

7.4.1 S5 INSTRUMENT - DELEGATION FROM COUNCIL TO THE CEO AND RELATED INSTRUMENTS

Responsible Manager:	Amanda Sapolu, Manager Corporate Governance & Legal
Responsible Director:	Jarrold Doake, Director City Services

RECOMMENDATION

In relation to the *S5 Instrument of Delegation to the Chief Executive Officer*:

In the exercise of the power conferred by s11(1)(b) of the *Local Government Act 2020* (the Act) Monash City Council (Council) resolves that:

1. There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the *Instrument of Delegation to the Chief Executive Officer* (Attachment 3), subject to the conditions and limitations specified in that Instrument.
2. The Instrument comes into force immediately after the common seal of Council is affixed to the Instrument.
3. On the coming into force of the Instrument all previous delegations to the Chief Executive Officer (excluding the delegations referred to in recommendation 6 below) relating to the powers, duties and functions set out in the instrument are revoked.
4. The duties and functions set out in the Instrument must be performed, and the powers set out in the instrument must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

In relation to changes to the *Procurement Policy*:

5. Council approves the proposed amendment to the *Procurement Policy* (Attachment 4).

In relation to property acquisition and disposal related delegations:

6. Council notes that the delegations to the Chief Executive Officer and Director City Development which it resolved to adopt on 28 September 2021, which give these two officers “The power to execute any document relating to the acquisition of land or the disposal of Council-owned land”, remain in force.

INTRODUCTION

At its 28 September 2021 meeting, Council considered a report on a review of its delegations as the legislation required to be conducted within 12 months of the October 2020 Council Elections.

Officers are currently reviewing these delegations and the outcomes reported to Council over two meetings.

At its 26 September 2023 meeting, Council adopted a revised *S6 Instrument of Delegation to members of Council staff*. This covered those pieces of legislation which require that the delegation of certain powers, duties and functions, if delegated, be directly from Council to staff.

This second report, to the current Council meeting, covers the Delegation from Council to the CEO, which is based on the S5 instrument provided by Maddocks and land acquisition and disposal related delegations from Council to the Chief Executive Officer and the Director City Development.

COUNCIL PLAN STRATEGIC OBJECTIVES

Good Governance

Maintain the highest standards of good governance.

DISCUSSION

S5 Instrument of Delegation to the Chief Executive Officer

Delegations are fundamental to good governance. They allow Council as an organisation to function effectively without every decision having to be made at a Council meeting.

Council's current *Instrument of Delegation to the Chief Executive Officer* was drafted during the unprecedented Covid-19 pandemic. Given the uncertainty around the ability to call and convene quorate Council meetings, additional powers were provided to the CEO to ensure that Council business could function effectively to meet the changing regulatory landscape and the needs of the community.

Given those pressures no longer exist, Council needs to review its *Instrument of Delegation to the Chief Executive Officer*.

When reviewing its delegations, Council, along with many other councils, take advice from Maddocks lawyers. Maddocks provide template instruments which are then reviewed and amended as necessary by each Council.

The *Instrument of Delegation to the Chief Executive Officer* is based on the Maddocks template and is reflective of the situation pre-pandemic. However additional powers have been included which relate to Procurement.

The proposed *Instrument of Delegation to the Chief Executive Officer*:

Removes the extraordinary powers granted under Covid conditions, including the powers to:

- award contracts exceeding \$450,000;
- authorise expenditure exceeding \$450,000;
- approve the calling of the expression of interest for goods or services over \$250,000;
- Amend the Governance Rules; and
- Approve documents and decisions that are reserved for Council including the Council Plan, Strategic Resource Plan (see clauses 1.10 -1.18 of Attachment 1)

Reinstates the standard legislative exclusions, including that the CEO cannot:

- Appoint an acting Chief Executive Officer for longer than 28 days;
- Elect a Mayor or Deputy Mayor;
- Approve a Councillor leave request;
- Make a decision in relation to the employment, dismissal or removal of a Chief Executive Officer;
- Approve or amend a Council Plan;

- Adopt or amend any policy that Council is required to adopt under the Act;
 - Adopt or amend the Governance Rules;
 - Appoint the chair or members of a delegated committee;
 - Make, amend or revoke a local law;
 - Approve the budget or revised budget;
 - Approve the borrowing of money;
 - Declare general rates, municipal charges, service rates and specified rates and charges;
- and
- Reinstates the financial delegation of \$450,000 (including GST) unless a specified circumstance applies.

Adds additional powers in relation to Procurement:

- The ability to approve spend above \$450,000 (including GST) for the payment of annual insurance renewals and loan repayments at maturity (this has previously been resolved upon by Council), and the entering into of energy contracts up to \$1,000,000.
- The ability to approve contract variations for Council approved contracts provided it does not exceed a Council resolved contingency amount or where it does, up to 10% or \$100,000 of the contract value (including contingency).
- The ability to approve contract variations for Officer approved contracts provided it does not exceed the approved contingency amount or where it does, the Chief Executive Officer's financial delegation or 20% of the contract value (including contingency).
- The ability to approve a volume change under a schedule of rates contract provided it does not significantly change the contract or exceed the allocated budget or exceed the Chief Executive Officer's delegation.

Attachment 1 is the current version.

Attachment 2 is the current version with track changes.

Attachment 3 is the proposed final version.

Procurement Policy

The proposed changes relating to variations described above also necessitate changes to Council's *Procurement Policy*. This involves the deletion of the statement:

"Council must maintain internal controls over procurement processes ensuring that Revised estimates for Schedule of Rates contract with an estimate annual expenditure must be approved by a Group A Officer."

from 2.5 - Internal Controls within Council's *Procurement Policy*. Without this deletion, 2.5 of the *Procurement Policy* may contradict the contract variation changes proposed to the S5 Instrument of Delegation to the Chief Executive Officer and any flow on to sub-delegations from the CEO to Council officers. A marked-up version of the *Procurement Policy* is provided as Attachment 4.

The proposed adoption of the revised *Procurement Policy* is covered by recommendation 5 of this report.

Attachment 4 is the proposed amended *Procurement Policy*.

Delegations from Council relating to property acquisition and disposal.

In addition to the *Instrument of Delegation to the Chief Executive Officer*, Council at its 28 September 2021 meeting adopted two additional Instruments. These Instruments delegated to the Chief Executive Officer and the Director City Development “The power to execute any document relating to the acquisition of land or the disposal of Council-owned land.” These two Instruments have been reviewed and no changes are proposed.

For completeness and to lessen the chances of any confusion, it is recommended that Council notes that these two Instruments are still in force. This is covered by recommendation 6 of this report.

FINANCIAL IMPLICATIONS

There are no financial implications to this report.

POLICY IMPLICATIONS

An implication to this report is that there is a minor amendment proposed to Council’s *Procurement Policy* to remove a current or future potential conflict with the proposed amendments to the S5 Instrument of Delegation to the Chief Executive Officer.

This requires the deletion of the statement ‘Council must maintain internal controls over procurement processes ensuring that Revised estimates for Schedule of Rates contracts with an estimated annual expenditure must be approved by a Group A Officer’ from Section 2.5 Internal Controls within Council’s Procurement Policy (see Attachment 4), as this may otherwise contradict the S5 Instrument of Delegation to the Chief Executive Officer or future sub-delegations from the CEO to Council Officers.

CONSULTATION

Community consultation was not required.

SOCIAL IMPLICATIONS

There are no social implications to this report.

HUMAN RIGHTS CONSIDERATIONS

There are no human rights implications to this report.

GENDER IMPACT ASSESSMENT

A GIA was not completed because this agenda item is not a ‘policy’, ‘program’ or ‘service’.

CONCLUSION

This report concludes the two-part review of the existing delegations from Council to officers.

ATTACHMENT LIST

1. Current S5 Instrument of Delegation [7.4.1.1 - 4 pages]
2. Current Instrument with Track Changes [7.4.1.2 - 7 pages]
3. Proposed Amended Instrument for Adoption [7.4.1.3 - 4 pages]
4. Proposed Amended Procurement Policy for Adoption [7.4.1.4 - 38 pages]



CITY OF
MONASH

INSTRUMENT OF DELEGATION MADE PURSUANT TO SECTION 11(1) OF THE LOCAL GOVERNMENT ACT 2020 TO THE CHIEF EXECUTIVE OFFICER

In exercise of the power conferred by section 11 of the *Local Government Act 2020* (**the Act**) and any other Acts conferring a power of delegation on it, the Monash City Council (**Council**) delegates to the member of Council staff holding, acting in or performing the position of Chief Executive Officer, the powers, duties and functions set out in the Schedule to this Instrument of Delegation,

AND declares that

1. this Instrument of Delegation is authorised by a Resolution of Council passed on 28 September 2021;

the delegation:

comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;

is subject to any conditions and limitations set out in the Schedule;

must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and

remains in force until Council resolves to vary or revoke it.

The member of Council staff occupying the position or title of or acting in the position of Chief Executive Officer may delegate to a member of Council staff any of the powers (other than the power of delegation conferred by section 11(2) of the Act or any other powers not capable of sub-delegation) which this Instrument of Delegation delegates to them.

The COMMON SEAL of MONASH CITY COUNCIL was affixed on behalf of Council by authority of the Chief Executive Officer on the 29TH day of SEPTEMBER 2021 in exercise of the power delegated under the **Administrative Procedures (Use of Common Seal) Local Law** in the presence of:



Executive Manager Corporate Administration & Customer Service

SCHEDULE

- A. The power to:
1. determine any issue;
 2. take any action; or
 3. do any act or thing

arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.

Conditions and Limitations

1. Only where the delegate:
 - 1.1 forms the view that a quorum of Council cannot be achieved; AND
 - 1.2 provides Councillors with 14 days' notice of the Chief Executive Officer's intention to determine an issue, take an action or do an act or thing set out in paragraphs 1.8 to 1.18 of these Conditions and Limitations; AND
 - 1.3 causes to be published on Council's website a written report supporting the Chief Executive Officer's intended determination of the issue, taking of the action or doing of the act or thing at least 7 days prior to doing so (unless the matter is one which should remain confidential); AND
 - 1.4 considers and takes into account the views of Councillors expressed in response to the notice provided under paragraph 1.2 (noting that Councillors cannot direct the Chief Executive Officer with respect to the Chief Executive Officer's determination of the issue, taking of the action or doing of the act or thing, and that the Chief Executive Officer is not bound to determine the issue, take the action or do the act or thing consistently with those views); AND
 - 1.5 considers and takes into account any views expressed by residents, ratepayers and/or stakeholders responding the report published under paragraph 1.3 (noting that the Chief Executive Officer is not bound to determine the issue, take the action or do the act or thing consistently with those views); AND
 - 1.6 does not receive notice from a majority of Councillors that they do not support the Chief Executive Officer's proposed determination of the issue, taking of the action or doing of the act or thing; AND
 - 1.7 will, having determined the issue, taken the action or done the act or thing, record and publish on Council's website the determination of the issue, taking of the action or doing of the act or thing so that decision-making continues to be as accessible, transparent and visible

Attachment 7.4.1.1 Current S5 Instrument of Delegation

to the community, and consistent with what it would be if these decisions were made by Council at a Council meeting, as possible (unless the matter is one which should remain confidential),

may the delegate:

- 1.8 award a contract with a value exceeding \$450,000;
- 1.9 Authorise incurring of expenditure, subject to budget, and purchasing policies exceeding \$450,000.

Approve calling of expressions of interest and tenders for goods, services or works which over the proposed contract period exceed a total value of over \$250,000.

Amend the Governance Rules;

- 1.10 approve the Council Plan;
- 1.11 adopt the Strategic Resource Plan;
- 1.12 prepare or adopt the Budget or a Revised Budget;
- 1.13 adopt the Auditor's report, Annual Financial Statements, Standard Statements and Performance Statement;
- 1.14 determine that an extraordinary vacancy on Council not be filled;
- 1.15 Adopt, amend or revoke a local law;
- 1.16 appoint Councillor or community delegates or representatives to external organisations;
- 1.17 return the general valuation and any supplementary valuations;
- 1.18 determine any matter under the *Planning and Environment Act 1987* which would, if exercised by another member of Council staff in reliance on the Instrument of Delegation from Council to Members of Council Staff, be subject to a condition or limitation under that Instrument; and

The delegate must not determine the issue, take the action or do the act or thing:

- 1.19 if the issue, action, act or thing is an issue, action, act or thing which is required by law to be done by Council resolution;
- 1.20 if the issue, action, act or thing is an issue, action, act or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
- 1.21 if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of section 98(1)(a)-(f) (inclusive) of the Act or otherwise; or

Attachment 7.4.1.1 Current S5 Instrument of Delegation

- 1.22 the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff, or
 - 1.23 in regard to the function of being consulted by the Minister under s.46AW of the Planning and Environment Act 1987.
- B.** The power to approve loan repayments at maturity, on behalf of Council.
- C.** The power to:
- 1.1 enter into energy contracts, on behalf of Council, to a value of \$1,000,000.
 2. The delegate must report to Council as soon as practicable after the exercise of this power.

'S5' DELEGATION TO CEO FROM COUNCIL

INSTRUMENT OF DELEGATION MADE PURSUANT TO SECTION 11(1) OF THE LOCAL GOVERNMENT ACT 2020

In exercise of the power conferred by section 11 of the *Local Government Act 2020* (**the Act**) and any other Acts conferring a power of delegation on it, the Monash City Council (**Council**) delegates to the member of Council staff holding, acting in or performing the position of Chief Executive Officer, the powers, duties and functions set out in the Schedule to this Instrument of Delegation

AND declares that

1. this Instrument of Delegation is authorised by a Resolution of Council passed on ~~27 July 2021~~ 31 October 2023;

2. the delegation:

2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;

2.2 is subject to any conditions and limitations set out in the Schedule;

2.3 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and

2.4 remains in force until Council resolves to vary or revoke it.

~~The member of Council staff occupying the position or title of or acting in the position of Chief Executive Officer may delegate to a member of Council staff any of the powers (other than the power of delegation conferred by section 11(2) of the Act or any other powers not capable of sub-delegation) which this Instrument of Delegation delegates to him or her.~~

THE COMMON SEAL OF)
MONASH CITY COUNCIL)
was hereunto affixed this First)
..... day of November 2023.....)
~~2021~~ in the presence of:)

.....

.....

SCHEDULE

- A. The power to:
1. determine any issue;
 2. take any action; or
 3. do any act or thing

arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.

Conditions and Limitations

The delegate must not determine the issue, take the action or do the act or thing:

1. if the issue, action, act or thing is an issue, action, act or thing which involves:
 1. ~~entering into a contract~~ Only where the delegate:
 - 1.1 ~~forms the view that a quorum of Council cannot be achieved; AND~~
 - 1.2 ~~provides Councillors with 14 days' notice of her intention to determine an issue, take an action or do an act or thing set out in paragraphs 1.8 to 1.18 of these Conditions and Limitations; AND~~
 - 1.3 ~~causes to be published on Council's website a written report supporting her intended determination of the issue, taking of the action or doing of the act or thing at least 7 days prior to doing so (unless the matter is one which should remain confidential); AND~~
 - 1.4 ~~considers and takes into account the views of Councillors expressed in response to the notice provided under paragraph 1.2 (noting that Councillors cannot direct the Chief Executive Officer with respect to her determination of the issue, taking of the action or doing of the act or thing, and that the Chief Executive Officer is not bound to determine the issue, take the action or do the act or thing consistently with those views); AND~~
 - 1.5 ~~considers and takes into account any views expressed by residents, ratepayers and/or stakeholders responding the report published under paragraph 1.3 (noting that the Chief Executive Officer is not bound to determine the issue, take the action or do the act or thing consistently with those views); AND~~

- ~~1.6 — does not receive notice from a majority of Councillors that they do not support her proposed determination of the issue, taking of the action or doing of the act or thing; AND~~
- ~~1.7 — will, having determined the issue, taken the action or done the act or thing, record and publish on Council's website the determination of the issue, taking of the action or doing of the act or thing so that decision-making continues to be as accessible, transparent and visible to the community, and consistent with what it would be if these decisions were made by Council at~~
- ~~a Council meeting, as possible (unless the matter is one which should remain confidential), may the delegate:~~
- ~~1.8 — award a contract with a value exceeding the value of \$450,000 (including GST);
making any expenditure that exceeds \$450,000 (including GST), except as otherwise provided for elsewhere in in this instrument, including this financial limit may be exceeded in the case of: Authorise incurring of expenditure, subject to budget, and purchasing policies exceeding \$450,000.~~
- ~~1.2.1 — annual insurance renewals (the exercise of this power must be reported to Council as soon as practicable)~~
- ~~1.9 — 1.2.2 — loan repayments at maturity on behalf of Council;
approving the Approve calling of expressions of interest and tenders for goods, services or works which over the proposed contract period exceed a total value of over \$250,000 (including GST).~~
- ~~1.10 — approving an energy contract exceeding the value of \$1,000,000 (including GST) (the exercise of this power must be reported to Council as soon as practicable)
in the case of contract variations to contracts resolved upon by Council;~~
- ~~1.5.1 — subject to 1.5.2 below, approving a contract variation if the variation exceeds the remaining Council approved contingency;~~
- ~~1.5.2 — approving a cumulative variation which exceeds the remaining Council approved contingency if the revised contract value exceeds 10% or \$100,000 (including GST) of the Council approved contract value inclusive of any Council approved contingency amount.~~
- ~~1.5.3 — in exceptional circumstances (where the health and safety of people, the integrity of assets is compromised, or there is a risk of financial exposure due to the delay in services or works unless immediate action is taken), approving any contract variation exceeding 1.5.1 and 1.5.2, subject to Councillors being provided with 48 hours prior notice, if more than two Councillors object.~~
- ~~1.6 — in the case of contract variations to contracts approved by officers under delegation:~~

- ~~1.6.1 subject to 1.6.2 and 1.6.3 below, approving an variation which leads to the revised contract value exceeding the CEO's financial delegation under 1.2; —~~
- ~~1.6.2 approving a contract variation which exceeds:~~
- ~~—— (a) —— the remaining approved contingency (including GST) or~~
 - ~~—— (b) —— the CEO's financial delegation under 1.2.~~
- ~~1.6.3 approving a contract variation which exceeds the remaining approved contingency where the cumulative variation exceeds:~~
- ~~—— (a) 20% od the original contract values (including GST) inclusive of any approved contingency amount or~~
 - ~~—— (b) —— the CEO's financial delegation under 1.2.~~
- ~~1.7 in the case of schedule of rates contract resolved upon by Council or approved under delegation, approving a cumulative volume change if the:~~
- ~~—— 1.7.1 —— (a) —— volume change significantly changes the contract;~~
 - ~~(b) —— cumulative change exceeds the approved budget (including GST); or~~
 - ~~(c) —— cumulative change exceeds the CEO's financial delegation under 1.2~~
- 1.1. ~~appointing an Acting Chief Executive Officer for a period exceeding 28-days; Amend the Governance Rules;~~
 - 1.2. ~~electing a Mayor or Deputy Mayor; approve the Council Plan;~~
 - 1.3. ~~granting a reasonable request for leave under s 35 of the Act; adopt the Strategic Resource Plan;~~
 - 1.4. ~~making a decision in relation to the employment, dismissal or removal of the Chief Executive Officer; prepare or adopt the Budget or a Revised Budget;~~
 - 1.5. ~~approving or amending the Council Plan adopt the Auditor's report, Annual Financial Statements, Standard Statements and Performance Statement; ;~~
 - 1.6. ~~adopting or amending any policy that Council is required to adopt under the Act; determine that an extraordinary vacancy on Council not be filled;~~
 - 1.7. ~~adopting or amending the Governance Rules; Adopt, amend or revoke a local law;~~
 - 1.8. ~~appointing the chair or the members to a delegated committee; appoint Councillor or community delegates or representatives to external organisations;~~
 - 1.9. ~~making, amending or revoking a local law; return the general valuation and any supplementary valuations;~~
 - 1.10. ~~approving the Budget or Revised Budget; determine any matter under the Planning and Environment Act 1987 which would, if exercised by another member of Council staff in reliance on the Instrument of Delegation from Council to Members of Council Staff, be subject to a condition or limitation under that Instrument; and~~
 - 1.11. ~~approving the borrowing of money;~~

~~1.12. subject to section 181H(1)(b) of the *Local Government Act 1989*, declaring general rates, municipal charges, service rates and charges and specified rates and charges.~~

~~1.14 determine an issue, take action or do an act or thing which would or would be likely to involve a decision which is inconsistent with a:~~

~~1.21.1 policy; or 1.21.2~~

~~strategy adopted by~~

~~Council.~~

~~1.20 appoint an Acting Chief Executive Officer for a period exceeding 28 days.~~

~~1.15 The delegate must not determine the issue, take the action or do the act or thing:~~

~~2. if the issue, action, act or thing is an issue, action, act or thing which is required by law to be done by Council resolution;~~

~~3. if the issue, action, act or thing is an issue, action, act or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;~~

~~4. if the determining of the issue, taking of the action or doing of the act or thing would be likely to involve a decision which is inconsistent with a~~

~~4.1 policy; or~~

~~4.2 strategy~~

~~adopted by Council.~~

~~5.~~

~~if the determining of the issue, the taking of the action or the doing of the act~~

~~or thing cannot be the subject of a lawful delegation, whether on account of section 11(2)(a)-(n) 98(1)(a)-(f) (inclusive) of the Act or otherwise; or~~

~~6. the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.~~

~~B. The delegate is delegated the following financial delegations:~~

~~**B.** The power to approve loan repayments at maturity, on behalf of Council.~~

~~C. The power to:~~

~~1.1 enter into energy contracts, on behalf of Council, to a value of \$1000,000.~~

~~2. The delegate must report to Council as soon as practicable after the exercise of this power.~~

Financial Delegation:

The Chief Executive Officer's financial delegation is up to \$450,000 (including GST). The financial delegation does not apply to:

- The payment of the annual insurance premiums
- Loan repayments at maturity of Council; or
- The approval of an energy contract up to the value of \$1,000,000 (including GST)

For Council approved contracts:

1. The Chief Executive Officer can approve a contract variation if the variation does not exceed the remaining Council approved contingency, even if it exceeds the Chief Executive Officer's financial delegation.

1.2. Where a contract variation exceeds the remaining Council approved contingency, the Chief Executive Officer may approve a cumulative variation if the revised contract value does not exceed 10 percent, to a maximum of \$100,000 of the Council approved contract value inclusive of any Council approved contingency amount.

3. In exceptional circumstances (where the health and safety of people, the integrity of assets is compromised, or there is a risk of financial exposure due to a delay in services or works unless immediate action is taken), the Chief Executive Officer may approve any contract variation subject to Councillors being provided with 48 hours' prior notice and no more than two Councillors object.

For Officer approved contracts:

1. The Chief Executive Officer may approve variations if the revised contract value does not exceed the Chief Executive Officer's financial delegation.

2. The Chief Executive Officer may approve variations if the revised contract value does not exceed:

- a. The remaining approved contingency; and

b. the Chief Executive Officers financial delegation.

3. Where a contract variation exceeds the remaining approved contingency, the Chief Executive Officer may approve a variation if the revised contract value does not exceed 20% of the original contract value inclusive of any approved contingency amount.

4. In exceptional circumstances (where the health and safety of people, the integrity of assets is compromised, or there is a risk of financial exposure due to a delay in services or works unless immediate action is taken), the Chief Executive Officer may approve any contract variation subject to Councillors being provided with 48 hours' prior notice and no more than two Councillors object.

For a Schedule of Rates contract:

The Chief Executive Officer may approve a cumulative volume change to an Officer or Council approved Schedule of Rates contract provided that:

- a. The volume change does not significantly change the contract;
- b. The cumulative change does not exceed the approved budget; and
- c. The cumulative change does not exceed \$450,000.

'S5' DELEGATION TO CEO FROM COUNCIL

INSTRUMENT OF DELEGATION

In exercise of the power conferred by section 11 of the *Local Government Act 2020 (the Act)* and any other Acts conferring a power of delegation on it, the Monash City Council (**Council**) delegates to the member of Council staff holding, acting in or performing the position of Chief Executive Officer, the powers, duties and functions set out in the Schedule to this Instrument of Delegation

AND declares that

- 1. this Instrument of Delegation is authorised by a Resolution of Council passed on 31 October 2023;
- 2. the delegation:
 - 2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
 - 2.2 is subject to any conditions and limitations set out in the Schedule;
 - 2.3 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
 - 2.4 remains in force until Council resolves to vary or revoke it.

THE COMMON SEAL OF)
MONASH CITY COUNCIL)
 was hereunto affixed this First)
 day of November 2023)
 in the presence of:)

.....

SCHEDULE

Part A.

The power to:

1. determine any issue;
2. take any action; or
3. do any act or thing

arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.

Conditions and Limitations

The delegate must not determine the issue, take the action or do the act or thing:

1. if the issue, action, act or thing is an issue, action, act or thing which involves:
 - 1.1. appointing an Acting Chief Executive Officer for a period exceeding 28-days;
 - 1.2. electing a Mayor or Deputy Mayor;
 - 1.3. granting a reasonable request for leave under s 35 of the Act;
 - 1.4. making a decision in relation to the employment, dismissal or removal of the Chief Executive Officer;
 - 1.5. approving or amending the Council Plan;
 - 1.6. adopting or amending any policy that Council is required to adopt under the Act;
 - 1.7. adopting or amending the Governance Rules;
 - 1.8. appointing the chair or the members to a delegated committee;
 - 1.9. making, amending or revoking a local law;
 - 1.10. approving the Budget or Revised Budget;
 - 1.11. approving the borrowing of money;
 - 1.12. subject to section 181H(1)(b) of the *Local Government Act 1989*, declaring general rates, municipal charges, service rates and charges and specified rates and charges.
2. if the issue, action, act or thing is an issue, action, act or thing which is required by law to be done by Council resolution;

3. if the issue, action, act or thing is an issue, action, act or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
4. if the determining of the issue, taking of the action or doing of the act or thing would be likely to involve a decision which is inconsistent with a
 - 4.1 policy; or
 - 4.2 strategyadopted by Council.
5. if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of section 11(2)(a)-(n) (inclusive) of the Act or otherwise; or
6. the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.

Part B

The delegate is delegated the following financial delegations:

7. Financial Delegation:

The Chief Executive Officer's financial delegation is up to \$450,000 (including GST).
The financial delegation does not apply to:

- The payment of the annual insurance premiums;
- Loan repayments at maturity of Council; or
- The approval of an energy contract up to the value of \$1,000,000 (including GST).

8. For Council approved contracts:

- 8.1 The Chief Executive Officer can approve a contract variation if the variation does not exceed the remaining Council approved contingency, even if it exceeds the Chief Executive Officer's financial delegation.
- 8.2 Where a contract variation exceeds the remaining Council approved contingency, the Chief Executive Officer may approve a cumulative variation if the revised contract value does not exceed 10 percent, to a maximum of \$100,000 of the Council approved contract value inclusive of any Council approved contingency.

- 8.3 In exceptional circumstances (where the health and safety of people, the integrity of assets is compromised, or there is a risk of financial exposure due to a delay in services or works unless immediate action is taken), the Chief Executive Officer may approve any contract variation subject to Councillors being provided with 48 hours' prior notice and no more than two Councillors object.
9. For Officer approved contracts:
 - 9.1 The Chief Executive Officer may approve variations if the revised contract value does not exceed the Chief Executive Officer's financial delegation.
 - 9.2 The Chief Executive Officer may approve variations if the revised contract value does not exceed:
 - a. The remaining approved contingency; **and**
 - b. The Chief Executive Officers financial delegation.
 - 9.3 Where a contract variation exceeds the remaining approved contingency, the Chief Executive Officer may approve a variation if the revised contract value does not exceed 20% of the original contract value inclusive of any approved contingency amount.
 - 9.4 In exceptional circumstances (where the health and safety of people, the integrity of assets is compromised, or there is a risk of financial exposure due to a delay in services or works unless immediate action is taken), the Chief Executive Officer may approve any contract variation subject to Councillors being provided with 48 hours' prior notice and no more than two Councillors object.
 10. For a Schedule of Rates contract:
 - 10.1 The Chief Executive Officer may approve a cumulative volume change to an Officer or Council approved Schedule of Rates contract provided that:
 - a. The volume change does not significantly change the contract;
 - b. The cumulative change does not exceed the approved budget; **and**
 - c. The cumulative change does not exceed \$450,000.

Procurement Policy



PURPOSE

To establish and standardise the procedures for procurement of goods, services and works¹.

RESPONSIBILITIES

Group A Officers (as per the Delegation Manual, Miscellaneous Sub-delegations by the Chief Executive Officer to Council staff) for the supervision and proper application of this Policy across all Council Staff.

Manager Strategic Procurement for the co-ordination, interpretation and strategic management of this Policy.

Council Staff for observance of their responsibilities under this Policy.

RELATED LEGISLATION: *Local Government Act 2020 (The Act)*

REVIEWED: At least once during each four-year term of Council.

APPROVED BY: Council

DATE: 26/04/2023

ISSUE No: 9

¹ For clarity, the strategic review and performance management of Contracts is covered separately by Council's Contract Management Manual.

Table of Contents

Table of Contents 2

Procurement Policy Statement 3

1 Principles..... 3

1.1 Background 3

1.2 Scope 5

1.3 Purpose 5

1.4 Treatment of GST 5

1.5 Definitions and Abbreviations 6

2 Effective Legislative and Policy Compliance and Control 8

2.1 Ethics and Probity 8

2.2 Governance 12

2.3 Procurement Thresholds 14

2.4 Delegation of Authority 20

2.5 Internal Controls 21

2.6 Risk Management 22

2.7 Contract Terms 28

2.8 Endorsement 28

2.9 Dispute Resolution 28

2.10 Contract Management 28

3 Demonstrate Sustained Value..... 29

3.1 Integration with Council Strategy 29

3.2 Achieving Best Value Outcomes 29

3.3 Performance Measurement 30

3.4 Sustainability 31

3.5 Diversity 33

3.6 Gender Equality 33

3.7 Local Sustainability 34

4 Apply a Consistent and Standard Approach 34

4.1 Standard Processes 34

4.2 Management Information 34

5 Build and Maintain Healthy Supply Relationships 35

5.1 Developing and Managing Suppliers 35

5.2 Supply Market Development 35

5.3 Relationship Management 36

5.4 Communication 36

6 Collaborative Procurement..... 36

7 Continuous Improvement 37

8 Policy Owner and Contact Details 37

Procurement Policy Statement

The City of Monash (Council) is committed to providing best value procurement outcomes for its community by procuring goods, services and works responsibly whilst maintaining the highest level of integrity in its procurement processes.

When evaluating goods, services and works, Council will take a balanced approach to consider a range of factors including but not limited to:

- value for money;
- capability, capacity and experience;
- environmental, local & social sustainability; and
- gender equality.

Value for money is not necessarily the cheapest price. Goods, services and works procured by Council will be considered in the context of price, quality and impact on communities and environment. Consideration will also be given to the life cycle cost including ongoing operating and end of life costs.

When considering procurement activities, Council will consider opportunities to improve local employment, increase participation from disadvantaged communities and to promoting and improving gender equality, inclusion and diversity. Council will also give preference to goods, services and works that meet the required specification levels, use recycled or reusable resources and are responsibly sourced. Where possible, consideration will also be given to the environmental impact over the life cycle of the products procured.

Non-compliance with this Policy may expose Council to poor procurement practice, unsatisfactory procurement outcomes, legal and legislative breaches and/or reputational damage.

1 Principles

1.1 Background

Council recognises that:

- developing a procurement strategy and adopting appropriate best practice contracting and procurement principles, policies, processes and procedures for all goods, services and works required by Council, will enhance achievement of Council objectives including:
 - sustainable and socially responsible procurement;
 - cost savings;
 - supporting the local economy;
 - achieving innovation; and

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

- better services for our communities.
- the elements of best practice applicable to Local Government procurement incorporate:
 - broad principles covering ethics, honesty, responsibility and accountability;
 - guidelines giving effect to those principles;
 - a system of delegations (i.e. the authorisation of officers to approve and undertake a range of functions in the procurement process);
 - Procurement processes, with appropriate procedures covering minor, simple procurement to high value, more complex procurement; and
 - a professional approach.

Council's procurement activities will:

- support Council's Corporate Strategies, aims and objectives including but not limited to those relating to sustainability, protection of the environment, gender equality, and corporate social responsibility including Fair Trade products;
- span the whole life cycle where appropriate, from initial concept to the end of the useful life, including end of life costs;
- achieve value for money and quality in the procurement of goods, services and works;
- demonstrate that public money has been appropriately spent;
- be conducted, and be seen to be conducted, in an impartial, fair and ethical manner;
- seek continual process improvement including innovative technologies such as electronic tendering processes to reduce activity cost;
- preferably have a positive environmental impact;
- generate and support business in the local community; and
- ensure Council Staff are adequately trained in Contract Management, procurement processes and procedures as it relates to tendering, contracts and the Australian Competition and Consumer Laws.

1.2 Scope

This Procurement Policy is made under Section 108 of *Local Government Act 2020 (The Act)*.

This section of *The Act* requires Council to prepare, approve and comply with its Procurement Policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by Council.

This policy applies to all contracting and procurement activities at Council and is binding upon Councillors, Council staff, contractors and consultants whilst engaged by Council.

1.3 Purpose

The purpose of this Policy is to provide consistency and control over procurement activities, including:

- compliance with Council's Fraud and Corruption Framework and Code of Conduct Policy;
- accountability to rate payers;
- guidance on ethical behaviour in public sector purchasing;
- the application of elements of best practice in purchasing; and
- obtaining the best value outcome when purchasing goods, services and works.

1.4 Treatment of GST

All monetary values stated in this policy include GST unless stated otherwise.

1.5 Definitions and Abbreviations

Term	Definition
The Act	<i>Local Government Act 2020</i>
Best Value Outcome	<p>Best value outcomes in procurement involves the selection of goods, services and works whilst considering some or all of the following:</p> <ul style="list-style-type: none"> • contribution to the advancement of Council’s priorities; • environmental sustainability; • corporate social responsibility including local and social sustainability and gender equality, inclusion and diversity; • non-cost factors such as fitness for purpose, quality, service and support; and • cost related factors including whole-of-life costs and transaction costs associated with acquiring, implementing, using, holding, maintaining and disposing of the goods, services and works.
Commercial in Confidence	Information that, if released, may prejudice the business dealings of a party and may include prices, discounts, rebates, profits, methodologies and process information.
Consultancy	<p>A service that facilitates decision making through:</p> <ul style="list-style-type: none"> • provision of expert analysis and advice; or • development of a written report or other intellectual outputs. <p>For clarity, Consultancy does NOT include:</p> <ul style="list-style-type: none"> • building and works design, construction and related services including fit out; • research or project management where recommendations are not provided; • routine accounting, audit and taxation services that provide advice on day to day issues; and • routine legal services (conveyancing, document drafting and litigation services). <p>Note: This Consultancy definition is aligned with the Department of Treasury and Finance, Guidance note to Financial Reporting Direction (FRD) 22H.</p>
Construction Supplier Register (CSR)	The Construction Supplier Register (CSR) is a pre-qualification scheme for building and construction industry Contractors and Consultants. The CSR is administered by the Department of Transport (DOT) for and on behalf of State Government.
Contract	A written agreement via an offer and acceptance with monetary consideration between Council and a supplier that gives rise to legal rights and obligations.
Contractor	A supplier engaged to provide goods, services or works.

Attachment 7.4.1.4 Proposed Amended Procurement Policy for Adoption

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

Term	Definition
Contract Management	The process that ensures both parties to a Contract comply with their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the Contract. For further information, please refer to Council's separate Contract Management Manual .
Contract Value	The amount Council is or could be liable to pay for the full term of the Contract including applicable GST, any extension options, and approved variations. Any approved contingency sums will also be used to determine the total contract value for delegation approvals and budget purposes.
Council Staff	Includes full-time, part-time officers, casual and temporary employees.
Exceptional Circumstances	Where the health and safety of people, the integrity of assets is compromised, or there is a risk of financial exposure due to a delay in works, unless immediate action is taken.
eTender Portal	Online service where Tenders can be issued and lodged electronically.
Expression of Interest (EOI)	Usually the first stage of a two part procurement process is by public advertisement, which aims to assess market capability to provide goods, services or works prior to a second stage tender.
Group A and Group B	As per the Schedule of Miscellaneous Sub-Delegations by the Chief Executive Officer to Council Staff.
Probity	Uprightness, honesty, proper and ethical conduct and propriety in dealings. A procurement process that conforms to expected standards of Probity, where clear procedures, consistent with Council's policies and legislation, are established, understood and followed from the outset. These procedures need to consider the legitimate interests of tenderers and ensure all tenderers are treated equitably.
Probity Auditor	A party appointed to ensure that the procurement process is conducted in accordance with legislation, best practice principles and Council's Procurement Policy.
Procurement	Procurement is the whole process of acquiring goods, services and works. This process spans the whole life cycle from initial concept (design) to the end of the useful life of an asset (including end of life costs) or the end of a service Contract.
Quotation	A written proposal for goods, services and works submitted in response to an invitation to quote. A Quotation process cannot be used for contracts where the Contract value equals or exceeds \$250,000 for goods, services or works (GST inclusive).

Term	Definition
Registered Contract	A Contract registered in Council’s electronic Contract Management System. All procurement arrangements with a contract value above \$50,000 (GST inclusive) must be registered in Council’s Contract Management System.
Sustainability	Sustainability is planning and providing for the needs of individuals and communities now and for future generations, creating resilient and prosperous communities and protecting the environment and ecosystem. This includes the choice of sustainable materials, methods and approaches. For building and infrastructure projects, the endorsed Environment Sustainable Design policy provides further guidance .
Tender	A written proposal submitted, via the eTender Portal, in response to a public or selective invitation for the supply of goods, services and works.
Tender Process	The process of inviting parties to submit either a Quotation, EOI or a Tender, followed by evaluation of submissions and selection of a successful supplier.

2 Effective Legislative and Policy Compliance and Control

2.1 Ethics and Probity

2.1.1 Requirement

Council’s procurement activities shall be performed with integrity and in a manner able to withstand scrutiny.

2.1.2 Conduct of Councillors and Council Staff

2.1.2.1 General

Councillors and Council Staff shall always conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity and will:

- treat potential and existing suppliers with equality and fairness;
- not seek or receive personal gain;
- maintain confidentiality of Commercial in Confidence information;
- present the highest standards of professionalism and Probity;

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

- deal with suppliers in an honest and impartial manner through the management of any known conflicts of interest;
- provide all Tenderers with the same information and equal opportunity; and
- be able to account for all decisions and provide feedback to suppliers on request.

2.1.2.2 Members of Professional Bodies

Councillors and Council Staff belonging to professional organisations shall, in addition to the obligations detailed in this Policy, ensure that they adhere to any code of ethics or professional standards required by that body.

2.1.3 Tender Processes

All tender processes shall be conducted in accordance with the requirements of this Policy and any associated procedures, relevant legislation, relevant Australian Standard Specifications and *The Act*.

Council will work within established principles and will conduct tender processes that are fair to all parties, and will use its best endeavours to demonstrate fairness to Tenderers and potential Tenderers. Council will:

- produce Tender documents that clearly specify the required outcomes so that Tenderers can bid confidently,;
- package work in a manner which encourages competition and the best outcome for Council, residents and ratepayers;
- not participate in, and actively discourage other parties from improper Tendering practices such as collusion, misrepresentation and disclosure of confidential information;
- include in the Tender documents, the evaluation criteria and weightings to be used to assess Tenders;
- require any conflict of interest to be disclosed immediately; and
- have regard to the cost of Tendering to Tenderers, Council, residents and ratepayers and to seek to constrain those costs.

Council shall maintain robust procedures to ensure that processes associated with all aspects of procurement relating to Expressions of Interest, Quotations, Tenders and Contract Management are met.

2.1.4 Conflict of Interest

Councillors and Council Staff shall always avoid situations in which private interest's conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties.

Councillors and Council Staff must not participate in any procurement activity, including invitation to Quotation or Tender, evaluation, negotiation, recommendation, or approval, where that person, any member of their family or close association has a significant or potential interest, or holds a position of influence or power in a business Tendering for the work.

A potential interest may include but is not limited to the following:

- Shares
- Current or pre-existing relationships with council staff
- Positions held
- Previous employment
- Hospitality or gifts
- Obligation, allegiance

The onus is on Councillors and Council Staff to remain vigilance to promptly declare an actual or potential conflict of interest to Council.

For quotes and tenders exceeding \$50,000 (GST inclusive), all evaluation panel members must complete and sign a 'Conflict of Interest and Confidentiality Statement' prior to the evaluation process.

2.1.5 Fair and Honest Dealing

All prospective suppliers must be afforded an equal opportunity to Tender or quote.

Impartiality must be maintained throughout the procurement process so it can withstand public scrutiny.

The commercial interests of existing and potential suppliers must be protected. Unless otherwise agreed, confidentiality of information provided by existing and prospective suppliers must always be maintained, particularly commercially sensitive material including but not limited to prices, discounts, rebates, profit, manufacturing and product information.

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

2.1.6 Accountability and Transparency

Accountability and transparency in procurement must include the ability to provide a reasonable explanation and evidence of the process undertaken, including the recommendations and decisions made.

Procurement Activity Reports will be presented to the Executive Leadership Team on a regular basis summarising procurement activity across the organisation.

All procurement activities must also have an audit trail for monitoring and reporting purposes.

2.1.7 Gifts and Hospitality

The Councillor and Staff Codes of Conduct, as well as the Councillor Gifts Policy, specify the requirements relating to gifts and hospitality. It is clear from integrity agency investigations that offers of gifts and hospitality from suppliers pose a major corruption risk to the procurement process. It is vital to maintaining integrity that Councillor and Council Staff do not solicit or accept such gifts or hospitality.

Councillors and Council Staff should also avoid the ambiguous situation created by visiting the premises of a contractor, supplier, firm or individual uninvited and/or not on official business.

Offers of bribes, commissions or other irregular approaches from suppliers or individuals must be promptly and confidentially reported to the Chief Operating Officer or to the Independent Broad-based Anti-Corruption Commission (IBAC) – www.ibac.vic.gov.au.

2.1.8 Disclosure of Information

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

Councillors and Council Staff are to protect confidentiality, by refusing to release or discuss the following:

- information provided by suppliers in Tenders, Quotation or during Tender negotiations;
- all information that is Commercial in Confidence; and
- contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations, with the exception, at Council's discretion, of publishing award information including the party name and contract value.

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

2.2 Governance

2.2.1 Structure

Council shall:

- establish a procurement delegations structure ensuring accountability, traceability and auditability of all procurement decisions made by Council;
- ensure that Council's procurement structure:
 - is flexible enough to purchase the diverse range of goods, services and works required by Council in a timely manner;
 - affords prospective suppliers an equal opportunity to tender/quote; and
 - encourages competition.

2.2.2 Standards

Council's procurement activities shall be carried out to a professional standard consistent with best practice and in compliance with:

- *The Act*;
- Council's Policies; and
- Other relevant legislative requirements including but not limited to the Consumer and Competition Act, Victorian Local Government Best Practice Procurement Guidelines and the Environmental Protection Act.

2.2.3 Methods

Council's standard methods for purchasing goods, services and works shall be by issuing a Purchase Order following a compliant procurement process.

In the case of Exceptional Circumstances, other arrangements may be authorised by Council or the Chief Executive Officer (CEO).

Based on the complexity and cost of the project, Council officers may conduct either one stage or multi-stage Tender process.

Typically a multi-stage Tender process will consist of a public Expression of Interest (EOI) stage followed by a Tender process involving some or all of the suppliers that participated in the EOI stage.

An EOI stage may be appropriate where:

- the requirement is complex, difficult to define, unknown or unclear;
- the requirement is capable of being serviced by markedly different solutions;
- Council wishes to consider ahead of a formal Tender process whether tenderers possess the necessary experience and financial resources to satisfy requirements;
- Tendering costs are likely to be high and Council seeks to ensure that suppliers incapable of supplying the requirement do not incur unnecessary expense;
- it is necessary to pre-qualify suppliers or goods to meet required standards; or
- the requirement is generally known but there is still considerable analysis, evaluation and clarification required.

Additionally, for highly complex projects Council may run sequential Tenders, the first to solicit solutions, the second to compete to provide the solution selected by Council.

2.2.4 Responsible Financial Management

The principles of responsible financial management shall be applied to all procurement activities.

Accordingly, the availability of existing funds within an approved budget, or source of funds, shall be established prior to the commencement of any procurement activity.

Council Staff must not authorise the expenditure of funds in excess of their financial delegations.

Council funds must be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the costs of the procurement process without compromising any of the procurement principles set out in this Policy.

2.3 Procurement Thresholds

2.3.1 Requirement

Council will promote competitive outcomes using the following minimum spend thresholds.

2.3.2 Minimum Spend Thresholds

2.3.2.1 Tenders

Purchases where the estimated expenditure equals or exceeds \$250,000 (GST inclusive) for Goods, Services or Works must be undertaken through a compliant public Expression of Interest, Tender or with other procurement processes compliant with *The Act* unless an approved exemption applies.

Where a Council Staff member considers the nature of the requirement and the characteristics of the market are such that the public Tender Process would lead to a better outcome for Council, a public Tender may also be called for purchase of goods, services and works for which the estimated expenditure is below the tendering threshold.

All Tenders and Expressions of Interest issued via Council's eTender Portal must be received via Council's eTender portal by the nominated time and date.

All procurement related documents including but not limited to conflict of interest declarations, submissions, evaluation summary and scoring, post tender correspondence, recommendation reports and notification letters must also be recorded in Council's Contract Management System.

2.3.2.2 Procurement Process

The methods described below must be used to ensure that procurement activities comply with Policy.

Part	Estimated Expenditure over the total contract life (Including contingency funds & GST)	Minimum Competition Required	Via Councils Contract Management System	Formal Recommendation Report	Purchase Requisition
A	\$2,000 - \$4,999	One written quote	Not required	Not required	All quotes must be attached to the requisition
B	\$5,000 - \$49,999	Two written quotes*	Not required	Not required	All quotes must be attached to the requisition
C	\$50,000 - 249,999 for Goods, Services or Works	Three written quotes*	Must be used to seek quotes	Quotation Evaluation Report must be approved and signed by the appropriate delegation	The signed Quotation Evaluation Report must be attached to the requisition
D	\$250,000 or more for Goods, Services or Works	A public tender process compliant with the Local Government Act and Council's Procurement Policy**	Must be used for the tender process	Tender Evaluation Report must be approved by the appropriate delegation	The signed Tender Evaluation Report must be attached to the requisition

*If less than the required number of quotations are obtained, an Exemption Memo must be completed and signed or the quotation process terminated and re-commenced.

**unless an approved exemption from tendering applies (refer section 2.3.2.5)

Attachment 7.4.1.4 Proposed Amended Procurement Policy for Adoption

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

For Parts A, B and C above, public advertising is not required but a suitable quotation closing date and time must be nominated. Quotations returned by the nominated closing date and time must be evaluated and a recommendation made in favour of the supplier offering the best value outcome.

Quotations may also be advertised and run as a public event where a field of potential Tenderers hasn't been established, an innovative approach is required, or the project has broad appeal that may attract greater competition.

If less than the required number of written quotations are obtained, an [Exemption Memo](#) must be completed and signed or the quotation process terminated and re-commenced.

Once a contract is awarded, the appropriate Contract number must also be selected on the Purchase Requisition.

If Quotations are sought without public advertising and the potential contract value equals or exceeds \$250,000 (including contingency funds and GST), then an alternative procurement process compliant with The Act must be used.

Procurement of legal services is exempt from the above procurement processes where the commitment complies with section 2.3.2.5 Exemptions from Tendering .

2.3.2.3 Quotations from existing Panel Contracts

Council uses Panel Contracts where suppliers have provided a schedule of rates with indicative and/or firm prices.

Where submitted prices include all costs associated with the requirements, it is not necessary to seek multiple Quotations from the panel. However, where submitted prices do not include all costs associated with the requirements or the rates are indicative only, then Quotations from two or more of the panel suppliers must be sought.

2.3.2.4 Confirm Works Orders

Where Council approved systems such as Confirm are used to issue works after undertaking the procurement process, Purchase Requisitions can be raised after receipt of an invoice. The Confirm Job number must be recorded or attached to the Purchase Requisition.

2.3.2.5 Exemptions from Tendering

The Act requires Council to maintain its own exemption list from the need to invite a tender or expression of interest for contract values exceeding the threshold.

Exemptions from Tendering	Description
Selective tenders using the Construction Supplier Register (CSR) as administered by the Department of Treasury and Finance	The use of the CSR is an alternative means to seek tenders from construction and related industry suppliers rather than via a public tender process. At least three registered and qualified suppliers must be invited to tender under this exemption option.
Legal services	The use of Legal Services must be approved in writing by the Director City Services or the Manager Governance & Legal ² . However, this does not prevent Council from seeking fixed price quotations or tenders if required.
Commercial Loan Services	Council may borrow through the Local Council Lending Scheme which allows direct lending from the Treasury Corporation of Victoria (TCV).
Contracts initiated by other councils or other parties.	Access to contracts created by other councils or other parties including but not limited to the Municipal Association of Victoria (MAV), Procurement Australia (PA) and State Government that comply with best practice is allowed under this exemption option. However, access to these contracts will still require assessment & validation of best value outcomes and appropriate delegated approval (usually via a recommendation report).
The contract is entered into via another party acting as Council's Agent and the agent has otherwise complied with The Act.	Appropriate delegated approval is required to appoint another party to act as Council's Agent. Access to these contracts will still require appropriate delegated approval usually via a recommendation report.
Emergency Events	Where the Council or CEO has resolved that a contract must be entered into because of a declared emergency or disaster impacting life or property.
Prescribed State and Federal Government services	This covers any Government services and statutory fees and charges that Council may be required to access for the provision of Goods or Services that are mandated, compulsory or legislated.
Service Authority Infrastructure Services	Where Council is compelled to pay fees and charges associated with utility distribution and associated costs.

² This approval is not required for planning appeal matters
Procurement Policy

Attachment 7.4.1.4 Proposed Amended Procurement Policy for Adoption

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

Exemptions from Tendering	Description
Approved Consultancy Engagements (below the tender threshold only)	If a specific consultancy engagement is approved through the current Consultancy Pre-Approval Form, then the engagement is automatically exempt from requiring multiple quotations.
Business Technology Cyber Security	Including computer system & server security, cyber security, or information communication technology security systems and services to protect Council's computer systems and networks from information disclosure, theft or damage to hardware, software or electronic data, as well as from the disruption or misdirection of the services they provide.
Genuine Monopoly Markets	<p>This category includes:</p> <ul style="list-style-type: none"> a. Statutory Compulsory Monopoly Schemes, including Work Cover and third party motor vehicle insurance; b. Other compulsory statutory bodies, including any, legislated service providers; and c. Supply of goods, services or works that can only be provided from a monopoly supplier with no available alternatives. <p>Use of exemption option 'c' above must be approved in writing by the Executive Leadership Team and a member of the Strategic Procurement Team on a case-by-case basis.</p>

2.3.2.6 Access to the Construction Supplier Register for Tenders

The [Construction Supplier Register](#) (CSR) is a pre-qualification scheme for building and construction industry Contractors and Consultants administered by the Department of Transport (DOT) for and on behalf of State Government.

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

Council must be formally registered with DOT to access the CSR and access is conditional upon Council adhering to the rules as established by DOT.

The minimum requirements necessary to comply with the rules established to access the CSR is to raise a Contract Number and publish a selective Tender to at least THREE pre-qualified CSR Contractors. This must be done through Council's eTender Portal.

2.3.2.7 Consultancy Engagement

The engagement of Consultancy service involves additional approvals and procurement reporting.

Council staff will follow standard procurement practices identified in this Policy for the engagement of Consultancy services.

In addition, prior to engaging a supplier to perform a Consultancy service, Council will consider and document:

- the reasons why the service is required to be performed by a Consultant;
- whether the skills required for the Consultancy project exist internally; and
- if the skills required do exist internally, whether Council Staff have the capacity to undertake the Consultancy service and, if not, whether the Consultancy service can be delayed until such time that internal capacity is available.

Group A Officers must pre-approve Consultancy engagements greater than \$5,000 up to delegation levels prescribed in the Manual of Delegation.

Despite any other delegation to the contrary, where it is considered that the skills required for a Consultancy service do exist internally, the decision to engage a Consultant must be approved by the CEO in advance.

All Consultancy engagements greater than \$20,000 must also be listed in a Consultancy Register. As a minimum the Register will record the following information;

- description of the Consultancy service;
- name of the firm
- contract value and end cost; and
- start and completion dates.

A list of completed and current consultancy engagements for the periods ending 30 June and 31 December every year must be circulated to Council biannually.

2.4 Delegation of Authority

2.4.1 Requirement

Delegations define the financial limits within which Council Staff are permitted to authorise commitments. Delegation of procurement authority allows specified Staff to approve certain purchases, Quotation, Tender and contractual processes without prior referral to Council. This enables Council Staff to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

As such, Council has delegated responsibilities as detailed below relating to the expenditure of funds for the procurement of goods, services and works, the acceptance of Quotes and Tenders and for Contract Management activities.

2.4.2 Delegations

2.4.2.1 Council Staff

Council shall maintain a documented scheme of procurement delegations, identifying Council Staff authorised to make procurement commitments in respect of goods, services and works on behalf of Council and their respective delegations contained in appropriate sections of the Manual of Delegation, including but not limited to the following:

- Acceptance of tenders and quotations;
- Contract term extensions (within authorised budget);
- Contract variations;
- Appointment of pre-qualified suppliers;
- Credit Card purchases; and
- Procedural exceptions.

2.4.2.2 Delegations Reserved for Council

Commitments and processes which exceed the CEO's delegation and which must be approved by Council are:

- Any variation to the weighting of price less than 50% for all Tenders and Quotations unless the Tender process is managed by a party acting as Council's Agent, Council is accessing an established third party contract or Council is acting as Agent as part of a collaborative tender process;
- Tender recommendations and Contract approval for all expenditure over the CEO's delegation;
- Authorising the signing of contract documents for Contracts approved by Council;
- Variations to Council Approved Contracts that exceed \$100,000 cumulatively, or the revised Contract Value exceeds 10% of the original Awarded Contract Value (including any Council approved contingency amounts)*; and
- Contract term extensions (requiring additional budget) for contracts approved by Council (unless otherwise authorised).

*Where Exceptional Circumstances apply, the CEO may approve variations exceeding \$100,000 cumulative or 10% of the original awarded Contract Value (including approved contingency), but must report these approvals at the next Council meeting.

2.5 Internal Controls

Council must maintain internal controls over procurement processes ensuring that:

- Purchase Orders are mandatory for all purchases other than pre-approved [Purchase Order Exemptions](#);
- The appropriate Contract number is selected on the Purchase Requisition;
- Purchase Orders are raised before goods and services and invoices are received (with the exception of Confirm work orders and the pre-approved [Purchase Order Exemptions](#));
- Consultant Engagement forms are completed and attached to Purchase Requisitions for all Consultancy services. If greater than \$20,000 a copy of the form must also be forwarded to Strategic Procurement;

~~• Revised estimates for Schedule of Rates contracts with an estimated annual expenditure must be approved by a Group A Officer. Note: Contracts with~~

~~estimated annual expenditure do not constitute approval to commit expenditure to this level, as each engagement requires delegated approval;~~

- Dual approval is required for a commitment or payment approval;
- A clearly documented audit trail exists for procurement activities;
- Appropriate authorisations are obtained and documented;
- Systems are in place for appropriate monitoring and performance measurement.

2.6 Risk Management

2.6.1 General

Council is committed to ensuring that its council staff and the community are protected against loss by management principles and practices designed to minimise or eliminate exposure to risk and adverse impact on Council activities and outcomes. Council recognises that risk management is an essential tool for strategic, operational and financial planning, and continuing service delivery.

Risk is 'any unplanned event that will have an adverse impact on the ability to deliver consistent and required quality outcomes'.

Risk Management involves identifying opportunities to mitigate against not achieving Council's objectives. Procurement, as a key element in achieving Council's objectives, requires management of risk events that may reduce the likelihood of achieving those objectives.

Risk Management is applied to all procurement activities and is carried out in a manner that will protect and enhance Council's capability to prevent, withstand and recover from interruption to the supply of goods, services and/or works.

2.6.2 Safeguarding Children and Young People

Monash Council values all children and young people and is committed to being a child safe organisation. Monash Council has zero tolerance to child abuse and takes all child abuse allegations seriously. Safeguarding children and young people is everyone's responsibility and Monash Council is committed to building a community that is safe and inclusive of all children and young people. Where a project/service has potential exposure to children, either directly or because of location, Council will minimise the risk to children and young people by:

- requiring suppliers to provide evidence of their ability to meet the requirements set by the Commission for Children and Young People under the *Child Wellbeing and Safety Act 2015*;
- requiring all those involved in the delivery of services to act to safeguard children and young people;
- requiring all staff and sub-contractors working on sites where children and young people are in attendance or in close proximity to have a current Working with Children Check (WWCC) before commencing work on site; and
- requiring suppliers to be inducted into the Monash City Council Safeguarding Children and Young People policy and Safeguarding Children and Young People Practice Standards.

2.6.3 Supply by Contract

The provision of goods, services and works by Contract potentially exposes Council to risk. Council will minimise its risk exposure by:

- standardising contracts to include relevant clauses;
- requiring security deposits or withholding retention money where appropriate;
- referring specifications to relevant experts;
- requiring, whenever possible, that contracts are signed prior to commencement of service³;
- reference to relevant Australian Standards (or equivalent);
- effectively managing the Contract including monitoring and enforcing performance; and
- aligning requirements with all relevant council policies and strategies.

³in the rare circumstance that it is necessary to commence the delivery of work or service prior to the formal execution of a contract, appropriate steps will be taken to manage the associated risk, including reporting to an appropriate level of management.

2.6.4 Tender Documentation

Council will ensure that Tender documentation is clear and concise, and clearly defines the scope of works, performance requirements, insurance/indemnity obligations and evaluation criteria. Tender documents must include:

- Conditions of Tender;
- Response and Price Schedules;
- Specifications or Brief; and
- General Conditions of Contract (if required).

2.6.5 Evaluation Requirements for Tenders and Quotations

The aim of the Tender and Quotation evaluation process is to select a supplier that provides best value across a balanced range of criteria whilst ensuring that all suppliers are treated in a fair, equitable and impartial manner.

Key Selection Criteria will be published in tender and quotation documents and must include a balanced range of criteria including but not limited to the following:

	Key Selection Criteria	Typical Criteria Weightings for Significant Sustainability Opportunities (Option 1)	Typical Criteria Weightings for Less Significant Sustainability Opportunities (Option 2)	Sub Criteria Examples
NON-PRICE CRITERIA	Capacity and Capability	30%	30%	Experience Resources Risk Management Legal Compliance Performance and Innovation Proposed Program Other as required
	Sustainability* (Mandatory)	20% minimum	10%	Environmental Sustainability Local Sustainability Social Sustainability
Price Criteria	Price (Mandatory)	50% minimum	60% minimum	Comparison of Whole of Life Cost, Total Project Cost or Estimated Annual Cost

*Wherever possible, particularly for larger value or long term contracts, Council will consider issuing firm obligations to achieve clear and measurable improvements to local, social and environmental outcomes. Particularly for local and social sustainability,

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

this may include requesting the creation of new jobs for disadvantaged communities and/or new apprenticeships.

Whilst Council will endeavour to maximise sustainability opportunities as often as possible, exceptions where a lower sustainability weighting (option 2 above) may be used, will be assessed on a case-by-case basis and may include but not be limited to the following considerations:

- a. The services required are not likely to allow significant environmental differentiation or improvement (for example, some Business Technology software or Project Management Services); and/or
- b. The supplier market consists of small or medium sized businesses where a local presence or opportunities to employ new staff or engage social enterprise resources are unlikely (for example sole traders or family businesses with few staff).

2.6.6 Social Sustainability

Consideration of social procurement, as part of the procurement selection criteria provides an opportunity to generate positive social outcomes in addition to the delivery of goods, services and works. Including Social Sustainability criteria aligns with Council’s social objectives to help build stronger communities and helps to address structural and systemic inequality

When evaluating Social Sustainability, evaluation panels may consider the following;

Benefit	Impact
Local sustainability	Strengthening the local economy and ensuring its financial and environmental sustainability.
Employment and training	Creating local employment opportunities through clauses and specifications in Council contracts. Developing practical training to build long-term employment opportunities.
Gender Equality	Promoting gender equality (including adherence to the Gender Equality Act 2020 where applicable) and encouraging women’s full and equal participation. Gender equality is proven to increase business performance and deliver diversity of thought leading to more innovative solutions.

Benefit	Impact
Diversity and Social Inclusion	Designing Procurement activities so that: all businesses have the same opportunity to tender for Council contracts; supply markets around essential and key services for Council remains diverse and vibrant; and local suppliers such as small to medium-sized enterprises, social enterprises and Indigenous businesses are well-positioned to prosper in the local economy. Types of organisations offering diversity include (but are not limited to) businesses that are: <ul style="list-style-type: none"> • Culturally and linguistically diverse • Aboriginal owned and/or operated or employing Aboriginal people • Gender diverse • Employing people with disabilities or owned and/or operated by those with disabilities.
Service innovation	Fostering a new social economy, addressing service gaps by piloting joint ventures between councils and external partners.
Fair trade	Purchasing ethical and fair trade goods to support equitable local, national and international trade compliant with Australian Government Fair Trade laws. That supply chains adhere to local, national and international labour standards including appropriate precautions against Modern Slavery.

2.6.7 Financial Viability

Where the total Contract Value exceeds \$1,000,000 or where the supplier has been in business for less than two years, Council will obtain audited financial statements and/or an independent financial assessment for the recommended supplier for approval by the Manager Corporate Performance or their nominee.

Should the financial viability risk be considered unacceptable, risk management plans may be considered to manage the risk, including but not limited to requesting financial security from the supplier.

An independent financial assessment is not required for suppliers registered on the Victorian Government Construction Supplier Register or where financial checks have already been undertaken under contracts Council accesses via third party aggregators.

2.6.8 Insurance and Indemnity Requirements

Where the contract value exceeds \$50,000 (GST inclusive), a minimum of \$20,000,000 Public Liability and \$5,000,000 Professional Indemnity cover is generally required, dependent on the type of Contract. Evidence of cover in the form of a Certificate of Currency will be required. Council will also ensure any other appropriate insurance, i.e. Product Liability, Motor Vehicle or Fiduciary or Work Cover details are obtained prior to the commencement of the Contract.

2.6.9 Tender Evaluation Panel

The Evaluation Panel will comprise of at least two staff, and where the Contract value equals or exceeds \$250,000 (GST inclusive), the panel must also include a member of Strategic Procurement. Gender diversity should also be considered when establishing the panel.

For Tenders greater than \$1,000,000 (GST Inclusive) a member from Group A or B must participate on the Tender Evaluation Panel.

2.6.10 Probity and Legal

Where the contract value exceeds \$10,000,000:

- a. an independent Probity Auditor must be appointed to assist with the procurement process. The Probity Auditor will participate in the tender process from development of the specification (if possible), the evaluation process, through to award of the Contract; and
- b. a legal review of the Tender documents, specification and contract must also be done prior to publishing a tender.

2.6.11 Award of Contract

Contracts are awarded by a formal resolution of Council or by a delegated officer, in accordance with Council's approved delegations.

Council can negotiate with a preferred Tenderer to achieve an acceptable outcome reflective of the scope of works advertised.

Council will not trade the price of one Tenderer against that of another Tenderer.

Council will award the Contract on the basis of achieving the best value outcome for the community.

2.7 Contract Terms

Contract Terms must be documented in writing and should be based on Council's standard terms and conditions wherever possible.

Where the use of Council's standard terms and conditions is not possible, approval and a review must be obtained from Strategic Procurement with appropriate legal oversight as required prior to signing.

To protect the best interests of Council, terms and conditions must be settled in advance of any commitment being made with a supplier.

2.8 Endorsement

Council Staff must not endorse any products or services. Individual requests received for endorsement must be referred to a Group A staff member.

2.9 Dispute Resolution

All Council contracts must incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes escalating and leading to legal action.

2.10 Contract Management⁴

The purpose of good Contract Management is to ensure that Council receives the goods, services and works at the required standards of quality and quantity as intended. As such, Contracts must:

- establish a system to monitor and achieve the responsibilities and obligations of both parties;
- provide a means for the early recognition of issues and performance problems and the identification of solutions; and
- adhere to Council's Risk Management Framework and to relevant Occupational Health and Safety procedures.

⁴ Please refer to Council's separate Contract Management Manual for further information.

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

Contracts are to be proactively managed by the member of Council Staff responsible for the delivery of the contracted goods, services and works to ensure Council receives a best value outcome and that supplier performance is maintained.

Councils Contract review and extension process shall be used to facilitate applicable Contract extensions.

Signed Contract documentation will also be placed on Council's Contract Management System.

3 Demonstrate Sustained Value

3.1 *Integration with Council Strategy*

Council procurement strategy will support its corporate strategy, aims and objectives, including but not limited to those related to the following Council Plan Strategic Objectives:

- Sustainable City;
- Enhance Open Space and Activity;
- Inclusive Services;
- Good Governance; and
- Zero Net Carbon Action Plan.

3.2 *Achieving Best Value Outcomes*

3.2.1 Requirement

Council's procurement activities will be carried out on the basis of obtaining best value outcomes, including minimising the total cost of ownership over the lifetime of all requirements consistent with acceptable quality, reliability and delivery considerations. Lowest price is not the sole determinate of best value.

3.2.2 Approach

The approach to achieving best value outcomes will be facilitated by:

- developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the whole life cycle;
- effective use of competition;

- using aggregated or collaborative contracts where appropriate;
- identifying and rectifying inefficiencies in procurement processes;
- developing cost efficient Tender processes;
- Council seeking competent and accurate specialist advice when required; and
- working with suppliers to create relationships that are professional and productive, and are appropriate to the value and importance of the goods, services and works being acquired.

3.2.3 Cumulative Spend

Council will monitor cumulative spend with suppliers at least annually. If expenditure with a supplier or a number of suppliers providing similar goods, services and works is ongoing in nature and the cumulative spend is likely to exceed the tendering threshold over a two year period, then Council will review the opportunity to pursue a contract for such goods, services and works through a competitive process.

3.2.4 Role of Specifications

Specifications used in Quotations, Tenders and Contracts are to support and contribute to Council's best value outcome objectives by:

- being clear and concise;
- ensuring impartiality and objectivity;
- encouraging the use of standardised nonproprietary products;
- integrating environmental sustainability into goods and services; and
- eliminating unnecessarily stringent requirements.

3.3 Performance Measurement

Appropriate performance measures are to be established and reporting systems will be used to monitor performance and compliance with the Procurement Policy and procedures.

The performance measurements developed will:

- highlight procurement trends to monitor performance;
- improve the internal efficiency of the procurement process and where relevant the performance of suppliers; and
- facilitate programs to drive improvement in procurement to eliminate waste and inefficiencies across key spend categories.

3.4 Sustainability

3.4.1 General

Council advocates for sustainable and responsible procurement and will monitor and report on Council activities and programs that have an impact on the environment. This may include the promotion of the following as part of the procurement process:

- Environmentally sustainable design and construction of infrastructure and buildings (through implementation of [ESD policy](#));
- Adopt a circular economy thinking in delivering goods & services;
- Waste minimization and recycling;
- Proactive use of recycled content materials;
- Improving energy efficiency;
- Vegetation protection and enhancement;
- Ethical sourcing of goods and services;
- Supporting sustainable supply chains, to enhance social and economic sustainability;
- Water conservation and water sensitive urban design.

3.4.2 Sustainable Procurement

Sustainable procurement aims to have the most positive environmental, social and economic impacts possible over the entire life cycle of the goods, service and works.

Sustainable procurement involves the purchasing of goods, services and works that are less damaging to the environment than comparable products that provide the same level of quality and functionality. This may include the design of infrastructure which may also reduce environmental impact.

Council is committed to adopting a sustainable procurement approach within the context of purchasing best value outcomes and will regularly review the opportunity to procure sustainable goods, services and works with higher recycled or reusable content, local or ethical production, higher water or energy efficiency, or lower impact materials.

Council will commit to actively reduce the use of plastic bags, packaging and other single use items across Council business including events.

Council will consider some or all of the following Environmental Sustainability considerations during the Evaluation process:

- resource efficiency: Council is committed to reduce resource consumption and minimise use of products from unsustainable sources;
- products from renewable sources and recycled content such as products made from recycled/part-recycled products to optimise consumption and stimulate demand for recycled products, promoting the collection and reprocessing of waste and working towards zero discharge to landfill;
- products which are more energy, fuel and water efficient;
- sustainable supply chain that adopts environmentally conscious practices;
- innovative products and services that promote best value outcomes;
- sustainable supply chain that reuse or recycle material for the manufacture of products locally/in Australia;
- plan and design projects which are fit for purpose and minimise environmental impact; and
- activities that improve energy efficiency, GHG emission reduction and reduce or address climate change impact.

Council will also ensure that material standards used in specifications are updated to reflect innovation and increased use of imbedded recycled content, reduced carbon footprint and/or reduced environmental impact from disposal by avoiding the purchase of goods that go to landfill at end of life.

3.5 Diversity

Council has a long-standing commitment to serving and responding to needs of our diverse community. Council recognises that its procurement practices can have substantial benefit to reducing barriers faced by some people and help to address inequality in our community. This includes people with disability, Aboriginal and Torres Strait Islander people, culturally, religiously and linguistically diverse people, young people, older people, women, and people who identify as gay, lesbian, bisexual, transgender, intersex, queer or asexual (LGBTIQA+).

Promoting diversity through procurement can build and improve competition and value for money, as well as build stronger communities and promote improved social outcomes. It should be a consideration in every procurement project and reflect corporate commitment to diversity opportunities wherever possible.

Council Officers will be encouraged to seek products, services and providers that:

- undertake corporate social responsibility activities;
- actively support or employ people who may face employment or other social barriers including Aboriginal and Torres Strait Islander owned and/or operated or employing Aboriginal and Torres Strait Islander people⁵;
- are inclusive of the needs of people with disabilities;
- are LGBTIQA+ owned and/or operated or employing LGBTIQA+ people; and
- improve gender equality.

3.6 Gender Equality

Council is committed to promoting gender equality and respect for all within our organisation and community. Council recognises that businesses and workplaces are important settings to advance gender equality and diversity, and provide safe, respectful and inclusive work environment. By improving organisational culture, work environment and practices, Council can ensure that everyone has equitable access to resources, power and opportunities. Intersectional gender equality is proven to increase business performance and deliver diversity of thought leading to more innovative solutions, inclusive and positive work culture and relationships.

Promoting gender equality and diversity through procurement can improve competition, the quality of public services, satisfaction among users and community relations, and must be considered in procurement activity.

⁵ Refer to the websites listed in Appendix 1
Procurement Policy

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

Under the *Gender Equality Act 2020* Council is obliged to promote gender equality in its policies, programs and services. Council officers are therefore, in line with the above, encouraged to seek products, services and providers that also promote gender equality.

3.7 Local Sustainability

Council is committed to preferentially purchasing from local business within the municipality where such purchases may be justified on the basis of delivering best value outcomes. As such, local sustainability is a mandatory weighted evaluation criteria for all quotes and tenders exceeding \$50,000.

4 Apply a Consistent and Standard Approach

Council will provide effective and efficient commercial arrangements for the acquisition of goods, services and works.

4.1 Standard Processes

Council will provide effective processes to procure products and services in an efficient manner. This will be achieved via establishing and maintaining:

- procurement processes, procedures and templates;
- procurement tools and systems;
- procurement reports; and
- applicable standard Contract terms and conditions.

4.2 Management Information

Strategic Procurement will seek to improve procurement performance by capturing and analysing procurement management information in a variety of areas, including:

- volume of spend;
- number of transactions per supplier;
- cumulative and category spend;
- spend on environmental sustainable design, goods and services;

5 Build and Maintain Healthy Supply Relationships

Council recognises the importance of effective and open working relationships with its suppliers and is committed to managing existing suppliers via performance measurements to ensure the benefits negotiated through contracts are delivered.

5.1 *Developing and Managing Suppliers*

Council recognises the importance of effective and open working relationships with its suppliers and is committed to the following:

- managing existing suppliers via appropriate development programs and performance measurements to ensure that the deliverables are achieved;
- maintaining approved supplier lists; and
- developing new suppliers and improving the capability of existing suppliers where appropriate.

5.2 *Supply Market Development*

A wide range of suppliers should be encouraged to compete for Council work. The focus for new work need not always be with the larger more familiar businesses. Other types of suppliers offering business diversity include:

- local businesses;
- sustainable suppliers;
- small to medium sized enterprises;
- social enterprises;
- women-owned and/or run businesses;
- ethnic and minority business;
- voluntary and community suppliers; and
- indigenous/aboriginal suppliers.

5.3 Relationship Management

Council is committed to developing constructive long term relationships with suppliers. It is important that Council identifies its key suppliers so that its efforts are focused to best effect. Such development may include:

- size of spend across Council;
- criticality of goods / services to the delivery of Council's services;
- availability of substitutes; and
- market share and strategic share of suppliers.

5.4 Communication

External communication is very important in ensuring a healthy interest from potential suppliers and partners to Council. The external website will provide:

- information about [how to participate in quotes and public tenders](#);
- guidelines for doing [business with Council](#); and
- a copy of this Procurement Policy.

6 Collaborative Procurement

As part of its planning process for tenders, Council will consider its procurement options, including whether to go to market itself, participate in regional or sector collaboration or access established contracts via State Government, MAV or other compliant Procurement agreements.

Council may collaborate with other Councils based on similar requirements for products, goods or services. In doing so, Council may appoint another council to act as its Agent or for Council to act as Agent for other councils.

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

Where Council requires an Agent to act on Council's behalf for the Tendering process, governance arrangements will require:

- formal appointment of the Agent; and
- a review of the Specification to meet Council's requirements.

Prior to the appointment of an Agent to act on Council's behalf, the Chief Executive Officer must provide 48 hours' notice to Councillors of the intention to appoint an Agent before the appointment is made. This will include any alternative options available and the reasons why this arrangement is being recommended.

Prior to accessing a State Government, MAV or PA contract, a recommendation report must be approved by Council or an officer with the appropriate delegation.

Tender recommendation reports to Council will also include information in relation to any opportunities for collaboration with other Councils or public bodies which may have been available.

7 Continuous Improvement

Council is committed to continuous improvement and will review the Procurement Policy at least once during each four year term of Council to ensure that it continues to meet its wider strategic objectives.

8 Policy Owner and Contact Details

The Manager Strategic Procurement, Monash City Council is the designated owner of this policy.

For further information on the policy, please contact the Manager via: mail@monash.vic.gov.au.

Attachment 7.4.1.4 Proposed Amended Procurement Policy for Adoption

Attachment 5.4.3.2 Attachment C - Amended Procurement Policy

Appendix 1: Useful links to Aboriginal and Torres Strait Islander businesses

Supply Nation: <https://supplynation.org.au/>

Kinaway: <https://kinaway.com.au>