



CONTRACT No. 1695006

**SCHEDULE OF RATES PANEL CONTRACT FOR
ROAD PAVEMENT RESTORATION WORKS**

**PART 1 OF 4
CONDITIONS OF TENDERING**

Request for Tender – Part 1 Conditions of Tendering

1695006 – Road Pavement Restoration Works



1. Tender Details

Request for Tender (RFT) title	Road Pavement Restoration Works
RFT reference number	1695006

2. Organisation Details

Organisation name	Cabonne Shire Council
Organisation address	99-101 Bank Street, Molong NSW 2866

3. Tender Briefing(s) / Site Inspections

Briefing Session	Details
Tender briefing session details	Date – 12 June 2024 Time – 9.00am Location – Cumnock (likely showgrounds details TBA) Format – Meeting followed by site inspection

4. Tender timetable

The timetable below provides details of key events and dates regarding the Tender process. Council reserves the right to extend these dates at its sole discretion.

Activity	Indicative Date
Tender Release	Date: Wednesday 29 May 2024
Tender Closing Time	Time: 12.00 noon AEST (NSW, Australia time) Date: Wednesday 26 June 2024
Intended evaluation of Tenders	June/July 2024
Intended Council resolution date	23 July 2024
Intended contract commencement date	August 2024

5. Tender Submission Documents

The following documents must be completed and submitted by the Tenderer.

Submission Documents	Submitted (Internal Use)
(a) Part 4 - Response Schedules	Yes / No
(b) Attachment 1 – WHSMS Questionnaire	Yes / No
(c) Attachment 2 – Pricing Schedule	Yes / No

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6. Evaluation Criteria

Mandatory Criteria

Tenderers must meet the following mandatory compliance criteria, which are not weighted or scored. Tenderers either meet the compliance criteria or they do not.

Mandatory Compliance Criteria	Complies (Internal Use)
(a) Confirmation of insurance policies held and level of cover	Yes / No
(b) Work Health and Safety Management Systems	Yes / No
(c) Quality Management Systems	Yes / No
(d) Environmental Management System	Yes / No

Quantitative Criteria

Tenders meeting the mandatory compliance criteria will be assessed for their pricing and schedule of rates. Tender pricing and schedule of rates will be checked for accuracy and evaluated via direct comparison with other tenders. Pricing and rates may also be assessed via sensitivity analysis to determine how variations in quantities of work may impact the contract value.

Financial	Assessment
Tendered price	Assessed for accuracy and direct comparison
Tendered schedule of rates	Assessed for accuracy and direct comparison

Qualitative Criteria

Tenders meeting the mandatory compliance criteria will be evaluated against the weighted Evaluation Criteria detailed below.

Qualitative Criteria	Weighting
(a) Capacity	
– Availability and experience of key personnel	10.0%
– Availability of suitable resources – plant, equipment, and materials	10.0%
(b) Capability	
– Understanding of project requirements and outcomes to be delivered; including staging and technical requirements, and/or challenges and opportunities to be addressed	10.0%
– Suitability of methodology to meet contract objectives and fulfil contract scope	10.0%
– Ability to complete, and previous experience in completing similar projects to required standard	10.0%

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Qualitative Criteria	Weighting
- Ability to meet project timelines and milestones	10.0%
(c) Local Contribution	
- Principle place of business	5.0%
- Percentage of Goods, Services or Works sourced from within the Shire	2.5%
- Employment of trainees and apprentices from within the Shire	2.5%
(d) Tendered Rates	
- Tendered Attachment 2 and 3 rates	30.0%
Total	100.0%

7. Lodgement Details

Tenderers must submit their Tender electronically via VendorPanel

Note: hard copy submissions are no longer accepted by Council.

If assistance is required to upload electronically, please contact VendorPanel customer service team email support@vendorpanel.com.au during business hours and well before Tender closing.

Electronic Lodgment	
Website address	https://vendorpanel.com/

8. Nominated Contact Officer(s)

General Enquiries	
Business team	Cabonne Infrastructure
Contact details	Phone: 02 6392 3200 Email: mark.ellis@cabonne.nsw.gov.au
Contract Officer	Ben Howard – Project Manager

Note: Tenderers must not seek information from any person(s) or rely on any information provided by any person(s) other than the Nominated Contact Officer(s).

Complaints Procedure
If a Tenderer has a complaint about this RFT or the tender process, that has not been resolved in the first instance with the Nominated Contact Officer(s), they may escalate the complaint in the following manner:
Any complaint about the RFT or the Tendering Process must be escalated to the Complaints Officer in writing immediately upon the cause of the complaint arising or becoming known to the Tenderer. The details of the complaints contact person are provided below.
The written complaint must set out:

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Complaints Procedure	
<p>a) the basis for the complaint (specifying the issues involved);</p> <p>b) how the subject of the complaint (and the specific issues) affects the person or organisation making the complaint;</p> <p>c) any relevant background information; and</p> <p>d) the outcome desired by the person or organisation making the complaint.</p> <p>The Complaints Officer will consider the complaint and provide a written response to the Complainant within five business days.</p>	
Business team	Governance
Contact details	Telephone: 02 6392 3200 Email: council@cabonne.nsw.gov.au

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Structure and Purpose of this Request for Tender (RFT)

Part No	Document Title	Purpose
Part 1	Conditions of Tendering	<p>Conditions of Tendering</p> <p>The purpose of this part is to set out the rules applying to the RFT documents and to the RFT process. These rules are deemed to be accepted by all Tenderers and by all persons who respond to or, in the case of obligations regarding intellectual property rights, confidentiality, canvassing of officials, anti-competitive conduct and publicity, have received or obtained the RFT. Part 1 also includes:</p> <ul style="list-style-type: none"> • requirements for the preparation and lodgement of a Tender; • an overview of the Tender evaluation method and criteria; and • procedures and protocols governing communication between Council and potential Tenderers during the Tender process.
Part 2	Conditions of Contract	<p>General Conditions of Contract</p> <p>Contains a draft copy of the Conditions of Contract that Council proposes to enter into with the successful Tenderer (subject to any changes requested by the Tenderer in its Tender, which will be negotiated between the parties).</p>
Part 3	Specification	<p>Specification</p> <p>Provides details of the Goods, Services or Works required, including outputs, deliverables and drawings (if applicable).</p>
Part 4	Response Schedules	<p>Response Schedules</p> <p>Contains the information and/or schedules to be provided by the Tenderer when submitting a Tender and may also specify any information to be provided by other means.</p>

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1. Conditions of Tendering

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1.1 Introduction

Tenderers are encouraged to visit <http://www.cabonne.nsw.gov.au> to obtain a detailed understanding of Council.

1.2 Summary of the RFT

Council is seeking Tenders from appropriately qualified and experienced contractors for the provision of Goods, Services or Works. Council's detailed requirements are detailed in Part 3 Specification.

This RFT sets out the general requirements for the Goods, Services or Works and the terms and conditions of submitting a Tender.

1.3 Tender Briefing(s)

If Council holds a briefing session(s), site inspections(s) or similar, the details will be specified in, Item 3 of this Part 1 Conditions of Tendering. A Tenderer must attend the briefing session, site inspection or other specified occasion if it is specified as 'mandatory'. If any Tenderer fails to attend a mandatory briefing session, site inspection or other specified occasion, Council will, unless there are extenuating circumstances, disqualify the Tenderer from further participating in the process.

1.4 Proposed Tender Timetable

Please refer to, Item 4 of this Part 1 Conditions of Tendering, for the estimated timetable of key events and dates with regards to this Tender process.

1.5 eTendering Conditions

VendorPanel is the electronic tendering system used for the electronic publication of information, including the RFT, online forum for clarification and questions, notifications and addendums, and to accommodate the electronic submission of Tenders.

<http://www.vendorpanel.com/>

Tenderers lodging a Tender electronically must review and accept conditions shown on the electronic Tendering website prior to uploading their Tenders.

Electronic lodgement must be fully complete by Closing Time. The electronic link will cease at Closing Time and if your Tender submission is not complete, it will be deemed as a late submission and *may not be considered*.

Similarly, Council may not consider Tenders that contain corrupt files.

Tenders received via electronic transmission other than through Council's electronic Tendering site (including without limitation an e-mail system) will not be accepted.

1.6 Definitions

Unless the context requires otherwise, the following terms used in this RFT have the meanings ascribed to them as set out below:

Alternative Tender – means a response to this RFT that does not comply with certain requirements of this RFT but would only require minor adjustments to become a Complying Tender. It includes a Tender covering only some of the Goods, Services or Works.

Closing Time - means the Tender closing date and time for the receipt of Tenders, as set out in, Item 4 (as may be updated by Council and advised to all potential Tenderers in writing).

Conflict – means any actual or potential conflict of interest or duty, or any position that a reasonable person would perceive as giving rise to such a conflict.

Complying Tender - means a Tender that complies with the requirements of this RFT.

Conditions of Contract - means the contract terms provided in Part 2 Conditions of Contract.

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Council – means Cabonne Shire Council.

Evaluation Criteria - means the factors Council will take into account in any evaluation of Tenders, as included in, Item 6 of this Part 1 Conditions of Tendering.

Goods, Services or Works - means the deliverable(s) the preferred Tenderer will be required to provide to Council, as described at a high level on the front cover of the RFT and in more detail in Part 3 Specification, once the Conditions of Contract have been agreed between the preferred Tenderer and Council.

Nominated Contact Officer - means Council's nominated contact person as set out in Item 8 of this Part 1 Conditions of Tendering.

Period of Contract - means the contract duration.

Request for Tender or **RFT**- means this document inviting Tenderers to submit a Tender to supply the Goods, Services or Works on terms based on the Conditions of Contract.

Tender – means an Tenderer's response documents in the form as specified in Part 4 Response Schedules to provide Council's requirements as set out in Part 3 Specification and constituting an offer by the Tenderer to Council in reply to the RFT to supply the Goods, Services or Works on the terms specified in the Conditions of Contract (subject to any amendments to those terms agreed in writing by the parties, based on changes requested by the Tenderer in its Tender).

Tenderer- means a company, person or entity (including representatives) which submits a Tender pursuant to this RFT; and includes, where the context permits, prospective Tenderers and other recipients of this RFT.

Written Representation means any statement, representation or warranty that has been made by Council in writing either in this RFT or through the tendering process described in this RFT that is directed to Tenderers.

1.7 How to prepare your Tender

- Carefully read all parts of this document and ensure you understand the requirements. Seek clarification where required, as set out in clause 1.10 below.
- Lodge your fully completed Tender in the form as specified in Part 4 Response Schedules, including any other information required by this RFT, before the Closing Time.
- Failure to provide the required information in the required format may render a Tender non-complying.

1.8 Variation to the RFT

In certain circumstances, Council may need to do any of the following prior to the Closing Time by giving all potential Tenderers reasonable written notice of such:

- Change, vary or amend any information and/or issue addendums to the RFT. Any such addendum will become part of this RFT;
- Defer the Closing Time or any other date specified in this RFT;
- Correct any ambiguity or mistake concerning or arising out of this RFT; and/or
- Suspend, terminate or abandon this tendering process.

Where Council exercises these rights, it may seek amended Tenders.

1.9 Council rights Post-Closing Time

In certain circumstances, Council may need to do one or any combination of the following after the Closing Time:

- Cease, suspend or defer the tender process outlined in this RFT;
- Accept all or part of a Tender at the price(s) tendered unless the Tender states specifically to the contrary;

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- Reject any Tender;
- Accept one or more Tenders;
- Disqualify any Tender that does not include all the information requested or is not in the format required;
- Proceed with the procurement the subject of this Tender by an arrangement other than that proposed in this RFT;
- Accept an Alternative Tender (provided that it meets all mandatory Evaluation Criteria); and/or
- Obtain further information from the Tenderer for the purposes of clarification or explanation of its Tender. This includes holding interviews with some or all Tenderers, including any personnel nominated by the Tenderer in the Tender.

All Tenders lodged will become the property of Council and on no account will they be returned to Tenderers.

1.10 Clarification of the RFT

If the Tenderer has any doubt as to the meaning of any part of this RFT it should seek clarification before submitting a Tender.

- (a) All requests for clarification must be submitted via the online forum at <http://www.vendorpanel.com/> at least five business days prior to the Closing Time. Council reserves the right not to answer requests after this period.
- (b) Council is not obliged to respond to any question or request.
- (c) If the question or request is relevant to other prospective Tenderers, Council will make available to such other prospective Tenderers details of such a question or request together with any response, in which event those details will form part of this RFT.

1.11 Liability

The Tenderer acknowledges that Council (including Council's officers, employees, agents or advisers) will not be bound by any statement, representation or warranty made by, or on behalf of, Council in relation to the RFT, the tendering process or the subject matter of this RFT, unless that statement, representation or warranty is a Written Representation. Subject to the last two paragraphs in this clause 1.11, if any Written Representation subsequently proves incorrect or incomplete, the issue will be addressed through change control in the context of any ensuing contract between Council and the Tenderer (each acting reasonably).

While all due care has been taken in the preparation of this RFT, and while the Tenderer may rely on any Written Representations for the purposes of submitting its Tender, the Tenderer acknowledges that it must not otherwise rely on, and has no separate ability to claim against Council (or Council's officers, employees, agents or advisers) in respect of the adequacy, accuracy, reasonableness or completeness of the information communicated or provided in this RFT or through the tendering process.

To the fullest extent allowed by applicable law, all statutory or implied warranties are excluded and of no effect and neither Council nor Council's officers, employees, agents or advisers will be liable for any loss, costs, expenses or damage:

- arising as a result of reliance on such information by a Tenderer or any other person; or
- otherwise incurred by Tenderers or any other persons at any time, in relation to the tendering process, evaluation of Tender, any contract negotiation or the selection process generally.

If a Tenderer finds any discrepancy, ambiguity, error or inconsistency in the RFT or any other information provided by Council (other than minor clerical matters), the Tenderer must promptly notify Council's Nominated Contact Officer in writing, so that there is fair opportunity to consider what corrective action is necessary (if any).

Any actual discrepancy, ambiguity, error or inconsistency in the RFT or any other information provided by Council will be corrected by Council and provided (or the proper information made available) to all Tenderers without attribution to the Tenderer that provided the notice.

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1.12 Tenderers to inform themselves

The information in this RFT has been provided in good faith. It is intended only as an explanation of Council's requirements and is not intended to form the basis of a Tenderer's decision on whether to enter into any contractual relationship with Council.

By responding to this RFT, the Tenderer will be deemed to have acknowledged and agreed that it has done so on the basis that it has the necessary skills, knowledge and experience to provide the Goods, Services or Works. Tenderers will be deemed to have:

- fully examined and understood the requirements of this RFT (including all documents and attachments referenced) and any other information made available by Council to Tenderers in relation to this RFT;
- satisfied itself that it has a full set of the RFT documents and all relevant attachments;
- made its own enquiries and assessed all risks regarding this RFT and the tendering process;
- not relied on any warranty or representation (whether oral or in writing or by conduct) made on behalf of Council except where such warranty or representation is set out in this RFT, made in writing by Council through the processes specified by these Conditions of Tender or otherwise constitutes a Written Representation;
- ensured that its Tender addresses all the requested information in Part 4 Response Schedules and is presented in the required format, is accurate and complete, and is not misleading in any way;
- acknowledged that Council will rely on information provided by the Tenderer at all stages of this tendering process. Any information provided by the preferred Tenderer may (along with this RFT and the Tender itself) form part of the final agreed form of the Conditions of Contract;
- ensured that it complies with all applicable laws with regard to preparing its Tender (including but not limited to Australian Competition and Consumer Law and Occupational Health and Safety requirements);
- met all costs and expenses related to the preparation and lodgement of its Tender, and will meet all of its costs and expenses arising from subsequent negotiation, and any future costs connected with or relating to the tendering process; and
- satisfied itself as to the correctness and sufficiency of its Tender including tendered prices.

1.13 Closure of Tender

The Tender must be lodged by the Closing Time (as may be deferred by Council in its discretion) and by the method outlined in Item 7 of this Part 1 Conditions of Tendering.

Please refer to, Item 5 of this Part 1 Conditions of Tendering for the list of documents to be completed and submitted by the Tenderer before the Closing Time. Also refer to clause 1.5 regarding eTendering for requirements applying to electronic submission.

1.14 Acceptance of Tenders

Unless otherwise stated in this RFT, Tenders may be submitted for all or part of Council's requirements and may be accepted by Council either wholly or in part. Council is not bound to accept the lowest price or any Tender (and may reject any or all Tenders).

Council reserves the right to not accept a Tender (or any part of it) and is under no obligation to give reasons for not accepting a Tender. Tenderers will be informed in writing of the outcome of their Tender at the conclusion of the RFT process.

If any Tender is accepted by Council, such acceptance will be conditional until both parties sign a contract for the Goods, Services or Works, based on the Conditions of Contract (subject to negotiation of any amendments to those conditions requested by Tenderer in its Tender).

1.15 Late Tenders

Tenders lodged or received by Council after the Tender Closing Time are deemed to be late and will be disqualified and ineligible for consideration unless the Tenderer can clearly document to the satisfaction of Council that an event of exceptional circumstances caused the Tender to be lodged after the Closing Time.

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Consideration of a Tender under this circumstance will be at Council's sole discretion.

The determination by Council of the actual time that the Tender was lodged is final. All Tenders lodged after the Closing Time will be recorded by Council.

Unless Council is satisfied there are exceptional circumstances, Council will inform a Tenderer whose Tender was lodged after the Closing Time that its Tender is ineligible for consideration.

1.16 Alternative Tender

Council reserves the right, in its absolute discretion, to consider an Alternative Tender (provided that any mandatory Evaluation Criteria are met) but is not obliged to do so.

If a Tenderer wishes to submit an Alternative Tender, it must also:

- i. Submit a Complying Tender; and
- ii. Submit a copy of the clearly identified Alternative Tender in a marked-up form, which identifies all departures from the Complying Tender. In order to be considered for evaluation, any such Alternative Tender must:
 1. *Fully describe its advantages, disadvantages, limitations and capabilities;*
 2. *Be fully costed;*
 3. *Permit ready comparison of the alternative offer with complying Tenders; and*
 4. *Expressly state where it does not comply with the terms of this RFT.*

1.17 Joint Tenders

Council will not accept a joint Tender from two or more Tenderers.

1.18 Statement of Non-Compliance, Departures and Assumptions

The Tenderer must declare and detail any non-compliance with, departures from, or assumptions in relation to, the RFT in its Tender, in Item 18 of Part 4 Response Schedules.

These non-compliances, departures or assumptions must address any material conditions or positions in relation to the Conditions of Contract and/or Part 3 Specification.

Submitted Tenders will be deemed as accepting and complying with all of the Part 2 Conditions of Contract and Part 3 Specification unless explicitly noted in Item 18 of Part 4 Response Schedules.

1.19 Tender Validity Period

All Tenders will remain valid and open for acceptance for 90 days from the Closing Time unless extended by mutual agreement between Council and the Tenderer(s) in writing.

1.20 Tenderer Mistakes/Errors

Council may, at its discretion, permit a Tenderer to correct an unintentional mistake or anomaly in its Tender after the Closing Time,

In no event will any correction be permitted if Council reasonably considers that the correction would materially alter the Tender.

Such a correction may be made either:

- i. at the request of Council, or
- ii. with the consent of Council at the request of the Tenderer.

If a Tender is varied in accordance with this clause 1.20, and if in the interests of fairness, it is deemed necessary, Council will notify in writing each other Tenderer whose Tender circumstances have the same or similar characteristics as the corrected Tender and provide that Tenderer with the opportunity of correcting its Tender in a similar way.

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1.21 Clarification of a Tender

If, in the opinion of Council a Tender is unclear in any respect, Council may seek clarification from a Tenderer without notification to any other Tenderer. Failure to supply clarification to the satisfaction of Council may render the Tender liable to disqualification.

Council is under no obligation to seek clarification and reserves the right to disregard any clarification that it considers to be unsolicited or otherwise impermissible.

1.22 Identity of the Tenderer

The identity of the Tenderer is fundamental to Council. The Tenderer (and the party to any ensuing contract with Council) will be the company, person or entity named as the Tenderer in Part 4 Response Schedules.

Council may reject any Tender that is not from, or does not disclose, a solvent legal entity capable of entering into a contract with Council. The Tenderer must provide its Australian Business Number (ABN), or if it does not have an ABN, the reason for not having one.

1.23 Tendered Price

The price outlined in the Tender must quote all prices exclusive of GST.

The price tendered must be the total price, including all fees and costs. The pricing will be used by Council for budgetary purposes and therefore constitutes a tendered price and quotation and not an estimate.

1.24 Ownership of Tenders

Upon submission, all Tenders, documents and other information submitted by the Tenderer as part, or in support, of a Tender will become property of Council.

The Tenderer will retain copyright and other intellectual property rights contained in its Tender, however, each Tenderer, by submission of its offer, is deemed to have granted an irrevocable royalty-free licence to Council to reproduce, in whole or part, its Tender for the purposes of enabling Council, or such persons or bodies as Council reasonably considers necessary, to evaluate, clarify or vary the Tender, or to negotiate any resulting contract.

Tenderers and other recipients of this RFT do not acquire intellectual property rights in the RFT documents and must not reproduce any of the RFT documents in any material form without the written permission of Council other than for use strictly for the purpose of preparing a Tender.

The Tenderer agrees that if Council accepts its Tender, it will consent to Council publishing (on the internet or otherwise) the successful Tenderer's name and the contract value.

1.25 Confidentiality

Each Tenderer or other recipient of this RFT must keep confidential the RFT and any information provided by Council in connection with the RFT, including any information marked as confidential or which the Tenderer / recipient knows or ought reasonably to know is confidential or should be treated as such.

All Tenders received by Council will be held in confidence. Council must comply with New South Wales privacy law, including the *Privacy and Personal Information Protection Act 1998*. Any personal information collected by Council in a Tender will be used for the purposes of evaluating that Tender. The Tenderer acknowledges that Council may disclose any information in the Tender to its professional advisors or if required by law (including, but not limited to, as required under the *Freedom of Information Act 1989*) or government policy. If an Tenderer wishes to access any of their personal information, they may contact the Nominated Contact Officer.

1.26 Evaluation Methodology

Tenders will be evaluated against the Evaluation Criteria set out in, Item 6 of this Part 1 Conditions of Tendering.

Information provided by the Tenderer in Part 4 Response Schedules of this Part 1 Conditions of Tendering will be the basis of the evaluation against these criteria. Tenderers are advised to address clearly all the requirements listed in Part 3 Specification.

In evaluating Tenders, Council will have regard to:

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- (a) specific evaluation criteria identified in the list set out in, Item 6 of this Part 1 Conditions of Tendering including mandatory requirements, if applicable;
- (b) the overall value for money proposition presented in the Tender; and
- (c) the particular weighting assigned (in, Item 6 of this Part 1 Conditions of Tendering to any or all of the criteria (noting that any criteria for which a weighting has not been assigned should be assumed to have equal weighting).

Any Evaluation Criteria identified as Mandatory Criteria must be met by the Tenderer. For these criteria, a Tender will be assessed on a Yes/No (Pass / Fail) basis. If a Tender fails to fully comply with any one of those evaluation criteria, it will be excluded without further consideration.

The Tender will be assessed against other (non-mandatory) Evaluation Criteria, using a weighted scoring process based on information provided with the Tender.

A Tenderer may be invited to a one-on-one evaluation interview in order to review and clarify the Tender and to enable Council to interview key personnel identified in the Tender.

1.27 Priority of Documents

If there is any inconsistency between Part 1 Conditions of Tendering of this RFT and any other parts of the RFT then, unless it is expressly stated that the other part was intended to override this Part 1 (and except where the inconsistency is identified prior to the Closing Time (in which case, clause 1.9 will apply)), the terms of this Part 1 Conditions of Tendering will prevail to the extent of that inconsistency.

2. Participation in the Tender Process

2.1 Costs of Tender

Tenderers remain responsible for all costs incurred by them in connection with their Tenders whether before or after the Closing Time and whether incurred directly by them or their advisers including costs arising as a direct or indirect consequence of amendments made to the RFT by Council. For the avoidance of doubt, Council will have no liability whatsoever to Tenderers for the costs of any negotiations conducted in the event that Council decides not to accept any Tenders.

2.2 No obligation to enter into a contract

By issuing this RFT, Council is under no obligation (whether equitable or legal) to proceed either in whole or in part with the procurement to which the RFT relates. Council is not committed contractually or in any way to any person who may receive the RFT or submit a Tender.

2.3 Canvassing of Officials

Any Tenderer or other recipient of this RFT who solicits or attempts to solicit support for its Tender or otherwise seeks to influence the outcome of the Tender process by:

- a) offering any inducement, fee, or reward, to any member or officer of Council, including councillors, or to any person engaged by Council, or acting as an adviser to Council;
- b) canvassing any persons referred to in this document;
- c) contacting any member or officer of Council, including councillors or any person engaged by Council, about the RFT or any process relating thereto, except as authorised by this RFT;
- d) causing or inducing any person to enter such agreement or to inform the Tenderer of the amount or approximate amount of any rival Tenderer; or
- e) canvassing any of the persons as set out above in connection with the RFT or the outcome of the Tender process,

will be disqualified from involvement in the RFT process.

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2.4 Improper assistance

Tenderers must not seek or obtain the improper assistance of employees, agents or contractors of Council in the preparation of their Tender. In addition to any other remedies available to it under law or contract, Council may, in its absolute discretion, immediately disqualify a Tenderer that it believes has sought or obtained such assistance.

2.5 Anti-Competitive Conduct

Tenderers (and other recipients of this RFT) must not engage in any collusion, anti-competitive conduct or any other similar conduct with any other Tenderer or any other person in relation to the preparation, content or lodgement of their Tender. This includes, but is not limited to, the Tenderer:

- a) fixing or adjusting the amount of its Tender by or in accordance with any agreement or arrangement with any other Tenderer;
- b) entering into any agreement or arrangement with any other Tenderer that it shall refrain from tendering or as to the amount of any Tender to be submitted;
- c) paying (or offering or agreeing to pay) any sum of money, inducement or valuable consideration, directly or indirectly to any person for doing, having done, causing, or having caused to be done, any act or omission in relation to any other Tender or proposed Tender; or
- d) communicating to any person other than Council, the amount or approximate amount of its proposed Tender (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the Tender, for insurance or contract guarantee bonds and/or performance bonds or professional advice required for the preparation of a Tender).

Where such actions are drawn to Council's attention, relevant Tenderers will be disqualified from any further involvement in this tender process.

2.6 Publicity

Recipients of this RFT must not undertake any publicity activities, including through social or any other media, in relation to the RFT, tendering process or Tender without the prior written agreement of Council, including agreement on the format and content of any publicity.

2.7 Conflict of Interest

The Tenderer represents that it has not placed itself in a position that may give rise to any Conflict in connection with the RFT and Tender. Alternatively, the Tenderer must:

- a) provide details of any actual or perceived interests, relationships or clients which that may cause a conflict of interest;
- b) notify Council if any Conflict arises after lodgement of its Tender; and
- c) indicate the strategy it has in place to manage the Conflict.

Council may disqualify a Tenderer from the tendering process if the Tenderer fails to notify Council of any Conflict or if Council is not satisfied with the strategy the Tenderer has in place to manage the Conflict.

2.8 Governing Law

These conditions of tendering are governed by the laws of the State of New South Wales and the parties submit to the exclusive jurisdiction of the courts of that State.