

3.2 PROCUREMENT POLICY REVIEW - LOCAL GOVERNMENT ACT 2020 (Author: File No.)

Responsible Senior Officer: Danny Wain, Chief Financial Officer

EXECUTIVE SUMMARY

After 30 June 2021, the Procurement Policy is required to comply with S108 & 109 of the Local Government Act 2020 (the Act). The Procurement Policy will also need to be adopted prior to 31 December 2021.

The Act allows Council, amongst other things, to set its own Policy thresholds and exemptions for public tendering and requires Council to review the Policy at least once during each four year term of Council.

PURPOSE

This report seeks approval for the Procurement Policy and delegation changes proposed to comply with the Act and to further improve the robustness of procurement activity at the City of Monash.

KEY CONSIDERATIONS/ISSUES

The proposed Procurement Policy changes includes consideration of the following:

- Obligations prescribed by sections 108 and 109 of the Act
- Councillor feedback during recent Strategy meeting reviews
- Strategic alignment with the Eastern Regional Council Network
- Reviews and discussions with a wide range of internal stakeholders

FINANCIAL IMPLICATIONS

There are no known financial impacts directly associated with this report.

CONCLUSION/RECOMMENDATION

Seeking Council approval to implement the proposed Procurement Policy.

PROCUREMENT POLICY REVIEW - LOCAL GOVERNMENT ACT 2020

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RECOMMENDATION

That Council:

- 1. Adopts the proposed Procurement Policy (attached), in accordance with the Local Government Act 2020 and places a copy on Council's web site; and*
- 2. Adopts the following changes to the Chief Executive Officer's delegations:*
 - 2a. Authorise incurring of expenditure, subject to budget, and purchasing policies up to \$450,000.*
 - 2b. Approve contracts or agreements which over the contract period have a total value of up to \$450,000, subject to the conditions placed on the CEO's delegation by Council.*
 - 2c. Enter into energy contracts on behalf of Council, up to a value of \$1,000,000.*
 - 2d. Remove the delegation to enter into service contracts on behalf of Council at a value of up to \$450,000 over 5 years.*
 - 2e. Approve calling of expressions of interest and tenders for goods, services or works which over the proposed contract period have a total value of over \$250,000.*
 - 2f. Remove delegation to approve calling of expressions of interest and tenders for works which over the proposed contract period have a total value of over \$200,000.*

INTRODUCTION

This report seeks approval for the Procurement Policy changes proposed to comply with the Act and to further improve the robustness of procurement activity at the City of Monash.

BACKGROUND

After 30 June 2021, the Procurement Policy is required to comply with S108 & 109 of the Local Government Act 2020 (the Act). The Procurement Policy will also need to be adopted prior to 31 December 2021.

The Act allows Council, amongst other things, to set its own Policy thresholds and exemptions for public tendering and requires Council to review the Policy at least once during each four year term of Council.

DISCUSSION

Post Councillor Strategy Briefing feedback on 11 May and 8 June 2021, a summary of the major proposed Policy updates follows:

Item	Description	Explanation
1	Changes to Procurement thresholds	Increase tendering thresholds to align with inflation and also to increase competition for higher value quotations. At the 11 May Council Strategy Briefing, a request was made to review the option of requiring multiple quotes above \$5,000. This is incorporated in this proposal.
2	Introduction of exemptions	Required because under the Act, Council must manage its own exemptions to public tendering.
3	More Information about Sustainability Obligations	At the 11 May Council Strategy Briefing, a request was made to provide a table of evaluation weightings for different sustainability options and examples of the application of these options. This is incorporated into the proposed Procurement Policy with a table summarising evaluation criteria.
4	Increased CEO delegation to approve contracts	For improved efficiency due to improved procurement and project management processes.

Items 1, 2 and 3 are addressed within the proposed Procurement Policy update (attached).

Item 4 is covered by the section below.

CEO Delegation - Current	CEO Delegation - Proposed	Explanation of proposed changes to the CEO Delegation
Authorise incurring of expenditure, subject to budget, and purchasing policies up to \$350,000.	Authorise incurring of expenditure, subject to budget, and purchasing policies up to \$450,000 .	To align with the item below.
Approve contracts or agreements which over the contract period have a total value of up to \$350,000, subject to the conditions placed on the CEO's delegation by Council on 27.3.2020.	Approve contracts or agreements which over the contract period have a total value of up to \$450,000 , subject to the conditions placed on the CEO's delegation by Council.	It is proposed to increase the CEO's delegation to approve contracts from \$350,000 to \$450,000 due primarily to price inflation and the improved processes for project development governed through the Project Management Framework and the oversight provided by the Project Management Office. As long as contracts are within the approved budget, the increase to the proposed CEO delegation also provides greater efficiency for the organisation.
Enter into energy contracts on behalf of Council, up to a value of \$750,000.	Enter into energy contracts on behalf of Council, up to a value of \$1,000,000 .	It is recommended that the delegation to enter energy contracts be increased from \$750,000 to \$1,000,000, again, based broadly on market inflation (particularly energy costs) over time.

CEO Delegation - Current	CEO Delegation - Proposed	Explanation of proposed changes to the CEO Delegation
Enter into service contracts on behalf of Council at a value of up to \$450,000, over 5 years.	Remove this delegation.	The recommendation to remove the CEO delegation to approve contracts to a value of \$450,000 over 5 years is because the delegation rules for approving contracts should be independent of the contract duration and should be based solely on the total contract value including all available extension options as covered by the delegation rules discussed above.
Approve calling of expressions of interest and tenders for goods and services which over the proposed contract period have a total value of over \$150,000.	Approve calling of expressions of interest and tenders for goods, services or works which over the proposed contract period have a total value of over \$250,000 .	The power to approve the calling of expression of interest and tenders is increased to \$250,000 to align with the Procurement Policy proposal.
Approve calling of expressions of interest and tenders for works which over the proposed contract period have a total value of over \$200,000.	Remove this delegation as it is now covered above.	Proposed to be removed because it is now covered by the single threshold for goods, services and works stated above.

Further, section 6 of the Procurement Policy has been renamed 'Collaborative Procurement' to enable compliance with section 108 3(c) and section 109 (2) which require the Policy to include a description of how it will seek collaboration with other Councils and public bodies and that future Council recommendation reports will include information about any opportunities for collaboration with other Councils or public bodies which may have been available.

Lastly, section 2.1.7 'Gifts and Hospitality' was also updated to improve alignment with other policies and procedures covering this topic.

CONSULTATION

This proposal has been discussed with major internal stakeholders from Capital Works, Strategic Procurement, Finance and Corporate Performance and has also been distributed for feedback to ELT, Managers and Coordinators. Much of the feedback received has been incorporated into this proposal.

Strategic Procurement also liaised with representatives from Local Government Victoria (particularly the Program Coordinator, Collaboration and Procurement, Department of Jobs, Precincts and Regions) and the Eastern Region Procurement Network, to share thoughts and to achieve alignment on as many Procurement Policy aspects as possible to assist with future collaboration opportunities.

The proposed updates were also presented to the Executive Leadership Team in November 2020 and April 2021, the Audit and Risk Committee in December 2020, Council briefing sessions in February and March 2021 and Councillor Strategy Briefings in May and June 2021. Valuable feedback from these engagements was incorporated into this updated proposal.

SOCIAL IMPLICATIONS

The proposed Procurement Policy supports improved social outcomes for Council through the mandatory requirement of social sustainability being factored into tender evaluation weightings.

HUMAN RIGHTS CONSIDERATIONS

This report does not have any direct impact of Human Rights considerations. However the proposed Procurement Policy does support fair trade and equitable treatment of all suppliers as well as supporting local businesses, improved social outcomes and gender equity.

GENDER EQUITY ASSESSMENT

Because the Procurement Policy impacts on the Monash community through contracts and commitments created with suppliers, a gender impact assessment was undertaken as part of this proposal.

Gender equitable procurement can boost the role of historically underrepresented groups (such as women) as suppliers, and through recognising gender equitable employers. Gender equitable procurement also provides benefits to society (for example, challenging stereotypes by increasing employment of women in traditionally male-dominated industries) and to the procuring organisation (such as enhanced reputation and increased business performance through diversity of thought).

As a result of the gender impact assessment, a number of changes are proposed to the Procurement Policy including:

- Updating Council's policy statement to include gender equality as a consideration in evaluating goods, services and works;
- Including gender equality and noting its benefit and impact in section 2.6.5 (social sustainability);
- Taking an intersectional approach and noting the benefit and impact of other types of diversity and inclusion in section 2.6.5;
- Providing advice that gender diversity should be considered when establishing evaluation panels to reduce the impact of unconscious bias (in section 2.6.8, tender evaluation panel); and
- Outlining Council's commitment to diversity and gender equality, and why it is important in procurement, in section 3.5.

FINANCIAL IMPLICATIONS

There are no known financial impacts directly associated with this report.

CONCLUSION

Seeking Council approval for the recommendations contained within this report.