

8 March 2023

Paul Bennett
General Manager
Tamworth Regional Council
PO Box 555
TAMWORTH NSW 2340

Re: Approval to engage Structural Engineering Consultant

Dear Paul,

As Agreed with Tamworth Regional Council we have completed a single select tender process for the engagement of the initial Structural Engineering Services for the Ray Walsh House Refurbishment.

We have prepared the scope of works and agreement and received a submission from Northrop Consulting Engineers Pty Ltd (ABN: 81 094 433 100).

The initial engagement is for the Project Definition Phase of the project with a Fee proposed by Northrop of \$29,040.00 including GST.

Attached with this letter is a copy of the scope, agreement, and submission by Todd Bailey of Northrop for the service.

Could you please provide an approval for this engagement of Northrop and we will arrange a kick-off discussion as part of the Fortnightly project meetings.

Sincerely



Stuart Landrigan
Director, Infrastructure Advisory & Program Assurance
0428211200
CC: Marie Resch



New South Wales Government

Ray Walsh House Refurbishment

**Construction Consultancy Services
Request for Tender (RFT) Documents**

Agreement Name: Ray Walsh House Refurbishment – Structural Engineering Consultancy Services

RFT No.: 10056431

Response Required By: Refer to Invitation to Tender

Method of Lodgement: Refer to Conditions of Tendering Clause *Submission of Tenders*

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New South Wales Government

Construction Consultancy Services Conditions of Tendering

(Standard Version of General Conditions as at 11 July 2022)

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CONDITIONS OF TENDERING

1 DESCRIPTION OF THE SERVICES

Structural Engineering Consultancy Services for the Project Definition Phase for the Ray Walsh House Refurbishment:

- Site inspection of existing building to determine structural condition.
- Desktop study of original Structural documentation and reporting on implications to extend design life of the building.
- Advise and scoping for any additional investigation to confirm structural conditions.

2 CONTACT PERSON

Refer requests for information about the Tender to:

| | |
|-------------------|---|
| Name: | Stuart Landrigan Director, Infrastructure Advisory & Program Assurance |
| Telephone number: | 0428 211 200 |
| Email address: | stuart.landrigan@pwa.nsw.gov.au |

3 NSW GOVERNMENT SUPPLIER CODE OF CONDUCT

Tenderers must comply with the NSW Government Supplier Code of Conduct which is available at www.buy.nsw.gov.au/policy-library/policies/supplier-code-of-conduct.

The Code is a statement of ethics. It imposes behavioural obligations on people involved in tendering processes, including calling, reviewing and accepting tenders

Lodgement of a tender is evidence of the Tenderer's agreement to comply with the Code for the duration of any agreement awarded as a result of the tender process. If a tenderer fails to comply with the Code, the Principal may take the failure into account when considering this or any subsequent tender from the tenderer, and may pass over such the tender.

4 GOVERNMENT POLICIES

Dealing with Modern Slavery

Tenderers must demonstrate that they understand Modern Slavery and will implement processes and procedures to identify and manage the risks of Modern Slavery.

Submit with the Tender the completed Tender Schedules - **Schedule of Compliance for Dealing with Modern Slavery**.

Aboriginal Participation

:The Tenderer's attention is drawn to the requirements of the NSW Government *Aboriginal Procurement Policy (APP)*. The policy document is available from buy.nsw website at

<https://buy.nsw.gov.au/policy-library/policies/aboriginal-procurement-policy>

Refer to General Conditions of Agreement Clause, **Aboriginal Participation** for specific requirements.

The Principal will consider the demonstrated capacity of tenderers to meet obligations under the Policy and the extent to which the Tenderer's proposed Service Delivery Plan will meet the minimum Aboriginal participation requirements when evaluating the tenders.

Submit the completed Schedule and the information required by Tender Schedules - **Schedule of Aboriginal Participation Information**. The Principal may exclude a Tender from further consideration if the Tenderer does not submit a complying Schedule. Where a Tenderer has no or very limited past

experience with Aboriginal Participation in Construction, its response will be assessed on its understanding of practical steps to improve Aboriginal participation and the detail of its proposed Aboriginal Participation Plan.

5 GOODS AND SERVICES TAX

Fees, rates and other amounts in this Tender must include GST if it is payable.

6 SUBMISSION OF TENDER

Documents to be submitted

The following documents must be completed and/or submitted by the Tenderer:

- Tender Form;
- Other Tender Schedules;
- Information called for in the Tender Schedules; and

Submit all information identified in the RFT documents as being required with the Tender.

Where any alternative tender is offered, submit alternative Tender Schedules and associated information describing where the alternative tender(s) differ from the conforming tender. Identify in each schedule the alternative to which it applies.

Where Addenda have been received, refer to each one on the Tender Form to confirm that the Tender allows for the instructions it contains.

General information about your firm, such as brochures and the firm's history, is not required with the Tender.

Submission procedure

Submit the Tender Form, Tender Schedules marked 'Submit with Tender Form' and other required documents or information by the date and time given in the advertisement or invitation.

If more than one tender submission is made, mark each submission clearly as to whether it is a copy, an alternative tender, or whether the submission supersedes another submission.

Submit when requested, by the date, time and method stipulated in the request, Tender Schedules marked 'Submit when requested' and any other information requested by the Principal to allow further consideration of the Tender.

Failure to meet these requirements may result in the Tender being passed over.

Any tender that is not received in full at close of tenders may be passed over.

7 LATE TENDERS

In accordance with the NSW Government *Supplier Code of Conduct*, late tenders will not be accepted, except where the integrity and competitiveness of the tendering process will not be compromised. The *Supplier Code of Conduct* is available on the buy.nsw website at <https://buy.nsw.gov.au/policy-library/policies/supplier-code-of-conduct>.

8 ALTERNATIVE TENDERS

Submit a Tender in full compliance with the specified requirements, without any conditions or qualifications.

You must submit a Tender that fully complies with the specified requirements, without any conditions or qualifications. You may also submit alternative Tenders. For any alternative Tender, you must fully describe and price any applicable conditions, qualifications, or departures from the specified requirements.

Submit one or more Tenders for the Services. You must fully describe and price any applicable conditions, qualifications or departures from the specified requirements.

Nominated Alternative Tenders

»

9 EVALUATION AND ACCEPTANCE OF TENDERS

The criteria for evaluating the Tenders are:

- Price (weighting 50%)
 - Fee
 - Rates for variations
- Non-price (weighting 50%)
 - Outline Scope of Works
 - Relevant Experience
 - Quality Management System Information
 - WHS Management System Information

The evaluation of non-price criteria will be based on information provided in the Tenders.

Tenders considered unsatisfactory for any of the non-price criteria may not be considered further.

The Principal may also take into consideration factors including, but not limited to: whole of life costs; ability to meet requirements of the NSW Government Supplier Code of Conduct innovation; delivery time; quality offered; previous performance; experience; capability; work health and safety performance; environmental management performance; community relations; value adding; and conformity.

Tenderers with a Quality Management System certified as meeting the requirements of AS/NZS ISO 9001 receive a 10% price preference over those without such a certified Quality Management System.

The Principal may accept tenders that do not conform strictly with all requirements of the RFT documents.

The Principal is not bound to accept the lowest or any tender. Tenders which do not comply with any requirement of, or which contain conditions or qualifications not required or allowed by, the RFT documents may be passed over.

The Principal may assess the value of any qualification in any Tender, without reference to the Tenderer, and compare tenders on the basis of the Principal's assessed valuation. No tender, or qualification or departure from the RFT documents, is accepted unless and until the Principal gives an acceptance or agreement in writing.

10 ACCEPTABLE LEGAL ENTITIES

The Principal contracts only with recognised and acceptable legal entities with appropriate financial assets and current professional indemnity insurance cover. Tenders will not be considered from entities such as business names.

Tenderers may be required to provide evidence of their legal entity by submitting a copy of an official document, such as:

- company registration and names of office bearers issued by the Australian Securities and Investments Commission; or
- a statement confirming the legal entity signed by a practicing solicitor.

If requested to do this, submit the information within three working days after receiving the request.

11 FINANCIAL CAPACITY

Tenderers must have sufficient financial capacity to perform the services required under the Agreement.

If requested to do so, the Tenderer must provide a statement from a qualified accountant certifying that the Tenderer has met:

- all of its statutory obligations including payment of pay as you go (PAYG) taxation instalments, PAYG withholding tax, GST Business Activity Statements, Superannuation Guarantee payments and payroll tax, if applicable; and

- other obligations including payment of rentals and interest, as well as payment of subcontractors, subconsultants and suppliers within acceptable business credit periods.
- Tenderers do not need to provide financial statements.

12 QUALITY MANAGEMENT SYSTEM

The Tenderer must have in place a Quality Management System certified to AS/NZS ISO 9001 or demonstrate that equivalent QMS systems are in place.

13 WORK HEALTH AND SAFETY MANAGEMENT SYSTEM

The Tenderer must have in place:

- .1 Work Health and Safety Management System accreditation to ISO 45001 (or AS 4801 until 13 July 2023) or
- .2 Staff having relevant qualifications in managing safety with a Certificate 4 (C4) in Work Health and Safety or above such as a diploma or
- .3 Two written examples of second party audit reports where the Consultant has satisfactorily overseen implementation of a Work Health and Safety system on a construction project

14 SUBCONSULTANTS

For each subconsultant service listed below, nominate in the Outline Scope of Works the subconsultant you propose to carry out the Services.

15 DISCLOSURE OF CONTRACT INFORMATION

Details of this tender and the contract awarded as a result of this tender process must be disclosed in accordance with the *Government Information (Public Access) Act 2009 (NSW)*.

16 CONSULTANT PERFORMANCE

By submitting a tender, the tenderer authorises the Principal to gather, assess and communicate to NSW Government agencies or local government authorities information about the tenderer's financial position and the tenderer's performance in respect of any Agreement awarded as a result of this tender process. Such information may be used in considering whether to offer the tenderer future tendering opportunities

During the term of the Agreement, the Consultant's performance will be monitored. Unsatisfactory performance is taken into account when considering future tendering opportunities for the provision of services to NSW Government agencies.

17 MULTIPLE USE OF CONTRACT MATERIAL

The Contract Material produced under the Agreement may be adapted or changed by the Principal for the purpose of constructing similar facilities on the same or a different site. Refer to Conditions of Agreement clause – **Copyright and Intellectual Property**.



New South Wales Government

Construction Consultancy Services General Conditions of Agreement

(Standard Version of General Conditions as at 11 July 2022)

Preface
General Conditions of Agreement
Agreement Information
Annexures

Copyright

Construction Consultancy Services General Conditions of Agreement

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Requests and enquiries concerning reproduction and rights should be addressed to:

NSW Procurement Service Centre

Telephone: 1800 679 289

Email: nswbuy@treasury.nsw.gov.au

Acknowledgments

This General Conditions of Agreement for construction related Consultancy Services was developed by the Department of Regional NSW - Public Works

Government Codes and Guidelines

Unless noted otherwise, copies of the Codes and Guidelines referred to may be obtained from Categories/Construction on the buy.nsw.gov.au website with address: <https://buy.nsw.gov.au/categories/construction>

Preface

Construction Consultancy Services General Conditions of Agreement

The Construction Consultancy Services (CCS) Conditions of Agreement is the major component of the CCS Standard Form documents, which also includes the Conditions of Tendering, Tender Schedules and The Services.

In particular, the CCS suite of documents have been designed to:

- provide an easily understood standardised form of Agreement for construction related consultancy services with fees estimated to be greater than \$50,000 (Ex GST);
- incorporate Lump Sum Fee, Upper Limit Fee and Schedule of Rates forms of pricing;
- provides for insurable liability;
- provides an option for Novation where the Principal intends to novate the Agreement to another party;
- align with the requirements in relevant consultant prequalification schemes; and
- suit current NSW Government policies and provisions such as:
 - NSW Procurement Board Directions;
 - Procurement (Enforceable Procurement Provisions) Direction 2019; and
 - NSW Government Supplier Code of Conduct.

For Consultancy Services with an estimated fee value of less than \$50,000 the Minor Construction Consultancy Services suite should be used.

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GENERAL CONDITIONS OF AGREEMENT

1 DEFINITIONS

Except where the context requires otherwise, the definitions in this Agreement are:

| | |
|---------------------------------------|---|
| Contract | the Agreement between the Consultant and the Principal constituted by the Agreement Documents, which supersedes all understandings, representations and communications between the parties related to the subject matter of the Agreement made before the Date of Agreement; |
| Agreement Documents | Agreement Documents include: <ul style="list-style-type: none">• Conditions of Contract;• Agreement Information;• The Services;• Appendices;• Drawings and documents; and• Letter of Award and any other documents listed therein; |
| Agreement Material | all material brought or required to be brought into existence as part of, or for the purpose of, performing the Services, including but not limited to documents, equipment, information and data stored by any means; |
| Business Day | any day other than a Saturday, Sunday, public holiday or 27, 28, 29, 30 or 31 December; |
| Consultant | the entity named in Item 3 of the Agreement Information; |
| Consultant's Authorised Person | the person stated in the Agreement Information, who is appointed by the Consultant to act with its full authority in all matters relating to the Contract; |
| Date of Agreement | the date of the Letter of Award; |
| Fee | the fee described in Item 9 of the Agreement Information; |
| Issue | any issue, dispute or difference raised by either party under Clause 11; |
| Intellectual Property | all rights in copyright, patents, registered and unregistered trademarks, registered designs, trade secrets, inventions, models, know-how and all other rights of intellectual property; |
| Letter of Award | a letter from the Principal to the Consultant awarding the Agreement to the Consultant; |
| Principal | the entity named in Item 1 of the Agreement Information; |
| Principal's Authorised Person | the person stated in the Agreement Information, who is appointed by the Principal to act with its full authority in all matters relating to the Contract; |
| Senior Executive | the person appointed by either party to confer and resolve an Issue. |

2 ENGAGEMENT

- .1 The Principal engages the Consultant in the capacity set out in Item 5 of the Agreement Information to perform the Services, and the Consultant accepts the engagement and undertakes to perform the Services, on the terms set out in this Agreement.

3 CONSULTANT'S OBLIGATIONS

Professional Standard of Care

- .1 The Consultant must perform the Services to that standard of care and skill to be expected of a consultant who regularly acts in the capacity in which the Consultant is engaged and who possesses the knowledge, skill and experience of a consultant qualified to act in that capacity.

Knowledge of Requirements of the Principal

- .2 The Consultant must use all reasonable efforts to inform itself of the requirements of the Principal and must regularly consult with the Principal during the performance of the Services.

Personnel

- .3 The Consultant must:
 - .1 ensure that all personnel engaged by it in connection with the Services are appropriately qualified, competent and experienced in the provision of the type of services required by the Principal; and
 - .2 engage persons named by the Consultant and agreed by the Principal to carry out the services nominated.
- .4 The Consultant's responsibility for the performance of the Services and for the work and performance of its personnel is not altered in any way by Clause 3.3 or by anything done in accordance with Clause 3.3.

Principal Supplied Information

- .5 If the Consultant considers that Principal Supplied Information (information, documents and other particulars made available to it) is inadequate or contain errors, inconsistencies, discrepancies or ambiguities, the Consultant must give written notice to the Principal at least 15 Business Days before the Consultant proposes to use the Principal Supplied Information. The notification must include details of:
 - .1 the inadequacies, errors, inconsistencies, discrepancies or ambiguities (Information Issues);
 - .2 the effect on the Fee and the Time for Completion; and
 - .3 any other matters the Consultant considers relevant.
- .6 The Principal must resolve the Information Issues notified under Clause 3.5. If resolution has an effect on time and/or cost the Consultant is entitled to an adjustment to the Fee and/or Time for Completion where:
 - .1 the Information Issues could not reasonably be identified prior to the Date of Award; and
 - .2 the Consultant incurs more time and costs than that which could have been reasonably expected at the Date of Award.

Program or Plan

- .7 The Consultant must, by the time specified in Item 6 of the Agreement Information, submit to the Principal a program or plan for the performance and completion of the Services within the time specified in Item 7 of the Agreement Information.

Timely Provision of Services

- .8 The Consultant must perform the Services expeditiously and in accordance with the program.

Change of Scope or Timing

- .9 As soon as practicable after becoming aware of any matter which has changed, or is likely to change, the scope or timing of the Services, the Consultant must give 15 days written notice to the Principal detailing the circumstances and extent, or likely extent, of the change or delay and whether the Consultant will be proposing a variation in accordance with Clause 6.

Alterations to Approved Documents

- .10 The Consultant must not make any substantial alteration to, addition to or omission from the plans, drawings, layouts, designs, specifications or other material previously approved, without the prior written approval of the Principal.

Principal's Materials

- .11 The Consultant must protect and keep safe and secure all materials and documentation provided by the Principal to the Consultant.
- .12 Upon discharge of this Agreement by performance or termination, the Consultant must promptly return to the Principal those materials and documentation.

Cooperation by the Consultant

- .13 The Consultant must liaise, cooperate and confer with others as directed by the Principal.

Obtain all Necessary Approvals

- .14 The Consultant must obtain all approvals, authorities, licences and permits which are required from governmental, municipal or other responsible authorities for the lawful implementation and completion of the Services, except where obtained by the Principal as set out in Item 8 of the Agreement Information.

Consultant's Relationship with the Principal

- .15 The Consultant must not act outside the scope of the authority conferred on it by this Agreement and must not bind the Principal in any way or hold itself out as having any authority to do so, except where authorised by this Contract.

Confidentiality

- .16 The Consultant and its employees or agents must not without the prior written consent of the Principal disclose any information in connection with the Services or this Agreement to any person not a party to this Agreement other than:
- .1 as necessary to perform the Services; or
 - .2 with respect to any matter already within public knowledge.

Consultant's Authorised Person

- .17 The person named in Item 4 of the Agreement Information will be responsible on behalf of the Consultant for all aspects of the Services and has authority to act on behalf of the Consultant in all matters relating to this Contract. Any substituted representative must be notified promptly in writing to the Principal.

Subcontracting and Assignment

- .18 The Consultant must not assign or subcontract any part of the Services without the prior written approval of the Principal.

General Conditions of Agreement

- .19 An approval given by the Principal permitting the Consultant to subcontract any portion of the Services does not relieve the Consultant from its obligations and liabilities pursuant to this Agreement.

Statutory Requirements

- .20 The Consultant must ensure that all work done in connection with the Services complies with the requirements of all applicable legislation, codes and Authorities' requirements and all relevant Australian standards applicable to the Services.

Conflict of Interest

- .21 The Consultant warrants that it has no conflict of interest at the date of this Agreement.
.22 The Consultant must immediately inform the Principal in writing upon becoming aware of the existence, or possibility, of a conflict of interest.

Security of Premises

- .23 When using the Principal's premises and facilities, the Consultant must comply with all directions, procedures and policies relating to work health and safety and security at those locations.

Access to Consultant's Premises

- .24 The Consultant must, upon reasonable notice, permit the Principal access to the Consultant's premises in order for the Principal to inspect, discuss or assess anything in connection with the Services.

Records

- .25 The Consultant must keep proper accounts, records (including information stored by computer and other devices) and time sheets in accordance with accounting principles generally applied in commercial practice in respect of its time charge billing, reimbursable expenses and fees and reimbursements payable to others engaged to assist in providing the Services.
.26 The Consultant must, within a reasonable time of any request, give the Principal access to, or verified copies of, any information which may reasonably be required to enable any claim to be substantiated and verified.

Insurances

- .27 The Consultant must provide the Principal with proof of all insurance required to be maintained by the Consultant under this Contract.

Media Releases and Enquiries

- .28 The Consultant must obtain the Principal's prior written consent to:
.1 any press release or promotional advertisement it wishes to make or place concerning the Agreement, the Principal or the Works; and
.2 the release for publication in any media of any information concerning the Agreement, the Principal or the Works.
.29 The Consultant must refer any media enquiries concerning the Agreement, the Principal or the Works to the Principal. The Consultant must not respond to any media enquiry without the Principal's prior written consent.
.30 The Consultant must ensure that all Subconsultants and Suppliers comply with this clause.
.31 The Principal may give or refuse its consent, in its absolute discretion.

Authorisation to Release and Use Information

- .32 The Consultant authorises the Principal to provide information about the Consultant, including information provided by the Consultant and information related to the Consultant's performance, to other Commonwealth, State or Local Government agencies at any time or for any reason; and
- .33 The Consultant agrees and acknowledges that the Principal is entitled to rely on the defence of qualified privilege for the purposes of section 30 of the *Defamation Act 2005 (NSW)* in making information available to others.
- .34 The Consultant releases and indemnifies the Principal from and against any claim, action, loss, damage, expense or liability the Principal may sustain or incur in connection with anything authorised by Clause 3.32 or anything done by a recipient of the information.

4 PRINCIPAL'S OBLIGATIONS

Provide Information

- .1 The Principal will as soon as practicable, or as required by this Agreement, make available to the Consultant all relevant instructions, information, documentation or data or any other material required for the performance of the Services.

Appoint a Representative

- .2 The person named in Item 2 of the Agreement Information, or any other person the Principal nominates in writing, will act as the Principal's representative and will have authority to act on behalf of the Principal in all matters relating to this Agreement.

5 PAYMENT

Payment

- .1 In consideration of the provision of the Services, the Principal will pay the Consultant the value of Fee as determined by the Principal, subject to the conditions of this Agreement.

Right of Set-Off

- .2 The Principal may deduct from amounts otherwise payable to the Consultant any amount due from the Consultant to the Principal in connection with the Services.

Effect of Payment of the Fee

- .3 Payment of the Fee, whether in part or in full, does not constitute acceptance by the Principal of the Services and does not amount to a waiver of any right or action which the Principal may have at any time against the Consultant.

Reimbursable Expenses

- .4 The Principal will reimburse the Consultant the reasonable costs, expenses, fees or charges incurred by the Consultant, limited to those items set out in Item 10 of the Agreement Information, provided that in all cases the Consultant has first obtained the Principal's prior written approval to incur or pay those costs, expenses, fees or charges.

Timing of Payment

- .5 At the times specified in Item 11 of the Agreement Information, and upon Termination pursuant to Clause 10, the Consultant must lodge with the Principal a Payment Claim for the Services

General Conditions of Agreement

performed (and for approved reimbursable expenses, if any, incurred) during the specified period. The Payment Claim must be accompanied by a completed and true Supporting Statement and a completed and true Subcontractor's Statement in the form at the Annexures, executed on the date of the Payment Claim.

- .6 Within 10 Business Days after the Consultant's Payment Claim is served, the Principal will provide to the Consultant a Payment Schedule identifying the Payment Claim to which it relates and stating the payment, if any, which the Principal will be making. Reasons will be given if the amount is less than that claimed.
- .7 The Principal will pay the Consultant the amount due within 15 Business Days after the Consultant's Payment Claim is served.
- .8 Payment by the Principal will be made by Electronic Funds Transfer to a bank, building society or credit union account nominated by the Consultant. No payment will be due to the Consultant until details of the nominated account (name of financial institution, account name, BSB and account number) are notified in writing to the Principal. The Consultant shall promptly notify the Principal in writing of any change to the nominated account, but the Principal will not be responsible for any payments made into a previously nominated account prior to notification of such change being received by the Principal.

Tax Invoices

- .9 If Agreement Information Item 11 states that the Principal is responsible for issuing the tax invoice, then the Principal will issue payment schedules in the form of Recipient Created Tax Invoices. The Consultant must not issue Tax Invoices in respect of the Agreement.
- .10 If Agreement Information Item 11 states that the Consultant is responsible for issuing the tax invoice, then:
 - .1 following the provision by the Principal of the Payment Schedule, the Consultant must immediately issue a tax invoice to the Principal;
 - .2 the Consultant must not issue a tax invoice in respect of any taxable supply it makes to the Principal, other than under this clause;
 - .3 the tax invoice must be:
 - .1 issued within 2 Business Days after the provision by the Principal of the relevant Payment Schedule; and
 - .2 for the Scheduled Amount identified in the Payment Schedule; and
 - .4 the tax invoice is to show the Scheduled Amount excluding GST, the GST component and the total Scheduled Amount including the GST component.
- .11 Each party warrants it is registered for GST at the time of entering into the Contract, and must notify the other party if it ceases to be registered for GST or to satisfy any requirements for the issue of Recipient Created Tax Invoices.

Pay as You Go

- .12 If the Consultant does not quote its ABN in its Tender or on its claims or invoices, or otherwise advise the Principal of its ABN relating to the Services, the Principal will withhold tax from payments in accordance with Australian Tax Office requirements.

6 VARIATIONS

- .1 The Principal may instruct variations in writing and the Consultant must comply with the instructions, providing the variations are generally consistent with, or of a similar nature to, the Services.
- .2 The Consultant must take all reasonable steps to minimise the effects of variations on the time to complete the Services.

Variations proposed by the Principal

- .3 When requested by the Principal, the Consultant must, within the time specified in the request, advise the Principal of its price (including any delay costs) for a proposed variation and the effect on the time to complete the Services, or on any other matter specified in the request.
- .4 Unless the Principal instructs the Consultant to proceed, the Consultant must not begin to carry out a variation until the parties have agreed on the price and time implications (including any delay costs).

Variations claimed by the Consultant

- .5 If the Consultant considers that a variation applies but the Principal has not instructed a variation, the Consultant must make its claim for a variation within 10 Business Days from the start of the event giving rise to the alleged variation, or from the time when the event should have become known to the Consultant with reasonable diligence on its part. If the Principal does not agree that a variation applies, the Principal must advise the Consultant in writing.

Valuation

- .6 If the parties agree that a variation applies they must endeavour to agree in writing on its price and its effect on the time to complete the Services. Failing Agreement on price or time, the provisions of Clause 11 apply.
- .7 Unless otherwise agreed, the price of a variation will be determined using the hourly rates set out in Tender Schedules - Hourly Rates for Variations. If the Agreement does not include Tender Schedules - Hourly Rates for Variations, or the tendered hourly rates are not relevant to the variation, reasonable rates and prices will apply.
- .8 The Fee must be adjusted to account for the price of a variation.

7 COPYRIGHT AND INTELLECTUAL PROPERTY

Vesting

- .1 Subject to Clause 7.2 and Clause 7.3, title to and Intellectual Property in, or in relation to, Agreement Material (other than the Agreement Material listed in Item 12 of the Agreement Information) vests, upon its creation, in the Principal. The Consultant must, upon request by the Principal, do all things necessary to vest that title or that Intellectual Property in the Principal.
- .2 The Consultant retains the title to Intellectual Property created outside of the terms of this Agreement for the Agreement Material listed in Item 12 of the Agreement Information.
- .3 If title to Intellectual Property in, or in relation to, Agreement Material is not capable of being vested in the Principal under Clause 7.1 because the Consultant itself does not own that Intellectual Property, the Consultant must ensure that the Principal is irrevocably licensed (whether by sub-

licence from the Consultant or direct licence from the owner) to use that Agreement Material or Intellectual Property.

- .4 The Principal indemnifies the Consultant against any costs, claims, actions or expenses incurred by the Consultant as a result of any reproduction, adaptation or commercialisation by the Principal of any Intellectual Property or Agreement Material vested in the Principal under Clause 7.
- .5 The Consultant indemnifies the Principal against any claims, actions, and loss or damage arising out of any infringement of Intellectual Property rights by the Consultant, its officers, employees, agents or subcontractors in connection with the performance of the Services or the use by the Principal of the Agreement Material for any purpose reasonably contemplated under the Agreement.

Delivery of Agreement Material

- .6 On, or as soon as practicable after, the expiration or earlier termination of this Agreement, the Consultant must deliver to the Principal all Agreement Material.

8 INDEMNITY (PEOPLE AND PROPERTY)

- .1 The Consultant indemnifies the Principal from and against all actions, claims, costs, expenses and damages (including the costs of defending or settling any action or claim) in respect of:
 - .1 loss of or damage to property of the Principal; or
 - .2 personal injury (including death) to any person or loss of or damage to any property, arising out of, or by reason of, anything done or omitted intentionally or negligently by the Consultant, the Consultant's agents and subconsultants in respect of the Services.
- .2 The Consultant's liability to indemnify the Principal is reduced proportionally to the extent that an act or omission of the Principal or employees or agents (other than the Consultant) of the Principal may have contributed to the injury, damage or loss.
- .3 Subject to Clause 8.4, the Consultant's liability under Clause 8 is limited to the amount specified in Item 13 of the Agreement Information.
- .4 Clause 8.3 does not apply to liability for damages arising from:
 - .1 the death of, or injury to, a person;
 - .2 infringement of third party intellectual property rights;
 - .3 an unlawful or wrongful act or omission; or
 - .4 a wilful, reckless or negligent act or omission
- .5 The Consultant's liability under Clause 8 may be limited by the *Professional Standards Act 1994* (NSW) (as amended) if the Consultant is a member of an occupational association with an approved Scheme under that Act.

9 INSURANCE

Professional Indemnity Insurance

- .1 The Consultant must have insurance covering liability for errors in provision of the Services. The insurance must be with an insurer approved by the Principal (which approval will not be unreasonably withheld) and provide coverage for an amount not less than the amount shown in Item 14 of the Agreement Information.

Workers' Compensation

- .2 Where the Consultant is not a sole trader, the Consultant must ensure that an insurance policy is effected prior to commencing performance of the Services and remains current for the duration of this Contract, covering liability for death of or injury to persons employed by the Consultant and related liability as required or under the *Workers' Compensation Act 1987 (NSW)*.
- .3 Where the Consultant is unable to obtain workers' compensation insurance because the Consultant is a sole trader or partnership, the Consultant must hold appropriate personal accident insurance.

Public Liability

- .4 The Consultant must obtain and maintain a public liability policy of insurance to cover loss or damage to property or injury or death to persons arising out of, or in connection with, carrying out the Services.
- .5 The policy must be:
 - .1 with an insurer and under conditions approved by the Principal (which approval will not be unreasonably withheld);
 - .2 obtained prior to commencing the carrying out of the Services;
 - .3 maintained for the duration of the Agreement; and
 - .4 for an amount not less than that stated in Item 15 of the Agreement Information in respect of any single occurrence.
- .6 The policy must cover the Consultant, the Principal, the Principal's employees, the Principal's agents and all subconsultants employed from time to time for, or in relation to, the Agreement and the Services for their respective rights and interests and cover their liabilities to third parties.
- .7 The policy must also provide that:
 - .1 insofar as the policy covers more than one insured party, all insuring Contracts and endorsements (with the exception of limits of liability) will operate in the same manner as if there was a separate policy of insurance covering each named insured party;
 - .2 failure by any insured party to observe and fulfil the terms of the policy will not prejudice the insurance in regard to any other insured parties;
 - .3 any non-disclosure by one insured party does not prejudice the right of any other insured party to claim on the policy; and
 - .4 a notice to the insurer by one insured party will be deemed to be notice by all insured parties.

10 TERMINATION

Termination by the Principal other than for Default by the Consultant

- .1 The Principal may terminate the whole or any part of the performance of the Services at any time by written notice addressed to the Consultant.
- .2 The Consultant must, after receipt of a notice under Clause 10.1:
 - .1 cease work on the terminated Services by the date specified in the notice; and
 - .2 comply with any reasonable directions given by the Principal in relation to performance of the Agreement.
- .3 As soon as practicable after ceasing work under Clause 10.2, the Consultant must lodge with the Principal a statement of the amount of the Fee (and any approved reimbursable expenses) claimed by the Consultant to be payable for Services performed to the earlier of:
 - .1 the date of cessation of the terminated Services; or
 - .2 the date by which the Consultant was required to cease work on those Services.

General Conditions of Agreement

The statement must be accompanied by supporting information as reasonably required by the Principal.

Termination by the Principal for Default by the Consultant

- .4 If the Consultant:
 - .1 becomes bankrupt, or insolvent, or enters into a scheme or arrangement with its creditors;
 - .2 fails to carry out the Services with due diligence and competence;
 - .3 without reasonable cause suspends the carrying out of the Services; or
 - .4 commits a substantial breach of this Agreementthe Principal may, in the case of the default specified in Clause 10.4.1, forthwith terminate this Agreement by written notice addressed to the Consultant.
- .5 In the case of any other specified default the Principal may terminate this Agreement by written notice addressed to the Consultant if the Consultant fails to remedy the default within 14 days from the date of service of a notice by the Principal on the Consultant specifying the relevant default.

Termination by the Consultant

- .6 If the Principal fails to pay the Consultant any amount in accordance with this Agreement which is not in dispute, or commits a fundamental breach of the Agreement, the Consultant may give notice requiring the Principal to remedy the default within 10 Business Days after receiving the notice.
- .7 If the Principal fails to remedy the default, or to propose steps reasonably acceptable to the Consultant to do so within the time specified in Clause 10.5, the Consultant may issue a notice terminating the Agreement.
- .8 The Principal must pay the amounts prescribed in Clause 10.12.

Consultant's Continuing Liability

- .9 Termination by the Principal or Consultant will not release the Consultant from liability in respect of any breach or non-performance of any obligation pursuant to this Agreement.

Effect of Termination

- .10 Termination of this Agreement by either party is without prejudice to any accrued rights or remedies of each party.

Adjustment of the Fee on Termination

- .11 If any of the Services are terminated pursuant to Clause 10.1, the Principal will pay the Consultant:
 - .1 a reasonable amount for the Services performed by the Consultant up to the date of termination, as adjusted by any additions or deductions in accordance with this Agreement; and
 - .2 a further amount calculated in the manner set out in Item 16 of the Agreement Information in full and final satisfaction of any claim the Consultant has or may have.
- .12 If this Agreement is terminated pursuant to Clause 10.4, the Principal will pay the Consultant a reasonable amount for the Services performed by the Consultant up to the date of termination, adjusted to take into account loss or damage suffered, or reasonably likely to be suffered, by the Principal as a consequence of breach by the Consultant. The Principal may recover any shortfall from the Consultant as a debt due and payable.
- .13 If this Agreement is terminated pursuant to Clause 10.6, the Principal will pay the Consultant:
 - .1 a reasonable amount for the Services performed by the Consultant up to the date of termination, as adjusted by any additions or deductions in accordance with this Agreement; and
 - .2 a further amount calculated in the manner set out in Item 16 of the Agreement Information

in full and final satisfaction of any claim the Consultant has, or may have.

11 ISSUE RESOLUTION

- .1 If the Principal's Authorised Person and the Consultant's Authorised Person are unable to resolve a dispute, difference or disagreement, either party can give notice to the other party of an Issue. The Issue must be referred to a Senior Executive from both parties. The Senior Executives, who must not be an Authorised Person, are to promptly confer to try to resolve the Issue. Notice of an Issue can only be given once.

Nomination of an Expert

- .2 If an Issue between the Consultant and the Principal is not resolved by negotiation under Clause 11.1 within 30 Business Days from the date of the Notice of Issue, then either party has a further 30 Business Days to refer the Issue to Expert Determination.
- .3 If an Issue is not referred to Expert Determination in accordance with Clause 11.2, the Issue for which the notice has been given is barred from Expert Determination or litigation or similar action.
- .4 If the Consultant and the Principal do not agree upon an independent expert ("Expert"), either may request the Chief Executive Officer of the Australian Commercial Disputes Centre to nominate an Expert.
- .5 Once an Expert has been agreed or nominated, the Principal will appoint the Expert in writing on behalf of both parties, with a copy to the Consultant.

Submissions

- .6 Within 20 Business Days after the appointment of the Expert, the claimant will submit in writing to the Expert the claim and all the evidence which the claimant wishes the Expert to take into account. Within 30 Business Days thereafter the other party will submit in writing to the Expert that party's response to the claim, particulars of any counterclaim and all the evidence which that party wishes the Expert to take into account.

Procedure

- .7 Copies of documents sent to the Expert must be sent to the other party at the same time. The Expert may meet with the parties jointly, but not separately, and may ask questions of the parties which must be answered orally or in writing as requested by the Expert.

Determination

- .8 As soon as possible the Expert must give the parties the Expert's determination in writing as to:
 - .1 the respective rights and entitlements of the parties; and
 - .2 the amount or service, if any, which the Expert considers is due from one party to the other.
- .9 The determination of the Expert shall be made as an Expert and not as an Arbitrator and shall be final and binding on the parties, except where the Expert's determination is that one party shall pay to the other an amount, or carry out work, in excess of \$750,000. Such determination shall not be final and binding, provided either party gives notice to the other party of its intent to commence litigation within 10 Business Days of the determination being given.
- .10 If a notice is not given in accordance with Clause 11.9, the Issue for which the Notice of Issue has been given is barred from litigation or similar action.

Liability

- .11 The Expert will not be liable to the parties for negligence in the conduct of the determination.

Costs

- .12 The Principal and the Consultant will be jointly and severally liable to the Expert for the fees of the Expert. As between themselves, the Principal and the Consultant will each bear half the Expert's fee and each will bear their own costs of the determination.

Continuing Performance

- .13 Each party must continue to perform its obligations under this Contract, notwithstanding the existence of a dispute.

12 NOTICES

- .1 Any notice given under this Contract:
- .1 must be in writing addressed to the intended recipient at an address shown in Item 17 of the Agreement Information or an address last notified by the intended recipient to the sender;
 - .2 must be signed by an Authorised Person of the sender; and
 - .3 will be taken to have been given or made when delivered, received or left at the specified address.
- .2 If delivery or receipt of a notice occurs on a day on which business is not generally carried on in the place to which the communication is sent or later than 5.00 pm (local time), it will be taken to have occurred at the commencement of business on the next Business Day in that place.

13 COMMUNICATION

- .1 The parties agree and consent that notices and communications may be by electronic communication in accordance with the *Electronic Transactions Act 2000* (NSW).

14 QUALITY MANAGEMENT SYSTEM

- .1 The Consultant must have in place a Quality Management System certified to AS/NZS ISO 9001 or demonstrate that equivalent QMS systems are in place

15 WORK HEALTH AND SAFETY MANAGEMENT SYSTEM

- .1 The Consultant must have in place:
- .1 Work Health and Safety Management System accreditation to ISO 45001 (or AS 4801 until 13 July 2023) or
 - .2 Staff having relevant qualifications in managing safety with a Certificate 4 (C4) in Work Health and Safety or above such as a diploma or
 - .3 Two written examples of second party audit reports where the Consultant has satisfactorily overseen implementation of a Work Health and Safety system on a construction project

16 ABORIGINAL PARTICIPATION

- .1 The Consultant must comply with the requirements of Aboriginal Participation at Annexure – Aboriginal Participation.

17 PROTECTION OF CHILDREN AND OTHER VULNERABLE PEOPLE

- .1 The Consultant must ensure that all persons performing services on the site or sites under the Contract, including but not limited to the Consultant's employees and managers, subconsultants and suppliers (Consultant Employees) understand and comply with the requirements shown below:
 - .1 All Consultant Employees must gain permission to enter the school or facility before performing related services and they may only enter approved areas. The Consultant's representatives or where a subconsultant is performing services without the supervision of the Consultant, the subconsultant's representative, must report their presence to the person in charge of the school or facility on arrival each day and record, in the Site Visit Log, the details of all Consultant Employees performing services at the site or sites that day.
 - .2 Consultant Employees should avoid talking with, touching or interacting with any children or residents or other users of the school or facility except where performing services requires it or in an emergency or safety situation.
 - .3 Consultant Employees must only use approved toilets and other facilities, unless the person in charge of the school or facility gives written authority to use alternative arrangements.
 - .4 Appropriate privacy must be maintained when performing services on toilets and similar facilities. Consultant Employees must ensure that toilets and similar facilities are not occupied or in use by children, residents or other users before entering to perform the services, and that performance of services does not continue when use of the facilities is required. Where practicable male employees should perform services on male facilities and female employees on female facilities.
 - .5 Consultant Employees should report any concerns about children's behaviour or child abuse to the person in charge of the school or facility.
 - .6 Consultant Employees must wear or carry an identity card at all times when on the site or sites.

18 DEALING WITH MODERN SLAVERY

- .1 The Consultant must comply with the requirements of Schedule Modern Slavery at Annexures and implement processes and procedures to identify and manage the risks of Modern Slavery.

19 NOVATION

- .1 The Principal intends to novate the obligations and liabilities in connection with this Agreement (the "Novation Agreement") to the "Head Contractor" for (Contract number and name) (the "Head Contract").
- .2 The Consultant acknowledges that the Principal intends to novate this Contract. The Consultant consents to the novation
- .3 The Consultant ("Novation Consultant") must fully cooperate with and assist each Tenderer for the Head Contract, to allow the Tenderer to assess the obligations and work, including but not limited to design requirements under this Contract.
- .4 The Novation Consultant must, on presentation by the Principal execute in triplicate the Novation Deed at Annexures and do any other acts and things or execute any other documents which may be necessary to give effect to such novation to the Head Contractor nominated by the Principal.

AGREEMENT INFORMATION

Item

1 The Principal

The Principal is: *Mentioned in Clause 1*
The Principal's ABN is: Tamworth Regional Council
»ABN

2 Principal's Authorised Person

The Principal Authorised Person is: *Mentioned in Clause – Definitions*
Telephone number: »
Email address: »

3 The Consultant

The Consultant is: *Completed at Agreement Award*
The Consultant's ABN or ACN is: »
» ABN or ACN

4 Consultant's Authorised Person

The Consultant's Authorised Person is: *Completed at Agreement Award*
Telephone number: »
Email address: »

5 Capacity in which the Consultant is engaged

The capacity in which the Consultant is engaged is: *Mentioned in Clause 2*
»

6 Time by which Consultant must provide program or plan

The time by which the Consultant must provide a program or plan to the Principal is: *Mentioned in Clause 3.7*
» Business Days.

[Type here]

7 Time to complete the Services

The time to complete the Services is: *Mentioned in Clause 3.7*
12 weeks from date of Letter of Award.

8 Approvals obtained by Principal

Approvals obtained by Principal: *Mentioned in Clause 3.14*
»

9 The Fee at Date of Contract

The Fee at date of Agreement is: *Mentioned in Clauses 1 and 5.1*
\$

10 Reimbursable Expenses

Reimbursable expenses are: *Mentioned in Clause 5.4*
»

11 Payment Claims

Mentioned in Clause 5

The date in the month for making Payment Claims is: »
("The last Business Day prior to the end of each calendar month" applies if not filled in).

The person authorised to deal with Payment Claims is: »
("The Principal's Authorised Person" applies if not filled in).

The address for submission of Payment Claims is: »
(The email address shown in Agreement Information Item 2 applies if not filled in).

The party responsible for issuing the tax invoice for a Payment Claim (after a Payment Schedule has been issued by the Principal) is: »
("the Principal" applies if not filled in").
(the Principal / the Consultant)

12 Intellectual Property

Government policy is that the Principal retains sole intellectual property rights of all Agreement Material. Any amendments to this policy that are proposed by the Consultant in Tender Schedule - Agreement Information and accepted by the Principal are listed in this Item.

Intellectual property not vesting in the Principal is: *Mentioned in Clause 7.1*
("Nil" applies if not filled in").

13 Limitation on Liability

Mentioned in Clause 8.3

The Consultant's liability is limited to: \$20million

If no amount is stated here, the Consultant's liability is unlimited.

14 Professional Indemnity Insurance

Mentioned in Clause 9.1

Quantum of professional indemnity insurance: \$20million

15 Public Liability Insurance

Mentioned in Clause 9.5.4

Quantum of public liability insurance: \$20million

16 Fee Adjustment on Termination

Mentioned in Clauses 10.10 and 10.12

The Fee adjustment payable on termination (other than for default by the Consultant) is: 5% of the Fee that would have been payable for the Services that will not be provided due to the termination.

17 Notices

Mentioned in Clause 13

Notices to the Principal

For notices to the Principal the intended recipient is the Principal's Authorised Person

Office address:
(for delivery by hand) C/- NSW Public Works
155-157 Marius Street, Tamworth NSW
2340

Postal address:
(for delivery by post) C/- NSW Public Works
PO Box 540, Tamworth NSW 2340

Email address: As nominated in Agreement Item 2

Notices to the Consultant

For notices to the Consultant the intended recipient is the Consultant's Authorised Person:

Office address:
(for delivery by hand) As nominated in the Consultant's Tender
and accepted by the Principal.

Postal address:
(for delivery by post) As nominated in the Consultant's Tender
and accepted by the Principal.

Email address As nominated in the Consultant's Tender
and accepted by the Principal.

ANNEXURES

1 SUPPORTING STATEMENT AND SUBCONTRACTOR'S STATEMENT

Refer to Clause 5.5 of the Construction Consultancy Services Conditions of Agreement and the Notes included in this Statement.

The Consultant is required to complete these two statements and submit both statements with each Payment Claim. Do not alter the forms.

Relevant legislation includes Workers Compensation Act 1987 (NSW), s175B; Payroll Tax Act 2007 (NSW), Schedule 2 Part 5; Industrial Relations Act 1996 (NSW), s127.

Supporting Statement

The Consultant is the "head Contractor" in terms of the Building and Construction Industry Security of Payment Act 1999 (NSW) and makes relevant statements below accordingly. The Consultant, as the "head Contractor", carries out the construction related work for the Principal under the Agreement.

The Supporting Statement must be signed by the Consultant, a director of the Consultant or a person authorised by the Consultant.

Subcontractor's Statement

The Consultant is a "subcontractor" in terms of the *Workers Compensation Act 1987* (NSW), *Payroll Tax Act 2007* (NSW) and *Industrial Relations Act 1996* (NSW) and makes relevant statements below accordingly. The Consultant as the "subcontractor" carries out the construction work for the Principal under the Agreement. The Principal is called the "principal contractor" in these Acts.

For clarity, the Subcontractor's Statement refers to the "Contractor" and "Principal" under the Contract rather than the "subcontractor" and "principal contractor" under the above Acts.

The Subcontractor's Statement must be signed by the Consultant (or by a person who is authorised, or held out as being authorised, by the Consultant to sign the statement).

Information, including referenced Notes, Statement Retention and Offences under various Acts, is included at the end of the Subcontractor's Statement.

SUPPORTING STATEMENT

CONSTRUCTION CONTRACTS

Pursuant to section 13(7) of the *Building and Construction Industry Security of Payment Act 1999 (NSW)* (the Act) a supporting statement must accompany any payment claim served on a principal to a construction contract by a head contractor.

This form should be used by a head contractor who has a construction contract that is not an owner-occupier construction contract. If the contract is an owner-occupier construction contract the 'Supporting Statement – Owner-Occupier Construction Contracts' form should be used instead.

For the purposes of this statement, the terms "principal", "head contractor", "subcontractor", "construction contract" and "owner-occupier construction contract" have the meanings given in section 4 of the Act.

| | | | |
|--|--|----------------|--|
| Head contractor (business name of head contractor): | | | |
| <input type="checkbox"/> 1. has entered into a contract with: (business name of subcontractor) | | | |
| ABN of subcontractor | | | |
| Contract number/identifier | | | |
| or | | | |
| <input type="checkbox"/> 2. has entered into a contract with the subcontractors listed in Schedule 1 | | | |
| | | | |
| This statement applies to work between (start date) | | and (end date) | |
| or | | | |
| This statement applies to work completed in Stage (number) of the construction contract | | | |
| | | | |
| Subject of the payment claim dated (date) | | | |

DECLARATION FOR SUPPORTING STATEMENT

I, (full name)

being the head contractor, a director of the head contractor or a person authorised by the head contractor on whose behalf this declaration is made, hereby declare that to the best of my knowledge and belief all subcontractors, if any, have been paid all amounts that have become due and payable in relation to the construction work that is the subject of this payment claim.

These subcontractors and the amounts paid to them are identified in Schedule 1 on page 3 of this Supporting Statement.

It is an offence under section 13(7) of the Act for a head contractor to serve a payment claim on the principal, if it is not accompanied by a supporting statement that indicates that it relates to that payment claim. The maximum penalty is \$110,000 for corporations, and \$22,000 for an individual.

It is also an offence under the Act for a head contractor to serve a payment claim accompanied by a supporting statement knowing that the statement is false or misleading in a material particular in the particular circumstances. The maximum penalty is \$110,000 for corporations, and \$22,000 or 3 months imprisonment (or both) for individuals.

| | |
|-------------------------|--|
| Full Name of Individual | |
| Position/Title | |
| Signature | |
| Date | |

SCHEDULE 1 (PAGE 3 OF SUPPORTING STATEMENT)

List all subcontractors that have been paid all amounts that have become due and payable in relation to the construction work that is the subject of the payment claim which this supporting statement accompanies.

| Name of Subcontractor | ABN | Agreement number/ identifier | Date of works (period or stage) | Date of subcontractor's payment claim |
|-----------------------|-----|------------------------------|---------------------------------|---------------------------------------|
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Approved form under Building and Construction Industry Security of Payment Act 1999 - Section 13(9) For more information visit Fair Trading website: www.fairtrading.nsw.gov.au/trades-and-businesses/construction-and-trade-essentials/security-of-payment.

SUBCONTRACTOR'S STATEMENT

**REGARDING WORKER'S COMPENSATION, PAYROLL TAX
AND REMUNERATION (NOTE 1)**

Subcontractor: ABN:
(Business name)

of
(Address of subcontractor)

has entered into a contract with ABN:
(Business name of principal contractor)

(Note 2)

Contract number/identifier

(Note 3)

This Statement applies for work between:/...../..... and/...../.....

(Note 4)

subject of the payment claim dated:/...../.....

(Note 5)

I, a Director or a person authorised by the Subcontractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters which are contained in this Subcontractor's Statement and declare the following to the best of my knowledge and belief:

- (a) The abovementioned Subcontractor has either employed or engaged workers or subcontractors during the above period of this contract. **Tick** if true and comply with (b) to (g) below, as applicable. If it is not the case that the workers or subcontractors are involved or you are an exempt employer for workers compensation purposes **tick** and only complete (f) and (g) below. You must tick one box. **(Note 6)**
- (b) All workers compensation insurance premiums payable by the Subcontractor in respect of the work done under the contract have been paid. The Certificate of Currency for that insurance is attached and is **dated**/...../..... **(Note 7)**
- (c) All remuneration payable to relevant employees for work under the contract for the above period has been paid. **(Note 8)**
- (d) Where the Subcontractor is required to be registered as an employer under the *Payroll Tax Act 2007*, the Subcontractor has paid all payroll tax due in respect of employees who performed work under the contract, as required at the date of this Subcontractor's Statement. **(Note 9)**
- (e) Where the Subcontractor is also a principal contractor in connection with the work, the Subcontractor has in its capacity of principal contractor been given a written Subcontractor's Statement by its subcontractor(s) in connection with that work for the period stated above. **(Note 10)**

(f) Signature Full name

(g) Position/Title Date/...../.....

NOTE: Where required [in (b)] above, this Statement must be accompanied by the relevant Certificate of Currency to comply with section 175B of the Workers Compensation Act 1987 (NSW).

Notes to the Subcontractor's Statement

These notes have been prepared using the terms in the referenced Acts. Where this Statement is being completed for the purposes of this Contract, (unless the context otherwise requires) 'subcontractor' means the 'Contractor' and 'principal contractor' means the 'Principal'.

1. This form is prepared for the purpose of section 175B of the *Workers Compensation Act 1987* (NSW), Schedule 2 Part 5 of the *Payroll Tax Act 2007* (NSW), section 127 of the *Industrial Relations Act 1996* (NSW). If this form is completed in accordance with these provisions, a principal contractor is relieved of liability for workers compensation premiums, payroll tax and remuneration payable by the subcontractor.

A principal contractor can be generally defined to include any person who has entered into a contract for the carrying out of work by another person (or other legal entity called the subcontractor) and where employees of the subcontractor are engaged in carrying out the work which is in connection with the principal contractor's business.

2. For the purpose of this Subcontractor's Statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity) referred to as the subcontractor, and employees/workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal contractor.
3. Provide the unique contract number, title, or other information that identifies the contract.
4. In order to meet the requirements of s127 of the *Industrial Relations Act 1996* (NSW), a statement in relation to remuneration must state the period to which the statement relates. For sequential Statements ensure that the dates provide continuous coverage.

Section 127(6) of the *Industrial Relations Act 1996* (NSW) defines remuneration "as remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees."

Section 127(11) of the *Industrial Relations Act 1996* (NSW) states "to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor."

5. Provide the date of the most recent payment claim.
6. For Workers Compensation purposes an exempt employer is an employer who pays less than \$7,500 annually, who does not employ an apprentice or trainee and is not a member of a group.
7. In completing the Subcontractor's Statement, a subcontractor declares that workers compensation insurance premiums payable up to and including the date(s) on the Statement have been paid, and all premiums owing during the term of the contract will be paid.
8. In completing the Subcontractor's Statement, a subcontractor declares that all remuneration payable to relevant employees for work under the contract has been paid.
9. In completing the Subcontractor's Statement, a subcontractor declares that all payroll tax payable relating to the work undertaken has been paid.
10. It is important to note that a business could be both a subcontractor and a principal contractor if a business "in turn" engages subcontractors to carry out the work. If your business engages a subcontractor you are to also obtain Subcontractor's Statements from your subcontractors.

Statement Retention

The principal contractor receiving a Subcontractor's Statement must keep a copy of the Statement for the periods stated in the respective legislation. This is currently up to seven years.

Offences in respect of a false Statement

In terms of s127(8) of the *Industrial Relations Act 1996* (NSW), a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence if:

- (a) the person is the subcontractor;
- (b) the person is authorised by the subcontractor to give the statement on behalf of the subcontractor; or
- (c) the person holds out or represents that the person is authorised by the subcontractor to give the statement on behalf of the subcontractor.

In terms of s175B of the *Workers Compensation Act 1987* (NSW) and clause 18 of Schedule 2 of the *Payroll Tax Act 2007* (NSW) a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence.

Further Information

For more information visit SafeWork website <https://www.safework.nsw.gov.au/>, iCare (for Workers Compensation queries) via the iCare web site or NSW Industrial Relations website, <http://www.industrialrelations.nsw.gov.au>

Copies of relevant legislation can be found at www.legislation.nsw.gov.au.

2 MODERN SLAVERY

In this Schedule:

| | |
|----------------------------------|--|
| Anti-slavery Commissioner | means the Anti-slavery Commissioner appointed under the <i>Modern Slavery Act 2018</i> (NSW); |
| Information | may include (as applicable) information as to any risks of, actual or suspected occurrences of, and remedial action taken in respect of, Modern Slavery but excludes "personal information" as defined in the Privacy and Personal Information Protection Act 1998 (NSW) or information which tends to identify individuals; |
| Modern Slavery | has the same meaning as in the Modern Slavery Laws and includes slavery, servitude, forced labour, human trafficking, debt bondage, organ trafficking, forced marriage and the exploitation of children; |
| Modern Slavery Laws | means, as applicable, the <i>Modern Slavery Act 2018</i> (NSW) and the <i>Modern Slavery Act 2018</i> (Cth); |
| Modern Slavery Offence | has the same meaning as in the <i>Modern Slavery Act 2018</i> (NSW); |
| Modern Slavery Statement | means a modern slavery statement as required or volunteered under the <i>Modern Slavery Act 2018</i> (Cth). |

Compliance

1. The Consultant warrants that, as at the date of its Date of Contract, neither the Consultant, any entity that it owns or controls or, to the best of its knowledge, any sub-Consultant of the Consultant, has been convicted of a Modern Slavery Offence.

Information

2. The Consultant must:
 - (a) subject to any restrictions under any applicable laws by which it is bound, provide to the Principal, within 30 days of a request by the Principal, any Information and other assistance, as reasonably requested by the Principal, to enable the Principal to meet its obligations under the *Modern Slavery Act 2018* (NSW) and associated regulatory requirements (for example, annual reporting requirements and NSW Procurement Board directions), including cooperating in any Modern Slavery audit undertaken by the Principal (including by a third party on behalf of the Principal) or the NSW Audit Office, providing reasonable access to the Principal's/Audit Office's auditors to interview the Consultant's staff and, so far as these matters are known to the Consultant, disclosing the source, place and country of origin of goods and services being supplied;
 - (b) within 7 days of providing a Modern Slavery Statement to the Commonwealth, provide a copy of that Modern Slavery Statement to the Principal; and
 - (c) notify the Principal in writing as soon as it becomes aware of either or both of the following:
 - (i) a material change to any of the Information it has provided to the Principal in relation to Modern Slavery; and
 - (ii) any actual or suspected occurrence of Modern Slavery in its operations or supply chains (or those of any entity that it owns or controls).
3. The Consultant may provide any Information or report requested by the Principal in the form of a previously prepared statement or repurposed report, for example, a statement provided in response to a similar request for information from another Australian public sector agency, or refer the Principal to its publicly available Modern Slavery Statement, provided that such statement or report provides generally the same Information as that sought by the Principal.
4. The Consultant must, during the term of this Agreement and for a period of seven (7) years thereafter:
 - (a) maintain; and
 - (b) upon the Principal's reasonable request, give the Principal access to, and/or copies of,

a complete set of records in the possession or control of the Consultant to trace, so far as practicable, the supply chain of all goods and services provided under this Agreement and to enable the Principal to assess the Consultant's compliance with this Annexure (Modern Slavery).

Modern Slavery due diligence

5. The Consultant must take reasonable steps to ensure that Modern Slavery is not occurring in the operations and supply chains of the Consultant and any entity that it owns or controls.

Subcontractors

6. The Consultant must take reasonable steps to ensure that all subcontracts of the whole or part of this Agreement contain Modern Slavery provisions that are reasonably consistent with the provisions in this Annexure (Modern Slavery), having regard to the nature of the procurement.

Response to Modern Slavery incident

7. If the Consultant becomes aware of any actual or suspected occurrence of Modern Slavery in its operations or supply chains (or in those of any entity that it owns or controls), the Consultant must take reasonable steps to respond to and address the occurrence in accordance with any internal Modern Slavery strategy and procedures of the Consultant and any relevant Code of Practice/ Conduct or other guidance issued by the Anti-slavery Commissioner or (if the Principal notifies the Consultant that it requires the Consultant to comply with the relevant NSW Procurement Board Code/guidance) by the NSW Procurement Board.
8. Any action taken by the Consultant under the Clause above will not affect any rights of the Principal under this Contract, including its rights under Clause 10 – Termination.

Termination on ground of Modern Slavery

9. The Principal may terminate this Agreement for Consultant's Default in accordance with the termination clause of the General Conditions of Contract, on any one or more of the following grounds:
 - (a) the Consultant has failed to disclose to the Principal, prior to the Date of Contract, that the Consultant, or any entity owned or controlled by the Consultant, has been convicted of a Modern Slavery Offence;
 - (b) the Consultant, or any entity owned or controlled by the Consultant, is convicted of a Modern Slavery Offence during the term of this Contract;
 - (c) in the Principal's reasonable view, the Consultant has failed to notify the Principal as soon as it became aware of an actual or suspected occurrence of Modern Slavery in its operations or supply chains (or in those of any entity that it owns or controls);
 - (d) in the Principal's reasonable view, the Consultant has failed to take reasonable steps to respond to an actual or suspected occurrence of Modern Slavery in its operations or supply chains (or in those of any entity that it owns or controls); or
 - (e) in the Principal's reasonable view and in accordance with Clause 10.4.4., the Consultant has otherwise committed a substantial breach (including multiple minor (non-trivial) breaches).

The Services



New South Wales Government

Construction Consultancy Services Services to Be Provided

The Services

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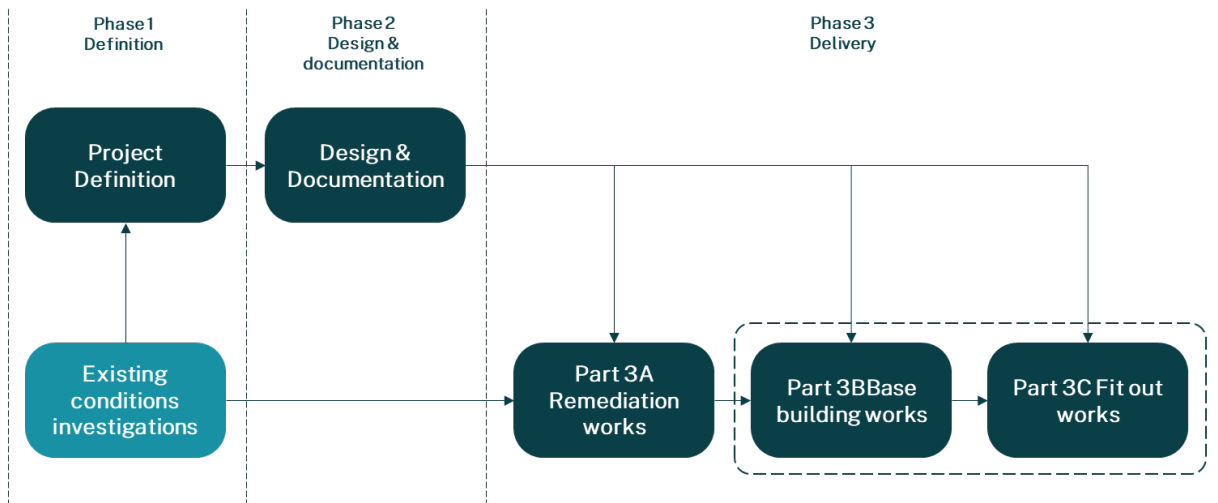
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1 BACKGROUND

Tamworth Regional Council’s (TRC) administrative headquarters Ray Walsh House has been vacated due to the failure of the air conditioning system servicing three of the five floors of the building. The air conditioning systems are unable to be repaired or serviced due to the presence of friable asbestos in the form of sprayed Vermiculite fire protection to structural steel floor members. To allow the replacement of the air conditioning systems TRC intends to remove all asbestos containing materials (ACM) within the entire building. To facilitate removal of all ACM demolition of a significant amount of the existing internal structure is required. TRC are taking this opportunity consider the future options for Council’s administration facilities that could include refurbishment of the entire building and bring the building and its function up to current construction and industry standards or other should the value management assessment of the options provide for more beneficial results.

Ray Walsh house is situated at 435-437 Peel Street Tamworth and includes basement carparking and approximately 5,500sqm of floor space across 5 floors.

To establish an outline approach to the project the following delivery methodology has been identified. This approach to be reviewed at the completion of the Project Definition Phase and refined for an efficient delivery to budget and program.



The overall outline of Phase 1 Definition is as follows:

| Aspect | Details |
|-----------|---|
| Objective | <ul style="list-style-type: none"> Completion of due diligence investigations to confirm existing conditions. Completion of a project brief defining the requirements of Council for the completed Ray Walsh House Refurbishment. Agreement on approach to the budget, program and procurement methodology to deliver the works. Establishment of project team with defined roles and responsibilities. |
| Key Tasks | <ul style="list-style-type: none"> Overall management of the processes and communication required to maintain the ongoing development and delivery of the project and defined project objectives. Procurement and management of consultant team (refer to Appendix B for initial expectations of required consultants) Manage and coordinate engagements of council staff with consultant teams Progress reporting through agreed governance arrangements (PCG) |

| Aspect | Details |
|--------------|---|
| | <ul style="list-style-type: none"> • Management of disciplines and contractors undertaking investigations works on clarity of scope, deliverable, and safe work processes in place. • Assisting Council in the application for funding through suitable grant programs. • Establishment of Project Governance Structure • Development of master program • Optional EOI for contractors to determine market capability and capacity. |
| Deliverables | <p>Project Management deliverables:</p> <ul style="list-style-type: none"> • Project management plan • Master program • Project risk plan and register • Procurement strategy • Progress reporting through agreed governance arrangements (PCG & ESC) <p>Project deliverables to be managed:</p> <ul style="list-style-type: none"> • Project definition report incorporating: <ul style="list-style-type: none"> - Project brief - Project Cost plan - Planning pathway - Investigation reporting |

2 DESCRIPTION OF THE SERVICES

The Services under this Agreement include:

- Undertake a desktop assessment of the structural documentation of the existing building to assess viability and implications for extending the design life of the structure.
- Undertake site visit to visually assess the condition of the existing structure and identify any areas requiring further investigation.
- Provide a report compiling the works completed and recommendations resulting from, including defined scopes of work for identified further investigations.
- Supporting development of options for the facility to support the determined functional requirements, and
- Provide input and assistance to the Principal in selecting the best option to continue for completion of the project.

Deliverables

Key deliverables identified for the Project Definition Phase and the allocation to primary responsibility is set out below. All consultants are responsible for supporting the other consultants and provision of information and/or reviews for the completion all deliverables.

Project Definition Phase

| Deliverable | Responsible Consultant |
|---------------------------------------|------------------------|
| Project Management Plan | Project Manager |
| Project program | Project Manager |
| Project Cost Plan | Quantity Surveyor |
| Strategic & Functional Brief | Architect |
| Preliminary CAD format building model | Architect |

| | |
|--|---|
| Existing Conditions Structural Assessment (Desktop study), Report including recommendations for additional investigations. | Structural Engineer |
| Existing Conditions Building Regulations Assessment | NCC/DDA Consultant |
| Additional Site Investigation Reports | Prepared by engaged contractors and compiled by Project Manager |
| Project Options Paper | Project Manager/QS/Architect |

Primary Design Consultant

The Architect shall act as the Primary Design Consultant for the project to coordinate design across all disciplines and ensure that the project documentation forms a complete, comprehensive set, including taking responsibility for the integration of architecture, landscape, structural, civil and services designs. The lead consultant will be responsible for ensuring that the designs of other consultants fit together physically within the space available in a manner that achieves the design intent and requirements of the project brief (client brief and design brief). They will also ensure that the equipment, fittings, and finishes proposed by other disciplines are compatible in style with the overall principal's defined requirements.

3 STATEMENT OF PURPOSE

The purpose of the Services is to:

- Provide consultancy services including all coordination and communication activities required to complete the Project Definition Phase of the Ray Walsh House Refurbishment (including site and building investigations) in order to determine an agreed approach to the project and a defined scope of works required for the completion of the project within the agreed program and budget.
- The documentation produced by the Consultants under the Project Definition Phase will be used by the Principal to review the potential options and to determine the right solution and scope, program and budget required to complete the project.

This statement of purpose is not intended to be an exhaustive list of the purposes required by this Agreement.

4 PROJECT BUDGET

The initially identified total Project Budget is \$40,000,000.00 excl. GST

The Consultant is responsible for supporting the development of a project cost plan to confirm the budget and designing the proposed works to meet the Approved Project Budget.

The Project budget must not be exceeded without prior approval from the Principal.

5 PROJECT PROGRAM

The Approved Project Program identifies activities required to bring the project to completion, which may include approvals and clearances and inputs required from the Principal and others. The Program highlights critical milestones for each phase of the Project, including the Services, as follows:

- Completion of Project Definition Phase – March 2023.
- Review of options and determination of Scope of works for following phases of the project – April 2023.
- Completion of overall project December 2025 (determined by current Principal's lease arrangements).

Unless otherwise approved by the Principal, the Consultant must complete the Services within the time allowed for them in the Approved Project Program.

6 COST ESTIMATING

The Consultant must support the Quantity Surveyor's scope in the development of cost estimates at the following milestones:

- Project Cost Plan as part of Project Definition Plan

7 QUALITY MANAGEMENT SYSTEM

Requirement

All Services under the Agreement, including services by subconsultants and secondary consultants, must be carried out under a quality management system certified as meeting the requirements of AS/NZS ISO 9001, except when the Principal has accepted a tender where the situation is otherwise.

Audits

The Principal may conduct audits of the Consultant's and subconsultants' quality management systems during the Agreement. These audits may be carried out by or on behalf of the Principal. Reasonable prior notification of the date and scope of an audit will be given.

8 PROJECT MANAGEMENT PLAN

The Consultant must develop, document, implement and maintain Service specific inputs into the overall Project Management Plan (PMP managed by the Project Manager).

The Consultant must provide the inputs within the time specified in the Agreement Information, or as otherwise agreed by the Principal to suit the progressive implementation of the Services Delivery Plan in conjunction with the Services. The Services Delivery Plan may be prepared in stages, but the relevant parts of the Plan must be submitted, considered by the Principal (allow 5 business days from receipt by the Principal), and in place before related Services commence.

The Consultant must incorporate relevant information provided with the Consultant's Tender into the Services Delivery Plan.

The Services Delivery Plan must cover:

- subconsultants and the interaction and integration of their activities with the Services;
- management and control of documentation, including CAD drawings, and all Contract Material to be prepared for the Services, including reports and other documents;
- design management;
- time management, including program management;
- cost control/reporting/recording;
- stakeholder communication, consultation and liaison;
- auditing and audit trails;
- reporting and monitoring;
- health and safety in design and in activities on the work site;
- process control generally; and
- other management required.

With each payment claim the Consultant must submit a description of any changes proposed to the Project Management Plan, including an updated activities list showing any changes in the Services breakdown structure, the program, personnel and progress of the Services.

9 CHANGE REQUESTS

The Consultant must develop a suitable Change Request Form and use it to confirm in writing to the Principal the details of all changes to the technical requirements of the Agreement, whether they are requested by the Principal, the Client or the Consultant.

When the Principal or the Client orally requests a change, the Consultant must seek written confirmation from the Principal using a Change Request Form.

If the Consultant seeks a change to the requirements, a request must be made to the Principal using the Change Request Form and the Consultant must not implement the change until it is approved by the Principal.

Keep a running log of all changes requested and confirmed or approved. Advise the Principal of the time and cost implications no later than 5 business days after confirmation or approval of a change request.

10 MEETINGS

The Consultant must:

- attend design review meetings with the Principal as requested to specifically review progress and results at the completion of each phase of the works.;
- conduct coordination meetings with subconsultants and/or others who are assisting in providing the Services, including issuing agendas, chairing the meetings, taking and issuing minutes (as required); and managing any correspondence related to the meetings; and
- advise the Principal of the dates of coordination meetings at least one week in advance.

The schedule for design review meetings is:

- At end of each project phase
- Additionally as required by the Principal

Design Review meetings with the Principal will be in person in Tamworth.

The Project Manager will arrange, chair, and record the outcomes of design review meetings.

The Architect (acting as Principal Design Consultant) will be responsible for chairing and minuting the consultant design and coordination meetings.

The schedule for design meetings is:

- Fortnightly

Consultants Design Team meetings will be via MS Teams

11 SITE VISITS

The Consultant is expected to make allowance for all required site visits/inspections required to complete their engaged scope of work.

For additional site visits requested by the Principal to support review and decision making activities, these will be only through prior agreement with the Principal and at the tendered rates.

The rate tendered for any requested site visit will be deemed to cover all costs related to a site visit, including the cost of personnel, on-costs and overheads, travel, accommodation, and subsistence.

12 RELEVANT INFORMATION

The following relevant information is provided at Appendix A for the Consultant's use in performing the Services:

- Ray Walsh House Asbestos Register
- Ray Walsh House Construction documentation - drawings

Advise the Principal as soon as possible if any of the above information contains errors or requirements or provisions that are contrary to other requirements of this Agreement.

13 STANDARDS AND GUIDELINES

The Consultant must comply with the latest standards, codes, guidelines and other standard documents relevant to the project and the disciplines involved in carrying out the Services, including, but not limited to:

- National Construction Code
- Disability Discrimination Act

14 FORMAT FOR CONTRACT MATERIAL

Provide the following Contract Material both in electronic format:

- Management Plans input (editable format)
- Reports
- Briefs
- Drawings
- Specifications

Use the following formats for the supply of Contract Material:

- To be determined in later Phases not part of the Project Definition Phase

15 CHECKING OF CONTRACT MATERIAL (Not part of the Project Definition phase scope of works)

Verification

Together with the design documents and the completed RFT Documents, provide:

- a quality management activities list fully signed off by the key personnel nominated;
- evidence (such as ») to demonstrate that the design documents and the RFT Documents have been checked and meet the requirements of the Agreement as amended by approved change requests.

Failure to comply

If the Principal considers that the Contract Material provided by the Consultant does not comply with the requirements of the Agreement, despite the provision of evidence that it has been checked by the Consultant, the Principal may:

- implement such checks as the Principal determines are required;
- request the Consultant to amend the Contract Material to meet the requirements of the Agreement; and
- recover the cost to the Principal of implementing such checks against payments due to the Consultant.

16 PROGRESSIVE SUBMISSION OF CONTRACT MATERIAL (Not part of the Project Definition phase scope of works)

The design documents must be submitted to the Principal for comment at the following stages:

- TBC

The RFT Documents must be submitted to the Principal for comment at the following stages:

- TBC

In addition, » provide a Status Report that includes the following:

- the status of each Section of the RFT Documents indicating whether it is Not Started, Preliminary Draft Only, Final (Ready for Checking) or Final (Checked) as applicable;
- a copy of the log of Change Requests and their current status (Received, Submitted, Confirmed or Approved);
- an updated Safety in Design Report for the design services provided to date;
- advice of any delays that have occurred beyond the control of the Consultant; and
- an updated Program showing the current predicted date for submission of the specified documentation, including the Final 100% RFT Documents.

17 PREPARATION OF RFT DOCUMENTS (Not part of the Project Definition phase scope of works)

The Consultant must produce and deliver to the Principal a complete set of RFT Documents that fully details the form, nature and character of the works to be constructed.

The Consultant must base the RFT Documents on the following standard forms available through the NSW Government *Procurement System for Construction*:

- GC21 Edition 2

The standard provisions in standard forms from the NSW Government *Procurement System for Construction* must not be amended without express approval from the Principal.

Technical specification (building contracts)

When specification documents are based on NATSPEC, the producer of the documents must subscribe to NATSPEC. When submitting NATSPEC-based documents to the Principal, provide proof of currency of such subscription.

Technical specification (engineering contracts)

Prepare the technical specification under the following section headings:

- TBC

Include Inspection, Witness and Hold Points for:

- TBC

18 WORK HEALTH AND SAFETY (Not part of the Project Definition phase scope of works)

Safe Design Review Report

If the Services include the design of any plant, substance or structure, the Consultant must conduct a safe design review ensuring, so far as is reasonably practicable, that the plant, substance or structure is designed to be without risks for those who will manufacture, construct, assemble, alter, fit-out, commission, use, store, maintain, refurbish, renovate, repair, decommission, demolish, dismantle or dispose of the plant, substance or structure.

The Consultant must provide the Principal with a safe design review report that includes all necessary information regarding the safe use of any plant, substance or structure designed as part of the Services, including:

- the purpose(s) for which it was designed; and
- any conditions necessary to ensure that the plant, substance, or structure is without risks to health and safety when used for the purpose(s) for which it was designed or any reasonably foreseeable related activities.

In accordance with section 295 of the *Work Health and Safety Regulation 2011* (NSW), if the Consultant designs a structure as part of the Services, the Consultant must include in the safe design review report details of any hazards relating to the design of the structure that:

- create a risk to the health or safety of persons who are to carry out any construction work on the structure; and
- are associated only with the design and not with other designs of the same type of structure.

Work Site Safety

If the Consultant is required to visit, work, or control work on a work site, including a site controlled by others, the Consultant must:

- .1 make its own inspections of the site and identification of hazards arising from the work site;
- .2 assess the risk of harm to the health or safety of any person from any hazard identified under its control;
- .3 in assessing risks and hazards, take into account its own inspections and any hazard identification or risk assessment, elimination or control information provided to the Consultant;
- .4 review and comply with any risk assessment and any measures adopted to control risk advised to the Consultant by the Principal or others;

- .5 eliminate or control risks to the health or safety of any person where those risks are under its control;
- .6 in any review, assessment and control of risks, take into account but not rely alone on any hazard identification or risk assessment, elimination or control information provided to the Consultant by the Principal or others;
- .7 not rely on the omission of any mention or detail of any hazard in the information provided by the Principal as evidence of the absence or limitation of any hazard;
- .8 comply with all authorised directions, procedures and policies pertaining to visiting, working or controlling work on the work site;
- .9 document and implement a Safe Work Method Statement for the services in accordance with the NSW Government's *Work Health and Safety Management Systems and Auditing Guidelines (WHSMS Guidelines)*.

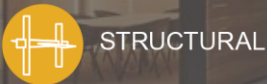
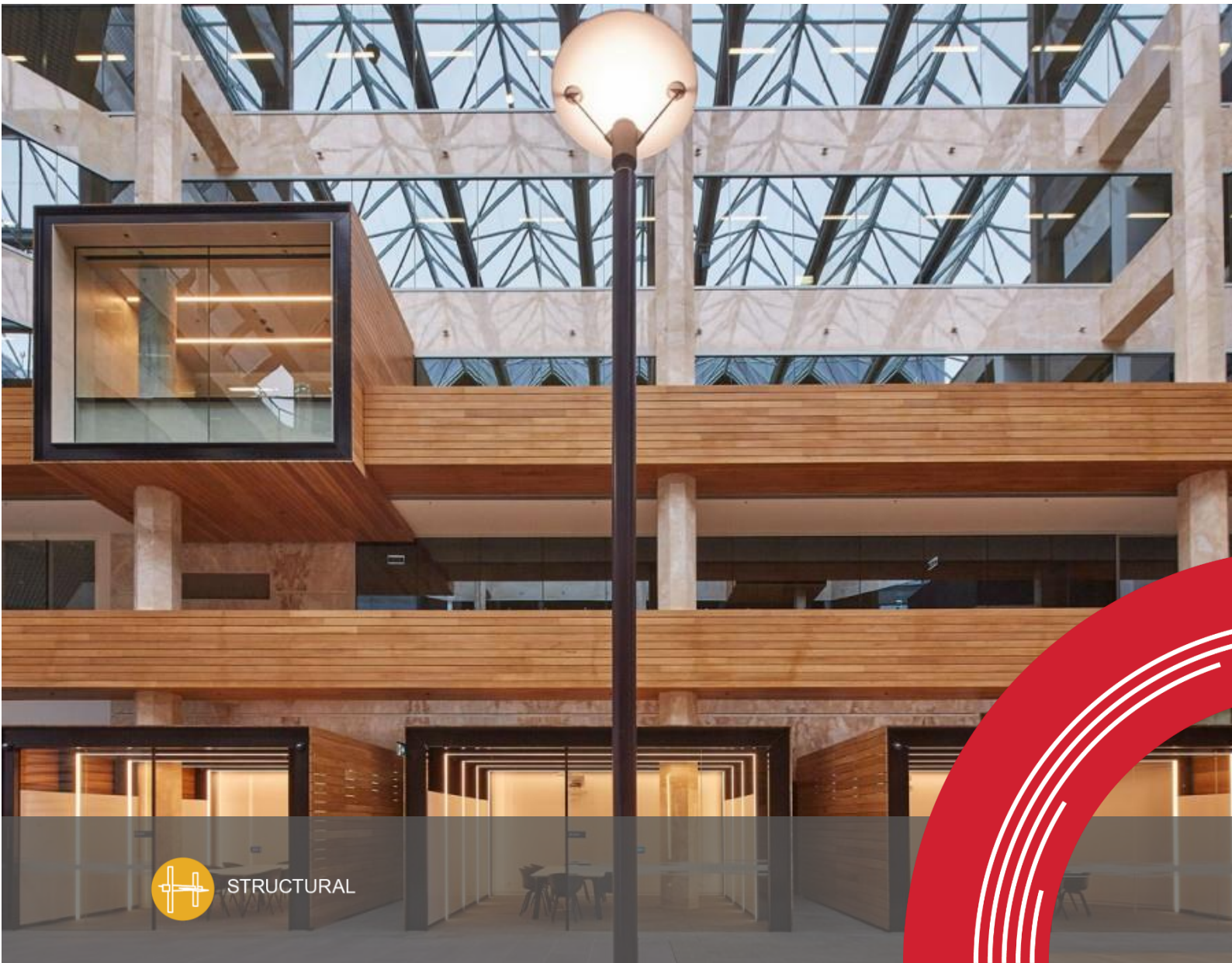
If a subconsultant carries out work on a work site, that subconsultant must document and implement Safe Work Method Statements in accordance with the *WHSMS Guidelines*, except that, when the risks associated with the work are shown to the Principal to be low and covered by a Safe Work Method Statement provided by the Consultant, the subconsultants may implement the relevant parts of that Statement.

The Consultant must submit the Consultant's Safe Work Method Statements and any subconsultant Safe Work Method Statements to the Principal at least one week before carrying out the relevant work on the work site. Submit revisions to the Safe Work Method Statements to the Principal.

19 LOCATING EXISTING SERVICES (Not part of the Project Definition phase scope of works)

If the Services include any excavation work, the Consultant is responsible for locating existing services and repairing any damage caused by the Consultant's activities under the Agreement.

Before commencing excavation, the Consultant must obtain, from the Dial Before You Dig information service or relevant public authorities or owners of underground services, written confirmation of the exact positions of all underground services at and around the work site, and verify and prominently mark the locations of the underground services on the work site.



Ray Walsh House, Tamworth

Proposal prepared for NSW Public Works

3 March 2023

NL230486

NSW Public Works
Stuart Landrigan
117 Bull Street
Newcastle West NSW 2302

Dear Stuart,

Re: Ray Walsh House, Tamworth

We understand that NSW Public Works are seeking fees from Northrop Consulting Engineers to undertake a desktop study of Ray Walsh House, Tamworth.

Further to the brief provided to us on 17 February 2023, we understand that Tamworth Regional Council's (TRC) administrative headquarters Ray Walsh House has been vacated due to the failure of the air conditioning system servicing three of the five floors of the building. The air conditioning systems are unable to be repaired or serviced due to the presence of friable asbestos in the form of sprayed Vermiculite fire protection to structural steel floor members. To allow the replacement of the air conditioning systems TRC intends to remove all asbestos containing materials (ACM) within the entire building. To facilitate removal of all ACM demolition of a significant amount of the existing internal structure is required. TRC are taking this opportunity consider the future options for Council's administration facilities that could include refurbishment of the entire building and bring the building and its function up to current construction and industry standards or other should the value management assessment of the options provide for more beneficial results.

Ray Walsh house is situated at 435-437 Peel Street Tamworth and includes basement carparking and approximately 5,500sqm of floor space across 5 floors.

We note that Northrop can also provide the following services, which can and will be drawn upon as required for your project where appropriate:

- Civil
- Electrical
- Mechanical
- Flood Modelling
- Water and Environment
- Hydraulic and Fire
- ESD and Green Star
- NABERS Assessments and Energy Consulting
- Mine Subsidence Advice

As part of this proposal, the following have been included herein; a brief introduction of our company, the proposed scope of works, the fee to undertake the project, a selection of our relevant experience and the terms of engagement.

In summary, our goal is the same as yours. We want to create a project that we can proudly associate the Northrop name with. This pride will drive us to find innovative and cost-effective design solutions and ensure that you receive the best service available.

Yours sincerely,



Todd Bailey
Principal | Senior Structural Engineer
BEng (Civil) MIEAust CPEng NER (Structural)

| | | Date |
|-------------|----|------------|
| Prepared by | TB | 03/03/2023 |
| Checked by | MA | 03/03/2023 |
| Admin | HB | 03/03/2023 |

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Introducing Northrop

Established in 1976, Northrop is a locally-owned engineering consultancy with ten offices and 400 people across NSW, ACT, Queensland and Victoria.

Highly experienced in Civil, Structural, Building Services and Sustainability, we also have extensive expertise in emerging and niche engineering services.

We customise our service offerings to work standalone, or come together as a successful multidisciplinary team.

At Northrop we believe that by developing our people to their full potential, building longstanding client relationships and through our determination to make every project a success, we help our clients realise their potential.

People like you!

The projects we undertake with you come in all sizes across a range of sectors including aged care, health, education, hospitality, land development, commercial, industrial and residential, and we have an exceptional track record of delivering high value, pragmatic and successful solutions.

Choosing the right engineering consultant can be a challenge, so why should you consider working with Northrop?

1

Working directly with owners

We are employee owned, meaning the team you work with has a direct investment in the success of your project, and you get to work with our most senior and talented people. We operate from ten locations along the east coast of Australia, between Melbourne and Brisbane; each of which is home to our owners and their teams who are committed to the local community and know the area intimately.

Our local experts are backed by our collective national knowledge base ensuring you get the right advice, with the priority service you deserve.

2

Great ideas come from around the table

We invest the time to fully understand both your business and the project that lies ahead. We approach every project with a wealth of knowledge and an open mind, and believe the most creative solutions come from a collaborative and inclusive approach. We encourage your input and ideas, and those of your design team, at all stages of the project. We love a challenge, and love to challenge the norms too; exploring different options to ensure we arrive at the very best outcome for your business.

3

Industry recognised leaders

As a client of Northrop, you'll enjoy strong relationships with our people who can provide industry insights and strategic project advice to help you deliver business success. We stay at the forefront of national and international trends; we partner with country's leading organisations, and are on industry boards to ensure we're ahead of the curve. We bring this knowledge to the design table and happily share it with you.

4

A track record to bank on

We've been in business for over 40 years, creating high value, pragmatic and successful solutions for our clients. Our business is built on long-term relationships. We listen to you, we work hard to earn your trust and confidence, and we collaborate with you to deliver the very best.

Tender Form - Price

Tender Closing Officer

Name: Stuart Landrigan

Address: Via email – stuart.landrigan@pwa.nsw.gov.au

Facsimile number: N/A

Tenderer's Details

Name: Northrop Consulting Engineers Pty Ltd
(in block letters) ABN: 81 094 433 100

Address: Level 1, 215 Pacific Highway
Charlestown NSW 2290

Telephone number: 02 4943 1777

Email address: tbailey@northrop.com.au

hereby tender(s) to perform the services for:

Tender Details

Agreement name: Ray Walsh House Refurbishment – Structural Engineering Consultancy Services

Agreement number: RFT-10056431

in accordance with the following documents:

Attached is the information required in Envelope 1.

For the Fee, being the lump sum of: TWENTY-NINE THOUSAND and FOURTY DOLLARS

\$29,040.00 including GST.

Hourly Rates for Variations

Complete this Tender Schedule by inserting the required information in the table below. Add rows as required to include all personnel anticipated to be involved in carrying out the Services.

All rates must include GST.

| Role | Name | Hourly Rate |
|--------------------|---------------|-------------|
| Principal Engineer | Todd Bailey | \$385.00 |
| Senior Engineer | Matthew Allen | \$330.00 |
| Administration | Holy Bajzath | \$132.00 |

| Activity | Details | Rate |
|------------|--|------------|
| Site Visit | Cost for additional single site visit/ Presentation to Tamworth on prior approval and at request of the Principal. | \$3,850.00 |

Agreement Information Items

The Consultant

| | |
|---------------------------|-------------------------------|
| The Consultant is: | Northrop Consulting Engineers |
|---------------------------|-------------------------------|

| | |
|---------------------------------------|----------------------|
| The Consultant's ABN or ACN is | ABN – 81 094 433 100 |
| | ACN – 094 433 100 |

Consultant's Authorised Person

| | |
|---|-------------|
| The Consultant's Authorised Person is: | Todd Bailey |
|---|-------------|

| | |
|--------------------------|--------------|
| Telephone number: | 02 4943 1777 |
|--------------------------|--------------|

| | |
|-----------------------|-------------------------|
| Email address: | tbailey@northrop.com.au |
|-----------------------|-------------------------|

Intellectual Property

Government policy is that the Principal retains sole intellectual property rights. If the tenderer seeks to amend this, the tenderer should nominate the Contract Material where the tenderer retains title to Intellectual Property that is created outside the terms of the Agreement.

Mentioned in clause 7.1

| | |
|--|-----------------------------------|
| Intellectual property not vesting in the Principal is: | ("Nil" applies if not filled in") |
|--|-----------------------------------|

Notices

Notices to the Consultant

For notices to the Consultant the intended recipient is the Consultant's Authorised Person.

| | |
|---|--|
| Office address: (for delivery by hand) | As nominated in the Consultant's Tender and accepted by the Principal. |
|---|--|

| | |
|---|--|
| Postal address: (for delivery by post) | As nominated in the Consultant's Tender and accepted by the Principal. |
|---|--|

| | |
|---------------|--|
| Email address | As nominated in the Consultant's Tender and accepted by the Principal. |
|---------------|--|

Outline Scope of Works

Prepare and submit an outline scope of works for the consultancy service providing as a minimum:

- 1 An outline scope for the Services showing key activities:
 - Undertake a desktop assessment of the structural documentation of the existing building to assess viability and implications for extending the design life of the structure.
 - Undertake site visit to visually assess the condition of the existing structure and identify any areas requiring further investigation.
 - Provide a report compiling the works completed and recommendations resulting from, including defined scopes of work for identified further investigations.
 - Supporting development of options for the facility to support the determined functional requirements.
 - Provide input and assistance to the Principal in selecting the best option to continue for completion of the project.
 - Attend design review meetings with the Principal as requested to specifically review progress and results at the completion of each phase of the works.
- 2 An outline of the expected inputs to be supplied by the Principal:
 - Provision of existing Structural Documentation.
 - Access to the property on the proposed date of site inspection.
 - Report form Hygienist confirming the building is safe to enter.
 - Detailed architectural development layout plans.
 - Detailed site survey information.
 - Geotechnical investigation Report.
- 3 Key personnel proposed to perform the Services (including any subconsultants) including:

| Name | Role | Organisation |
|---------------|-------------------------------|-------------------------------|
| Todd Bailey | Principal Structural Engineer | Northrop Consulting Engineers |
| Matthew Allen | Senior Structural Engineer | Northrop Consulting Engineers |
| Travis Winter | Structural Engineer | Northrop Consulting Engineers |

- 4 An outline of design reviews, verification methods and proposed engagement and reviews by the Principal.
 - Internal QA review of the desktop study prior to submission of final report.

Relevant Experiences

Provide details of 2 projects that demonstrate experience in successfully delivering projects of a similar type, scale and complexity.

Project 1

| | |
|---------------------------------|---|
| Name: | University of Newcastle Maths Building |
| Location: | University of Newcastle |
| Client: | University of Newcastle |
| Consultant's Role: | Structural Consultant |
| Project Description: | Desktop review of existing building for modern code compliance and refurbishment options. |
| Project Value: | \$10M including refurb |
| Start – Completion Date: | Sept-2018 to 2022 |
| Project Referee: | Name: Ben Makaroff Title: Project Manager Organisation: UoN/ PrinciplePM Email: ben@principlepm.com.au |

Project 2

| | |
|---------------------------------|--|
| Name: | University of Newcastle HASS Building |
| Location: | University of Newcastle |
| Client: | University of Newcastle |
| Consultant's Role: | Structural Consultant |
| Project Description: | Desktop review of existing building for modern code compliance and refurbishment options, then detailed design of refurbishment. |
| Project Value: | \$4M including refurb |
| Start – Completion Date: | Oct-2019 to August 2020 |
| Project Referee: | Name: Jake Kellow Title: Lead Design Consultant/ Architect Organisation: SHAC Email: jake@shac.com.au |

Schedule Management System Information

Current status of Quality Management System

Does the Tenderer have a third party certified quality management system to AS/NZS ISO Standard 9001 or can demonstrate that equivalent systems are in place? Yes

If "Yes":

- Name of certifying third party: GRS Certification
 - Date of last internal audit: 09/09/2022
 - Date of last external audit: 22/11/2022
-

Attach a copy of the internal audit log.

Current status of Work Health and Safety Management System

Does the Tenderer have in place a Work Health and Safety Management System certified to ISO 45001 or AS/NZS 4801 or can demonstrate that equivalent systems are in place? Yes

If "Yes":

- Name of certifying third party: GRS Certification
 - Date of last internal audit: August 2022
 - Date of last external audit: November 2022
-

Structural Engineering Clarifications and Exclusions

In preparing this proposal we have made the following assumptions:

- Preparation of a Bill of Quantities or costing information.
- We have not allowed to provide advice on the façade and/ or glazing components.
- We have not allowed to review any landscape elements.
- We have not allowed for additional studies requested by Public Works or TRC after substantial commencement of works.
- Our fee is based upon complete records (structural and architectural drawings etc) being made available for the existing structures at the site. Should Northrop have to source these drawings or opening up works and site measurement and testing be required, we may of necessity need to renegotiate our fee.
- We've assumed dilapidation reporting on structures adjoining proposed works is not required.
- We have not allowed for works associated with responding to an external peer review.

We are more than happy to undertake these services, if required and can provide a fee for such works.

Engagement Form for Consultancy Services

I agree to engage Northrop Consulting Engineers on this project in accordance with this fee proposal letter, AS 4122-2010 General Conditions of Contract for Engagement of Consultants, including Annexures A & B.

Signed by Client



Signed by Consultant

Print Name

Todd Bailey

Print Name

Date

3 March 2023

Date

Refers To

Fee Proposal Dated: 3 March 2023

Job No.: NL230486

Project Name: Ray Walsh House, Tamworth

Contact Details for Invoicing

Company: NSW Public Works

Contact Person:

Postal Address:

Phone:

Email:

Annexure A to the AS4122-2010

| Item | Item |
|---|---|
| 1 (cl 1.1) The Client is the entity nominated on the engagement form or, if not completed, the entity the letter is addressed to | 9 (cl 10.2) Disbursements to be claimed by Consultant: Any reproduced documents, prints and any other copies, authority fees and any other out of pocket expenses reasonably incurred by the Consultant in the provision of the Services which are not otherwise included above or in the Letter/Proposal. |
| 2 (cl 1.1) The Consultant is: Northrop Consulting Engineers Pty Ltd ABN: 81 094 433 100 | 10 (cl 10.3) Time to claim payment no later than: No limit. |
| 3 (cl 1.1) The Contract Documents are: These General Conditions of Contract The Scope The Letter/Proposal | 11 (cl 10.6) Time for payment is no later than 21 days from date of invoice. |
| 4 (cl 1.1) The Scope is described in the following Documents, or the Scope is: As described in the Letter/Proposal as varied from time to time. | 12 (cl 10.9) Rate of interest for overdue payment is: 20% per annum, calculated on a daily basis. |
| 5 (cl 5.1) Purpose for which the Services will be suitable is/are: Refer to Letter/Proposal. | 13 (cl 12.1) In accordance with mutually agreed program. |
| 6/7 (cl 6.1) Client's representative and Consultant's (cl 6.2) representative is as specified in the Letter/Proposal. | 14 (cl 12.3(c)) Any reasonable cause. |
| 8 (cl 10.1) Claims for payment must be made on the following basis: Lump sum \$: Refer to Letter/Proposal. Time and materials basis \$: Hourly rates: Principal \$350 Senior Engineer \$275 Senior Draftsperson \$250 Engineer \$220 Draftsperson \$180 Administration \$120 All rates exclude GST | 15/16/17 Refer to Letter/Proposal. (cl 13.2, 18, 19.2) |
| | 18 (cl 21.3) Copyright and other IP: Alternative 1 applies. |
| | 19/20 (cl 21.3) Not applicable. |
| | 21 (cl 22.1) Refer to Letter/Proposal. |
| | 22 (cl 23.1) Client information, the deliverables and those documents identified in the Letter/Proposal. |
| | 23 (cl 24.4) 3 months. |
| | 24 (cl 29.1) Consultant's liability is limited in the aggregate to the fee for that component of the work or purchase order, or \$20,000 whichever is the lesser. |
| | 25 (cl 30.2) PL insurance: \$20 million for each claim and in the aggregate. |
| | 26 (cl 30.4) PI insurance: \$5 million for each claim and in the aggregate. |
| | 27 (cl 30.4) 7 years. |
| | 28 (cl 30.7) Any Client maintained insurance: see Letter/Proposal. |
| | 29 (cl 33.1) The address shown in Letter/Proposal. |
| | 30 (cl 35) Governing law: The state in which the site, to which the Services apply, exists. (in the event this is unclear, the state in which the Consultant's office is) |
| | 31 (cl 35) Yes in accordance with this Part A and Part B. |

Annexure B to the AS4122-2010

The following Special Conditions take precedence over any terms contained in AS4122-2010 Australian Standard General Conditions of Contract for the Engagement of Consultants.

| | |
|------|--|
| SC 1 | Mutual exclusion of consequential loss Notwithstanding anything to the contrary in this Contract, neither the Consultant nor Client shall be liable to each other, whether in contract, tort (including negligence), at law or in equity (to the extent permitted by law), arising out of or in connection with the Contract for loss of use, loss of income, delayed completion, economic loss or any other special, indirect or consequential loss or damage. |
| SC 2 | The Client agrees the Consultant may register a caveat on the title of any land owned by the Client as security for payment of the fees rendered under this contract and the Client acknowledges the Consultant has a caveatable interest in the land until full payment of the fees rendered under this contract. |
| SC 3 | The costs of recovering any outstanding fees under this contract shall be recoverable by the Consultant against the Client on a full indemnity basis (including solicitor costs). |

eNorthrop Quality Management System Form Rev

Internal Audit Report

1.1

Date Completed: 09/09/2022

Completed By: Kim Haylen & Holly Bajzath

Auditors Role: Regional Quality Representative,

Office Audited: Newcastle

| Projects | | | | |
|----------------|-------------------|------------|-----------------------|-------------------------------|
| Project Number | Job Manager | Discipline | Complies to QMS [Y/N] | Further Action Required [Y/N] |
| NL211183-00 | Brittany Balcombe | Civil | Yes | No |
| NL203535-00 | Ben Clark | Civil | Yes | No |
| NL211825-00 | Jordan Hoey | Civil | No | Yes |
| NL210582-00 | Chris Piper | Civil | Yes | No |
| NL220839-00 | Robert Boland | Mech | Yes | No |
| NL213621-00 | Robert Boland | Mech | No | Yes |
| NL220940-00 | Lincoln Hill | Mech | No | Yes |
| NL212819-00 | Lincoln Hill | Mech | No | Yes |
| NL220389-00 | Matthew Allen | Structural | Yes | No |
| NL213776-00 | Matthew Allen | Structural | No | Yes |
| NL202659-00 | Todd Bailey | Structural | Yes | No |

Audit Close Out

If further action required, provide details


Include information such as what action is to be taken, who is tasked with rectification, expected timing of rectification, when re-inspection should be expected to be performed.

NL213776-00 – Requires contract/ job acceptance
NL220940-00 – Not reviewed by a senior technical member
NL212819-00 – Not reviewed by a senior technical member
NL213621-00 – Proposal does not state a timeframe it is valid for
NL211825-00 - Requires contract/ job acceptance

General Comments on the Northrop Quality Management System:

Comments could include feedback received concerning how the audit was carried out, suggested improvements to the Northrop QMS, areas of inspection that were near non-compliance, any concerning trends occurring across offices, areas where understanding or knowledge was lacking or any other relevant item that could assist other Regional Quality Representatives or the Quality Manager.

| | |
|---|------------|
| Has a closing meeting or communication with all office staff occurred? | Yes |
| Has this Audit Report been saved to the Quality Management Team Site? | Yes |
| Date of next audit of this location | 09/09/2022 |

| | | | |
|------------------|---|-------------|------------|
| Signature |  | Date | 09/09/2022 |
|------------------|---|-------------|------------|

Contact Us

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