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# PROCUREMENT POLICY

## October 2016

Document Review Status			
Version	Date	Next review date	Review type
No.1	October 2009	November 2010	Annual review - S186(a) - Compliance requirement
No.2	November 2010	November 2011	Annual review - S186(a) - Compliance requirement
No.3.1	November 2011	November 2012	Annual review - S186(a) - Compliance requirement
No. 4	November 2012	November 2013	Annual review - S186(a) - Compliance requirement
No. 5	November 2013	November 2014	Annual review - S186(a) - Compliance requirement
No. 6	September 2014	September 2015	Annual review- S186(a) - Compliance requirement and Council resolution changes
No. 7	November 2015	November 2016	Annual review- S186(a) Compliance requirement and Council resolution changes
No. 8	October 2016	November 2017	Annual review – S186(a) – Compliance requirement

## Table of Contents

1	Background.....	3
2	Application.....	3
3	Policy.....	3
3.1	Policy Compliance and Control.....	3
3.2	Gifts And Hospitality.....	4
4	Governance.....	4
4.1	Methods.....	4
4.2	Procurement Process and Thresholds.....	4
4.3	Purchasing Accreditation Committee.....	6
4.4	Contract Variations.....	6
4.5	Purchase Orders.....	6
4.6	Probity.....	7
4.7	Probity Awareness.....	8
4.8	Delegation Of Authority.....	9
5	Local Business Framework.....	9
6	Social Procurement.....	9
7	Review Process.....	9
8	Decision Making Process.....	10
9	Centralised Procurement.....	12

## **1 BACKGROUND**

Darebin Council's Procurement policy is made under Section 186A of the *Local Government Act 1989* (the Act). Section 186A of the Act requires the Council to prepare, approve, review annually and comply with a Procurement Policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by the Council.

## **2 APPLICATION**

This policy applies to all procurement and contracting activities undertaken by the Darebin City Council (Council) and is binding upon the Council and its officers, temporary employees, contractors and consultants while engaged by the Darebin City Council.

## **3 POLICY**

Council has adopted elements of best practice applicable to Darebin Council procurement, they incorporate:

- Best practice procurement principles, policies, procedures for all goods, services and works by Council, will enhance the achievement of Council objectives set out in the Council Plan;
- Supporting the Council's corporate strategies, aims and objectives including, but not limited to those related to sustainability, protection of the environment and corporate social responsibility;
- Considering economic development to generate and support business in the local and wider community.
- Broad principles covering ethics, value for money, responsibilities and accountabilities;
- Guidelines giving effect to those principles;
- A system of delegations (i.e. the authorisation of officers to approve and undertake a range of functions in the procurement process);
- Procurement processes, with appropriate procedures covering minor, simple procurement to high value, more complex procurement.

### **3.1 POLICY COMPLIANCE AND CONTROL**

All Council officers, temporary employees, contractors and consultants while engaged by Council undertaking procurement activities will do so in an ethical manner and of the highest integrity.

All procurement processes will be undertaken in a Commercial-in-Confidence manner and be able to withstand the closest possible audit scrutiny.

Council, where applicable, will integrate the following into all procurement processes:

- Corporate Social Responsibility;
- Local Business Framework;
- Environmental Purchasing Code;
- Disability Access and Inclusion Policy; and
- Local Industry Participation Policy.

All tender processes, including contract management, shall be conducted in accordance with the requirements of this policy and any associated procedures, relevant legislation, relevant Australian Standards and the Act.

### **3.2 GIFTS AND HOSPITALITY**

Council is committed to being open and transparent in its procurement activities to reduce adverse effect on its public endeavours and to promote trust within the community. Staff responsibilities are:

- At all times be ethical, fair and honest when conducting procurement activities.
- Be accountable and responsible for your actions and ensure methods and processes used to arrive at decisions are beyond reproach and withstand any audit process or proper scrutiny.
- Do not seek, solicit or use your position to obtain gifts or benefits from external organisations or individuals.
- Ensure that a person, company or organisation is not placed in a position to offer gifts or hospitality to secure or retain Council business.
- Report any incidence where a bribe is offered

## **4 GOVERNANCE**

Council has established a framework of policy and general requirements that are applicable to purchasing decisions regardless of the value of the purchase or the particular method selected to procure goods or services. This ensures accountability over the lifecycle of the procurement process and is flexible enough to purchase in a timely manner the diverse range of goods, services and works required by the Council.

To ensure transparency, all contracts awarded over \$100,000 incl. GST will be published on Council's webpage.

### **4.1 METHODS**

The Council's approved standard methods adopted by Council for purchasing goods, services and works shall be by some or all of the following methods:

- Purchase order following a quotation process from suppliers for goods or services that represent best value for money under directed quotation thresholds;
- Under contract following a tender process;
- Using aggregated purchasing arrangements, regardless of value, with other Councils, Victorian Government, or other bodies;
- Through the use of Corporate credit cards; or
- Other arrangements authorised by the Council or the CEO on a needs basis as required by abnormal circumstances such as emergencies.

### **4.2 PROCUREMENT PROCESS AND THRESHOLDS**

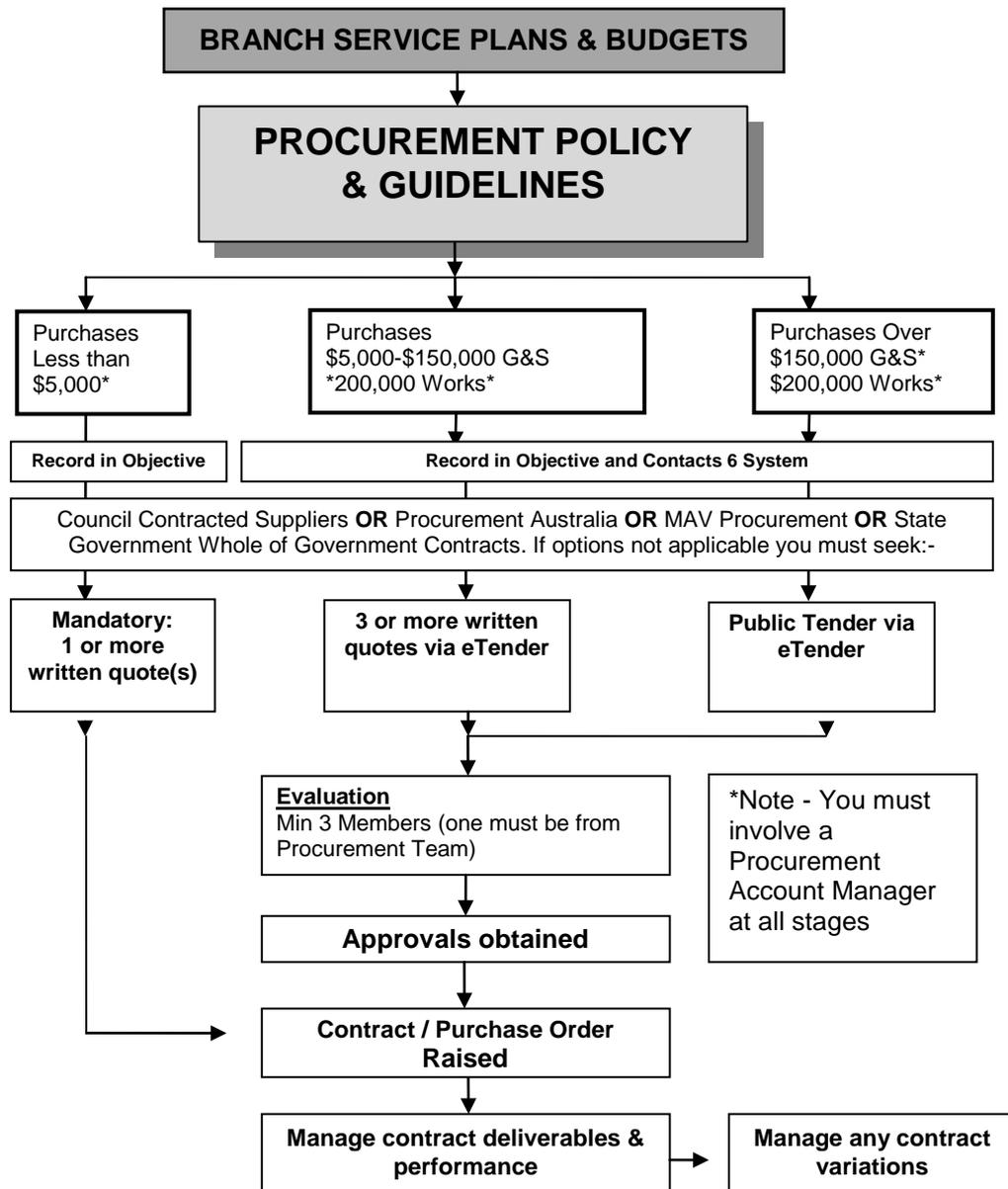
Council procurement processes are based on the following principles:

- Best value
- Open and fair competition

- Accountability
- Risk management
- Probity and transparency

Council has a common Quotation and Tender closing date and time that must be noted on all Expression of Interest, Tender or Quotation documents.

The diagram below summarises the approved purchasing methods and processes, based on the value of the purchase, adopted by Council for all staff to adhere to.



### **4.3 PURCHASING ACCREDITATION COMMITTEE**

Council has established the Purchasing Accreditation Committee (PAC) to provide expert oversight for the procurement processes associated with any purchases equal to or above \$100,000 (incl. GST).

All procurement activities equal to or greater than \$100,000 (incl. GST) must have PAC endorsement prior to financial delegation approval and contract execution.

All procurement activities for purchases equal to or greater than \$500,000 (incl. GST) must have PAC endorsement on all strategic procurement plans, probity plans and tender documents prior to the tender being released.

Any request for exemption from the procurement policy where the value is greater than \$5,000 (incl. GST) and less than the tendering threshold must go through PAC for endorsement prior to seeking quotes and obtaining financial delegation approval.

The Chief Executive can, at his discretion, approve an exemption for an amount under the tendering thresholds, however it does not exempt officers from seeking a quote and undertaking the expenditure approval process.

### **4.4 CONTRACT VARIATIONS**

Approval of a financial variation is the responsibility of the financial delegate, and or in accordance with procedures adopted by Council.

A variation, in excess of the CEO's delegation will require approval by Council.

It is the value of the variation, either a single amount or cumulative amounts, exclusive of the initial contract value, that will determine the process for variation approval. A case for variation approval is to note all cumulative variations. Financial examples include changes to the price/cost, quantity, nature of the deliverables, and term of the contract (which increases the value).

Approval of any change in scope that is deemed an additional asset above \$10,000 is required to be endorsed by PAC and approved by the Chief Executive prior to the implementation of the contract changes.

Only after approval has been given by the appropriate financial delegate is Council in a position to implement the contract changes for which approval was sought.

Approval of an administrative variation, which does not change the financial details of a contract, is the responsibility of the project/contract manager, or in accordance with procedures adopted by Council. Examples include changes to the billing address, personnel assigned to the contract, sequencing of work, delivery schedule, and arrangements permitted by specific contract provisions.

### **4.5 PURCHASE ORDERS**

Council's requirement is for any purchase greater than \$50.00 (incl. GST) to have a purchase order raised unless it falls under one of the following purchase order exemptions:

- Utility charges or reimbursement of gas, water, electricity or telephone usage;
- Newspaper notices through The Age and Leader news publications;
- Postage costs to Australia Post;
- Public Liability payments to 3rd parties, but for Council assets a Purchase Order is to be raised;
- Pre-employment and medical costs relating to workcover;
- Maintenance agreements (copy counts) for photocopiers, but leasing arrangements still require Purchase Order;
- Legal or governance services;
- Civic Amenities Department and Darebin Arts Centre catering purchases, all other departments require a Purchase Order;
- Payments for work placement (eg work experience students);
- Purchases made using a corporate credit card;
- In the event of an emergency;
- Travel and related travel expenses;
- Urgent purchases under \$1,000, and without a purchase order, are required to be approval by the appropriate Director/General Manager;
- Urgent purchases greater than \$1,000, and without a purchase order are required to be approved by the Chief Executive;
- Discretionary purchases under \$1,000 are required to have prior approval from the appropriate Director/General Manager; and
- Discretionary purchases greater than \$1,000 are required to have prior approval, outlining the justification for seeking such approval, from the Chief Executive.

Standard payment conditions for Purchase Orders are 28 Days and matching tolerances have a variance of 10% +/- for Purchase Orders for both quantity and price. If the variance is outside of this tolerance the responsible contact will be notified and a new PO will be raised.

#### **4.6 PROBITY**

Conflicts of interest were redefined in the Act in December 2008 and the new legislative provisions impose statutory obligations on Councillors, members of special (and audit) committees, members of Council staff and contractors engaged to provide advice or services to Council.

Under the Act, a conflict of interest arises if a 'relevant person' has a 'direct interest' (as defined in the Act) or an 'indirect interest' (as defined in the Act) in a matter.

One of the key requirements of Probity is to identify and address potential conflicts of interest of any person who will be involved in the Tender process.

It is mandatory for all Council staff involved in a procurement process, including evaluation panel members, to sign a conflict of interest declaration form at the commencement of each quotation or tender process.

A probity advisor and/or probity auditor must be engaged for any major project that is valued at \$1 million or greater.

## 4.7 PROBITY AWARENESS

It is mandatory at the commencement of any major project of \$1 million or greater, and prior to any Request for Tender or Expression of Interest being released to the public, that a probity awareness session is held for all members of the Decision making Process as outlined in clause 7. This session will be extended to the Executive Management Team and all Councillors, if required.

The awareness session must outline the process for lodging any perceived or known conflict of interest in relation to the Request for Tender or Expression of Interest process.

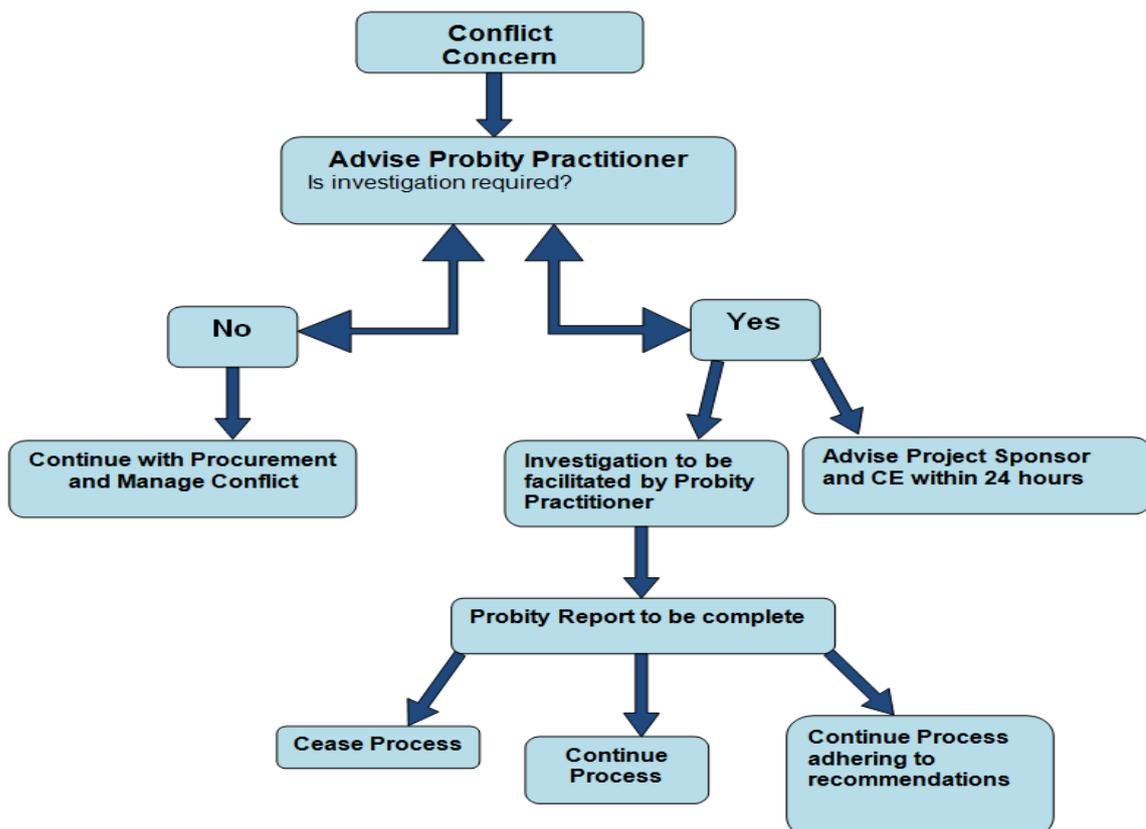
In the first instance any perceived or known conflict of interest must be lodged with the nominated probity practitioner. It is the responsibility of the probity practitioner to determine:

1. Whether a formal investigation is required; if so arrange to undertake
2. Whether the procurement process is put on hold; if so to advise project sponsor and the Chief Executive
3. Whether the procurement process should cease; if so to advise the project manager and the Chief Executive
4. Keep the Project Sponsor informed of any investigation

If a perceived or known conflict of interest is lodged with the Chief Executive or any other member outlined in the Decision Making Process structure, they must within 24 hours arrange to hand over the concern(s) to the probity practitioner for action.

\*The Investigation Process, excluding protected or confidential information, must form part of the final Procurement approval documentation/ Council Report.

The Flowchart below outlines the process:



## **4.8 DELEGATION OF AUTHORITY**

In the exercise of power conferred by Section 98 of the Local Government Act 2004 the process is defined for a Council delegating its powers, duties and functions to a member of its staff.

Commitments and processes which exceed the CEO's delegation and which must be approved by the Council are:

- Initial signing and sealing of contract documents;
- Tender recommendations and contract approval for all expenditure that exceed the CEO's delegation for goods and services and works; and
- Financial variations to existing contracts that exceed CEO's delegation or where Council has approved the original engagement and optional extension period(s) are required to be exercised.

## **5 LOCAL BUSINESS FRAMEWORK**

Council recognises it has a role in the economic development of the community and is committed to assisting local industry to do business with Council. Local business in this context means suppliers based within Darebin and the immediate neighboring municipalities (the "Darebin Plus" area) which includes the adjoining Councils of Banyule, Hume, Moreland, Nillumbik, Whittlesea and Yarra.

Council have mandated the requirement to obtain one quote from a local supplier, if available, for any purchase less than \$5,000 and at least one quote from a local supplier where available, for purchases over \$5,000 but less than the tender threshold.

Where practicable to do so, Council will obtain quotes from Indigenous companies and corporations so as to assist and encourage our Indigenous community to do business with Council.

In addition, a minimum tender evaluation weighting of 10% will be assigned for local business where a weighting evaluation criteria is used.

## **6 SOCIAL PROCUREMENT**

Social Procurement involves using procurement processes and purchasing power to generate positive social outcomes in addition to the delivery of efficient goods, services and works. Social procurement builds on the initiatives already undertaken by Council in enhancing sustainable and strategic procurement practice, enabling procurement to effectively contribute to building stronger communities and meeting the social objectives of Council.

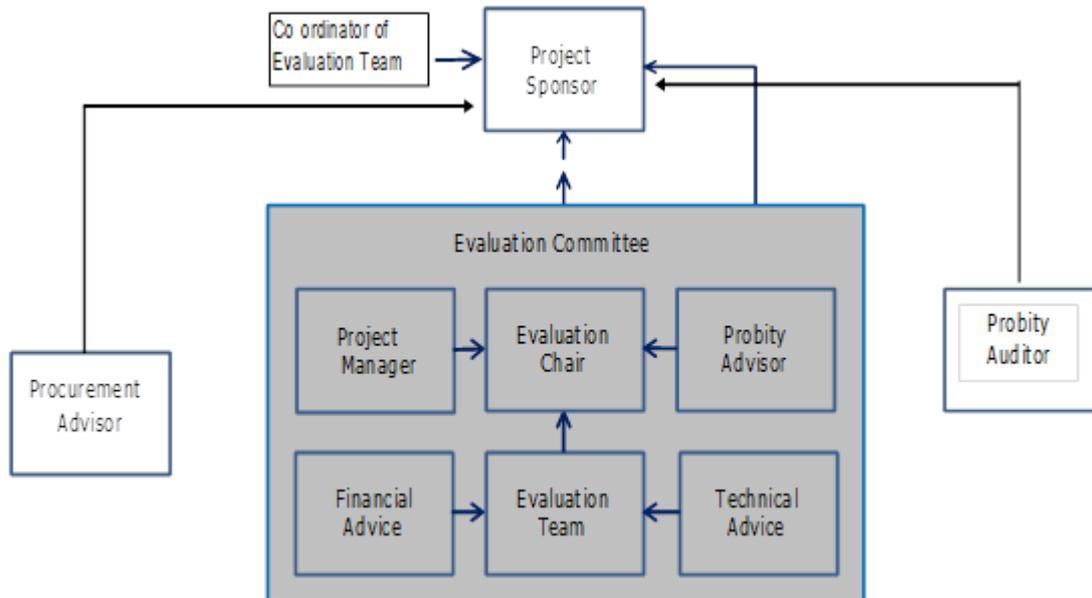
Where practicable to do so, Council will strive to in the first instance to purchase ethical and fair trade goods to support local industries, national and international trade, engage in procurement with Social Enterprises and create local employment opportunities through clauses and specifications in council contracts.

## **7 REVIEW PROCESS**

Council endeavours to continually improve its procurement performance such that all relevant policies, guidance and training are continually reviewed and updated to ensure there is continuity in meeting Council's wider strategic objectives.

## 8 DECISION MAKING PROCESS

The organisational structure for the project is outlined in the following chart:



*\*This chart can be altered depending on project and in consultation with the Procurement and Contracting Team*

### Responsibilities

#### Chair:

The Chairperson is responsible for:

- chairing meetings of the Evaluation Team, signing all documents issued on behalf of the team
- advising successful tenderer(s) of their success in winning the tender
- advising unsuccessful tenderers of their lack of success and debriefing them on the reasons when requested
- ensuring there is financial approval for the contracts

Some of the above roles can be delegated to other team members with the team's consent.

#### Procurement Advisor:

The Procurement Advisor is responsible for:

- ensuring records are kept of all meetings, significant decisions and events
- ensuring the security of all EOJ/RFT documents
- maintaining files for all documents arising out of the Evaluation Team's activities
- acting as the single channel of communication between the team and other parties

- ensuring all Evaluation Team members have signed conflict of interest statements and confidentiality agreements where appropriate

**All team members:**

All team members are responsible for:

- Establishing a probity plan for the tender process
- Preparing a tender process plan identifying key tasks and deadlines for the team
- Establishing a checklist, spreadsheets and other tools to evaluate responses including the evaluation criteria and method of evaluation in the RFT
- Endorsing all RFT documents before referring to the Procurement Accreditation Committee for final endorsement and before inviting offers
- Ensuring that there is a process for the proper receipt and recording of offers, and dealing with late tenders
- Ensuring that the process and procedures will withstand public scrutiny and all decisions and activities resulting from the evaluation and selection are auditable and defensible
- maintaining confidentiality and high ethical standards at all times
- Observing all policies and procedures applying to tendering and contracting
- Advising of any potential conflict of interest during the evaluation process as soon as it arises
- Checking compliance of tenders with the RFT
- Selecting a short list of tenderers to be interviewed where necessary
- Evaluating and scoring responses to the tender, including analysis of cost
- Where a probity auditor is appointed, ensure that the auditor
  - Endorses the probity plan
  - Sets out his or her expectations in detail; and
  - Sets out what he or she regards as potential problems
- Participating in interviews and contract negotiations with short listed tenderers.
- Identifying important problems or issues arising throughout the tender process and document how and by whom they are to be dealt with
- Arranging for conducting referee checks of tenderers where appropriate
- Maintaining file notes for any significant communications with people outside the team

**Project Manager:**

The Project Manager as a team member is responsible for the additional duties detailed below:

- Ensuring contract administration procedures or manuals are prepared for users
- Undertaking the post award tasks such as arranging the execution of a contract, issuing contract management guidelines, obtaining certificates of insurance and financial securities
- Using Council endorsed systems to monitor and manage the life of the contract

## 9 CENTRALISED PROCUREMENT

Effective 1 August 2014, Council implemented a centralised approach to all procurement and contracting, where the value is equal to or greater than \$5,000 incl. GST. This includes the requirement for the Procurement and Contracts team to either undertake or assist Business Units in the undertaking of all procurement steps up to and including contract execution.

- Any procurement equal to or greater than \$5,000 (incl. GST) must be in conjunction with a member from the Procurement and Contracting Team
- Includes all process up to contract execution but does not include the management of the Contract
- Non-compliance with the centralised system will not be tolerated, and will be considered a failure to comply with the Excellence in Governance Employee Code of Conduct.

A centralised procurement model will deliver the following advantages for the organisation:

- Significantly minimise risk around non-compliance with Section 186 of the Local Government Act 1989
- Allow more accurate monitoring and reporting on:
  - Contract Spend
  - Contract Dates/Contract Extensions
  - Monitor Insurance
  - Contracts entered into by Council
- Streamlined approach to procurement
- Capture of smaller engagements consistently with the same provider
- Allow for a range of Panel arrangements to be established and used across Council
- Potential to identify services that could be tendered for with other Councils surrounding the municipality
- Greater buying power resulting in savings
- Value for money