

## COUNCIL POLICY

<b>Procurement</b>	<b>Adopted By Council:</b>	18/11/2009	
	<b>Date/s Revised:</b>	10/2011; 5/2013; 4/2015; 7/2016; 5/2017; 5/2018; 6/2019; 6/2020; 10/2021; 12/2024	
	<b>Next Review Date:</b>	<u>12/2028</u>	
	<b>Document No:</b>	CP013	
	<b>Directorate:</b>	Finance & <del>Corporate</del> ICT Services / <u>Infrastructure and Environment</u>	
	<b>Responsible Officer:</b>	Manager Finance & <del>Corporate</del> ICT Services / <u>Manager Infrastructure and Environment</u>	

### PURPOSE

The purpose of this policy is to provide ~~guidance and direction on~~ best practice principles, processes and procedures which must be applied to all purchases of goods, services and works by ~~the~~ Council, to enable consistency and control over the procurement activities of Council.

### DEFINITIONS

Definitions of the key terms used in this policy are provided at the end of the policy.

### POLICY

#### Overview

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

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

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

#### Applicability

#### Application

This Policy applies to all contracting and procurement activities at the Council and is applicable to Councillors and Council ~~Staff~~ officers.

~~It is recognised this~~ The application of the policy will ~~enhance~~ support the achievement of ~~the~~ Council's procurement objectives ~~such as including~~ sustainable and socially responsible procurement, supporting local economies and obtaining Value for Money, ~~leading to a better result in~~. Meeting these objectives will lead to the provision of goods, services and works ~~for the~~ that benefit ~~of the~~ our community and provide best value to our ratepayers.

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

The Council must comply with this Procurement Policy before entering into a contract for the purchase of goods or services or the carrying out of works unless an exemption is applicable pursuant to this policy.

## Objectives

This Policy is consistent with the requirements of section 108 of the Act and will:

- Promote open and fair competition and provide Value for Money;
- Provide clear guidelines to the Council to allow consistency and control over procurement activities;
- Demonstrate accountability to ratepayers and residents;
- Provide guidance on ethical behaviour in public sector procurement;
- Demonstrate the application of best practice in procurement activities;
- Demonstrate the consideration of sustainability in procurement with respect to social, economic and environmental factors;
- Increase the probability of obtaining the best outcome for the municipal community when procuring goods and services and delivering works; and
- Promote collaborative procurement.

These objectives will be achieved by requiring that the Council's procurement and contract management activities:

- Support the Council's corporate strategies, aims and objectives;
- Span the whole life cycle of an acquisition and take sustainability considerations into account;
- Achieve demonstrable Value for Money;
- Are conducted in, and demonstrate, an impartial, fair and ethical manner;
- Seek continual improvement through innovative and technological initiatives, and
- Generate and support Local Business through inclusion wherever practicable.

## 1. Effective Legislative and Policy Compliance and Control

### 1.1 Ethics and Probity

The Council's procurement activities shall be ~~performed~~undertaken with procedural integrity in an open, transparent and ethical manner ~~with demonstrated~~which demonstrates integrity, fairness and accountability that meets relevant legal requirements.

All tender processes ~~shall~~must be conducted in accordance with the requirements of this Procurement Policy and any associated procedures, relevant legislation and general law, relevant Australian Standards and the Act.

### 1.2 Conduct of Councillors and Council ~~Staff~~Officers

#### General

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

- treat potential and existing suppliers with equality and fairness;
- not seek or receive personal gain;
- maintain confidentiality of confidential information and Commercial in Confidence information;

- present the highest standards of professionalism and Probity;
- deal with suppliers in an honest and impartial manner that does not allow conflicts of interest;
- provide all suppliers and tenderers with the same information and equal opportunity;
- be able to account for all decisions and provide feedback on them;
- ~~Council Staff who are responsible for managing or supervising contracts are prohibited from performing any works under the contract they are supervising.~~
- query incidents, decisions or directions that appear to contradict or deviate from Council's standards of ethics or probity or established policies and procedures; and
- Ensure that this Procurement Policy and Council's Procurement guidelines are adhered to in relation to any expenditure of Council funds.

**Council officers are prohibited from performing any of the contracted works under any contract they are supervising and/or managing.**

### Members of Professional Bodies

Any Councillor or Council ~~Staff member~~officer belonging to a professional organisations ~~shall~~ must, in addition to the obligations detailed in this policy, ensure that they adhere to any code of ethics or professional standards required by that body.

### **1.3 Conflict of Interest**

Councillors and Council ~~Staff~~shallofficers must at all times avoid situations which may give rise to an actual or perceived conflict of interest. A conflict of interest may be a 'general' or a 'material' conflict of interest.

~~A member of Councillors and~~ Council ~~Staff~~hasofficers have a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

~~A member of Councillors and~~ Council ~~Staff~~hasofficers have a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit or loss may be direct or indirect and pecuniary or non-pecuniary. Affected persons include, among others, the ~~member of Councillor,~~ Council ~~Staff~~officers and their family members.

Council ~~Staff~~officers involved in the procurement process, in particular preparing tender documentation, writing tender specifications, opening tenders, participating in tender evaluation panels, preparing a recommendation report, and Councillors and Council ~~Staff~~officers awarding tenders must:

- **Avoid** conflicts of interest, whether material or general or actual, potential or perceived;
- **Declare** that they do not have a conflict of interest in respect of the procurement. Council ~~Staff~~officers participating in tender evaluation panels must complete a Conflict of Interest declaration. Council ~~Staff~~officers must declare any actual or perceived conflicts in line with Council's internal processes for reporting conflicts of interest; and
- **Observe** prevailing Council and ~~Government~~government guidelines on how to prevent or deal with conflict of interest situations; and not take advantage of any tender related information whether or not for personal gain.

Any identified conflict of interest to be declared using the appropriate Conflict ~~Of~~of Interest ~~(COI)~~ declaration and Action Plan form (Appendix I). The Action Plan must outline how the conflicted officer is to be separated from the decision-making procurement process as well as the contract management of the procurement.

#### 1.4 Fair and Honest Dealing

All prospective contractors and suppliers must be afforded an equal opportunity to tender or quote. Impartiality must be maintained throughout the Procurement process so it can withstand public scrutiny.

The commercial interests of existing and potential suppliers must be protected. Confidentiality of information provided by existing and prospective suppliers must be maintained at all times, particularly commercially sensitive material such as, but not limited to discounts, rebates, profit, manufacturing and product information.

#### 1.5 Probity, Accountability and Transparency

Accountability in procurement means being able to justify and provide evidence of the process followed. An independent third party must be able to see clearly that a process has been followed and that the process was fair and reasonable.

Council ~~Staff-officers involved in procurement activities~~ must be able to account for ~~all~~ procurement decisions and ensure ~~all~~ procurement activities leave an appropriate audit trail for monitoring and reporting purposes.

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

~~Additionally:~~

- ~~all Council Staff must be able to account for all Procurement decisions made over the lifecycle of all goods, services and works purchased by the Council and provide feedback on them; and~~
- ~~all procurement activities are to provide for an audit trail for monitoring and reporting purposes.~~

#### 1.6 Gifts and Hospitality

No Councillor or ~~member of~~ Council ~~Staff~~officer shall, either directly or indirectly, solicit or accept gifts or presents from any member of the public involved with any matter that is connected with the duties of the officer, or in which the Council is interested.

Councillors and Council ~~Staff~~officers must exercise the utmost discretion in accepting unsolicited hospitality from contractors or their representatives, or from organisations, ~~firms~~companies, or individuals with whom they have official dealings. Councillors and Council ~~Staff~~officers should also avoid the ambiguous situation created by visiting the premises of a contractor, organisation, ~~firm~~company, or individual uninvited and/or not on official business.

Offers of bribes, commissions or other irregular approaches from organisations or individuals (no matter how flimsy the evidence available), must be promptly brought to the attention of the Chief Executive Officer (CEO). If the irregular approach is made to the CEO ~~it, the CEO~~ must ~~be~~ promptly ~~brought~~bring the matter to the attention of the Mayor.

Council Policy CP009: Gifts, Benefits & Hospitality, ~~address provides further guidance regarding~~ the offer, ~~of gifts or hospitality, whether~~ received or declined, ~~of gifts or hospitality~~ to Councillors or to Council officers.

#### 1.7 Disclosure of Information

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

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

- allocated Council budgets for proposed tenders;

- information disclosed by organisations in tenders, quotation or during tender negotiations;
- all information that is Commercial in Confidence information; and
- pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Councillors and Council [Staffofficers](#) are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests.

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

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

## 1.8 Complaints, Complaints Handling and Reporting Suspicious Activities

Members of the public and suppliers are encouraged to report known or suspected incidences of improper conduct to the CEO. Councillors and Council [Staffofficers](#) will report and manage complaints in accordance with Council's [CP035 Complaint Handling policy as well as any](#) internal policies and processes.

### Reporting Suspicious Activities

All Councillors, Council [Staffofficers](#) and Council 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 [fullest](#) 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 reported 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~~[Corruption](#) Commission Act 2011*.

## 2. Governance

### 2.1 Structure

Council has delegated a range of powers, duties and functions to the CEO in relation to procurement. The delegation aims to ensure that the Council's procurement structure operates according to processes that:

- Are flexible enough to procure in a timely manner the diverse range of goods, works and services required by Council;
- Guarantee that prospective contractors and suppliers are afforded an equal opportunity to tender or submit a quotation; and
- Encourage competition and collaboration.

## 2.2 Methods

The Council's standard methods for procuring goods, services and works shall be by any of the following:

- Purchase order following a quotation process from suppliers for goods or services that represent best Value for Money under the quotation thresholds adopted by the Council. An approved purchase order must be created prior to committing expenditure on behalf of Council for the provision of services, goods or works in accordance with the Council's procurement thresholds and guidelines;
- Under contract following a quotation or tender process;
- Using Collaborative Procurement Arrangements;
- Multi-stage tenders commencing with an ~~EOI~~ Expression of Interest (EOI) followed by a tender process;
- Under a sole-sourcing (sole supplier) arrangement in line with the conditions contained in section 2.7 and unless an exemption is applicable pursuant to this policy or other arrangements are authorised by Council (or under appropriate delegated authority) on an 'as needs' basis as required by ~~abnormal~~ irregular circumstances such as emergencies.

Petty cash and corporate credit cards are available for use only when the purchase order system, contract or purchasing arrangements are not readily accessible.

In all instances, guidelines mentioned in this policy (and other associated policies and standard operating procedures) need to be followed unless they otherwise fall within exemptions under the Act or any other ~~Local Government regulation~~ relevant legislation.

### Petty Cash

#### *Scope of Use*

Petty cash may be used to make purchases for Borough of Queenscliffe under the value of \$100.

#### *Use of Form:*

- a) An entry for each purchase is to be made on the Petty Cash Reimbursement Claim Form. This entry must be signed by the person receiving the petty cash.
- b) All purchases must have a receipt or proof of purchase and be counter signed by the claimer's manager or another manager to authorise reimbursement. Receipts must be attached to the Petty Cash Reimbursement Claim Form in order of purchase. ~~Authority:~~

#### Authority:

- c) Any ~~staff member~~ officer may claim petty cash.
- d) Authorised petty cash claims may be reimbursed by staff officers who hold delegated responsibility under their position description.
- e) Finance staff officers will review and process all reconciliations and recoupments of petty cash funds.

### Corporate Credit Cards

Corporate credit cards may be used as a means to purchase goods, works or services for the Borough of Queenscliffe only when the standard methods for purchasing goods works and services are not readily accessible. -Corporate credit cards must be used in accordance with the Borough's credit cards standing operating procedure and are never to be used for personal use.

–Personal credit or debit cards are ~~not only~~ to be used in exceptional circumstances with pre-approval by a Manager; any ~~circumstance to purchase goods and services~~ purchases made on a personal credit card without pre-approval may not be approved for the Borough reimbursement. Evidence of pre-approval should be attached to the reimbursement request.

### 2.3 Responsible Financial Management

The principle of responsible financial management shall be applied to all Procurement activities.

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

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

Council Staffofficers must not disclose allocated tender budgets to suppliers.

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

### 2.4 Procurement Principles

Council will apply the following fundamental best practice principles to procurement, irrespective of the value and complexity of that procurement:

- Value for Money;
- Sustainability (social, economic and environmental);
- Open and fair competition;
- Accountability;
- Risk management, and
- Probity and transparency.

### 2.5 Minimum Spend Competition Thresholds

Section 108 of the Act details that each Council will set the public tender threshold above which tenders or expressions of interest (EOI) ~~for~~ contracts must be publicly invited.

A public tender process (which may include a two-step public EOI process / invitation to tender) must be used for all procurements valued at **\$200,000 and above** (~~in~~excluding GST) for goods, services or works.

For procurements valued under \$200,000 (excluding~~in~~ GST), the procurement methodology and thresholds detailed below will apply as a minimum requirement.

<u>Up to \$1,000 #Total Purchase Value</u>	<u>&gt;\$1,001 to \$5,000 #Procurement Action</u>	<u>&gt;\$5,001 to \$20,000 #Procurement Requirement</u>
<u>Up to \$1,500 (excluding GST)</u>	<u>Obtain at least one verbal or written quotation (written preferable)</u>	<u>Evidential material must be provided to establish that quotations have been obtained from the appropriate number of suppliers.</u>  <u>Quotations must be recorded in the financial system at the time of raising Purchase Order.</u>

<p>\$1,501 – \$10,000 (<del>excluding</del><sup>incl</sup> GST)</p>	<p>Obtain at least one (1) written quotation</p>	<p><del>Quotations Required</del> <u>Evidential material must be provided to establish that quotations have been obtained from the appropriate number of suppliers.</u></p> <p><u>Quotations must be recorded in the financial system at the time of raising Purchase Order.</u></p>
<p><u>\$10,001 – \$30,000 (excluding GST)</u></p>	<p><u>Obtain at least two 2 written quotations</u></p>	<p><u>-Evidential material must be provided to establish that quotations have been obtained from the appropriate number of suppliers.</u></p> <p><u>A brief description of the procurement is required to be provided to the suppliers.</u></p> <p><u>Quotations and description of procurement must be recorded in the financial system at the time of raising Purchase Order.</u></p>

<p>Obtain at least one (1) verbal or written quotation.</p> <p>A written quote is preferable for verification purposes. <u>\$30,001 – \$75,000 (excluding GST)</u></p>		<p>Obtain at least three (3) written quotations. <u>Request minimum of three (3) written quotations. Quotations returned by the nominated closing date must be evaluated and a recommendation made in favour of the supplier offering the best Value for Money outcome.</u></p>	<p>Obtain at least five (5) written quotations. <u>Evidential material must be provided to establish that quotations have been requested from the appropriate number of suppliers.</u></p> <p><u>Written specifications to be provided to selected suppliers.</u></p> <p><u>Endeavour to seek quotes from First Nations owned businesses.**</u></p> <p><u>Quotations, specification and a documented justification for contract award and mentioning efforts taken to seek quotes from First Nations owned businesses must be recorded in the financial system at the time of raising Purchase Order.</u></p>
<p><u>\$75,001 – \$200,000 (excluding GST)</u></p>		<p><u>Request minimum of five (5) written quotations. Quotations returned by the nominated closing date must be evaluated and a recommendation made in favour of the supplier offering the best Value for Money outcome.</u></p>	<p><u>If less than the minimum Evidential material must be provided to establish that quotations are to be sought or were received, then the purchase is not have been requested from the appropriate number of suppliers.</u></p> <p><u>Written specifications and evaluation criteria to proceed unless the reasons be provided to selected suppliers.</u></p>

			<p><u>Endeavour to seek quotes from First Nations owned businesses.**</u></p> <p><u>The Request for proceeding with the purchase are approved Quotation process must be issued via Council's eTendering portal. Quotations must be returned by the Chief Executive Officer and placed nominated closing date. A recommendation report evidencing the evaluation and recommendation based on the relevant file in the best value must be documented, mentioning efforts taken to seek quotes from First Nations owned businesses, must be recorded within Council's Records/financial system.</u></p>
<u>&gt; \$200,001 (excluding GST)</u>	<u>Public Tender Process or eligible panel contract</u>	<u>Undertaken in accordance with Council's tendering process. Approval is for total value of the whole of life of the contract.</u>	

• ~~Items with a Total Value up to \$1,000 – Request for Quotation.~~

~~— A minimum of one verbal or written quotation must be obtained and the details recorded before placing an order (similar details must be recorded where more than one supplier has quoted) and documented in the Council's procurement system.~~

• ~~Items with a Total Value \$1,001 to \$5,000 – Request for Quotation.~~

~~— Council will receive a minimum of one email or written quotation which must be recorded on Council's procurement system.~~

• ~~Items with a Total Value \$5,001 to \$20,000 – Request for Quotation.~~

~~Council will receive a minimum~~

\*\*Promoting the use of suppliers/businesses owned by Aboriginal and Torres Strait Islander Australians such as those listed on Supply Nation and Kinaway. This does not mean these quotes must then be accepted; the aim is to ensure that First Nation suppliers/businesses are being considered where possible.

- Officers must maintain appropriate records of all quotes sought and obtained.
- Use of Government Agency contracts (e.g. PA, MAV, SPC etc) may be considered for all procurements.
- Where the requirement to 'obtain' quotations is not complied with (for instance, where two email or written quotations which must be recorded on Council's procurement system; and are required and two or more were sought but only one was obtained) then the purchase can only proceed if the Chief Executive Officer approves (via the completion of the appropriate 'Less than Minimum Quotations' form).
  - the quotation offering the best Value for Money must be confirmed by the supplier on company letterhead / formal business email address and the order placed with that firm.
- Items with a Total Value \$20,001 to \$75,000 – Request for Quotation.
  - Council will receive a minimum of three email or written quotations which All supporting documentation must be recorded on Council's procurement/finance system; advertising is not including quotes sought, purchase quotations, CEO Less than Minimum Quotation approvals, Manager approvals (where required;) and the like.
    - quotations returned by the nominated closing date must be evaluated and a recommendation made in favour of the supplier offering the best Value for Money outcome.
- Items with a Total Value \$75,001 to \$200,000 – Request for Quotation.
  - Council will obtain a minimum of five written quotations by issuing a written Request for Quotation; Public advertising is not required; and
  - quotations returned by the nominated closing date must be evaluated and a recommendation made in favour of the supplier offering the best Value for Money outcome, which must be recorded on Council's procurement system.

## **2.6 Panel Suppliers**

Where existing contracts and panel contracts have been established by Council, these contracts must be used. Seeking goods, services and works from suppliers outside of these contracts may amount to a breach of contract unless otherwise stated in the contract. When seeking quotations using a panel contract or using contract rates provided, Value for Money is to be demonstrated. Preferred suppliers must be used where practicable when sourcing goods, services or works are from the following:

- Annual supply contracts;
- Aggregated/collaborative contracts;
- Contracts available from MAV Procurement;
- Contracts available from Procurement Australia; and
- Contracts available with the State Government.

Note: If an existing panel or unit rate contract is in place for goods (such as a specific price per unit), Council Officers can access these contracts without the need to undertake a full Request for Quote process where value for money can be provided.

## **2.76 Exemptions from Publicly Advertised Tender, Quotations and Expression of Interest Requirements**

The following circumstances are exempt from the general publicly advertised tender, quotations and expression of interest requirements:

Exemption Name	Explanation, limitations, responsibilities and approvals
<del>1.</del> A contract made because of genuine emergency or hardship	<ul style="list-style-type: none"> <li>• <del>Where the Council has resolved that the contract must be entered into because of an emergency (e.g. to provide immediate response to a natural disaster, declared emergency, etc.)</del></li> </ul>
2.1. A contract made with, or a purchase from a contract made by, another government entity, government-owned entity or other approved third party by Council	<ul style="list-style-type: none"> <li>• This general exemption allows engagements: <ul style="list-style-type: none"> <li>○ With another government entity or government owned entity. For example, Federal, State or Local Government or an entity owned by the Federal, State or Local Government; and/or</li> <li>○ In reliance on contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, Municipal Association of Victoria (MAV) or National Procurement network members (e.g. Local Buy), Procurement Australia (PA<del>).</del>)</li> </ul> </li> </ul>
3.2. Extension of contracts while Council is at market <u>to ensure continuity of supply of goods/services for Council.</u>	<ul style="list-style-type: none"> <li>• Allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or are taking longer than expected.</li> <li>• This exemption may be used when the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.</li> </ul>
<del>4.</del> Professional services <del>unsuitable for tendering</del> <del>3.</del>	<ul style="list-style-type: none"> <li>• Legal Services-</li> <li>• Insurance-</li> </ul>
5.4. Novated Contracts	<ul style="list-style-type: none"> <li>• Where the initial contract was entered into in compliance with the Act and due diligence has been undertaken <del>in</del><u>with</u> respect to the new party.</li> </ul>
6.5. Information technology resellers and software developers	<ul style="list-style-type: none"> <li>• Allows Council to renew software licenses and maintenance and support, or upgrade existing systems, where there is only one supplier of the software who holds the intellectual property rights to the software.</li> </ul>
7.6. Regional Waste and Resource Recovery Groups	<ul style="list-style-type: none"> <li>• Situations where a Regional Waste and Resource Recovery Group constituted under the <i>Environment Protection Act 2017</i> had already conducted a public tender for and on behalf of its member councils.</li> </ul>
8.7. Statutory Compulsory Monopoly Insurance Schemes	<ul style="list-style-type: none"> <li>• Motor vehicle compulsory third party</li> <li>• WorkCover</li> </ul>
9.8. Operating Leases	<ul style="list-style-type: none"> <li>• Where a lessor leases an asset (generally a vehicle or plant and equipment) to the Council and assumes the residual value risk of the vehicle.</li> </ul>

Exemption Name	Explanation, limitations, responsibilities and approvals
<p><u>9. Traditional Owners</u></p>	<ul style="list-style-type: none"> <li>• <u>Engagement of Traditional Owners where the primary purpose of the procurement activity is to gather information relating to Aboriginal culturally sensitive issues, including land management considerations pursuant to the <i>Aboriginal Heritage Act 2006</i> (Vic)</u></li> <li>• <u>Engagement of Traditional Owners for specific First Nations activities such as ‘Welcome to Country’.</u></li> </ul>
<p><u>10. Contracts made because of Emergency</u></p>	<ul style="list-style-type: none"> <li>• <u>An emergency due to the actual or imminent occurrence of an event that endangers or threatens to endanger the safety or health of any person in the municipality or that destroys or damages, or threatens to destroy or damage, any property in the municipality or endangers or threatens to endanger the environment or an element of the environment in the municipality.</u></li> <li>• <u>The Municipal Emergency Response Coordinator (MERC), appointed by Victoria Police, holds the authority to declare an emergency event. Upon receipt of formal notification from the MERC regarding a declared emergency event, this exemption shall take effect. All procurement activities falling under this exemption are obligated to adhere to the financial delegations specified within the financial delegation schedule of the Municipal Emergency Response Plan Committee (the Committee). The Committee does not possess financial delegation exceeding \$200,000 excluding GST-</u></li> </ul>
<p><u>11. Sole Supplier</u></p>	<ul style="list-style-type: none"> <li>• <u>There is one or a limited number of available tenderers in the market or suppliers able to submit quotations or the marketplace is restricted by statement of license, Intellectual Property, or third-party ownership of an asset (excluding public utility plant).</u></li> </ul>
<p><u>12. Supplier with highly specialised skills or expertise</u></p>	<ul style="list-style-type: none"> <li>• <u>This applies where Council needs highly specialised or expert advice. The transparent way of engaging the supplier would be demonstrating that multiple suppliers do not exist to provide the goods or service and Council will receive value for money by using the supplier’s goods or service</u></li> </ul>
<p><del>10.</del><u>13. Other specific Council exemptions</u></p>	<ul style="list-style-type: none"> <li>• As defined in <b>Appendix II</b></li> <li>• Specific Council exemptions will be reviewed and updated in Appendix II from time to time, as per the Policy Review Process</li> </ul>

**Council may approve any extraordinary exemptions to the requirements of this policy via a formal resolution of Council.**

Officers must ensure that documented evidence is recorded appropriately to support procurements done under exemption to satisfy audit requirements.

## **2.87 Public Tender Requirements**

All public tenders invited by the Council will be published via Council’s tendering Portal and may be advertised in the media.

Information regarding current tenders and closed tenders will be published on Council's website.

Any competitive tendering process must be managed in accordance with the Borough's "Competitive Tendering" standing operating procedure.

### Tender Evaluation Panel

A tender evaluation panel will be established to evaluate each tender submission against the tender's selection criteria. Tender evaluation panels can include external personnel in order to ensure the best outcome for a procurement activity. -Tenders above the public tender threshold amount must be comprised of at least three persons including a chairperson. -Tenders for procurement under the tender threshold must be comprised of at least two panel members.

A tender evaluation panel may also include a non-voting member for the purpose of providing expert advice.

### Evaluation Criteria

The Council may include the following evaluation criteria categories to determine whether a proposed contract provides Value for Money:

- Tendered price;
- Resources, technical and financial capabilities. ~~Capacity to complete works within required timeframe;~~
- Capacity to complete works within required timeframe;
- Experience on similar projects.
- Standing, skill and experience within the industry.
- Quality of work.
- Management and quality procedures.
- Occupational Health and Safety (OHS) records; and procedures.
- Value to Council (economic contribution made to the local economy).
- Methodology
- Innovation
- Sustainability
- Ability to provide added value
- ~~Environmental sustainability~~
  - Alignment with Council's Climate Emergency Response Plan
  - Social Procurement (diversity, community accountability, inclusion, disability, gender equality and contribution to Reconciliation)
  - Local Content

### Shortlisting and Negotiations

Council may conduct a shortlisting process during EOI and tender processes. Shortlisting can be based on any criterion or criteria but only in pursuit of the most advantageous outcome for Council.

Shortlisted tenderers may be invited by the Council to submit a best and final offer in relation to all or certain aspects of their respective tenders.

Once one or more preferred tenderers are selected, negotiations can be conducted in order to obtain the optimal solution and commercial arrangements within the original scope and intent of the tender. Probity requirements apply to all negotiations.

## 2.98 Contract Management

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

- establishing a system monitoring and achieving the responsibilities and obligations of both parties' under the Contract;
- providing a means for the early recognition of issues and performance problems and the identification of solutions; and
- adhering to Council's risk management framework and adhering to relevant occupational health and safety contractor compliance procedures.

All Council Contracts are to include Contract Management requirements. Furthermore, Contracts are to be proactively managed by the ~~member of~~ Council Staffofficer responsible for the delivery of the contracted goods, services or works to ensure the Council receives 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.

All contractual relationships must be documented in writing based on standard terms and conditions.

Where this is not possible, approval must be obtained from the appropriate ~~member of~~ Council Staffofficers listed in the Council delegations. A request for such an approval should be supported with Procurement and legal advice as relevant.

To protect the best interests of the Council, terms and conditions must be settled in advance of any commitment being made with a supplier. Any exceptions to doing this ~~expose~~exposes the Council to risk and ~~thus~~therefore must be authorised by the appropriate ~~member of~~ Council Staffofficer listed in the Council delegations.

### Contract 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,
  - ~~a. If the term of the contract is two years or less, the value of the variation in the context of the thresholds fixed by the Procurement Policy; or~~
  - ~~b. If the term of the contract is more than two years, the value of the variation (excluding the value of work carried out under provisional sum) is more than the 30% of the original contract sum; and~~~~

~~• The~~A variation to contract must consider the subject matter of the proposed variation, and whether it is consistent with the scope of the original contract. The variation can only be issued if there is an approved budget allocation.

- ~~• For variations that have been properly characterised as variations, approval of expenditure must be undertaken in accordance with the schedule of financial delegations. If the value of a variation plus the contract sum exceeds the delegation mechanism used for awarding the contract, the variation must then be approved in accordance with the delegated financial authority for the revised contract sum inclusive of the proposed variation cost (eg. for a contract signed under the CEO delegation for an original contract sum of \$190,000 a variation of \$10,001 or more would require resolution of Council). Contracts approved under officer financial delegation (that is, not approved by Council resolution) that seek to increase the total original contract sum through variation can be approved by the Financial Delegate for the value of the~~

individual variation in line with the approved budget and instrument of delegation.

- Where a variation seeks to increase the total contract sum equal to or less than 15% and the contract was awarded by Council Resolution, the expenditure may be approved under officer financial delegation in accordance with the relevant instrument of delegation, where this variation increase is within the officer's financial delegation.
- Where a variation seeks to increase the total contract sum greater than 15% and the contract was awarded by Council resolution, Council approval is required to be obtained prior to actioning the variation.

Where a proposed contract variation is valued at \$200,000 or above, officers must consider whether a new tender may be required. Reference to these considerations must be included in the Report to Council regarding the proposed variation. The Report to Council must also include references as appropriate to this Procurement Policy and the reasons a variation is appropriate and aligned with this Procurement Policy and scope of the original tender.

### Dispute Resolution

Where relevant, all Council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes escalating to legal action.

~~All new contracts need to be assessed by a member of the Financial Services team to assess any potential implications of AASB 16 – Leases.~~

### **2.109** Probity Advisor

A formal probity plan should be developed, and a probity advisor appointed in the following circumstances:

- ~~Where the proposed Total Contract Sum exceeds \$3.5 million over the life of the contract or over two years for multi-year contracts for provision of service/s (e.g. waste collection service / roads, parks and reserves maintenance services) or for a lesser value set by Council from time to time; or~~
- ~~Where a proposed contract is considered by Council or the CEO to be particularly complex, of a high risk or controversial nature, and requiring a high level of public confidence.~~

A probity advisor may be appointed to any tender evaluation panel and may be appointed to oversee the evaluation process (even evaluation of quotations below the tender threshold).

### **2.110** Collaborative Procurement

Council ~~Officers will seek to use Collaborative Procurement Arrangements with~~ may form or join a group of other ~~Councils and public bodies when procuring~~ councils to procure goods, services ~~and/or~~ works collaboratively. In this instance, one council of the group acts on behalf of the other councils and undertakes a competitive process in order to take advantage of economies of scale in accordance with section 108(3)(c) of the Act.

When a report for a procurement is presented to Council for approval, it will include information relating to any collaborative arrangement opportunities that were explored as part of the procurement process.

When collaborating with other ~~Councils~~ councils, the Council will do so in accordance with the following:

- Review and explore opportunities for contracts which, due to the subject matter, nature or scope, are likely to deliver operational efficiencies if procured in collaboration with the other organisations;

- Council Officers commit to regularly reviewing the contracts register to determine whether collaborative procurement should be considered;
- Councils will consider one of three primary procurement and contracting model options (Best Practice Guidelines 2024) which are:
  - Collaborative market engagement
  - Collaborative request for quote/request for tender process, and
  - Collaborative contract
- where collaborative procurement is to be pursued:
  - a. a pre-market approval submission will be submitted to each ~~Council~~council/participating organisation prior to commitment to collaboration, seeking delegation of contract approval to the appropriate Council Officer of that Council (these delegations of contract approval may supersede the requirements of this policy);
  - b. the participating ~~Councils~~councils will establish a written agreement that gives authority for a lead council to act as each Council's agent in the Collaborative Procurement Arrangements;
  - c. A procurement plan, evaluation plan and probity plan must be developed and agreed to by all participating councils/organisations. ~~Borough of Queenscliffe Council approvals must be made in accordance with the schedule for financial delegation.~~
  - d. each participating ~~Council~~council/organisation must be involved in:
    - I. the initial decision to undertake the Collaborative Procurement Arrangement;
    - II. preparation of, and agreement to, the specifications;
    - III. ensuring probity for the Collaborative Procurement Arrangement; and
    - IV. the acceptance of tender(s) and awarding of contract(s). Borough of Queenscliffe Council approvals must be made in accordance with the schedule for financial delegation before the acceptance of tender(s) and awarding of contract(s).

Furthermore, as per clause 2.7 (table item 1), Council may procure goods, services, or works without undertaking a public tender or other procurement process through collaborative arrangements, government or nominated agents.

~~Council may also collaborate with other Councils or other bodies such as MAV Procurement or Procurement Australasia~~ to procure goods, services or works, or utilise utilising existing Collaborative Procurement Arrangements established through a public tender process where it provides an advantageous, Value for Money outcome for the Council. -This specifically includes collaborative procurement arrangements made by a reputable body for which the Borough of Queenscliffe was not party to the original tender process, providing the tender process was consistent with the requirements of this policy.

Any Federal or State Government grant funded specific projects may be excluded from Collaborative Procurement Arrangements.

## **2.121 Delegation of Authority**

Delegations define the limitations within which Council Staff officers are permitted to work. Delegation of Procurement authority allows specified Council Staff officers to approve certain purchases, quotation, tender and contractual processes without prior referral to the Council. This enables the Council to conduct Procurement activities in an efficient and timely manner while maintaining transparency and integrity.

The Council shall maintain a documented scheme of Procurement delegations, identifying the Council ~~Staff~~officers authorised to make such Procurement commitments in respect of goods, services and works on behalf of the Council and their respective delegations contained in the Schedule of Delegations approved by the Chief Executive Officer and Council policies:

- acceptance of tenders;
- acceptance of quotes;
- contract term extensions (within authorised budget);
- contract amendment (non-financial);
- contract amendment (financial);
- appointment to register of pre-qualified suppliers;
- corporate Credit Card purchases; and
- procedural exceptions.

The Schedule of Delegations documents the scope of ~~staff member~~Council officer delegations. The Chief Executive Officer within their delegation is authorised to approve the issue of Corporate Credit Cards to ~~members of staff~~Council officers based on operational and business needs.

#### Delegations**Decisions Reserved for the Council**

~~Commitments and processes which exceed~~The following decisions must be made via Council resolution:

- All contracts with a total contract sum greater than the CEO's financial delegation in the Instrument of Delegation to the Chief Executive Officer made by resolution of Council and which must be approved by from the Council are, or otherwise required by the Act;
- ~~initial signing and sealing of contract documents;~~
- ~~All contract approval for all expenditure over CEO's approved delegation; and~~
- ~~variations and that seek to increase the total contract term extensions (requiring additional budget) sum by equal to or greater than 15% provided that the original contract was approved by a Council resolution.~~

#### **2.132 Internal Controls**

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

- more than one person is involved in and responsible for a transaction end-to-end;
- transparency in the procurement process;
- a clearly documented audit trail exists for procurement activities;
- appropriate authorisations are obtained and documented;
- systems are in place for appropriate monitoring and performance measurement; and
- a process is in place for escalation, where appropriate, of procurement matters (including procedural –non-compliance) to the Management Team, the Audit and Risk Committee and Council.

#### **2.143 Risk Management**

Risk assessments are a vital part of the procurement planning process, particularly for significant contracts. Risks will be identified for each part of the sourcing, transition, delivery and finalisation stages of procurement. Appropriate risk avoidance and mitigation strategies will be employed whenever

practicable and appropriate.

Risk management may include:

- Allowing sufficient planning and lead-time for procurement preparation and consideration.
- Integrating risk identification at the earliest planning stage to inform the procurement process.
- Using Council standard-form or Australian Standard contracts which include current, relevant clauses to mitigate risk to Council.
- Obtaining contract security e.g. bank guarantees where appropriate.
- Seeking input from relevant experts in the drafting of tender specification documentation.
- Addressing contract departures and non-standard contracts where possible prior to the award of the contract with evidence of review and recommendation.
- Ensuring agreements are executed by the delegated officer prior to commencement; and
- Ongoing and timely contract management including monitoring and enforcing performance.

### **3. Demonstrate Sustained Value**

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

The Council Procurement strategy shall support the aims and objectives of the Council Plan, including but not limited to those related to Sustainability.

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

The Council's Procurement activities will be carried out on the basis of obtaining best Value for Money.

This means minimising the total cost of ownership over the lifetime of the requirement consistent with acceptable quality, reliability and delivery considerations. Lowest price will not necessarily achieve Value for Money. This will be facilitated by:

- Achieving continuous improvement in procurement activity in accordance with the direction set out in the Council's Strategic Procurement Plan;
- Developing, implementing and managing processes that support the co-ordination and streamlining of activities throughout the procurement lifecycle;
- Effective use of competition;
- Using existing Council contractual arrangement or Collaborative Procurement Arrangements where appropriate;
- Identifying and rectifying inefficiencies in procurement processes;
- Developing cost efficient tender processes;
- Council ~~Staff~~officers responsible for providing procurement services or assistance within the Council providing competent advice in terms of available products and agreements; and
- Working with suppliers to create relationships that are professional, productive, and are appropriate to the value and importance of the goods, services and works being acquired.

#### **3.3 ~~Sustainable~~Sustainability Procurement**

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. The United Nations Environment Programme defines sustainable procurement as a "process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves Value for Money on a whole of life basis in terms of generating benefits not only the organisation, but also to society and the economy whilst minimising damage to the environment."

The Council is committed to adopting a Procurement approach by supporting the principles of sustainable procurement within the context of purchasing on a Best Value basis.

Best Value purchasing decisions made by the Council are made on the basis of whole-of-life cost and non-price factors including contribution to the Council's Sustainability objectives.

### Environmental

The Council prefers to purchase ~~environmentally preferred~~ products ~~whenever they achieve and services that will help the same function and Value for Money outcomes.~~ Council in achieving targets set out in Council's Climate Emergency Response Plan.

The Council will therefore consider the following environmental Sustainability criteria:

- Reduce, Reuse, and Recycle:

The Council is committed to reducing resources, consumption and minimising waste during the Procurement life cycle including:

- o the Council shall encourage and prefer eco-friendly products which are more power efficient and/or have a lesser or no harmful impact on the environment;
- o selecting energy, fuel and water efficient products;
- o Sourcing and procuring sustainable solutions certified by organisations (such as [BCorporation.com.au](http://BCorporation.com.au))
- o the Council shall prefer to purchase from a source which is less polluting or uses clean or cleaner technology; and
- o the Council's Procurement projects should automatically consider the provision of re-usable products and recycling as part of the project planning process, including the consideration of whole-life costs and disposal considerations.

- Buy Recycled:

The Council is committed to buy recycled/part recycled products to optimise consumption and stimulate demand for recycled products, promoting the collection and reprocessing of waste and working towards zero discharge to landfill.

- Green the Supply Chain:

The Council shall encourage Council suppliers to adopt good environmental practices- by giving a preference to companies that supply ethically sourced and produced goods and services.

The Council will actively promote green Procurement throughout its supply chain and ensure selection which has minimum environmental impact (such as, purchases through Council's membership in Eco-buy where this is shown to be the best environmental decision and consistent with the Value for Money principles outlined in this policy).

### Social Procurement

Council is committed to building stronger communities and meeting social objectives which benefit the municipality and commits to integration of measures in its procurement processes and documentation which promote improved social outcomes.

Council's sustainable procurement will be underpinned by the following principles:

- A thorough understanding of the socio-economic issues affecting the community;

- Creation of training and employment opportunities for unemployed or disadvantaged residents and ratepayers in Council's municipality, and marginalised job seekers in Council's municipality, to address local socio-economic issues;
- Promotion of equity, diversity and equal opportunity inclusion; and
- Respect for human rights, the rule of law and international norms of behaviour.

The Council places a greater emphasis on the following areas in its commitments to social procurement.

### **Reconciliation**

Council is committed take meaningful actions to advance reconciliation and strengthening relationships between Aboriginal and Torres Strait Islander peoples and non-Indigenous peoples, for the benefit of all Australians.

In terms of this procurement policy, Council prefers to work with businesses that embrace the principles and purpose of reconciliation. Council will also seek to promote the use of suppliers/businesses owned by Aboriginal and Torres Strait Islander People, for example such as those businesses listed on Supply Nation or Kinaway, where possible.

Council will endeavour to request First Nations suppliers to submit to relevant procurement opportunities such as supplier panels when advertising for goods, services or works.

### **Disability**

Council is committed take meaningful actions to promote the rights of people with disability and provide a public commitment to inclusion.

In terms of this procurement policy, the Council prefers to work with businesses that increase employment opportunities for people with disability through the promotion and management of the rights of people with disability.

### **Gender Equality**

Council is committed to fulfilling its duty under the *Gender Equality Act 2020* to promote gender equality. Council must, in developing policies and programs and in delivering services that are to be provided to the public, or have a direct and significant impact on the public:

- consider and promote gender equality; and
- take necessary and proportionate action towards achieving gender equality.

In terms of this procurement policy, that may mean endeavouring, where possible and practicable, to have equal gender representation on tender evaluation panels, considering any gender equality measures a supplier has in place, and considering the impact on gender equality when evaluating whether to use any particular supplier.

### **Economic**

Council is committed to procurement that supports Local Business and economic diversity in the municipality as well as the G21 region. Council is committed to buying from Local Business where such purchases may be justified on best value grounds. -Local providers are given an equal opportunity to quote and tender. Where a local provider can match or better other providers on price, quality and availability, preference is given to the local provider.

Wherever practicable, Council will fully examine the benefits available through purchasing goods, services and works from suppliers/contractors within the Borough of Queenscliffe. Council will also seek

from prospective suppliers/contractors, where applicable, what economic contribution they will make to the local economy.

- purchases up to \$510,000: Council will consider using a local supplier where possible;
- purchases \$5,000 up to \$200 greater than \$10,000: Council will endeavour to obtain a minimum of one quote from a local supplier where possible; and
- open tender: when a public tender process is undertaken, all tenders ~~must~~ will include a Local Content Statement and Local Content criterion- where practicable. A weighting percentage ~~up to a maximum value~~ (minimum of 10%5%) will be assigned to this criterion for assessment. Assessment of the Local Content will be determined by the tender evaluation panel.

### 3.4 Performance Indicators

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

- ~~Extent of contracts delivered on time and on budget;~~
  - New Collaborative Procurement contracts;
  - New preferred supplier (panel) contracts;
  - The number of Local Businesses engaged and proportion of local spend;
- ~~Value of savings and benefits achieved;~~
  - Level of compliance with the Procurement Policy; and
- ~~Annual spend on sustainable goods and services.~~
  - Number of quotations/tenders received from businesses identified as First Nation owned businesses

A report detailing actual performance against these indicators will be presented annually to the Audit and Risk Committee and to Council.

### 3.5 Build and Maintain Supply Relationships

Council recognises that in order to achieve sustainable value, a strategic assessment of the appropriate 'channel to market' should be undertaken – whether to go to market on its own, participate in regional or sector aggregated projects or panels, access state government panel agreements or other means. Council will consider supply arrangements that deliver the Value for Money.

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

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

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

- local businesses;
- green suppliers;
- small to medium sized enterprises;
- social enterprises;

- ethnic and minority business; and
- voluntary and community organisations.

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

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

Supplier shall at all times conduct themselves in ways that are in accordance with the Supplier Code of Conduct, given in appendix III.

~~Creditor accounts must be managed in accordance with the Borough of Queenscliffe Council Policy CP033-Creditor Management.~~

**TRAINING AND/OR COMMUNICATION**

Ongoing awareness of this policy is promoted to ensure all purchases of goods, services and works are undertaken in a consistent manner and in compliance with this policy. -Annual or biennial refresher training will be provided to all staff relevant officers via Council’s annual training schedule.

**CONTINUOUS IMPROVEMENT**

In accordance with the Act, Council will review its Procurement Policy at least once during each 4-year term of the Council.

**DEFINITIONS**

<b>Collaborative Procurement Arrangement</b>	A contract established by the Council, government or a nominated agent, such as Procurement- Australasia, Municipal Association of Victoria (MAV), G21 Group of Councils or a local government entity, for the benefit of numerous state, federal and/or local government entities that achieves best value by leveraging combined economies of scale.
<b>Commercial in Confidence</b>	Information that, if released, may prejudice the business dealings of a party e.g., prices, discounts, rebates, profits, methodologies and process information, etc.
<b>Contract Management</b>	The process that ensures both parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide Value for Money.
<b>Council Staff Officers</b>	Includes full-time, part-time and casual Council employees, temporary (fixed-term) employees, contractors and consultants while engaged by the Council.

<b><u>Exception</u></b>	<u>An exception is something that does not follow the general rule or norm. In the context of this policy, an exception might be when two written quotes are required to be obtained but despite requesting two or more written quotes only one written quote could be obtained. An approved exception would then be required to proceed with only one written quote obtained. The policy still applies but an exception means there must be permission to deviate from the policy.</u>
<b><u>Exemption</u></b>	<u>An exemption is where there is permission not to follow a rule or procedure. In the context of this policy, an exemption is a situation where this policy does not apply (for instance, the circumstances outlined in section 2.7).</u>
<b>Expression of Interest (EOI)</b>	An invitation for persons to submit an Expression of Interest for the provision of the goods and/or services generally set out in the overview of requirements contained in the document. -This invitation is not an offer or a contract.
<b>IBAC</b>	The Independent Broad-based Anti-corruption Commission.
<b>Local Business</b>	A commercial business with an operational premises that is physically located within the municipal borders or within the G21 region.
<b>Probity</b>	Within government, the term <u>“probity”</u> is often used in a general sense to mean <u>“good process”</u> . A procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with the Council’s policies and legislation, are established, understood, and followed from the outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.
<b>Procurement</b>	Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.
<b>Sustainability</b>	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
<b><u>Tender Process</u></b>	<u>The process of inviting parties to submit a quotation by tender using public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.</u>
<b><del>Tender Process</del></b>	<del>The process of inviting parties to submit a quotation by tender using public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.</del>
<b>Total Contract Sum</b>	The potential total value of the contract including: <ul style="list-style-type: none"> <li>• costs for the full term of the contract, including any options for either party to extend the contract;</li> <li>• applicable goods and services tax (GST);</li> <li>• anticipated contingency allowances or variations, and</li> <li>• all other known, anticipated and reasonably foreseeable costs.</li> </ul>
<b>Total Value</b>	Estimated value or reasonably anticipated value of the goods, services or works to be procured over a two-year period.

<b>Value for Money</b>	<p>Value for Money in Procurement <del>is about selecting</del> <u>refers to</u> the <u>supply achievement</u> of <del>goods, services and works taking into account both cost</del> <u>the best possible procurement outcome at the best possible price with reference to financial</u> and non-<del>cost factors</del> <u>financial criteria</u> including:</p> <ul style="list-style-type: none"> <li>• contribution to the advancement of the Council’s priorities;</li> <li>• non-cost factors such as fitness for purpose, quality, service and support; and</li> <li>• cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.</li> </ul>
------------------------	---

**REFERENCES**

Borough of Queenscliffe CP013 Procurement Schedule of Delegations

Borough of Queenscliffe Council Policy CP005 Councillors Code of Conduct

Borough of Queenscliffe Council Policy CP017 Risk Management

Borough of Queenscliffe Council Policy CP008 Fraud Prevention

Borough of Queenscliffe Council Policy ~~CP033 Creditor Management~~

~~Borough of Queenscliffe Council Policy~~ CP009: Gifts, Benefits & Hospitality

Borough of Queenscliffe ~~Standard Operating Procedure SOP005~~ Organisational Policy OP005 Motor Vehicles

Borough of Queenscliffe ~~Standard Operating Procedure SOP006~~ Organisational Policy OP006 Staff Code of Conduct

Borough of Queenscliffe ~~Standard Operating Procedure SOP038~~ Organisational Policy OP038 Corporate Credit Cards

Borough of Queenscliffe ~~Standard Operating Procedure SOP010~~ Organisational Policy OP010 Competitive Tendering

*Borough of Queenscliffe Instrument of Delegations to CEO*

*Local Government Act 2020*

Victorian Local Government Best Practice Procurement Guidelines, ~~2013, Department of Planning and Community Development, Victoria~~ 2024

END

# Appendix I

## Conflict of Interest Declaration and Action Plan Form

Use this form if you believe that you may be involved in a conflict-of-interest situation or if you are unsure and want formal clarification.

Section 1 – <del>Staff Officer</del> / contractor / panel member details:			
Name		Position	
Location		Contact Number	
Organisation			
Email			
Section 2 – <del>Staff Officer</del> / contractor / panel member disclosure:			
<input type="radio"/> I <b>HAVE</b> a conflict of interest to declare (please complete all relevant section in this form)			
<input type="radio"/> I <b>DO NOT HAVE</b> a conflict of interest to declare (please complete section 5 only)			
Section 3 – <del>Staff Officer</del> / contractor / panel member disclosure:			
<b>The conflict relates to (tick appropriate box/s):</b>			
<input type="checkbox"/>	Relationship with another <del>staff officers</del> member	<input type="checkbox"/>	Outside work activities (paid / unpaid)
<input type="checkbox"/>	Relationship with family or friends	<input type="checkbox"/>	Conflict of duty e.g. membership of another public sector or private organisation
<input type="checkbox"/>	Relationship with external parties	<input type="checkbox"/>	Other (please detail):
<input type="checkbox"/>	Financial interest	<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>	
<b>The conflict is expected to last (tick appropriate box):</b>		<input type="checkbox"/> 0-12 Months	<input type="checkbox"/> >12 months or ongoing
Section 4 – To be completed by principal, chair or equivalent			
<b>In my opinion the details provided (tick appropriate box):</b>			
<input type="checkbox"/> <u>Does not</u> constitute a conflict of interest, and I authorise the <del>staff member office</del> / contractor / panel member to continue the activity. (Go to Section 4)			
<input type="checkbox"/> <u>Does</u> constitute an actual, potential or perceived conflict of interest (if ticked, please provide a detailed action plan below)			
<p>If the situation <u>does</u> constitute a conflict of interest, the following has been considered:</p> <ul style="list-style-type: none"> <li>• Ensuring all information surrounding the conflict has been disclosed and documented</li> <li>• Informing likely affected persons of the conflict, seeking their views where relevant as to whether they object</li> <li>• Strengthening the internal management arrangements</li> <li>• Consulting Council support for advice and direction if regarding tenders</li> <li>• Reformulating the persons scope of work, or restricting access to certain information</li> <li>• Relinquish the interest that is causing the conflict</li> <li>• Removing the person from their existing duties, or transferring the person to other work</li> <li>• Close monitoring of the persons activities in relation to the conflict of interest</li> <li>• Take no further action because the conflict is minimal</li> </ul> <p>I have reviewed the above considerations and request that the <del>staff officer</del> / contractor / panel member takes the following action to eliminate / manage the conflict:-</p> <p>I will ensure this action plan is reviewed:</p>			

<input type="radio"/> Within 1 month	<input type="radio"/> Within 3 months	<input type="radio"/> Within 6 month	<input type="radio"/> Within 12 months
<input type="radio"/> Other – specify:	<input type="radio"/>	<input type="radio"/> N/A as the conflict is a one off of short duration	
		<input type="radio"/>	

**Section 5 – ~~Staff Officer~~ / contractor / panel member declaration**

To the best of my knowledge and belief, any actual, perceived or potential conflicts between my duties at the Borough of Queenscliffe and my private and/or business interests have been fully disclosed in this form. I acknowledge, and agree to comply with, any approach identified in this form for removing or managing an actual, perceived or potential conflict of interest.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Section 6 – Principal, chair or equivalents declaration**

The actions described in the approach outlined in Section 3 have been put in place to effectively manage any actual, potential or perceived conflict of interest disclosed in Section 2. The approach outlined in Section 3 ensures that Councils' public interests and reputation is adequately protected.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

END

## Appendix II

### Other specific Council exemptions

Considering the materiality and the nature of the transaction, the following instances are exempted from the quotation process. However, it is always encouraged to follow the quotation process to ensure best Value for Money.

- ~~reimbursement of petty cash expenditure (e.g. metered parking fees);~~
  - ~~memberships, subscriptions and other reoccurring payments;~~
  - ~~contributions, donations and sponsorships;~~
  - ~~urgent purchases (e.g., an officer makes a purchase at a hardware store);~~
  - ~~Councillor allowances;~~
  - ~~fee for meeting attendance determined by Council;~~
  - ~~investment lodgements (covered in the Council Policy CO011, Investment of Available Funds);~~
  - ~~refunds for deposits taken (e.g. tourist park cancellations, security deposits for hall bookings);~~
  - ~~utility payments; and~~
- ~~other ad hoc and purchases where it is deemed impractical to obtain quotation before making the purchase.~~

<u>EXPENDITURE TYPE</u>	
<u>Reimbursement of Petty Cash Expenditure (e.g. metered parking fees)</u>	<u>Utility Services such as Gas, Water, Sewerage Charges, Telecommunication (where the infrastructure is owned and managed by a single or particular party).</u>
<u>Memberships, Subscriptions and other Reoccurring Payments</u>	<u>Australia Post Charges</u>
<u>Investment Lodgments</u>	<u>Medical Expenses</u>
<u>Investments/Terms Deposits</u>	<u>Refundable Trust Funds, including Security Bonds, Contract Retentions and other funds held in Trust.</u>
<u>Loan Contracts and Investments</u>	<u>Venue Hire</u>
<u>Contracts For Sale of Goods (unless specified in another Council policy)</u>	<u>Traditional Owner Ad Hoc Advice</u>
<u>Grants (from the Federal or State Government) where Council's role in the funding arrangement is that of 'fund manager' and passes on funds from another level of government or other body.</u>	<u>Advertising</u>
<u>Refunds for deposits taken (e.g. Tourist Park cancellations, security deposits for venue bookings)</u>	<u>Landfill Costs</u>
<u>Fee for meeting attendance determined by Council;</u>	<u>Other ad hoc purchases of low value where it is deemed impractical to obtain quotation before making the purchase.</u>
<u>Statutory Payments</u>	<u>Lease or Licence of Property</u>

<u>Legislative or statutory requirements such as payments to the Australian Taxation Office, Fire and EPA Victoria Levies and/or fines.</u>	<u>External Audit Fees</u>
<u>Superannuation, Payroll Deductions, Workcover, Injury Management</u>	<u>Investment lodgements (covered in the Council Policy CO011 Investment of Available Funds)</u>
<u>Licences or Membership and Subscription Renewals</u>	<u>Contributions, donations and sponsorships</u>
<u>Mayor and Councillor Allowances, Expenses, and Reimbursements</u>	<u><del>Sale or Purchase of Land</del></u>
<u>Council Owned, Leased or Managed Properties</u>	<u>Performers, Artists, Facilitators and Presenters (one-off short-term engagement)</u>
<u>Artworks, Statues, Monuments</u>	<u>Victorian Electoral Commission charges</u>

END

## Appendix III

### Supplier Code of Conduct

The Borough of Queenscliffe is committed to ethical, sustainable and socially responsible procurement and we expect the same high standards of our Suppliers. It views its Suppliers as partners and it cares about the way they do business when providing goods or services, including construction works and services, to the Council.

The Supplier Code of Conduct (Code) describes the minimum expectations in the areas of:

- integrity, ethics and conduct;
- conflict of interest;
- gifts, benefits and hospitality;
- corporate governance;
- labour and human rights;
- health and safety; and
- environmental management.

Suppliers to the Council are advised to review the Code and ensure that relevant areas of their business and supply chain meet these standards.

#### Application of this Code

Council seeks to work with its Suppliers to meet and exceed minimum expectations as outlined in this Code and continuously strives to improve the standard of its business practices. By Supplier, the Council means any entity that supplies goods or services, including construction works and services, to the Council. Where the Code refers to workers, it includes employees, contractors, agency and temporary staff of the Supplier and its related entities.

Where the Code refers to the law it means the laws in the jurisdiction that apply where the goods are procured, or services are performed. Fundamental to this Code is an expectation that all Suppliers operate in full compliance with all laws, rules and regulations of the jurisdictions in which they do business.

The expectations outlined in the Code are not intended to supersede or alter the Supplier's regulatory and contractual obligations. The Council expects all existing and new Suppliers to commit to the Code. Suppliers should check their respective contracts, agreements and purchase orders as they may contain additional obligations or higher standards than those set out in this code.

The Council expects Suppliers to communicate the Code to their related entities, Suppliers and subcontractors who support them in supplying goods and services to the Council, so that they are aware of, understand and comply with the Code.

#### Reporting misconduct, unethical behaviour or suspected corruption

If a Supplier considers that another Supplier has deviated from or breached their obligations under this Code or that a Council employee has breached Council's Staff Code of Conduct, it is expected to report these concerns to:

- in relation to other Suppliers, the relevant department Manager, the Procurement manager, or if there is no such appointed person then either the appointed manager under the contract or the primary Council contact in relation to the goods or services or construction works, and services being provided;

- in relation to Council personnel breaching Council's Staff Code of Conduct or in relation to allegations of misconduct of Council personnel, the relevant public body head or the Independent broad-based Anti-corruption Commission; or
- in relation to allegations of suspected corruption involving Suppliers or Council personnel, to the Independent Broad-based Anti-corruption Commission.

### **Corrective action process**

Suppliers are expected to self-assess their compliance with the Code and take timely action to correct any deficiencies or breaches reported or identified by an audit, assessment, inspection, investigation or review. Suppliers are encouraged to raise any concerns, discuss and seek clarification accordingly to any elements of the Code with the relevant department or Manager, Procurement, or if there is no such appointed person then the Contract Manager under their contract or the primary Council contact in relation to the goods or services or the construction works and services, they are providing.

If requested by Council, Suppliers must provide evidence and confirmation of their compliance with the Code, including the provision of documents and records that support their compliance. Suppliers are expected to support the Council in reviewing compliance with the Code.

## **A. Integrity, ethics and conduct**

The Council expects high standards of ethical conduct and compliance with all applicable laws. Suppliers are expected to be ethical in their business activities, including relationships, practices, sourcing and operations.

### **Business integrity**

Suppliers are expected to comply with all anti-bribery, anti-corruption, anti-money laundering, and modern slavery laws. Suppliers must not engage in, either directly or indirectly, fraudulent, corrupt, exploitative or collusive activities.

### **Record keeping and documentation**

Suppliers are expected to maintain adequate records that accurately record all financial transactions and information regarding its business activities, labour, health and safety and environmental practices in accordance with applicable laws, policies and procedures. Disclosure of information is expected to be undertaken without falsification or misrepresentation.

### **Professional conduct**

Suppliers are expected to conduct themselves in a manner that is fair, professional and that will not bring the Council into disrepute.

### **Confidentiality**

Suppliers must not improperly use any private, confidential or commercially sensitive information in its possession relating to or in connection with its dealings with the Council.

### **Codes of Conduct for Council employees**

The Council's Staff Code of Conduct describes the behaviours that exemplify the Council values contained in its Staff Code of Conduct in accordance with section 49 of the Local Government Act 2020. The Council Staff Code of Conduct applies to and is binding on all council employees, and a contravention may constitute misconduct.

## **B. Conflict of interest; gifts, benefits and hospitality**

The Council believes that all business activities should be undertaken with impartiality and any conflict of interest should be raised and managed.

## **Conflict of interest**

Suppliers must:

- notify the Council's Chief Executive Officer or anyone acting in that capacity (and where there is no such appointed person then either the relevant department or Manager, Procurement or appointed Contract Manager under the contract or the primary Council contact in relation to the goods or services or construction works and services being provided), any situation that raises an actual, potential or perceived conflict of interest related to or in connection with its dealings with the Council; and
- avoid financial, business or other relationships which may compromise the performance of their duties under their business arrangement with the State. Under the Council's Staff Code of Conduct, employees are expected to avoid actual, perceived and potential conflicts of interest wherever possible. Any conflicts of interest that cannot be avoided are expected to be declared and managed appropriately.

## **Gifts, benefits and hospitality**

- Council personnel must conduct themselves with the highest standards of integrity, impartiality and accountability; and perform public duties without favouritism, bias or for personal gain. The appropriate handling of offers of gifts, benefits and hospitality is critical to earning and sustaining public trust.
- As such, Suppliers should not offer Council personnel gifts or benefits, either directly or indirectly, and offers of hospitality will be limited to those acceptable under the council gift policy or take any action in order to entice or obtain any unfair or improper advantage.

## **C. Corporate governance**

Commitment to sound management administration, risk and corrective action systems, are key to a reliable supply chain for the Council. Suppliers are expected to maintain sound administration processes.

### **Risk assessment and management**

Suppliers should develop and maintain a process to identify, manage and control relevant risks associated with its operations. These include supply chain risks and risks relating to labour and human rights, health and safety, the environment, business ethics, and corporate governance.

### **Critical incident management**

Suppliers should:

- identify and assess potential critical incident, emergency situations and business continuity risks; and
- develop and implement emergency plans and response procedures that minimise harm to life, environment and property, while minimising disruption to business continuity.

### **Audits and assessments**

To ensure compliance with this Code and the applicable laws, Suppliers are expected to:

- perform periodic evaluations of their facilities and operations, and the facilities and operations of their subcontractors; and
- cooperate openly and honestly with any Council audit, assessment or review.

## **D. Labour and human rights**

Council believes that all workers in its supply chain deserve to be treated with dignity and respect. Suppliers are expected to provide a fair and ethical workplace, which upholds high standards of human rights and integrates appropriate labour and human rights policies and practices into its business.

### ***Anti-discrimination***

Subject to applicable laws, Suppliers are expected not to discriminate against any worker based on age, disability, ethnicity, gender, marital status, political affiliation, race, religion, sexual orientation, gender identity, union membership, or any other status protected by law, in hiring and other employment practices.

### ***Anti-harassment***

Suppliers are expected to commit to a workplace free from workplace bullying, harassment, sexual harassment, victimisation and abuse. Suppliers are expected not to bully workers or threaten workers with, or subject them to, unlawful or inhumane treatment. This includes, but is not limited to, abuse and harassment which can be verbal, physical, sexual or psychological.

### **Human rights**

Suppliers are expected to provide goods and services in a manner consistent with any applicable human rights obligations.

Consistent with relevant modern slavery legislation, Suppliers are expected to proactively identify, address and – where required by legislation – report on risks of modern slavery practices (defined broadly to include all forms of human trafficking, forced labour and slavery-like practices) in their business operations and supply chains.

### **Prevention of involuntary and underage labour**

Suppliers are expected to:

- ensure that all work is undertaken without coercion; not use any form of forced, bonded or indentured labour; and employ only workers who are the applicable minimum legal age.

All use of temporary and outsourced labour should be within the limits of the law. Suppliers are therefore expected to:

- use all reasonable endeavours to ensure that the third-party recruitment agencies it uses are compliant with the provisions of this Code and applicable law; and
- be responsible for payment of all recruitment-related fees and expenses in recruiting foreign contract workers either directly or through third party agencies.

### **Working hours, wages and benefits**

Suppliers must:

- follow all applicable laws and regulations with respect to wages, working hours and workers compensation insurance;
- ensure that all workers receive their legally mandated minimum wages, benefits, superannuation, leave entitlements and time off for legally recognised holidays; and
- pay workers' wages as required under applicable laws in a timely manner and not be expected to use wage deductions as a disciplinary measure. All overtime is expected to be reasonable and paid at the rate and in accordance with the applicable laws.

### **Freedom of association and collective bargaining**

Suppliers are expected to freely allow workers to associate with others, form and join (or refrain from joining) industrial organisations or associations of their choice and bargain collectively, or engage in any lawful industrial activity without interference, discrimination, retaliation or harassment.

## **E. Health and safety**

Worker health, safety and well-being is important to the Council. Suppliers are expected to provide a healthy and safe work environment and integrate sound health and safety management practices into its business.

### **Workplace health and safety management**

Suppliers must comply with all applicable laws relating to workplace health and safety.

Suppliers are expected to:

- manage occupational health and safety hazards; and
- provide workers with job-related training and consult with employees in relation to the provision of information and training.

### **F. Environmental management**

The Council is committed to promoting environmental responsibility. Suppliers are expected to minimise the environmental impact of their operations and maintain environmentally responsible policies and practices.

#### **Environmental impacts**

Suppliers must comply with all applicable laws and regulations relating to the environment, including any management and reporting obligations. Suppliers are expected to manage the environmental impact of their operations by:

- ensuring the safe storage, transportation and disposal of high-risk and hazardous materials and substances including combustible recyclable and waste materials and hazardous waste;
- maintaining policies and practices for the efficient use of energy, water and natural resource consumption; and
- maintaining policies and practices that reduce the risk of pollution, loss of biodiversity, deforestation, damage to ecosystems and greenhouse gas emissions.

END