

# PROCUREMENT POLICY

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<b>Approved by</b>	Council
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<b>Applicable to Unit(s):</b>	Whole Organisation
<b>Responsible Officer:</b>	Manager Corporate Finance
<b>Related Policies:</b>	Risk Management Policy Fraud Control Policy Best Value and Competitive Neutrality Climate Change and Sustainability Policy Conflict of Interest Policy Fleet Guidelines
<b>Related Documents:</b>	Nil
<b>Statutory Reference:</b>	<i>Local Government Act 1989</i> <i>Local Government Act 2020</i>

## OVERVIEW

To provide guidance to the Council to allow consistency and control over procurement activities.

## THE POLICY

### 1. Principles

#### 1.1 Policy Objective

The objective of this Policy is to:

- facilitate compliance with relevant legislative requirements;
- provide policy and guidance to the Council to allow consistency and control over Procurement activities;
- demonstrate accountability to ratepayers;
- provide guidance on ethical behaviour in local government purchasing;
- demonstrate the application of elements of best practice in purchasing; and
- increase the probability of obtaining the right outcome when purchasing goods and services.

#### 1.2 Associated Policies, Guidelines and Procedures

This Policy forms part of Council's overall procurement policies and guidelines and should be read in conjunction with the following:

- Wellington Shire Council (WSC) Tenders, Expressions of Interest and Contracts System (TECS)
- Best Practice Guide for Tendering and Contract Management (Victorian Civil Construction Industry)
- Victorian Local Government Best Practice Procurement Guidelines (Department of Planning

& Community Development)

- Social Procurement: A Guide for Victorian Local Government
- *Trade Practices Act 1974*
- *Security of Payments Act 1999*
- *Local Government Act 1989*
- *Local Government Act 2020*
- *Local Government (Planning and Reporting) Regulations 2020*
- Wellington Shire Council Risk Management Policy
- OH&S Management System, section 4
- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Environment Protection Act 2017*
- *Modern Slavery Act 2018*
- *Australian Consumer Law and Fair Trading Act 2012*
- Wellington Shire Council Best Value and Competitive Neutrality Policy
- Wellington Shire Council Fraud Control Policy
- Wellington Shire Council S7 Instrument of Sub-Delegation by CEO to staff
- Wellington Shire Council Environmental Sustainability Policy
- Wellington Shire Council Employee Code of Conduct
- Wellington Shire Council Councillor Code of Conduct
- Wellington Shire Council Conflict of Interest Policy
- Wellington Shire Council Cashiers Manual
- Wellington Shire Council Corporate Credit Card Guidelines
- Wellington Shire Council Fleet Guidelines

### **1.3 Background**

Wellington Shire 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 by Council, will enhance achievement of council objectives such as sustainable and socially responsible procurement; cost savings, supporting local economies; achieving innovation; and better services for communities.

The elements of best practice applicable to local government Procurement incorporate:

- broad principles covering ethics, value for money, open and fair competition, risk management, probity and transparency, responsibilities and accountabilities;
- 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 simple Procurement to high value complex Procurement.

Council's contracting, purchasing and contract management activities endeavour to:

- support the Council's corporate strategies, aims and objectives including, but not limited to

those related to sustainability, protection of the environment, and corporate social responsibility;

- span the whole life cycle of an acquisition from initial concept to the end of the useful life of an asset, including its disposal, or the end of a service contract;
- achieve value for money and quality in the acquisition of goods, services and works by the Council;
- demonstrate that public money has been well spent;
- provide a robust and transparent audit trail which ensures that procurement objectives are delivered on time, within cost constraints and that the needs of end users are fully met;
- are conducted, and are seen to be conducted, in an impartial, fair and ethical manner;
- seek continual improvement including the embrace of innovative and technological initiatives such as electronic tendering processes to reduce activity cost; and
- generate and support business in the local community.

## 1.4 Scope

This Procurement Policy is made under Section 108 of the *Local Government Act 2020* (the Act). The Act requires each council to:

- Prepare and adopt a procurement policy which specifies the principles, processes and procedures applying in respect of the purchase of goods and services and carrying out of works by the Council: and
- Review it's procurement policy at least once during each 4 year term of the Council.

This Policy applies to all contracting and procurement activities at Council and is binding upon Councillors, Council Officers and temporary employees, contractors and consultants while engaged by the Council.

The Act and this Procurement Policy are the primary reference points for how all procurement will be undertaken.

## 1.5 Purchase Order Exemptions

Purchases not requiring a purchase order are listed in Appendix A. This is owing to the nature of the purchases.

## 1.6 Treatment of GST

All monetary values stated in this policy include GST except where specifically stated otherwise.

## 1.7 Definitions and Abbreviations

Term	Definition
The Act	<i>Local Government Act 2020</i>
Category Management	A 'Category' is an area of spend determined by known market boundaries separating different products, services or industries. Category management recognises that suppliers within a certain market are likely to have similarities which enable a tailored approach to procurement.
Collaborative Procurement Arrangement	A contract established by the Council, government or a nominated agent, such as Procurement Australia,

	Municipal Association of Victoria (MAV), Group of Councils or a local government entity, for the benefit of numerous state, federal and/or local government entities that achieves best value by leveraging combined economies of scale.
Contract Management	The process that ensures both parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide value for money.
Council Staff	Includes full time and part-time council officers, and temporary employees, contractors and consultants while engaged by the Council.
Local suppliers	Located within Wellington Shire, then preference for Gippsland, Victoria or Australia (as opposed to inter-state or international suppliers).
Probity	The dictionary definition of probity refers to uprightness, honesty, proper and ethical conduct and propriety in dealings. Within Local Government, the word "probity" is often used in a general sense to mean "good process." A Procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with the Council's policies and legislation are established, understood and followed throughout the procurement process. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.
Procurement	Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.
e-Procurement	e-Procurement is integral to the overall development of procurement processes and involves the use of an electronic system to acquire and pay for supplies, services and works.
Quotation	An offer to sell goods at a stated price and under specified conditions.
Tender Process	The process of inviting parties to submit a quotation or tender by public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.
Expression of Interest (EOI)	An invitation to submit an EOI for the provision of the Goods and/or Services generally set out in the overview of requirements contained in the document. This invitation is not an offer or a contract.

## **2 Effective Legislative and Policy Compliance and Control**

### **2.1 Ethics and Probity**

#### **2.1.1 Requirement**

The Council's procurement activities shall be performed with unquestionable integrity and in a manner able to withstand the closest possible scrutiny.

All tender processes shall be conducted in accordance with the requirements of this Procurement Policy and any associated procedures, relevant legislation, relevant Australian Standards, Commercial Law and *the Act*.

#### **2.1.2 Conduct of Councillors and Council Staff**

##### **2.1.2.1 General**

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

- comply with Council's policies, guidelines, procedures and applicable legislation;
- comply with Council's Codes of Conduct (Staff and Councillors), in particular relating to Conflict of Interest provisions;
- not participate in any aspect of the procurement process unless acting in the capacity of Council at a formally constituted Council meeting to consider the awarding of a contract;
- treat potential and existing suppliers with equality and fairness;
- not seek or receive personal gain;
- maintain confidentiality of matters deemed to be Commercial in Confidence; such as contract prices and other sensitive information;
- present the highest standards of professionalism and probity;
- deal with suppliers in an honest and impartial manner that does not allow conflicts of interest;
- provide all suppliers and tenderers with the same information and equal opportunity;
- be able to account for all decisions and provide feedback on them;
- maintain fair, equitable and non-discriminatory procedures for addressing complaints and concerns raised by suppliers or members of the community regarding Council's procurement activities, and
- report matters if they are concerned that improper conduct is being undertaken, this includes:
  - Corrupt conduct
  - A substantial mismanagement of public resources
  - A substantial risk to public health or safety; and
  - A substantial risk to the environment.

Council Staff responsible for managing or supervising contracts are prohibited from performing any works under the contract they are supervising.

### 2.1.3 Conflict of Interest

Councillors and Council staff shall at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties.

Councillors and Council staff involved in the procurement process, in particular preparing tender documentation, including writing tender specifications and tender evaluation panels, must:

- **Avoid** conflicts, whether actual, potential or perceived, arising between their official duties and their private interests. Private interests include the financial and other interests of Councillors and Council Staff, plus their relatives and close associates.
- **Declare** that there is no conflict of interest. Where future conflicts, or relevant private interests arise Council Staff must complete an Employee Declaration and Management of Conflict of Interest Form, make their manager, or the chairperson of the relevant tender assessment panel or board aware and allow them to decide whether the officer should continue to be involved in the specific Procurement exercise.
- **Observe** prevailing Council and Local Government Victoria guidelines (in particular the Staff Code of Conduct and the Conflict of Interest Policy) on how to prevent or deal with conflict of interest situations; and not take advantage of any tender related information whether or not for personal gain.

Refer to *1.2 Associated Policies, Guidelines and Procedures* for more information.

### 2.1.4 Fair and Honest Dealing

All prospective contractors and suppliers must be treated impartially and afforded an equal opportunity to participate in a procurement activity.

Any suspected improper conduct, including suspected fraud, corruption, substantial mismanagement of public resources, risk to public health and safety, risk to the environment, or detrimental action should be managed in accordance with Council's internal policies and processes.

### 2.1.5 Modern Slavery

Council is committed to operating lawfully and ethically. We expect our suppliers to operate in accordance with all applicable modern slavery laws including those prohibiting human slavery and slavery like practices, human trafficking, and child labor. We value and observe all laws regarding corporate social responsibility, environmental and workplace safety protection and staff inclusion and diversity.

### 2.1.6 Probity, Accountability and Transparency

Accountability in procurement means being able to explain and provide evidence on the process followed. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.

Therefore, the processes by which all procurement activities are conducted will be in accordance with the Council's Procurement policies and procedures as set out in this policy and related Council policies and procedures.

Additionally:

- all Council Staff must be able to account for all Procurement decisions made over the lifecycle of all goods, services and works purchased by the Council and provide

feedback on them; and

- all procurement activities are to leave an audit trail for monitoring and reporting purposes.

### **2.1.7 Gifts, Benefits and Hospitality**

Staff are obliged to notify their Manager of any gift, reward or benefit that they have received or have been offered. All gifts and acts of hospitality, regardless of their value, must be declared using the Gifts, Benefits and Hospitality Declaration Form and included in Council's Gifts, Benefits and Hospitality Declaration Register.

Staff should not accept any gift where there is, or where there may be, the perception of a conflict of interest with past, present or future duties, or where the object of the gift is to maintain or return a favour.

Offers of bribes, commissions or other irregular approaches from organisations or individuals must be promptly brought to the attention of their Manager.

Councillors and Council Staff, particularly contract supervisors:

- Must not knowingly visit a current supplier's premises without invitation when acting in their official capacity; and
- Must not knowingly engage a Council supplier for private benefit, unless that engagement is on proper commercial terms.

### **2.1.8 Reward and Loyalty Program Participation**

Councillors and Council Staff cannot accumulate reward or loyalty program credits on purchases made on behalf of Council or accept any discounts through the use of Council corporate credit or fuel cards.

Participation in a reward or loyalty program must not influence procurement decisions.

### **2.1.9 Disclosure of Information**

Commercial in Confidence information received by Council must not be disclosed 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 disclosed by organisations in Tenders, Quotations or during Tender negotiations;
- All information that is Commercial in Confidence; and
- Pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-tender negotiations.

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

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

At no stage should any discussion be entered into which could have potential contractual implications prior to the Contract approval process being finalised other than through authorised pre-contract negotiations.

## **2.2 Governance**

### **2.2.1 Structure**

The Council shall:

- establish a procurement management responsibility structure and delegations ensuring accountability, traceability and auditability of all Procurement decisions made over the lifecycle of all goods, services and works purchased by the Council;
- ensure that the Council's Procurement structure:
  - obtains value for money
  - is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required by Council;
  - ensures that prospective contractors are afforded an equal opportunity to register as an approved preferred contractor;
  - encourages competition.

### **2.2.2 Responsible Financial Management**

The principle of responsible financial management shall be applied to all procurement activities. Accordingly, to give effect to this principle, the availability of existing funds within an approved budget, or source of funds, shall be established prior to the commencement of any Procurement action for the supply of goods, services or works.

Council Staff must not authorise the expenditure of funds in excess of their financial delegations. (Refer to 2.4.1 and 3.4.1)

Council staff must not disclose allocated procurement activity budgets to suppliers.

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.

### **2.2.3 Fraud Prevention**

Council is committed to fraud prevention and as part of the requirements under this Policy Council will support a fraud-resistance culture by;

- Reporting breaches of the Procurement Process to the General Manager Corporate Services and the Chief Executive Officer;
- Reporting material breaches of the Procurement process to the Audit & Risk Committee;
- Investigate potential breaches of the Procurement Policy;
- Run regular reports to identify potential fraudulent transactions;
- Require all Tender Evaluation panel members to sign conflict of interest and confidentiality declarations prior to evaluating any tenders and for the life of the contract.

### **2.2.4 Reporting Fraud and Complaints**

Council regards all allegations of improper conduct and complaints about the procurement process as serious and is committed to handling such disclosures in a sensitive and confidential manner.



Feedback or general complaints about procurement processes and procedures should be directed to the Procurement Coordinator and/or Manager Corporate Finance.

Members of the public, suppliers and Council staff are encouraged to report allegations of improper or corrupt conduct by a public officer involved in any Council procurement process. A disclosure relating to alleged improper or corrupt conduct of a public officer of Council can be made in person, via phone, in writing (letter or email) or anonymously. Disclosures can be made to:

- General Manager Corporate Services; or
- The Independent Broad-Based Anti-Corruption Commission (IBAC), GPO Box 24234, Melbourne Victoria 3000, Internet [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au).

## **2.3 Procurement Thresholds and Competition**

The Purchase of goods, services and works to the value of \$250,000 or more, including GST, for the whole term of the contract will be undertaken by an open public tender process, unless one of the nominated and/or legislated exemptions apply including the declaration of an “emergency event” by the Chief Executive Officer.

When an emergency event is declared it will be managed in accordance with the Chief Executive Officer’s delegation for contracts specifically relating to repair and remediation requirements directly attributable to that emergency event.

Tenders will be advertised on Council’s website as well as advertised in selected local newspapers.

### **2.3.1 Requirement**

The Council will from time to time decide and publish in this policy clear guidelines for minimum spend competition thresholds. These will be decided by the Council based on the size and complexity of the proposed procurement activities.

Where a Purchase Order is used, it must be raised prior to the purchase being made following the required quotation process (according to the level of expenditure as reflected in Table 1).

Suppliers will be informed that they must receive a Council purchase order prior to the supply of goods and services and quote the purchase order reference number on their invoice that must be emailed to Accounts Payable after the supply of their goods and services.

### **2.3.2 Approved Methods**

The Council’s standard methods for purchasing goods, services and works shall be by:

- corporate credit card;
- purchase order which must be raised prior to the purchase being made, following a quotation process;
- under contract following a tender process; or quotation processes; or
- Group Purchasing Schemes - where the Council is satisfied that Value for Money requirements have been satisfied, under purchasing schemes including collaborative purchasing arrangements with other Councils and commercial schemes such as provided by MAV Procurement or Procurement Australia; or

- Using Collaborative Procurement Arrangements; or
- unless arrangements otherwise authorised by the Council or the CEO on a needs basis are required by abnormal circumstances such as emergencies; or
- Miscellaneous petty cash purchases are being phased out.

The Council may, at its discretion and based on the complexity and cost of the project, conduct one stage or multi-stage tenders.

Typically, a multi-stage tender process will commence with an expression of interest stage followed by a tender process involving the organisations selected as a consequence of the registration of interest stage.

Expressions of Interest (EOI) may be appropriate where:

- the requirement is complex, difficult to define, unknown or unclear;
- the requirement is capable of several technical solutions;
- the Council wishes to consider ahead of formal tender processes such issues as whether those tendering possess the necessary technical, managerial and financial resources
- tendering costs are likely to be high and Council seeks to ensure that companies incapable of supplying the requirement don't incur unnecessary expense;
- it is necessary to pre-qualify suppliers and goods to meet defined standards; and
- the requirement is generally known but there is still considerable analysis, evaluation and clarification required (both of the objective and the solution).

### **2.3.3 In the Event of Emergency**

Circumstances under which procurement may be undertaken under this clause are as follows:

- An emergency exists as defined by the *Emergency Management Act 2013*; and
- The Chief Executive Officer has declared in writing that an emergency exists; and is satisfied that procurement needs to be undertaken immediately.

Situations where this might occur include:

- During the period where a natural disaster has been declared such as flooding, bushfire or epidemic that may require the immediate procurement of goods, services or works to provide relief;
- The occurrence of an event such as flooding or fire at a Council property which may require the immediate procurement of goods, services or works to ensure business continuity;
- The unforeseen cessation of trading of a core service provider to Council resulting in a need to appoint a replacement service provider on the grounds of public safety;
- An unforeseen event which impacts heavily and unsustainably on Council's level of service to the community and represents an immediate risk to health or safety; or
- Any other situation which may constitute a risk to health, life or property.

Procurement made under the Emergency provisions must be in accordance with Council's Financial Delegations and be limited in scope to what is necessary to deal with the immediate emergency.

The Emergency provision must not be used for new or extended works and services after the need for an emergency response has passed. Immediately after the Chief Executive Officer declares that an Emergency no longer exists, the use of this power ceases.

#### **2.3.4 Appointment of an Agent for Procurement**

In consideration of the appropriate Procurement process to follow, Council may join with other Councils as a defined group, based on similar requirements for products, goods or services. In doing so, Council may nominate to appoint another council to act as Council's Agent or for Council to act as Agent for other Councils.

Council is able to access contracts from State Government, Municipal Association of Victoria Procurement (MAVP) and Procurement Australia (PA). This means that Council can utilise the rates and suppliers established under any existing State Government, MAVP or PA contract without the requirement to complete the formal agency appointment process. This does not negate the requirement for financial approval dependent on delegation limits.

Where Council requires an agent to act on Council's behalf for the tendering process, governance arrangements will be required including;

- Formal appointment of the agent;
- Review of the Specification to meet Council's requirements; and
- Advice to the agent of Council's Procurement Policy requirements including evaluation criteria, Tender panel and weightings to the criteria.

#### **2.3.5 Minimum Spend Competition Thresholds**

Purchase of all goods, services and works for which the estimated expenditure exceeds \$250,000 (inclusive of GST), must be undertaken by public tender.

However, this does not preclude the tendering for contract works of lesser amounts should this be in the best interests of a value for money outcome.

In addition, where there is a possibility that the service being provided may exceed the threshold, then it should also be tendered.

The level of expenditure in accordance with Table 1 determines the appropriate procurement methodologies. Staff should consider the total value of the procurement for an ongoing commitment. Tenders should be called for all high-risk procurement (eg. reputational, multiple suppliers within Shire) no matter what the expenditure level.

#### **2.3.6 Exemptions from tendering**

The Chief Executive Officer (CEO) or Council, depending on Financial Delegation limits, can approve an exemption from publicly advertising a tender.

The following circumstances, when approved, can be exempt from the general publicly advertised tender, quotations and expression of interest requirements:

<b>Exemption Name</b>	<b>Explanation, limitations, responsibilities and approvals</b>	<b>Approval by</b>
A contract made because of genuine	Where the Council, CEO or Appropriate Delegate needs to enter into	Approved by the CEO up to approved Financial

Exemption Name	Explanation, limitations, responsibilities and approvals	Approval by
emergency or hardship	arrangements in response of an emergency (e.g. to provide immediate response to a natural disaster, declared emergency)	Delegation  Approval by Council when above the CEO Financial Delegation
A contract made with, or a purchase from a contract made by, another government owned entity or other approved third party	This general exemption allows engagements: <ul style="list-style-type: none"> <li>○ With another government entity or government owned entity.</li> <li>○ In reliance on contracts and arrangements established by another government group purchasing scheme, Municipal Association of Victoria (MAV) or National Procurement network members, Procurement Australia (PA)</li> </ul>	Approved by the CEO up to approved Financial Delegation  Approval by Council when above the CEO Financial Delegation
Extension of contracts while Council is at market	<ul style="list-style-type: none"> <li>○ Allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or are taking longer than expected.</li> <li>○ This exemption may be used when the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.</li> </ul>	Approved by the CEO up to approved Financial Delegation  Approval by Council when above the CEO Financial Delegation
Professional services unsuitable for tendering	<ul style="list-style-type: none"> <li>○ For the procurement of Legal Services</li> <li>○ Where Council must take out specific insurance requirements specified by law or another instrument.</li> </ul>	Approved by the CEO up to approved Financial Delegation  Approval by Council when above the CEO Financial Delegation
Novation of Contracts	Where the initial contract was entered into in compliance with <i>the Act</i> and	Approved by the CEO up to approved Financial Delegation

Exemption Name	Explanation, limitations, responsibilities and approvals	Approval by
	due diligence has been undertaken in respect to the new party.	Approval by Council when above the CEO Financial Delegation
Information technology resellers and software developers	Allows Council to renew software licenses and maintenance and support, or upgrade existing systems, where there is only one supplier of the software who holds the intellectual property rights to the software.	Approved by the CEO up to approved Financial Delegation  Approval by Council when above the CEO Financial Delegation
Statutory Compulsory Monopoly Insurance Schemes	<ul style="list-style-type: none"> <li>Motor vehicle compulsory third party</li> <li>WorkCover</li> </ul>	Approved by the CEO up to approved Financial Delegation  Approval by Council when above the CEO Financial Delegation
Operating Leases	Where a lessor leases an asset (generally a vehicle or plant and equipment) to the Council and assumes the residual value risk of the vehicle.	Approved by the CEO up to approved Financial Delegation  Approval by Council when above the CEO Financial Delegation
Other specific Council Exemptions	<ul style="list-style-type: none"> <li>The CEO may approve ad-hoc exemptions in exceptional circumstances within the financial Delegation where it can be demonstrated that it is in the best interests of the community to do so. If exceeding the financial delegation exemption must be referred to Council for approval.</li> <li>The public tender threshold and related exemptions also apply to collaborative procurements.</li> </ul>	Approved by the CEO up to approved Financial Delegation  Approval by Council when above the CEO Financial Delegation

### 2.3.7 Sole source procurement exemptions

Council may at times make purchases at values above the single quoted threshold, normally requiring a competitive process (multiple quotes or formal tender) but may find there is no competitive market for that particular product or service. One example is software licences

which are only available from the vendor/manufacturer of that software and therefore a requirement to seek multiple quotes or tender responses is unenforceable.

Only the Chief Executive Officer, within financial delegations, can provide an exemption when seeking a sole source procurement exemption from public tendering and this must be obtained prior to the supplier quoting. If exemption is given, this is to be included in the recommendation report to the relevant approver as part of the purchase justification.

### **2.3.8 Collaboration**

In accordance with the Act, section 108(3)(c), Council will seek to collaborate with other Councils and Public Bodies through the various networks. Other networks in which Council staff are engaged may also provide collaboration opportunities depending on the procurement opportunity being considered.

Collaboration will be sought where it can be demonstrated that the Value For Money proposition will be improved by the scaling up of the opportunity with the inclusion of other Councils and Public Bodies. Value for Money, in regard to collaboration, will consider the relative cost reductions achieved by the scaling up of the opportunity in comparison to any additional costs incurred such as delays to accommodate timing differences between Councils, the multi-party contract management regime imposed, and the contractual complexities incurred such as handling of securities and early contract withdrawal by one or more parties. Collaboration will be sought by email request to the Procurement representative of each Gippsland RPEN member inviting their interest in collaborative participation. Relevant opportunities will also be communicated with other networks and government bodies on a per opportunity basis.

In accordance with the Act, section 109(2), each report to Council recommending entering into a procurement agreement, will include information relating to the opportunities for collaboration.

### **2.3.9 Value for Money**

Value for Money is the guiding principle of Council procurement decisions and is in accordance with the Act, Section 108(3)(b). Value For Money (VFM) seeks to make sound judgement procurement decisions based on much more than least cost. For each goods, services or works opportunity, VFM considers aspects relevant to financial and non-financial elements such as (but not limited to):

- Quality
- Longevity
- Fitness for purpose
- Operational costs
- Experience and performance history
- Flexibility, innovation and adaptation
- Whole of life costs including acquisition, decommissioning and disposal costs
- Environmental impact including recyclability or reuse considerations
- Backup and Support systems
- Licensing, registering and training costs
- Legal costs
- Risk, security and safety considerations.

The relevant aspects of each procurement are to be considered by each officer in making each procurement decision.

In a multi-quote and tendered opportunity, the relevant VFM elements form the assessment criteria and are weighted and scored as a quantitative means to determine the offer representing best value for money to Council. These criteria and their weighting are to be established and fixed prior to quotes and tenders being sought, are to be included in the quote/tender documentation, and then responses evaluated once all responses have been provided. The response evaluation is to be included with the recommendation to the final tender/contract approver.

### 2.3.10 Further guidance

Should a matter arise that is not covered by this Policy or the relevant Legislation, Standards, Guidelines, other Council Policies, the matter must be referred to the Coordinator Procurement/Manager Corporate Finance to determine the appropriate action.

**TABLE 1**

		EXPENDITURE LEVEL (INC. GST)				
		<\$100	\$100 to \$5,000	\$5,000 to \$25,000	\$25,000 to \$250,000 Goods/Services and Works	> \$250,000 Goods/Services and Works
Verbal Quote		1	1	2		
Supply contract purchasing scheme			Yes	Yes	Yes	Yes
Written Quote			Optional	Optional	3	
Public Tender				Optional	Tender optional. If not, contractors must be registered as preferred contractors	Yes Mandatory
APPROVED METHODOLOGY	Petty Cash	✓				
	Corporate Credit Card	✓	✓			
	Purchase Order		✓	✓	✓	✓
	Contract			✓	✓	✓

For the purposes of the table above the expenditure levels (inclusive of GST) are calculated as follows:

- for single one-off purchases shall be the value of, or estimated value of the purchase;
- for multiple purchases shall be the gross value of, or estimated gross value of all items to be purchased, i.e. buying 30 computers at \$2,000 each is not to be considered 30 separate one-off purchases, but is to be viewed as a spend of \$60,000, therefore

requiring 3 written quotes, a public tender, or use of a group purchasing scheme;

- for ongoing purchases over a period of time shall be the annual gross value of, or estimated annual gross value of purchases, i.e. hire of water carts over a 6-month period for different work sites around the Shire should be considered as one purchase of the same nature;
- for contracts spanning a number of years, the value of the expenditure is the total estimated spend for all years specified for the service, including any optional extension periods.

It is unacceptable to divide a particular procurement or procurement phase into separable parts or use a particular method for calculating the estimated total value of procurement for the purpose of circumventing an approach to the open market.

### **Verbal quotations**

Quotations must be sought as per Table 1, and details recorded in Council's corporate system, Authority, when raising the purchase order. Where only one quote is required, the receipt of purchase is sufficient for recording purposes.

### **Written quotations**

When written quotations are sought, details must be stored in Council's corporate record system, Authority, when raising the purchase order.

Council will endeavor to obtain at least one quote from a local supplier wherever possible. (refer to 4.1)

### **Insufficient quotations**

The situation may arise where insufficient quotations are received to satisfy the above requirements. This may occasionally occur where there are few local suppliers for the goods, services or works being sought or the work is highly specialised. In this case, the details of the contacted suppliers must be recorded in the corporate system and an appropriate comment recorded when raising the purchase order.

Random audits will be conducted on purchase orders of this nature.

### **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 legislated 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.

### **Approved Contractors**

Council shall maintain a register of approved contractors, who have met Council's requirements in terms of OH&S systems and processes and, where applicable, quality and environmental factors. All works must be undertaken by approved contractors.

## **2.4 Delegation of Authority**

### **2.4.1 Requirement**

Delegations define the limitations within which Council staff are permitted to work.



Delegation of procurement authority allows specified Council staff to approve certain purchases, quotations, tenders and contractual processes without prior referral to the Council. This enables the Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

Procurement delegations ensure accountability and provide confidence to Council and the public that purchasing activities are dealt with at the appropriate level.

The S7 Instrument of Sub-Delegation by CEO identifies Council Staff authorised to make procurement commitments in respect of goods, services and works on behalf of the Council.

#### **2.4.2 Delegations Reserved for the Council**

Council must approve the award of all contracts exceeding a limit as determined by the S5 Instrument of Delegation – Council to the Chief Executive Officer (\$400,000 as at 7 July 2021).

### **2.5 Internal Controls**

The Council will install and maintain a framework of internal controls over procurement processes that will ensure:

- more than one person is involved in and responsible for a transaction end to end (from purchase to payment);
- transparency in the procurement process;
- a clearly documented audit trail exists for procurement activities;
- appropriate authorisations are obtained and documented; and
- systems are in place for appropriate monitoring and performance measurement.

### **2.6 Commercial Information**

Procurement activities will be carried out in a way that supports Council staff in meeting their obligations - to ensure information of a commercially sensitive or confidential nature is obtained, stored, processed, published (where applicable) in an appropriate manner in accordance with the relevant Council guidelines.

### **2.7 Risk Management**

#### **2.7.1 General**

Risk Management is to be appropriately applied at all stages of Procurement activities which will be properly planned and carried out in a manner that will protect and enhance the Council's capability to prevent, withstand and recover from interruption to the supply of goods, services and works.

#### **2.7.2 Supply by Contract**

The provision of goods, services and works by contract potentially exposes the Council to risk.

The Council will minimise its risk exposure by measures such as:

- standardising contracts to include current, relevant clauses;
- where appropriate requiring security deposits, performance bonds and retention bonds;
- referring specifications to relevant experts;

- requiring contractual agreement before allowing the commencement of work;
- use of or reference to relevant Australian Standards (or equivalent); and
- effectively managing the contract including monitoring and enforcing performance.

## **2.8 Contract Terms**

All contractual relationships must be documented in writing based on standard terms and conditions, including dispute resolution and contract management requirements. Where this is not possible, approval must be sought from the Manager Corporate Finance. Upon approval, relevant procurement and legal advice should be sought where necessary.

To protect the best interests of the Council, terms and conditions must be settled in advance of any commitment being made with a supplier. Any exceptions to doing this exposes the Council to risk and thus must be authorised by the Manager Corporate Finance.

## **2.9 Contract Management**

The purpose of contract management is to ensure that the Council, and where applicable, its clients, receive the goods, services or works provided to the required standards of quality, costs and quantity as intended by the contract by:

- establishing a system of monitoring and achieving the responsibilities and obligations of both parties under the contract;
- providing a means for the early recognition of issues and performance problems and the identification of solutions;
- adhering to Council's Risk Management Framework and adhering to relevant Occupational Health and Safety Contractor compliance procedures; and
- ensuring goods, services and works have been completed to Council satisfaction prior to payment occurring.

Furthermore, contracts are to be proactively managed by the member of Council staff responsible for the delivery of the contracted goods, services or works to ensure the Council receives Value for Money.

## **2.10 Tender evaluation and evaluation criteria**

A Tender Evaluation Panel will be established to evaluate each Tender submission against the specified evaluation criteria. Tender Evaluation Panels can include both internal and external personnel in order to ensure the best outcome for a procurement activity and must comprise of at least 3 persons which includes the chairperson.

External personnel can also be included in the procurement process in an advisory role and not sit on the Tender Evaluation Panel or may sit on the Tender Evaluation Panel where technical or professional experience is required for the appropriate evaluation of submissions. Engagement of external advisors must be approved by the relevant General Manager.

A detailed Tender Procurement and Evaluation Plan shall be developed, approved and strictly adhered to by the Tender Evaluation Panel. This involves the establishment of detailed evaluation criteria and the application of a pre-approved and robust weighted scoring system.

The Tender Procurement and Evaluation Plan is to be completed and signed off prior to the Tender being issued to market.

All tender evaluation panel members must complete necessary declarations of no conflict of interest prior to receiving or evaluating any tenders.

## **2.11 Evaluation Criteria**

Council may include the following evaluation criteria categories to determine whether a proposed contract provides Value for Money and complies with Council's key principles and objectives (in addition to other relevant criteria for the particular procurement):

- tendered price;
- mandatory compliance criteria (e.g. ABN registration, OH&S, Fair Work Act);
- capacity of the tenderer to provide the Goods, Services or Works;
- capability of the tenderer to provide the Goods Services or Works;
- demonstration of sustainability;
- social procurement;
- environment;
- local content; and
- other specialised criteria may also be used, depending on the goods, service or works being sought.

## **3 Demonstrate Sustained Value**

### **3.1 Integration with Council Strategy**

The Council procurement policy shall support its corporate strategy, aims and objectives, including but not limited to those related to sustainability, protection of the environment, corporate social responsibility and meeting the needs of the local community such as:

- feeling safe;
- living in a clean and pleasant environment; and
- receiving good quality, well managed Council services that are Value for Money.

### **3.2 Achieving Value for Money**

#### **3.2.1 Requirement**

The Council's procurement activities will be carried out on the basis of obtaining Value for Money. This means minimising the total cost of ownership over the lifetime of the requirement consistent with acceptable quality, reliability and delivery considerations. Lowest price is not the sole determinant of best value.

#### **3.2.2 Approach**

This will be facilitated by:

- developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the organisation;
- effective use of competition;
- using aggregated contracts and standing offer arrangements (SOA) where appropriate;
- identifying and rectifying inefficiencies in procurement processes;
- developing a more cost efficient tender process including appropriate use of e-solutions;
- Council staff responsible for providing procurement services or assistance within the Council providing competent advice in terms of available products and agreements; 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 Role of Specifications**

Specifications used in quotations, tenders and contracts are to support and contribute to the Council's Value for Money objectives by being written in a manner that:

- clearly defines the Council's requirements;
- ensures impartiality and objectivity;
- encourages the use of standard products;
- encourages sustainability;
- eliminates unnecessarily stringent requirements; and
- determines the quality of the outcome.

## **3.3 Sustainability**

Sustainable procurement is the acquisition of necessary goods and services that have the least impact on the environment and human health, within the purchaser's capacity to do so. The Council is committed to achieving sustainable Procurement within the context of purchasing on a Value for Money basis, by ensuring that it monitors and reports on Council activities that have an impact on or contribute to the environment, including:

- waste management
- recycling
- energy management
- emission management
- water conservation
- climate change considerations
- gender equity considerations
- green building design; and
- procurement.

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

Wellington Shire Council recognises it has an implicit role in furthering sustainable development, through its procurement of goods and services and works and where applicable will integrate sustainability, environmental and social issues into the procurement process. The Council aims to achieve this by:

- Considering the environmental performance of all suppliers and contractors and encouraging them to conduct their operations in an environmentally sensitive manner;
- Considering the basic life cycle analysis of products to minimise the adverse effects on the environment resulting directly or indirectly from products;
- Working more effectively with local suppliers to ensure they are encouraged to bid for the Council's business in line with the Procurement Policy.

### **3.4 Performance Measures**

Council will establish and put in place appropriate performance measures. Reporting systems will be used to monitor performance against metrics and compliance with procurement policies, procedures and controls.

Council will use the performance measurements developed to:

- Highlight trend and exceptions where necessary to enhance performance;
- Improve the internal efficiency of the procurement process and where relevant the performance of suppliers; and
- Facilitate relevant programs to drive improvement in procurement to eliminate waste and inefficiencies across key spend categories.

#### **3.4.1 Breaches of the Policy**

Any possible breaches of the requirements of the Policy will be investigated and the contract will be listed in Council's Annual Report as required by the *Local Government (Planning and Reporting) Regulations 2020*.

Breaches of the spend thresholds for purchases below the requirements will be dealt with in the context of performance management discussions with the relevant staff.

## **4 Build and Maintain Supply Relationships**

Council recognises that in order to achieve sustainable value, appropriate relationships must be developed and maintained with suppliers and that it seeks to operate with 'informed choice' on what supply strategy it adopts – whether to 'do it yourself', participate in regional or sector aggregated projects or to access State Government panel agreements. Council will consider supply arrangements that deliver best value outcomes for council in terms of time, cost and value.

### **4.1 Support of Local Business**

Council is committed to:

- Ensuring that procurement practices are strategically aligned with Council's wider objectives;
- Purchasing ethical and fair trade goods to support equitable, local, national and international trade;
- Enhancing partnerships with community stakeholders, suppliers and other Councils; and
- Providing opportunities to businesses who support aboriginal people, people with disabilities and disadvantaged people.

In the first instance quotes must be obtained from a Local Supplier, and only where the local business cannot supply it, are deemed not capable, or cannot provide value for money, can suppliers outside of the local area be invited to quote.

### **4.2 Social Procurement**

Social procurement involves using procurement processes and purchasing power to generate positive social outcomes in addition to the delivery of efficient goods, services and works.

For Local Government social procurement builds on initiatives already undertaken by the sector

in enhancing sustainable and strategic procurement practice, enabling procurement to effectively contribute to building stronger communities.

Social procurement is a key mechanism by which to generate wider social benefits by providing a mechanism for linking and integrating social and economic agendas.

### **4.3 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 the appropriate development programs and performance measurements to ensure the benefits are delivered;
- Developing approved supplier lists; and
- Developing new suppliers and improving the capability of existing suppliers where appropriate.

### **4.4 Relationship Management**

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

- Size of spend across the Council;
- Criticality of goods / services, to the delivery of the Council's services;
- Availability of substitutes; and
- Market share and strategic share of suppliers.

### **4.5 Communication**

#### **External**

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

- Information about Council and how to become an approved contractor;
- A list of existing contract opportunities;
- Guidelines for doing business with Council; and
- Links to other relevant sites.

#### **Internal**

Council is committed to providing ongoing training to all staff with procurement responsibilities, which will include:

- Initial training prior to undertaking any procurement activities (new staff); and
- Ongoing annual refresher training for all staff engaged in procurement.

### **4.6 Continuous Improvement**

The Council is committed to continuous improvement and will review the procurement policy on an annual basis, to ensure that it continues to meet its wider strategic objectives.

In particular, Council will continue to explore the potential cost implications for 'greening' the

supply chain, and minimising waste through use of eco-friendly, recycled or recyclable products.

## **APPENDIX A**

EXEMPTION LIST – No Purchase Orders Required (Corporate Credit Cards are alternative to purchase orders)

- Accommodation/travel (via credit card)
- Advertising placement fees
- Agency Staff (including labour hire contractors and umpires)
- Audit & Risk Committee
- Community Hall Hire
- Conferences
- Contractual Agreements (i.e. software maintenance/licences, debt collection, leases, secure pay)
- Contributions (i.e. grants, sponsorships, Committee of Management (COM) operating subsidy)
- Councillor Allowances & reimbursements
- Daily food purchases for Aqua Energy café/kiosk (i.e. fruit, vegetables, bread)
- E-tags
- Emergency after- hours repairs/maintenance, up to 3 days after emergency first occurred
- Fuel Accounts
- Government/statutory charges (i.e. EPA levy, licenses, police checks)
- Insurances (including work cover)
- Legal Fees
- Medical Expenses
- Memberships/subscriptions
- Milk
- Postage
- Rental (property)
- Photocopier volume charges
- Reactionary maintenance – fire hydrants
- Reimbursements/refunds (employees and others)
- Royalties – (The Wedge shows etc)
- Security Services i.e. call out fees (not contract charges)
- Training courses
- Utilities – electricity, phone, water, gas, street lighting etc
- Vehicle Registration
- Vet accounts (i.e. euthanasia of animals)



## HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

## REVISION HISTORY

VERSION	MAJOR / MINOR UPDATE	SUMMARY OF CHANGES
1.0	Not applicable	Policy remains current