



# Procurement Policy 2021-2025

## South East Regional Group of Councils

A collaboration between Bayside City Council, Cardinia Shire Council, Frankston City Council, Glen Eira City Council, Greater Dandenong City Council, Mornington Peninsula Shire Council and Stonnington City Council.

|                                    |   |                          |                                  |
|------------------------------------|---|--------------------------|----------------------------------|
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## Contents

|   |    |
|---|----|
| <b>1. Definitions and Abbreviations</b>                                   | 3  |
| <b>2. Purpose</b>   | 4  |
| <b>3. Applicability</b>   | 4  |
| <b>4. Guiding Principles</b>  | 4  |
| 4.1 Strategic Procurement   | 4  |
| 4.2 Value for Money   | 5  |
| 4.3 Assessing the Evaluation Criteria - Value for Money                   | 5  |
| <b>5. Council Policy</b>  | 6  |
| 5.1 Procurement Structure, Processes, Procedures and Systems              | 6  |
| 5.2 Probity, Accountability and Transparency                              | 6  |
| 5.3 Procurement Methods   | 7  |
| 5.4 Collaborative Procurement   | 7  |
| 5.5 Procurement Processes, Thresholds and Competition                     | 8  |
| 5.6 Procurement Principles  | 9  |
| 5.7 Tender Evaluation and Negotiation                                     | 9  |
| 5.8 Corporate Social Responsibility (Sustainable and Ethical Procurement) | 9  |
| 5.9 Economic, Environmental and Social Objectives                         | 10 |
| 5.10 Exemptions and Breaches  | 12 |
| 5.11 Sole or Select Sourcing  | 13 |
| <b>6. Relevant Legislation, Policy and other Documents</b>                | 14 |
| <b>7. Monitoring Review and Audit</b>                                     | 14 |
| <b>8. Procurement Policy Enquiries and Contact Details</b>                | 15 |
| <b>APPENDICES</b>   | 16 |
| APPENDIX 1. Council Procurement Thresholds                                | 16 |
| APPENDIX 2. Council Performance Indicators                                | 16 |
| APPENDIX 3. Council Specific Exemptions                                   | 17 |
| APPENDIX 4. Council Risk Management                                       | 17 |
| APPENDIX 5. Conflict of Interest  | 19 |
| APPENDIX 6. Disclosure of Information                                     | 19 |
| APPENDIX 7. Council Sustainable Procurement                               | 20 |
| APPENDIX 8. In-Kind Contributions   | 22 |

*Council recognises procurement is more than a transaction. It can help affect real change. Council is a major buyer within the City and across Melbourne’s SE region. As such, it has a social responsibility to ensure its procurement adds to community wealth building and economic development. Namely, that it assists drive down inequality and increase the quality of living for our community.*

## 1. Definitions and Abbreviations

|  |  |
|--|--|
| <b>Best Practice</b>                                 | As defined in the <i>Local Government Best Practice Procurement Guidelines</i> or any other document specified by Council.   |
| <b>Collaborative Procurement Arrangement</b>         | 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. |
| <b>Commercial in Confidence</b>                      | 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.  |
| <b>Contract Management</b>                           | 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.  |
| <b>Council</b>                                       | Greater Dandenong City Council.  |
| <b>Emergency</b>                                     | 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.  |
| <b>Local Supplier</b>                                | A commercial business with an operational premise that is physically located within the municipal borders of the participating South East Regional Councils or performs the majority of their goods/services in this region.   |
| <b>Material Breach</b>                               | 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.  |
| <b>Probity</b>                                       | Probity is the evidence of ethical behaviour, and can be defined as complete and confirmed integrity, uprightness and honesty in a particular process.<br>Probity is a defensible process which is able to withstand internal and external scrutiny, achieves both accountability and transparency, providing respondents with fair and equitable treatment.                     |
| <b>Procurement</b>                                   | 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.               |
| <b>Reasonably Practicable</b>                        | That which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters.  |
| <b>South East Regional Group of Councils (SERGC)</b> | 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.   |

|                           |   |
|---------------------------|---|
| <b>Total Contract Sum</b> | <p>The potential total value of the contract including:</p> <ul style="list-style-type: none"> <li>• costs for the full term of the contract, including any options for either party to extend the contract;</li> <li>• applicable goods and services tax (GST);</li> <li>• anticipated contingency allowances or variations; and</li> <li>• all other known, anticipated and reasonably foreseeable costs.</li> </ul>  |
| <b>Value for Money</b>    | <p>Value for Money in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including:</p> <ul style="list-style-type: none"> <li>• Non-cost factors such as contribution to the advancement of Council's priorities, fitness for purpose, quality, service and support; and</li> <li>• 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.</li> </ul> |

## 2. Purpose

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 East Regional Group of Councils (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 Greater Dandenong City 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 Greater Dandenong City 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 goods, services and works for the benefit of the community.

This 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 are 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 collaborative procurement opportunities, access to suppliers under existing contracts and analysis of alternative contract models. Guidance and procurement planning templates are available from the Contracts Unit

## 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 take into account 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, State or Local Government policies, targets and strategies that avoid unnecessary consumption and help to manage demand;
- b) giving consideration to the purchase of goods and infrastructure that can be reused, repaired and recycled, and that include recycled content;
- c) giving consideration to 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, OH&S, Fair Work Act);
- Tendered price;

- Capacity and capability of the respondent to provide the goods and/or services and/or works;
- Demonstration of sustainable procurement impact; and
- 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:

- Maintaining the Procurement Policy and associated guidelines, processes and procedures;
- Maintaining appropriate purchasing, procurement and contract management systems and tools;
- Providing procurement-related advice and support to the organisation as required;
- Building organisational procurement and contract management capability (including delivery of training and provision of guidance materials);
- Promoting awareness of and monitoring compliance with this Policy;
- Ensuring legislation is followed, reporting breaches and corrective actions in a timely manner; and
- Collaborating with other councils and organisations to identify best practice in and achieving better value from procurement.

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

Council will maintain a *Procurement and Contracts Guidelines* document detailing the processes, procedures and systems related to procurement.

Council will maintain details of contracts entered into.

Whenever practicable, Council must give effective and substantial preference to contracts for the purchase of goods, machinery or material manufactured or produced in 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 Council's procurement policies, associated policies and procedures as set out in this policy, relevant legislation, relevant 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. Please refer to Appendix 9 for further guidance on the engagement of probity services

#### 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 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. Council will minimise its risk exposure through a number of processes and practices (refer to Appendix 4).

### **5.3 Procurement Methods**

The standard methods for procurement will be via:

- a) purchasing card;
- b) purchase order;
- c) a quotation process (refer Appendix 1);
- d) a tender process, followed by contract; or
- e) under approved purchasing schemes (Panel contracts).

The source of funds must be identified and the procurement authorised in accordance with Council's Instrument of Financial Delegation, before any commitment to purchase is made.

More than one person will be involved in, and responsible for, each transaction with appropriate delegations 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 Greater Dandenong 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 VendorPanel process 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 among the SERGC.

### **5.4 Collaborative Procurement**

In accordance with Section 108(c) of the Act, 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.

When proposing to engage in a Collaborative Procurement Arrangement, 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 among 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 document, which may include a model whereby participants enter into a contract using "jump in/opt-in" contract provisions during the contract term.

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

- the initial decision to undertake the Collaborative Procurement Arrangement;
- preparation of, and agreement to, the specifications;
- ensuring probity for the Collaborative Procurement Arrangement; and
- the acceptance of the competitive procurement process response(s) and awarding of contract(s).

Council may collaborate with other Councils to procure goods, services or works, or utilise MAV Procurement, State or Commonwealth 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 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;
- 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) seeking 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; and
- 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 (in line with Greater Dandenong's City Council's Conflict of Interest Policy), prior to commencing their evaluations.

A Tender Evaluation and Probity Plan must be developed for all high value and/or high-risk procurements.

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 the whole-of-life cost of the goods/services/works.

## **5.8 Corporate Social Responsibility (Sustainable and Ethical Procurement)**

Council will support sustainability through its purchasing activity and prioritise purchases that minimise waste generation and maximise 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 wellbeing and sustainability of 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.

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

- a) are from social enterprises or include social enterprises in their supply chain; and/or
- b) 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.

As part of its corporate social responsibility objectives and to achieve the objectives of Council strategies and plans, a minimum tender weighting of 15% for socially responsible procurement will be applied to all tenders. Socially responsible procurement is procurement that has the most positive environmental, social, economic impacts possible across the entire life cycle and that strives to minimise adverse impacts.

- Social procurement aspects (e.g. social enterprises, fair trade, and social responsibility)

- Local economic development and employment aspects (e.g. businesses operating in the municipality, or have a presence in the municipality, employing staff from the municipality)
- Environmental and sustainability aspects (use of recycled materials, innovation to reduce wastage or use sustainable materials such as crushed concrete, disposal of waste, reduced water use, reduced carbon emissions and reduced pollution etc.)

Not all three sub-criteria will be applied to all categories equally, it will be determined at the pre-planning stage after consideration of relevant Council strategies and plans and in consultation with the Contracts Unit and approved by the relevant Director.

## 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 current Instrument of Financial Delegations.

| Exemption Name   | Explanation, Limitations, Responsibilities and Approvals  |
|--|---|
| A contract made because of genuine emergency or hardship   | Where Council has resolved that the contract must be entered into because of an emergency event (e.g. to provide immediate response to a natural disaster) or where the Victorian Government has declared a State of Emergency.   |
| 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.<br><br>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 and 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.<br><br>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.<br><br>Insurance.   |
| Novated contracts  | Where the initial contract was entered into in compliance with the Act and due diligence has been undertaken in respect to the new party.   |
| Information technology resellers and software developers   | Allows Council to renew software licenses and maintenance and support, or upgrade existing systems, (where a public tender was completed for the original contract) and 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 1970</i> had already conducted a public tender for and on behalf of its member councils.  |
| 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 vehicle.  |

| Exemption Name                    | Explanation, Limitations, Responsibilities and Approvals  |
|-----------------------------------|---|
| Variations under contract         | <p>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 Instrument of Sub-Delegation.</p> <p>Approved budget must be available for all variations.</p>   |
| Contract over expenditure         | <p>Variation above the approved contract value is deemed a contract over expenditure. Any variation, single or cumulative, 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.</p> |
| Other specific Council exemptions | <p>Defined in Appendix 4.</p> <p>Specific Council exemptions will be reviewed and updated from time to time.</p>  |

Spend breaches will be reported to Council’s Executive Management Team on a quarterly basis as part of a Procurement Update and the Contracts Unit is to sign off on the deviations to say they meet value for money principles.

Emergency events and post-emergency procurement should meet all requirements of the Disaster Recovery Funding Arrangements. In addition, the value for money principles 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 policy and either:

- a) is in the public interest; or
- 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 intellectual property 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 or select sourcing is subject to existing financial delegations.

## 6. Relevant Legislation, Policy and other Documents

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 Council's Contracts Unit 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.

The Victorian Charter of Human Rights and Responsibilities has been considered in the preparation of this policy.

Council's Diversity, Access and Equity Policy and the *Gender Equality Act 2020* have been considered in the preparation of this policy. While it is predominantly administrative in its nature and does not have the potential to influence broader social norms and gender roles, this policy contains considerations for all gender groups.

This policy complies with the overarching principles of the *Local Government Act 2020* in that:

- (a) it has been developed in accordance with the relevant law;
- (b) priority has been 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 has been considered and promoted;
- (d) it ensures that innovation and continuous improvement will be pursued;
- (e) collaboration has been sought and undertaken with other Councils, governments and statutory bodies;
- (f) the ongoing financial viability of Council has been considered;
- (g) it ensures that regional, state and national plans and policies are considered in tender planning and decision making; and
- (h) it ensures the transparency of Council decisions, actions and information.

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

- a) *Local Government Act 2020*;
- b) *Competition and Consumer Act 2010 (Cth)* – relevant provisions;
- c) Greater Dandenong City Council Conflict of Interest Policy
- d) Greater Dandenong City Council Procurement Procedures and Guidelines;
- e) Greater Dandenong City Council Purchasing and Accounts Payable Manuals;
- f) Greater Dandenong City Council Councillor Code of Conduct
- g) Greater Dandenong City Council Staff Code of Conduct (including Supplier Code of Conduct);
- h) Greater Dandenong City Council Contract Management Guidelines;
- i) *Working with Children Act 2005* and associated regulations;
- j) *Occupational Health and Safety Act 2004*; and
- k) Australian Standards – relevant provisions.

## 7. Monitoring Review and Audit

The Contracts Unit 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 this 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:** Manager People, Culture And Innovation

**Department:** People and Procurement

**Approval date:** 29 November 2021

**Approved by:** Greater Dandenong City Council

**Review date:** June 2025 (for November)

**Expiry date:** 31/12/2025

**Version number:** 1.0

## 8. 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               |  |                |
| Cardinia Shire Council             | <a href="mailto:procurement@cardinia.vic.gov.au">procurement@cardinia.vic.gov.au</a>       | 1300 787 624   |
| Frankston City Council             |  |                |
| Glen Eira City Council             |  |                |
| Greater Dandenong City Council     | <a href="mailto:procurement@cgd.vic.gov.au">procurement@cgd.vic.gov.au</a>                 | (03) 8571 1000 |
| Mornington Peninsula Shire Council | <a href="mailto:procurement@mornpen.vic.gov.au">procurement@mornpen.vic.gov.au</a>         | (03) 5950 1000 |
| Stonnington City Council           | <a href="mailto:procurement@stonnington.vic.gov.au">procurement@stonnington.vic.gov.au</a> | (03) 8290 1333 |



## APPENDICES

All policy requirements contained within these Appendices are only applicable to Greater Dandenong City Council.

### APPENDIX 1. 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   |
|-----------------------------------|---|
| <\$10,000                         | Obtain at least one written quotation.  |
| \$10,001 - \$100,000              | At least two written quotations are to be invited from suppliers who are considered able to meet the requirements.<br>Where only one quotation is received from those invited, Value for Money must be demonstrated.<br>When seeking and/or evaluating quotes, preference will be applied to local suppliers and a minimum of one local supplier must be invited, depending on availability or local suppliers.                         |
| \$100,001 - \$300,000             | Obtain a Contract Number.<br>Undertake a formal Request for Quotation process by following the process within Council's eTendering Portal.<br>Where only one quotation is received from those invited, Value for Money must be demonstrated.<br>When seeking and/or evaluating quotes, preference will be applied to local suppliers and a minimum of one local supplier must be invited, depending on availability or local suppliers. |
| >\$300,000                        | Obtain a Contract Number.<br>A formal Request for Tender process must be undertaken by Council's Contract's Unit using Council's eTendering Portal.   |

Procurement transactions will not be split to circumvent the above thresholds, this includes cumulative expenditure over a (12) month period. 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 cases an Exemption from Procurement Process Form will be required to waive the requirement to request three quotations.

### APPENDIX 2. Council Performance Indicators

Council will seek to improve its procurement performance by capturing and analysing data on key performance indicators including:

- extent of contracts delivered on time and on budget;
- new collaborative procurement contracts;
- new preferred supplier (panel) contracts;
- the number of Local Businesses engaged and proportion of local spend;
- value of savings and benefits achieved;
- level of compliance with the Procurement Policy;
- annual spend on sustainable goods and services; and
- the return on procurement investment.

A memorandum detailing actual performance against these indicators will be presented annually to Council's Audit & Risk Committee.

### APPENDIX 3. Council Specific Exemptions

In addition to the general exemptions to the public tender threshold beyond those detailed in section 5.3 of the policy, Greater Dandenong City Council has determined for the purposes of this section the following transactions are not considered to be procurements of goods and services and are exempt from the requirements to raise purchase orders/ seek quotations or procure under a tender process:

- Rate Refunds
- Refunds to Community Care clients
- Trust Refunds
- Employee Re-imbursments
- Utilities - water, telephone, mobile, gas, electricity, sewerage charges.
- Australia Post
- Community Grants and Sponsorships
- Memberships and Subscriptions
- Couriers
- Petty Cash
- Seminars and conferences
- Travel related expenses
- Goods/service purchased on a corporate purchasing card
- Insurance claims
- Planning application/Building
- Medical accounts
- Purchase of property

The Chief Executive Officer may approve ad-hoc exemptions in exceptional circumstances where it can be demonstrated that it is in the best interests of the community to do so and must include an assessment the expenditure represents value for money .

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 Contracts Unit which include current, relevant clauses to mitigate risk to Council;
- c) all contract departures will be reviewed and negotiated by Council's Counsel prior to the award of the contract. Copies of all communication between Council's Counsel and the preferred contractor or supplier will be saved in Council's Electronic Document and Records Management System (Objective) as evidence of review and approval of non-standard contracts;
- d) Council's Counsel will review all 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 Contracts Unit 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 at all times 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 Councillor or a member of Council staff (relevant person) 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 relevant person 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, however remotely, in particular those 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:

- **comply** with Greater Dandenong City Council's Conflict of Interest Policy;
- **Avoid** conflicts of interest wherever possible, whether material or general or actual, potential or perceived;
- **Declare** when they do not have a conflict of interest in respect of the procurement process. All relevant persons participating in tender processes must complete a probity declaration. All relevant persons participating in tender evaluation panels must complete a Conflict of Interest declaration and provide it to the Governance Unit. All relevant persons 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 whether or not 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.

Breaches of confidentiality will be dealt with in accordance with the *Local Government Act 2020*.

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. Council Sustainable Procurement

Council commits to applying principles of sustainability to all of 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. Where practicable and applicable, Council will actively seek quotes and tenders from local businesses in the SERGC whilst ensuring value for money outcomes.</p> <p>Council's economic procurement will be underpinned by the following principles:</p> <ul style="list-style-type: none"> <li>• Ensuring open and effective competition and development of competitive local business and industry;</li> <li>• Fostering innovation and emerging sectors; and</li> <li>• Where practicable Council will give preference to goods manufactured or produced in Australia and New Zealand.</li> </ul> <p><i>Note: Local in the context of this policy denotes the municipalities of Bayside, Casey, Cardinia, Dandenong, Frankston, Glen Eira, Kingston, Mornington Peninsula, Port Phillip and Stonnington.</i></p> | <p>Council's economic sustainability commitment and approach aims to:</p> <ul style="list-style-type: none"> <li>• Achieve value for money on a whole-of-life (including disposal) basis, rather than just initial cost;</li> <li>• Consider life cycle impacts of products purchased;</li> <li>• Ensure probity and accountability in the procurement process;</li> <li>• Commit to source locally;</li> <li>• Build relationships with local businesses and encourage purchasing from local suppliers to help build their capacity and</li> <li>• Increase local employment.</li> </ul> |

| 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.</p> <p>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"> <li>• Purchasing goods, services and construction which avoid air, water and soil pollution;</li> <li>• Minimising natural resource and biodiversity depletion;</li> <li>• Supporting suppliers to reduce carbon emissions in the supply chain;</li> <li>• Purchasing environmentally preferred goods and services whenever they present an acceptable value for money outcome and</li> <li>• Contributing to sustainable waste management (with reference to the waste hierarchy and circular economy principles).</li> </ul> | <p>Councils environmental sustainability commitment and approach aims to:</p> <ul style="list-style-type: none"> <li>• Maximise energy efficiency and reducing greenhouse gas emissions and contribute towards Council’s carbon neutral status;</li> <li>• Minimise waste production by: <ul style="list-style-type: none"> <li>- Reduced usage of non-renewable resources; and</li> <li>- Reduced demand for raw materials and natural resources;</li> </ul> </li> <li>• Promote a market for recycled materials and</li> <li>• Reduce water consumption and activities that impact diversity.</li> </ul>   |
| 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"> <li>• Creation of training and employment opportunities for unemployed, disadvantaged municipal residents or marginalised job seekers;</li> <li>• Creation of opportunities for small, medium and social enterprises, Indigenous and disability employment enterprises;</li> <li>• Promotion of equity, diversity and equal opportunity; and</li> <li>• 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.</li> </ul>  | <p>Councils social sustainability commitment and approach aims to:</p> <ul style="list-style-type: none"> <li>• Ensure vendors do not exploit workers and provide fair wages, including inclusive and sustainable business practices;</li> <li>• Maintain a social procurement program to increase social procurement spend across the South Eastern Region;</li> <li>• Ensure sourced products are accessible by all segments of the community;</li> <li>• Increase employment opportunities for Indigenous people, disabled people, disadvantaged people and long term unemployed;</li> <li>• Increase gender equity; and</li> <li>• Prevent, detect and remove modern slavery from Council’s supply chain.</li> </ul> |

## APPENDIX 8. In-Kind Contributions

An in-kind contribution is defined as a donation of goods, materials, services, time or expertise, by a community group or club that assists a tenderer to deliver their contractual obligations to Greater Dandenong City Council. Where a community group or club wishes to provide an in-kind contribution to a Greater Dandenong City Council funded project, and the value of the project is such that Greater Dandenong City Council's policy requires a competitive arrangement, then the community group or club may elect to either:

- tender direct to Greater Dandenong City Council for the entire project (noting that Greater Dandenong City Council's conditions of contract and protocols will apply), or
- engage with the tenderer(s) for the provision of the in-kind contribution for the project and the tenderer submits the Tender to Greater Dandenong City Council.

In either scenario the tenderer must be capable of performing the work. This would include having the required skills, regulatory registrations and financial capacity to undertake the works. The tenderer will be assessed on their ability to complete the project to the satisfaction of Greater Dandenong City Council within the contract price, and in doing so, will bear total contractual liability for the delivery of the project including the in-kind contribution.

## APPENDIX 9. Probity Services

Recent integrity body reports indicate organisations need to have clear guidance in managing probity during procurement process – including the use of Probity Advisors and Probity Auditors.

To maximise the integrity of procurement, Council may appoint an independent Probity Advisor and / or Probity Auditor. The Probity Advisor and Probity Auditor must be independent from Council and must not be the same person or organisation.

Circumstances where a Probity Advisor and / or Probity Auditor must be engaged include procurement with an expected value of \$5 million or over.

Other circumstances where a Probity Advisor and / or Probity Auditor must be engaged include procurement with an expected value of \$1 million, and are:

- a) deemed high risk; or
- b) deemed by the Executive Management Team to be complex or sensitive in nature; or
- c) considered politically sensitive or subject to a high degree of public scrutiny.

Council's contract initiation forms will provide for the relevant Director to review and recommend the appointment of a probity advisor or probity auditor where deemed necessary.

Further guidance on the engagement for probity services to be provided by the Contracts Unit.