

Procurement Policy



**MORNINGTON
PENINSULA**
Shire

Adopted by Council 23 October 2018

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PURPOSE	<p>The purpose of this Policy is to:</p> <ul style="list-style-type: none"> • Provide policy and guidance to allow consistency and control over Procurement activities; • Demonstrate accountability to rate payers; • Provide guidance on ethical behaviour in public sector purchasing; • Demonstrate the application of elements of best practice in purchasing; and • Increase the probability of obtaining the best outcome when purchasing goods and services.
OBJECTIVES	<p>The Mornington Peninsula Shire Council (the Shire):</p> <ul style="list-style-type: none"> • Recognises that developing a procurement strategy and adopting appropriate best practice contracting and procurement principles, policies, processes and procedures for all goods, services and works by the Shire, will enhance achievement of the Shire's objectives such as sustainable and socially responsible procurement; bottom-line cost savings, supporting local economies, achieving innovation and better services for communities. • Recognises that the elements of best practice applicable to local government procurement incorporate: <ul style="list-style-type: none"> — 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; and — a professional approach. • Requires that contracting, purchasing and contract management activities: <ul style="list-style-type: none"> — support the Shire's corporate strategies, aims and objectives including, but not limited to those related to carbon neutrality, sustainability, protection of the environment, and corporate social responsibility; — span the whole life cycle of an acquisition from initial concept to the end of the useful life of an asset, including its disposal, or the end of a service contract; — achieve value for money and quality in the acquisition of goods, services and works; — can demonstrate that public money has been well spent; — are conducted, and are seen to be conducted, in an impartial, fair and ethical manner; — seek continual improvement including the embrace of innovative and technological initiatives such as electronic tendering processes to reduce activity cost; and — generate and support business in the local community.

SCOPE	<p>This Procurement Policy is made under Section 186A of the <i>Local Government Act 1989</i> (the Act).</p> <p>This section of the Act requires the Shire to prepare, approve and comply with a Procurement Policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by the Shire.</p> <p>This policy applies to all tender, contract and procurement activities at the Shire and is binding upon Councillors, Shire Officers and temporary/casual employees contractors and consultants while engaged by the Shire.</p> <p>Third party providers undertaking procurement activity on behalf of the Shire must act in accordance with the requirements of this policy.</p> <p>All monetary values stated in this policy include GST except, where specifically stated otherwise.</p>								
DEFINITIONS	<table border="1"> <thead> <tr> <th>Term</th><th>Definition</th></tr> </thead> <tbody> <tr> <td>Act</td><td>Local Government Act 1989.</td></tr> <tr> <td>Commercial in Confidence</td><td>Information that, if released, may prejudice the business dealings of a party e.g., prices, discounts, rebates, profits, methodologies and process information, etc.</td></tr> <tr> <td>Conflicts of Interest</td><td> <p><i>Conflict – Actual, Potential or Perceived</i></p> <p><i>Actual Conflict:</i> a real conflict between a person's private interest and professional duty.</p> <p><i>Potential Conflict:</i> a private interest which could conflict with a professional duty.</p> <p><i>Perceived Conflict:</i> where a third party could reasonably form the view that a person's private interest could (now or in the future) conflict with their professional duty.</p> <p><i>Conflict of Interest – In the Exercising of Delegated Authority and/or in the Provision of Advice to Council</i></p> <p>A <u>direct interest</u> generally exists if you have a direct connection with the matter. That is, if the matter is decided in any particular way, you are reasonably likely to be directly affected or your circumstances directly altered. (s.77B of the Act)</p> <p>An <u>indirect interest</u> generally arises as a result of a connection with another person, organisation or circumstance. The six types of indirect interest are:</p> <ul style="list-style-type: none"> • Close association (s.78) • Indirect financial interest (s.78A) • Conflicting duty (s.78B) • Applicable gift (s.78C) • Interested party to the matter (s.78D) • Residential amenity (s.78E) <p><u>Exemptions (Conflict of Interest)</u> means those provided under s.77A of the Act.</p> <p>Refer to Attachment A and the Act for details.</p> </td></tr> </tbody> </table>	Term	Definition	Act	Local Government Act 1989.	Commercial in Confidence	Information that, if released, may prejudice the business dealings of a party e.g., prices, discounts, rebates, profits, methodologies and process information, etc.	Conflicts of Interest	<p><i>Conflict – Actual, Potential or Perceived</i></p> <p><i>Actual Conflict:</i> a real conflict between a person's private interest and professional duty.</p> <p><i>Potential Conflict:</i> a private interest which could conflict with a professional duty.</p> <p><i>Perceived Conflict:</i> where a third party could reasonably form the view that a person's private interest could (now or in the future) conflict with their professional duty.</p> <p><i>Conflict of Interest – In the Exercising of Delegated Authority and/or in the Provision of Advice to Council</i></p> <p>A <u>direct interest</u> generally exists if you have a direct connection with the matter. That is, if the matter is decided in any particular way, you are reasonably likely to be directly affected or your circumstances directly altered. (s.77B of the Act)</p> <p>An <u>indirect interest</u> generally arises as a result of a connection with another person, organisation or circumstance. The six types of indirect interest are:</p> <ul style="list-style-type: none"> • Close association (s.78) • Indirect financial interest (s.78A) • Conflicting duty (s.78B) • Applicable gift (s.78C) • Interested party to the matter (s.78D) • Residential amenity (s.78E) <p><u>Exemptions (Conflict of Interest)</u> means those provided under s.77A of the Act.</p> <p>Refer to Attachment A and the Act for details.</p>
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DEFINITIONS (CONT'D)	Term	Definition
	Contract Management	The process that ensures both parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide value for money.
	Director	Positions designated as Director-Communities, Chief Operating Officer, Chief Financial Officer and any replacement designations.
	Goods	Movable personal property, especially merchandise, used in trade or commerce and requiring carriage from one place to another. The word 'goods' is very general and of quite indefinite import.
	Probity	<p>In the context of procurement, probity is a defensible process able to withstand internal and external scrutiny; one which achieves both accountability, transparency and provides tenderers with fair and equitable treatment. Probity is about ensuring the procedural integrity of the procurement process.</p> <p>The Shire has a responsibility to obtain value for money and this must be achieved by acting in an unbiased and ethical manner acknowledging the communities expectation that business is conducted ethically, displaying honesty, integrity, diligence, fairness, trust and respect when dealing with others.</p> <p>The law imposes a standard of 'good faith' in contract matters, which can be discharged if parties to a contract act honestly and reasonably.</p>
	Procurement	Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.
	Services	The act of helping or doing work for another... work done in this way... assistance or benefit given to someone... the provision of what is necessary for the installation and maintenance of a machine etc or operation...
	Staff	All staff of the Shire whether employed full time, part time or casual as well as contractors and consultants while engaged by the Shire.
	Standing Offer Arrangements (SOA) or Schedule of Rates (SOR)	A contract that sets out rates for goods and services which are available for the term of the agreement. However, no commitment is made under the agreement to purchase a specified value or quantity of goods or services.
	Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.

DEFINITIONS (CONT'D)	Term	Definition
	Tender Process	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. All tender processes shall be conducted in accordance with the requirements of this policy and any associated procedures, relevant legislation, relevant Australian Standards and the Act.
	Value for Money	Value for Money in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including: <ul style="list-style-type: none"> • Contribution to the advancement of the Shire priorities; • Non-cost factors such as fitness for purpose, quality, service and support; and • Cost-related factors including having regard to whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.
	Works	The operations of building or repair (roadworks).
POLICY	1.	EFFECTIVE LEGISLATIVE AND POLICY COMPLIANCE AND CONTROL
	1.1.	<p><i>Probity</i></p> <p>Probity is concerned primarily with the behaviour of council staff and its agents, highlighting associated ethical issues, ensuring the proper conduct of procurement services to:</p> <ul style="list-style-type: none"> • Facilitate the achievement of value for money; • Reduce the risk to council of being exposed to legal action and financial loss; • Provide potential contractors with confidence about fair treatment, with consequential improvements in competition and performance; and • Guard against collusion and fraud. <p>Probity fundamentals require:</p> <ul style="list-style-type: none"> • Compliance with the legal and policy framework applying to procurement decisions; • Use of appropriate competitive process; • Fairness and impartiality; • Consistent and transparent process; • Identification and management of conflicts of interest; and • Appropriate security and confidentiality arrangements.

POLICY (CONT'D)

1.1.1 **Probity Plan**

A probity plan is a document that sets out the steps to be taken and the processes to be implemented to ensure a tender is conducted fairly and ethically.

The decision to prepare a Probity Plan must be considered at the planning stage of the procurement process in consultation with the Procurement Team. The sourcing and engagement of probity services is the responsibility of the Procurement Team and will be considered in the following circumstances;

- The transaction is of high value (\$10 Million); or
- The matter is highly complex, of a high risk or controversial nature and requires a high level of public confidence.

The table below provides further guidance.

	Low	Medium	High
Value	X	✓	✓
Public/Special Interest	X	✓	✓
Risk	X	✓	✓
Complexity	X	✓	✓

Contracts related to these high value, high risk or complex procurement activities will be reviewed by legal counsel to ensure terms and conditions are fit for purpose prior to the contract being recommended for approval.

1.1.2 **Probity Services**

A probity plan generally involves the appointment of a probity advisor and/or a probity auditor.

The probity advisor provides advice on probity issues which may arise throughout the tender process, together with advice on strategies to overcome potential problems.

A probity auditor's role is more generally confined to reviewing all processes and documentation throughout the tender process and reporting to council or the CEO after the end of the process.

Where a probity auditor or advisor is appointed this must occur before the tender specifications and documentation are completed as part of the procurement planning phase. Probity professionals will be selected by the Procurement Team in communication with the relevant approval authority.

The Probity Auditor or Advisor takes no part in the decision-making process of the tender evaluation panel but will assist the panel on probity matters.

<p>POLICY (CONT'D)</p>	<p>1.1.3 <i>Probity Report</i></p> <p>Should a Probity Auditor be appointed a report of the audit at its conclusion should incorporate the following:</p> <ul style="list-style-type: none"> • Definition of the scope of the audit. • Statement that the probity auditor has been able to fulfil their project brief in order to express an opinion on the tender process. • Brief description of the probity framework (for example, plans, policies, guidelines etc.) against which the review has been conducted. • Statement about whether or not the audit was conducted according to the probity framework. • List of any qualifications or limitations on the probity auditor's opinion on the process. • Findings in the form of an expression of opinion about whether – in all material respects and based on the probity framework – the process was undertaken according to the legislation and council procurement policy. <p>In the case of tenders where the complexity, risk or value are significantly high, consideration should be given to ensuring the role of a Probity Auditor is separated from the role of a Probity Advisor.</p> <p>1.1.4 <i>Conduct of Councillors and Council Staff</i></p> <p>Councillors and Staff shall at all times conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity and will:</p> <ul style="list-style-type: none"> • Treat potential and existing suppliers with equality and fairness; • Not seek or receive personal gain; • Maintain confidentiality of Commercial in Confidence information such as contract prices and other sensitive information; • Present the highest standards of professionalism and probity; • Deal with suppliers in an honest and impartial manner that does not allow conflicts of interest; • Provide all suppliers and tenderers with the same information and equal opportunity; and • Be able to account for all decisions and provide feedback on them.
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<p>POLICY (CONT'D)</p>	<p>1.1.5 <i>Tender Process</i></p> <p>All tender processes shall be conducted in accordance with the requirements of this policy and any associated Shire procedures, relevant legislation, and where applicable relevant Australian Standards, the Act and Best Practice Guidelines for Tendering and Contract Management.</p> <p>1.1.5.1 <i>Tender Evaluation Panel Composition</i></p> <p>Evaluation Panel members must include adequate technical, operational and environmental knowledge and background about the goods/services or works required such that they are capable of providing meaningful input to the Tender process.</p> <p>The Panel must be made up of at least three persons; with one member independent of the process and/or team undertaking the procurement.</p> <p>Where the evaluation relates to high value or complex procurement, the number of panel membership can be greater than three (typically not more than five) and must include a finance team member.</p> <p>Councillors cannot be members of Tender Evaluation Panels as this could result in undue influence of staff in the undertaking of their duties or functions, with the exception of Evaluation Panels procuring the Internal Audit Services and the appointment of Consultants reviewing the Chief Executive Officer's performance.</p> <p>Should a Councillor form part of a Procurement Evaluation Panel (being for Internal Audit Services or the appointment of Consultants performing Annual CEO Reviews), a conflict of interest must be declared at any subsequent formal meetings of Council where the matter is considered, in accordance with the Act.</p> <p>Where procurement is undertaken by a Third Party on behalf of Council, Officers will formally request to participate in the evaluation process. Where this is not practical the Shire will request to review all documents of the panel prior to evaluation.</p> <p>1.1.6 <i>Confidentiality Agreement and Related Interest Declaration</i></p> <p>Members of the Tender Evaluation Panel, advisors and other staff directly involved in the tender and evaluation processes must sign a Confidentiality and Related Interest Declaration prior to the commencement of their first meeting. Panel members need to declare any relationships or connections they currently have, or previously had, to tenderers or their employees. Throughout the Tender process members of the Tender Evaluation Panel and advisors will be expected to declare the existence of any potential, perceived or actual conflict of interest as soon as they become aware of it.</p> <p>The purpose of the Related Interest Declaration is to mitigate the person determining the status of their own interest. Related Interests are broad declarations of relationships or circumstances.</p>
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<p>POLICY (CONT'D)</p>	<p>1.1.6 Confidentiality Agreement and Related Interest Declaration (Cont'd)</p> <p>The Procurement team will maintain a Related and Conflict of Interest Register and will review any Related Interests declared and assess in consultation with the Probity Advisor and the relevant Project Sponsor.</p> <p>In the case where a conflict of interest has been identified with a prospective tenderer, the person must be replaced on the Evaluation Panel and all access to tender information is removed.</p> <p>If the interest is considered minor or unlikely to influence the evaluation or outcome, a formal decision of an Executive Team Member, or in the case of the conflicted person being an Executive Team Member, the Chief Executive Officer or in the case of the conflicted person being the Chief Executive Officer, the Governance Manager would be required for the person to maintain their position on the Panel.</p> <p>1.1.7 Conflict of Interest</p> <p>Councillors and Staff shall at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties.</p> <p>Councillors and Staff shall not participate in any action or matter associated with the arrangement of a contract (i.e., evaluation, negotiation, recommendation, or approval), where that person or any family member or relatives, has an interest, or holds a position of influence or power in a business undertaking tendering for the work.</p> <p>Responsibility rests with the conflicted person to be alert to, and promptly declare a potential, perceived or actual conflict of interest in the matter before them.</p> <p>Refer to Attachment A, the Act, Staff and Councillors Codes of Conduct and relevant policies adopted from time to time.</p> <p>1.1.8 Fair and Honest Dealing</p> <p>All prospective contractors and suppliers must be afforded an equal opportunity to tender or quote.</p> <p>Impartiality must be maintained throughout the procurement process so it can withstand public scrutiny.</p> <p>The commercial interests of existing and potential suppliers must be protected.</p> <p>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 prices, discounts, rebates, profit, manufacturing and product information.</p>
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<p>POLICY (CONT'D)</p>	<p>1.1.9 <i>Accountability and Transparency</i></p> <p>Accountability in procurement means being able to explain and provide evidence on the process followed. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.</p> <p>Therefore the processes by which all procurement activities are conducted will be in accordance with this policy and related, relevant policies and procedures.</p> <p>Additionally:</p> <ul style="list-style-type: none"> • Procurement decisions made should consider the lifecycle of all goods, services and works purchased by the Shire and where possible, provide feedback on them; and • All procurement activities are to provide for an audit trail for monitoring and reporting purposes. <p>1.1.10 <i>Gifts, Benefits and Hospitality</i></p> <p>No Councillor or Council staff member shall, either directly or indirectly solicit, demand, request or accept gifts, benefits or hospitality from any current tenderer.</p> <p>The acceptance of gifts, benefits or hospitality from any current contractor (at any point during the life of the contract) is not appropriate and should be refused in all circumstances.</p> <p>Gifts, benefits and hospitality received must not create a real or perceived sense of obligation that may lead to a perception of preference or conflict.</p> <p>All gifts benefits and hospitality received or declined must be recorded in the Gift Register.</p> <p>Refer to Attachment A Gifts, Benefits and Hospitality Policy and Councillor Code of Conduct for further information.</p>
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<p>POLICY (CONT'D)</p>	<p>1.1.11 <i>Disclosure of Information</i></p> <p>Commercial in-confidence information received by the Shire must not be disclosed and is to be stored in a secure location, with restricted access to relevant staff.</p> <p>Councillors and staff are to protect, by refusing to release or discuss the following:</p> <ul style="list-style-type: none"> • 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. <p>Councillors and Staff are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests.</p> <p>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.</p> <p>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.</p> <p>1.1.12 <i>Fraud Awareness</i></p> <p>Offers of bribes, commissions or other irregular approaches from organisations or individuals during a procurement process must be promptly brought to the attention of the Probity Advisor.</p> <p>In the instance of these actions occurring in day to day operations a report should be provided to the relevant Manager.</p>
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POLICY (CONT'D)	1.2 Governance
	1.2.1 Structure The Shire shall: <ul style="list-style-type: none"> • Establish a procurement management system, with appropriate delegations ensuring accountability, traceability and where practicable auditability, of procurement decisions made over the lifecycle of all goods, services and works purchased by the Shire; • Ensure that the Shire's procurement structure: <ul style="list-style-type: none"> — is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required by the Shire; ensures that prospective contractors and suppliers are afforded an equal opportunity to tender/quote; — encourages competition; and — ensures that policies that impinge on the purchasing policies and practices are communicated and implemented.
	1.2.3 Methods The standard methods for purchasing goods, services and works shall be by some or all of the following methods: <ul style="list-style-type: none"> • 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; • Cheque requisition; • Corporate purchase card; • Using aggregated purchasing arrangements with other Councils, MAV Procurement, Procurement Australia, Victorian Government through the Construction Suppliers Register, State Purchase Contracts, Whole of Victorian Government, other agency agreements, or other bodies; and/or • Where those major service contracts have provision for schedule of rates, annually adjusted, then the schedule of rates will only be utilised for works ordered which fall within the scope of the contracted services.

<p>POLICY (CONT'D)</p>	<p>The standard methods for purchasing goods, services and works shall be by some or all of the following methods:</p> <ul style="list-style-type: none"> • 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; • Cheque requisition; • Corporate purchase card; • Using aggregated purchasing arrangements with other Councils, MAV Procurement, Procurement Australia, Victorian Government through the Construction Suppliers Register, State Purchase Contracts, Whole of Victorian Government, other agency agreements, or other bodies; and/or • Where those major service contracts have provision for schedule of rates, annually adjusted, then the schedule of rates will only be utilised for works ordered which fall within the scope of the contracted services. <p>Unless other arrangements authorised by the Council or the CEO on a needs basis as required by abnormal circumstances such as emergencies.</p> <p>Officers may, at their discretion and based on the complexity and cost of the project, conduct one stage or multi-stage tenders.</p> <p>Typically, a multi-stage tender process will commence with an Expression of Interest (EOI) stage followed by a tender process involving the organisations selected as a consequence of the EOI stage.</p> <p>An EOI may be appropriate where:</p> <ul style="list-style-type: none"> • The requirement is complex, difficult to define, unknown or unclear; • The requirement is capable of several technical solutions; • The Council wishes to consider ahead of formal tender processes such issues as whether those tendering possess the necessary technical, managerial and financial resources to successfully complete the project; • Tendering costs are likely to be high and the Council seeks to ensure that companies incapable of supplying the requirement don't incur unnecessary expense;
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<p>POLICY (CONT'D)</p>	<p>1.2.3 <i>Methods (Cont'd)</i></p> <ul style="list-style-type: none"> • It is necessary to pre-qualify suppliers and goods to meet defined standards; and/or • The requirement is generally known but there is still considerable analysis, evaluation and clarification required (both of the objective and the solution). <p>Additionally, for highly complex projects or services such as Infrastructure Maintenance Services contracts, the Shire may run sequential tenders, the first to solicit solutions, the second to compete to provide the solution selected by the Shire. Such sequential tenders may or may not be preceded by the EOI phase as required by the Council based on the actual needs of the project.</p> <p>1.2.4 <i>Responsible Financial Management</i></p> <p>The principle of responsible financial management shall be applied to all procurement activities.</p> <p>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.</p> <p>All purchasing must be approved via purchase order with an approver separate to the requestor, prior to committing funds.</p> <p>Staff must not authorise the expenditure of funds in excess of their financial delegations. 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.</p>
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<p>POLICY (CONT'D)</p>	<p>1.3 Procurement Thresholds and Competition</p> <p>1.3.1 <i>Minimum Spend Competition Thresholds</i></p> <p>1.3.1.1 <u>Tenders</u></p> <p>Purchase of all goods and services for which the estimated total expenditure exceeds \$150,000 (GST inclusive), and building and construction works for which the estimated expenditure exceeds \$200,000 (GST inclusive), must be undertaken by public tender as per the thresholds contained in the Act (even if the amount is spent over a period of time).</p> <p>Interpretation of total expenditure:</p> <ul style="list-style-type: none"> • Where the total combined expenditure across Council exceeds (or is reasonably expected to exceed) the relevant threshold over a 2 year period with similar suppliers. • Where the total combined expenditure across Council exceeds (or is reasonably expected to exceed) the relevant threshold with the same supplier over a 2 year period, unless it is not reasonably expected that more than one supplier could provide same type of goods or service/s. <p>Public tender is deemed to include the methods of using aggregated purchasing arrangements with other Councils, MAV Procurement, Procurement Australia, Victorian Government through the Construction Suppliers Register, State Purchasing Contracts, Whole of Victorian Government Contracts, other approved agency agreements, or other bodies.</p> <p>When selecting suppliers to invite to tender via the aggregated purchasing or panel arrangements, this must be in consultation with the Procurement Team and with approval from an executive member;</p> <p>Should the CEO, respective Director or Manager consider that the nature of the requirement and the characteristics of the market are such that the public tender process would lead to a better result for the Council, public tenders may be called for purchase of goods, services and works even for which the estimated expenditure is below these thresholds.</p> <p>(The procurement for the provision of utilities including water, gas or electricity and the acquisition of services from government controlled entities, unless genuine competition exists may be exempt from tendering.)</p>
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<p>POLICY (CONT'D)</p>	<p>1.3.1.2 <u>Quotations</u></p> <p>Purchasing of goods and services for amounts <u>less</u> than \$150,000 (including GST) or for works less than \$200,000 (including GST) must utilise the Quotation / Purchasing Methods unless the following applies:</p> <ul style="list-style-type: none"> • The specified services are already under contract with the Shire; • Aggregated purchasing arrangements with other Councils are utilised; • Victorian Government purchase arrangements as approved by the Minister for Local Government are utilised including: <ul style="list-style-type: none"> — Construction Suppliers Register; — State Purchase Contracts; and — Whole of Victorian Government Contracts. • Agency arrangements including Procurement Australia or MAV Procurement are utilised. <p><u>Methods</u></p> <p>Procurement activity below the legislative tender thresholds (refer 1.3.1.1) must be made in accordance with the following quotation methods, conditions and limits as outlined in Attachment B.</p> <p><i>Best Price Available</i> – no specific number of quotations are required.</p> <p><i>Written Quotations</i> – copies of written independent quotes must be included and or stored in the relevant corporate system.</p> <p><i>Tenders:</i> A public tender process may be required under the legislated threshold if deemed appropriate (i.e. to test the market, if the matter is highly complex or requires a high level of public confidence). Refer 1.3.1.1.</p> <p><u>Exemptions</u></p> <p>When compliance with the above methods cannot be met (i.e. limited suppliers or highly specialised nature of the procurement) and the expenditure is less than the legislated thresholds Refer 1.3.1.1) a formal Exemption process must be undertaken via the purchasing system and approved by relevant Officers in accordance with financial delegations.</p> <p><u>Public Advertising</u></p> <p>Requests for quotations may be advertised via the medium deemed most appropriate and in accordance with the appropriate methods.</p> <p>An alternative approach to standard advertising may be required when a field of potential tenderers hasn't been established, an innovative approach is required, or the project has broad appeal that may attract keen prices, etc.</p>
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POLICY (CONT'D)	1.4 Delegation of Authority
	1.4.1 Requirement Delegations define the limitations within which staff are permitted to work. Delegation of procurement authority allows specified staff to approve certain purchases, quotation, tender and contractual processes without prior referral to the Council. This enables the conduct of procurement activities in an efficient and timely manner whilst maintaining transparency and integrity. Procurement delegations ensure accountability and provide confidence to Council and the public that purchasing activities are dealt with at the appropriate level. As such, the Council has delegated responsibilities as detailed below relating to the expenditure of funds for the purchase of goods, services and works, the acceptance of quotes and tenders and for Contract Management activities.
	1.4.2 Delegations
	1.4.2.1 Council Staff The Shire shall maintain documented purchase authorisation limits, identifying the staff authorised to make such procurement commitments in respect of goods, services and works on behalf of the Council. Their respective delegation limits are contained in individual Instruments of Delegation and include: <ul style="list-style-type: none"> • Acceptance of quotes and tenders; • Approval of purchases (includes cheque requisition, corporate purchase card and purchase orders). • Contract term extensions (within authorised budget); and • Amendments to an approved contract are to be in accordance with the General Conditions of Contract and the Instrument of Delegation; and • Procedural exemptions (matters not provided in this policy).
	1.4.2.2 Delegations Reserved for the CEO and Council Commitments and processes which exceed the CEO's delegation must be approved by the Council and are summarised in Attachment B.

<p>POLICY (CONT'D)</p>	<p>1.5 Internal Controls</p> <p>The Shire will install and maintain a framework of internal controls over procurement processes that will ensure:</p> <ul style="list-style-type: none"> • 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; and • Systems are in place for appropriate monitoring and performance measurement. <p>1.6 Commercial Information</p> <p>Procurement activities will be carried out in a way that supports Shire staff in meeting their obligations – to ensure information of a commercially sensitive or confidential nature is obtained, stored, processed, published (where applicable) in an appropriate manner in accordance with the relevant Shire guidelines.</p> <p>1.7 Risk Management</p> <p>1.7.1 General</p> <p>Risk Management is to be appropriately applied at all stages of procurement activities which will be properly planned and carried out in a manner that will identify the desired outcomes, risks and issues. Ensuring appropriate risk assessments are undertaken will protect and enhance the Shire's capability to prevent, withstand and recover from interruption to the supply of goods, services and works.</p> <p>Risks and issues identified will be documented in a Risk Register, which will include clear mitigating actions, appropriate risk owner and review dates.</p>
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<p>POLICY (CONT'D)</p>	<p>1.7.2 <i>Supply by Contract</i></p> <p>The provision of goods, services and works by contract potentially exposes the Council to risk.</p> <p>To minimise risk exposure the following are required:</p> <ul style="list-style-type: none"> • Standardising contracts and specifications to include current, relevant clauses; • Requiring security deposits and bank guarantees where appropriate; • Referring specifications to relevant experts for peer review; • Requiring contractual agreement before allowing the commencement of work; • Use of or reference to relevant Australian Standards (or equivalent); • Effectively managing the contract including monitoring and enforcing performance; and • All contracts must be in Australian currency and payments in international currency is not permitted. <p>1.8 <i>Contract Terms</i></p> <p>All contractual relationships must be documented in writing and based on standard terms and conditions.</p> <p>Where this is not possible, approval must be obtained from the appropriate member of staff listed in the Shire's delegations. A request for such an approval should be supported with procurement and legal advice as relevant.</p> <p>To protect the best interests of the Shire, terms and conditions must be settled in advance of any commitment being made with a supplier. Any exceptions to doing this expose the Shire to risk and thus must be authorised by the appropriate member of staff listed in the council delegations.</p> <p>1.9 <i>Endorsement</i></p> <p>Staff must not endorse any products or services. Individual requests received for endorsement must be referred to Director level or above.</p>
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POLICY (CONT'D)	1.10 Dispute Resolution All contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes getting out of hand and leading to legal action.
	1.11 Contract Management The purpose of contract management is to ensure that the Shire, 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: <ul style="list-style-type: none"> Effectively managing the implementation of the contract; Establishing a system for 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 the Shire's Risk Management Framework and adhering to relevant Occupational Health and Contractor Safety Compliance Procedures. Contracts are to be proactively managed by the member of Shire staff with the required level of expert knowledge responsible for the delivery of the contracted goods, services or works to ensure the Shire receives Value for Money. The acceptance of gifts or benefits from any contractor by a Contract Manager or Contract Superintendent (at any point during the life of the contract) must not be accepted and should be declined and recorded as part of the Shire's gift register.
	2. DEMONSTRATE VALUE
	2.1 Integration with Council Strategy The Strategic Procurement Plan shall support the Shire's corporate strategy, aims and objectives, including but not limited to those related to carbon neutrality, protection of the environment, corporate social responsibility and meeting the needs of the local community such as: <ul style="list-style-type: none"> Feeling safe; Living in a clean and pleasant environment; and Receiving good quality and well managed Shire services that are Value for Money.
	2.1.1 Regional Procurement

		Council will give consideration to regional procurement where it can demonstrate value for money and have regard to any Department of Planning and Community Development published guidelines.
POLICY (CONT'D)	2.2	Achieving Value for Money
	2.2.1	Requirement The procurement activities will be carried out on the basis of obtaining Value for Money. This means minimising the total cost of ownership over the lifetime of the requirement consistent with acceptable quality, reliability and delivery considerations. Lowest price is not the sole determinate of value for money.
	2.2.2	Approach This will be facilitated by: <ul style="list-style-type: none"> • Where practicable, developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the lifecycle; • Effective use of competition; • Using aggregated contracts and SOA where appropriate; • Identifying and rectifying inefficiencies in procurement processes; • Developing cost efficient tender processes including appropriate use of e-solutions; • Staff responsible for providing procurement services or assistance within the Shire providing competent advice in terms of available products and agreements; and • Working with suppliers to create relationships that are professional and productive and are appropriate to the value and importance of the goods, services and works being acquired.
	2.2.3	Role of Specifications Specifications used in quotations, tenders and contracts are to support and contribute to Value for Money objectives through being written in a manner that: <ul style="list-style-type: none"> • Ensures impartiality and objectivity; • Encourages the use of standard products; • Eliminates unnecessarily stringent requirements.

<p>POLICY (CONT'D)</p>	<p>2.3 Performance Measure and Continuous Improvement</p> <p>Appropriate performance measures are to be investigated and where practicable a reporting system will be used to monitor performance and compliance with procurement policies, procedures and controls.</p> <p>Procurement procedures, practices and costs may be benchmarked externally. Internal service standards will be agreed within the Shire and performance against these targets will be reviewed during Best Value reviews to support continuous improvement.</p> <p>Performance measurements developed will assist to:</p> <ul style="list-style-type: none"> • Highlight trend and exceptions where necessary to enhance performance; • Improve the internal efficiency of the procurement process and where relevant the performance of suppliers; and • Facilitate programmes to drive improvement in procurement to eliminate waste and inefficiencies across key spend categories. <p>2.4 Sustainability</p> <p>2.4.1 General</p> <p>The Shire is committed to achieving carbon neutrality and where practicable will monitor and report on Shire activities and programs that have an impact on or contribute to the environment including but not limited to the following:</p> <ul style="list-style-type: none"> • Waste management; • Recycling; • Energy management; • Emission management; • Water conservation; • Building design; and • Procurement.
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<p>POLICY (CONT'D)</p>	<p>2.4.2 <i>Sustainable Procurement</i></p> <p>The Shire is committed to purchasing practices that support the principles of sustainable procurement within the context of purchasing on a Value for Money basis.</p> <p>Value for Money purchasing decisions made will consider whole-of-life cost and non-price factors including contribution to the Shire's objectives such as carbon neutrality.</p> <p>The Shire prefers to purchase environmentally preferred products whenever they achieve a similar function and value for money outcomes.</p> <p>Consideration is required of the following environmental sustainability criteria:</p> <ul style="list-style-type: none"> • Reduce, Reuse, and Recycle. <p>The Shire is committed to reduce resources, consumption and minimise waste during the procurement life cycle including:</p> <ul style="list-style-type: none"> — encouraging and preferring Eco-friendly products which are more power efficient; — selecting energy, fuel and water efficient products (ideally Energy and Water Star Ratings of 4 Star and above, and having regard to Green Vehicle Guide star rating); — preferring to purchase from a source which is less polluting or uses clean technology; and — procurement projects that will 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. <ul style="list-style-type: none"> • Buy Recycled: <p>The Shire 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.</p> <ul style="list-style-type: none"> • Green the Supply Chain: <ul style="list-style-type: none"> — encourage suppliers to adopt good environmental practices; and <p>promote green procurement throughout the Shire's supply chain and ensure selection which has minimum environmental impact.</p>
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POLICY (CONT'D)	<p>2.5 Diversity</p> <p>Promoting equality through procurement can improve competition, Value for Money, the quality of public services, satisfaction among users, and community relations. It should be a consideration in every procurement project and reflect corporate commitment to diversity and equal opportunities wherever possible.</p>
	<p>2.6 Support of Local Business</p> <p>The Shire is committed to buying from local business where such purchases may be justified on Value for Money grounds.</p> <p>All other factors being equal, preference may be given to local economic benefit when sourcing products. When this criteria is nominated, the benefit must be identifiable and reasonable.</p>
	<p>2.7 Support of Australian Products and Services</p> <p>In addition to 2.6 Support of Local Business, the Shire is committed to generally support Australian suppliers of goods and services, noting that in relation to contracts Section 186(6) the Act requires that <i>"Whenever practicable, a Council must give effective and substantial preference to contracts for the purchase of goods, machinery or material manufactured or produced in Australia or New Zealand"</i>.</p>
	<p>3. APPLY A CONSISTENT AND STANDARD APPROACH</p> <p>The Shire will provide effective and efficient commercial arrangements for the acquisition of goods and services.</p>
	<p>3.1 Standard Processes</p> <p>The Shire will provide effective commercial arrangements covering standard products and provision of standard services across the Shire to enable staff to source requirements in an efficient manner.</p> <p>This will be achieved via establishing the following:</p> <ul style="list-style-type: none"> • Pricing where relevant; • Processes, procedures and techniques; • Tools and business systems (e.g. implementing appropriate e-tendering, e-evaluation; e-catalogue or e-sourcing arrangements); • Reporting requirements; and • Application of standard contract terms and conditions.


<p>POLICY (CONT'D)</p>	<p>3.2 Performance Indicators</p> <p>A list of indicators will be investigated and where practicable be developed to measure procurement performance. They will include criteria such as:</p> <ul style="list-style-type: none"> • The proportion of spend against corporate contracts; • User and supplier satisfaction levels; • Knowledge and skill of Shire staff in procurement process; • Level of compliance and understanding of the Shire procurement policies; and • Measuring the success of procurement initiatives e.g. corporate purchase cards. <p>3.3 Management Information</p> <p>The Shire seeks to improve its performance by capturing and analysing procurement management information in a variety of areas, including:</p> <ul style="list-style-type: none"> • Volume of spend; • Number of transactions per supplier; • Supplier performance; • User satisfaction; • Category management; and • Environmental/sustainable spend. <p>The Shire will refer external sources of information to assist with the procurement decision making process including:</p> <ul style="list-style-type: none"> • Benchmarking data; • Information from professional bodies and agencies; and • Supplier reports. <p>4. BUILD AND MAINTAIN SUPPLY RELATIONSHIPS</p> <p>The Shire recognises that in order to achieve 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. The Shire will consider supply arrangements that deliver the best value outcomes in terms of time, expertise, cost, value and outcome.</p>
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POLICY (CONT'D)	<p>4.1 Developing and Managing Suppliers</p> <p>The Shire recognises the importance of effective and open working relationships with its suppliers and is committed to the following:</p> <ul style="list-style-type: none"> • Managing existing suppliers, via the appropriate development programmes 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.
	<p>4.2 Supply Market Development</p> <p>A wide range of suppliers should be encouraged to compete for Shire work. The focus for new work need not always be with the larger more familiar businesses. Other types of organisations offering business diversity include:</p> <ul style="list-style-type: none"> • Local businesses; • Environmental suppliers; • Small to medium sized enterprises (SME's); • Social enterprises; • Ethnic and minority business; and • Voluntary and community organisations.
	<p>4.3 Relationship Management</p> <p>The Shire is committed to developing constructive long-term relationships with suppliers. It is important that the Shire identifies its key suppliers so that its efforts are focused to best effect. Such areas may include:</p> <ul style="list-style-type: none"> • Size of spend across the Shire; • Criticality of goods/services, to the delivery of the Shire's services; • Availability of substitutes; and • Market share and strategic share of suppliers.

<p>POLICY (CONT'D)</p>	<p>4.4 Communication</p> <p>Communication is very important in ensuring a healthy interest from potential suppliers and partners to the Shire. Where practicable the external website will be updated and provide:</p> <ul style="list-style-type: none"> • Information about the Shire; • A list of forthcoming contract opportunities; • Guidelines for doing business with the Shire; • Standard documentation used in the procurement process; and • Links to other relevant sites. <p>5. CONTINUAL IMPROVEMENT</p> <p>The Shire is committed to continuous improvement and will review the procurement policy on an annual basis, to ensure that it continues to meet its wider strategic objectives.</p>
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RESPONSIBILITY	All Councillors and staff of the Shire. Financial Controller as the Procurement Policy Owner
RELATED LEGISLATION AND POLICY	Local Government Act 1989. Protected Disclosure Act 2014 Competition and Consumer Law MPSC Corporate Purchasing Card Policy MPSC Staff Code of Conduct MPSC Gifts, Benefits and Hospitality Policy MPSC Employee Conflict of Interest Policy MPSC Councillors Code of Conduct MPSC Complaints Handling Policy MPSC – Carbon Neutral Policy MPSC – Green Purchasing Guide
REFERENCES	LG Best Practice Guidelines for Procurement and Tendering and Contract Management. Victorian Government Procurement Board policies Department of Treasury and Finance policies Victorian Government – Construction Suppliers Register. Victorian Government – State Purchasing Contracts. Victorian Government – Whole of Victorian Government Contracts. Victorian Civil Construction Industry Best Practice Guide for Tendering and Contract Management. Australian Standards AS4000 – General Construction
REVIEW	This Policy shall be subject to review within 12 months of the next general Council election to be held in October 2020, or as required under the provisions of the Local Government Act 1989 as follows: S.186A(7) “ <i>At least once in each financial year, a Council must review the current procurement policy and may, in accordance with this section, amend the procurement policy.</i> ”

ATTACHMENT A



CONTRACTS & PROCUREMENT

RELATED INTEREST & CONFIDENTIALITY DECLARATIONS

Contract Number and Name: _____

This form must be completed by all persons involved in the assessment of a formal procurement process (i.e. public tender, EoI etc) and must be provided to the Contracts and Procurement Department, who will:

- Assess declarations and make recommendations to Executive Management regarding any potential conflicts of interest (potential, perceived or actual), in accordance with relevant Shire policies and procedures;
- Provide access to procurement documents only upon the satisfactory completion and assessment of this declaration form; and
- Maintain corporate records of procurement declarations made.

Confidentiality

All workshop scoping, discussions, intellectual property and tendered information discussed and presented within this and any subsequent workshops and/or meetings, shall remain strictly confidential within all the members of these workshops and meetings and will not be disclosed to any other party or similar organisation.

Hard copies of confidential information will be disposed of in accordance with the Shire's privacy and record management procedures.

Disclosure of Related Interests

In completing this declaration please consider:

- The scope of the Project as outlined in the procurement documents; and
- The need for the public and other stakeholders to have confidence that the decisions and outcomes of the Project are, and are seen to be, impartial in all aspects of its operation.

Please answer the following questions and declare any related interests that are, or could be (perceived or potential), relevant to the work of the Project:

	No	Yes
Do you or an associated person have a financial interest (including shares) in or do you or anyone associated with you, have a private business (or secondary employment) interest in:		
• any of the tendering organisations?		
• their known related companies?		
• any other organisation or person that may have a direct financial or business interest in the tenders being sought in relation to the Project?		
Do you or a member of your family control or hold any office in any of the organisations on the attached list or their known related companies?		
If you answered yes to any of the above, please provide further details:		

Please continue overleaf....

(A2000825)

Continued from overleaf....



	No	Yes
Do you have significant family or other relationships with contractors or staff associated with an organisation on the attached list?		
Could you, or a relative/friend/associate, benefit (other than your ongoing employment with the Department) now or in the future from your decisions or actions in relation to the Project?		
Do you have any significant ties, obligations, financial relationships or affiliations with entities, organisations, clubs, groups or individuals who stand to gain or lose from the Project?		
Do you have affiliations past or present (political, union, professional, religious etc) that place you under an obligation to them in relation to taking a particular position or view on this Project?		
Are you aware of any matter, fact or belief that could give rise to a perception of personal bias, favour or inclination related to your involvement in the Project or would it appear to a neutral person that your beliefs or private interests were in conflict with the public interest duty in regards to the Project?		
If you answered yes to any of the above, please provide further details:		

I understand I must remain vigilant to any future (potential, perceived or actual) interests that may arise during the procurement process and the requirement to cease participation in the procurement activity until the disclosure is made and assessed in accordance with the requirements of this document.

Should it not be deemed appropriate to remain involved in the procurement process I understand I am responsible for confidentially destroying any relevant documents in my possession and will have access removed from electronic corporate records.

Name: _____ Title: _____

Role in the Procurement Process: _____

Signature: _____ Date: ____/____/____

Procurement Policy

ATTACHMENT B

SUMMARY OF DELEGATIONS AS AT 30 JULY 2019 (A78937553)

NB: This attachment does not form part of the procurement policy : it is included as a summary of current delegations.

Mornington Peninsula Shire - Authority Guideline (This guide must be read in conjunction with the Procurement Policy and is subject to change per CEO delegation of authority)				
Purchases for Goods and Services (G & S) or Works	Required method			Outside the Budget
	Verbal quote	Written quote	Public Tender	
Purchases below \$3k (best price available)	✓	X	X	TL / PROC
Purchases above \$3k and under \$10k (min 3 verbal quotes)	✓	X	X	MGR/PROC
Purchases above \$10k and under \$50k (min 3 written quotes)	X	✓	X	MGR
Purchases above \$50k and under \$150k (G & S) or \$200k works (min 3 written quotes)	X	✓	X	DIR
Purchases above \$150k (G & S) or \$200k works	X	X	✓	Refer to C & T Approvals
Contract and Tender (C & T) Approvals				
Comments			Within Budget	Outside the Budget
C & T's below \$50k (G & S's and works)			MGR	FC & MGR
C & T's above \$50k (G & S's and works) and below \$200k			DIR	FC & DIR
C & T's above \$200k (G & S's and works) and below \$1M			CEO	FC & CEO
C & T's above \$1M			Council	Council
Contract Variation and Overexpenditure Approvals < 30% of awarded (lump sum) contract			Within Budget	Outside the Budget
Up to \$50k			MGR	FC or CEO
Above \$50k and below \$200k			DIR	CEO
Above \$200k			Council	Council
> 30% of awarded contract			Council	Council
Miscellaneous Requests			Within Budget	Outside the Budget
Entertainment, Donation or Sponsorship			MGR & DIR	DIR & FC
Extraordinary payments			FC	CEO
Keys: PROC = Procurement Officer TL = Team Leader MGR = Manager FC = Financial Controller DIR = Director; Corporate Services, Planning & Building, Performance and Development, Place & Communities CEO = Chief Executive Officer				
To be read in conjunction with the following notes: 1. This authority mandate is as approved by the CEO and any amendments/ delegations must be approved by the CEO 2. In all instances every approval must be approved by at least the next level up Manager or Authorised Approver. You cannot approve your own expenses 3. Where the Authorised Approver is not available, authority must be obtained from a nominated alternative which must be the next level up Manager 4. Where the Director or CEO is not reasonably available, authority extends to the Financial Controller 5. Any extended delegation is to be approved by formal "Higher Duties" process via HR 6. Approvers authority is limited to the responsibility area 7. The relevant process and documentation in any of the above areas may be defined separately in the Procurement Policy or Finance Manual				
Approved by CEO			Date: 30-7-19	
			Signature: 