

COUNCIL MEETING

REVISED AGENDA



(Open to the public)

6.30pm, Monday 22 April 2024

Council Chamber, 8 Inglesby Road, Camberwell

Date of Issue: 19 April 2024

Please note: No audio, video, photographic or any other recording of proceedings at Council or Delegated Committee meetings is permitted without written authority from Council.

Order of Business

- 1 Adoption and confirmation of the minutes for the Council meetings held on 25 March 2024**
- 2 Declaration of conflict of interest of any councillor or council officer**
- 3 Deputations, presentations, petitions and public submissions**
- 4 Informal Meetings of Councillors**
- 5 Public question time**
- 6 Notices of motion**
- 7 Presentation of officer reports**
 - 7.1 Revised Instrument of Delegation - Council to Council Staff
 - 7.2 Instrument of Appointment and Authorisation - Environment Protection , 2017 & Planning and Environment Act 1987
 - 7.3 Proposal to take title to land remaining unsold from a previously discontinued road - Rear 34 to 60 First Avenue and 2 to 30 Maitland Avenue, Kew
 - 7.4 Contract No 2023/231 Michael Tuck Stand Structural Rectification Work
 - 7.5 February 2024 Monthly Financial Report
 - 7.6 Outcomes of Gardiners Creek No Glyphosate Trial
 - 7.7 Draft Procurement Policy 2024
 - 7.8 Proposed discontinuance and sale of road reserve - Adjoining 41 McSh Street, Balwyn North

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7.6 Outcomes of Gardiners Creek No Glyphosate Trial

Executive Summary

Purpose

The purpose of this report is to present the outcomes of the Gardiners Creek No Glyphosate Trial which ran from the beginning of December 2022 to the end of November 2023.

Background

At the Council meeting on 22 August 2022 Council carried the following motion:

1. Resolve to continue to implement a weed management approach that enhances the appearance of public spaces and biodiversity, including a variety of approaches and seeks to minimise the use of herbicides and any potential negative impacts on human health and the environment, including
 - a. Ceasing the use of glyphosate for a trial period of 12 months along the Gardiners Creek corridor (adjoining open space), commencing at the start of Summer 2022 and concluding at end of Spring 2023.
 - b. Ceasing the use of Fluroxypyr within a specific trial site (Winton Rd Reserve and behind properties along Gardiners Creek from Winton Rd to Solway St, Ashburton), commencing at the start of Summer 2022 and concluding at end of Spring 2023.
2. Publish on our website the weed control site methods and practices, and the dates and locations for yearly weed management activities.
3. Bring a report on the findings of the 12-month trial to a future Services Delegated Committee.

Key Issues

- The Gardiners Creek No Glyphosate Trial finished at the end of November 2023, although the practices have continued into 2024.
- Overall, the asset condition rating of the sites in the trial area showed a small decrease in site condition.
- The total volume of herbicide used at biodiversity sites across the trial area decreased by 27,475.15ml (from 36,355.75ml to 8,880.6ml).
- The total number of hours spent on the management of biodiversity sites across the Gardiners Creek trial area increased by 348.5 (from 2,719.5 hours to 3,068 hours).
- Based on the increased hours and reduced chemicals spent in maintaining the biodiversity sites across trial area, an extra cost of \$29,280 has been identified for the trial period.
- Sections of the trial area included goat grazing at a cost of \$9,000 over the trial period (included in the amount above).

Next Steps

Continue the trial through to the end of Spring 2024 to enable more data collection.

Officers' recommendation

That Council resolve to:

1. Continue to implement a weed management approach that enhances the appearance of public spaces and biodiversity, including a variety of approaches and seeks to minimise the use of herbicides and any potential negative impacts on human health and the environment, including:
 - a. Ceasing the use of glyphosate for an additional trial period of 12 months along the Gardiners Creek corridor (adjoining open space), commencing at the start of Summer 2022 and concluding at end of Spring 2024.
 - b. Ceasing the use of Fluroxypyr within a specific trial site (Winton Rd Reserve and behind properties along Gardiners Creek from Winton Rd to Solway St, Ashburton), commencing at the start of Summer 2022 and concluding at end of Spring 2024.
2. Publish on our website the weed control site methods and practices, and the dates and locations for yearly weed management activities.
3. Receive a further report on the findings of the two-year trial period to a future Services Delegated Committee.

Responsible director: Daniel Freer, Director Places and Spaces

1. Purpose

The purpose of this report is to present the outcomes of the Gardiners Creek No Glyphosate Trial which ran from the beginning of December 2022 to the end of November 2023.

2. Policy implications and relevance to community plan and council plan

This report aligns with the following themes and strategies in the Boroondara Community Plan (2021-31):

- Theme 2, Parks and Green Spaces
 - Strategy 2.1: Parks and green spaces enable sport and recreation opportunities by maintaining and improving recreation spaces and equipment; and
 - Strategy 2.3: Parks and green spaces are accessible and appealing through maintaining, improving and increasing amenities; and
 - Strategy 2.4: Green spaces are maintained and increased through management practices and investigating opportunities to acquire or modify existing land.
- Theme 3, The Environment
 - Strategy 3.6: Our biodiversity is conserved and maintained through improving the way we manage our diverse plants, animals and natural spaces.

This report also aligns with delivering the actions of the Climate Action Plan including:

- 2.1: Increase the area managed for biodiversity by 10 hectares from the current 51 hectares
- 2.2: Enhance habitat for biodiversity

3. Background

At the Council meeting on 22 August 2022 officers presented a report to Council on Boroondara's weed management practices with consideration of the findings of the Deakin University report, '*Weed Management options for Victorian councils - Alternatives to glyphosate*', and the current position of relevant Australian authorities.

At this meeting, Council carried the following motion:

1. Resolve to continue to implement a weed management approach that enhances the appearance of public spaces and biodiversity, including a variety of approaches and seeks to minimise the use of herbicides and any potential negative impacts on human health and the environment, including
 - a. Ceasing the use of glyphosate for a trial period of 12 months along the Gardiners Creek corridor (adjoining open space), commencing at the start of Summer 2022 and concluding at end of Spring 2024.
 - b. Ceasing the use of Fluroxypyr within a specific trial site (Winton Rd Reserve and behind properties along Gardiners Creek from Winton Rd to Solway St, Ashburton), commencing at the start of Summer 2022 and concluding at end of Spring 2024.

2. Publish on our website the weed control site methods and practices, and the dates and locations for Yearly weed management activities.
3. Bring a report on the findings of the 12-month trial to a future Services Delegated Committee.

This trial is now complete although the practices have continued in 2024.

4. Outline of key issues/options

The results of the Gardiners Creek No Glyphosate trial are as follows:

Condition rating of sites

The biodiversity sites across the Gardiners Creek trial area were assessed using the Asset Condition Rating methodology set out in the Biodiversity Asset Management Plan (BAMP 2013-2023), which was developed in line with Boroondara Asset Management standards and the Department of Sustainability and Environment (now known as the Department of Energy, Environment and Climate Action) vegetation quality assessment guidelines. This method assesses sites on their indigenous plant species diversity, weed coverage, structure/composition, canopy cover, recruitment of native species, presence of disturbance, and presence of organic litter. A suitably qualified consultant was engaged to undertake these assessments at the commencement and end of the trial period.

Thirteen sites were assessed in January 2023 and again in December 2023. Asset Condition Ratings are determined on a scale of 0-4, where 0 is highest quality and 4 is lowest quality. In a typical 12-month period we would expect to see an improvement in quality at each site as we work towards having all sites at a high quality standard.

- Five sites showed a slight decrease in Asset Condition Rating (average decrease of 0.142), representing an improvement in site condition.
- Five sites showed a slight increase in Asset Condition Rating (average increase of 0.368), representing a decline in site condition.
- The Asset Condition Rating of three sites remained the same.

Overall, the Asset Condition Rating of the sites in the trial area showed a slight increase in Asset Condition Rating (average increase of approximately 0.086), representing a small decline in site condition. The table below shows the Asset Condition Ratings at the 13 assessed sites at both time periods.

Site	Asset Condition Rating		
	January 2023	December 2023	Difference
Burke to Tooronga	1.43	1.57	0.14
Clifford Close	1.86	1.71	-0.15
Dorothy Laver Reserve East	1.57	2.14	0.57
Dorothy Laver Reserve West	1.57	1.43	-0.14
Dunlop St	1.29	1.71	0.42
Eric Raven Reserve	1	1	0
H.A Smith Reserve	1.41	1.41	0
June Crescent	1.14	1	-0.14
Lewin Reserve	1.43	1.29	-0.14
Markham Reserve	2.29	2.29	0

Nettleton Park	1	0.86	-0.14
Patterson Reserve	1.29	1.57	0.28
Ryburne Avenue Reserve (Fluroxypyr also not used here or Winton Rd Reserve)	1	1.43	0.43
Total	1.406154	1.493077	0.086923

Volume of herbicide

The total volume of herbicide used at biodiversity sites across the trial area decreased by 27,475.15ml (from 36,355.75ml to 8,880.6ml).

Hours spent at sites

The total number of hours spent on the management of biodiversity sites across the Gardiners Creek trial area increased by 348.5 (from 2,719.5 hours to 3,068 hours).

Costs

Based on the increase of 348.5 hours spent in maintaining the biodiversity sites across the Gardiners Creek trial area, an extra cost of \$20,959 attributed to labor cost, has been identified for the trial period. The cost of herbicides used in the area during the trial period decreased from \$1,603 to \$923, representing at \$679 reduction in cost. Sections of the trial area included goat grazing at a cost of \$9,000 over the trial period. This makes the total cost extra costs associated with the trial \$29,280.

OH&S

There was one reported incidence of an injury to a worker attributed to the No Glyphosate Trial. This was a repetitive stress injury due to an increase in brush cutting undertaken during the trial. This incident occurred early in the trial period and measures were put in place with both staff and contractors to avoid these types of repetitive use injuries.

Options

Undertake a Gardiners Creek No Glyphosate Trial for an additional year.

This is the officer recommendation.

The condition of the audited biodiversity sites at the end of the trial period was similar to before the trial began, and a large reduction in herbicide use was observed. It should be acknowledged that over time the condition of sites may deteriorate due to a potential build-up of weed-seed bank and that Council is aspiring to progressively improve the quality of these biodiversity sites. However, given the generally stable condition over the past year, undertaking a trial for an additional year appears warranted.

The increased funds associated with the trial period were reallocated from other works in biodiversity areas. The cost for an additional trial year would be expected to be similar to the current trial (\$29,280), however this could potentially increase if the condition of the sites deteriorate. To understand the impacts of reducing works in other areas we will need to expand the quality assessment auditing to cover all biodiversity sites.

There was one OHS incident attributed to the trial. With an additional trial period, officers would continue to monitor any OHS issues that can be attributed to the trial, and this would inform future recommendations.

Officers would collect data and monitor changes in site condition over the trial period. A report and updated recommendations would be prepared at the conclusion of the new trial period.

Return to normal practices.

This option would involve a return to the use of glyphosate in the Gardiners Creek trial area. However, officers would continue to implement a weed management approach that reduces the use of herbicides where possible, utilising a range of alternative techniques, whilst enhancing the appearance of public spaces and biodiversity.

5. Consultation/communication

Boroondara was part of the Deakin University a '*Weed Management options for Victorian councils - Alternatives to glyphosate*' study, and consulted with 11 other Melbourne metropolitan local governments to understand any trends regarding weed management and to gain their input in the field of herbicide application, management, notification and alternative products and methods used for weed control. Of these local governments, all currently used glyphosate in some capacity.

One Council completely ceased usage of glyphosate for two years before reintroducing its use in response to increased presence of weeds and increased complaints from the community. Like Boroondara, six of these local governments have stopped using glyphosate in sensitive areas such as playgrounds and childcare centres.

Communication of Council's weed management practices ensure the community is well informed on how Council manages weeds and why particular methodologies are being implemented. This communication has included informing the community of the Gardiners Creek No Glyphosate Trial.

6. Financial and resource implications

Expenditure on these biodiversity during the 2022/23 financial year was \$164,231. During the trial period this increased to \$193,511 representing an increased costs associated with not using glyphosate during the 12-month period of \$29,280. This is associated with an increase in hours worked at the sites within the trial area, the addition of goat grazing, and reduced chemicals spent in maintaining the biodiversity sites across trial area. If the trial were to be undertaken for an additional year, it can be expected that at least this additional amount would be required.

7. Governance issues

No officers involved in the preparation of this report have a general or material conflict of interest requiring disclosure under chapter 5 of the Governance Rules of Boroondara City Council.

The recommendation contained in this report is compatible with the Charter of Human Rights and Responsibilities 2006 as it does not raise any human rights issues.

8. Social and environmental issues

This report supports Council's desire to continue to maintain and improve our natural and urban environment in a sustainable way and proactively manage the ongoing maintenance and management of Council's assets and facilities to meet our community's current and future needs.

The products selected for use are suitable for the environment in which they are used and are chosen to minimise potential environmental impacts. Products that translocate through soil are not utilised near waterways and products that sterilise the soil are not utilised in native vegetation areas.

Council has comprehensive occupational health and safety practices in place which ensures staff are suitably trained in chemical storage and handling, wear appropriate personal protective equipment and utilise products in accordance with their safety data sheets.

9. Evaluation and review

Council's performance in maintaining public areas is measured through the annual Community Satisfaction Survey with a question on satisfaction with appearance of public areas. This is one of the highest rated services of Council. Should there be a drop of performance in this area the services would be reviewed to understand the causes and, if necessary, the weed management approach re-evaluated.

Council monitors news and reviews on the impacts of herbicides from across the world and considers this, along with advice from the APVMA, in developing its weed management approach.

If the trial were to be undertaken for an additional year, officers will collect data and monitor changes in site condition over the trial period. A report and updated recommendations would be prepared at the conclusion of the new trial period.

10. Conclusion

On the basis that there hasn't been a significant decline in the condition rating of biodiversity sites in the trial area and the costs associated with the trial are currently manageable, it is recommended to undertake a Gardiners Creek No Glyphosate Trial for an additional year and reassess the outcomes and future direction upon presentation of a report at the conclusion of the new trial period.

**Manager and
report officer**

**David Shepard, Manager Environmental Sustainability & Open
Spaces**

7.7 Draft Procurement Policy 2024

Executive Summary

Purpose

To present the draft Procurement Policy 2024 ("Policy") to Council for adoption. The amended Policy is attached to this report.

Background

The adoption of the current Procurement Policy in December 2021 and changes to the procurement operational model in early 2022, prompted a review of the policy and operational procedures. The aim of the review has been to ensure Council's procurement function is effective, efficient and is an enabler to achieving Best Value.

Key Issues

The review identified opportunities to improve procurement and contract management processes and several amendments are proposed accordingly.

Policy

Removal of supporting guidelines

The current Procurement Policy has five supporting guidelines. Consultation with stakeholders has indicated the guidelines are confusing and are not being utilised.

All critical information from these guidelines has been merged into the Policy and all operational requirements will be made available in supporting internal Procurement and Contract Management Procedures (currently in development).

Panel Contracts

Addition of guidelines around the use of panel contracts.

Variations

There are opportunities to clarify expectations and improve our processes involving contract variations. This will improve both contract performance and financial management.

It is recommended that variations be approved based on the cumulative value of the contract, rather than the value of the variation. This change will provide greater transparency and oversight to the Senior and Executive Leadership Teams on contract activity.

Changes to instruments of delegations are also being recommended to support these changes.

Thresholds

The separate requirements for works and goods/services is confusing, particularly for those staff that procure both. This causes errors to be made and creates a surplus of templates and procedures.

It is recommended the policy be changed to one combined set of thresholds for all procurement to reduce confusion and drive compliance.

CEO Instrument of Delegation

To support the changes to the Policy, changes to the Instrument of Delegation from Council to the Chief Executive Officer (CEO) are also being recommended. By increasing delegations, officers will be able to receive endorsement on projects quicker, secure pricing, improve efficiency, manage contract variations promptly and reduce risk.

The recommended change will provide a clear line of escalation by including an escalation point between the administration and Council, and consistency in the assessment of variations whether initially awarded under delegation or by Council.

The changes proposed are as follows:

- Increase the CEO's delegation to \$1 million for contract awards
- Authorise contract variations for contract awards under delegation up to a maximum cumulative contract total of \$1,100,000 (10% above CEO's delegation)
- Authorisation for contract variations to Council awarded contracts remains at a maximum of 10% of the awarded contract sum, unless otherwise authorised by Council resolution.

Subject to Council approval of the Policy, officers will make the required changes to the Instrument of Delegation from Council to the CEO.

Officers' recommendation

That Council resolve to

1. Adopt the Procurement Policy 2024 (**Attachment 1**).
2. Note the Procurement Policy 2024 will become effective from 1 July 2024.

Responsible director: Phillip Storer, Chief Executive Officer

1. Purpose

To present the draft Procurement Policy 2024 ("Policy") to Council for adoption.

2. Policy implications and relevance to community plan and council plan

In accordance with the *Local Government Act 2020*, the Council must review its Procurement Policy at least once during each 4-year term of the Council. The draft Policy is an amended version of the policy adopted by Council in December 2021.

The changes outlined will contribute to better outcomes for the community, enhance existing probity controls and minimise risk. This report is consistent with the Boroondara Community Plan 2021-2031.

In particular, theme 7 Leadership and Governance:
Strategy 7.2: "Resources are responsibly allocated and used through sound financial and asset planning, procurement and risk management practices".

3. Background

Following changes to the *Local Government Act 2020*, Council's current Procurement Policy was endorsed by Council on 13 December 2021. To support the new policy, on 19 October 2021 ELT approved a transition from a centralised procurement model to a centre-led model.

The Procurement team has since undertaken a review of the policy and operational procedures to ensure Council's procurement function is effective, efficient and is an enabler to achieving Best Value.

The review, along with benchmarking of other local government entities, consideration of the Victorian Local Government Best Practice Procurement Guidelines and the results of recent internal audits, identified opportunities to improve procurement and contract management processes. These improvements include addressing unnecessarily complicated procedures and clarifying contract variation requirements.

4. Outline of key issues/options

Based on feedback and a full review of existing policies and procedures, the proposed amendments to the policy and instruments of delegations are outlined below.

Policy

The Policy includes several formatting and layout changes to improve readability. The material content changes are outlined below.

Removal of supporting guidelines

The current Policy has five supporting guidelines. Consultation with stakeholders has indicated the guidelines are confusing and are not being utilised. The guidelines appended to the Policy hinders our ability to implement prompt process change and respond to operational requirements without submitting reports to Council for approval.

All critical information from these guidelines has been merged into the Policy and all operational requirements will be made available in supporting internal Procurement and Contract Management Procedures (currently in development). This will make it easier for staff to find the information they need in less documents and will improve our ability to respond quickly to required process changes moving towards Best Practice procurement.

Probity Advisor

The decision to appoint a probity advisor for contracts under the defined limit will now be at the discretion of the Procurement Team in consultation with the relevant Director.

Panel Contracts

Addition of guidelines around the use of panel contracts.

Evaluation Criteria

It is recommended the minimum weighting for price be raised from 10% to 30% to ensure the best financial outcome is achieved without compromise on quality.

Evaluation criteria included in the current policy include the capacity and capability of the tenderer and sustainable and social procurement impact. It is also recommended this list be expanded to include quality, a risk assessment and best value assessment to ensure Value for Money is achieved.

Variations

A review of contract spend, and the current variation process have shown the requirements and delegations for contract variations to be insufficient to ensure optimal contract and financial management.

The current policy permits variations to be approved on the value of the variation making it possible for a contract to significantly increase in value surpassing ELT or Council's delegations. This can result in material changes to contracts creating probity, financial and legal risks.

The current policy is not clear on how contract variations are to be managed. There are opportunities to clarify expectations and improve our processes involving contract variations. These changes will improve both contract performance and financial management and avoid decisions being made which result in overall contract value exceeding delegations in place.

It is recommended that variations be approved based on the cumulative value of the contract, rather than the value of the variation. This change will provide greater transparency and oversight to the Senior and Executive Leadership Teams on contract activity.

Further detail has also been added around how to assess a variation and when it is considered a new contract.

Changes to instruments of delegation are recommended to support these changes and allow for prompt and efficient processing of contract variations without causing excessive administrative burden on officers and Councillors.

Contract extensions have been called out separately to avoid confusion.

Monitoring

It is recommended non-material changes to the Policy be allowed to be made without formal approval and will be highlighted at the next policy review presented to Council.

The supporting operational guidelines will be permitted to be amended at the recommendation of the Coordinator Strategic Procurement with the approval of ELT.

Thresholds

Previously, the Act defined separate tender limits for works and goods/services. At the time, it was considered appropriate to have alternate thresholds for these categories.

Since the introduction of the new policy and the move to one tender threshold it has become standard practice to align the requirements across all categories. Feedback internally also suggested the separate requirements for works and goods/services is confusing, particularly for those staff that procure both. This causes errors to be made and creates a surplus of templates and procedures.

It is recommended the policy be changed to one combined set of thresholds for all procurement to reduce confusion and drive compliance.

The proposed thresholds have been informed by analysis of tender activity and extensive benchmarking activity and will provide efficiencies whilst still ensuring Best Value.

Sustainable and Social Procurement

Council has an obligation to consider sustainable and social procurement outcomes as outlined in the Disability Access and Inclusion Plan, Climate Action Plan and the Economic Development Strategy.

It is proposed to introduce a bonus score of up to 5% to local or indigenous business. The methodology of applying this will be incorporated into evaluation templates and the Procurement Guidelines. The 5% is not significant enough to alter an outcome which would result in an award of a contract to an unsuitable vendor but can be the difference between those ranked 1 and 2.

A similar bonus is proposed for those offering any significant environmental or social outcomes.

CEO Instrument of Delegation

Officers note that the Instrument of Delegation from Council to the CEO will need to be amended to support the new Policy.

The amendments will include;

1. Increasing the financial limit for the CEO; and
2. Amending the provisions for approving contract variations.

Executive delegations have not changed in over 10 years. In that time there has been significant increases in costs across all markets and more recently, with supply market pressures, suppliers are reluctant to hold tender pricing for the period of time required to get through the evaluation and approval cycle. This creates a risk of variations to a contract before a project has even started.

The current instruments of delegation are also confusing regarding the approval of contract variations, with the Directors/CEO currently able to approve variations to contracts under delegation of up to \$500,000, effectively doubling the current financial delegation of \$500,000.

A benchmarking exercise across all metropolitan Melbourne councils was completed as part of reviewing delegations. This benchmarking showed the average CEO delegation to be \$1.30 million.

By increasing certain delegations and altering variation provisions, officers will be able to receive endorsement on projects quicker, secure pricing, improve efficiency and reduce risk. The changes will also allow for timely processing of and reduce the risk in the management of contract variations without creating excessive administrative burden for officers and Councillors.

The amended instrument of delegation will provide a clear line of escalation and consistency in the assessment of variations whether initially awarded under delegation or by Council, ensuring that as a contract increases in value it is assessed and approved by the appropriate financial delegate.

The changes proposed are as follows:

- Increase the CEO's delegation to \$1 million for contract awards
- Authorise contract variations for contract awards under delegation up to a maximum cumulative contract total of \$1,100,000 (10% above CEO's delegation)
- Authorisation for contract variations to Council awarded contracts remains at a maximum of 10% of the awarded contract sum, unless otherwise authorised by Council resolution.

The proposed amendments will result in minimal change to the number of contract awards being presented to Council (5 less annually based on 2023 data), however they will significantly contribute to the efficiency of the variation process being proposed.

Subject to Council approval of the Policy, officers will make the required changes to the Instrument of Delegation from Council to the CEO, which will be presented at the May 2024 Council meeting.

5. Consultation/communication

Consultation was undertaken with key selected stakeholders, governance, and the Executive Leadership Team.

6. Financial and resource implications

There are no financial implications associated with the draft Procurement Policy 2024.

7. Governance issues

No officers involved in the preparation of this report have a general or material conflict of interest requiring disclosure under chapter 5 of the Governance Rules of Boroondara City Council.

The recommendation contained in this report is compatible with the Charter of Human Rights and Responsibilities 2006 as it does not raise any human rights issues.

8. Social and environmental issues

The Policy provides a focus on social and sustainable outcomes and will allow officers to include considerations in their procurement activity whilst ensuring the best value outcome for the community.

Manager: Sapphire Allan, Acting Chief Financial Officer

Report officer: Bronwyn Davies, Coordinator Strategic Procurement



Procurement Policy 2024

March 2024



Acknowledgement of Traditional Owners

The City of Boroondara acknowledges the Wurundjeri Woi-wurrung people as the Traditional Owners and original custodians of this land, and we pay our respects to their Elders past and present.

DRAFT

Responsible Directorate: Office of the CEO
Authorised by: Council
Date of Adoption: TBA
Review Date: TBA



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Term	Definition
Aggregated Purchasing Contract	A contract established by the Council, government or a nominated agent for the benefit of numerous state, federal and/or local government entities that achieves best value by leveraging combined economies of scale, such as Municipal Association of Victoria (MAV), Procurement Australia, any Council, group of Councils or other local government entity,
Act	<i>Local Government Act 2020</i>
Best Practice	As defined in the Local Government Best Practice Procurement Guidelines or any other document specified by Council
Benefits	Benefits can take many forms and are often non-tangible (i.e. not a physical item). Benefits include, but are not limited to: <ul style="list-style-type: none"> • access to events or clubs • preferential treatment (e.g. priority service, access to benefits or services not usually available) • upgrades • discounts • a new job or promotion • access to confidential information • offers of secondary employment or contracts.
Collaborative Procurement Arrangements	Refer to Aggregated Purchasing Contract
Commercial in Confidence	Information that, if released, may prejudice the business dealing or commercial interests of Council or another party, e.g prices, discounts, rebates, profits, methodologies and process information.
Complex Procurement	A procurement that may be assessed by the Procurement team as being complex procurement having regard to the following factors: <ul style="list-style-type: none"> • difficulty in product or service specification • procurement of an innovative or bespoke product or service • risk • total cost of ownership • market dynamics.
Contract Management	The process that ensures all parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the contract objective and provide Value for Money
Council	City of Boroondara or Boroondara City Council
Delegated Officer	A Council officer who is authorised to approve expenditure of Council funds within the delegations recorded in the Financial Delegations Register. Delegations may be granted under the headings of Standard Delegated Authority, Authorised Expenditure or Extraordinary Delegated Authority
ELT	Executive Leadership Team

Term	Definition
Emergency	<p>A sudden or unexpected event requiring immediate action including;</p> <ul style="list-style-type: none"> the occurrence of a natural disaster, flooding or fire event at a Council property; the unforeseen cessation of trading of a core service provider; any other situation which is liable to constitute a risk to life or property. negative events that activate the Municipal Emergency Management Plan or associated sub plans (e.g. Crisis Management Plan); sudden and unforeseeable changes in market conditions that impact Council's delivery of services to the municipal community; and sudden and unforeseeable termination of an existing contractor
Environmental Procurement	<p>Environmental procurement looks beyond the up-front cost to making purchasing decisions based on the entire life cycle of the goods and services including end of use disposal. This includes products that:</p> <ul style="list-style-type: none"> contain recycled material; are water and energy efficient; contain no single-use plastic; protect our biodiversity; and can be re-used, re-purposed or recycled at the end of their life. <p>It also includes services relating to sustainable building design and construction and the running of events</p>
Gifts	<p>Gifts can take many forms, such as:</p> <ul style="list-style-type: none"> free or heavily discounted items tickets or passes to events, shows etc. enduring items, such as works of art consumables, such as food or stationery less tangible benefits such as hospitality or services, memberships etc. hospitality that exceeds common courtesy. <p>A gift may be:</p> <ul style="list-style-type: none"> offered or given to an individual employee or the organisation offered or given to a family member purchased, home-made or home-grown of negligible, nominal, or significant value.
Local Supplier	<p>A commercial business with an operational premise that is physically located in the City of Boroondara and sources 85% or more of their goods or employs 70% or more of staff from within the municipal borders of City of Boroondara. In the event of a collaborative</p>

Term	Definition
	procurement between Councils, the borders will lie within the boundaries of those participating Councils.
LTFP	Long term financial plan
Material Breach	Any breach of this policy that may also represent a breach of legislation such as procurement thresholds, fraud or corruption, and occupational health and safety.
Probity	<p>Probity is the evidence of ethical behaviour, and can be defined as complete and confirmed integrity, transparency and honesty in a particular process.</p> <p>Probity is a defensible process which is able to withstand internal and external scrutiny, which achieves both accountability and transparency, providing respondents with fair and equitable treatment.</p>
Probity Advisor	<p>A probity advisor provides an independent opinion on the integrity of a procurement activity to ensure that tenders are conducted fairly and properly.</p> <p>Probity advisors can assist in the development of probity plans, provide advice on indirect or direct conflict of interests, and address and assist with any unexpected probity issues that may arise throughout the procurement process.</p> <p>A probity advisor cannot play a dual role as the probity advisor and probity auditor for the same procurement activity.</p>
Probity Auditor	A probity auditor is independent from the Council and probity advisor who provides an independent scrutiny audit either at different times throughout the life of the procurement activity or prior to seeking approval to engage the preferred vendor/s to ensure probity requirements have been adhered to.
Procurement	<p>Procurement is the end-to-end process of acquiring 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 or the end of a service contract. It also includes the organisational and governance frameworks that underpin the procurement function.</p> <p>Any procurement activity is exclusive GST; meaning it is the actual cost to the Council.</p>
Request For x (RFx)	Can be a Request for Tender (RFT), Request for Quote (RFQ) or Expression of Interest (EOI). The process of inviting the supplier market to submit a proposal via tender, quotation, or expression of interest (two-stage tender process). This process is designed to capture commercial information and pricing, followed by the evaluation of submissions and selection of a successful respondent.
Sensitive Procurement	<p>Sensitive procurement refers to procurement activities involving issues such as:</p> <ul style="list-style-type: none"> Organisational sensitivity, including the:

Term	Definition
	<ul style="list-style-type: none"> ○ Procurement of a sensitive product or service i.e. cyber security. ○ Potential exposure of sensitive information of either or both of Council or supplier. ● Political sensitivity. ● Potential for controversy regarding the procurement process, selecting the successful supplier or awarding the contract. <p>A Sensitive Procurement will be assessed as such by either the Procurement team of a member of ELT.</p>
Schedule of Rates	The prescribed rates for performance of or delivery of goods, works and services documented in a Contract
Social Procurement	<p>Social Procurement is when organisations use their buying power to generate social value above and beyond the value of the goods, services or construction being procured by purchased.</p> <p>Procurement may be grouped into two broad approaches:</p> <ul style="list-style-type: none"> ● Direct approach - Purchasing goods, services or construction from a social benefit supplier. ● Indirect approach; <ul style="list-style-type: none"> ○ Purchasing goods, services or construction from a mainstream supplier (that is, any supplier that is not a social benefit supplier) and uses invitations to supply and clauses in contracts to deliver social and sustainable outcomes. ○ Where a supplier to Council procures their own goods/services/works from a known social benefit supplier.
Supplier Code of Conduct	A Supplier Code of Conduct sets out the standards of behaviour that a supplier agrees to comply with when under Contract with Council. For those contracts to which the Supplier Code of Conduct will apply, suppliers will be provided with a copy or access to a copy of the Supplier Code of Conduct at tender or quotation stage.
Total Contract Sum	<p>The potential total value of the contract including:</p> <ul style="list-style-type: none"> ● costs for the full term of the contract, including any options for either party to extend the contract ● anticipated contingency allowances or variations ● all other known, anticipated and reasonably foreseeable costs.

Term	Definition
Value for Money (VFM)	<p>VFM in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors that benefit our community including:</p> <ul style="list-style-type: none">• contribution to the advancement of Council's priorities• non-cost factors such as fitness for purpose, quality, service and support• cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.



1 Introduction

1.1 Purpose

Council recognises the contribution that effective, ethical, equitable and transparent procurement makes in building trust and confidence with rate payers and key stakeholders of the Boroondara community.

The Council Procurement Policy ('Policy') is the overarching policy for the procurement of goods and services and works.

Council recognises the need to ensure its procurement framework establishes best practice principles including value for money, open and fair competition, accountability, risk management, probity and transparency.

Council also acknowledges its Corporate Social Responsibility in:

- the supply chains significant material impact on the organisation's sustainability performance;
- purchasing and procuring from local businesses as a priority, where the goods and/or services are available and represent overall value for money; and
- meeting Child Safe Standards, and ensuring processes are in place, after a child safe risk assessment is completed, for supplier engagements requiring a level of contact with children to reduce the risk to children.

Procurement decisions should support Council's commitment to environmental, social, ethical and local outcomes when seeking best overall value.

The Policy is supported by Council's Procurement Procedures and Contract Management Guidelines

1.2 Scope

The Policy applies to all contracting and procurement activities relating to goods, services and works and is applicable to all Councillors, Council employees (including temporary staff), contractors, consultants, third parties procuring on Council's behalf, volunteers and suppliers.

This Policy provides direction on the conduct of procurement activities throughout the sourcing, management and disposal phases. It also covers the general procurement framework but does not extend to the related accounts payable processes.

2 Policy context

2.1 Legislative context

This Procurement Policy is made in accordance with the requirements of sections 108 and 109 of the [Local Government Act 2020](#) (Vic) ('Act') and associated Regulations.

This includes the need to comply with Policy requirements during all procurement processes and providing appropriate reporting to Council regarding collaborative procurement opportunities with other Councils or public bodies.



2.2 Strategic context

The Policy shall support Council's corporate vision, strategies and other policies, including but not limited to those related to fraud and corruption control, sustainability, protection of the environment, corporate social responsibility and meeting the needs of the local community.

3 Treatment of GST

All monetary values including thresholds stated in this policy are exclusive of GST.

4 Objectives

The objectives of the Policy are to:

- promote open and fair competition and provide value for money;
- provide policy and guidance to Council to allow consistency and control over procurement activities;
- demonstrate accountability to rate payers;
- provide guidance on ethical behaviour in public sector procurement;
- demonstrate the application of elements of best practice in procurement;
- promote collaborative procurement;
- demonstrate consideration of sustainability in procurement with respect to social, economic and environmental factors; and
- maximise the probability of obtaining the right outcome when purchasing goods and services or undertaking works.

5 Guiding principles

Council's procurement activities are guided by the following procurement best practice principles:

- open and fair competition;
- value for money ('VFM');
- risk management;
- probity and transparency;
- accountability; and
- sustainable and social procurement objectives.

5.1 Open and fair competition

Council's procurement activities and commercial transactions are underpinned by the highest standards of integrity, honesty, fairness and openness. All prospective suppliers are treated without bias (actual or perceived) and afforded the same access to information.

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 procedures.



5.2 Value for money

Ultimately, there is a need to ensure that Council's procurement delivers value for money ('VFM') for Council and Boroondara's community. VFM means more than just the lowest price. In measuring VFM, it must also advance the Council's economic, environmental and social objectives for the long-term wellbeing of our community.

Council utilises a VFM methodology when assessing procurement quotations, tenders and proposals. Selection is based on the most advantageous outcome for Council and Boroondara's community. Council is not obliged to accept the lowest tender, proposal or quotation and may not decide to accept any offers it receives.

5.3 VFM criteria

To achieve VFM for the community, Council will look beyond upfront costs to make purchasing decisions based on the entire life cycle of goods and services or works, and take into account related costs, environmental/circular economy and social risks and benefits, end of life disposal, and broader social and environmental implications.

Council's procurement activities will be carried out on the basis of obtaining VFM consistent with acceptable quality, reliability and delivery considerations.

VFM in Council procurement involves selecting the supply of goods, services and works taking into account both cost and non-cost factors including:

- a) Non-cost factors such as contribution to the advancement of Council's priorities and objectives, fitness for purpose, quality, reliability, social and environmental impacts, service and support; and
- b) cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.

VFM is best achieved by:

- a) developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the procurement lifecycle;
- b) aggregating purchasing whenever possible;
- c) participating in collaborative procurement activities where possible;
- d) undertaking competitive procurement processes; and
- e) identifying and rectifying inefficiencies in procurement processes.

5.4 Risk management

All procurement is undertaken in accordance with acceptable risk parameters shaped by Council's risk appetite and the associated enterprise-wide risk management framework.

Appropriate risk management principles must be applied throughout all stages of the procurement and contracting lifecycle. These principles are designed to protect and enhance Council's capability to prepare for, respond to and recover from risks and issues associated with work health and safety, personal injury, property damage, reputation damage, financial exposure, business interruption, climate



change, intellectual property disputes and interruption to the efficient supply of goods, services and works.

5.5 Probity, transparency and accountability

Underpinning the Policy is the need for probity and integrity to remain integral components of all Council procurement. In addition, Council recognises its accountability for delivering timely outcomes using public resources and seeks to ensure Council decisions are transparent and defensible.

Accountability in procurement must include the ability to provide a reasonable explanation and evidence of the process undertaken, including the recommendations and decisions made. An independent third party must be able to clearly see that a fair, reasonable and transparent process has been followed.

All parties associated with a procurement activity on Council's behalf are responsible for ensuring they are aware of their obligations under relevant codes of conduct, application of the law and their delegations of authority. This includes third parties engaged to procure goods, services or works on Council's behalf.

Council staff must be able to account for all procurement decisions and ensure all procurement activities leave an audit trail for monitoring and reporting processes.

5.6 Probity services

Council has a responsibility to ensure the highest level of integrity is maintained during procurement activities. To maximise the integrity of a procurement, Council may appoint an independent Probity Advisor and / or Probity Auditor.

The Probity Advisor and Probity Auditor must be independent from Council and must not be the same person or organisation.

A Probity Advisor and/or Probity Auditor must be engaged in procurement activities:

- with an expected value over the life of the contract of \$5 million or over for goods and services and \$10 million or more for works; or
- for contracts of a lesser value, where a proposed contract is considered by the Procurement Team, in consultation with the relevant Director, high risk, complex or sensitive in nature, politically sensitive or subject to a high degree of public scrutiny.

5.7 Disclosure of Information

In almost all instances, information provided by prospective providers of goods, services and works in the circumstances required by this Policy will contain Commercial in Confidence information.

To ensure the integrity of the tender process is not compromised, the Tender Evaluation Panel will take all reasonable steps to restrict access to individual tenderer proposals until such time as a report is presented to the relevant employee with the necessary financial delegation or Council. This is intended to ensure that all who are involved in the final decision are fully and equally informed. It is acknowledged that it may be necessary to keep information confidential, and to consider information in Council meetings that are closed to the public.



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

Councillors and Council Staff must take all reasonable measures to maintain confidentiality of:

- information disclosed by organisations in tenders, quotations or during negotiations;
- all information provided as Commercial in Confidence; and
- pre-contract information, including but not limited to, information provided in quotes, tenders or pre-contract negotiations.

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

Discussion with a potential supplier 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 discussions be entered into which could improperly influence the procurement process or negotiation of a contract prior to the contract approval process being finalised, other than authorised pre-contract negotiations.

This type of information may also be “confidential information” under the *Local Government Act 2020*. Disclosing confidential information is an offence and can lead to prosecution and fines.

5.8 Conflicts of interest

Councillors, and Council staff, any external consultants / contractors engaged by Council and suppliers to Council, shall at all times avoid situations which may give rise to an actual, potential or perceived conflict of interest.

Council staff involved in Procurement activities, including preparing Tender documentation, writing Tender specification, opening Tenders, participating in evaluation panels, preparing a recommendation report and awarding tenders, must adhere to internal Conflict of Interest procedures.

Any actual or potential conflict of interest identified by Council employees, any external consultants / contractors and suppliers as part of any procurement process must be declared to the relevant Manager on the Conflict of Interest and Confidentiality Declaration form, or in such other manner as is directed by the Procurement or Governance teams from time to time, prior to the evaluation of submissions.

Any actual or potential conflict of interest identified by a Councillor, when considering a report presented to the Council in relation to a contract award, must be declared and the Councillor must vacate the meeting at the time of the report being considered, in the manner required by the Act, the Councillor Code of Conduct and Council's Governance Rules.

5.9 Contract Awards

Council is committed to being transparent with contract awards. Where a procurement contract has been awarded with a value greater than \$500,000, excluding GST, information regarding the contract award will be made available on the Council website.



5.10 Canvassing

Suppliers of goods, services or works are prohibited from engaging Councillors, employees, consultant or third-party agents to discuss any aspect of a tender, quote or contract other than the nominated contact for the tender or quote. Any engagement other than with the nominated procurement representative may disqualify the supplier.

5.11 Gifts and benefits

No Councillor, employee or third-party agents shall seek or accept any immediate or future reward or benefit in return for a decision by Council to award a Council contract or where it could be reasonably perceived as influencing them or their position or undermining their integrity or the integrity of the process in some way.

Any gift or benefit offered will be managed in accordance with Council's internal policies and processes.

5.12 Sustainable and Social Procurement

Council recognises its Corporate Social Responsibility and is committed to advancing shared value by deriving economic, environmental, social ethical, local and environmental outcomes through its procurement. Where it is possible, Council will purchase from for-social benefit and environmentally sustainable entities, and indirectly by including social and environmental clauses in its contracts with private sector providers and screening supply chains for social and sustainable considerations.

To achieve this, Council's procurement strategies will:

- apply a local preference test;
- promote the attraction of social enterprises;
- promote the attraction of Aboriginal and Torres Strait Islander people enterprises;
- foster innovation in sustainable products and services;
- promote and apply an environmental sustainability test; and
- ensure that fair and ethical sourcing practices by officers and suppliers are applied including legislative obligations to employees.

Council commits to applying principles of sustainability to its decision making and activities. In addition, Council applies sound contracting principles to its procurement activities. Appendix 2 outlines economic, social and environmental objectives.

6 Governance, risk and controls

Council has established a procurement management responsibility structure and a system of procurement that ensures accountability, traceability and auditability of all procurement decisions made over the lifecycle of all goods, services and works purchased by Council.

6.1 Internal controls

Council will maintain a framework of internal controls over procurement processes which aims to ensure:

- more than one person is involved in and responsible for a transaction end to end;
- a clearly documented audit trail exists for all procurement activities;



- transparency in the Procurement process;
- delegations are not exercised beyond the authority given in the Financial Delegations Register;
- appropriate authorisations/financial delegations are obtained and documented;
- systems are in place for appropriate monitoring and performance measurement; and
- a process is in place for escalation, where appropriate, of procurement matters (including procedural and spend non-compliance) to the Executive Leadership Team, or the Audit and Risk Committee or the Council as required.

The framework of internal controls over procurement processes includes regular internal audit review of procurement activities and audit by Councils Strategic Procurement Team of compliance with the Procurement Policy and the supporting procedures.

6.2 Standards

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

Compliance will be monitored by the Council's Procurement Team and minor issues identified will be addressed by Council Staff in leadership positions. Where required, serious compliance issues will be reported by the CEO to the Audit and Risk Committee and Council.

All Council policies comply with the Victorian Charter of Human Rights and Responsibilities.

Council's procurement activities shall be carried out to the professional standards required by best practice and, where relevant, in compliance with;

- *Local Government Act 2020* (the Act)
- Council's policies including this Procurement Policy and the Purchasing Card Policy
- Council's procedures including the Procurement Procedures and Contract Management Manual;
- Council's codes of behaviour including the Code of Conduct and Gifts and Benefits policies'
- Victorian Local Government Best Practice Procurement Guidelines 2013 (or as updated)
- Other legislative requirements such as but not limited to the;
 - *Competition and Consumer Act 2010 (Cth)*
 - *Goods Act 1958*
 - *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
 - *Environmental Protection Act 2017 (Vic)*
 - *Building and Construction Industry Security of Payment Act 2002*
 - *Disability Act 2006*
 - *Child Wellbeing and Safety Act 2005 (Vic); and*
 - *Competition and Consumer Act 2010 (Cth)*

6.3 Procurement delegations

The authority to approve the establishment of contracts / agreements and approve expenditure must be in accordance with Council's Instrument of Delegations and the Procurement Authority Limits.



An officer's delegation must cover the total contracted amount as well as any extensions or variations. Once the total contract amount exceeds the officer's delegation, another delegate or Council must approve the revised expenditure.

Council has delegated responsibilities relating to the expenditure of funds for the purchase of goods, services and works, the acceptance of quotations and tenders and for contract management activities to the CEO. The CEO has further delegated some of those responsibilities to other members of Council Staff, subject to specified conditions and limitations.

7 Processes and procedures

7.1 Roles and responsibilities

Procurement activity within Council will be driven by the relevant business unit with the Procurement Team providing oversight and guidance. Councillors, staff and persons undertaking procurement on Council's behalf are responsible for complying with this policy.

Directors are accountable to ensure that annual business plans, where it is known a procurement activity will be required, are a true reflection of the procurement activities expected to occur within the financial year.

The Procurement Team is responsible for;

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

7.2 Procurement methods

This Policy applies to all procurements regardless of value, risk or process. Standard procurement methods include:

- Purchase Order following a quotation process in accordance with the thresholds outlined in this policy;
- Approved purchasing schemes (ie panel arrangements, collaborative or joint procurement etc);
- Purchase Order under contract following an RFx event; and
- Procurement under an exemption outlined in this Policy.

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



7.3 Public Tenders

A public tender process will be used for all procurements valued at \$500,000 and above for goods, services and works, unless there is an applicable exemption as per section 7.10 of this policy.

All public tenders will be published in the media and via Council's eTendering portal.

For procurements valued below \$500,000 Council will invite quotes from vendors in accordance with the threshold requirements listed in Appendix 1

7.4 Expressions of interest

Council may seek Expressions of Interest ("EOI") via a public process where:

- there are likely to be many tenderers;
- tendering will be costly to Council and tenderers or the procurement activity is complex;
- there is uncertainty as to the willingness and/or interest of vendors to supply; or
- Council requires advice from the market regarding how best to address a particular need.

An EOI process is the first stage of a two-stage process that is followed by an open or closed tender process. There should be no intent to engage vendors as a direct result of an EOI process.

7.5 Request for Information

Where Council is uncertain as to the nature and specification of goods and services it requires, Council may undertake a Request for Information (RFI) process. An RFI may be undertaken for reasons which include establishing:

- a) advice from the market is required regarding how best to address a particular need;
- b) available technologies, products or services in the marketplace that meet Council needs;
- c) whether proposed terms and conditions or deliverable expectations are acceptable in the marketplace; or
- d) whether proposed budgets are adequate to meet non-standard procurement needs.

Council should use an RFI rather than a Request for Tender or EOI in order to improve its understanding of its own needs, availability of appropriate goods and services and likely costs.

7.6 Panel Contracts

Council may appoint a panel of suppliers as the result of a competitive procurement process in an annual supply or longer panel arrangement.

Once a panel arrangement is established, this is a continuing offer by one or more suppliers to provide specified goods, works or services for a predetermined length of time, usually at a predetermined unit rate, and in accordance with pre-agreed terms and conditions.

When obtaining goods or services from suppliers on these panels, quotations for lump sum requirements or projects should be sought from the panellists in line with the thresholds set out in this policy (subject to the terms of the contract) to promote competition, retain competitive tension and obtain Value for Money.



7.7 Collaborative procurement

In accordance with Section 108(3c) of the Act, Council staff must consider any opportunities for collaborative procurement in relation to a procurement process undertaken by Council. Where practical, Council will collaborate with other Councils and public bodies or utilise Collaborative Procurement Arrangements in order to take advantage of economies of scale, reduce risk, maximise social or environmental outcomes and deliver community benefits for all participating councils.

In accordance with Section 109(2) of the Act, any Council report that recommends entering into a procurement arrangement must set out information relating to opportunities for collaborative procurement, including:

- the nature of those opportunities, if any, and the councils or public bodies with which they are available; and
- why Council did, or did not, pursue the identified opportunities for collaboration in relation that procurement process.

Collaborative procurement will be achieved through:

- aligning procurement categories and timing (joint procurement);
- using existing supplier panel arrangements via MAV Procurement, Procurement Australia, or other Local, State or Commonwealth government entities which were established via a public tender process where it provides an advantageous Value for Money outcome for Council (subject to internal delegation approval).

7.8 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, the LTFP or source of funds shall be established prior to the commencement of any Procurement action for the supply of goods, services or works.

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 within an allocated budget, and without compromising any of the Procurement principles set out in this Policy.

7.9 Procurement thresholds

Council will invite tenders, proposals, quotes and EOIs from the supply market for goods, services, building and construction works in accordance with the thresholds listed in Appendix 1 of this Policy to ensure compliance with the Act. These thresholds will only be varied with approval from Council.

The thresholds must represent the estimated value of the whole of term of the contract i.e. the initial term plus any options to extend the initial contract term exclusive of GST.

The options for a procurement process compliant with the public tendering requirements contained in the Act include:

- a) Council running its own publicly advertised tender process, a variety of advertising mediums may be chosen from including, national newspapers, local newspapers and web-based forums.



- b) Council participating in collaborative tender processes for similar services in conjunction with other councils including councils in local procurement networks.
- c) Council appointing an external agent to run a tender process on its behalf. Organisations such as Procurement Australia and MAV Procurement are active in this area.
- d) Council accessing Victorian State Government contracts (e.g. State Purchase Contracts, Whole-of-Government contracts) or Federal Government contracts that have been made available to Local Government and which Local Government can access.
- e) Council accessing contracts for panels of suppliers where those panels have been put in place through a compliant tender process. For example, these panel contracts may have been put in place through a Council-run tender process, a tender process run for Council by an external agent or be a Victorian State Government panel or Federal Government arrangement made available to Local Government.
- f) Seeking an exemption as outlined in section 7.10 of this Policy.

7.10 Exemptions

Use of any exception must be endorsed by the relevant Director and is still subject to relevant financial delegation approval.

The following circumstances are exempt from the general RFx requirements including inviting a public tender or expression of interest.

Exemption	Explanation/Limitations
In urgent or extraordinary circumstances due to genuine emergency or hardship	Sudden, significant or unforeseeable events where the CEO or Council has resolved a contract must be entered into due to an Emergency Event or where the Victorian Government has declared a State of Emergency.
Where Council seeks to enter into a contract made with, or purchase from a contract made by an Aggregated Purchasing Agreement.	<p>This will include:</p> <ul style="list-style-type: none"> • An existing panel agreement established via public tender; • Another government entity (including State Purchase Contract, Whole of Victorian Government Contracts); or • A procurement process conducted by: <ul style="list-style-type: none"> - the Municipal Association of Victoria on behalf of a group of councils; - Procurement Australia to which Victorian councils have access; - Another local government entity (subject to the conditions of that contract); or - Other approved third party.



Exemption	Explanation/Limitations
Where Council seeks to enter into a contract relying on a Government entity pre-qualification scheme;	<p>This will include;</p> <ul style="list-style-type: none"> the construction suppliers register; the marketing services register. <p>Provided tenders are sought from a minimum of three (3) pre-qualified contractors registered.</p>
A 6 month extension of contracts while Council is conducting a market tender	Allows Council to extend an existing contract for a maximum of 6 months where the procurement to replace the contract has commenced, and where the tender process or negotiations will take or have taken longer than expected.
Information technology resellers and software developers where there is only one supplier or a change to the existing software is cost-prohibitive or would not meet Value for Money principles	Allows Council to renew software licences, subscriptions and maintenance and support, enhance or upgrade existing systems when there is only one supplier of the software; or the existing software is considered fit for purpose and continues to provide value for money, and approved by Director Customer & Transformation
Professional services unsuitable to tendering	<ul style="list-style-type: none"> Legal Services Insurances Liability Mutual Insurance (LMI) Loan Borrowings Postal charges (Australia Post) Professional Memberships & Subscriptions Medical Advertising of jobs, tenders and other public notices
Novated Contracts	Where the initial contract was entered into in compliance with the Act and due diligence has been undertaken in respect to the new party
Operating and Finance Leases	Where the lessor leases an asset (generally a vehicle or plant and equipment) to the Council and assumes the residual value risk of the vehicle
Regional Waste Management Groups	Situations where a Regional Waste Management Group constituted under section 50F of the <i>Environment Protection Act 2017</i> had already conducted a public tender for and on behalf of its member Councils



Exemption	Explanation/Limitations
When engaging a specific artist/artistic group.	<ul style="list-style-type: none"> one off hosting or performance at one of Council's events; or unique artistic output.
Utility companies	When utility authorities are required to undertake work on their assets
Engagement of Traditional Owners where the primary purpose of the procurement activity is to gather information or seek advice relating to Aboriginal culturally sensitive issues	This could include land management considerations pursuant to the <i>Aboriginal Heritage Act 2006 (Vic)</i>
Statutory Compulsory Monopoly Insurance Schemes	<ul style="list-style-type: none"> Motor Vehicle compulsory third party WorkCover

7.11 Exemption to Procurement Policy

An exemption to the requirements of the Procurement Policy may be obtained for the following circumstances subject to formal CEO approval;

- where a contract is due to expire and:
 - the value of the approved original contract (contract value plus value of extension options) either:
 - did not exceed the thresholds; or
 - exceeded the thresholds but was entered into after a public tender, EOI or external panel arrangement process;
 - and
 - there is an ongoing need for the goods, services or works provided under the original contract;
 - the goods, services or works provided under the original contract cannot conveniently or economically be provided or undertaken by anyone in the market other than the original contractor; and
 - the proposed new contract with the original contractor has been assessed to ensure that it continues to represent best value for money;
- where enquiries into the relevant market have revealed that there is only one supplier or provider, or one viable supplier or provider, of the goods, services or works to be procured;
- where the Chief Executive Officer is satisfied, on reasonable grounds, that not going to market will produce a better, or better value, outcome for Council.



7.12 Exemption to Quote Requirements

An exemption from seeking the minimum number of quotes must have the express documented approval of the relevant ELT staff member. Any pre-approval does not excuse the procurement activity from due process and financial approval.

7.13 Breaches

Compliance will be monitored by the Procurement Team. Spend non-compliance and breaches will be reported to Council's Executive Leadership Team on a quarterly basis. Breaches must also be reported by Managers in the annual Legal and Ethical Compliance attestations which are then reported to the Audit and Risk Committee.

Any identified Material Breach will be reported immediately to the CEO.

7.14 Grant funding

Where Council expenditure is funded from State or Federal Government grant monies, the requirement to comply with Section 108 of the Act and this Policy remains unless there are grant conditions which provide alternative arrangements.

Where Council provides grant funding to local organisations, the requirement to comply with Section 108 of the Act and this Policy does not apply.

8 Evaluation and award

Council will only accept tenders lodged by the method as described in the tender documents. Council will not accept late tenders.

Each RFx issued by Council will be evaluated in accordance with the Conditions of Tendering and the approved Evaluation Plan.

All evaluations will be conducted by appropriately qualified and briefed persons. Where this evaluation is undertaken by a Tender Evaluation Panel, the evaluation panel will comprise of at least three persons and may include additional external specialists in order to ensure best value is achieved.

8.1 Evaluation Plan

An Evaluation Plan shall be developed, approved and strictly adhered to by the Tender Evaluation Panel. Amongst other things this involves the establishment of more detailed evaluation criteria, the application of a pre-approved and weighted scoring system, and probity escalation process. The Evaluation Plan must be completed and approved prior to the RFx being issued.

8.2 Evaluation Criteria

Mandatory Compliance criteria (e.g. Australian Business Number ('ABN') registration, relevant statutory obligations, licences and other required qualifications) will be included in all RFx as appropriate.

The Council may also include, but not limited to, the following evaluation criteria categories to determine whether a proposed contract provides VFM:

- Tendered price (minimum 30%, unless otherwise approved by a member of ELT)
- Capacity of the Tenderer to provide the Goods and/or Services and/or Works.



- Capability of the Tenderer to provide the Goods and/or Services and/or Works.
- Demonstration of Sustainable and Social Procurement Impact.
- Quality.
- An assessment of risk and overall Best Value.

8.3 Shortlisting and Negotiation

Council may conduct a shortlisting process during the evaluation of any RFx event. Shortlisting can be based on any criterion or criteria but only in pursuit of the most advantageous outcome for the Council. Shortlisted respondents may be invited to submit a Best and Final Offer (BAFO) in relation to all or certain aspects of their submissions.

Once a preferred tenderer/s are selected, negotiation may be conducted in order to obtain the optimal solution and commercial arrangements for Council, provided negotiations remain within the original scope and intent of the tender. Probity requirements apply to all negotiations.

A final recommendation will be made either to:

- an employee with the necessary financial delegation; or
- Council,

for a decision on the awarding of the contract.

8.4 Financial viability assessment

The financial viability assessment of potential suppliers must form part of the due diligence undertaken by Council during procurement processes. These assessments are used to check the immediate and ongoing capacity of suppliers to complete works or supply goods and services.

Independent financial assessments must be conducted for all procurement activities where the total Contract Value exceeds \$1,000,000 unless a financial assessment for that vendor has already been conducted in the previous 12 months. Assessments may also be conducted for procurement activities of a lesser value based on risk.

8.5 Tender Debrief

After the execution of the contract, any unsuccessful vendors may request a de-briefing session. This session may provide the supplier with enough information to assist them to improve responses and/or performance in the future.

9 Contract Management

In order to continually improve its procurement and contract management processes and outcomes, Council will evaluate and seek to improve on all aspects of procurement and contract management, in accordance with its documented procurement processes and Contract Management Guidelines.

Good contract management ensures goods, services and works are delivered to the required standards of quality and quantity as intended by the contract through;

- establishing a system monitoring and achieving the responsibilities and obligations of all parties under the contract;



- providing a means for the early recognition of issues and performance problems and the identification of solutions;
- adhering to the Council's risk management framework and relevant Occupational Health and Safety and sustainability requirements.

Council contracts are to include contract management requirements commensurate with the complexity of the procurement.

A Contract Manager must be nominated for each contract. The Contract Manager is responsible for proactively managing the delivery of the contracted goods, services or works to ensure Council, and therefore the community, received Value for Money.

Council awards some contracts that are strategically critical and of relatively high value. Council will provide additional senior oversight to the management of such significant contracts.

9.1 Variations

All contract variations must be assessed to determine whether they are properly characterised as variations, or whether they are in effect a new contract. This will depend on factors like:

- the monetary value of the proposed variation, i.e the value of the variation in the context of thresholds fixed by the Procurement Policy; and
- the subject matter of the proposed variation, and whether it is consistent with the scope of the original contract.

Where a variation to a contract occurs, the procurement delegation is defined by the cumulative value of the contract including the proposed variation.

An officer with a sub-delegation from the CEO may vary a contract to the relevant limit in the procurement delegations. Any variation that results in a contract sum that exceeds an officer's procurement delegation limit must be escalated to an employee with the appropriate financial delegation or referred to Council for decision.

Prior approval is required for all variations including ensuring that approved budget is available for all variations.

9.2 Contract Extensions

Any decision to award a contract does not include the awarding of any extension options for the contract unless specifically stated.

The extension of a contract containing an extension option is approved by the same delegated position or the Director that approved the original contract.

If the original contract was approved by Council, then the contract extension must also be approved by Council, unless otherwise specifically delegated by Council to a staff position.

9.3 Cumulative Spend

A procurement must not be split to circumvent the procurement thresholds set out in Appendix 1 of this Policy.



However, it is recognised that certain goods, services or works of the same or a similar kind will be purchased from the same provider under separate arrangements on a regular basis. This will give rise to cumulative spend.

In those circumstances, the procurement thresholds set out in Appendix 1 of this Policy must be considered on the basis of a rolling two-year average spend on the goods, services or works purchased from the same supplier. If expenditure is ongoing in nature and the cumulative spend is likely to exceed the public tender threshold over a rolling two year period, then staff will review the opportunity to pursue a contract for the purchase of such goods, services or works.

Expenditure resulting from a competitive process may be excluded from the cumulative spend analysis.

9.4 Dispute resolution

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

9.5 Managing and monitoring supply arrangements, KPIs and performance

Council and/or our agents actively manage supplier relationships and monitor performance before, during and after establishing procurement arrangements and contracts. The level of monitoring will be appropriate to the relative risk Council is exposed to.

To allow for early intervention and, if necessary, optimise performance, regular monitoring of supplier performance will be carried out to assess whether it meets critical requirements such as timeliness and conforming to specifications/agreed requirements.

9.6 Supplier expectations

9.6.1 Supplier Code of Conduct

Council is committed to ethical, sustainable and socially responsible procurement, and expect the same high standards from our suppliers.

Suppliers undertaking work any providing goods or services on behalf of Council are required to comply with the requirements of Council's Supplier Code of Conduct.

9.6.2 Occupational Health and Safety

Council requires all contractors and suppliers to comply with all legislative and regulatory requirements, particularly in relation to Occupational Health and Safety. This is a mandatory requirement and non-compliance (at Council's sole discretion) may result in disqualification of current and prospective suppliers and contractors.

9.6.3 Council information and Community Personal Information

Where a contractor is provided with, and/or given access to council information; particularly personal information about community members, Contract Managers must ensure that the contract appropriately protects that information and contractors comply with attestation or certification requirements.



9.6.4 Insurance

Where a contract requires certain levels of insurance, a Contract Manager must ensure they receive updated certificates of cover annually.

No contract will be executed until Council has received copies of all required certificates of insurance. No works or services will commence under a contract until the contract has been signed by all parties.

10 Sustainable Procurement

10.1 Sustainable Procurement Definition

Sustainable procurement involves decision making that has the most positive environmental, social and economic impacts possible across the entire lifecycle of goods, services and works.

10.2 Principles

Council commits to applying principles of sustainability to all its decision-making and activities and, as such, encourages diversity, acceptance, fairness, compassion, inclusion, access for people of all abilities and environmental sustainability through procurement. In addition, Council applies sound contracting principles to its procurement activity. Accordingly, Council will give high regard to the elements listed in Appendix 2 when making procurement decisions.

11 Monitoring Review and Audit

The Procurement Team will monitor procurement activity on an ongoing basis with respect to annual procurement activity and compliance with key internal controls and will provide regular reporting to the Executive Leadership Team.

Council is committed to continuous improvement and will review the Policy in accordance with the requirements of the Act to ensure it continues to meet its wider strategic objectives.

This Policy is subject to amendment at any time if required and is to be reviewed at least once in every four (4) year Council term as required by the Act.

Minor amendments to this document may be required from time to time. Where amendments don't materially alter the document, they will be made administratively, without a requirement for formal approval.

The supporting Procurement Procedures and Contract Management Guidelines will be maintained by the Procurement Team with any operational amendments to be approved by the Executive Leadership Team.

12 Procurement Policy Enquiries and Contact Details

For further information on this policy, please contact Council's Procurement Team via email procurement@boroondara.vic.gov.au

12.1 Complaints Handling

Members of the public and suppliers are encouraged to report known or suspected incidences of improper conduct to the CEO.



A procurement complaint in relation to the process and probity applied by Council when carrying out a procurement activity should be lodged with the Strategic Procurement and Contracts Team via letter or email.

Councillor's and Council Staff will report and manage complaints in accordance with Council's internal policies and processes.

12.2 Reporting Suspicious Activities

All Councillors, staff and suppliers are required at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. Council is committed to protecting all revenue, expenditure and assets from any attempt to gain illegal benefits (financial or otherwise). Council will take all reasonable steps to protect those who assist Council by providing information about suspected fraud. This will include confidentiality of identity and protection from harassment to the extent possible.

Suspected improper conduct, offers of bribes, commissions and any other irregular approaches from suppliers, prospective suppliers or other individuals will be investigated and reports in accordance with Council's internal policies and processes.

The CEO must notify IBAC of any matter they suspect on reasonable grounds to involve corrupt conduct occurring or having occurred in accordance with mandatory reporting requirements under the *Independent Broad-based Anti-Corruption Commission Act 2011*.



Appendix 1 – Procurement Thresholds

Guidelines will be determined from time to time for minimum spend thresholds associated with Council's procurement activities. These will be decided by analysing the historical size and complexity of the procurement activity and of proposed procurement activities.

The scope of projects must not be split into similar portions to avoid procurement thresholds.

Any pre-approval not to seek the required number of quotes must be sought from the Director and must be through the pre-approval template. Any pre-approval does not excuse the procurement activity from due process and financial approval.

Council's thresholds are **exclusive GST** for procurement activities as follows:

Value	Procurement Methodology (RFT/RFQ/Simple RFQ/Direct Purchase/Single Quote)
<\$3,000	Direct purchase (from local supplier where possible) Best value principles apply One (1) quote (written for >\$1,000) <ul style="list-style-type: none"> • Purchase Order (PO) or Directorate Credit Card
\$3,001 - \$15,000	One (1) written quote (from local supplier where possible) <ul style="list-style-type: none"> • PO required unless exempt (eg, utilities, subscriptions etc) • Quote attached to requisition.
\$15,001 - \$50,000	Seek two (2) written quotes (if via an Aggregated Purchasing Contract, must follow requirements established for the particular panel; if no requirements, seek a minimum of two (2) written quotes) <ul style="list-style-type: none"> • Council's eTendering portal (> \$25,000 mandatory, contract number recommended) • Purchase order • Quotes must be attached to requisition
\$50,001 - \$250,000	Seek three (3) written quotes (if via an Aggregated Purchasing Contract, must follow requirements established for the particular panel; if no requirements, seek a minimum of three (3) written quotes) <ul style="list-style-type: none"> • Contract number required and quoted on PO • Council's eTendering portal • Simple Evaluation Plan that includes a probity escalation process • Evaluation Report • Simple Contract



Value	Procurement Methodology (RFT/RFQ/Simple RFQ/Direct Purchase/Single Quote)
\$250,001 - \$500,000	<p>Seek five (5) written quotes</p> <p>(if via an Aggregated Purchasing Contract, must follow requirements established for the particular panel; if no requirements, seek a minimum of five (5) written quotes)</p> <ul style="list-style-type: none"> • Contract number required and quoted on PO • Council's eTendering portal • Probity and Evaluation Plan, relevant contract • Evaluation Report • If Public Process, consider engaging Probity Advisor and or Probity Auditor based on the requirements under section 5.3.1 of this policy
Over \$500,000	<p>Public Process - RFT, RFI, EOI</p> <p>OR</p> <p>(or if via an Aggregated Purchasing Contract, must follow requirements established for the particular panel; if no requirements, seek a minimum of six (6) written quotes)</p> <ul style="list-style-type: none"> • Contract number required and quoted on PO • Council's eTendering portal (issued via the Procurement Team) • Probity and Evaluation Plan, relevant contract • Evaluation Report to Council • Refer to section 5.3.1 of this policy to determine if the engagement of a Probity Advisor and or Probity Auditor is required

Purchase orders must be raised and provided to the Supplier before the receipt of an invoice. It is best practice for the Supplier to quote Council's purchase order number on their invoice for ease of payment.

Further process is documented in Council's Procurement and Contract Management Manual.



Appendix 2 - Social and Sustainable Procurement Policy

To help promote Sustainable Procurement, Council staff will apply an evaluation score preference to quotations and tender offers received from:

- a local business or any Indigenous Business (up to 5% preference)
- any businesses that demonstrates other key environmental or social benefits or outcomes. (up to an additional 5% preference)

Social and Sustainable Procurement Principles	
1. Economic	
<p>Council is committed to procurement that supports local businesses and economic diversity.</p> <p>Where practicable and applicable, Council will give preference to goods manufactured or produced in Australia and will actively seek quotes and tenders from Local Businesses whilst:</p> <ul style="list-style-type: none"> • Ensuring Value for Money (VFM) outcomes. • Ensuring open and effective competition, and development of competitive local businesses and industry. • Fostering innovation and emerging sectors. 	
Objectives	
<p>Council's economic sustainability commitment and approach aims to:</p> <ul style="list-style-type: none"> • Achieve VFM on whole-of-life (including disposal) basis, rather than just initial cost - procuring goods and services that are more efficient to maintain and operate and thereby reduce operating costs. • Minimise life cycle impacts of products purchased. • Challenge demand at source to avoid excess procurement. • Ensure probity and accountability in the procurement process. • Commit to source locally. • Build relationships with local businesses and encourage purchasing from local suppliers to help build their capacity. • Increase local employment. 	
2. Environmental	
<p>Council is committed to procurement that supports environmentally preferred products whenever they achieve an equivalent function. Within this context, Council will;</p> <ul style="list-style-type: none"> • Support the circular economy of reduce, reuse, recycle and repurpose. • Prioritise purchases that have a high content of recycled material, minimise waste, conserve water and energy, reduce greenhouse gas emissions, avoid natural resource and biodiversity depletion, low toxic goods and minimise single-use plastic. 	



Social and Sustainable Procurement Principles

- Support a 'green' supply chain.
- Prioritise goods that will contribute towards Council's carbon neutral targets.
- Improve resilience and adaptability to climate change.
- Support sustainable building design, construction and furnishings.
- Promote a market for recycled materials.
- Support sustainable events and catering.
- Foster innovation in sustainable goods and services.
- Support social and ethical practices.

Where applicable, Council must include appropriate criteria in requests for quotes and tenders to deliver environmentally preferable outcomes and deliver strategies to avoid and reduce climate change and support the circular economy:-

To support the achievement of objectives and targets within Council's sustainability strategies, Council is committed to minimising its impact on the environment by:

- Purchasing goods, services and construction material that reduces climate change, avoids air, water and soil pollution and minimises natural resource and biodiversity depletion.
- Supporting suppliers that advocate for climate change and the circular economy and follow socially responsible and ethical practices in the supply chain.
- Purchasing environmentally preferred goods and services whenever they achieve an equivalent function within an agreed budget.
- Supporting businesses that practice sustainable on-site management e.g. sustainable waste management (with reference to the waste hierarchy and Circular Economy principles) and sustainable energy and water initiatives.

Objectives

Council's environmental sustainability commitment and approach aims to:

- Minimise waste to landfill by considering end-of-life options i.e. leasing, resource recovery, re-using, recycling and repurposing.
- Minimise energy consumption and greenhouse gas emissions.
- Minimise habitat destruction and demand for raw materials and natural resources.
- Minimise toxicity and level of hazardous substances and pollutants.
- Minimise use of potable water.
- Use 'green' supply chains that consider the whole life cycle of a product.
- Use 'Fairtrade' products.
- Support socially responsible and ethical practices.
- Minimise noise pollution.



Social and Sustainable Procurement Principles

3. Social

Council encourages diversity, acceptance, fairness, compassion, inclusion and access for people of all abilities through procurement. In addition, Council is committed to building stronger communities and meeting social objectives, which benefits the community and commits to integrating measures into its procurement processes and documentation, which promote improved social outcomes. This could include the facilitation of employment and training opportunities for those experiencing barriers as well as the engagement of social and inclusive enterprises.

Where applicable, Council must include appropriate criteria in requests for quotes and tenders to deliver social outcomes. Council's social procurement strategies will be underpinned by the following considerations.

Council's social sustainability commitment and approach aims to meet the following objectives.

3.1. Workplace

Council will:

- Promote fair employment practices.
- Promote workforce welfare.
- Promote workplace policies and practices aimed at ending bullying, harassment and discrimination.
- Promote workplace policies and practices aimed at ending domestic and family violence.

- Fair wages
- Workforce equality
- Diversity
- Avoidance of bonded labour
- Work health and safety
- Zero tolerance of violence and harassment

3.2. Access and opportunity

Council will where possible:

- Create training and employment opportunities for unemployed, disadvantaged municipal residents or marginalised job seekers.
- Create opportunities for small, medium and social enterprises, Aboriginal and Torres Strait Islander and Disability Employment enterprises.
- Promote equity, diversity and equal opportunity.
- Provide for broad public involvement on issues that affect the community by addressing complex local challenges such as intergeneration unemployment, crime, vandalism and economic decline.

- Maintain a social procurement program to increase social procurement spend across Council.
- Increase employment opportunities for Aboriginal and Torres Strait Islander peoples, people living with disability, disadvantaged people and long term unemployed.
- Ensure sourced products are accessible by all segments of the community.

3.3. Gender diversity

Council's procurement will, where possible, promote gender diversity.

- Increase gender equity.
- Ensure suppliers can meet and/or address principles of gender equity in leadership and recruitment.



Social and Sustainable Procurement Principles

3.4. Ethical procurement

Council will:

- Target cohorts that may be experiencing economic exclusion, depressed areas and marginalised communities.
- Include social requirements in contracts with private sector providers to screen supply chains for ethical considerations.
- Ensure vendors apply inclusive and sustainable business practices.
- Act to prevent, detect and remove modern slavery from Council's supply chain



Appendix 3 - Procurement performance targets

The Strategic Procurement Team will monitor procurement activity on an ongoing basis with respect to annual procurement activity and compliance with key internal controls.

In addition, Council's framework of internal controls over procurement processes includes regular internal audit review and audit by Council Strategic Procurement team.

- **Procurement performance targets**

To help maximise the achievement of best value, Council has set performance targets for:

- The achievement of savings and benefits in the procurement of goods, services and works (up to 5% benefit on repetitive services and 2% benefit on one-off projects where strategic procurement practices have been employed).
- The percentage of spend with local businesses at 10%.
- The percentage of spend with Sustainable/Social Procurement suppliers (target 2%).

- **Performance indicators**

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

- new Collaborative Procurement contracts
- new preferred supplier (panel) contracts
- the number of Local Businesses engaged and proportion of local spend
- level of compliance with the Procurement Policy
- spend with local businesses
- spend on sustainable goods and services
- spend with social enterprises.

A memorandum detailing actual performance against these measures will be presented quarterly to the Executive Leadership Team.

7.8 Proposed discontinuance and sale of road reserve - Adjoining 41 McShane Street, Balwyn North

Executive Summary

Purpose

This report is to consider commencement of the statutory procedures to discontinue, take title and sell the 3.05m wide section of road reserve, with a land area of 44.5 m² at the front of 41 McShane Street, Balwyn North.

Background

Council received a request from the owner of 41 McShane Street, Balwyn North, for the discontinuance and sale of the above unconstructed section of road reserve at the front of the property, as shown hatched on **Attachment 1**.

Key Issues

- The Road is in the name of the original subdivider.
- The Road Reserve is considered by officers to be of little practical value to Council.
- The Road Reserve has been enclosed within the front yard of 41 McShane Street, Balwyn North, for in excess of 15 years.
- The discontinuance and sale of the Road requires Council to comply with section 206 clause 3 of Schedule 10 of the *Local Government Act 1989* and section 114 of the *Local Government Act 2020*.

Confidentiality

Confidential information is contained in **Confidential Attachment 1**, as circulated in the confidential section of the agenda attachments. The information in this attachment is deemed to be confidential in accordance with section 66(2)(a) and the definition of 'confidential information' in section 3(1) of the *Local Government Act 2020*. The information is Council business information which would prejudice the Council's position in commercial negotiations if prematurely released.

If discussion of the confidential information in the attachments to this report is required for Council to make a decision, Council may resolve to discuss the matter in a confidential session or to defer the matter to the confidential section of the agenda.

Officers' recommendation

That Council resolve to:

1. Commence the statutory procedures under section 206 clause 3 of Schedule 10 of the *Local Government Act 1989* and section 114 of the *Local Government Act 2020*, to discontinue and sell part of the McShane Street road reserve at the front of 41 McShane Street, Balwyn North, shown hatched in **Attachment 1** and as Lot 1 on Title Plan TP965749R in **Attachment 2** ("the Land"), to the owner of the adjoining property at 41 McShane Street, Balwyn North, by private treaty in accordance with Council's Discontinuance of Roads and Reserves Policy 2022 ("Council's Policy").
2. Gives public notice under section 223 of the *Local Government Act 1989* and section 114 of the *Local Government Act 2020* in the appropriate newspaper and on Council's website that Council proposes to discontinue the road reserve and

sell the land from the road reserve to the owner of 41 McShane Street, Balwyn North, by private treaty, and transfer to itself any remaining unsold land, in accordance with Council's Policy.

3. Invite submissions on the proposed discontinuance and sale.
4. Note a further report will be presented to a future meeting of the Services Delegated Committee of Council should any submissions be received to enable consideration of the submissions and for a decision on whether to proceed with the proposed discontinuance and sale of the road reserve in full, in part or not to proceed with the discontinuance and sale.
5. Authorise the Chief Executive Officer, or such other person as the Chief Executive Officer approves, to undertake the necessary procedural steps to complete the formal procedures for the discontinuance and sale of the road reserve if no submissions are received.
6. Authorise the Chief Executive Officer, or such other person as the Chief Executive Officer approves, to sign all necessary documentation for the sale of the land to the owner of the adjoining property at 41 McShane Street, Balwyn North, for the sum of \$27,925.00 (inclusive of GST), in accordance with Principle 3 of Council's Discontinuance of Roads and Reserves Policy.

Responsible director: Phillip Storer, Chief Executive Officer

1. Purpose

This report is to consider commencement of the statutory procedures to discontinue and sell the 3.05m wide section of road reserve, with a land area of 44.5 m² at the front of 41 McShane Street, Balwyn North, shown hatched in **Attachment 1** and as Lot 1 on Title Plan TP965749R in **Attachment 2** (“the Land”).

2. Policy implications and relevance to community plan and council plan

This matter is addressed under Council’s Discontinuance of Roads and Reserves Policy 2022 (“Council’s Policy”).

Principle 3 of section 4.2.8 of Council’s Policy has been used in determining the price for the Land.

Principle 3

“When a property owner can demonstrate exclusive occupation of a non-Council titled road or reserve for 15 years or longer and the purchase price of a parcel of land is substantially higher than the cost of an adjoining owner acquiring the land via an adverse possession claim (where adverse possession claim criteria are satisfied) the purchase price may, be discounted to an amount equal to adverse possession costs (estimated at \$11,000 as at the date of adoption of this policy). This amount will be reviewed annually to ensure it reflects the current costs of an adverse possession claim. A Council report seeking authorisation for the price negotiated will occur.”

This report is consistent with the Boroondara Community Plan 2021-31 (“BCP”), incorporating the 10-year Community Vision, Council Plan 2021-25 and Municipal Public Health and Wellbeing Plan 2021-25.

In particular strategy 7.1 which states “Decision-making is transparent and accountable through open governance processes with timely communication and reporting” is applicable.

It also supports Strategic Objective 7 of BCP, to “Ensure decisions are financially and socially responsible through transparent and ethical processes”.

3. Background

Council received a request from the owner of 41 McShane Street, Balwyn North, for the discontinuance and sale of the above unconstructed section of road reserve at the front of the property, as shown hatched on **Attachment 1** (“the Road Reserve”).

The Road Reserve remains in the name of the original subdivider.

This occupation is thought to have commenced when the house lots were first laid out and McShane Street was constructed. Whilst McShane Street is shown as an 18.29m road on the original 1919 subdivision for the area, the physical road, including kerb and channel, footpaths and nature strips,

measures only 15.24m. Approximately 3.05m of the Road Reserve is enclosed within the properties on the eastern side of the road, with 41 McShane Street, Balwyn North being one of those properties.

The sections of Road Reserve at the front of 35 and 37 McShane Street, Balwyn North were previously discontinued and sold to the abutting property owners in 2022 and 1989 respectively. In considering the same proposal at 35 McShane Street in 2022, it was foreshadowed that 41 McShane Street would seek a discontinuance at a future point in time.

The Road Reserve has been enclosed within the front of the property at 41 McShane Street, Balwyn North, for in excess of 15 years and is not used for access.

See **Attachment 2** for the proposed allocation of the land if the road is discontinued.

See **Attachment 3** for an aerial view.

4. Outline of key issues/options

The Road Reserve is considered by officers to be of little value to Council and no longer reasonably required for public access. The Road Reserve has been enclosed within the front of the adjoining property at 41 McShane Street, Balwyn North, for in excess of 15 years.

None of the service authorities or Council have any assets within the Road Reserve nor have any requirements over the Road Reserve.

Although McShane Street, Balwyn North, is listed as a Public Road on Council's Register of Public Roads under the *Road Management Act 2004* (Vic), the occupied western 3.05m portion of the road reserve is not considered part of the Public Road. This is because it has never been utilised by the public for road purposes.

5. Consultation/communication

Stakeholder engagement

The owner of 41 McShane Street, Balwyn North, has made a conditional offer to purchase the Land from the Road Reserve, in accordance with Council's Policy. The owner has also agreed to meet Council's costs associated with undertaking the discontinuance of the Road Reserve and sale of the Land.

The surrounding property owners will be advised of the proposal as part of the statutory procedures.

The adjoining property owner at 39 McShane Street, Balwyn North has advised that they have no interest in gaining title to the Road Reserve enclosed within their property.

Service authorities and Council departments have been consulted and no objections were received.

Statutory community engagement and consultation

The statutory procedures set out in this report require Council to give public notice of its intention to discontinue and sell the Road Reserve. Public notice will be advertised in The Age newspaper consistent with Council Policy.

Submitters may request to be heard by Council prior to a decision being made.

If any submissions are received, a further report will be presented to a future meeting of the Services Delegated Committee of Council to enable the consideration of any submissions prior to a decision being made.

If no submissions are received, the Chief Executive Officer, or any such other person as the Chief Executive Officer appoints and authorises, will undertake the necessary procedural steps to complete the formal discontinuance of the Road Reserve and sale and transfer of the land, including the execution of all relevant documentation.

6. Financial and resource implications

If Council proceeds with the discontinuance and sale of the Road Reserve, the sale will generate once off income for Council together with the ability to rate the land from the Road Reserve in the future.

The owner of 41 McShane Street, Balwyn North has furnished a statutory declaration attesting to the period of occupation of the Land by current and former owners of that property.

In addition, the owner of 41 McShane Street has signed conditional offers to purchase the Land from the Road Reserve for the total sale price of \$11,000 (inclusive of GST), plus costs which are currently estimated at \$27,925.

The purchase price comprises the following amounts shown in table 1:

Table 1: Land sale revenue

Item	Amount (GST inclusive)
Land sale price (capped price in accordance with Council Policy)	\$11,000.00
Reimbursement of Council's costs	\$16,925.00
Total	\$27,925.00

See **Confidential Attachment 4** for a copy of the valuation report.

7. Governance issues

No officers involved in the preparation of this report have a general or material conflict of interest requiring disclosure under chapter 5 of the Governance Rules of Boroondara City Council.

The recommendation contained in this report is compatible with the Charter of Human Rights and Responsibilities 2006 as it does not raise any human rights issues.

8. Social and environmental issues

The proposed discontinuance and sale of the Road Reserve is not expected to have a negative impact on the community, social wellbeing or the environment.

9. Evaluation and review

Council's intended course of action has been reviewed from a legislative compliance perspective by Council's consultants Macquarie Local Government Lawyers and no issues have been identified.

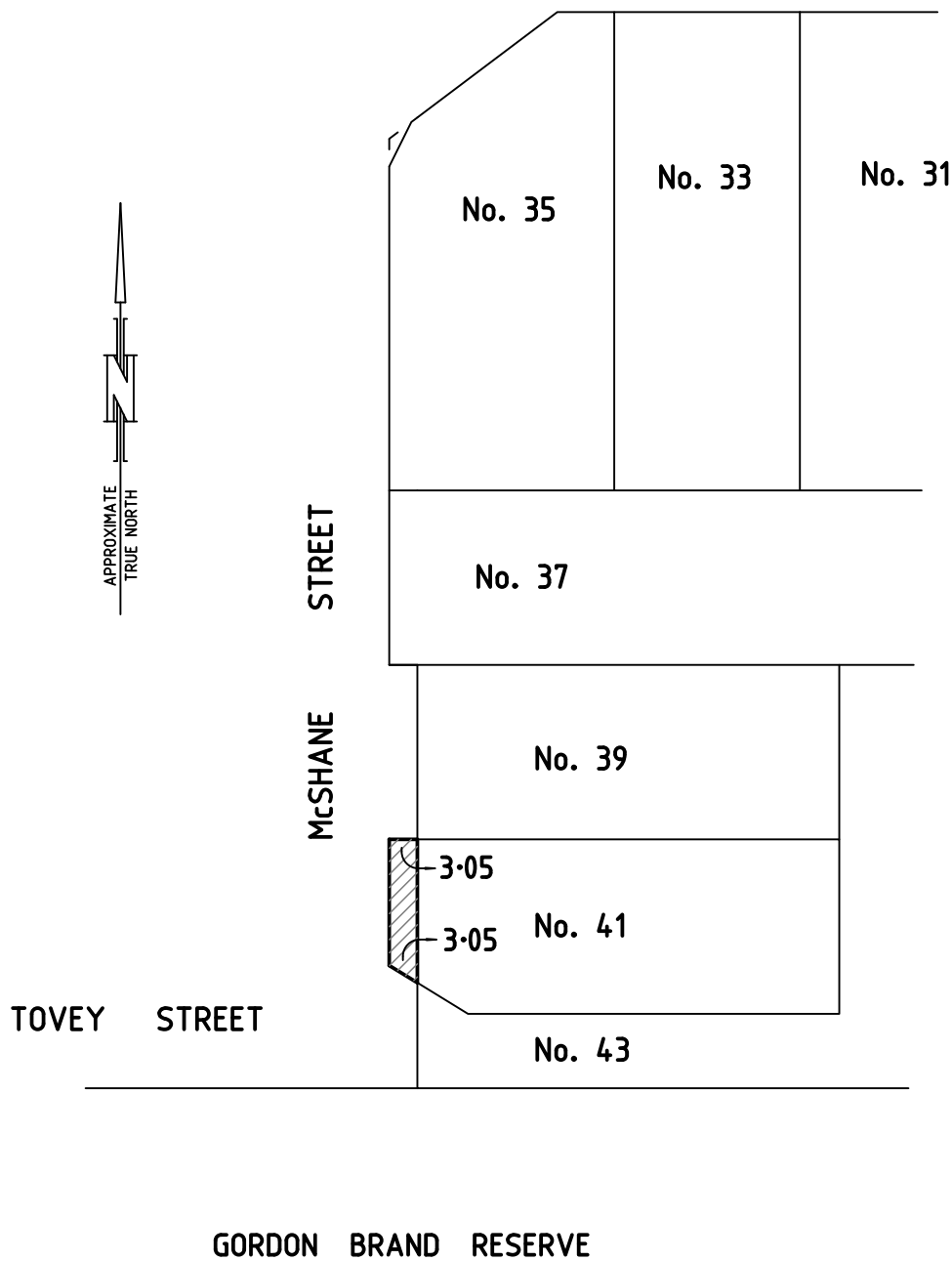
10. Conclusion

It is considered by officers that the section of Road Reserve at the front of 41 McShane Street, Balwyn North, is no longer reasonably required as part of the Road Reserve for public use. In considering the same proposal at 35 McShane Street in 2022, it was foreshadowed that 41 McShane Street would seek a discontinuance at a future point in time. Therefore, it is now considered appropriate that procedures be commenced for its discontinuance and sale to the adjoining owner in accordance with Council's Policy. Progressing the proposal will formalise the occupation of the Land by the adjoining property owner at 41 McShane Street, Balwyn North which has prevailed for many years.

Manager: Sapphire Allan, Acting Chief Financial Officer

Report officer: Michael Hutchison, Head Strategic Property and Revenue

Attachment 1



TITLE PLAN				EDITION 1	TP965749R		
<p style="text-align: center; font-weight: bold;">LOCATION OF LAND</p> <p>PARISH: BOROONDARA</p> <p>TOWNSHIP: _____</p> <p>SECTION: _____</p> <p>CROWN ALLOTMENT: _____</p> <p>CROWN PORTION: _____</p> <p>ELGAR'S CROWN SPECIAL SURVEY (PART)</p> <p>TITLE REFERENCE: VOL. 12179 FOL. 634</p> <p>LAST PLAN REFERENCE: LP7529</p> <p>DEPTH LIMITATION: DOES NOT APPLY.</p>				<p style="font-size: 0.8em;">WARNING: THIS PLAN REPRESENTS AN EXPECTED DIVISION OF LAND. ANY ONE LOT MAY NOT HAVE BEEN CREATED. CHECK THE LOT/PLAN INDEX FOR CURRENT INFORMATION.</p>			
				NOTATIONS			
EASEMENT INFORMATION					<p style="font-size: 0.8em;">THIS PLAN HAS BEEN PREPARED FOR LAND VICTORIA TITLE DIAGRAM PURPOSES.</p> <p>Date: _____</p> <p>Assistant Registrar of Titles</p>		
Easement Reference	Purpose/ Authority	Width (Metres)	Origin	Land Benefited/ In Favour Of			
<p>SCALE</p> <p>2.5 0 2.5 5 7.5 10</p> <p>LENGTHS ARE IN METRES</p>				<p>SCALE</p> <p>1:250</p>		<p>ORIGINAL SHEET</p> <p>SIZE A3</p>	
<p>Millar Merrigan</p> <p style="font-size: 0.8em;">Land Development Consultants Millar & Merrigan Pty Ltd ACN 005 541 668 Metro 2/126 Merindale Drive, Croydon 3136 Regional 156 Commercial Road, Morwell 3840 Mail PO Box 247 Croydon, Victoria 3136</p>				<p>SURVEYORS REF</p> <p>27455S2</p> <p style="font-size: 0.8em;">VERSION 1 DATE 2/3/2023</p>		<p>FILE NO:</p> <p>LGD</p>	
				<p>DEALING CODE: LGA</p>		<p>SHEET 1 OF 1</p>	

TITLEPL.DWG

Attachment 3

Aerial image - Area proposed for discontinuance and sale (shaded red)

