

## PURPOSE

To establish and standardise the procedures for procurement of goods, services and works<sup>1</sup>.

## 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:** 31/10/2023

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

## Table of Contents

<b>Table of Contents .....</b>	<b>2</b>
<b>Procurement Policy Statement .....</b>	<b>3</b>
<b>1 Principles.....</b>	<b>3</b>
1.1 Background .....	3
1.2 Scope .....	5
1.3 Purpose .....	5
1.4 Treatment of GST .....	5
1.5 Definitions and Abbreviations .....	6
<b>2 Effective Legislative and Policy Compliance and Control .....</b>	<b>8</b>
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
<b>3 Demonstrate Sustained Value.....</b>	<b>29</b>
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
<b>4 Apply a Consistent and Standard Approach .....</b>	<b>34</b>
4.1 Standard Processes .....	34
4.2 Management Information .....	34
<b>5 Build and Maintain Healthy Supply Relationships.....</b>	<b>35</b>
5.1 Developing and Managing Suppliers .....	35
5.2 Supply Market Development .....	35
5.3 Relationship Management .....	36
5.4 Communication .....	36
<b>6 Collaborative Procurement.....</b>	<b>36</b>
<b>7 Continuous Improvement .....</b>	<b>37</b>
<b>8 Policy Owner and Contact Details .....</b>	<b>37</b>

## 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

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

<b>Term</b>	<b>Definition</b>
<b>Contract Management</b>	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 <a href="#">Contract Management Manual</a> .
<b>Contract Value</b>	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.
<b>Council Staff</b>	Includes full-time, part-time officers, casual and temporary employees.
<b>Exceptional Circumstances</b>	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.
<b>eTender Portal</b>	Online service where Tenders can be issued and lodged electronically.
<b>Expression of Interest (EOI)</b>	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.
<b>Group A and Group B</b>	As per the Schedule of Miscellaneous Sub-Delegations by the Chief Executive Officer to Council Staff.
<b>Probity</b>	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.
<b>Probity Auditor</b>	A party appointed to ensure that the procurement process is conducted in accordance with legislation, best practice principles and Council's Procurement Policy.
<b>Procurement</b>	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.
<b>Quotation</b>	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).

<b>Term</b>	<b>Definition</b>
<b>Registered Contract</b>	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.
<b>Sustainability</b>	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.
<b>Tender</b>	A written proposal submitted, via the eTender Portal, in response to a public or selective invitation for the supply of goods, services and works.
<b>Tender Process</b>	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;

- 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.

### **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](http://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)

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 recommenced.

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 <sup>2</sup> . 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.

<sup>2</sup> This approval is not required for planning appeal matters

<b>Exemptions from Tendering</b>	<b>Description</b>
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"> <li>a. Statutory Compulsory Monopoly Schemes, including Work Cover and third party motor vehicle insurance;</li> <li>b. Other compulsory statutory bodies, including any, legislated service providers; and</li> <li>c. Supply of goods, services or works that can only be provided from a monopoly supplier with no available alternatives.</li> </ul> <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.

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;
- 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 service<sup>3</sup>;
- 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.

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<sup>3</sup>In 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
<b>NON-PRICE CRITERIA</b>	Capacity and Capability	30%	30%	Experience Resources Risk Management Legal Compliance Performance and Innovation Proposed Program Other as required
	Sustainability* <b>(Mandatory)</b>	20% minimum	10%	Environmental Sustainability Local Sustainability Social Sustainability
<b>Price Criteria</b>	Price <b>(Mandatory)</b>	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,

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;

<b>Benefit</b>	<b>Impact</b>
<b>Local sustainability</b>	Strengthening the local economy and ensuring its financial and environmental sustainability.
<b>Employment and training</b>	Creating local employment opportunities through clauses and specifications in Council contracts. Developing practical training to build long-term employment opportunities.
<b>Gender Equality</b>	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.

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

### 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 Management<sup>4</sup>**

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.

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<sup>4</sup> Please refer to Council's separate Contract Management Manual for further information.

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 people<sup>5</sup>;
- 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.

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<sup>5</sup> Refer to the websites listed in Appendix 1

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.

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](mailto:mail@monash.vic.gov.au).

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

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

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