

Major Council Policy Community Impact Statement

Procurement Policy

Council provides the following information to the community in respect of the proposed major council policy.

PART A – General

Background

Council is considering adopting a new major council policy, the Procurement Policy (the policy), that establishes a procurement framework for Council.

Objectives

Section 108 (6) of the Local Government Act 2020 (the Act) requires Council to adopt a procurement policy within 6 months of the commencement of this section. This section of the Local Government Act implementation began on the 1st July 2021 (Phase 4) and the draft Procurement Policy is required to be adopted by the 31st December 2021.

The current policy has been formulated with regard to the Victorian Local Government Best Practice Procurement Guidelines 2013, Municipal Association of Victoria Model Procurement Policy (Updated) August 2011, and the Preface to the New Best Practice Procurement Guidelines.

The objectives of the policy are set out in the draft of the policy. Of particular note is the purpose of the Procurement Framework to achieve value for money and open and fair competition.

PART B – Overall Impact Assessment

The Policy will ensure that all procurement activities are undertaken in a manner which is consistent with the requirements of the Local Government Act 2020.

Measures of success of the policy

The success of the policy will be best measured by the extent to which it improves the efficiency and effectiveness of procurement activities.

Legislative context

There is no existing local legislation that could be adapted for this purpose.

Existing legislation that might be used instead

There is no existing local legislation that could be adapted for this purpose.

State legislation more appropriate

There is no existing State legislation that could be adapted for this purpose.

Overlap of existing legislation

There is no overlap with existing legislation or policies.

Overlap of planning scheme

The policy has no relevance to the Planning Scheme.

Risk assessment

The policy enhances the probity of Council's procurement processes.

The approach addresses the risk that procurement activities may inadvertently breach the Local Government Act 2020.

Legislative approach adopted

The policy operates in conjunction with the relevant sections of the Local Government Act 2020.

Restriction of competition

Council has conducted a review of the policy in accordance with National Competition Principles. The results of that review are attached.

The policy has no National Competition Policy implications.

Penalties

The policy imposes an obligation only on Council itself and therefore no practical sanction can apply.

Permits

The policy does not make provision for the issue of permits.

Fees

The policy does not make provision for the charging of fees.

Comparison with neighbouring and like Councils

The policy is a standard approach as adopted by many Councils. It is based on consultation of other Council's and the proposed new procurement policies in compliance with the Local Government Act 2020.

Charter of Human Rights

Council has assessed the policy for compatibility with the Charter of Human Rights and Responsibilities. A report of this assessment is attached.

The policy is considered to be compatible with the Charter of Human Rights.

Consultation

In accordance with Council's Major Council Policy Consultation Local Law, Council will invite submissions from interested parties.

All submissions requesting changes will be considered by Council prior to the policy being adopted.

Submissions

Submissions are invited from the community in regards to the policy in accordance with clause 7 of the Major Council Policy Consultation Local Law No. 4 of 2015.

A notice to this effect will be advertised in the Chronicle newspaper, and on Council's website, indicating that submissions will be received for 28 days.

Persons making submissions can request an opportunity to address Council. A Special Committee of Council will be established to hear submissions on the policy that request change to the policy following the close of submissions.

Any submissions requesting change to the policy will be considered by Council at the Ordinary Meeting of Council scheduled for Tuesday 23 November 2021. If no submissions requesting change to the policy are received, then Council will adopt the Procurement Policy 2021 without further resolution.

Part C – Specific Provisions

Objectives

The objectives have been specified.

Legislative Compliance

Relevant acts have been documented.

Application

The policy applies to all Councillors and Council Officers.

This provision ensures that there is adequate definition of the scope of the policy.

Procurement Principles

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

- Value for money, encompassing the best combination of quality, cost (including whole of life costs) and environmental, social and economic sustainability
- Open and fair competition
- Purchasing from local businesses where such purchases are justified on value for money grounds and are compliant with the Competition and Consumer Act 2010
- Accountability
- Risk management
- Probity and transparency
- Workplace health and safety.

Council is also committed to reducing its environmental impacts. Council will encourage the design and use of products and services that have been produced to ethical standards, which have minimal impact on the environment and human health. This includes, but is not limited to:

- Waste management
- Recycling
- Energy management
- Water conservation
- Green building design
- Environmentally sustainable procurement.

Major Council Policy Human Rights Charter Assessment

Procurement Policy

As from 1 January 2008 all public authorities (including Councils) are required to act in accordance with the Human Rights Charter, and to consider human rights when making a decision.

The Charter is a law that protects the rights of all people in Victoria. It introduces standards and a framework to assist public authorities to consider the rights of all interested parties, and to be better able to strike a balance between an individual's rights and those of competing public interests.

The rights in the Charter may be subject to reasonable limitations in order to achieve this balance. As with all discerning decision making, if limitations are applied, this must be documented.

There are twenty rights listed in the Charter that promote the principles of freedom, respect, equality and dignity. These are listed at the end of this document.

Issues and Purpose	Rights Impacted Positive	Rights impacted Negative	Justification and alternatives
OBJECTIVES	Nil	Nil	No impact as it sets out the purpose of the policy.
APPLICATION	Nil	Nil	No impact as it sets out who, what and when the policy applies.
POLICY	Nil	Nil	No impact as the policy sets out the provisions for the conduct of procurement activities. There are no restrictions on human rights.
DEFINITIONS	Nil	Nil	Provides relevant definitions to aid understanding of the policy provisions.

Victoria's Charter of Human Rights and Responsibilities

The Charter sets out the rights, freedoms and responsibilities that are shared by all Victorians and protected by law.

The Charter protects the following rights in Victoria:

- Right to be recognised and treated equally before the law;
- Right to life and to not have your life taken without a lawful reason;
- Protection from cruel treatment or punishment, including torture and medical treatment without consent;
- Freedom from forced work or slavery;
- Right to move freely within Victoria, to come into and leave Victoria, and to choose where to live;
- Right to privacy and to protect your reputation;
- Freedom of thought, conscience, religion and belief;

- Right to hold an opinion and freedom of expression;
- Right to gather together, take part in a peaceful demonstration or protest, and to join groups such as political, sport or union groups;
- Protection of families and children;
- Right to take part in public life, including the right to vote;
- Right to enjoy your culture, practise your religion, and speak your language;
- Right not to have your property taken away, unless the law says it can be taken;
- Right not to be arrested or detained unfairly, and right to the security of person, such as protection from harassment and threats in everyday life;
- Right to be treated humanely when arrested or detained ;
- Protection of children in the criminal process;
- Right to a fair hearing ;
- Rights in criminal proceedings including the right to be presumed innocent until proved guilty; and
- Right not to be tried or punished more than once for the same crime.



Major Council Policy National Competition Policy Assessment

Procurement Policy

Introduction

A policy must not restrict competition unless it can be demonstrated that:-

- The benefits of the restrictions to the community as a whole outweigh the costs; and
- The objectives of the policy can only be achieved by restricting competition.

This report applies the competition test to the Procurement Policy.

Objectives, Legislative Compliance and Application

These sections set out the objectives, legislative compliance and application elements of the policy.

It does not contain any restriction on competition.

Policy

This section sets out the procurement policy settings and supporting processes that will guide the conduct of Council and staff.

It does not contain any restriction on competition