

7.1 Appointment of Tender CN2718 - Independent Advisor - CEO Performance and Remuneration Review

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Authorised By	Manager - Legal and Governance
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Briefing Note Number	Not applicable
Attachment(s)	<ol style="list-style-type: none">1. CN2718 - Probity Advisor's Report2. CN2718 - Consensus Matrix - Final Score (confidential)3. CN2718 - Draft Consultancy Service Agreement (confidential)

EXECUTIVE SUMMARY

The purpose of this report is to seek Council endorsement of the recommendation made by the Chief Executive Officer Employment and Remuneration Committee (the Committee).

In accordance with the Chief Executive Officer Employment and Remuneration Policy (Policy), the Committee is established to consider all matters relating to the recruitment, performance, review and assessment of the Chief Executive Officer (CEO).

RECOMMENDATION**That Council:**

1. **Having considered all tender submissions, hereby accepts the tender submission received from TMS Consulting for the total value of \$207,000 plus \$20,700 GST being for CN2718 – Independent Advisor – Chief Executive Officer Performance and Remuneration Review.**
2. **That the Common Seal of the Mornington Peninsula Shire Council be affixed where necessary and relevant documents be signed by the authorised officers.**

Part B

1. **That Council resolves that the report and Council decision are not confidential pursuant to section 3 (1) of the *Local Government Act 2020*.**
2. **That Council resolves that Attachments 2 and 3 to this report be retained as confidential items, pursuant to section 3 (1) (g) (ii) of the *Local Government Act 2020* as they contains private commercial information, being information provided by a business, commercial or financial undertaking that if released, would reasonably expose the business, commercial or financial undertaking to disadvantage.**

COUNCIL & WELLBEING PLAN

The appointment of the Independent Advisor supports all three strategic themes of the Council and Wellbeing Plan:

- Theme 1: A healthy natural environment and well-planned townships.

7.1 (Cont.)

- Theme 2: A robust, innovative, and diverse economy.
- Theme 3: A flourishing, healthy and connected community.

RELEVANT COUNCIL DECISIONS AND POLICIES

Item 3.5 Council Meeting 5 April 2022 – Expression of Interest – Independent Member – Chief Executive Officer Employment and Remuneration Committee.

Item 7.1 Council Meeting 6 December 2022 – CN2634 – Independent Advisor – Chief Executive Officer Performance and Remuneration Review.

Relevant Policies include:

- CEO Employment and Remuneration Policy
- Procurement Policy.

DISCUSSION**Purpose**

The purpose of this report is to provide Council with the evaluation of the tender responses received and the Committee's recommendation to proceed the preferred vendor, TMS Consulting.

Background

In line with the Policy, the Committee is established to consider all matters relating to the recruitment, performance, review and assessment of the CEO.

The Policy requires that an Independent Advisor form part of the Committee. The Independent Advisor is responsible for providing independent advice.

The Independent Advisor is appointed on the recommendation of the Committee following a process (undertaken in accordance with applicable procurement processes and within allocated budgets) to seek experienced and suitably qualified persons.

Council determines the term of appointment and remuneration of the Independent Advisor.

On 23 February 2021, Council resolved to enter into negotiations with Tepee Pty Ltd to extend the contract CN2312: CEO Performance Review, Remuneration and Appointment Processes, for an additional year to allow a Procurement Process to be undertaken.

On 5 April 2022, Council resolved to endorse the Request for Proposal CN2634 for a period of four weeks and the further engagement of Tepee Pty Ltd for a period of three months with an extension of up to a further three months if required.

On 6 December 2022, Council resolved to reject all proposals and terminate the request for proposal known as CN2634 and undertake a further proposal process known as CN2718.

Options for consideration

Not applicable.

TENDER INVITATION

7.1 (Cont.)

The tender was released to the market on Saturday 11 March 2023 via The Age, the Mornington Peninsula Shire’s website and Tenderlink.

The tender closed at 3.00pm Wednesday 19 April 2023.

Two submissions were received.

TENDER EVALUATION

Of the two submissions received one progressed to evaluation and was assessed against the following criteria:

Evaluation Criteria	
1. Compliance – Pass / Fail	
Risk and insurance	These criteria are not weighted and scored but are assessed on a pass/fail basis.
Conflict of interest	
Statutory compliance	
Compliance with contract conditions	
2. Experience in similar positions	30%
Experience with other councils of similar size to the Mornington Peninsula.	
Breadth of experience with CEO evaluation and performance reviews.	
3. Relevant qualifications	20%
4. Experience in local government	30%
Evidence of experience with other local government bodies or Councils and demonstrated knowledge of the <i>Local Government Act 2020</i> .	
5. Capability	20%
Availability to attend committee meetings and to provide advice in a timely manner.	
TOTAL	100%
6. Price (revealed AFTER consensus of all other criteria)	Value for Money

7.1 (Cont.)

EVALUATION PANEL

The Evaluation Panel comprised of:

Name	Position	Responsibility
Cr Steve Holland	Chief Executive Officer Employment and Remuneration Committee Member and Project Sponsor	Evaluation Chair and Non-Price Evaluation Panel Member
Cr Antonella Celi	Chief Executive Officer Employment and Remuneration Committee Member	Non-Price Evaluation Panel Member
Cr David Gill	Chief Executive Officer Employment and Remuneration Committee Member	Non-Price Evaluation Panel Member
Cr Debra Mar	Chief Executive Officer Employment and Remuneration Committee Member	Non-Price Evaluation Panel Member
Cr Anthony Marsh	Chief Executive Officer Employment and Remuneration Committee Member	Non-Price Evaluation Panel Member
Cr Lisa Dixon	Chief Executive Officer Employment and Remuneration Committee Member	Non-Price Evaluation Panel Member
Cr Simon Brooks	Chief Executive Officer Employment and Remuneration Committee Member	Non-Price Evaluation Panel Member
Cr Sarah Race	Chief Executive Officer Employment and Remuneration Committee Member	Non-Price Evaluation Panel Member
Cr Susan Bissinger	Chief Executive Officer Employment and Remuneration Committee Member	Non-Price Evaluation Panel Member
Mr Bulent Oz	Chief Financial Officer	Price Evaluation Panel Member
Mr Jonathan Thomas	Probity Advisor	Technical advisor / non-scoring
Ms Simone Borthwick	Councillor Liaison Officer	Minute taker / non-scoring

TENDER PROCESS TIMELINE

The tender process and evaluation followed the following schedule:

Date	Description of Stage
Saturday 11 March	Tender open.
Wednesday 19 April	Tender close and compliance checks.
Thursday 20 April	Pricing evaluation.

7.1 (Cont.)

Close of business (COB) Monday 24 April	Kick-off email and Conflict of Interest forms.
COB Monday 24 April	All Conflict of Interest forms back.
Wednesday 26 April	Evaluation scoring sheets and submissions made avail to Councillors.
COB Monday 1 May	Pricing evaluation to Procurement Business Partner (PBP).
COB Monday 1 May	All Individual scoring sheets back to (PBP) for collation.
Tuesday 2 May	Consensus Matrix sent to Mayor for use in Consensus meeting.
Wednesday 3 May	Consensus Meeting 1 – decision on shortlisting, any tender information clarification (TIC) and Referee questions.
Thursday 4 May	Any TICs emailed.
Thursday 4 May	Referee calls made.
Monday 8 May	Interviews x 2 (30 minutes each).
	Followed by Consensus Meeting 2 to collate original scoring, TIC responses, referee call results and interview assessment – finalise agreement to award.

PROBITY ATTESTATION

SW Accountants & Advisors Pty Ltd were appointed to act as the probity advisor to provide tender evaluation probity advice in relation to the appointment of an independent advisor for the Independent Advisor – CEO Performance and Remuneration Review Request for Tender (CN 2718). A copy of their Probity Advisor Report is attached.

CONTRACT VALUE

The total value of the schedule of rates is \$207,0000 plus \$20,700.00 GST.

TERM OF CONTRACT

Two years with two further terms of up 12 months each.

Council may extend the term of this agreement by giving the Consultant at least 3 months written notice prior to the then prevailing Expiry Date (Extension Notice).

Any single Extension Notice may extend the term of this agreement by up to 12 months.

Council, in its sole discretion, may issue multiple Extension Notices from time to time, provided that the aggregate of all extensions of the term does not exceed 24 months.

DELEGATED AUTHORITY ASSESSMENT

It has been determined in accordance with current Instruments of Delegation that Council will be the final decision-making authority.

7.1 (Cont.)

CONFLICTS OF INTEREST

No person involved in the preparation of this report has a conflict of interest in the subject matter of this report.



Accountants & Advisors

Take the lead

9 May 2023

PROBITY ADVISORS REPORT

Mayor Cr Steve Holland
Mornington Peninsula Shire
Private Bag 100
Rosebud VIC 3939

Dear Mayor Holland,

Independent Advisor - CEO Performance and Remuneration Review Request for Tender (CN 2718)

Background

SW Accountants & Advisors Pty Ltd was appointed to act as the probity advisor to provide tender evaluation probity advice in relation to the appointment of an independent advisor for the CEO performance and remuneration review.

The aim of the review was to help ensure that all key steps in the tender evaluation and selection process are carried out in an objective, fair and reasonable manner and at all times the process is objective and impartial.

The Victorian Government Purchasing Board has put out guidelines for probity advisors when assessing government contracts which are considered best practice and have broad applicability. These guidelines cover principles including:

- Accountability of the evaluation team
- Defensibility of the evaluation process
- Documentation of the process (for possible later scrutiny)

Probity principles for this procurement have also been covered in the Tender Evaluation Plan and Request for Proposal documentation.

Overview of Procurement Process

The Council invited tenders through a Request for Proposal (RFP) for appointment of an independent advisor for the CEO performance and remuneration review.

Review Scope and Approach

In undertaking our role as probity advisor, we undertook the following:

- Reviewed RFP documentation.
- Reviewed the tender evaluation plan.
- Reviewed procurement procedures to ensure that procurement was undertaken in accordance with required procurement procedures.

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- Checked processes in place to publicly advertise the RFP.
- Verified the completion of related interest declarations and non-disclosure agreements by the evaluation team, advisors and bidders.
- Reviewed the security of documentation retained.
- Advised evaluation team on probity principles.
- Attended evaluation meetings.
- Reviewed evaluation team meeting minutes.
- Reviewed documentation retained.
- Reviewed and assessed compliance with the tender evaluation plan.
- Reviewed key documentation to ensure that it is suitable, fair and consistent with the organisation's procedures.
- Reviewed the process for opening and recording of responses received.
- Reviewed RFP responses.
- Checked if any conflict of interests have been declared in the submissions.
- Attended tenderer interview and reviewed minutes of meeting.
- Verified that the evaluation criteria used in the evaluation panel's scoring spreadsheets agreed to the RFP documentation and tender evaluation plan and were accurately calculated.

Conclusion

This report is produced providing an independent assessment of the probity of the RFP process and has been provided prior to final approval of the recommended successful tenderer. This report is non-confidential and can be used in the public arena where necessary.

Based upon the scope of the work performed, in all material respects, the process has been undertaken in accordance with identified probity principles as defined by the Victorian Government Purchasing Board and consistent with Mornington Peninsula Shire's Tender Evaluation Plan and Request for Proposal documentation.

Yours sincerely

A handwritten signature in black ink that reads "Jonathan Thomas".

Jonathan Thomas
Director, Assurance and Advisory Services
SW Accountants & Advisors Pty Ltd