

6.3.2 Procurement Policy

Responsible GM: Jenny Scicluna
Author: Bruce Walker

Recommendation(s)

That Council adopts the new Procurement Policy.

Attachments

1. Procurement Policy [6.3.2.1 - 16 pages]

Executive Summary

This report seeks the endorsement of a new Procurement Policy as required by *Local Government Act 2020*, section 108.

The policy sets out the key principles, processes and procedures applied to all purchases of goods, services and works by Council and is applicable to all Councillors, Council Staff and other persons undertaking procurement on Council's behalf.

The Policy has been developed collaboratively by the South East Regional Group of Councils (SERGC) with a view to facilitating effective collaborative procurement processes, consistent with the Act.

Background

The new *Local Government Act 2020* requires all councils to prepare a new Procurement Policy for adoption by Council before 31 December 2021. A full review of, and alignment with, the new Act was undertaken in collaboration with eleven South Eastern Councils. Where differences were acknowledged between councils, it was agreed to represent these specific deviations as Appendices within each council's own policy.

The Policy will support the achievement of Council's objectives of sustainable and socially responsible procurement, support of local economies, and obtaining value for money towards improved provision of services for the community. The intent of the policy is to also

- provide policy and guidance to allow consistency and control over procurement activities.
- demonstrate accountability to rate payers.
- provide guidance on ethical behaviour in public sector purchasing.
- demonstrate the application of elements of best practice in purchasing.
- promote open and fair competition.
- increase the probability of obtaining the right outcome when purchasing goods and services.

Policy Implications

The new Procurement Policy will replace the current Policy adopted by Council on 15th March 2021.

Relevance to Council Plan

5.1 We practise responsible leadership

5.1.1 Build trust through meaningful community engagement and transparent decision-making.

5.1.2 Manage our finances responsibly and leave a positive legacy for future generations.

5.1.4 Maximise value for our community through efficient service delivery, innovation, strategic partnerships and advocacy.

Climate Emergency Consideration

The Policy aligns with a number of environmental objectives by supporting sustainability and the Circular Economy. It commits Council to prioritise purchases that minimise waste, drive energy efficiency, natural resource conservation, biodiversity and reductions in greenhouse gas emission.

Consultation/Communication

The Policy has been created in collaboration with eleven South Eastern Councils over the past 12 months, after which a draft was circulated to all Council Managers for a period of 2 weeks in September 2021. An amended draft was then reviewed by the Audit & Risk Committee (ARC) on 17 September and SLT on 22 September.

The following key feedback was received and incorporated where appropriate into this new draft version of the Policy.

- Section 5.2 (b) Risk Management
 - Reference to “In accordance with Cardinia Shire Council Risk Policy.” (OHS request)
- Section 5.7 Tender Evaluation and Negotiation
 - Modified to prescribe the need to appoint a probity advisor for complex, high risk tenders, including a total contract sum amount of \$10m over life of a contract. (ARC request)
- Section 5.10 Exemptions and Breaches
 - Provision for “the CEO” to resolve that an Emergency Event requires a contract to be entered into by council. (Stakeholder request)
 - Legal Services remains an exempt spend category (LG Regulations 2015)
 - Insurance remains an exempt spend category (broker’s involved – volatile makets)
 - Deleted reference to “monopoly” insurance (OHS request)
- Appendix 1 – Thresholds
 - Setting of \$300K threshold seemed conservative (SLT feedback) but is consistent with other South East Regional Group of Councils (SERGC)
 - Inclusion of council’s existing practice of “No Purchase Order, No Pay”. (stakeholder request)
- Appendix 7 – Thresholds
 - Reiterated climate action commitment as an environmental. (stakeholder request)

Stakeholder requested additional statements not adopted as they were considered procedural in nature, too specific for a long term policy or too prescriptive included: capital works variations and process; bank guarantees; COVID-19; Council contributions and grants process; Appendix 1 requirement to provide verbal quotation notations on purchase orders up to \$5,000; Section 5.2 content on supplier panel arrangements (establishment and ongoing

management) – this was considered too prescriptive around specific panel needs that is more appropriate for capture in procedures.

Financial and Resource Implications

This Policy provides clear direction, principles and consistent process for managing risks associated with all procurement activities to enable Councillors, Council Staff and other persons undertaking procurement on Council's behalf to make appropriate financial business decisions that minimise risk exposure to themselves and council.

There are no additional resource implications associated with adoption of this Policy.

Conclusion

This Procurement Policy ensures Council alignment and compliance with the new *Local Government Act 2020*. It was collaboratively constructed with 11 South Eastern Councils to facilitate an agreed structure and approach to support future collaboration.



2021-2025

Procurement Policy

South East Regional Group of Councils

Bayside City Council, Cardinia Shire Council,
Dandenong City Council, Frankston City Council, Glen Eira City Council,
Mornington Peninsula Shire Council, Stonnington City Council

ADOPTED BY COUNCIL **XX Month 2021**

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1. Definitions and Abbreviations

Best Practice	As defined in the Local Government Best Practice Procurement Guidelines or any other document specified by Council.
Collaborative Procurement Arrangement	A contract established by the Council, government or a nominated agent, such as Municipal Association of Victoria (MAV), Procurement Australasia (PA), South East Regional Group of Councils (SERGC) or local government entity, for the benefit of numerous state, federal and/or local government entities that achieves best value by leveraging combined economies of scale.
Commercial in Confidence	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	Cardinia Shire Council
Emergency	A sudden or unexpected event requiring immediate action including the occurrence of a natural disaster, flooding or fire event at a Council property; the unforeseen cessation of trading of a core service provider; any other situation which is liable to constitute a risk to life or property.
Local Supplier	A commercial business with an operational premise that is physically located or perform the majority of their goods/services within the municipal border of Cardinia Shire Council or in the event of collaborative sourcing arrangement undertaken by participating South East Regional Councils.
Material breach	Any breach of this policy that may also represent a breach of legislation such as procurement thresholds, fraud or corruption, and occupational health and safety.
Probity	Probity is the evidence of ethical behaviour, and can be defined as complete and confirmed integrity, uprightness, and honesty in a particular process. Probity is a defensible process which can withstand internal and external scrutiny, which achieves both accountability and transparency, providing respondents with fair and equitable treatment.
Procurement	Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract. It also includes the organisational and governance frameworks that underpin the procurement function.
Reasonably practicable	That which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, considering and weighing up all relevant matters.
South East Regional Group of Councils (SERGC)	The 11 Councils comprising the SERGC being the Cities of Bayside, Boroondara, Casey, Dandenong, Frankston, Glen Eira, Kingston, Port Phillip, Stonnington, and Shires of Cardinia and Mornington Peninsula.
Total Contract Sum	The potential total value of the contract including: <ul style="list-style-type: none"> • costs for the full term of the contract, including any options for either party to extend the contract • applicable goods and services tax (GST) • anticipated contingency allowances or variations • all other known, anticipated and reasonably foreseeable costs.
Value for Money	Value for Money in procurement is about selecting the supply of goods, services and works considering both cost and non-cost factors including: <ul style="list-style-type: none"> • Non-cost factors such as contribution to the advancement of Council's priorities, fitness for purpose, quality, service and support and • cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.

2. Purpose

The Council purchases goods, services and works to support service delivery and the maintenance and development of infrastructure. Council is required under sections 108 and 109 of the [Local Government Act 2020](#) (*the Act*) to prepare, adopt and comply with its procurement policy. In accordance with *the Act*, this policy sets out the key principles, processes and procedures applied to all purchases of goods, services and works by Council.

This Policy has been developed collaboratively by the South Eastern Councils Alliance (SERGC) with a view to facilitating effective collaborative procurement processes, consistent with *the Act*. This Policy also incorporates content that is specific to the named Council and may differ slightly from that of the other SERGC councils and is intended to apply only to procurement practices involving that Council.

3. Applicability

This Policy applies to all contracting and procurement activities conducted at each Council and is applicable to all Councillors, Council Staff and other persons undertaking procurement on Council's behalf.

It is recognised this will enhance achievement of each Council's objectives such as sustainable and socially responsible procurement, supporting local economies and obtaining Value for Money, leading to a better result in the provision of services for the community.

This Procurement Policy provides direction on the conduct of procurement activities throughout the sourcing, management, and disposal phases. It also covers the general procurement framework but does not extend to the related accounts payable processes.

Each Council must comply with this Procurement Policy before entering into a contract for the purchase of goods or services or the carrying out of works.

4. Guiding Principles

Council's procurement processes shall be based on the following principles, irrespective of the value and complexity of that procurement:

4.1 Strategic Procurement

Council's procurement processes will be based on the principles of Strategic Procurement. Planning for an individual procurement exercise will include consideration of aggregation opportunities, access to suppliers under existing contracts and analysis of alternative contract models. Guidance and procurement planning templates are available for staff involved in the procurement process.

4.2 Value for Money

Council will weigh the benefits of the procurement against the costs necessary for the optimum result for Council and the local community. While Council is not required to accept the lowest price, it is required to take into account several factors such as quality, cost, warranties, accessibility of the service and other factors relevant to both the overall procurement objectives and *the Act*.

In terms of the contracting process, Value for Money requires Council to apply appropriate weighting for quality and price with as much transparency as is reasonably achievable. In this context, price should consider the whole life cost of the provision as far as is practicable.

To achieve Value for Money for the community, Council will look beyond upfront costs to make purchasing decisions based on the entire life cycle of goods and services or works, and take into account related costs, environmental/circular economy and social risks and benefits, and broader social and environmental implications.

Council will seek to conduct sustainable procurement through measures including, but not limited to:

- a) adopting any Federal or Local Government policies, targets and strategies that avoid unnecessary consumption and help to manage demand;
- b) considering the purchase of goods and infrastructure that can be reused, repaired, and recycled, and that include recycled content;
- c) considering the purchase of goods, services or works that benefit local suppliers or social enterprises;
- d) minimising environmental impacts over the life of the goods and services by choosing products or services that have lower adverse impacts associated with their production, use or disposal;
- e) fostering innovation in sustainable products and services through the design and implementation of procurements;
- f) pursuit of fair and ethical sourcing practices that require suppliers to comply with socially responsible practices, including legislative obligations to employees.

Achieving Value for Money shall be the basis of all procurement decisions within Council.

4.3 Assessing the Evaluation Criteria - Value for Money

Council's procurement activities will be carried out on the basis of obtaining Value for Money consistent with acceptable quality, reliability, and delivery considerations.

Value for Money in Council procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including:

- a) non-cost factors such as contribution to the advancement of Council's priorities, fitness for purpose, quality, social and environmental impacts, service, and support; and
- b) cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining, and disposing of the goods, services or works.

Value for Money is best achieved by:

- a) developing, implementing, and managing procurement strategies that support the co-ordination and streamlining of activities throughout the procurement lifecycle;
- b) aggregating purchasing whenever possible; and
- c) undertaking competitive procurement processes.

The Council may include the following evaluation criteria categories to determine whether a proposed contract provides Value for Money:

- Mandatory Compliance criteria (e.g. ABN registration, Fair Work Act).
- Tendered price.
- Capacity of the Tenderer to provide the Goods and/or Services and/or Works.
- Capability of the Tenderer to provide the Goods and/or Services and/or Works.
- Demonstration of Sustainable Procurement Impact.
- Any other criteria relevant to the Goods and/or Services and/or Works being procured.

5. Council Policy

5.1 Procurement Structure, Processes, Procedures and Systems

Council maintains a procurement function responsible for:

- a) Maintaining the Procurement Policy and associated guidelines, processes and procedures;
- b) Maintaining appropriate purchasing, procurement, and contract management systems and tools;
- c) Providing procurement-related advice and support to the organisation as required;
- d) Building organisational procurement and contract management capability (including delivery of training and provision of guidance materials);
- e) Promoting awareness and monitoring of compliance with this Policy;
- f) Ensuring Legislation is followed, reporting breaches and corrective actions in a timely manner;

- g) Collaborating with other councils and organisations to identify best practice in and achieving better value from procurement.

Councillors, staff, and persons undertaking procurement on Council's behalf are responsible for complying with this Policy.

The Council will maintain internal procurement control documents detailing the processes, procedures and systems related to procurement.

The Council will maintain details of tendered contracts.

Whenever practicable, Council must give effective and substantial preference to contracts for the purchase of goods, machinery or material manufactured or produced in the Shire, Australia or New Zealand.

5.2 Probity, Accountability and Transparency

All people undertaking procurement activities on Council's behalf are responsible for *the* Actions and decisions they take in relation to Procurement and for the resulting outcomes.

Therefore, the processes by which all Procurement activities are conducted will be in accordance with the Council's procurement policies and procedures as set out in this Policy, relevant Legislation, Australian Standards, Commercial Law and the *Local Government Act 2020*.

Where a third-party agent is engaged to procure goods, services or works on behalf of Council, they must ensure they are compliant with the relevant legislation including *the Act*.

a) Probity

Council has a responsibility to obtain Value for Money and this must be achieved by acting with probity. Procurement probity is a defensible process, able to withstand internal and external scrutiny, one which achieves accountability, transparency and provides tenderers with fair and equitable treatment. Probity is about ensuring the procedural integrity of the procurement process, guarding against collusion and fraud and anti-competitive conduct, and not receiving personal gain.

Council may choose to engage Probity services depending on the nature, complexity, risk, and value of a procurement activity. Guidance on engagement of Probity services will be provided by the Procurement function.

b) Risk Management

The principles of risk management are to be appropriately applied at all stages of Procurement activities, which will be properly planned and carried out in a manner that will protect and enhance the Council's capability to prevent, withstand and recover from personal injury, property damage, reputational loss, financial exposure and interruption to the supply of goods, services and works.

The provision of goods, services and works by a supplier or contractor potentially exposes Council to risk. The Council will minimise its risk exposure in accordance with Cardinia Shire Council's Risk Policy, processes and practices (refer to Appendix 4).

5.3 Procurement Methods

The standard methods for procurement will be:

- a) Purchasing Card;
- b) Purchase Order;
- c) A quotation process (refer Appendix 1) followed by a purchase order;
- d) A tender process followed by contract and purchase order;
- e) Under approved purchasing schemes (i.e. Panel contracts).

The source of funds must be identified, and the procurement authorised in accordance with the Council's financial delegations and quotation thresholds before any commitment to purchase is made.

More than one person will be involved in, and responsible for, each transaction with appropriate authorisations obtained and documented.

Council may seek Expressions of Interest where:

- a) there are likely to be many tenderers; and/or
- b) tendering will be costly, or the procurement is complex and Council does not wish to impose the costs of preparing full tenders on all tenderers; and/or
- c) there is uncertainty as to the willingness and/or interest of vendors to offer the required procurement; and/or
- d) Council requires advice from the market regarding how best to address a particular need.

All Expressions of Interest and public Tenders invited by Council will be published via Council's eTendering Portal.

Information regarding Current Tenders and Awarded Tenders will be published on Council's website.

Panel Contracts include Cardinia Shire Council Panel contracts, eligible State Government Panel contracts including the Construction Supplier Register, and approved schemes including MAV Procurement and Procurement Australasia.

For procurements where there is an existing Panel Contract, staff are required to:

- a) Obtain the relevant number of quotes from suitable Panel members, in line with this Policy;
- b) Raise a purchase order including the relevant information, e.g. must use procurement processes and register rules, or internal panels / pre-approved supplier lists.

Council will identify and actively investigate relevant collaborative procurement opportunities, where the procurement objectives are focussed on collaborative benefits, and/or shared services that align within the public tender thresholds amongst the SERGC.

5.4 Collaborative Procurement

In accordance with Section 108 (c) of *the Act*, the Council will seek to collaborate with other Councils, especially the SERGC and public bodies in the procurement of goods, services and works in order to take advantage of economies of scale.

Council staff must consider any opportunities for collaborative procurement in relation to a procurement process undertaken by Council. Any Council report that recommends entering into a procurement arrangement must set out information relating to opportunities for collaborative procurement, including:

- the nature of those opportunities, 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 that procurement process.

Furthermore, Council may collaborate with other Councils to procure goods or services, or utilise MAV Procurement, State Government, and Procurement Australasia contracts for the procurement of goods, services or works established through a public tender process where it provides an advantageous, Value for Money outcome for the Council.

Where a Procurement for services or works is 100% funded by a State or Commonwealth grant it may be exempt from collaborative procurement dependant on the nature of the grant conditions.

5.5 Procurement Processes, Thresholds and Competition

Section 108 of *the Act* details that each Council will set the public tender threshold circumstances when tenders for contracts must be publicly invited.

Guidelines will be determined from time to time for minimum spend thresholds associated with Council's procurement activities. These will be decided by analysing the historical size and complexity of the procurement activity and of proposed procurement activities.

Council will invite tenders, proposals, quotes and expressions of interest from the supply market for goods, services, building and construction works in accordance with the thresholds listed in Appendix 1 of this Policy to ensure compliance with *the Act*. These thresholds will only be varied with approval from within each particular Council. The thresholds must represent the estimated value of the whole of term of the contract i.e. the initial term plus any options to extend the initial contract term and are to be inclusive of GST.

The options for a procurement process compliant with the public tendering requirements contained in *the Act* include:

- a) Council running its own publicly advertised tender process, a variety of advertising mediums may be chosen from, including national newspapers, local newspapers, and web based forums;
- b) Council participating in collaborative tender processes for similar services in conjunction with other councils, including councils in the SERGC;
- c) Council appointing an external agent to run a tender process on its behalf. Organisations such as Procurement Australasia and Municipal Association of Victoria (MAV) Procurement are active in this area;
- d) Council accessing Victorian State Government contracts (e.g. State Purchase Contracts, Whole-of-Government contracts) that have been made available to Local Government and which Local Government can access without the need to comply with the requirements of Division 2 Section 108 (1) of *the Act*; or
- e) Council accessing contracts for panels of suppliers where those panels have been put in place through a compliant tender process. For example, these panel contracts may have been put in place through a Council-run tender process, a tender process run for Council by an external agent or be a Victorian State Government panel made available to Local Government; or
- f) Seek an exemption as outlined in section 108 3 (d) of *the Act* (refer to section 5.10 of this Policy).

5.6 Procurement Principles

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

- value for Money
- sustainability (social, economic, and environmental)
- open and fair competition
- accountability
- risk management
- probity and transparency

5.7 Tender Evaluation and Negotiation

Late tenders will not be accepted.

The tender selection criteria and weighting for each criterion will be documented prior to the requesting of tenders.

An appropriately qualified and briefed Evaluation Panel will be established to evaluate each tender submission against the tender selection criteria.

External representatives may be part of, or an advisor to, the panel to ensure appropriate skills, experience and/or probity.

The evaluation process must be robust, transparent, and unbiased. Each Panel Member will be required to formally declare any Conflicts of Interest, prior to commencing their evaluations.

A probity advisor should be appointed and a formal probity plan developed in the following circumstances

- Where the proposed Total Contract Sum exceeds \$10 million over the life of the contract or for a lesser value set by Council from time to time; or
- Where a proposed contract is considered by Council or the CEO to be particularly complex, of a high risk or controversial nature, and requiring a high level of public confidence.

A probity advisor may be appointed to any tender evaluation panel and may be appointed to oversee the evaluation process.

Contract Negotiations can be conducted to obtain the best outcome for Council, providing negotiations remain within the intent and scope of the tender.

Council may conduct a shortlisting process. Shortlisted tenderers may be invited by the Council to submit a Best and Final Offer.

The results of the Tender Evaluation and demonstration of the robustness of the process must be documented in a Tender Evaluation Report approved by the relevant delegate.

The Tender Evaluation process should take into consideration Whole of Life Cost.

5.8 Corporate Social Responsibility (Sustainable and Ethical Procurement)

Council will support sustainability through its purchasing activity and prioritise purchases that maximise waste minimisation, energy efficiency, water conservation and reductions in greenhouse gas emissions.

Value for Money purchasing decisions made by Council are made based on whole-of-life cost and non-price factors including contribution to Council's sustainability objectives.

Council prefers to purchase sustainable, recycled and environmentally preferred products whenever they achieve the same function and Value for Money outcomes. Council may spend up to ten percent more for products that provide environmentally sustainable benefits.

Council will support products and new industries which provide sustainable and social benefits.

Council will monitor and report on Council procurement activities and programs that have an impact on or contribute to the environment.

5.9 Economic, Environmental and Social Objectives

Council will seek to advance economic, environmental and social objectives to benefit the community directly by purchasing from for-social benefit entities, and indirectly by including social clauses in its contracts with private sector providers and screening supply chains for ethical considerations.

At its discretion, Council may apply a preference of up to 10% in the evaluation of proposals that:

- are from Social Enterprises or include Social Enterprises in their supply chain; and/or
- are from Indigenous Suppliers or include Indigenous Suppliers in their supply chain.

Council will also give regard to the following elements when making procurement decisions:

- 1. Economic Sustainability** - Council supports local businesses and economic diversity by encouraging purchases that:
 - Are made from local suppliers and Small to Medium Enterprises;
 - Generate local employment; and
 - Consider the cost vs life cycle/durability of purchases.
- 2. Environmental Sustainability/Circular Economy** - Council seeks to make procurement decisions that reduce natural resource and biodiversity depletion by promoting:
 - Green purchasing (i.e. making purchases that use materials made of recycled content, are energy efficient and greenhouse friendly, are from a Social Enterprise or are second hand/refurbished);
 - Reduced greenhouse gas emissions;
 - Reduced waste to landfill and the increase of the amount of waste recycled;
 - Reduced water consumption and the improvement of water management;
 - Improved environmental management in Council's supply chain;

- The selection of products/services that have minimal effect on the depletion of natural resources and biodiversity; and
 - Improved adaptability to climate change.
- 3. Social Sustainability** - Council seeks to address disadvantage by encouraging diversity, acceptance, fairness, compassion, inclusiveness, and access for people of all abilities in its purchasing by seeking to:
- Create new jobs and opportunities for people who may be struggling to find work;
 - Target cohorts that may be experiencing economic exclusion;
 - Reinvigorate depressed or marginalised communities; and
 - Improve equity of access to opportunities.

5.10 Exemptions and Breaches

The following circumstances are exempt from the general tender, proposal, quotation, and expression of interest requirements. Use of any exemption must be endorsed in accordance with the approved Financial Delegations.

Exemption Name	Explanation, Limitations, Responsibilities and Approvals
A contract made because of genuine emergency or hardship	Where the Council or CEO has resolved that the contract must be entered into because of an Emergency Event (e.g. to provide immediate response to a natural disaster).
A contract made with, or a purchase from, a contract made by another government entity, government-owned entity or other approved third-party	This general exemption allows engagements 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. Contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, Municipal Association of Victoria (MAV) or National Procurement network members (e.g. Local Buy), Procurement Australasia (PA).
Exemption from Public Tendering	Where the contract is entered into in accordance with arrangements approved by the Minister where Council must demonstrate to the Minister for Local Government that it is not a viable option to undertake a public tender.
Extension of contracts while Council is conducting a market tender	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 have taken longer than expected. This exemption may be used when the establishment of an interim short-term arrangement 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.
Professional services unsuitable for tendering	Legal Services. Insurance.
Novated Contracts	Where the initial contract was entered into in compliance with <i>the Act</i> and due diligence has been undertaken in respect to the new party.
Information technology resellers and software developers	Allows Council to renew software licenses, maintenance and support or upgrade existing systems, where there is only one incumbent supplier of the software who holds the intellectual property rights to the software.
Utility Companies	When utility authorities are required to undertake work on their assets.
Regional Waste Management Groups	Situations where a Regional Waste Management Group constituted under section 50F of the <i>Environment Protection Act 2017</i> had already conducted a public tender for and on behalf of its member councils.

Exemption Name	Explanation, Limitations, Responsibilities and Approvals
Operating Leases	Where a lessor leases an asset (generally a vehicle or plant and equipment) to the Council and assumes the residual value risk of the asset.
Variations under contract	Where a variation occurs, the delegation is not defined by the value of the variation, but by the value of the whole contract. An officer with a sub-delegation from the Chief Executive Officer or Council may vary a contract to the limit in the delegation. Approved budget must be available for all variations.
Contract Over Expenditure	Variation above the approved contract value is deemed a Contract over expenditure. Any variation single or accumulative that exceeds the Public tender threshold or 10% of the original contract value is subject to a council resolution. An officer with a sub-delegation from the Chief Executive Officer or Council may vary a contract to the limit to the Public tender threshold or 10% of the original contract value.
Other specific Council exemptions	Defined in Appendix 3. Specific Council exemptions will be reviewed and updated from time to time.

Spend non-compliance and breaches will be reported to Cardinia Shire Council Senior Leadership Team on a quarterly basis as part of the Procurement update.

Emergency Events and post emergency procurement should meet all requirements of the Disaster Recovery Funding Arrangements. In addition, the Value for Money principals will still be applicable.

Where Council expenditure is funded from State or Federal Government grant monies the requirement to comply with Division 2 Section 108 of *the Act* remains unless there are grant conditions which provide alternative arrangements.

Should the nature of the requirement and the characteristics of the market be such that it is considered a public tender process is not possible, an exemption as outlined in Section 108 3 (d) may be sought from Council.

If a state of emergency/disaster/pandemic Event is in place within Victoria, this exemption can be approved by the Chief Executive Officer.

5.11 Sole or Select Sourcing

Supply of goods, services or works can be sought from one supplier (sole sourcing) or a restricted group of suppliers (select sourcing) without tenders, expressions of interest, proposals or quotes where it is consistent with this Procurement Policy and either:

- a) it is in the public interest;
- b) the marketplace is restricted by statement of license or third-party ownership of an asset (including when utility authorities are required to undertake work on their assets); or
- c) Council is party to a joint arrangement where Council jointly owns the IP with a third-party provider.

If there is a current procurement or disposal process in place, that process must be terminated prior to sole sourcing being implemented.

Sole sourcing is subject to existing delegations.

Select sourcing is subject to endorsement by the appropriate Financial Delegate or the CEO.

6. Relevant Legislation, Policy and Other Documents

The Council's procurement activities shall be carried out to the professional standards in accordance with best practice and in compliance with *the Act* and applicable policies and procedures including Codes of Conduct for Councillors, Council staff and Others.

Compliance will be monitored by the Council's Procurement Team and minor issues will be appropriately addressed by Council staff in leadership positions. Where required, serious compliance issues will be reported to the Audit and Risk Committee and Council.

All Council policies comply with the Victorian Charter of Human Rights and Responsibilities.

This policy has clear linkages to a range of codes, charters, legislation, and Council documents including:

- *Local Government Act 2020*
- The relevant provisions of the *Competition and Consumer Act 2010* (Cth)
- Procurement procedures and guidelines
- Purchasing and accounts payable manuals
- Codes of Conduct and associated policies (including Supplier Code of Conduct)
- Contract management guidelines
- *Working with Children Act 2005* and *Working with Children Regulation 2016*
- *Occupational Health and Safety Act 2004*
- Other relevant Australian Standards

7. Monitoring Review and Audit

The Procurement Team will monitor procurement activity on an ongoing basis with respect to annual procurement activity and compliance with key internal controls. Council is committed to continuous improvement and will review the Policy in accordance with the requirements of *the Act* to ensure that it continues to meet its wider strategic objectives.

This Policy is subject to amendment at any time if required and is to be reviewed at least once in every four (4) year Council term as required by *the Act*.

Responsible officer: Scott Moore

Department: Finance

Approval date: [Insert]

Approved by Cardinia Shire Council

Review date: [Insert]

Expiry date: [Insert]

Version number: 1.0

Procurement Policy Enquiries and Contact Details

For further information on the policy, please contact the individual Council Procurement Teams as detailed in the table below.

Council	Email address	Phone
Bayside City Council	procurement@bayside.vic.gov.au	
Cardinia Shire Council	procurement@cardinia.vic.gov.au	1300 787 624
Dandenong City Council	procurement@dandenong.vic.gov.au	
Frankston City Council	procurement@frankston.vic.gov.au	
Glen Eira City Council	procurement@gleneira.vic.gov.au	
Mornington Peninsula Shire Council	procurement@mornpen.vic.gov.au	
Stonnington City Council	procurement@stonnington.vic.gov.au	(03) 8290 1333

APPENDICES

All policy requirements contained within these Appendices Sections are only applicable to Cardinia Shire Council.

APPENDIX 1. Cardinia Shire Council Procurement Thresholds

Council will invite tenders, proposals, quotes, and expressions of interest from the supply market for goods, services, building, and construction works in accordance with the thresholds listed below:

Procurement Threshold (incl. GST)	Procurement Methodology
\$0 - \$5,000	<ul style="list-style-type: none"> Items with a value up to \$5,000 do not require quotations.
\$5,001 - \$15,000	<ul style="list-style-type: none"> One (1) written quote. Evidence to be kept in the Records Management System and attached to the Purchase Order in the Finance system.
\$15,001 - \$30,000	<ul style="list-style-type: none"> Two (2) written quotes. Evidence to be kept in the Records Management System and attached to the Purchase Order in the Finance system.
\$30,001 - \$300,000	<ul style="list-style-type: none"> At least three (3) written quotes. Evidence to be kept in the Records Management System and attached to the Purchase Order in the Finance system. 1 quote from a local supplier to be sought if possible.
Over \$300,000	<ul style="list-style-type: none"> Purchase to proceed to a publicly advertised competitive tender. These thresholds are the minimum requirements, and public tendering is also available regardless of value if in the best interests of Council. If the above minimum requirements cannot be met, an Exemption from the Procurement Process (Form B) will be required.

Procurement transactions will not be split to circumvent the above thresholds. Obtaining sufficient quotations can sometimes be difficult, e.g. if there are few suppliers for the goods, services or building and construction works being sought or where the work is highly specialised. In such a case an Exemption from Procurement Process (Form B) approved by CEO, will be required.

Cardinia Shire Council has a “No PO, No Pay” Policy that applies to all purchases that require a Purchase Order to be issued to the supplier. Only supplier invoices that quote a matching, valid council Purchase Order (PO) will get paid.

APPENDIX 2. Cardinia Shire Council Plans, Strategies and Policies

This section lists the additional Council plans, policies and strategies that have clear linkages to this Procurement Policy.

- Council Plan - adopted at Council Meeting on Monday 21 June 2021.

APPENDIX 3. Cardinia Shire Council Specific Exemptions

Cardinia Shire Council has not determined any additional general exemptions to the public tender threshold beyond those detailed in section 5.3 of the policy.

The CEO may approve Exemption from Procurement Process (Form B) in exceptional circumstances where it can be demonstrated that it is in the best interests of the community to do so.

The public tender threshold and related exemptions also apply to collaborative procurements.

APPENDIX 4. Council Risk Management

Council shall have in place consistent strategies for managing risks associated with all procurement processes.

- a) providing sufficient planning and lead-time for Procurement preparation and consideration;
- b) using appropriate Council standard-form contracts (provided by Council's Procurement Team or Australian Standard contracts which include current, relevant clauses to mitigate risk to Council);
- c) contract departures will be reviewed and negotiated by Council's Procurement Team prior to the award of the contract, seeking external legal advice when considered necessary. Copies of all communication between Procurement and the preferred contractor or supplier will be saved in the Records Management System as evidence of review and approval of non-standard items;
- d) Council's Procurement Team will review tendered non-standard contracts, as well as standard contracts that have agreed departures included, prior to the contract being disseminated for execution;
- e) requiring security deposits where appropriate;
- f) referring specifications to relevant experts;
- g) all contracts must be executed and a copy provided to the Procurement Team before allowing the commencement of procurement of any goods, services or work;
- h) ongoing and timely contract management; and
- i) effectively managing the contract including monitoring and enforcing performance.

APPENDIX 5. Conflict of Interest

Councillors and Council Staff shall always avoid situations which may give rise to an actual or perceived conflict of interest. A conflict of interest may be a 'general' or a 'material' conflict of interest.

A member of Council Staff has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

A member of Council Staff has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit or loss may be direct or indirect and pecuniary or non-pecuniary. Affected persons include, among others, the member of Council Staff and their family members.

Council Staff involved in the procurement process, particularly in preparing tender documentation, writing tender specifications, opening tenders, participating in tender evaluation panels, preparing a recommendation report, and Councillors and Council Staff awarding tenders must:

- **Avoid** conflict the Act s of interest, whether material or general or actual, potential or perceived;
- **Declare** that they do not have a conflict of interest in respect of the procurement. All Council Staff participating in tender evaluation panels must complete a Conflict of Interest declaration. Council Staff must declare any actual or perceived conflicts in line with Council's internal processes for reporting conflicts of interest; and
- **Observe** prevailing Council and Government guidelines on how to prevent or deal with conflict of interest situations and not take advantage of any tender related information for personal gain.

APPENDIX 6. Disclosure of Information

Commercial in Confidence information received by the Council must not be disclosed and is to be stored in a secure location.

Councillors and Council Staff must take all reasonable measures to maintain confidentiality of:

- Information disclosed by organisations in tenders, quotations or during tender negotiations; and
- Commercial in Confidence information.

Councillors and Council Staff are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests.

Discussion with potential suppliers during tender evaluations should not go beyond the extent necessary to resolve doubt on what is being offered by that supplier.

At no stage should any discussion be entered into which could improperly influence the procurement process or negotiation of a contract prior to the contract approval process being finalised, other than authorised pre-contract negotiations.

APPENDIX 7. Cardinia Shire Council Sustainable Procurement

Council commits to applying principles of sustainability to all its decision-making and activities. In addition, Council applies sound contracting principles to its procurement activity. The following economic, environmental, and social objectives have been determined in line with these principles.

Area	Principles	Objectives
Economic	<p>Council is committed to procurement that supports local business and economic diversity in the SERGC and will actively seek quotes and tenders from Local Businesses in the SERGC whilst</p> <ul style="list-style-type: none"> ▪ ensuring Value for Money (VFM) outcomes. ▪ identifying cost reduction opportunities with suppliers and internal stakeholders to meet business targets. ▪ ensuring open and effective competition, and development of competitive local business and industry. ▪ building relationships with key suppliers that foster innovation and support for emerging sectors. <p>Where practicable Council will give preference to goods manufactured or produced in Australia and New Zealand</p>	<p>Councils economic sustainability commitment and approach aims to:</p> <ul style="list-style-type: none"> ▪ achieve Value for Money on a whole-of-life (including disposal) basis, rather than just initial cost. ▪ consider life cycle impacts of products purchased. ▪ ensure probity and accountability in the procurement process. ▪ commit to source locally. ▪ build relationships with local businesses and encourage purchasing from local suppliers to help build their capacity. ▪ increase local employment.

Area	Principles	Objectives
Environmental	<p>Where applicable Council will include appropriate criteria in request for quotes and tenders to deliver environmentally preferable outcomes and deliver strategies to avoid and reduce waste generation and drive energy efficiency. To support the achievement of objectives and targets within Council's sustainability strategies, Council is committed to minimise its impact on the environment by:</p> <ul style="list-style-type: none"> ▪ purchasing goods, services and construction which avoid air, water, and soil pollution. ▪ minimising natural resource and biodiversity depletion. ▪ supporting suppliers to reduce carbon emissions in the supply chain. ▪ purchasing environmentally preferred goods and services whenever they present an acceptable Value for Money outcome. ▪ contributing to sustainable waste management (with reference to the waste hierarchy and Circular Economy principles). 	<p>Councils environmental sustainability and climate action commitment and approach aims to:</p> <ul style="list-style-type: none"> ▪ maximise energy efficiency and reducing greenhouse gas emissions and contribute towards Council's carbon neutral status. ▪ minimise waste production by: <ul style="list-style-type: none"> ○ reduced usage of non-renewable resources; and ○ reduced demand for raw materials and natural resources. ▪ promote a market for recycled materials. ▪ reduce water consumption and activities that impact diversity.
Social	<p>Council is committed to building stronger communities and meeting social objectives which benefit the community and commits to integration of measures in its procurement processes and documentation which promote improved social outcomes. Council's sustainability strategies will be underpinned by:</p> <ul style="list-style-type: none"> ▪ creation of training and employment opportunities for unemployed, disadvantaged municipal residents or marginalised job seekers. ▪ creation of opportunities for small, medium, and social enterprises, Indigenous and Disability Employment enterprises. ▪ promotion of equity, diversity, and equal opportunity. ▪ provision for broad public involvement on issues that affect the community such as addressing complex local challenges such as intergeneration employment, crime, vandalism, and economic decline. 	<p>Councils social sustainability commitment and approach aims to:</p> <ul style="list-style-type: none"> ▪ ensure vendors do not exploit workers and provide fair wages, including inclusive and sustainable business practices. ▪ maintain a social procurement program to increase social procurement spend across the South Eastern Region. ▪ ensure sourced products are accessible by all segments of the community. ▪ increase employment opportunities for Indigenous people, disabled people, disadvantaged people, and long term unemployed. ▪ Increase gender equity. ▪ prevent, detect, and remove modern slavery from Council's supply chain.