PISL0011768

DEEP CREEK WATERWAY – PROVISION OF DESIGN DEVELOPMENT SERVICES

Exemption minute

3/12/2025

Key details	
Date:	03/12/2025
TRIM/PIJC reference:	
To:	Chief Executive Officer, Suburban Land Agency – Adam Davey
Copy:	Executive Director, Place Delivery – Joey Lee Program Director, Molonglo Town Centre Program – Alastair MacCallum Development Director, Molonglo Town Centre Program – Peter Lewis
From:	Senior Development Manager, Molonglo – Jason Watson
Purpose of minute:	To seek your approval to apply an exemption under Section 10 of the *Government Procurement Regulation 2007* for the provision of design development services for the Deep Creek Waterway (PUI PISL0011768) for the reasons specified in this minute.
Recommendations:	That the CEO approves the Exemption Decisions noted below.
Critical date:	Routine
Critical reason:	N/A
Definitions used in this minute:	1. **Act** means the *Government Procurement Act 2001*; 2. **Procurement** means the provision of design development services (PUI PISL0011768) as described in this minute; 3. **Regulation** means the *Government Procurement Regulation 2007*; and 4. **Territory entity** means Suburban Land Agency.

Through / Approval

Approver	Date	Comments
Reviewed by: Alastair MacCallum, Program Director, Molonglo Town Centre	03/12/2025	Supported
Reviewed by: Joey Lee, Executive Director, Place Delivery	09/12/2025	Supported

EXEMPTION DECISION

As the Chief Executive Officer for the Procurement, I:

1. **note** the information specified in this minute;

   NOTED/PLEASE AMEND/PLEASE DISCUSS

2. **approve** under section 10 of the *Government Procurement Regulation 2007* (**Regulation**) this request for exemption from the requirements specified in section 7(2) of the Regulation to seek at least 3 written quotations from suppliers for a limited tender procurement, on the basis that I am satisfied on reasonable grounds that the exemption reasons specified in this minute apply to the procurement, and;

   APPROVED/ NOT APPROVED/ PLEASE DISCUSS

3. **approve** a direction under section 10B of the Regulation that the Suburban Land Agency seek a written quotation from John Randall Consulting Pty Ltd and negotiate contract terms, subject to the satisfaction of the Suburban Land Agency, for the provision of design development services [redacted] for the Deep Creek Waterway project.

   APPROVED/ NOT APPROVED/ PLEASE DISCUSS

Comments:

Signature:

Name: Adam Davey
Title: Chief Executive Officer, Suburban Land Officer

Date: 12 December 2025

Supporting documents		
Attachment	**Document**	**Attached**
A	Summary of relevant legislation, policies and agreements	☒

Procurement details	
Procurement Unique Identifier	PISL0011768
Procurement title	Deep Creek Waterway
Territory entity	Suburban Land Agency
Procurement owner: **Delegate, Group, division, branch, or section**	Development Director, Molonglo Town Centre Program – Peter Lewis
Procurement contact and position	Senior Development Manager, Molonglo Town Centre Program – Greg Morris

Background	
Procurement	1. The Territory entity proposes to conduct the above Procurement for the provision of design development services to the SLA [redacted]. 2. The procurement is proposed to be undertaken through a single select tender with John Randall Consulting Pty Ltd. 3. The estimated value of this Procurement is up to $900,000.
Proposed contract	The proposed form of contract will be a Construction Related Consultancy Agreement (CRCA) consistent with SLA's standard procurement approach for consultancy services. The contract term is expected to commence in January 2026 and continue for approximately 12 months.

Issues/ key considerations	
Reasons for seeking the exemption	**Summary of Government Procurement Regulation (2007) Requirements** For procurements valued between $25,000 and $1,000,000, the Regulation requires a **limited tender** process with at least three written quotations (Attachment A).

Section 10 allows the CEO of a Territory Entity to exempt the entity from these thresholds if:

- at least one of the specified exemption reasons applies
- that the Territory intends to seek a written quote that is based both in the Territory or surrounding regions and is a small or medium business entity (SME).

Applicable exemption reasons for this procurement are:

- A supplier with specialist knowledge (Clause 9(1)(a))
- the need for a procurement has arisen unexpectedly and is not routine (Cl 9(1)(c))

Further we intend to secure a written quote from John Randall Consulting Pty Ltd (JRC), a Canberra-based SME under the Regulation.

Therefore, the procurement qualifies for an exemption under the Regulation in accordance with both Clauses 10(2)(a) and 10(2)(b)

CEO approval is sought to undertake a single select procurement with JRC as a sole-source provider for design development services, [redacted] for the Deep Creek Waterway project.

JRC completed the Value Management study [redacted] They are best placed to progress this design, given their specialist knowledge of the design approach, hydrological modelling [redacted] Engaging JRC through a single-select process enables rapid progression to PSP and DA phases within this timeframe, allowing SLA to assess the design and realise benefits sooner.

Background and Supporting Argument

In 2019, ACT Government directed SLA to deliver the Lower Deep Creek Pond project consisting of a dam and regional water quality pond for Whitlam, initially estimated at $55M. [redacted]

JRC has been integral to the development of the Deep Creek Waterway concept, having completed a comprehensive feasibility study and concept design as part of the Value Management process. [redacted] The modelling undertaken by JRC covered hydrology, flood behaviour, and water quality, and was developed under their own quality assurance processes and professional standards.

If a new consultant were engaged at this stage, they would be required to replicate or independently verify these models to satisfy their own quality assurance and professional indemnity requirements. While some transfer of models may be possible, this process would still involve extensive validation of inputs and assumptions, which is often as time-consuming as creating new models from first principles. Furthermore, the design calculations derived from these models would also need to be revalidated, adding further complexity and delay.

Changing consultants now would therefore introduce a significant period of rework before progress could resume. This delay is avoided by continuing with JRC, who have already completed and verified their modelling and design. There is also a risk that a new consultant may challenge JRC's outputs, potentially recommending design changes. [redacted].

The estimated value of the remaining scope is approximately $900,000. Under the Procurement Regulation 2007, this would

	ordinarily require a limited tender process involving multiple prospective bidders. Preparing the necessary documentation and completing the tender process would take several months, in addition to the rework period outlined above. Delays would impact the ILRP for Whitlam Stage 4 and associated revenue streams. Continuing with JRC under a single select procurement offers the greatest assurance of timely delivery and design continuity. This approach minimises risk, avoids unnecessary duplication of work, and supports the Territory's objectives for earlier land release and project certainty. For these reasons, a single select procurement with JRC is justified under the Regulation.
Proposed evaluation and value for money will be achieved	If this exemption is approved, the procurement process will be conducted in accordance with ACT Government requirements, and a full evaluation of the supplier's response will be undertaken to ensure the achievement of value for money, as required under Section 8 of the Procurement Act. The following Procurement Values will be included in this Procurement and have been considered in the exemption process as follows:

PROCUREMENT VALUE	APPLICATION OF PROCUREMENT VALUE
Aboriginal and Torres Strait Islander Peoples Economic Participation	Not applicable
Business Development and Innovation	**Engagement of a Canberra Region Entity**: The supplier's business location and operational footprint will be reviewed to determine whether the engagement supports regional economic activity and local capability. **Engagement of a Small to Medium Enterprise (SME)**: The supplier's business classification will be confirmed to assess alignment with ACT Government priorities for SME participation in public procurement
Diversity, Equity, and Inclusion	As required by legislation

Environmental Responsibility	n/a
Fair and Safe Conditions for Workers	As required by legislation
Transparent and Ethical Engagement	n/a

A contract will be entered into with the preferred supplier after a full evaluation process and only if the delegate is satisfied that value for money has been achieved.

Other matters	
Consultation	Consultation was undertaken by Alastair MacCallum, Program Director – Molonglo Town Centre Program, and Jason Watson, Senior Development Manager – Molonglo, through a call with Darren Smith, Senior Director – Land Release Infrastructure, Infrastructure Canberra (ACT Government). [redacted] Consultation has been held with key Agencies including UTR, CED Planning, CED Dams, CED Roads [redacted]
Work health and safety	Not applicable
Financial	The proposed procurement will deliver professional advice and documentation to increase certainty and inform planning, infrastructure and land release decisions for Whitlam Stage 4B, while confirming the scope of direct project savings. These anticipated benefits have been considered in assessing the overall financial value of the procurement. By retaining JRC as lead consultant, the hydrological modelling and feasibility analysis already completed will be built upon, rather than a new consultant who would be expected to revisit this feasibility work adding additional cost and delay. [redacted]

Risk/ sensitivities	[redacted]
Media	This procurement is not expected to attract media attention. Engaging JRC for design development services is consistent with the stated reasons for exemptions from standard procurement requirements. The engagement is not anticipated to generate public controversy or external scrutiny. Nonetheless, the integrity of the process has been reinforced through proactive conflict management, a signed confidentiality agreement, and alignment with ACT Government procurement regulations.

Risks associated with this

Attachment A – Summary of relevant legislation, policies and agreements

The Regulation

1. Section 7(1) of the Regulation applies to a procurement by a Territory entity (a limited tender procurement) if the estimated total consideration of the procurement is:
   (a) for goods or services not related to construction work - at least $25 000 or more and less than $500 000; and
   (b) for goods or services related to construction work - at least $25,000 or more and less than $1 million.

   Under these circumstances, under section 7(2) of the Regulation, the Territory Entity must seek at least 3 written quotations from suppliers for the procurement.

2. Section 8 of the Regulation applies to a procurement by a Territory entity (an open tender procurement) if the estimated total consideration of the procurement is:
   (a) for goods or services not related to construction work - at least $500 000; and
   (b) for goods and services related to construction work - at least $1 million.

   Under these circumstances, under section 8(2)(a) of the Regulation the Territory must invite tenders for the procurement. Other advertising requirements also apply.

3. The Regulation can be found at this link: https://www.legislation.act.gov.au/sl/2007-29/default.asp.

Summary of exemption requirements under the Regulation

4. Section 9(1) of the Regulation covering both limited and open tenders specifies as follows:

(1) The responsible chief executive officer for a Territory entity may exempt the Territory entity under section 10 or section 10A for any of the following reasons (the ***exemption reasons***):

(a) for a procurement that includes 2 or more approaches to market—in response to the first approach to market, the Territory entity did not receive—

(i) any written quotations or tenders; or

(ii) any written quotations or tenders that would achieve value for money; or

(iii) any written quotations or tenders that met the minimum requirements for content and format; or

(iv) any written quotations or tenders that satisfy the conditions for participation;

(b) the goods or services to be procured are needed urgently as a result of an unforeseen event outside of the Territory's control;

(c) the need for a procurement has arisen unexpectedly and is not routine;

Examples

unusual disposals, unsolicited innovative proposals, liquidation, bankruptcy, receivership

(d) only 1 supplier, or a limited number of suppliers, can supply a particular good or service because—

(i) the good or service to be procured is artwork; or
(ii) there is a need to protect patents, copyrights or other exclusive rights or

proprietary information; or

(iii) a supplier with specialist knowledge or equipment is required;

(e) the procurement is for another procurement from an existing supplier and a new supplier is not feasible—

(i) for technical reasons; or

Examples

1 compatibility with existing equipment, software or services

2 a condition under a warranty

(ii) because it would cause significant inconvenience or substantial duplication of costs for the Territory entity;

(f) the good or service to be procured is a commodity;

(g) the good or service to be procured is—

(i) a prototype; or

(ii) an original good or service intended for limited initial release; or

(iii) developed at the Territory entity's request for research or development purposes;

(h) the procurement is from a winner of a design contest, if—

(i) the contest was held to award the winner with a design contract; and

(ii) the contest is conducted in a way that complies with the Act; and

(iii) the contest judges are independent;

(i) there is an existing procurement contract (the initial procurement contract) for goods or services related to construction work and the procurement is for additional goods or services that—

(i) were not included in the initial procurement contract but were within the objectives of the written quotation or tender process for the initial procurement contract; and

(ii) have become necessary, as a result of an unforeseen event, to complete the construction work under the initial procurement contract; and

(iii) the total value of any contract awarded for procurement of the additional goods or services will not exceed 50% of the value of the initial procurement contract.

5. Section 10(1) of the Regulation allows for the responsible chief executive officer for a Territory entity to exempt the Territory entity from the requirement under section 7(2) of the Regulation to seek at least 3 written quotations, however, section 10(2) of the Regulation further specifies as follows:

(2) However, the responsible chief executive officer may exempt the Territory entity only if satisfied on reasonable grounds that—

(a) at least 1 of the exemption reasons applies in relation to the procurement; or

(b) the Territory entity intends to seek a written quotation from—

(i) a supplier that is a certified Aboriginal or Torres Strait Islander entity; or

(ii) both of the following:

(A) a supplier that is an entity based in the ACT or surrounding region;

(B) a supplier that is a small or medium business entity.

6. Section 10A(1) of the Regulation specifies that 'The responsible chief executive officer for a Territory entity may, in writing, exempt the Territory entity from the requirements mentioned in section 8(2) to invite tenders and advertise electronically for an open tender procurement.' However section 10A(2) of the Regulation further specifies that '… the responsible chief executive officer may exempt the Territory entity only if satisfied on reasonable grounds that at least 1 of the exemption reasons applies in relation to the procurement.'

7. Section 10B specifies that 'If the responsible chief executive officer for a Territory entity exempts the Territory entity under section 10 or section 10A for a procurement, the officer may, in writing, direct the Territory entity to do 1 or more of the following:
   (a) seek a stated kind or number of written quotations for the procurement; and/ or
   (b) seek a written quotation or invite a tender from a stated supplier for the procurement.