



2021-2025

Procurement Policy

South East Regional Group of Councils

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1. Definitions and Abbreviations

Best Practice	As defined in the Local Government Best Practice Procurement Guidelines or any other document specified by Council.
Collaborative or Aggregated Procurement Arrangement/s	A contract established by the Council/s, government or a nominated agent, South East Regional Group of Councils (SERGC) or local government entity, for the benefit of numerous state, federal and/or local government entities that achieves best value by leveraging combined economies of scale.
Commercial in Confidence	Information that, if released, may prejudice the business dealings or commercial interests of Council or another party, e.g. prices, discounts, rebates, profits, methodologies and process information, etc.
Contract Management	The process that ensures all parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the contract objectives and provide Value for Money.
Council	Mornington Peninsula Shire Council.
Emergency	A sudden or unexpected event requiring immediate action including the occurrence of a natural disaster, flooding or fire event at a Council property; the unforeseen cessation of trading of a core service provider; any other situation which is liable to constitute a risk to life or property.
Local Supplier	A commercial business with an operational premise that is physically located or perform the majority of their goods/services within the municipal borders of Mornington Peninsula Shire Council. In the event of collaborative procurement between Councils, the borders will lie within the boundaries of those participating Councils.
Material breach	Any breach of this policy that may also represent a breach of legislation such as procurement thresholds, fraud or corruption, and occupational health and safety.
Probity	Probity is the evidence of ethical behaviour, and can be defined as complete and confirmed integrity, uprightness and honesty in a particular process. Probity is a defensible process which is able to withstand internal and external scrutiny, achieves both accountability and transparency, providing respondents with fair and equitable treatment.
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. It also includes the organisational and governance frameworks that underpin the procurement function.
Reasonably practicable	That which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters.
South East Regional Group of Councils (SERGC)	The 11 partnering Councils comprising the SERGC being the Cities of Bayside, Boroondara, Casey, Dandenong, Frankston, Glen Eira, Kingston, Stonnington, and Cardinia and Mornington Peninsula Shire Councils.
Total Contract Sum	The potential total value of the contract including: <ul style="list-style-type: none"> • costs for the full term of the contract, including any options for either party to extend the contract; • applicable goods and services tax (GST); • anticipated contingency allowances or variations; and • all other known, anticipated and reasonably foreseeable costs.
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"> • Non-cost factors such as contribution to the advancement of Council's priorities, fitness for purpose, quality, service and support; and

	<ul style="list-style-type: none">• Cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.
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2. Purpose

The Council purchases goods, services and works to support service delivery and the maintenance and development of infrastructure. The Council is required under sections 108 and 109 of the [Local Government Act 2020](#) (the Act) to prepare, adopt and comply with its procurement policy. In accordance with the Act, this policy sets out the key principles, processes and procedures applied to all purchases of goods, services and works by Council.

This Policy has been developed collaboratively by the South Eastern Councils SERGC with a view to facilitating smooth collaborative procurement processes, consistent with the Act. This Policy also incorporates content that is specific to Mornington Peninsula Shire Council and may differ from that of the other SERGC Councils and is intended to apply only to procurement involving the Council.

3. Applicability

This Policy applies to all contracting and procurement activities conducted at each Council and is applicable to all Councillors, Council Staff and other persons undertaking procurement on Council's behalf.

It is recognised this will enhance achievement of each Council's objectives such as sustainable and socially responsible procurement, supporting local economies and obtaining Value for Money, leading to a better result in the provision of goods, services and works for the benefit of the community.

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

This Procurement Policy applies to Mornington Peninsula Shire Council. Officers must comply with this Policy before entering into a contract for the purchase of goods or services or the carrying out of works.

4. Guiding Principles

Council's procurement processes are based on the following principles, irrespective of the value and complexity of that procurement:

4.1 Procurement Principles

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

- Value for Money
- sustainability (social, economic and environmental)
- local economic impact
- open and fair competition
- accountability
- risk management
- probity and transparency

4.2 Strategic Procurement

Council's procurement processes will be based on the principles of Strategic Procurement. Planning for an individual procurement exercise will include consideration of collaborative procurement opportunities, access to suppliers under existing contracts and analysis of alternative contract models. Guidance and procurement planning templates are available from the Contracts and Procurement team.

4.3 Value for Money

Council will weigh the benefits of the procurement against the costs necessary for the optimum result for Council and the local community. While Council is not required to accept the lowest price, it is required to take into account issues of quality, cost, accessibility of the service and other factors relevant to both the overall objectives and the Act.

Value for Money may not mean the lowest price. In terms of the contracting process, Value for Money requires Council to apply appropriate weighting for quality and price with as much transparency as is reasonably achievable. In this context, price should take into account the whole life cost of the provision as far as is practicable.

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

Council will seek to conduct sustainable procurement through measures including, but not limited to:

- a) adopting strategies to avoid unnecessary consumption and manage demand;
- b) giving consideration to the purchase of goods and infrastructure that can be reused, repaired and recycled, and that include recycled content;
- c) giving consideration to the purchase of goods, services or works that benefit local suppliers or social enterprises;
- d) minimising environmental impacts over the life of the goods and services by choosing products or services that have lower adverse impacts associated with their production, use or disposal;
- e) fostering innovation in sustainable products and services through the design and implementation of procurements; and
- f) ensuring that fair and ethical sourcing practices are applied and that suppliers are complying with socially responsible practices, including legislative obligations to employees.

Achieving Value for Money shall be the basis of all procurement decisions within Council.

4.4 Assessing the Evaluation Criteria - Value for Money

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

Value for Money in Council procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including:

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

Value for Money is best achieved by:

- a) developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the procurement lifecycle;
- b) aggregating purchasing whenever possible; and
- c) undertaking competitive procurement processes.

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

- Mandatory Compliance criteria (e.g. ABN registration, OH&S, Fair Work Act).
- Tendered price.
- Capacity of the Respondent to provide the Goods and/or Services and/or Works.
- Capability of the Respondent to provide the Goods and/or Services and/or Works.
- Demonstration of Sustainable Procurement Impact.

- Any other criteria relevant to the Goods and/or Services and/or Works being procured.

4.5 Corporate Social Responsibility (Sustainable and Ethical Procurement)

Council will support sustainability through its purchasing activity and prioritise purchases that maximise waste minimisation, energy efficiency, water conservation and reductions in greenhouse gas emissions.

Value for Money purchasing decisions made by Council are made based on whole-of-life cost and non-price factors including contribution to Council's sustainability objectives.

Council prefers to purchase sustainable, recycled and environmentally preferred products whenever they achieve the same function and Value for Money outcomes. Council may spend up to ten percent more for products that provide environmentally sustainable benefits.

Council will support products and new industries which provide sustainable and social benefits.

Council will monitor and report on Council procurement activities and programs that have an impact on or contribute to the environment.

4.6 Advancing Economic, Environmental and Social Objectives

Council will seek to advance economic, environmental and social objectives to benefit the community directly by purchasing from for-social benefit entities, and indirectly by including social clauses in its contracts with private sector providers and screening supply chains for ethical considerations.

At its discretion, Council may apply a 10% preferential weighting in the evaluation of proposals that:

- i. are from Social Enterprises or include Social Enterprises in their supply chain; or
- ii. are from Indigenous Suppliers or include Indigenous Suppliers in their supply chain.

Council will also give regard to the following elements when making procurement decisions:

a) Economic Sustainability - Council supports local businesses and economic diversity by encouraging purchases that:

- Are made from local suppliers and Small to Medium Enterprises;
- Generate local employment; and
- Consider the cost vs. life cycle/durability of purchases.

b) Environmental Sustainability - Council declared a Climate Emergency on 13 August, 2019 and has called for immediate and urgent action to reverse climate change which guides the Peninsula to zero carbon emissions by 2040. As such, Council seeks to make procurement decisions that promote:

- The efficient use of resources, energy and water;
- Green purchasing (i.e. making purchases that use materials made of recycled content, are energy efficient and greenhouse friendly, are from a Social Enterprise or are second hand/refurbished);
- Reduced greenhouse gas emissions;
- Reduced waste to landfill and the increase of the amount of waste recycled;
- Reduced water consumption and the improvement of water management;
- Improved environmental management in Council's supply chain;
- The selection of products/services that have minimal effect on the depletion of natural resources and biodiversity; and
- Improved adaptability to climate change.

c) Social Sustainability - Council seeks to address disadvantage by encouraging diversity, acceptance, fairness, compassion, inclusiveness and access for people of all abilities in its purchasing by seeking to:

- Create new jobs and opportunities for people who may be struggling to find work;
- Target cohorts that may be experiencing economic exclusion;
- Reinvigorate depressed or marginalised communities; and
- Improve equity of access to opportunities.

5. Council Policy

5.1 Probity, Ethics, Accountability and Transparency

All people undertaking procurement activities on Council's behalf are responsible for the actions and decisions they take in relation to Procurement and for the resulting outcomes.

Therefore, the processes by which all Procurement activities are conducted will be in accordance with the Council's procurement policies, associated policies and procedures as set out in this Policy, relevant Legislation, relevant Australian Standards, Commercial Law and the *Local Government Act 2020*.

Where a third-party agent is engaged to procure goods, services or works on behalf of Council, they must ensure they are compliant with the relevant legislation including the Act.

Council has a responsibility to obtain Value for Money and this must be achieved by acting with probity. Procurement probity is a defensible process, able to withstand internal and external scrutiny, one which achieves accountability, transparency and provides tenderers with fair and equitable treatment. Probity is about ensuring the procedural integrity of the procurement process, guarding against collusion and fraud and anti-competitive conduct, and not receiving personal gain.

Probity Services should be engaged, and a formal probity plan developed in the following circumstances:

- a) Where the proposed Total Contract Sum exceeds \$10 million over the life of the contract or for a lesser value set by Council from time to time; and/or
- b) Where a proposed contract is considered by Council or the CEO to be particularly complex, of a high risk or controversial nature, and requiring a high level of public confidence.

Guidance on engagement of Probity services will be provided by the Procurement function.

5.2 Conduct of Councillors and Council Staff

Councillors and Council Staff will at all times act in accordance with the Councillor Code of Conduct or the Staff Code of Conduct respectively. They must perform their duties ethically and with integrity, and must: treat potential and existing suppliers with equality and fairness including;

- not use their position to seek or receive personal gain in procurement matters;
- maintain confidentiality of Commercial in Confidence Information;
- present the highest standards of professionalism and Probity;
- afford suppliers and prospective suppliers with the same information and an equal opportunity to participate in a competitive procurement process, such as any tender or quote for goods, services or works contracts;
- be able to account for all decisions and demonstrate and provide evidence of the processes followed;
- not perform any work, deliver services or supply goods under any Council contracts that those Council Staff are supervising i.e. Council Staff cannot also work for the relevant supplier;
- query incidents, decisions or directions that appear to contradict or deviate from Council's standards of ethics or Probity or established policies and procedures; and
- ensure that this Procurement Policy is adhered to in relation to any expenditure of Council funds.

5.3 Councillors' Roles in Procurement Activities

The Councillors have a limited role in procurement activity and may be briefed on significant procurements during the procurement process. The role of the Councillors includes providing a level of input during the project initiation phase that will assist the responsible service units to achieve their intended outcomes and overall community benefits. The Councillors may be briefed of the scope and intentions of a procurement via involvement in the major projects advisory committee, Councillor bulletins, Councillor briefings or memoranda to Councillors.

In line with a Councillors' obligations, including under the Act and the Councillor Code of Conduct, Councillors are not permitted to form part of an evaluation panel or take on the responsibilities of a procurement sponsor, project

director, contract superintendent/manager or similar. The relevant procuring officer is wholly responsible for the setting of evaluation criteria and criteria weightings. These criteria and weightings require endorsement by the procurement, the project manager and the project sponsor.

Strict probity requirements set in the planning stage of a procurement must be adhered to during the evaluation and award stages of that procurement. Evaluation panel members must not disclose to any Councillors any element of an evaluation process while submissions are under consideration, other than to provide timeline updates if and when requested by the Councillors.

5.4 Gifts, benefits and hospitality

Under no circumstance should Council Staff or Councillors involved in the procurement or contract management of goods, works or services seek or accept any immediate or future reward or benefit from a potential or actual supplier, regardless of value.

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

Councillors and Council Staff, particularly contract supervisors must not knowingly: visit a current supplier's premises without invitation when acting in their official capacity; and engage a Council supplier for private benefit, unless that engagement is on proper commercial terms.

5.5 Risk Management

The principles of risk management are to be appropriately applied at all stages of Procurement activities, which will be properly planned and carried out in a manner that will protect and enhance the Council's capability to prevent, withstand and recover from personal injury, property damage, reputational loss, financial exposure and interruption to the supply of goods, services and works.

The provision of goods, services and works by a supplier or contractor potentially exposes Council to risk. The Council will minimise its risk exposure through a number of processes and practices (refer to Appendix 5).

Procurement Methods

The standard methods for procurement will be:

- a) Purchasing Card
- b) A quotation process (refer Appendix 1)
- c) A tender process, followed by contract
- d) Under approved purchasing schemes (Panel contracts)

The source of funds must be identified and the procurement authorised in accordance with the Council's financial Delegations of authority, before any commitment to purchase is made.

More than one person will be involved in, and responsible for, each transaction with appropriate authorisations obtained and documented.

Council may seek Expressions of Interest where:

- a) there are likely to be many tenderers; and/or
- b) tendering will be costly, or the procurement is complex and Council does not wish to impose the costs of preparing full tenders on all tenderers; and/or
- c) there is uncertainty as to the willingness and/or interest of vendors to offer the required procurement; and/or
- d) Council requires advice from the market regarding how best to address a particular need.

All Expressions of Interest and public Tenders invited by Council will be published via Council's eTendering Portal.

Information regarding Current Tenders and Awarded Tenders will be published on Council's website.

Panel Contracts include Mornington Peninsula Shire Council Panel contracts, eligible State Government Panel contracts including the Construction Supplier Register, and approved schemes including MAV Procurement and Procurement Australasia.

For procurements where there is an existing Panel Contract, staff are required to:

- a) Obtain the relevant number of quotes from suitable Panel members, in line with this Policy;
- b) Raise a purchase order including the relevant information, e.g. must use Tenderlink or Open Windows process and register rules, or internal panels / pre-approved supplier lists.

Council will identify and actively investigate relevant collaborative procurement opportunities, where the procurement objectives are focussed on collaborative benefits, and/or shared services that align within the public tender thresholds amongst the SERGC.

5.6 Procurement Structure, Processes, Procedures and Systems

Council maintains a procurement function responsible for:

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

Councillors, staff and persons undertaking procurement on Council's behalf are responsible for complying with this Policy.

The Council will maintain a Procurement Guideline document detailing the processes, procedures and systems related to procurement.

The Council will maintain details of contracts entered into.

Whenever practicable, 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.

Council will identify and actively investigate relevant collaborative procurement opportunities, where the procurement objectives are focussed on programmed collaboration, and shared services that align within the public tender thresholds amongst the SERGC.

5.7 Purchase order requirements

The purchase of goods, works and services must be acquired under an official purchase order that documents the type of services, items, and/or quantities and agreed price.

The purchase order must be raised before any commitment is made to purchase goods, works or services from a supplier in the relevant financial systems following the correct delegated financial authority approval. In other words, the purchase order must be raised when the goods, services or works are ordered and not when an invoice is received by Council

The purchase order must clearly and explicitly communicate Council's requirements. Once accepted by the supplier, the purchase order is binding on both Council and the supplier and any procurement spend is limited by and must not exceed the purchase order.

5.8 Collaborative Procurement

In accordance with Section 108 I of the Act, the Council will seek to collaborate with other Councils, especially the SERGC and public bodies in the procurement of goods, services and works in order to take advantage of economies of scale.

Council staff must consider opportunities for collaborative procurement in relation to publicly tendered procurement activity undertaken by Council. Officers will need to provide evidence that they have sought opportunities for collaborative procurement. This may include:

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

Furthermore, Council may collaborate with other Councils to procure goods, services or works, or utilise MAV Procurement, State or Commonwealth Government and Procurement Australasia contracts for the procurement of goods, services or works established through a public tender process where it provides an advantageous, Value for Money outcome for the Council.

Where a Procurement for services or works is 100% funded by a State or Commonwealth grant it may be exempt from collaborative procurement dependant on the nature of the grant conditions.

Where a Procurement is for capital works collaborative procurement will be considered as combining separate projects into a separable portions sourcing activity and may include other Councils should similar projects be identified.

Where a Procurement project has been identified as a collaborative opportunity, officers will seek a Council resolution to enter into the collaborative process.

5.9 Procurement Processes, Thresholds and Competition

Section 108 of the Act details that each Council will set the public tender threshold circumstances when tenders for contracts must be publicly invited.

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

Council will invite tenders, proposals, quotes and expressions of interest from the supply market for goods, services, building and construction works in accordance within the thresholds listed in Appendix 1 of this Policy to ensure compliance with the Act. These thresholds will only be varied with approval from Council. The thresholds must represent the estimated value of the whole term of the contract i.e. the initial term plus any options to extend the initial contract term, and are to be inclusive of GST.

Procurement transactions will not be split to circumvent the thresholds as listed in Appendix 1. This includes cumulative expenditure over a (12) month period.

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

- a) Council running its own publicly advertised tender process, a variety of advertising mediums may be chosen from, including national newspapers, local newspapers and web based forums;
- b) Council participating in collaborative tender processes for similar services in conjunction with other councils, including councils in the SERGC;
- c) Council appointing an external agent to run a tender process on its behalf. Organisations such as Procurement Australasia and Municipal Association of Victoria (MAV) Procurement are active in this area;
- d) Council accessing Victorian State Government contracts (e.g. State Purchase Contracts, Whole-of-Government contracts) that have been made available to Local Government and which Local Government can access without the need to comply with the requirements of Division 2 Section 108 (1) of the Act; or
- e) seek an exemption as outlined in section 108 3 (d) of the Act (refer to section 5.7 of this Policy).

5.10 Tender Evaluation and Negotiation

Tenders will only be lodged by the method as described in the tender documents provided by the Council.

The tender selection criteria and weighting for each criterion will be documented prior to the requesting of tenders.

An appropriately qualified, briefed and approved Evaluation Panel will be established to evaluate each tender submission against the tender selection criteria.

External representatives may be part of, or an advisor to, the panel to ensure appropriate skills, experience and/or probity.

The evaluation process must be robust, transparent and unbiased.

A Tender Evaluation and Probity Plan must be developed for all high value and/or high-risk procurements.

Contract Negotiations can be conducted to obtain the best outcome for Council, providing negotiations remain within the intent and scope of the tender.

Council may conduct a shortlisting process. Shortlisted tenderers may be invited by the Council to submit a Best and Final Offer.

The results of the Tender Evaluation and demonstration of the robustness of the process must be documented in a Tender Evaluation Report approved by the relevant delegate.

The Tender Evaluation process should take into consideration the Whole of Life Cost.

5.11 Exemptions and Breaches

The following circumstances are exempt from the general tender, proposal, quotation and expression of interest requirements. Use of any exemption must be endorsed in accordance with the approved Financial Delegations.

Exemption Name	Explanation, Limitations, Responsibilities and Approvals
A contract made because of genuine emergency or hardship	Where the Council or CEO has resolved that the contract must be entered into because of an emergency (e.g. to provide immediate response to a natural disaster) or where the Victorian Government has declared a State of Emergency.
A contract made with, or a purchase from a contract made by another government entity, government-owned entity or other approved third party	This general exemption allows engagements with another government entity or government owned entity. For example, Federal, State or Local Government or an entity owned by the Federal, State or Local Government. Contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, Municipal Association of Victoria (MAV) or National Procurement network members (e.g. Local Buy), Procurement Australasia (PA).
Traditional Owners	Engagement of Traditional Owners where the primary purpose of the procurement activity is to gather information relating to Aboriginal culturally sensitive issues, including land management considerations pursuant to the <i>Aboriginal Heritage Act 2006</i>
Exemption from Public Tendering	Where the contract is entered into in accordance with arrangements approved by the Minister, where Council must demonstrate to the Minister for Local Government that it is not a viable option to undertake a public tender.
Extension of contracts while Council is at market	Allows the Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or have taken longer than expected. This exemption may be used when the establishment of an interim short-term arrangement is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality. Contract extensions applied during a procurement period should not exceed 6 months.
Professional services unsuitable for tendering	Insurance.

Exemption Name	Explanation, Limitations, Responsibilities and Approvals
Novated Contracts	Where the initial contract was entered into in compliance with the Act and due diligence has been undertaken in respect to the new party.
Information technology resellers and software developers	Allows the Council to renew software licenses and maintenance and support, or upgrade existing systems, (where a public tender was completed for the original contract) and there is only one supplier of the software, who holds the intellectual property rights to the software.
Utility Companies	When utility authorities are required to undertake work on their assets.
Regional Waste & Resource Recovery Groups	Situations where a Regional Waste & Resource Recovery Group constituted under section 50F of the <i>Environment Protection Act 1970</i> had already conducted a public tender for and on behalf of its member councils.
Operating & Finance Leases	Where a lessor leases an asset (generally a vehicle or plant and equipment) to the Council and assumes the residual value risk of the vehicle.
Variations under contract	<p>Where a variation occurs, the delegation is not defined by the value of the variation, but by the value of the whole contract. An officer with a sub-delegation from the Chief Executive Officer or Council may vary a contract to the limit in the Council resolution.</p> <p>Approved budget must be available for all variations.</p>
Contract Over Expenditure	<p>Variation above the approved contract value is deemed a Contract over expenditure.</p> <p>Any variation single or accumulative that exceeds the Public tender threshold or 20% of the original contract value is subject to a council resolution.</p> <p>An officer with a sub-delegation from the Chief Executive Officer or Council may vary a contract to the limit of the Public tender threshold or 20% of the original contract value in consultation with the Contracts and Procurement unit and must demonstrate Value for Money.</p> <p>Approved budget must be available for all contract over expenditure.</p>
Other specific Council exemptions	Specific Council exemptions will be reviewed and updated from time to time.

Spend breaches will be reported to the Council Executive Management Team on a quarterly basis as part of the Procurement Update and the Contracts and Procurement Business is to sign off on the variations to say they meet Value for Money principles.

Emergency and post emergency procurement should meet all requirements of the Disaster Recovery Funding Arrangements. In addition, the Value for Money principles will still be applicable.

Where Council expenditure is funded from State or Federal Government grant monies the requirement to comply with Division 2 Section 108 of the Act remains unless there are grant conditions which provide alternative arrangements.

Should the nature of the requirement and the characteristics of the market be such that it is considered a public tender process is not possible, an exemption as outlined in Section 108 3 (d) may be sought from Council.

If a state of emergency/disaster/pandemic is in place within Victoria, this exemption can be approved by the Chief Executive Officer.

5.12 Sole or Select Sourcing

Supply of goods, services or works can be sought from one supplier (sole sourcing) or a restricted group of suppliers (select sourcing) without tenders, expressions of interest, proposals or quotes where it is consistent with this Procurement Policy and either:

- a) it is in the public interest;
- b) marketplace is restricted by statement of license or third-party ownership of an asset (including when utility authorities are required to undertake work on their assets); or
- c) Council is party to a joint arrangement where Council jointly owns the IP with a third party provider.

If there is a current procurement or disposal process in place, that process must be terminated prior to sole sourcing being implemented.

Sole sourcing is subject to existing delegations.

Select sourcing is subject to endorsement by the appropriate Financial Delegate or the CEO.

6. Human Rights Charter Compatibility

This Policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities 2006 (Vic)*.

7. Relevant Legislation, Policy and other Associated Internal Documents

The Council's procurement activities shall be carried out to the professional standards in accordance with best practice and in compliance with the Act and applicable policies and procedures including Codes of Conduct for Councillors, Council staff and others.

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

This policy has clear linkages to a range of codes, charters, legislation and Council documents including:

- a) *Local Government Act 2020 (Vic)*
- b) the relevant provisions of the *Competition and Consumer Act 2010 (Cth)*
- c) Procurement procedures and guidelines
- d) Purchasing and accounts payable manuals
- e) Codes of Conduct guidelines (including Supplier Code of Conduct)
- f) Contract management guidelines
- g) Risk Management Framework & Policy
- h) *Working with Children Act 2005 (Vic)* and Working with Children Regulations 2016
- i) *Occupational Health and Safety Act 2004 (Vic)*
- j) *National Competition Policy*
- k) *Trade Practices Act 1974 (Cth)*
- l) *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- m) *Public Records Act 1973 (Vic)* *Privacy and Data Protection Act 2014 (Vic)*
- n) other relevant Australian Standards or legislation.

8. Monitoring Review and Audit

The Contracts and Procurement Business Unit will monitor procurement activity on an ongoing basis with respect to annual procurement activity and compliance with key internal controls. Council is committed to continuous improvement and will review the Policy in accordance with the requirements of the Act to ensure that it continues to meet its wider strategic objectives.

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

Responsible Officer: Contracts and Procurement Manager

Department: Financial Services

Division: CEO Office

Approved by: Council

Review date: 14/12/2021

Expiry date: 14/12/2025

Version number: 1.0

9. Procurement Policy Enquiries and Contact Details

For further information on the policy, please contact Councils Procurement Team as detailed in the table below.

Council	Email address	Phone
Mornington Peninsula Shire Council	procurement@mornpen.vic.gov.au	(03) 5950-1100

APPENDICES

All policy requirements contained within these Appendices Sections are only applicable to Mornington Peninsula Shire Council.

APPENDIX 1a. Council Procurement Thresholds

Council will invite tenders, proposals, quotes and expressions of interest from the supply market for goods, services, building and construction works in accordance with the thresholds listed below:

Procurement Threshold (incl. GST)	Procurement Methodology
<\$10,000	One verbal quotation, with notation made as to the date, supplier, contact name and scope. Purchases which are one off.
\$10,001 - \$30,000	Obtain at least one written quotation.
\$30,001 - \$100,000	At least three written quotations are to be invited from suppliers who are considered able to meet the requirements. Where only one quotation is received from those invited, Value for Money must be demonstrated. When seeking and/or evaluating quotes, preference will be applied to local suppliers and a minimum of one local supplier must be invited, depending on availability or local suppliers.
\$100,001 - \$300,000	Obtain a Contract Number. Undertake a formal Request for Quotation process by following the process within Council's eTendering Portal. Where only one quotation is received from those invited, Value for Money must be demonstrated. When seeking and/or evaluating quotes, preference will be applied to local suppliers and a minimum of one local supplier must be invited, depending on availability or local suppliers.
>\$300,001	Obtain a Contract Number. A formal Request for Tender process must be undertaken by Councils Contracts and Procurement Team using Council's eTendering Portal.

Procurement transactions will not be split to circumvent the above thresholds, this includes cumulative expenditure over a (12) month period. Obtaining sufficient quotations can sometimes be difficult, e.g. if there are few suppliers for the goods, services or building and construction works being sought, or where the work is highly specialised. In such a case a Director with the appropriate financial delegation may waive the requirement to request three quotations.

APPENDIX 1b. Council Summary of Delegations

This appendix may be updated from time to time and approved by the Executive Management Team.

Updates must not exceed the Council to CEO delegation.

Expenditure (including GST)	Best price available (verbal quote)	1 written quote	3 written quotes	Public Tender	Accepted commitment method	Record keeping requirement	Delegation
Up to \$10,000	✓	X	X	X	Purchase order required	Quote if obtained must be attached to purchase order	Team Leader
\$10,001 to \$30,000	X	✓	X	X	Purchase order and at least 1 quote required	Quote must be attached to purchase order	Manager
\$30,001 + to \$100,000	X	X	✓	✓	Purchase order and or contract refer to Procurement Partner	Quotes must be attached to purchase order	Manager
Transaction limited by holders Corporate Credit Card up to the value of \$20,000	✓	✓	X	X	Corporate Credit Card	Tax invoice and quotation attached to record in Flexipurchase	Team Leader up to \$10,000 or Manager up to \$20,000
Extraordinary payments including but not limited to: Insurance, utilities, Superannuation, AusPost, Payroll and Payments to other government authorities	X	X	X	X	No Purchase order required	Supporting evidence / tax invoice for the purchase must be attached to the payment record	CFO and CEO
GOODS, SERVICES OR WORKS							
Expenditure (including GST)	Best price available	1 written quote	3 written quotes	Public Tender	Accepted commitment method	Record keeping requirement	Delegation
\$100,001 + to \$300,000	X	X	✓	✓	Purchase order and or contract refer to Procurement Partner	RFQ/RFP/RFT documentation must be attached to purchase order	Director and CFO
\$300,001 + to \$1,000,000	X	X	X	✓	Tender recommendation report, purchase order and contract refer to Procurement Partner	RFP/RFT documentation must be attached to purchase order	CFO and CEO
Above \$1,000,000	X	X	X	✓	Council minutes including tender recommendation report, purchase order and contract refer to Procurement Partner	Recommendation report attached to purchase order	Council
<p>Approved Budget: All expenditure requires an approved budget and purchase order to commit funds.</p> <p>Expenditure over \$100,000: All expenditure over \$100,000 must be referred to the procurement partner.</p> <p>Three written quotes: All expenditure over \$30,000 must have three written quotes to achieve best value.</p> <p>Public Tender: If doubt exists as to whether the likely value of an intended contract would exceed the threshold for a public tender, then a public tender process should be undertaken.</p> <p>Self Approval: A staff member cannot approve their own expenses, in all instances approval must be obtained from their line manager inline with delegation levels as above.</p>							

Tender/ Contract approval outside of budget: Any contract awarded under delegation that exceeds the allocated budget up to the value of the Chief Executive Officer's financial delegation will be reported to Council on a quarterly basis and must not exceed the total approved budget for that program and should not impact upon the delivery of any other project or program.

APPENDIX 2. Council Specific Exemptions

Council has not determined any additional general exemptions to the public tender threshold beyond those detailed in section 5.7 of the policy.

The CEO may approve ad-hoc exemptions in exceptional circumstances where it can be demonstrated that it is in the best interests of the community to do so. The CEO may direct, in some circumstances, that these ad-hoc exemptions be approved by Council.

The public tender threshold and related exemptions also apply to collaborative procurements.

APPENDIX 3. Council Performance Indicators

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

- Extent of contracts delivered on time and on budget;
- New Collaborative Procurement contracts;
- New preferred supplier (panel) contracts;
- The number of Local Businesses engaged and proportion of local spend;
- Value of savings and benefits achieved;
- Level of compliance with the Procurement Policy;
- Annual spend on sustainable goods and services
- Annual spend on social procurement

A memorandum detailing actual performance against these indicators will be presented annually to Council's Audit & Risk Committee.

APPENDIX 4. Council Economic, Social and Sustainable Procurement

Council commits to applying principles of sustainability to all of its decision-making and activities. In addition, Council applies sound contracting principles to its procurement activity. The following economic, environmental and social objectives have been determined in line with these principles.

Area	Principles	Objectives
Economic	<p>Council is committed to procurement that supports local business and economic diversity in the SERGC. Where practicable and applicable, Council will actively seek quotes and tenders from Local Businesses in the SERGC whilst ensuring Value for Money outcomes.</p> <p>Council's economic procurement will be underpinned by the following principles:</p> <ul style="list-style-type: none"> • Ensuring open and effective competition, and development of competitive local business and industry • Fostering innovation and emerging sectors. • Where practicable Council will give preference to goods manufactured or produced in Australia and New Zealand. <p><i>Note: Local in the context of this Policy denotes the municipalities of Bayside, Cardinia, Dandenong, Frankston, Glen Eira, Kingston, Mornington Peninsula and Stonnington.</i></p>	<p>Council's economic sustainability commitment and approach aims to:</p> <ul style="list-style-type: none"> • Achieve Value for Money on a whole-of-life (including disposal) basis, rather than just initial cost. • Consider life cycle impacts of products purchased. • Ensure probity and accountability in the procurement process. • Commit to source locally. • Build relationships with local businesses and encourage purchasing from local suppliers to help build their capacity. • Increase local employment.

Area	Principles	Objectives
Environmental	<p>Where applicable Council will include appropriate criteria in request for quotes and tenders to deliver environmentally preferable outcomes and deliver strategies to avoid and reduce waste generation and drive energy efficiency.</p> <p>To support the achievement of objectives and targets within Council’s sustainability strategies, Council is committed to minimise its impact on the environment by:</p> <ul style="list-style-type: none"> • Purchasing goods, services and construction which avoid air, water and soil pollution. • Minimising natural resource and biodiversity depletion. • Supporting suppliers to reduce carbon emissions in the supply chain. • Purchasing environmentally preferred goods and services whenever they present an acceptable Value for Money outcome. • Contributing to sustainable waste management (with reference to the waste hierarchy and Circular Economy principles). 	<p>Councils environmental sustainability commitment and approach aims to:</p> <ul style="list-style-type: none"> • Maximise energy efficiency and reducing greenhouse gas emissions and contribute towards Council’s carbon neutral status. • Minimise waste production by: <ul style="list-style-type: none"> - Reduced usage of non-renewable resources; and - Reduced demand for raw materials and natural resources. • Promote a market for recycled materials. • Reduced water consumption and activities that impact diversity.
Social	<p>Council is committed to building stronger communities and meeting social objectives which benefit the community and commits to integration of measures in its procurement processes and documentation which promote improved social outcomes.</p> <p>Council’s sustainability strategies will be underpinned by:</p> <ul style="list-style-type: none"> • Creation of training and employment opportunities for unemployed, disadvantaged municipal residents or marginalised job seekers. • Creation of opportunities for small, medium and social enterprises, Indigenous and Disability Employment enterprises. • Promotion of equity, diversity and equal opportunity. • Provision for broad public involvement on issues that affect the community such as addressing complex local challenges such as intergeneration employment, crime, vandalism and economic decline. 	<p>Councils social sustainability commitment and approach aims to:</p> <ul style="list-style-type: none"> • Ensure vendors do not exploit workers and provide fair wages, including inclusive and sustainable business practices. • Maintain a social procurement program to increase social procurement spend across the South Eastern Region. • Ensure sourced products are accessible by all segments of the community. • Increase employment opportunities for Indigenous people, disabled people, disadvantaged people and long term unemployed. • Increase gender equity. • Prevent, detect and remove modern slavery from Council’s supply chain.

APPENDIX 5. Council Procurement Risk Management Overview

Council shall have in place consistent strategies for managing risks associated with all procurement processes and should for every project be in line with Councils Risk Management Framework & Policy.

- a) providing sufficient planning and lead-time for Procurement preparation and consideration;
- b) using appropriate Council standard-form contracts provided by Council's Contracts and Procurement Team and/or Australian Standard contracts which include current, relevant clauses to mitigate risk to Council;
- c) all contract departures will be reviewed and negotiated by Council's Corporate Counsel or other external legal services as appointed by Council prior to the award of the contract. Copies of all communication between Corporate Counsel and the preferred contractor or supplier will be saved in the Councils Contracts Management System as evidence of review and approval of non-standard contracts;
- d) Council's Corporate Counsel will review all non-standard contracts, as well as standard contracts that have agreed departures included, prior to the contract being disseminated for execution;
- e) requiring contract security where appropriate and that they are lodged prior to work commencement;
- f) requiring the Contractor to have in place the Council's specified levels of insurance cover referring specifications to relevant "subject matter" experts;
- g) all contracts must be executed by the Contracts and Procurement Unit before allowing the commencement of Procurement of any goods, services or work; and
- h) effectively managing the contract including monitoring and enforcing service and financial performance.

A. Child Safe Standards

Council is committed to promoting child safety and ensuring compliance with the Victorian Child Safe Standards. As a key priority, Council is actively promoting child safety and reducing the factors that lead to children being harmed.

Council must review all suppliers who undertake work on behalf of Council who may have direct or incidental contact with children.

B. Occupational Health and Safety

Council is committed to protecting the health and safety of Council Staff, Councillors, suppliers and the community. All suppliers undertaking work on behalf of Council are required to comply with the Occupational Health and Safety Act 2004 (Vic) (the OHS Act), applicable regulations under the OHS Act, the Workplace Injury Rehabilitation and Compensation Act 2013 (and if applicable to claims before 1 July 2014, the Accident Compensation Act 1985 (Vic) and Council's Health & Safety Policy.

C. Contract Management

Council will ensure that it receives goods, services or works provided to the required standards of quality, quantity and price as intended by the contract by:

- 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 Council's adopted risk management strategy this Procurement Policy regarding Risk Management and
- adhering to relevant occupational health and safety contractor compliance procedures (in addition to compliance with other applicable laws or standards).

Council's contract management templates and guidelines are available on Council's Intranet. These templates and guidelines provide assistance to Council Staff in the administration and management of contracts and aim to ensure a consistent approach across Council to these activities.

D. Reporting fraud and complaints

Council regards all allegations of improper conduct and complaints about the procurement process as serious and is committed to handling such disclosures in a sensitive and confidential manner.

Members of the public, suppliers and Council Staff are encouraged to report allegations of improper or corrupt conduct by a public officer involved in any Council procurement process. Please refer to Council's Fraud Control Policy for further information on reporting suspected fraud or corruption.

E. Conflict of Interest

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

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

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

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

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

F. Disclosure of Information

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

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

- Information disclosed by organisations in tenders, quotations or during tender negotiations; and
- Commercial in Confidence information.

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

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

At no stage should any discussion be entered into which could improperly influence the procurement process or negotiation of a contract prior to the contract approval process being finalised, other than authorised pre-contract negotiations.

APPENDIX 6. Supplier Code of Conduct

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

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

The Supplier Code of Conduct can be located: [Tenders - Mornington Peninsula Shire \(mornpen.vic.gov.au\)](https://www.mornpen.vic.gov.au/tenders)

APPENDIX 7. Council Specific Policies, Plans and Strategies

The following Council Policies, Plans and Strategies will be taken into consideration for all procurement:

- Environmentally Sustainable Design Policy
- Universal Design Policy - potentially will not be adopted until Feb 2022

These documents can be obtained on the MPSC website: [Strategies, Plans & Policies - Mornington Peninsula Shire \(mornpen.vic.gov.au\)](https://www.mornpen.vic.gov.au/strategies-plans-policies)