



City of
KINGSTON


Procurement Policy

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1 Document Information

The electronic version of this document is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.

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RESPONSIBLE MANAGER (Policy Owner)	Manager Procurement and Contracts
ADOPTED BY	Council
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2 Purpose

The purpose of this Procurement Policy is to:

- establish a procurement framework to achieve continuous improvement and Value for Money in the timely acquisition of goods, services and works;
- ensure consistency, control and best practice over procurement activities;
- ensure Council resources are used efficiently and effectively to improve the overall quality of life of people in the local community;
- support the achievement of Council's strategies, aims and objectives as stated in the Council Plan prepared and adopted by Council under section 90 of the Act;
- support collaboration and partnership opportunities, including through Collaborative Procurement Arrangements;
- provide guidance and achieve high standards of probity, transparency, accountability, and risk management; and
- enhance Council's ability to obtain the best outcome from purchasing activities, including, but not limited to, considerations of financial outcomes, environmental sustainability, social support and support for the local economy.

3 Definitions

Aboriginal and Torres Strait Islander Business

Defined by the Victorian Government under Victoria's Social Procurement Framework as a business that is:

- at least 50% Aboriginal and/or Torres Strait Islander owned
- undertaking commercial activity; and
- main business location is in Victoria

This sector includes for-profit businesses, Traditional Owner Corporations, Social Enterprises and community enterprises in metropolitan and regional areas

Act

Local Government Act 2020 (Vic)

Australian Disability Enterprises

Commonwealth-funded and generally not-for-profit organisations operating in a commercial context, specifically to provide supportive employment opportunities to people with moderate to severe disability. Some Australian Disability Enterprises also operate as Social Enterprises. Under the Social Procurement Framework, the Victorian Government encourages engagement with Australian Disability Enterprises that offer award-based pay rates for all staff

Category

A segment of expenditure which contains similar or related products, enabling focused opportunities for consolidation, efficiency and collaboration.

Certified B Corporations

For-profit businesses that meet the highest standards of verified social and environmental performance, public transparency, and legal accountability to balance profit

	and purpose. Certification as a “B Corp” business is provided by “B Lab”.
Child Safe Standards	Compulsory minimum standards for organisations that have contact with or provide services or facilities for children, to help protect children from abuse.
Circular Economy	A model of production and consumption, which involves sharing, leasing, reusing, repairing, refurbishing, and recycling existing materials and products as long as possible. In this way, the life cycle of products is extended. In practice, it implies reducing waste to a minimum.
CLG	Council’s Corporate Leadership Group, consisting of all General Managers and the Chief Executive Officer.
Collaborative Procurement Arrangement	A contract or other arrangement established by Council, a government body or a nominated agent, such as Procurement Australia (PA), the Municipal Association of Victoria (MAV), South Eastern Metro Regional Procurement Excellence Network (SEMRPEN) or another local government entity, for the benefit of multiple local, state and/or federal entities that achieves value for money through leveraging combined economies of scale, or provides some other shared benefit including learning and process improvement.
Commercial in Confidence Information	Information that, if released, may prejudice the business dealings or commercial interests of Council or another party (e.g. prices, discounts, rebates, profits, methodologies and process information, etc).
Contract Management	The process that ensures all parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the contract objectives and provide Value for Money.
Council	Kingston City Council
Councillors	Council’s elected representatives (the Mayor and Councillors) or administrator(s) as the case may be, appointed to act in this capacity
Council Staff	Includes all Council officers, including permanent, fixed term, casual, trainee and apprentice employees), contingent labour, work experience students, hosted trainees, volunteers, vocational placements, or any other person who provides services on a paid or voluntary basis to Council.
Good Governance Framework	<p>The Good Governance Framework articulates what makes up good governance at Council and describes how it is achieved. The main purpose for developing the Good Governance Framework includes:</p> <ul style="list-style-type: none"> • Lay the foundation to pursue best practice governance

	<ul style="list-style-type: none"> • Embed a consistent and collective approach to governance • Enable Councillors and staff to resonate with good governance best practice • Enable the organisation to mature and continually progress good governance
Local Supplier	Business that is either based in the municipality, or the south-east region of Melbourne and performs the majority of their operations in the municipality or in this region, or employs a significant number of local residents in the conduct of their business.
Material Breach	Any breach of this Procurement Policy, that may also represent a breach of legislation, such as; fraud, corruption, or breach of occupational health and safety laws.
Overarching Governance Principles	The principles specified in section 9(2) of the Act, to which a Council must give effect in the performance of its role.
Probity	<p>Complete and confirmed integrity, uprightness, and honesty. Upholding the highest standards of probity and integrity enables organisations to safeguard procurement activities to ensure those activities and processes are robust and can withstand scrutiny.</p> <p>Demonstrating the highest standards of probity reassures suppliers that all procurement processes, from planning to negotiations, are conducted fairly and in accordance with applicable policies and relevant plans.</p>
Probity Plan	A Probity Plan is an important tool (particularly where a procurement is sensitive or of high value, high risk or subject to a high degree of public scrutiny) to ensure that all probity issues are considered and addressed prior to the start of a procurement project.
Regulations	Any applicable regulations in force from time to time under the Act.
Social Benefit Supplier	<p>Social benefit supplier means a business that:</p> <ul style="list-style-type: none"> • is a Victorian social enterprise; • is a Victorian Aboriginal business and is verified by Supply Nation or Kinaway; or • provides 'supported employment services' as defined in section 7 of the <i>Disability Services Act 1986 (Cth)</i>, and operates and has business premises in Victoria
Social Enterprise	Business that trades to intentionally tackle social problems, improve communities, provide people access to employment and training, or help the environment. The business will derive most of its income from trade (not

donations or grants) and use the majority of their profits (at least 50%) to contribute to their social mission.

Among other benefits, Social Enterprises may play an important role in providing transitional employment for disadvantaged job seekers, including people with a disability, as a pathway to employment in mainstream businesses. Social Enterprises can also provide ongoing employment options for disadvantaged job seekers who may not be well placed to sustain mainstream employment over the longer term.

Supplier Code of Conduct	A document that sets out the standards of behaviour that a supplier agrees to aspire to, when engaged by Council.
Sustainability	An approach whereby activities can meet the needs of the present without compromising the ability of future generations to meet their own needs (as defined by UN Commission on Environment and Development).
Tender Process	The process of inviting parties from either a select list or via a public advertisement to submit an offer by tender followed by evaluation of submissions and selection of one or more successful bidders or tenderers in accordance with pre-determined evaluation criteria.
Value for Money	The most advantageous mix of cost, quality (i.e., ability to meet user requirements) and ability to meet environmental sustainability, social and economic outcomes. The lowest price will not necessarily represent Value for Money.
Whole of Life Cost	Also commonly referred to as life cycle costing, or total cost of ownership, is a methodology used to estimate the total costs of goods or services (the supply) over the whole of their life. It estimates the accumulated costs of acquisition, operation, maintenance support, and disposal or decommissioning of the supply (less any income or revenue it receives).

4 Scope

For the purposes of this Policy, procurement is the whole process of acquisition of external goods, services and works. It can include planning, design, determination of standards, specification writing, preparation of quotation and tender documentation, selection of suppliers, financing, supply of goods, delivery of services, contract administration and other related functions. This Policy covers considerations of the whole life cycle from initial concept, through to the end of the useful life of an asset (at which time disposal may occur) or the finalisation of a service contract.

Procurement also includes the organisational governance and legislative frameworks that underpin the procurement function, including the requirement of Council to give effect to the overarching governance principles in the performance of its role under section 9(2) of the Act as follows:

- (a) Council decisions are to be made and actions taken in accordance with the relevant law;

- (b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- (c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- (d) the municipal community is to be engaged in strategic planning and strategic decision making;
- (e) innovation and continuous improvement is to be pursued;
- (f) collaboration with other Councils and Governments and statutory bodies is to be sought;
- (g) the ongoing financial viability of the Council is to be ensured;
- (h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making; and
- (i) the transparency of Council decisions, actions and information is to be ensured.

and the four cornerstones of Council's own Good Governance Framework that drive our actions, behaviours and decisions, including;

- Leadership and Direction – 'Drive it'
- Accountability – 'Own it'
- Integrity – 'Live it'
- Transparency – 'Show it'

This Procurement Policy represents the principles, processes and procedures that will be applied to all procurement activity undertaken by Council.

The application of this Procurement Policy commences when Council has identified a need to procure goods, services or works and continues through to the delivery of goods, the completion of works or the finalisation of service delivery.

The provisions of this Procurement Policy will apply to Councillors and Council staff.

5 Exclusions

Activities not within the Scope of this Procurement Policy include:

- procurement and disposal of land (including leasing);
- disposal of current assets (noting that in disposing of current assets, Council must still have regard to sound principles associated with procurement. Refer to Council's Asset Disposal Policy for further information);
- property development infrastructure agreements;
- grants administered via the Community Grants Program Policy;
- government and statutory fees, licensing, registrations and levies;
- refunds and reimbursements; and
- contracts for the direct employment of Council staff.

If there is any uncertainty about whether this Procurement Policy covers any particular transaction, the default position will be that the transaction is covered by the Policy, however any concerns should be directed to the Procurement & Contracts Department for advice.

6 Procurement Principles

Council will apply the following fundamental best practice principles to every procurement activity, irrespective of the value and complexity of that procurement:

- Value for Money;
- Open and fair competition;
- Accountability;
- Risk management; and
- Probity and transparency.

Council is committed to meeting its needs for goods, service and works in a way that achieves Value for Money in terms of generating benefits not only to the Council, but to society and the economy whilst minimising damage to the environment.

Council will seek to do this by undertaking procurement activity in consideration of Council's Climate and Ecological Emergency Response Plan including:

- adopting strategies to avoid unnecessary consumption and by managing demand;
- in the context of Value for Money, select products and services which have lower environmental impacts across their life cycle compared to competing products and services;
- foster a viable market for sustainable products and services by supporting business and industry groups that demonstrate innovation in Sustainability; and
- supporting suppliers to local government that are socially responsible and adopt ethical practices.

Council is also committed to:

- awarding contracts that represent an acceptable level of risk to Council;
- using existing Council contractual arrangements or Collaborative Procurement Arrangements where appropriate;
- developing cost effective procurement processes;
- identifying and rectifying inefficiencies in procurement processes; and
- working with suppliers to create relationships that are professional, productive, and are appropriate to the value and importance of the goods, services and works being acquired.

7 Probity and Ethics

Council's procurement activities are:

- to be undertaken in an open, transparent, consistent and ethical manner;
- to demonstrate integrity, fairness impartiality and accountability;
- to meet relevant legal and legislative requirements at all times.

7.1 Conduct of Councillors and Council Staff

Councillors and Council staff will at all times act in accordance with the Councillor Code of Conduct or the Code of Conduct respectively. They must perform their duties ethically and with integrity and must:

- treat potential and existing suppliers with equity and fairness;
- afford suppliers and prospective suppliers seeking to participate in a competitive procurement process such as any tender or quotation process for goods, services or works contracts, with the same information and an equal opportunity to participate;
- not use their position to seek or receive personal gain or gain for others through procurement activities;
- maintain the confidentiality of Commercial in Confidence information;
- present the highest standards of professionalism and probity;
- be able to account for all decisions made and demonstrate and provide evidence of the processes followed;
- not perform any work, deliver services, or supply goods under any Council contracts that they are supervising (i.e. Council employee cannot also work for the relevant supplier);
- feel empowered to query incidents, decisions or directions that appear to contradict or deviate from Council's standards of ethics or probity or established policies and procedures; and
- ensure that this Procurement Policy is adhered to in relation to any procurement activity associated with the expenditure of Council funds.

Councillors and Council staff (and all persons engaged in procurement on Council's behalf) must exercise the highest standards of integrity in a manner able to withstand the closest scrutiny.

7.2 Councillors' Roles in Procurement Activities

Councillors have a limited role in procurement activity and may be briefed on significant procurements during the procurement process.

The role of Councillors may include providing a level of input during the project initiation phase that will assist the responsible Department/s to achieve their intended outcomes and anticipated community benefits.

Councillors may be briefed at various stages of the procurement process through mechanisms such as their involvement in advisory committees, Councillor Weekly Updates (CWU), Councillor Information Sessions (CIS) or other means of communication.

Councillors should generally not participate as part of an evaluation panel or to take on the responsibilities of a procurement sponsor, project director, contract superintendent/manager or similar. Nor should Councillors be responsible for the setting of evaluation criteria and criteria weightings.

Strict probity requirements set in the planning stage of a procurement process must be adhered to during the evaluation and award stages of that procurement. Evaluation panel members must not disclose to and Councillor/s any element of an evaluation process while the submissions are under consideration, other than to provide timeline updates if and when requested by the Councillors.

7.3 Conflict of Interest

Councillors and Council staff must at all times avoid situations which may give rise to an actual, potential or perceived conflict of interest.

The consideration of conflict of interest is addressed in detail in Council's 'Conflict of Interest' Policy, the Act and the Governance Rules. Where applicable, all provisions of this policy, the Act and/or the Governance Rules must be adhered to in the conduct of any procurement activity.

In procurement matters, all Councillors, Council staff and any other person or people engaged to assist or advise Council, who are involved in any stage of the procurement process, including (without limitation) the preparation of specifications, procurement or contract documentation, the evaluation of submissions, quotations or tenders, or the awarding of any contracts, must:

- avoid conflicts of interest, whether actual, potential or perceived, wherever possible (this includes the receipt of any gifts, benefits, or hospitality as further detailed in clause 7.6 of this Procurement Policy);
- complete and lodge a Conflict of Interest declaration in respect of the procurement, including any or all potential conflicts, before commencing involvement in any activity associated with the procurement;
- complete and lodge a Deed of Confidentiality in respect of the procurement;
- observe applicable Council policy and government legislation and guidelines on how to prevent or manage any conflicts of interest; and
- immediately disclose any conflict of interest in accordance with the Governance Rules or Conflict of Interest Policy (where applicable) if they become aware of a conflict throughout the duration of the procurement activity.

For the purpose of this policy, 'actual' conflict of interest refers to either a general conflict of interest or a material conflict of interest which are regulated by the Local Government Act 2020.

7.4 Open and Fair Competition

All prospective suppliers must be treated fairly, with access to the same information to afford them an equal opportunity to tender, submit a quotation or otherwise participate in a competitive procurement process.

Impartiality must be maintained in selecting suppliers to fulfill Council's needs.

Council will provide open and honest feedback to suppliers who participate in any procurement process for Council's business, subject to confidentiality of Commercial in Confidence information.

Any suspected improper conduct, including (without limitation) suspected fraud, corruption, substantial mismanagement of public resources, risk to public health and safety, risk to the environment, or other detrimental action must be managed by Council staff in accordance with Council's internal policies and processes.

7.5 Accountability and Transparency

Accountability in procurement means being able to justify and provide evidence of the process followed. An independent third party must be able to see clearly that a process has been followed and that the process was fair and reasonable.

Council staff must be able to account for all procurement decisions at all levels and ensure that an appropriate audit trail is maintained for all procurement activities to facilitate review, monitoring and reporting, as required.

7.6 Gifts, Benefits and Hospitality

Under no circumstance should Council Staff or Councillors involved in the procurement of goods, services or works seek, or accept, any immediate or future, personal reward or benefit, from a potential or current supplier, regardless of value.

Any gift or benefit offered to Council Staff or a Councillor will be managed in accordance with Council's 'Employee Gift and Hospitality Policy' and the 'Councillor Gift and Hospitality Policy' and the associated declaration processes.

7.7 Disclosure of Information

To maintain transparency, evaluation reports that are presented to Council may publicly publish the successful tenderer's price.

Council will also publish a summary of contracts valued at or above \$100,000 (ex GST), awarded as an outcome of a public quotation or tender process, via public report or on Council's website, including (without limitation):

- the contract number and title;
- the name of the successful supplier/s;
- the value of the contract; and
- the contract duration.

Subject to the *Freedom of Information Act 1982 (Vic)*, the Act and any other relevant legislation, Commercial in Confidence information received by Council must not be disclosed and is to be stored in a secure manner.

Council staff, Councillors and any other person or people engaged to assist or advise Council in regard to a particular procurement matter must avoid references to current or proposed contracts in discussions with acquaintances and any other outside interests.

Discussions with potential suppliers during any tender, quotation or other competitive procurement process evaluations must not go beyond the extent necessary to resolve doubt in regard to:

- the goods, services or works that Council is seeking to procure; or
- what is being offered by that potential supplier.

At no stage should any discussions be entered into which could:

- improperly influence the procurement process;
- improperly influence the negotiation of the contract; or
- have potential contractual implications,

prior to the contract approval process being finalised, other than any authorised pre-contract negotiations.

Failure to maintain confidentiality of Commercial in Confidence information is a breach of the Code of Conduct.

8 Governance

8.1 Internal Controls

Council will maintain a framework of internal controls over procurement activities in order to ensure:

- more than one person is involved in and responsible for each procurement process;

- transparency in the procurement process;
- a clearly documented audit trail exists for procurement activities;
- appropriate authorisations are obtained, exercised and documented;
- systems are in place for appropriate monitoring and performance measurement;
- procurement reports are developed and reviewed by Management; and
- a process is in place for escalation, where appropriate, of procurement matters (including procedural non-compliance) to the relevant General Manager, CLG, the Audit and Risk Committee and/or Council itself.

All persons engaged in procurement activities must diligently apply all internal controls.

8.2 Financial Accountability

All Council staff are to ensure that procurement approvals are obtained in accordance with Council's financial policies and delegations, as determined by Council and the CEO under instruments of delegation.

Responsibility for sound financial management must be accepted and adhered to by Council Staff when undertaking any procurement activities. Council funds must be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the costs of the procurement process without compromising any of the Procurement Principles as set out in this Procurement Policy.

Council staff must:

- ensure the availability of funds within an approved budget prior to the commencement of any procurement;
- not authorise the expenditure of funds in excess of the applicable financial delegation for their position (delegated level of authority);
- not authorise or write multiple purchase orders to avoid a more complex procurement process, or to avoid the authorisation process requirements at a higher level of financial authority;
- not authorise expenditure that relates to them personally – any expenditure of this nature must be referred to the next higher level of authority for approval; and
- consistent with clause 10.11 of this Procurement Policy, ensure that any purchase orders are generated at the point where the commitment to purchase goods, services or works has been made i.e. a purchase order must be approved in the relevant system (which, at the time of publication of this Procurement Policy, is Technology One/myFinance and may be updated from time to time) when the goods, services or works are ordered and not when an invoice is received by Council.

Evidence of the appropriate quotation documentation having been received must be included with a purchase requisition in myFinance when approval of a purchase order is being sought. With the intent of providing a suitable audit trail, appropriate evidence (without limitation) to be attached with a purchase requisition may include:

- applicable written quote/s required for the value of the proposed purchase;
- evidence of quotation evaluation and any considerations supporting the purchase recommendation;
- for more complex procurements, any documented approvals obtained (e.g. signed evaluation report and recommendation memo to the appropriate financial delegate);

- any documented exemption approvals associated with the procurement process;
- a tender evaluation report (including evaluation matrix and other appendices) to Council; and
- minutes of Council meeting verifying Council endorsement of tender evaluation report and award of contract.

8.3 Internal Compliance Reporting

Appropriate performance measures and reporting systems will be used to monitor performance and compliance with the Procurement Policy and established procedures. This will include (without limitation) regular review of contract variations and general compliance with this Procurement Policy.

Review will include (without limitation) utilisation of system reporting, spot checking and Internal Audit as required.

Any Material Breach of this Procurement Policy must be reported as soon as practicable to the Manager Procurement and Contracts, the relevant General Manager and the CEO. Periodically, reported and identified Material Breaches identified in the preceding period will be reported to the Audit and Risk Committee.

8.4 Non-Compliance with Policy

Non-compliance with this Procurement Policy may result in a contravention of legislative requirements (including contravention of the Act) or the Code of Conduct (for Staff) and disciplinary action, that could include dismissal.

In addition, criminal and civil penalties may be imposed if any Councillor or Council employee act in contravention of any laws, including (without limitation) laws regarding to fraud, corruption, bribery or Australian competition and consumer laws.

Refer to clause 14 of this Procurement Policy and Council's Fraud & Corruption Policy and Public Interest Disclosure Procedures for further details regarding the reporting of fraud or complaints.

8.5 Procurement Risk Assessment

When conducting a procurement, Council Staff must establish processes to identify, analyse, allocate and treat risk. The effort directed to risk assessment and management should be commensurate with the scale and scope, and any obvious or identifiable risk associated with the procurement. Council Staff should consider risks and their potential impact when making decisions relating to matters such as value for money assessments, approvals of proposals to spend money and the terms of the contract.

Further details regarding Procurement Risk Assessment and Procurement Risk Management are provided in clause 14 of this Procurement Policy.

8.6 Probity Planning

A Probity Plan is required where the value of the procurement is greater than \$5,000,000 (ex GST) or where a risk assessment indicates that the procurement would be considered sensitive, complex or high risk.

Engagement of an external Probity Advisor and/or Probity Auditor would be expected when a procurement meets any of these criteria and this should be detailed in the Probity Plan.

In the event that a Probity Advisor and/or Probity Auditor is appointed, such appointment should be finalised before the specifications and documentation for a competitive procurement process are completed.

8.7 Endorsement

Council staff must not publicly endorse any products or services without the permission of the relevant General Manager or the CEO.

9 Procurement Thresholds

For the purpose of assessing procurement thresholds under this Procurement Policy, estimated contract values must be inclusive of reasonable contingency allowances and all optional contractual extension periods. Consideration should also be given to the total cost of ownership over the lifetime of the proposed contract, including (without limitation) quality, risk, maintenance, support, Sustainability, social outcomes and delivery considerations.

Due diligence must be exercised to ensure that realistic assessments are made of all factors which may impact the value of a contract.

Contracts must not be split into smaller components to avoid proper process or to circumvent the requirements of this Procurement Policy.

9.1 Contract Value Thresholds and Procurement Requirements

Section 108(3)(a) of the Act requires that a procurement policy must include the contract value above which the Council must invite a tender or seek an expression of interest.

Section 108(4) of the Act states that the contract value included in the Procurement Policy must not exceed the value prescribed by the Regulations for the purposes of this section. At the time of the approval of this Procurement Policy, no value has been set under any Regulations.

For the purpose of section 108(3)(a) of the Act, a public tender process or expression of interest process must be undertaken for all procurements of goods, services or works valued above, \$300,000 (ex GST). Approved exemptions from this process are detailed in clause 9.2 of this Procurement Policy.

A public quotation process will be undertaken for all requirements of goods, services or works valued between \$200,000 (ex GST) and \$300,000 (ex GST). This process will generally be simpler in construct than a tender process and be undertaken over a shorter period.

A public quotation process may also be undertaken for the purchase of goods, services or works of any value under these thresholds, if it is believed that a public procurement process would assist in achieving a Value for Money outcome and the public quotation process is approved by the relevant Manager.

Except in instances where it is believed that a public procurement process would assist in achieving a Value for Money outcome, the following table of requirements will apply:

Estimated Value of Contract / Purchase (excluding GST)	Requirement for Quotations / Tenders
Up to \$7,500	<u>Minimum</u> of one (1) written quotation (more if possible) must be obtained and documented.
Greater than \$7,500 and up to \$20,000	<u>Minimum</u> of two (2) written quotations (more if possible) must be obtained and documented.
Greater than \$20,000 and up to \$100,000	<u>Minimum</u> of three (3) written quotations (more if possible) must be obtained and documented. <i>Request issued by requesting Department.</i>
Greater than \$100,000 and up to \$200,000	<i>Obtain a Contract Number.</i> <u>Minimum</u> of three (3) written quotations (more if possible) must be obtained and documented. <i>Request issued by Procurement & Contracts.</i>
Greater than \$200,000 and up to \$300,000	<i>Obtain a Contract Number.</i> <u>Public</u> Request for Quotation (RFQ) Process must be conducted. <i>Request issued by Procurement & Contracts.</i>
Greater than \$300,000	<i>Obtain a Contract Number.</i> <u>Public</u> Request for Tender (RFT) or Expression of Interest (EOI) Process must be conducted. <i>Request issued by Procurement & Contracts.</i>

Where it is available, at least one (1) quotation from a Local Supplier should be sought.

Certain exemptions from these requirements are pre-approved in accordance with clause 9.2 of this Procurement Policy.

9.2 Exemptions from Competitive Procurement Processes

Unless the Act or Regulations require otherwise from time to time, the following circumstances are exempt from the requirements of a competitive procurement process (such as a general publicly advertised quotation, tender or expression of interest):

Exemption Type	Explanation, limitations, responsibilities and approvals
A Contract made because of Genuine Emergency or Hardship	<ul style="list-style-type: none"> See clause 9.4 of this Procurement Policy for further details regarding procurement during an Emergency

Exemption Type	Explanation, limitations, responsibilities and approvals
Government Entity / Approved Third Party	<p>This general exemption allows engagements:</p> <ul style="list-style-type: none"> with another government entity or government owned entity. For example, Federal, State or Local Government or an entity owned by the Federal, State or Local Government; and/or in reliance on contracts and arrangements established by another government entity (Federal, State or Local), local authority or local government group purchasing scheme eg. Procurement Australia (PA), Municipal Association of Victoria (MAV), National Procurement network members (eg. Local Buy), Procurement Australia (PA), State Government Purchase Contracts and Registers (including Social Benefit Suppliers), Whole of Australian Government (WoAG) arrangements (eg ATO – Australian Peppol Authority, BuyICT).
Extension of Contracts while Council is at Market	<ul style="list-style-type: none"> Allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or are taking longer than expected due to unforeseen circumstances. This exemption may be used when the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.
Waste and Recovery Groups	<ul style="list-style-type: none"> Situations where a Waste and Recovery Group constituted under the <i>Environment Protection Act 2017</i> (or its predecessor legislation) had already conducted a public tender for and on behalf of its member councils.
Social Enterprise	<ul style="list-style-type: none"> For goods, works or services less than \$20,000 ex GST, where a Social Enterprise (including Australian Disability Enterprises) is directly engaged. Must still be able to demonstrate Value for Money
Research and Development	<ul style="list-style-type: none"> Procurement and partnership in research and development services, but not the procurement of inputs to research and development

Exemption Type	Explanation, limitations, responsibilities and approvals
Proven Monopoly Market / Single Source	<ul style="list-style-type: none"> • Other statutory bodies such as water supply • Electricity and gas connections • Legislatively required services, including Registered Aboriginal Parties, such as Victorian Aboriginal Heritage Council • When supply of goods, services or works can only be sought from a monopoly supplier, for example marketplace is restricted by statement of licence, technology or third-party ownership of an asset (i.e. telecommunication pits) • Where comprehensive evidence can be provided of highly specialised work being available from only one supplier
Specialist Products or Services	<ul style="list-style-type: none"> • Where a particular bespoke product or service is available from only one supplier (e.g. bespoke playground equipment) and an 'equivalent' is not available from other suppliers. Evidence that a suitable value for money consideration was undertaken in the selection of the bespoke product or service must be able to be demonstrated
Access Care	<ul style="list-style-type: none"> • For Home Care Packages, selection of specific suppliers of services by the customer, in accordance with the principles of Consumer Directed Care (CDC)
Information Technology Resellers and Software Developers	<ul style="list-style-type: none"> • Allows Council to renew software licenses, maintenance and support arrangements, or upgrade existing systems, where there is only one supplier of the software who holds the intellectual property rights to the software
Insurance	<ul style="list-style-type: none"> • Statutory compulsory monopoly insurance schemes, i.e., Workcover, motor vehicle compulsory third party • Insurance provisions unsuitable for tendering
Legal Services	<ul style="list-style-type: none"> • Engagement of legal representation with appropriate expertise for significant ongoing matters, as directed by Council's Executive Manager Legal. <i>N.B. Where a fixed price for a legal service can be obtained, quotations must be sought in accordance with the provisions of clause 9.1 of this Policy</i>
Novated Contracts	<ul style="list-style-type: none"> • Where the initial contract was entered into in compliance with the Act and Council's Procurement Policy at the time and appropriate due diligence has been undertaken in respect of the new prospective supplier
Operating Leases	<ul style="list-style-type: none"> • Where a lessor leases an asset (generally a vehicle or plant and equipment) to Council and assumes the residual value risk of the vehicle

Exemption Type	Explanation, limitations, responsibilities and approvals
Other	<ul style="list-style-type: none"> • Memberships • Medical services • Postage and delivery charges • Tolls • Cab-charge and ride-share arrangements • Creative endeavours including (without limitation) stage shows, bands, performers <p>Must still be able to demonstrate Value for Money.</p>
Contract Variations (that are not in effect new contracts)	<ul style="list-style-type: none"> • See clause 9.6 for further details regarding the procurement procedure to be observed for contract variations

Use of any of the listed exemptions must be documented on the appropriate procurement file.

9.3 Exemptions from Obtaining Multiple Quotations

In addition to the listed exemptions:

- the relevant Manager may grant an exemption from obtaining multiple quotations for a procurement up to the value of \$100,000 (ex GST) if:
 - Council is still obtaining Value for Money with the alternative process adopted;
 - it can be demonstrated and documented that, if applicable, all efforts have been made and all possible opportunities have been exhausted to obtain multiple quotations and less than the minimum number of quotations required are received (see clause 9.1 of this Procurement Policy); and
 - The process is defensible and able to withstand internal and external scrutiny, achieving both accountability and transparency.
- the relevant General Manager may grant an exemption from obtaining multiple quotations for a procurement up to the value of \$300,000 (ex GST) if:
 - Council is still obtaining Value for Money with the alternative process adopted;
 - it can be demonstrated and documented that, if applicable, all efforts have been made and all possible opportunities have been exhausted to obtain multiple quotations and less than the minimum number of quotations required are received (see clause 9.1 of this Procurement Policy); and
 - the process is defensible and able to withstand internal and external scrutiny, achieving both accountability and transparency.

It is insufficient to rely on an initial attempt to approach only the required number of respondents, who may choose to not make a submission, as the basis for an exemption, if further opportunities still exist to obtain quotations from other potential suppliers in the market.

Approval of any exemption must be documented and approved in writing by the relevant Manager or General Manager and maintained with the relevant procurement documentation to complete the necessary audit trail.

A public quotation process may be utilised to assist with obtaining the required number of quotations if the market capacity to respond is unknown, or if other means of attempting to obtain quotations have proven unsuccessful.

9.4 Procurement during an Emergency

For the purposes of this clause 9.4, an Emergency is defined as a sudden or unexpected event or occurrence requiring immediate action and includes (without limitation):

- the occurrence of a natural disaster, hazard, flooding, fire event, or other event (as defined in the Emergency Management Framework) at or in relation to Council property or the municipality;
- immediate response to a pandemic;
- a cyber-attack on Council information technology systems;
- the unforeseen cessation of trading of a business-critical service provider; or
- any other situation which is liable to constitute an immediate risk to life, health, well-being or property.

Where an Emergency has occurred, the CEO, Municipal Emergency Management Officer (MEMO) or Municipal Recovery Manager (MRM) may authorise procurements without the need for a competitive procurement process where it can be clearly demonstrated that delays in obtaining and analysing quotations or similar would unduly frustrate any response to the Emergency.

Once the immediate effects of the Emergency have passed, the end of the Emergency should be declared and all future procurement should once again be in compliance with this Procurement Policy, the Act and other relevant legislation.

Should decisions be made under this Emergency provision, a report of all applicable procurement actions undertaken will be provided to Council at the earliest possible opportunity after the end of the Emergency.

9.5 Contract Variations

Contract variation expenditure may be exempt from the procurement procedure described in clause 9.1 of this Procurement Policy if the variation:

- forms part of an existing contract; and
- in itself does not change the contract to such an extent that it could be deemed that a new contract has been established (typically up to 20% of the original contract value).

If the contract variation:

- is so extensive that the variation would be deemed a new contract, then a competitive procurement process may be required as set out in clause 9.1 of this Procurement Policy; or
- changes the nature of the procurement substantially (e.g. a software acquisition for a particular purpose, morphs into acquisition of a series of programs that will impact

beyond the original intent of the procurement) then a new competitive procurement process may be required as set out in clause 9.1 of this Procurement Policy; or

- is a genuine variation and would not be deemed a new contract, then internal approval procedures will be followed, in accordance with the applicable delegations of authority, with the variation (in excess of any contingency sum approved previously) to be approved by the appropriate authorising delegate, determined by the total revised value of the procurement, including the proposed variation.

All contract variations must be assessed to determine whether they are properly characterised as variations or whether they are in effect a new contract. This will depend on factors including (without limitation):

- the monetary value of the proposed variation (i.e. the value of the variation in the context of the thresholds fixed at clause 9.1 of this Procurement Policy; and
- the subject matter of the proposed variation and whether it is consistent with the scope of the original contract.

Council Staff should be cautious in readily determining that a contract variation is not a new contract, in order to minimise the risk of Council's processes being questioned and investigated, reputational damage to Council or complaints from dissatisfied or aggrieved suppliers. Council Staff should seek guidance from the Procurement & Contracts Department when considering significant contract variations.

10 Procurement Processes

Council's standard methods of procurement include:

- petty cash;
- purchase (credit) cards;
- payment cards (e.g. store cards, fuel);
- non-order purchases (refer clause 10.12 of this Procurement Policy)
- quotation / purchase order;
- Request for Quotation (RFQ)
- Request for Tender (RFT);
- Request for Proposal (RFP)
- Request for Information (RFI); and
- Multi-stage procurement commencing with an Expression of Interest (EOI), followed by a tender process.

10.1 Public Notice and Communication

All public requests for tender, public requests for quotation, expressions of interest or similar competitive procurement processes invited by Council, will be published via Council's eTendering Portal (which, at the time of publication of this Procurement Policy, is TenderLink and may be updated from time to time) and may also be advertised in other media, including (without limitation) newspapers, industry magazines or newsletters, or other publications – hard-copy or electronic.

The eTendering Portal will also be used to provide access to public documentation, during the applicable open period (which will be determined at the time of going to market), including (without limitation), RFT, RFQ, RFP, EOI or other request documentation,

addenda, answers to questions posted in the relevant electronic question and answer portal and other relevant information.

10.2 Market Engagement

Council recognises that to support achievement of Value for Money and sustainable outcomes, a strategic assessment of the appropriate approach to market should be undertaken to determine whether to approach the market directly, participate in partnering, regional or sector-wide Collaborative Procurement Arrangements, access aggregator or State Government contracts, or utilise other means.

Council will consider supply arrangements that are most likely to deliver a range of Value for Money, sustainable and time-based outcomes. As such, lowest price is not necessarily the sole determinant when making a supplier selection.

Suppliers will be informed and encouraged as reasonably as possible, to compete for Council work and services. Where possible and appropriate, Council will encourage new suppliers in categories that may have historically low competition.

Council will also seek to carefully plan how it packages requirements for significant goods, services and works, by considering the market landscape (competitiveness, market size, Local Supplier capabilities, availability of locally manufactured product, etc) in order to maximise competition and optimise the Value for Money outcome for Council.

Council recognises the importance of effective and open working relationships with its suppliers and is committed to developing and managing supplier relationships by establishing contracts that set fair and reasonable expectations for suppliers.

10.3 Specifications / Project Briefs

Specifications used in procurement processes must aim to fully inform potential respondents to requests for tender or quotation. Specifications should aim to accurately detail the goods, services or works required, in order to ensure that submissions received will suitably address Council's requirements.

Well drafted specifications greatly assist when evaluating submissions as they allow a clearer comparison between offers received, including consideration of any specified or identified non-conformance. Specifications will be incorporated into the resulting contract and therefore should be written in a manner that:

- describes clearly what Council wishes to procure;
- sets out the performance and functional requirements;
- ensures the procurement will be fit for purpose;
- ensures impartiality and objectivity;
- encourages the use of standard products where value for money and long-term sustainability is determined;
- encourages the use of recycled content where possible and appropriate;
- identifies or encourages identification of locally sourced, produced or manufactured products and/or services from local suppliers;
- encourages the use of innovative new materials and technology from local suppliers;
- encourages other sustainable solutions; and
- eliminates unnecessarily stringent or market restricting requirements.

10.4 Evaluation Criteria

Council's procurement activities will be carried out on the basis of obtaining Value for Money, taking into account both financial and qualitative factors, which may include (without limitation):

- mandatory criteria (see clause 10.4.2);
- financial cost to Council / whole of life cost to Council / total cost of ownership for Council;
- quality;
- capability of respondents to provide the goods and/or services and/or works in accordance with Council's requirements;
- previous experience and past performance;
- capacity of respondents to provide the goods and/or services and/or works;
- environmental sustainability and benefit; and
- community benefit (including local economy/economic sustainability and social procurement)

The appropriate Evaluation Criteria will be determined at the time that a procurement is being planned

10.4.1 Minimum Criteria Weighting

All procurements for goods, services or works of value equal to or greater than \$100,000 (ex GST), unless an exemption under clauses 9.2 or 9.3 of this Policy is applicable, must include the following evaluation criteria:

Criterion	<u>Minimum</u> Weighting
Financial Cost to Council	30%
Environmental Sustainability	10%
Community Benefit	10%

Greater weighting may be applied to these criteria if applicable for any particular procurement.

The weighting for these criteria may only be reduced with approval from the relevant General Manager, in consultation with the Manager Procurement & Contracts, prior to the issuing of tender or quotation documentation.

The exclusion of any of these criteria from a procurement evaluation must be fully justified and approved by the relevant General Manager, in consultation with the Manager Procurement & Contracts, prior to the issuing of tender or quotation documentation.

Similar criteria and weightings should be applied to lower value procurements where possible, to assist with the selection and decision-making process.

10.4.2 Mandatory Criteria

Council staff should consider inclusion of mandatory (pass/fail) criteria including (without limitation):

- mandatory performance criteria

- financial viability / other due diligence;
- occupational health and safety;
- insurances;
- licences / qualifications;
- applicable legal requirements;
- applicable standards or industry best practice;
- accreditation with professional bodies or Australian Standards certifications; and
- Child Safe Standards

10.5 Late Responses

Council will not accept late tenders under any circumstances.

10.6 Tender and Quotation Evaluation

10.6.1 Quotations under \$100,000 (ex GST)

Quotations under \$100,000 (ex GST) must be evaluated with consideration to obtaining a Value for Money outcome.

For more complex purchases in this value range (eg consultancy with intellectual property ownership considerations) the Procurement & Contracts Department should be contacted to provide appropriate Terms & Conditions of Contract and other documentation that may be determined applicable to the particular procurement, prior to quotations being sought.

Similar principles, including specified criteria and pre-determined weightings may be utilised to assist the assessment of quotations and the decision-making process.

Appropriate documentation of the relevant considerations must be maintained to provide a clear audit trail showing how the procurement decision was reached.

Officers exercising financial delegation must be satisfied that an appropriate and unbiased evaluation process and selection has been completed.

10.6.2 Quotations and Tenders over \$100,000 (ex GST)

An evaluation panel will be established to evaluate all submissions received for quotation and tender processes of value equal to or greater than \$100,000 (ex GST), against the evaluation criteria.

An evaluation panel for a quotation process of value between \$100,000 (ex GST) and \$200,000 (ex GST) should be comprised of at least two (2) persons, including the evaluation chairperson.

An evaluation panel for a quotation or tender process of value greater than \$200,000 (ex GST) should be comprised of at least three (3) persons, including the evaluation chairperson.

Evaluation panels can include external personnel, or suitably qualified consultants or advisers to bring necessary technical expertise. Panel members from different functional areas may be engaged in an evaluation panel to provide an alternative perspective or an impartial viewpoint.

A detailed evaluation plan must be developed, approved and strictly adhered to by the evaluation panel. The evaluation plan must include detail of the evaluation methodology,

specific criteria considerations and the approved weightings to be applied to each of the evaluation criteria.

The evaluation plan must be completed and signed off by all panel members prior to the public release of quotation or tender documentation.

All evaluation processes must be transparent, robust, systematic, well-documented and unbiased.

10.7 Confidentiality

All information related to a procurement activity should be considered Commercial in Confidence information. Council staff must take proper and adequate precautions at all times to preserve the confidentiality of all proprietary, financial and other Commercial in Confidence information.

Submissions for any public procurement tender or quotation process will be maintained by the Procurement Team and registered in Council's records management system. Access to the documentation will only be provided to members of the evaluation panel after completion of the Conflict of Interest declaration (including a Deed of Confidentiality), that acknowledges their understanding of the requirements to protect Commercial in Confidence information from unauthorised access or use.

With the exception of senior officers of Council and requests in accordance with the *Freedom of Information Act 1982 (Vic)*, only persons on the relevant evaluation panel have a need to view any applicable documentation received from respondents to a competitive procurement process.

Security procedures for Commercial in Confidence information must include the following:

- only those individuals with a direct need are to be granted access to procurement related information;
- both physical (e.g. locked cabinets) and electronic (e.g. password protected) document security must be observed;
- only limited copies of submissions should be produced;
- all documents and correspondence that are unnecessary for project files should be disposed of securely (e.g. shredding or security bins); and
- a 'clean desk' policy must be adhered to and all files and documentation that are not securely disposed of, must be locked away securely when not in use.

Similarly, quotations received for any other procurement process of lower value or complexity must also be saved in Council's record management system and kept confidential.

10.8 Shortlisting and Negotiations

Council may conduct a shortlisting process during a competitive procurement process, such as an EOI, RFT or RFQ. Scores against the Evaluation Criteria will be used to establish a shortlist, utilised in the pursuit of the most advantageous outcome for Council. Council may shortlist one or more respondents.

Shortlisted respondents may be invited by Council to attend an interview and/or submit further information, which may include the submission of a best and final offer in relation to all, or certain aspects, of their respective submissions.

Once one or more preferred respondents are selected, negotiations can be conducted in order to obtain the optimal solution and commercial arrangements, within the original scope

and intent of the procurement process. Probity requirements continue to apply to all negotiations.

10.9 Delegation Authority and Decision Guidelines

Any proposed procurement expenditure with a value greater than \$850,000 (ex GST) can only be authorised by a resolution of Council.

For proposed procurement expenditure equal to, or below \$850,000 (ex GST), Council will maintain and apply a scheme of procurement controls and delegations for Council Staff authorised to make such procurement commitments in respect of goods, services or works.

Councils Delegations of Authority apply to the awarding of a contract (i.e. the decision). The actual writing and signing of subsequent acceptance letters and the signing of contracts are administrative tasks associated with the contract award.

10.10 Panel Arrangements

Council may appoint a panel of suppliers as the outcome of a public tender or expression of interest. These panel arrangements may then be used for procurements with a value under the tender threshold (see clause 9.1 of this Procurement Policy).

Once a panel is established, this is a continuing offer by one or more suppliers to provide specified goods, services or works for a predetermined period, usually at predetermined rates and in accordance with pre-agreed terms and conditions.

Where pricing for the majority of a particular procurement's requirements under a panel contract is known and remains fixed, or is fixed with rise and fall provisions, for the duration of the contract period, Council is not obligated to seek multiple quotations and may engage directly with one or more of the appropriate suppliers on the panel for the supply of the goods, services or works required on each occasion, however multiple quotations may still be sought if a better Value for Money outcome may be possible.

Where pricing for the majority of a particular procurement's requirements under a panel contract is not specified or may be variable, quotations must be sought on a job-by-job basis, subject to the terms of the contract and in accordance with the quotation requirements detailed in clause 9.1 of this Procurement Policy (except that a public quotation process is not required where the value of the proposed procurement is over the threshold for a public quotation, but under the threshold for a public tender).

Obtaining quotations from multiple panel members in either case, will continue to promote competition and inclusion, retain competitive tension and ensure Value for Money outcomes.

Unless otherwise specified and arranged at the time of approval and implementation of the panel, these same arrangements apply to any panels established by State Government, Procurement Australia and MAV Procurement.

10.11 Purchase Order Requirements

The purchase of goods, services and works must incorporate provision of an official purchase order by Council, that documents the type of goods or services as well as quantities and/or agreed prices.

A purchase order provides confirmation to a supplier that Council's commitment has been correctly approved by a Council employee, with the appropriate financial delegation, in the relevant system (which, at the time of publication of this Procurement Policy, is Technology One/myFinance and may be updated from time to time).

A purchase order must be approved when the goods, services or works are ordered and not when an invoice is received by Council.

The purchase order must clearly and explicitly communicate Council's requirements, including any linkage to an awarded contract and the applicable terms and conditions. Once accepted by a supplier, if a separate contract has not been issued and signed, the purchase order is binding on both Council and the supplier and any expenditure is limited by and must not exceed the value of the purchase order and any subsequent approved amendments to the purchase order.

Where a blanket purchase order with a pre-approved value is utilised for the ongoing supply of goods, services or works over a specified period, the blanket purchase order must also clearly and explicitly communicate Council's requirements, including any linkage to an awarded contract and the applicable terms and conditions.

A supplier must quote the relevant purchase order number on all invoices submitted to Council for payment.

10.12 Exemptions from Raising Purchase Orders

The Procurement and Contracts Department will maintain a list of expenditure types that are exempt from the requirement to raise a purchase order. These exemptions may be revised from time to time in consultation with the Manager Finance and Corporate Performance, the General Manager Corporate Services and CLG if applicable.

10.13 Review of Cumulative Expenditure

Council will monitor and report on cumulative expenditure with suppliers at least annually. If expenditure with a supplier or a number of suppliers providing similar goods, services or works is noted to be ongoing in nature, Council will review the opportunity to undertake a larger scale competitive procurement process for the aggregated purchase of such goods, services or works, to ensure value for money outcomes are being achieved.

Expenditure that was achieved as an outcome of a significant competitive procurement process in its own right may be excluded from the review of cumulative expenditure.

11 Collaborative Procurement Opportunities

In accordance with section 108(3)(c) of the Act, Council will first give consideration to how a Collaborative Procurement Arrangement with other Councils and/or public bodies may be sought when planning for the procurement of goods or services. This may include such an arrangement for the purpose of taking advantage of economies of scale in a particular supply Category.

Council Staff must consider any opportunities for Collaborative Procurement in relation to a procurement process undertaken by Council. Any report brought to Council for approval of any proposed procurement expenditure with a value greater than \$850,000 (ex GST), or any procurement report brought to Council for approval for any other reason, must include information in relation to any opportunities for collaboration with other Councils or public bodies which may be available. This information must include:

- the nature of these opportunities for collaboration, if any, and the councils or public bodies with which they are available; and
- why Council did, or did not, pursue the identified opportunities for collaboration in relation to that specific procurement process.

When proposing to engage in any direct Collaborative Procurement Arrangement with one or more other Councils or public bodies, Council will do so in accordance with the following process:

- a heads-of-agreement, agency appointment, or other similar arrangement (including on a non-binding basis) will be established which, amongst other things, will aim to set out a lead participant to act as each participant's agent in the Collaborative Procurement Arrangement (unless alternative arrangements are set out in the heads of agreement/agency appointment); and
- each of the participants will be able to participate in the Collaborative Procurement Arrangement through a contracting model as agreed under the heads of agreement or agency appointment, which may include a model whereby participants may enter into a contract in future using "jump in" or "opt in" contract provisions during the contract term.

Each participant in the Collaborative Procurement Arrangement must be involved in:

- the initial decision to undertake a Collaborative Procurement;
- preparation of and agreement to the specifications;
- ensuring probity for the Collaborative Procurement Arrangement; and
- the acceptance of the competitive procurement process outcome and the awarding of contract/s.

Council may also use alternative methods for collaboration with other councils, Government agencies or bodies to procure goods or services by the utilisation of Procurement Australia, MAV Procurement, State Government contracts, Whole of Australian Government (WoAG) contracts or 'opt-in' arrangements to open panel arrangements established by other Councils, for the procurement of goods, services or works established through a public tender process, in accordance with their established procedures and processes, where it provides an advantageous, Value for Money outcome for Council.

The public tender threshold, other quotation thresholds and related exemption processes also apply to Collaborative Procurement Arrangements. The CEO may approve variation to selection criteria applied, criterion weighting or other requirements that may facilitate an alignment of requirements and considerations with other participants, to ensure an effective collaborative outcome.

The act of obtaining information from another council in relation to a procurement will also identify as collaboration especially where significant enhancements are made to Council's specification documentation and/or procurement methodology as a result of collaborative discussions.

Any 100% Federal or State Government grant funded project may be excluded from a Collaborative Procurement Arrangement, dependent on the nature of the grant conditions.

12 Environmental Sustainability and the Circular Economy

Council seeks to make procurement decisions that benefit the environment by -

1. Preferencing suppliers that:
 - use materials made of recycled content, that can be recycled and are made using energy efficient processes);
 - reduce greenhouse gas emissions in product production, storage and transport;
 - reduce waste to landfill and increase the amount of waste recycled; and
 - reduce water consumption and improve water management.
2. Choosing major suppliers that:
 - improve resilience and adaptability to climate change;

- support the circular economy;
 - have in place robust environmental systems, practices and accreditations;
 - consider the costs of carbon emissions, pollutants, energy and water over the life cycle when using virgin material compared with recycled material; and
 - collect, store, analyse and report emissions data.
3. Working in collaboration with major suppliers to:
- reduce emissions associated with the work they undertake or the services they provide to Council.; and
 - improve sustainability management of their own and Council's supply chain.

Before making any purchasing decisions, Council staff should also first consider:

- can it be borrowed?
- can we re-use, refurbish or recondition an existing product to extend its life?
- can we purchase used or second-hand?
- is there a more environmentally friendly alternative?
- what happens with a product at the end of its life – how will it be re-used, recycled or disposed of? (encouraging potential suppliers to address this from the beginning)

13 Community Benefit

Council is committed to implementing procurement practices that provide social value to the community by including considerations of local economy impact and social outcomes into overall Value for Money determinations. This allows Council to promote outcomes beyond just financial benefits and to contribute to the building of strong communities.

Requirements to deliver Community Benefit outcomes should be functional and performance based. They should define 'what' outcome is required, rather than 'how' the outcome is to be delivered. This approach will provide suppliers with the opportunity to innovate.

Community Benefit may include requirements to support Council's social objectives relating to participation in skills development, training and employment initiatives and other added value contributions.

Community Benefit outcomes will be determined on a case-by-case basis, to ensure that the outcomes sought are proportionate to the individual procurement activity (including scale, value, complexity and levels of opportunity and risk), as unduly onerous requirements may be unachievable, or they may even unnecessarily deter potential suppliers.

13.1 Local Economy and Economic Sustainability

Council recognises that local businesses are an integral part of the community and is committed to improving opportunities for Local Suppliers to compete for Council contracts, while still achieving Value for Money.

Council supports Local Suppliers and economic development by:

- encouraging purchases that are from Local Suppliers and that are made locally and/or from local inputs;
- supporting small to medium enterprises (SMEs);
- generating opportunities for local employment and supply chains;

- designing competitive procurement processes that attract Local Suppliers;
- undertaking early local market engagement; and
- fostering innovation and emerging sectors.

Council will give preference to goods manufactured in Australia and New Zealand whenever practical, in consideration of Value for Money outcomes.

13.2 Social Procurement

Council seeks to address disadvantage by encouraging diversity, acceptance, fairness, compassion, inclusiveness and access for people of all abilities, backgrounds and identities.

Social Procurement should be considered where it can be clearly demonstrated that procurement processes and purchasing power will generate positive social outcomes in addition to the efficient delivery of goods, services and works.

Council may incorporate the following social procurement objectives, outcomes and actions into procurement planning and give preference to suppliers who enhance social outcomes for the community where appropriate:

Social Procurement Objectives	Outcomes Sought	Possible Actions
Opportunities for Aboriginal and Torres Strait Islander people	Employment of Aboriginal and Torres Strait Islander people by suppliers to Council	<ul style="list-style-type: none"> • Seek opportunities to directly procure from Social Enterprises, Certified B Corporations, Australian Disability Enterprises and/or Aboriginal and Torres Strait Islander Businesses • Include performance standards and contract requirements that pursue social and sustainable procurement objectives • Encourage suppliers to create new jobs, apprenticeships and opportunities for people who may be disadvantaged, Aboriginal and Torres Strait Islander or have a disability • Require suppliers to include relevant Social Enterprises, Certified B Corporations, Aboriginal and Torres Strait Islander Businesses and/or Australian Disability Enterprises within their supply chain. • Require suppliers to commit to targets for employment and/or training outcomes for disadvantaged persons,
Opportunities for people with a disability	Employment of people with a disability by suppliers to Council	
Opportunities for disadvantaged persons	Job readiness and employment for: <ul style="list-style-type: none"> - long term unemployed - disengaged youth - single parents - migrants and refugees - workers in transition 	

Social Procurement Objectives	Outcomes Sought	Possible Actions
		Aboriginal and Torres Strait Islanders and/or people with a disability <ul style="list-style-type: none"> Require suppliers to explain how they will identify disadvantaged Victorians and support them to achieve and maintain training and employment outcomes
Gender equality	Gender equality within Council suppliers	<ul style="list-style-type: none"> Request evidence of gender equality in leadership positions Collect data from suppliers on ratio of employment of people of all genders Ask suppliers to demonstrate gender equitable employment practices, policies and commitments
Supporting safe and fair workplaces	Purchasing from suppliers that comply with industrial relations laws, relevant modern slavery legislation and promote secure employment	<ul style="list-style-type: none"> Seek commitment from suppliers to screen supply chains for ethical considerations Require suppliers to complete a safe and fair workplace self-assessment checklist and corresponding declaration of compliance Where appropriate, request documentary evidence to substantiate their responses to the self-assessment checklist and declaration

Ongoing commitment to promised levels of social benefit and outcomes will continue to be monitored and reviewed through the life of a contract. Opportunities for suppliers to further improve outcomes will be encouraged as a contract progresses.

14 Procurement Risk Management

Risk management in a procurement process is about identifying, assessing and managing the risks associated with the purchase of goods, services or works to ensure unexpected or undesirable outcomes are minimised whilst achieving the objectives of the procurement.

Risk management is an essential part of good procurement. Procurement risks that are well-managed are more likely to achieve the procurement outcomes and objectives.

The risk management approach should align to Council's Risk Management Policy, and the Risk Management Procedure.

There are six steps in the procurement risk management process:

1. establish the context;
2. identify the risks;
3. analyse the risks;
4. evaluate risks;
5. treat risks; and
6. monitor and report the risks.

Procurement decisions should include an assessment of risks and include requirements for compliance with relevant laws, including (without limitation), Occupational Health and Safety and Child Safe legislation. Appropriate risk avoidance and mitigation strategies will be employed whenever practicable and appropriate.

Aspects of procurement risk to be considered and assessed may include (without limitation):

- project specifications;
- procurement documentation;
- contract terms and conditions;
- insurance requirements (including public liability, products liability, professional indemnity and workers compensation);
- financial viability of potential contractors; and
- supply continuity and disaster recovery requirements.

Treatment and mitigation strategies may include (without limitation):

- ensuring contracts and templates are updated where appropriate to include current, relevant clauses;
- use of, or reference to, relevant Australian Standards (or equivalent), where appropriate;
- requiring security deposits, bank guarantees or other forms of guarantee, where appropriate;
- requiring contractual agreement before allowing the commencement of work;
- effective Contract Management, including monitoring, assessing and enforcing proper performance; and
- ensuring supplier occupational health and safety documentation is verified and assessed against Council's policies and other legislative requirements.

14.1 Occupational Health and Safety

Council is committed to protecting the health and safety of Council Staff, Councillors, suppliers and the community.

All contractors undertaking work on behalf of Council are required to comply with the *Occupational Health and Safety Act 2004 (Vic)* (the **OHS Act**), applicable regulations under the OHS Act, the *Workplace Injury Rehabilitation and Compensation Act 2013* (and if applicable to claims before 1 July 2014, the *Accident Compensation Act 1985 (Vic)*) and Council's Occupational Health and Safety Policies, as well as the requirements of Council's Contractor OHS Management Procedure.

14.2 Child Safe Standards

Council is committed to promoting child safety and ensuring compliance with the Victorian Child Safe Standards. As a key priority, Council is actively promoting child safety and reducing the factors that lead to children and young people being harmed.

Council will review all suppliers who undertake work on behalf of Council who may have direct or incidental contact with children and young people, in accordance with the principles established in the Child Safe Policy.

14.3 Supplier Code of Conduct

Council is committed to ethical, sustainable and socially responsible procurement and expect the same high standards from our suppliers.

Suppliers undertaking work on behalf of Council are required to comply with the requirements of Council's Supplier Code of Conduct.

15 Reporting Fraud and Complaints

Council regards all allegations of improper conduct and complaints about the procurement process as serious and is committed to handling any such disclosures in a sensitive and confidential manner.

Members of the public, suppliers, Councillors and Council Staff are encouraged to report any allegations of improper or corrupt conduct by a public officer involved in any Council procurement process.

Disclosures can be made verbally or in writing to officers as detailed in the Public Interest Disclosure Procedures. It is important to maintain confidentiality and ensure privacy in communication. Anonymous disclosures can be received.

Verbal Disclosure - a disclosure can be made verbally whether in person, telephone or voicemail.

Written Disclosure - a disclosure can be made in writing and marked confidential to Council via post, email or delivered in person.

Anyone can make a disclosure about improper conduct or detrimental action (any incident of harassment, discrimination or adverse treatment taken in reprisal for the making of the disclosure), verbally or in writing. A disclosure can be made by an individual or group of people who make a joint disclosure.

Council's Public Interest Disclosure Coordinator and Public Interest Disclosure Officers can only receive disclosures that relate to an employee of Council. Disclosures that relate to Councillors must be made directly to IBAC

Please refer to Council's Fraud and Corruption Policy and Public Interest Disclosure Procedures for further information regarding making a report of suspected fraud or corruption.

16 Human Rights Charter

This Policy has been reviewed against and complies with the Charter of Human Rights and Responsibilities Act 2006.

17 Procurement Policy and Process Enquiries

For further information or to clarify any matters regarding this Procurement Policy, please contact the Procurement Team in the Procurement and Contracts Department by email to contracts@kingston.vic.gov.au

18 Administrative Matters

Council's CEO is authorised to make any reasonable administrative amendments to this Procurement Policy from time to time, where the amendment is limited to that of an administrative nature and does not affect the substance of this Procurement Policy.

For instance, the CEO may authorise administrative amendments to:

- address or amend any clerical errors, mistakes or omissions;
- update any changes in definitions;
- update any applicable change in legislation;
- update any change relating to changes in other Council policies;
- update any change in delegations or authorisations; or
- make any other correction.

Any other matters considered material to this Procurement Policy must only be amended by Council resolution

18.1 Delegations/Authorisations

- Instrument of Delegation to Chief Executive Officer
- Instrument of Sub-Delegation by the Chief Executive Officer

19 Related Documents and Resources

19.1 Legislation

The Key Legislative Requirements in the Local Government Act 2020 (Vic)	
Section 108	Procurement Policy
Section 109	Procurement
Section 9	Overarching Governance Principles and Supporting Principles
Section 11	Power of Delegation
Section 47	Delegations by Chief Executive Officer
Section 49	Code of Conduct for Members of Council Staff
Section 90	Council Plan
Section 101	Financial Management Principles
Section 105	Accounts and Records
Section 106	Service Performance Principles
Section 124, 158, 159	Directing a Member of Council Staff
Section 126 – 130	Conflict of Interest

Section 139(3)(A), 140	Councillor Code of Conduct
Regulations	Applicable regulations that may be promulgated from time to time

- Victorian Local Government Best Practice Procurement Guidelines 2013 (expected to be updated and replaced in 2021/22)
- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Child Wellbeing and Safety Act 2005 (Vic)*
- *Competition and Consumer Act 2010 (Cth)*
- *Environment Protection Act 2017 (Vic)*
- *Freedom of Information Act 1982 (Vic)*
- *Occupational Health and Safety Act 2004 (Vic)*
- *Occupational Health and Safety Regulations 2017 (Vic)*
- *Worker Screening Act 2020 (Vic)*
- *Workplace Injury Rehabilitation and Compensation Act 2013 (Vic)*

19.2 City of Kingston Documents

- Asset Disposal Policy
- Child Safe Policy
- Climate and Ecological Emergency Response Plan
- Code of Conduct (for Council Staff)
- Community Grants Program Policy
- Conflict of Interest Policy
- Contractor OHS Management Procedure
- Councillor Code of Conduct
- Councillor Gift and Hospitality Policy
- Emergency Management Action Plan
- Emergency Management Framework
- Fraud and Corruption Policy
- Good Governance Framework
- Governance Rules
- Organisational Gift and Hospitality Policy
- Public Interest Disclosure Procedures
- Risk Management Policy
- Supplier Code of Conduct
- Procurement Procedures and Guidelines

19.3 Resources / External Documents

- Applicable Australian Standards

20 Transition Arrangements

This policy will come into effect from 31 December 2021.

Until this date, as per section 108(7)(a) of the Act, the procurement policy approved by the Council under section 186A of the Local Government Act 1989 which is in effect before the commencement of this section 108, applies as if the procurement policy had been adopted under this section; and

As per section 108(7)(b) of the Act, the restrictions on the power of a Council to enter into a contract under sections 186 and 186A of the Local Government Act 1989, as in force before the commencement of this section, continue to apply as if those sections had not been repealed.

21 Review

In accordance with section 108(5) of the Act, Council must review its Procurement Policy at least once during each four (4) year term of Council.