NSW Health Governance Framework* provides that the Health Administration Corporation holds level 2 accreditation under the NSW Procurement Board Accreditation Scheme for Goods and Services Procurement. The Secretary, NSW Health has delegated this authority to the chief executives of HealthShare, eHealth and Health Infrastructure and to the NSW Health Chief Procurement Officer to conduct the procurement of goods and services.

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51. The *NSW Health Performance Framework 2023 (NSW Health Performance Framework)*, a copy of which is exhibited to this statement (Exhibit 26 NSW Health Tranche 2 Consolidated Exhibit List), is informed by the *National Health Reform Agreement (NHRA)* and sets out a process for setting performance expectations and monitoring performance of:
- a. LHDs,
  - b. St Vincent's Hospital Sydney Limited, and
  - c. NSW Health support organisations, being:
    - i. The Pillar Organisations (the Agency for Clinical Innovation, the Bureau of Health Information, The Cancer Institute (NSW), the Clinical Excellence Commission and the Health Education and Training Institute),
    - ii. Shared Services (HealthShare, eHealth and Health Infrastructure), and
    - iii. Statewide Health Services (NSW Ambulance, NSWHP and NSW Health Protection).
52. The *NSW Health Performance Framework* outlines the process the Ministry of Health undertakes in setting and assessing the level of performance of each NSW Health entity, including by the use of Key Performance Indicators (**KPIs**) to assess purchasing, budget setting and management and compliance with procurement requirements.
53. The annual LHD and SHN Service Agreements, a generic copy of which is exhibited to this statement (Exhibit 27 NSW Health Tranche 2 Consolidated Exhibit List), entered into between the Ministry of Health and each LHD and SHN, sets out the requirements to be met and the KPIs against which the LHD or SHN is to be assessed. Relevant to procurement, the Service Agreements set out requirements that the LHD or SHN:
- a. Ensure services are delivered in a manner consistent with the *NSW Health Governance Framework*,
  - b. Ensure procurement of goods and services complies with the *NSW Health Procurement Policy and Procedures*,
  - c. Apply the NSW Government *Aboriginal Procurement Policy* to all relevant procurement activities,
  - d. Comply with standards set out in PD2019\_007 *Public Health Emergency Response Preparedness Minimum Standards*, and

- e. Adhere to the roles and responsibilities set out in PD2023\_008 *Early Response to High Consequence Infectious Disease*.
54. The Service Agreements include detailed KPIs regarding procurement, reflective of the NSW Government procurement objectives, directions and policies and the NSW Health priorities and policies:
- a. Asset maintenance expenditure as a proportion of asset replacement value,
  - b. Capital renewal as a proportion of asset replacement value,
  - c. Annual procurement savings target achieved,
  - d. Reducing free text orders catalogue compliance,
  - e. Reducing off-contract spend,
  - f. Use of whole-of-health contracts,
  - g. Desflurane reduction,
  - h. Nitrous Oxide reduction,
  - i. Energy use avoidance,
  - j. Passenger vehicle fleet optimisation,
  - k. Waste diversion from landfill,
  - l. Reporting on procurement capability, including:
    - i. Local resources and training to uplift procurement capability of non-procurement staff, and
    - ii. Procurement staff attend Procurement Academy training.
  - m. Reporting on procurement compliance, including:
    - i. Goods and services procurements and ICT procurements valued over \$30,000 and outside existing arrangements are tested against the Risk Assessment Tool,
    - ii. Disclosure requirements for contracts with private sector entities (including purchase orders) valued at \$150,000 or more are met, including that

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contracts/purchase orders are disclosed on eTendering and are saved on PROcure (where relevant),

- iii. Procurements outside existing arrangements for goods and services that are valued over \$250,000 are referred to HealthShare or ICT procurements valued over \$150,000 are referred to eHealth to conduct the procurement (unless an exemption applies),
- iv. The ICT Purchasing Framework contract templates (Core & contracts; Master ICT Agreement/ICT Agreement contracting framework) are used when engaging suppliers on the ICT Services Scheme (where relevant) unless an exemption applies,

c. Reporting on social and sustainable procurement.

- 55. NSW Health entity compliance with their Service Agreements is monitored monthly by the System Performance Support Branch within the Ministry of Health. Their performance against procurement compliance targets is tracked and presented by Financial Services and Asset Management Division in a broader monthly report to an executive committee including the Secretary, NSW Health.

***NSW Health statewide policies***

- 56. The NSW Health procurement policy is developed within the Strategic Procurement Branch. The *NSW Health Procurement Policy and Procedures* sets procurement requirements that apply statewide to all NSW Health entities and reflects the mandatory requirements of the *NSW Government Procurement Policy Framework*.
- 57. The *NSW Health Procurement Policy and Procedures* outlines the key policies that apply to procurement by NSW Health entities, such as:
  - a. **Contract disclosure:** PD2018\_021 *Disclosure of Contract Information*, a copy of which is exhibited to this statement (Exhibit 28 NSW Health Tranche 2 Consolidated Exhibit List), is a policy developed by the Strategic Procurement Branch, to ensure NSW Health meets its contract disclosure obligations under the GIPA Act. It provides that NSW Health entities must disclose a register of government contracts with the private sector on the NSW Government tenders website, eTendering. The register must include all contracts with private sector where the commitment value is, or is likely to be, \$150,000 (inclusive of GST) or more. The private sector, for this purpose, includes not-for-profit organisations and NGOs.

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- b. **Conflicts of interest and integrity:** PD2015\_045 *Conflicts of Interest and Gifts and Benefits* and PD2015\_049 *NSW Health Code of Conduct*, copies of which are exhibited to this statement (Exhibits 29 and 30 respectively NSW Health Tranche 2 Consolidated Exhibit List), apply to all NSW Health staff. They operate to ensure that staff act with integrity, perform duties in a fair and unbiased way and do not make decisions which are affected by self-interest or personal gain; this involves avoiding actual or perceived conflicts of interest and not accepting gifts of a non-token nature. PD2015\_045 requires all NSW Health entities to have systems in place to address the management of conflicts of interest and gifts and benefits and to ensure staff are aware of these issues and how to deal with them. PD2016\_029 *Corrupt Conduct: Reporting to the Independent Commission Against Corruption (ICAC)*, a copy of which is exhibited to this statement (Exhibit 31 NSW Health Tranche 2 Consolidated Exhibit List), sets out procedures for compliance with the *Independent Commission Against Corruption Act 1988* including internal reporting system to the Chief Executive to facilitate the reporting of corruption.
- c. **Use of Purchasing Cards:** PD2022\_038 *Procurement Cards within NSW Health*, a copy of which is exhibited to this statement (Exhibit 32 NSW Health Tranche 2 Consolidated Exhibit List), sets out requirements for use of Procurement Cards within NSW Health. NSW Health entities are required to adopt the use of Procurement Cards and Virtual Procurement Cards where practicable, for purchase of goods and services up to \$10,000. This policy aligns with the NSW Treasury policy TPP21-02 *Use Management of NSW Government Purchasing Cards* (Exhibit 128 NSW Health Tranche 2 Consolidated Exhibit List), which mandates the use of purchasing cards for all transactions up to \$10,000, where viable. This requirement supports the *NSW Government Faster Payment Terms Policy* and works to realise benefits such as savings and enhance capability to track and monitor expenditure (Exhibit 41 NSW Health Tranche 2 Consolidated Exhibit List).

## E. SUPPLY CHAIN CHALLENGES

58. NSW Health's centralised procurement and service delivery functions through HealthShare allowed it to be resilient in the face of supply chain disruptions during the COVID-19 pandemic.
59. While a centralised approach across government has enabled procurement of key goods and services, opportunities were identified for improved visibility and stock forecasting, and a path to the procurement reform. Lessons learned during the COVID-19 response identified that the service delivery function would have been more efficient if NSW Health had better foundational systems in place. The opportunity to improve procurement practices was a key driving force for the establishment of the Procurement Reform Program.

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60. COVID-19 has had an immense impact on health, economic, financial, social and environmental systems around the world. Health systems' procurement and supply chains have been a core component of countries' responses to the COVID-19 pandemic, as traditional supply chains and established ways of working struggled to adapt to a global shift in demand for goods, resulting in transportation and delivery issues worldwide. The Commonwealth Government's guidance for navigating challenges in global supply chains during the pandemic emphasised the unprecedented nature of the pandemic and the need for procurement systems to adapt rapidly – while also ensuring supplies are sourced efficiently, effectively, economically and ethically.
61. In response to these trends and key issues, NSW Health has developed the NSW Health Procurement Reform Program, which seeks to improve procurement practices so that systems, processes and infrastructure are aligned to deliver the best quality patient care, promote positive patient and clinician experience and reduce financial burden. This shift signals an increasingly important role for a more integrated and reliable procurement system.
62. As the NSW Health system emerges from the COVID-19 pandemic, the review of supply chain operation commenced in 2019 continues, including undertaking the recommendations from the Audit Office of NSW for improved contract management and delineation of procurement roles and responsibilities within NSW Health. Systematic improvement initiatives to promote improvements in governance, technology, and efficient equitable procurement practices are managed and led by the Strategic Procurement Branch through the Procurement Reform Program.
63. HealthShare and the Clinical Excellence Commission meet weekly to discuss current and possible critical supply shortages secondary to TGA recalls or supply interruption. In the instance of a statewide disruption likely to impact patient care or the provision of services our statewide inventory issuance of stock via our warehouse and logistic function and direct from supplier purchase activity is analysed, along with other risk assessment criteria. The Clinical Excellence Commission, in consultation with HealthShare, decide on management and communication pathways often involving specialised clinical experts.
64. There are four Procurement Reform workstreams:
- a. The Operating Model will expand and empower the procurement workforce statewide with additional resources, the current Contract Management Framework, refined contract implementation process, improved governance and greater role clarity, all supported by the *NSW Health Procurement Policy and Procedures*. The Operating Model included building more effective contract management and contract implementation capability in NSW Health. This included funding LHDs to recruit additional contract implementation

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- staff (43 additional FTE) and HealthShare, eHealth and NSWHP to recruit additional contract management staff (33 additional FTE). Most of the additional staff had been recruited and were in place by December 2022 with the residual completed by September 2023.
- b. The NSW Medicines Formulary will develop a holistic framework governing the procurement and usage of pharmaceuticals to support optimum clinical governance and better value health care leading to improved patient outcomes. The clinical implementation (prescribing practice changes) of the NSW Medicines Formulary commenced in November 2022 and completed in December 2023.
  - c. DeliverEASE will transform the medical consumable supply chain by enabling faster and easier ordering and optimises processes around inventory management and visibility to facilitate tracking of products from the point of receipt of goods at the hospital dock to the ward storeroom. DeliverEASE includes the StaffLink Requisitions and Receiving (STARR) Mobile Application which is a new inventory ordering and purchase order receipting system for NSW Health. The STARR system enables and simplifies ordering by scanning items at the shelf, receiving deliveries, provides inventory control and order backorder visibility improving stock management.
  - d. Implementation of DeliverEASE commenced in South Eastern Sydney (**SES**) LHD as a pilot implementation (at Prince of Wales Hospital) in August 2020. The pilot at Prince of Wales Hospital completed in February 2021, and completed in six SES LHD hospitals in December 2022. Further LHD rollouts commenced in August 2022 (in Northern Sydney LHD), The DeliverEASE program is planning to deploy to 48 hospitals across NSW Health, has been implemented in 33 hospitals (as at end December 2023) and is planned to be completed by June 2024.
  - e. SmartChain is creating a single integrated system to simplify and optimise our processes. Procurement and supply chain will be transformed by improving how data is collected, used and managed by NSW Health, ensuring decision making is based on reliable and trusted information.
65. SmartChain is a digital procurement solution that will provide a centralised hub for all procurement and supply chain activities. It will be a centralised supply chain platform from which supports the end-to-end procurement process, to monitor inventory, pricing and price changes and ordering, as well as ensuring that data is secure, accessible and can be meaningfully analysed to provide insights to drive service improvement. This is a statewide

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initiative and includes activity in five workstreams - Sourcing & Contracts, Dataflow, Traceability, Business Intelligence & Analytics, and Procure to Pay.

66. Implementation of SmartChain commenced with a pilot of the first module (Traceability) in Nepean Blue Mountains LHD in March 2023 and completed in December 2023. Further LHD rollouts of the Traceability module commenced in October 2023 (in Southern NSW LHD and in November 2023 (in Murrumbidgee LHD). The SmartChain Traceability implementation is planned to be completed by December 2024.
67. Implementation of the SmartChain Sourcing and Contracts module commenced with a pilot with eHealth in December 2023. Upon completion of the pilot phase with eHealth (planned June 2024) further NSW Health entity rollouts will be planned in detail.
68. SmartChain Data Flows module is currently in the Testing Phase and is planned to be available to pilot in March 2024.
69. SmartChain and DeliverEASE will provide:
  - a. greater transparency of state and local demand, supply and inventory availability,
  - b. greater efficiency in procurement and supply chain practices and reduced waste, and
  - c. a platform to analyse more accurately and effectively spend, monitor supplier performance, and identify savings opportunities across the supply chain.

#### **F. PROCUREMENT PROCESSES WITHIN NSW HEALTH**

70. The extent of centralisation of the procurement function within NSW Health depends on the size of individual procurement contracts.
71. NSW Health entities must:
  - a. Use whole-of-government contracts wherever applicable, and
  - b. Comply with the requirements of the *NSW Health Procurement Policy and Procedures*.
72. Under the *NSW Health Procurement Policy and Procedures*, NSW Health entities are required to procure goods and services, excluding professional services, ICT and certain exempt procurements (such as Enforceable Procurement Provisions or those approved by me, as the CPO) as follows:
  - a. NSW Health entities must use whole-of-government or whole-of health contracts and pre-qualification schemes for obtaining goods, where available,

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- b. For procurement of goods and services outside existing arrangements and valued at between \$10,000 and \$30,000, NSW Health entities are required to obtain at least one written quote,
- c. For procurement of goods and services outside existing arrangements and over \$30,000, NSW Health entities must use a Risk Assessment Tool available through the NSW Health Procurement Portal, hosted on the NSW Health Intranet, to determine the procurement level and comply with the applicable procedures for the procurement level. For procurement outside of existing procurement arrangements and valued at more than \$250,000, NSW Health entities must refer the proposed procurement to HealthShare. Where the ICT-related goods or services are valued at more than \$150,000 and are not available on a whole-of-health or whole-of-government contract, the procurement must be referred to and approved by eHealth (even if these goods are available on the *SCM0020 - ICT Services Scheme*),
- d. When procuring professional services, NSW Health entities must seek CPO approval for all engagements valued at or over \$30,000 prior to seeking quotes from suppliers. CPO approval is also required for variations and extensions to existing professional services engagements. The NSW Health CPO has mandated the use of prequalification schemes, even where these are only considered 'recommended' under the Procurement Board Direction 2021-04 *Approved Procurement Arrangements*. NSW Health entities are also required to ensure that the supplier signs the appropriate Confidentiality and Conflict of Interest undertakings and agrees to the NSW Government Supplier Code of Conduct. Appropriate contract management of these engagements is required, and the NSW Health entity must complete a post-engagement evaluation before the engagement can be closed. The Strategic Procurement Branch is implementing a Vendor Management System as an end-to-end procurement solution for professional services engagements. The system will ensure compliance with the requirements of the NSW Procurement Board, the *State Records Act 1988* and the *NSW Health Procurement Policy and Procedures*. The Vendor Management System is in its early stages of implementation, and it is anticipated that full roll-out across all NSW Health entities will be complete by September 2024.
- e. NSW Health entities must seek Secretary approval for all proposed engagements, contract extensions and variations, regardless of value, with PriceWaterhouse Coopers or Scyne Advisory, and the CPO must report all such engagements to NSW Procurement on a monthly basis.
- f. When procuring ICT-related goods and services, NSW Health entities must:



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- i. Where available on an existing contract, use whole-of-health or whole-of-government contracts for ICT-related procurements of any value,
  - ii. Where the ICT-related goods or services are valued at more than \$150,000 and are not available on a whole-of-health or whole-of-government contract, the procurement must be referred to and approved by eHealth (even if these goods are available on the *SCM0020 - ICT Services Scheme*),
  - iii. Where the ICT-related goods or services are valued at less than \$150,000 and are not available on an existing contract, NSW Health entities must use the *SCM0020 - ICT Service Scheme*, a copy of which is exhibited to this statement (Exhibit 34 NSW Health Tranche 2 Consolidated Exhibit List), and
  - iv. From early 2024, eHealth will implement a requirement where the procurement involves laptops or desktop computers of any value, NSW Health entities must obtain approval from eHealth before commencing the procurement. eHealth are currently establishing a catalogue process to enable implementation of this requirement.
- g. NSW Health entities are also required to conduct contract management activities relevant to the contract value and/or method of procurement:
- i. Whole-of-health and whole-of-government contracts are managed at a category level by the category manager. When goods or services are procured using those contracts, the buyer is responsible for minimal contract management (for example, ensuring goods and services were received, for the agreed price and quality),
  - ii. Where a procurement occurs outside of existing arrangements, the contract management requirements are determined by the value of the spend, and the supplier classification using the Supplier Segmentation Framework if the total aggregated contract spend with that supplier (including the new contract is \$5 million or more per annum.
  - iii. Standard contract management activities include:
    - 1. **Contract administration:** check insurances and licenses, manage variations, conduct price reviews, manage extensions and expiries,

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2. **Monitor contract:** manage supplier performance and contract compliance and manage non-compliance, manage financial administration, track expenditure, conduct demand planning and track benefits delivery, monitor risk and the supply chain for potential disruption,
  3. **Manage performance and relationships:** regularly review contractual performance measures, facilitate review meetings, measure user satisfaction, ensure reporting requirements are met, work with suppliers to continuously improve contracts and optimise contract delivery, and
  4. **Contract closure:** conduct final performance reviews, prepare a transition out plan, finalise the contract/panel management plan, finalise benefits reporting, ensure all reporting requirements are finalised and confirm all records are up to date and saved appropriately.
73. Prequalification schemes provide government buyers with access to lists of resources that meet relevant experience and qualification standards. The schemes aim to reduce red tape and streamline the process for agencies to source and engage external expertise, and for suppliers to register for a large range of business opportunities. While PBD2021-04 *Approved Procurement Arrangements* lists seven prequalification schemes as mandatory, NSW Health has mandated that its staff use prequalification schemes for all procurements where the goods or services are available.
74. Whole-of-government and whole-of-health contracts (often referred to as standing offers) or panel arrangements are used by NSW Government agencies to purchase goods and services required on a recurring basis and are usually established using a tender process. These contracts set out terms and conditions, including a basis for pricing, under which a supplier agrees to supply specific goods and services to an eligible buyer for a specified period, allowing the NSW Government to negotiate competitive pricing by leveraging its buying power.
75. In accordance with the *NSW Health Procurement Policy and Procedures*, NSW Health entities are required to obtain CPO approval for:
- a. Procurements outside existing procurement arrangements that are valued at \$30 million or more (including the Procurement Plan and Evaluation Report),
  - b. Procurements to establish or renew whole-of-government and whole-of-health contracts,

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- c. Procurements valued at more than \$250,000 from an approved Australian disability enterprise (**ADE**) (when utilising the procurement-connected policy exemption to procure goods or services of any value from an ADE), and
  - d. Variation to contacts if the total tenure will be more than five years, or to extend contracts whose contract terms exceeds five years or if the proposed variation is outside the scope of the original statement of work.
76. The CPO may grant exemptions to specific policy or procedural requirements where there is a clinical or technical need, unsuitable contract conditions or performance or other exceptional circumstances. Exemptions will only be granted where exceptional circumstances apply. When seeking an exemption, NSW Health entities must:
- a. Demonstrate how value for money will be achieved through the alternative process,
  - b. When seeking to procure outside of existing arrangements, provide a comparative assessment of the alternate products, or approach that addresses whole-of-life costs, interoperability, risks and benefits,
  - c. Confirm a funding source with approval from the relevant financial delegate, together with other relevant, local approvals,
  - d. Where applicable, obtain endorsement of the approach from the relevant category manager, and
  - e. Obtain endorsement from HealthShare and/or eHealth prior to approaching the CPO if there is an impact on existing contracts, systems or solutions.
77. All other approvals sit within each NSW Health entity's delegation framework which usually provides for a financial delegate, contracting delegate and procurement delegate as defined in the *NSW Health Procurement Policy and Procedures*.
78. The NSW Government *Small and Medium Enterprise and Regional Procurement Policy*, a copy of which is exhibited to this statement (Exhibit 18 NSW Health Tranche 2 Consolidated Exhibit List) provides that NSW Government agencies:
- a. Must first consider purchasing from an SME, for procurements up to \$3 million, where the agency is permitted to directly purchase goods and services from a supplier, including from prequalification schemes and panels,

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- b. Permits agencies to negotiate directly with and engage an SME or regional supplier, for goods and services up to \$250,000, including where there is a whole-of-government arrangement in place,
  - c. For goods and services contracts valued at \$3 million or more, NSW Government agencies must include in the non-price evaluation criteria as a minimum, 10 per cent allocated to SME participation, and 10 per cent allocated to support for the NSW Government's economic, ethical, environmental and social policies, and
  - d. For goods and services contracts valued at \$3 million or more, suppliers are required to submit an SME and local participation plan, referencing SME and NSW specific content, consistent with International Procurement Agreement obligations and report on these commitments quarterly.
79. The NSW Government *Aboriginal Procurement Policy* provides that NSW Government agencies:
- a. Work to achieve targets for NSW Government agencies to spend directly with, and award goods and services contracts to verified Aboriginal businesses set by the NSW Procurement Board,
  - b. Give first consideration to Aboriginal businesses, up to \$250,000, where feasible,
  - c. Must include minimum requirements for 1.5 per cent of the contract value be directed to Aboriginal participation in all contracts valued at \$7.5 million or more,
  - d. Require the supplier to submit an Aboriginal Participation Plan during the tender process that sets out how the supplier will meet the Aboriginal participation requirements of the contract, and
  - e. Require suppliers to report quarterly on its progress toward the plan in the form and method required by the *Aboriginal Procurement Policy*.

**G. DELIVERY OF SHARED SERVICES AND STATEWIDE HEALTH SERVICES WITHIN NSW HEALTH**

80. Section 126G of the *Health Services Act 1997* provides that the Minister may direct that a Public Health Organisation acquire specified services from the Health Secretary:

**“126G Directions by Minister in relation to acquisition of services**

- (1) The Minister may, by order in writing, from time to time—

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- (a) require a public health organisation to acquire specified services from the Health Secretary or some other specified person if and when such services are required, and
  - (b) give a public health organisation any necessary directions for the purposes of paragraph (a).
- (2) The following conduct is specifically authorised by this Act for the purposes of the Competition and Consumer Act 2010 of the Commonwealth and the Competition Code of New South Wales—
- (a) a requirement or direction of the Minister given under subsection (1),
  - (b) the entering or making of a contract, agreement, arrangement or understanding as the result of such a requirement or direction,
  - (c) conduct authorised or required by or under the terms or conditions of any such contract, agreement, arrangement or understanding,
  - (d) any conduct of the Health Secretary in carrying out the Health Secretary's functions or exercising the Health Secretary's powers under this Part,
  - (e) any conduct of a public health organisation, its agents, a person concerned in the management of the organisation or a person who is engaged or employed by the organisation—
    - (i) in relation to obtaining services in accordance with this Part, or
    - (ii) in complying with a requirement or direction of the Minister given under subsection (1).
- (3) Conduct authorised by subsection (2) is authorised only to the extent (if any) that it would otherwise contravene Part IV of the Competition and Consumer Act 2010 of the Commonwealth and the Competition Code of New South Wales.”
81. An Order made pursuant to s. 126G by the then Minister for Health on 10 November 2008 is exhibited to this statement (Exhibit 39 NSW Health Tranche 2 Consolidated Exhibit List).
82. LHDs and SHNs are directed to obtain certain services from HealthShare, eHealth and NSWHP in accordance with the Direction of the Minister s. 4.1 of the *Accounts and Audit Determination for Public Health Entities in NSW 2020 (the Determination)*, a copy of which is exhibited to this statement (Exhibit 35 NSW Health Tranche 2 Consolidated Exhibit List).

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83. As the delivery of shared services and the statewide health services is distinct from procurement, I understand that this will be addressed in statements being provided by HealthShare, eHealth and NSWHP.

#### **H. ADVANTAGES, DISADVANTAGES OR RISKS OF THE CURRENT SYSTEM**

84. The current system, incorporating procurement reforms outlined above in section C, supports the NSW Government and NSW Health objectives and priorities by allowing NSW Health entities to:

- a. Procure goods and services (including ICT) for any value using a whole-of-health or whole-of-government contract,
- b. Where no existing arrangement is in place, NSW Health entities may procure with a single written quote for procurements up to \$30,000,
- c. Where no existing arrangement is in place, NSW Health entities may procure up to \$250,000 after seeking three written quotes,
- d. Directly engage an SME or regional supplier, Aboriginal business or an ADE for procurements up to \$250,000, and
- e. When using existing arrangements, NSW Health entities may procure up to \$30 million, ensuring the required number of quotes for the particular arrangement have been sought.

85. A centralised system enables better monitoring and therefore evaluation of the procurement process from beginning to end, from the sourcing of suppliers, the creation of procurement categories and technical evaluation (using a technical evaluation committee).

86. There are financial advantages that can be achieved through savings leadership of a centralised procurement system, for example the establishment of long-term procurement category strategies led by category managers who are able to identify savings opportunities, driven by data, and develop supplier relationships to ensure cost resilience.

87. Centralised procurement also enables greater savings to be achieved by harnessing system purchasing power to obtain whole-of-health volume discounts from suppliers, which enables equitable procurement across geographic areas.

88. The established procurement and service delivery arrangements are well established and have been set-up to meet the complex needs of the organisation. However, the current system

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presents opportunities to streamline ordering and management systems, workstreams and improve data quality to inform decision making.

89. These fundamental challenges contribute to a range of issues related to duplicated efforts by administrators and health professionals reducing time spent on patient-facing activities, poor visibility of stock and product levels, increased financial costs and an inability to drive system-wide improvements due to a lack of reliable data to inform future processes.

#### **I. PROCUREMENT REFORM AND FURTHER OPPORTUNITIES**

90. The NSW Health Travel Reform Program is a statewide program lead by the Strategic Procurement Branch.

91. The purpose of the Travel Reform Program is to:

- a. meet the election commitment of the NSW Government to reduce travel expenses, and
- b. develop a standardised, compliant and best in market approach for approving and booking travel for NSW Health.

92. The status of the Travel Reform Program is ongoing. Phase 1 of the Travel Reform Program is expected to roll out by March 2024, involving the implementation of a standardised process for booking travel, the introduction of an online approval system for real-time authorisation of travel costs, along with the release of reporting dashboards.

93. The Procurement Reform Program is focused on the delivery of improved procurement and supply chain outcomes to support value-based healthcare. It comprises a series of initiatives that will sustain and strengthen the core procurement and supply chain ecosystem across NSW Health. The benefits of the Procurement Reform Program include:

- a. Better care for patients, including:
  - i. Improved patient outcomes via more equitable value-based care and improved availability and security of supply, and
  - ii. Sustainable outcomes to contribute towards the broader *Future Health* strategy and NSW Government reforms,
- b. Better experience for clinical staff,
- c. Support clinicians through clinical choice and security of supply,

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- d. Simpler and easier to use systems and processes,
  - e. Improved experience for staff and reduction in manual errors,
  - f. Improved procurement and supply chain practices,
  - g. Future proof the system to be able to deal with significant events,
  - h. Improved practices and ways of working,
  - i. Single platform for all procurement and supply chain activity based on the existing Oracle ERP platform, to support informed decision making, and
  - j. Being undertaken in consultation with all NSW Health entities. The reform is being progressively implemented as specific elements of the program become available.
94. The key challenge in delivering the Procurement Reform Program has been resourcing, including:
- a. Access to sufficiently skilled technical resources to complete the development of the systems underpinning the program and which will provide the centralised systems that will allow end-to-end management of procurement and supply chain. Multiple engagement methods have been considered to keep staff in place to maintain program delivery momentum, and
  - b. Access to sufficiently skilled contract management and contract implementation resources across NSW Health entities (particularly in regional and rural areas). The Procurement Academy assists in upskilling staff with procurement and non-procurement backgrounds.
95. The Procurement Reform Program has and will continue to strengthen existing procurement processes and compliance monitoring. The following streams have been delivered as of December 2023:
- a. The NSW Medicines Formulary Reform Project was undertaken by the Clinical Excellence Commission in collaboration with NSW Health entities:
    - i. The purpose of the project was to standardise and streamline medicine usage in NSW public hospitals to support optimum clinical governance and better value health care, avoid unnecessary clinical variation, improves safety and enable a state-based approach to procurement of medicines (thus enabling the achievement of statewide volume discounts).

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- ii. The project resulted in the formulation of a list of medicines approved for initiation in inpatients in NSW public hospitals and health services (including NSW Ambulance). The formulary includes the approved indication, dose formulations and prescribing restrictions for individual medicines, where applicable.
- iii. Prior to the NSW Medicines Formulary Reform Project there were:
  1. 27 formularies,
  2. Approximately 60 governance groups (Drugs and Therapeutics committees, Quality Use of Medicines Committees etc) reviewing formulary submissions, and
  3. 6,767 unique medicines.
- iv. As a result of the NSW Medicines Formulary Reform Project implementation there is now:
  1. One formulary for inpatient initiation,
  2. One peak governing body to review formulary submissions,
  3. 2,138 medicines, and
  4. improved value and alignment of pharmaceutical contracts.
- v. Improved governance, with the following implemented:
  1. NSW Medicines Formulary Committee,
  2. NSW High-cost Medicines Subcommittee,
  3. Pharmaceutical Procurement Governance Committee, and
  4. Policy directive published: Approval Process for Medicines and Their Use.
- vi. Online Medicines Formulary Platform that provides:
  1. Search and view functionality – for medicines and restrictions on use, and

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**Closing statement**

99. The Strategic Procurement Branch provides leadership and procurement oversight through the development of optimised procurement strategies to ensure value for money and enable higher quality patient care in NSW Health. This is being achieved through increased collaboration with NSW Health entities, stakeholders and clinical experts to ensure the provision of safe, high quality, goods and services, whilst maximising value for money across the system and enabling innovation.
100. The Procurement Reform Program under the stewardship of the Procurement Reform Steering Committee will deliver the necessary foundational changes required to underpin a better resourced and equipped Health system.

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Michael Gendy-----  
Witness: Renee Snelling

31/01/2024

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Date

31/01/2024

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Date

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