



## FREEDOM OF INFORMATION COVERSHEET

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI reference: 24-030

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Schedule	Published
4. Documents	Published
5. Additional information identified	Not applicable
6. Fees	Not applicable
7. Processing time (in working days)	67 days
8. Decision made by Ombudsman	Not applicable
9. Additional information identified by Ombudsman	Not applicable
10. Decision made by ACAT	Not applicable
11. Additional information identified by ACAT	Not applicable

**From:** [REDACTED]  
**To:** [TCCS FreedomOfInformation](#)  
**Subject:** 24-030 - FOI request  
**Date:** Wednesday, 13 March 2024 8:06:27 PM

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**Caution:** This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Hello,

I'm writing to request under the Freedom of Information Act 2016 documents related to the evaluation of the entities which submitted proposals in response to request for proposal number GS3538978, and the documents provided to tenderers.

Please include in the scope of my request tender evaluation reports (including drafts), internal directorate correspondence, correspondence with tenderers. Please exclude any duplicate documents.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### Freedom of Information Request - Reference 24-030

I refer to your application for access to government information received by Transport Canberra and City Services (TCCS) on 13 March 2024. It is my understanding that you originally sought access to the following government information under the *Freedom of Information Act 2016* (FOI Act):

*“...documents related to the evaluation of the entities which submitted proposals in response to request for proposal number GS3538978, and the documents provided to tenderers. Please include in the scope of my request tender evaluation reports (including drafts), internal directorate correspondence, correspondence with tenderers. Please exclude any duplicate documents.”*

On 19 March 2024, you clarified the scope of the application to:

- *a copy of the documents provided to tenders, including those published on Tenders ACT but are not accessible to [the applicant] currently.*
- *Excluding tenderer proposals/ submissions*
- *Draft versions of tender evaluation reports (for example V.1, V.2), but not minor draft versions typically including tracked changes.*
- *Internal directorate correspondence is relevant ... where it relates to the evaluation.*

### Timeframes

In accordance with section 40 of the FOI Act, a decision was initially due to you on 30 April 2024. I thank you for agreeing to an extension until 21 June 2024.

As you are aware, the ACT Auditor-General announced that the Audit Office is undertaking an audit of the procurement of reusable facility services. As some of the information within the scope of your application is in the possession of the audit office, TCCS has consulted with the audit office to inform the application of the public interest test under section 17 of the FOI Act. I thank you for agreeing to an extension which allowed time for this process.

### Authority

I am an Information Officer appointed by the Director-General under section 18 of the FOI Act to deal with access applications made under Part 5 of the FOI Act.

### Decision on access

In accordance with the FOI Act, a search of TCCS records has been completed and fifty-one relevant records were identified. Upon reviewing the information within these records and applying the public interest test under section 17 of the FOI Act, I have found it to be, on balance, in the public interest to:

- refuse access to 23 records;
- provide partial access to 14 records; and
- provide full access to 14 records.

Of the 23 records I have refused access to under the FOI Act, I have identified 16 records as being publicly available to account holders on the [Tenders ACT webpage](#). I have decided to provide you with a copy of these records outside of the FOI Act.

The reasons for my decision are detailed below in the statement of reasons.

A schedule of relevant records is at [Attachment A](#). A copy of records being released to you are enclosed at [Attachment B](#) with deletions applied to information I have found contrary to the public interest to disclose. Records released to you outside of the FOI Act are enclosed at [Attachment C](#).

### **Statement of Reasons**

In reaching my access decisions, I have taken the following into account:

- the FOI Act.
- the content of the documents that fall within the scope of your request.
- the *Human Rights Act 2004*.
- Consultation response received from the ACT Auditor-General's office.

The FOI Act has a pro disclosure bias, which requires information to be disclosed unless doing so would be contrary to the public interest. As an Information Officer, I must decide where, on balance, public interest lies in the disclosure of government information. Section 17(1) of the Act sets out the steps for completing the public interest test. As part of this process, I must identify all relevant factors in schedule 1 of the FOI Act. If no factor in schedule 1 is found relevant, or does not apply to the information entirely, I must then consider the factors listed in schedule 2 of the FOI Act and determine, on balance, where the public interest lies.

#### ***Schedule 1:***

- Schedule 1.2 – Information subject to legal professional privilege.
- Schedule 1.5 – Information in the possession of the auditor-general.

In reviewing the relevant records, I have identified information where factors in schedules 1.2 and 1.5 apply, in which disclosure is deemed to be contrary to the public interest.

In accordance with the FOI Act, I refuse access to records 17 – 33 and 49 entirely as all information within the records are in the possession of the Auditor-General under the *Auditor-General Act 1996* (schedule 1.5).

Records 14 and 51 contain some information which is subject to legal professional privilege. I refuse access to this information as it is deemed to be contrary to the public interest. However, as these records contain additional information, I have further considered disclosure under schedule 2.

#### ***Schedule 2:***

##### ***Factors favouring disclosure (Schedule 2.1)***

- Schedule 2.1(a)(i) - promote open discussion of public affairs and enhance the government's accountability.
- Schedule 2.1(a)(ii) - contribute to positive and informed debate on important issues or matters of public interest.

- Schedule 2.1(a)(iii) - inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community.
- Schedule 2.2(a)(viii) - reveal the reason for a government decision and any background or contextual information that informed the decision

***Factors favouring non-disclosure (Schedule 2.2)***

- Schedule 2.2(a)(ii) - prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2016.
- Schedule 2.2(a)(xi) - prejudice trade secrets, business affairs or research of an agency or person.
- Schedule 2.2(a)(xiii) - prejudice the competitive commercial activities of an agency.
- Schedule 2.2(a)(xiv) - prejudice the conduct of considerations, investigations, audits or reviews by the ombudsman, auditor-general, integrity commission, integrity commission inspector or human rights commission.
- Schedule 2.2(a)(xvi) - prejudice a deliberative process of government.

In reviewing the information within the records falling in scope of your application, I recognise that the information relates to a procurement process conducted by TCCS which is a matter of public interest. I consider that the information is likely to promote and contribute to informed discussions or debate on this subject, as well as enhance government's accountability. I further consider that the information requested demonstrates the application of policies, guidelines and codes of conduct by TCCS in a government process. I extend this consideration to information where disclosure would reveal the reason for a government decision and any background or contextual information that informed a decision. I also acknowledge that the FOI Act has a pro-disclosure bias, in which the public interest test is not approached on the basis that there are empty scales in equilibrium, waiting for arguments to be put on each side. Rather, the scales are loaded in favour of disclosure.

In the review of factors favouring non-disclosure in schedule 2.2, I have identified that some records contain personal information relating to a third parties and personally owned phone numbers of employees has been identified. I consider that this information is not readily available to the public and has come into the possession of TCCS with the expectation that it be handled in accordance with the Territory Privacy Principles and the *Information Privacy Act 2014*. I consider that the disclosure of this information is likely to prejudice the protection of an individual's right to privacy under the *Human Rights Act 2004*. I have allocated significant weight to this factor, and I find the disclosure of personal information to be, on balance, contrary to the public interest.

While the submissions made by tendering parties are outside of the scope of your application, some information contained in relevant records are sourced from submissions. Information from submissions has been captured in relevant records in recording a deliberative government process and relates to signature business and service models of tendering parties, is commercially sensitive, and is not otherwise publicly available. I consider that the disclosure of commercially sensitive information that is generally unknown is likely to prejudice the trade secrets and business affairs of tendering parties, including giving valuable insight and advantage to competitors. I extend this consideration to deliberations by procurement panel members on the particulars of submissions and ratings of submissions, including comparisons to other tendering submissions. This is due to the extent that commercial sensitivity is interwoven into the deliberations.

I also consider the relationship between TCCS and tendering parties, in particular the expectation that information which is commercially sensitive remains confidential. Actions contrary to this expectation are likely to prejudice the competitive commercial activities of TCCS as the risk of harm is likely to be broad reaching, extending to other government procurement activities. Parties

considering entering into contract with TCCS require assurance that TCCS will act in good faith and treat commercially sensitive information as confidential. The ability for TCCS to attract suitable suppliers and obtain commercially sensitive information is significant to procurement processes. For these reasons, I place significant weight on schedule 2.2(a)(xi) and 2.2(a)(xiii) and find the disclosure of third party commercially sensitive information to be, on balance, contrary to the public interest.

Record 47 is a draft of the Reuseable Facilities Evaluation Report, which is in the possession of the Auditor-General for an ongoing audit. I consider that the final version is in scope of your application (at record 33) and disclosure of the draft is deemed to be contrary to the public interest. In reviewing the information within this record, I have identified a notable duplication and similarity with the final version. As a request for access is to information, rather than records, I consider that the information has been provided to the Auditor-General to inform a current deliberative process. Disclosure of the information currently is likely to prejudice existing deliberative processes and the conduct of considerations and audits by the Auditor-General. I therefore place significant weight on schedule 2.2(a)(xiv) and schedule 2.2(a)(xvi). In this instance, I find disclosure to be, on balance, contrary to the public interest.

I have found that the factors favouring disclosure can be satisfied by the partial release of relevant records, with deletions applied to information which is contrary to the public interest.

#### **Charges**

In accordance with [Freedom of Information \(Fees\) Determination 2018](#), a fee of \$0.35 per page of information disclosed, except for the first 50 pages, may be applied to an access application. No fees are applicable as the total number of pages is within the fee free threshold.

#### **Online publishing**

Under section 28 of the FOI Act, TCCS maintains an online record of access applications called a disclosure log. In accordance with section 28, your application, my decision, and the information disclosed at [Attachments B and C](#) will be published within 3 – 10 business days. Your personal information will be removed prior to publication. You may view the TCCS' disclosure log [here](#).

#### **Ombudsman review**

My decision on your access application is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek an Ombudsman review of this outcome under section 73 of the FOI Act within 20 working days from the day that my decision is published in TCCS' disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision, you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601  
Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

#### **ACT Civil and Administrative Tribunal (ACAT) review**

Under section 84 of the FOI Act, if a decision is made under section 82 on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from ACAT at:

ACT Civil and Administrative Tribunal  
GPO Box 370  
CANBERRA CITY ACT 2601  
Telephone: (02) 6207 1740

[www.acat.act.gov.au](http://www.acat.act.gov.au)

If you have any queries concerning the directorate's processing of your request, or would like further information, please contact the TCCS FOI team on (02) 6207 2987 or email to [tccs.foi@act.gov.au](mailto:tccs.foi@act.gov.au).

Yours sincerely



Lisa Johnson  
Information Officer  
21 June 2024

## ATTACHMENT A - ACCESS APPLICATION SCHEDULE, FREEDOM OF INFORMATION

**Reference Number: 24-030**

Please be aware that under the *Freedom of Information Act 2016*, some of the information provided to you will be released to the public through the ACT Government's Open Access Scheme. The Open Access release status column of the table below indicates what documents are intended for release online through open access.

Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the contact officer immediately.

Information about what is published on open access is available online at: [https://www.cityservices.act.gov.au/about-us/freedom\\_of\\_information/disclosure-log](https://www.cityservices.act.gov.au/about-us/freedom_of_information/disclosure-log)

### Factors favouring non-disclosure:

Schedule 1.2 – Information subject to legal professional privilege.

Schedule 1.5 – Information in the possession of the auditor-general.

Schedule 2.2(a)(ii) - prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2016*.

Schedule 2.2(a)(xi) - prejudice trade secrets, business affairs or research of an agency or person.

Schedule 2.2(a)(xiii) - prejudice the competitive commercial activities of an agency.

Schedule 2.2(a)(xiv) - prejudice the conduct of considerations, investigations, audits or reviews by the ombudsman, auditor-general, integrity commission, integrity commission inspector or human rights commission.

Schedule 2.2(a)(xvi) - prejudice a deliberative process of government.

Reference number	Page number	Description	Date	Status	Reason for non-release or deferral	Open Access release status
1	1	RE_ Evaluation Template and resources Panel Email 2023_08_11	11 August 2023	Partial access	Schedule 2.2(a)(ii) Schedule 2.2(a)(xiv) Schedule 2.2(a)(xi)	Decision to be published on the <a href="#">TCCS Disclosure</a>

					Schedule 2.2(a)(xvi)	<a href="#">Log.</a>
2	4	RE_ Reusable facility tender submissions Panel Email 2023_08_09	9 August 2023	Partial access	Schedule 2.2(a)(ii)	
3	7	Accepted_ Reusable Facilities - Tender Evaluation and Consensus - Meeting 2 Panel Email	12 September 2023	Full access	Not applicable	
4	8	Accepted_ Reusable Facilities - Tender Evaluation and Consensus - meeting 1	11 September 2023	Full access	Not applicable	
5	9	010 RE_ Reusable facilities evaluation meetings Panel Email 2023_-09_06	6 September 2023	Partial access	Schedule 2.2(a)(ii)	
6	11	011 RE_ Evaluation Spreadsheet Sean Crowe Panel Email 2023_09_12	12 September 2023	Partial access	Schedule 2.2(a)(ii)	
7	13	012 Evaluation (fA9974450) Panel Email 2023_09_12	12 September 2023	Partial access	Schedule 2.2(a)(ii)	
8	14	013 RE_ Reusable facilities evaluation report. Panel Email 2023_10_10	10 October 2023	Partial access	Schedule 2.2(a)(ii) Schedule 2.2(a)(xi) Schedule 2.2(a)(xvi)	
9	17	014 Accepted_ Reusable facilities evaluation team catch up.	17 October 2023	Full access	Not applicable	
10	-	015 RE_ Referee checks for reusable facilities. Panel Email	13 October 2023	Refused	Schedule 2.2(a)(xi)	

		02023_10_13			Schedule 2.2(a)(xvi)
<b>11</b>	-	016 RE_ Referee check questions for reusable facilities. Panel Email 2023_10_18	13 October 2023	Refused	Schedule 2.2(a)(xi) Schedule 2.2(a)(xvi)
<b>12</b>	-	017 RE_ Resource Recovery Australia referee check Panel Email 2023_10_20	20 October 2023	Refused	Schedule 2.2(a)(xi) Schedule 2.2(a)(xvi)
<b>13</b>	<b>18</b>	018 Accepted_ Reusable facilities - quick catch up	13 November 2023	Full access	Not applicable
<b>14</b>	<b>19</b>	019 RE_ Update on reusable facilities documentation. Panel Email 2023_11_17	17 November 2023	Partial access	Schedule 1.2 Schedule 2.2(a)(ii) Schedule 2.2(a)(xi) Schedule 2.2(a)(xiii) Schedule 2.2(a)(xvi)
<b>15</b>	<b>25</b>	020 FW_ Procurement evaluation brief to load into Objective Panel Email 2023_11_22	22 November 2023	Full access	Not applicable
<b>16</b>	<b>27</b>	021 RE_ Privileged and confidential - Evaluation report for Reusable Facilities. panel Email 2023_11_21	12 September 2023	Full access	Not applicable
<b>17</b>	-	Industry Brief Presentation	4 July 2023	Refused under FOI. Released informally, see folio 2, Page 1 – 37.	Schedule 1.5
<b>18</b>	-	023 Q&A Forum Post 3538978 - Addenda 2 (A42745999)	12 July 2023	Refused under FOI. Released informally, see folio 2, Page 38.	Schedule 1.5

19	-	024 Q&A Forum Post GS3538978 - Addendum Notice 1	6 July 2023	Refused under FOI. Released informally, see folio 2, page 39.	Schedule 1.5
20	-	025 GS3538978 00. RFP Head Document - Reusable Facility Services copy	8 August 2023	Refused under FOI. Released informally, see folio 2, page 40 – 50.	Schedule 1.5
21	-	026 GS3538978 01. Attachment A - Territory ATM Terms and Conditions copy#2	8 August 2023	Refused under FOI. Released informally, see folio 2, page 51 - 71.	Schedule 1.5
22	-	027 GS3538978 02. Attachment B - Statement of Requirements - Reusable Facilities Services copy	8 August 2023	Refused under FOI. Released informally, see folio 2, page 72 - 129.	Schedule 1.5
23	-	028 GS3538978 - Attachment C - Response Schedule - Reusable Facility Services copy	8 August 2023	Refused under FOI. Released informally, see folio 2, page 130 - 164.	Schedule 1.5
24	-	029 GS3538978 03. Attachment C1- Appendix 3 - Performance Management Framework - Reusable Facilities Services copy	8 August 2023	Refused under FOI. Released informally, see folio 2, page 165 - 176.	Schedule 1.5
25	-	030 GS3538978 05. Attachment D - ACTGS Services- Contractor Agreement Template (March 2021)	8 August 2023	Refused under FOI. Released informally, see folio 2, page 177 - 255.	Schedule 1.5
26	-	031 GS3538978 06. Attachment E - CBR-Region-LIPP-ECT-(\$200K - \$5M)	8 August 2023	Refused under FOI. Released informally, see folio 2, page 256 - 262.	Schedule 1.5
27	-	032 GS3538978 07. Attachment F - FSEC - Response Schedule (\$25K- \$5M)	8 August 2023	Refused under FOI. Released informally, see folio 2, page 263 - 277.	Schedule 1.5
28	-	033 GS3538978 08. Appendix 1 -	8 August 2023	Refused under FOI. Released informally, see folio 2, page 278	Schedule 1.5

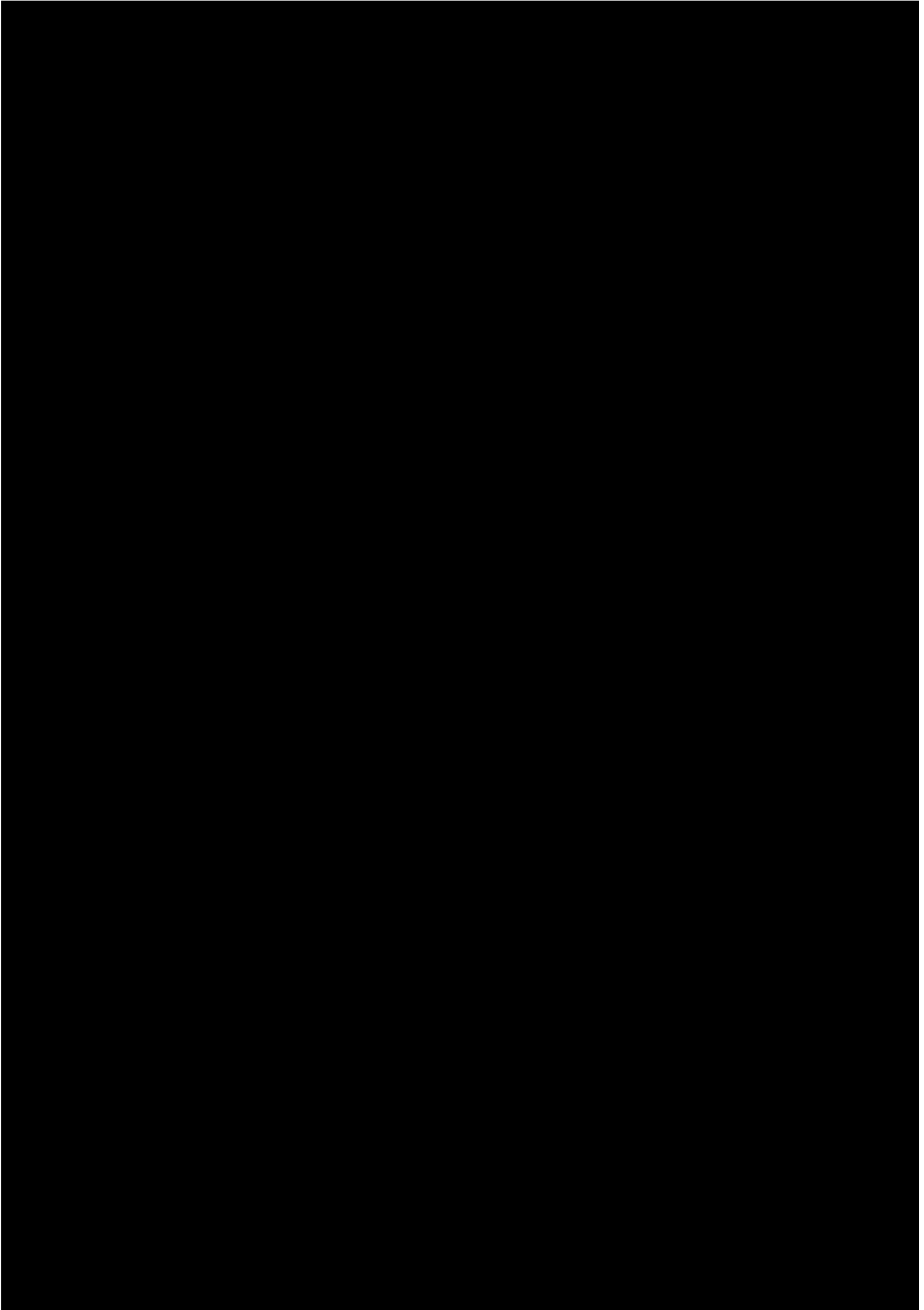
		Waste Facility Reporting Form		- 280.	
29	-	034 GS3538978 09. Appendix 2 (a) - Mugga Lane Reusable Facility Map	8 August 2023	Refused under FOI. Released informally, see folio 2, page 281.	Schedule 1.5
30	-	035 GS3538978 10. Appendix 2 (b) - Mitchell Reusable Facility Map	8 August 2023	Refused under FOI. Released informally, see folio 2, page 282.	Schedule 1.5
31	-	036 GS3538978 11. Appendix 2 (c) - Assets Register - Reusable Facility Services	8 August 2023	Refused under FOI. Released informally, see folio 2, page 283 – 285.	Schedule 1.5
32	-	037 GS3538978 12. Appendix 4 - Service Plan Example - Reusable Facility Services	8 August 2023	Refused under FOI. Released informally, see folio 2, page 287 - 288.	Schedule 1.5
33	-	Tender Evaluation Plan	27 March 2024	Refused	Schedule 1.5
		TCCS EGM brief - Reusable Facilities Evaluation			
		Attachment 1 - Confidentiality and Conflict of interest declarations			
		Attachment 2 - Compliance Checklist			
		Attachment 3 - Detailed Evaluation Workbook			
		Attachment 4 - FSEE Recommendation Report 20230907			
		Attachment 5 - GS3538978 LRTWEP Report 20230907			

		Attachment 6 - Evaluation Risk Register				
		Attachment 7 - Negotiation Plan				
		Attachment A - GS3538978 Reuseable Facilities Evaluation Report				
		Attachment B - DG2023_01339 - Approval to release the Request for Proposal (RFP) for the Provision of Reusable Facility Serv...				
		Attachment C - DG2023_01940 - Reusable Facility Change in Evaluation Plan Member				
<b>34</b>	<b>28</b>	Outcome of Procurement Letter (1)	13 March 2024	Partial access	Schedule 2.2(a)(ii) Schedule 2.2(a)(xi)	
<b>35</b>	<b>29</b>	Outcome of Procurement Letter (2)	13 March 2024	Partial access	Schedule 2.2(a)(ii) Schedule 2.2(a)(xi)	
<b>36</b>	<b>30</b>	Accepted_ ACT Reusable Facilities pre-evaluation briefing - SC 2023_08_03	8 August 2023	Full access	Not applicable	
<b>37</b>	<b>31</b>	053 Accepted_ Reusable Facilities - Tender Evaluation and Consensus - Meeting 2 - SC 2023_08_10	12 September 2023	Full access	Not applicable	
<b>38</b>	<b>32</b>	054 Accepted_ Reusable Facilities - Tender Evaluation and Consensus - meeting 1 SC	10 August 2023	Full access	Not applicable	

		2023_08_10			
39	33	055 Accepted_ Reusable Facilities - Tender Evaluation and Consensus - meeting 1 SC 2023_08_17	17 August 2023	Full access	Not applicable
40	34	056 Accepted_ Reusable Facilities - Tender Evaluation and Consensus - Meeting 2 2023_08_17	17 August 2023	Full access	Not applicable
41	35	057 Accepted_ Reusable facilities evaluation team catch up. SC 2023_10_16	16 October 2023	Full access	Not applicable
42	36	058 Declined_ Reusable facilities - quick catch up SC 2023_11_09	9 November 2023	Partial access	Schedule 2.2(a)(ii)
43	37	059 Accepted_ Reusable facilities - quick catch up SC 2023_11_09	9 November 2023	Full access	Not applicable
44	38	060 RE_ d. Evaluation (fA9974450) Panel email SC 2023_09_14	14 September 2023	Partial access	Schedule 2.2(a)(ii)
45	40	061 Accepted_ Final evaluation meeting for reusables SC 2023_09_11	11 September 2023	Full access	Not applicable
46	41	062 RE_ Evaluation Template and resources Panel Email SC 2023_08_17	17 August 2023	Partial access	Schedule 2.2(a)(ii)
47	-	065 GS3538978 Draft Reuseable Facilities Evaluation Report_1.0		Refused	Schedule 2.2(a)(xiv) Schedule 2.2(a)(xi) Schedule 2.2(a)(xiii)

					Schedule 2.2(a)(xvi)	
48	-	075 - FW_ inquiry		Refused	Schedule 2.2(a)(xi) Schedule 2.2(a)(xvi)	
49	-	076 - FINAL Probity Report 27.03.24	24 March 2024	Refused	Schedule 1.5	
50	43	077 RE_ Reusable facilities procurement - Update	31 October 2023	Partial access	Schedule 2.2(a)(ii)	
51	44	078 RE_ Update on the Reusable Facilities procurement_	22 November 2023	Partial access	Schedule 1.2	

**Total number of documents: 51**



**From:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Sent:** Friday, 11 August 2023 11:53 AM  
**To:** Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>; Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Subject:** FW: Evaluation Template and resources

OFFICIAL

Hi Joley, Sean,

I attached an old version of the Tender evaluation plan to the last email. Here is the most recent one that we all signed.

Thanks,  
Martin

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**From:** Berry, Martin

**Sent:** Friday, 11 August 2023 9:43 AM

**To:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>; Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>

**Subject:** Evaluation Template and resources

OFFICIAL

Hi Joley and Sean,

Please see attached evaluation template and tender evaluation plan. The tender evaluation plan contains all the information about how the weighted criteria should be scored.

I have broken the criteria out into dedicated sections in the evaluation template for more refined scoring but it is only the overall score for each criteria that will count towards the final score. Each weighted criteria should be assessed out of 10. A scoring guide is included in the evaluation plan and on the last page of the evaluation template to assist in setting scores.

I have also included the Objective link to the SOR and Contract, however, documents are now on the W drive. The access issues have now been resolved and can be accessed here [W Drive Tender Folder 35](#).

Please reach out if you have any questions.

Thanks,  
Martin

**Martin Berry** | Director – Service Integration | Strategic Coordination and Planning  
P 02 6205 4564 | E [martin.berry@act.gov.au](mailto:martin.berry@act.gov.au)

**ACT NoWaste** | Transport Canberra and City Services Directorate | ACT Government  
480 Northbourne Avenue Dickson | GPO Box 158 Canberra ACT 2601  
[www.act.gov.au](http://www.act.gov.au) | [www.tccs.act.gov.au](http://www.tccs.act.gov.au)



*Connected services for the people of Canberra*

**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Cc:** [Vidau, Joley](#)  
**Subject:** RE: Reusable facility tender submissions.  
**Date:** Wednesday, 9 August 2023 12:34:41 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image006.png](#)  
[image007.png](#)

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OFFICIAL: Sensitive

No Worries.

**Kind Regards,**

Sean Crowe | Project Director - Infrastructure | ACT NoWaste  
Phone: [REDACTED] | Email: [sean.crowe@act.gov.au](mailto:sean.crowe@act.gov.au)  
Transport Canberra and City Services | ACT Government  
480 Northbourne Avenue, Dickson 2602 | GPO Box 158 Canberra ACT 2601 |  
[www.act.gov.au](http://www.act.gov.au) | [www.cityservices.act.gov.au](http://www.cityservices.act.gov.au) |

*I acknowledge the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region. I acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.*



Connected services for the people of Canberra

 Please consider the environment before printing this email

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**From:** Berry, Martin <Martin.Berry@act.gov.au>  
**Sent:** Wednesday, 9 August 2023 12:34 PM  
**To:** Crowe, Sean <Sean.Crowe@act.gov.au>  
**Cc:** Vidau, Joley <Joley.Vidau@act.gov.au>  
**Subject:** RE: Reusable facility tender submissions.

OFFICIAL: Sensitive

Thanks Sean,

Yep, that's what I am getting. If it is still like that at 4pm, I will follow up with PACT.

Thanks,  
Martin

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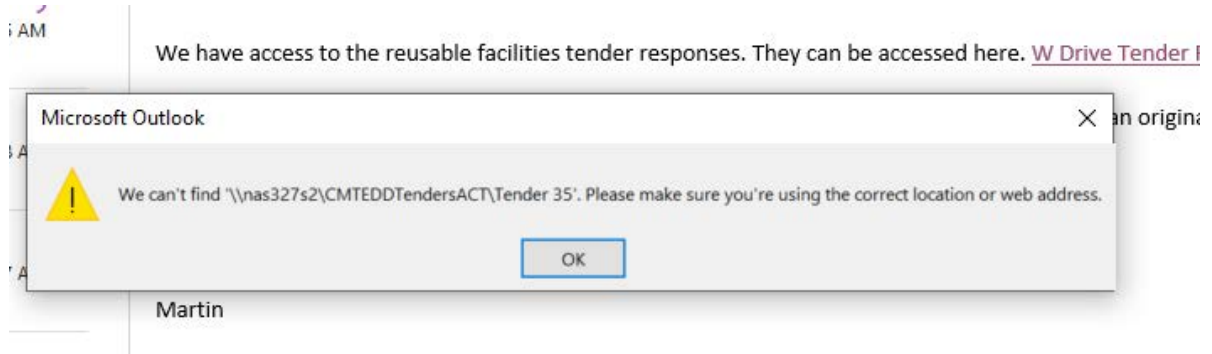
**From:** Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
**Sent:** Wednesday, 9 August 2023 12:29 PM

**To:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Cc:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Subject:** RE: Reusable facility tender submissions.

OFFICIAL: Sensitive

Hi Martin,

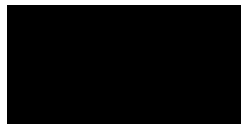
No access sorry mate:



Kind Regards,

Sean Crowe | Project Director - Infrastructure | ACT NoWaste  
Phone: [REDACTED] | Email: [sean.crowe@act.gov.au](mailto:sean.crowe@act.gov.au)  
Transport Canberra and City Services | ACT Government  
480 Northbourne Avenue, Dickson 2602 | GPO Box 158 Canberra ACT 2601 |  
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Connected services for the people of Canberra

 Please consider the environment before printing this email

---

**From:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Sent:** Wednesday, 9 August 2023 12:04 PM  
**To:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>; Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
**Subject:** Reusable facility tender submissions.

OFFICIAL: Sensitive

Hi Sean, Joley,

We have access to the reusable facilities tender responses. They can be accessed here. [W Drive Tender Folder 35](#)

Can you both let me know if you can access the drive. I can't at the moment because I was not an original panel member but PACT are working on fixing it. The link should just work.

It looks like we have three submissions to assess going off the compliance checklist.

Thanks,  
Martin

**Martin Berry | Director – Service Integration | Strategic Coordination and Planning**  
P 02 6205 4564 | E [martin.berry@act.gov.au](mailto:martin.berry@act.gov.au)  
**ACT NoWaste | Transport Canberra and City Services Directorate | ACT Government**  
480 Northbourne Avenue Dickson | GPO Box 158 Canberra ACT 2601  
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**From:** [Vidau, Joley](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Reusable Facilities - Tender Evaluation and Consensus - Meeting 2  
**Start:** Tuesday, 12 September 2023 2:00:00 PM  
**End:** Tuesday, 12 September 2023 5:00:00 PM  
**Location:** 480NBA 04.127 Kowen Room (Capacity 10, Webex Board)

---

**From:** [Vidau, Joley](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Reusable Facilities - Tender Evaluation and Consensus - meeting 1  
**Start:** Monday, 11 September 2023 2:00:00 PM  
**End:** Monday, 11 September 2023 5:00:00 PM  
**Location:** 480NBA 04.118 (Capacity 6, Webex Board)

---

**From:** [Vidau, Joley](#)  
**To:** [Crowe, Sean](#); [Berry, Martin](#)  
**Subject:** RE: Reusable facilities evaluation meetings  
**Date:** Wednesday, 6 September 2023 12:36:00 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image004.png](#)

---

Yes Monday is fine

---

**From:** Crowe, Sean <Sean.Crowe@act.gov.au>  
**Sent:** Wednesday, 6 September 2023 11:37 AM  
**To:** Berry, Martin <Martin.Berry@act.gov.au>; Vidau, Joley <Joley.Vidau@act.gov.au>  
**Subject:** RE: Reusable facilities evaluation meetings

OFFICIAL

Hi Martin,

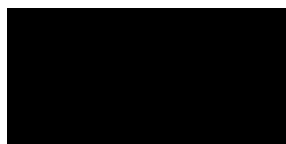
I was finished 2 weeks ago. I'm ready to go.

I set it to meet the original timeline.

**Kind Regards,**

Sean Crowe | Project Director - Infrastructure | ACT NoWaste  
Phone: [REDACTED] | Email: [sean.crowe@act.gov.au](mailto:sean.crowe@act.gov.au)  
Transport Canberra and City Services | ACT Government  
480 Northbourne Avenue, Dickson 2602 | GPO Box 158 Canberra ACT 2601 |  
[www.act.gov.au](http://www.act.gov.au) | [www.cityservices.act.gov.au](http://www.cityservices.act.gov.au) |

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Connected services for the people of Canberra

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---

**From:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Sent:** Wednesday, 6 September 2023 11:10 AM  
**To:** Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>; Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Subject:** Reusable facilities evaluation meetings

OFFICIAL

Hi Sean and Joley,

I wanted to check in and see how you are both going with the reusable facilities submission. Two questions for both of you:

How are you going reading the submission?

Are you on track to evaluate on Monday?

Cheers,  
Martin

**Martin Berry | Director – Service Integration | Strategic Coordination and Planning**  
P 02 6205 4564 | E [martin.berry@act.gov.au](mailto:martin.berry@act.gov.au)  
**ACT NoWaste | Transport Canberra and City Services Directorate | ACT Government**  
480 Northbourne Avenue Dickson | GPO Box 158 Canberra ACT 2601  
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*Connected services for the people of Canberra*

**From:** [Vidau, Joley](#)  
**To:** [Crowe, Sean](#); [Berry, Martin](#)  
**Subject:** RE: Evaluation Spreadsheet Sean Crowe  
**Date:** Tuesday, 12 September 2023 3:24:00 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
**Sensitivity:** Confidential

---

Thanks Sean

---

**From:** Crowe, Sean <Sean.Crowe@act.gov.au>  
**Sent:** Tuesday, 12 September 2023 2:54 PM  
**To:** Vidau, Joley <Joley.Vidau@act.gov.au>; Berry, Martin <Martin.Berry@act.gov.au>  
**Subject:** Evaluation Spreadsheet Sean Crowe  
**Sensitivity:** Confidential

OFFICIAL: Sensitive

Hi Guys,

Please find attached my Evaluation Spreadsheet for the Reuseable sheds.

Have a look and sanity check it for me.

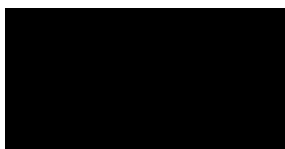
If all good Martin save it where it needs to go.

Always happy for some feedback.

**Kind Regards,**

Sean Crowe | Project Director - Infrastructure | ACT NoWaste  
Phone: [REDACTED] | Email: [sean.crowe@act.gov.au](mailto:sean.crowe@act.gov.au)  
Transport Canberra and City Services | ACT Government  
480 Northbourne Avenue, Dickson 2602 | GPO Box 158 Canberra ACT 2601 |  
[www.act.gov.au](http://www.act.gov.au) | [www.cityservices.act.gov.au](http://www.cityservices.act.gov.au) |

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**From:** [Vidau, Joley](#)  
**To:** [Berry, Martin](#)  
**Subject:** d. Evaluation (fA9974450)  
**Date:** Tuesday, 12 September 2023 4:03:00 PM  
**Attachments:** [d. Evaluation.obr](#)

---

Here's the folder I have put both mine and Sean's eval into.

I can do yours or you can, I'm easy.

Thanks

Joley Vidau has sent you a link to "d. Evaluation" (fA9974450) from Objective.

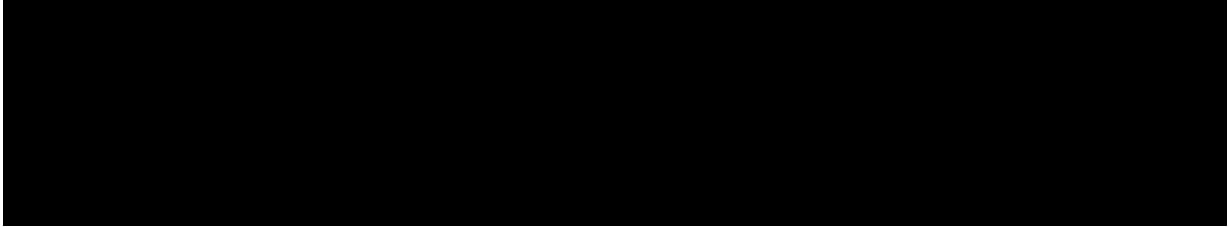
Open in Objective ECM Navigator  
Double click on the attachment

Open in ECM for Browser  
<https://objective.act.gov.au/#/documents/fA9974450/details>

**From:** [Vidau, Joley](#)  
**To:** [Crowe, Sean](#); [Berry, Martin](#)  
**Subject:** RE: Reusable facilities evaluation report.  
**Date:** Tuesday, 10 October 2023 10:25:00 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image004.png](#)

---

I have reviewed also, made some changes to the brief (in track).



---

**From:** Crowe, Sean <Sean.Crowe@act.gov.au>  
**Sent:** Tuesday, October 10, 2023 9:16 AM  
**To:** Berry, Martin <Martin.Berry@act.gov.au>  
**Cc:** Vidau, Joley <Joley.Vidau@act.gov.au>  
**Subject:** RE: Reusable facilities evaluation report.

OFFICIAL: Sensitive

Hi Martin,

I have read both the reports and they look good.

I have made some tracked changes on typos etc.

Also made some comments for you to have a look at.



Other than that let me know when you would like it signed.

I'm also ok with the negotiations if required.

**Kind Regards,**

Sean Crowe | Project Director - Infrastructure | ACT NoWaste  
Phone: [REDACTED] | Email: [sean.crowe@act.gov.au](mailto:sean.crowe@act.gov.au)  
Transport Canberra and City Services | ACT Government  
480 Northbourne Avenue, Dickson 2602 | GPO Box 158 Canberra ACT 2601 |  
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Connected services for the people of Canberra

 Please consider the environment before printing this email

---

**From:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Sent:** Monday, 9 October 2023 2:59 PM  
**To:** Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>; Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Subject:** Reusable facilities evaluation report.

OFFICIAL: Sensitive

Hi Sean and Joley,

Please see attached links to the Reusable Facilities evaluation report and the EGM brief supporting the report. I apologise that this has taken a long time.

Can you both review the report and provide comments? Please check that you agree with the content of the report.

The report is a bit longer than I expected but mostly follows the template. The main info about the responses begins on page 12. I would be very keen to hear thoughts on whether there is enough commentary on the content of the submissions vs just summarising the content, noting that this was written by the consultant.

Also, please pay close attention to the unweighted criteria starting on page 29, this was missed almost entirely by the consultant and I have added it in.

Couple of things to note.

I have not yet completed, attachments 6 and 7. That is the risk register and the negotiation plan. Please check the negotiation points on page 4 and let me know if you think I have missed anything.

Attachment 5 in the folder is the LRTWEP report that actually scores the LRTWEP plans provided. This was scored by the SLJC branch and I didn't realise we had been provided this. They scored the

LRTWEP as follows. [REDACTED]

Sean, I have added you to the negotiation team if you are required. I hope that is OK.

It would be great if you can have comments back to me by 10 am Thursday 12 October. This will give me time to complete the risk register attachment. Then we can finalise this thing. Also happy to discuss any aspect of this, just call or message.

Thanks,  
Martin

**Martin Berry | Director – Service Integration | Strategic Coordination and Planning**  
P 02 6205 4564 | E [martin.berry@act.gov.au](mailto:martin.berry@act.gov.au)  
**ACT NoWaste | Transport Canberra and City Services Directorate | ACT Government**  
480 Northbourne Avenue Dickson | GPO Box 158 Canberra ACT 2601  
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**From:** [Vidau, Joley](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Reusable facilities evaluation team catch up.  
**Start:** Tuesday, 17 October 2023 11:00:00 AM  
**End:** Tuesday, 17 October 2023 11:30:00 AM  
**Location:** Microsoft Teams Meeting

---

**From:** [Vidau, Joley](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Reusable facilities - quick catch up  
**Start:** Monday, 13 November 2023 10:30:00 AM  
**End:** Monday, 13 November 2023 11:00:00 AM  
**Location:** Microsoft Teams Meeting

---

**From:** [Vidau, Joley](#)  
**To:** [Berry, Martin](#); [Crowe, Sean](#)  
**Subject:** RE: Update on reusable facilities documentation.  
**Date:** Friday, 17 November 2023 12:09:00 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image004.png](#)

---

Completed

thanks

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**From:** Berry, Martin <Martin.Berry@act.gov.au>  
**Sent:** Friday, November 17, 2023 11:19 AM  
**To:** Crowe, Sean <Sean.Crowe@act.gov.au>; Vidau, Joley <Joley.Vidau@act.gov.au>  
**Subject:** RE: Update on reusable facilities documentation.

OFFICIAL

Hi Joley,

I have been through the brief and the evaluation plan. I have removed all the track changes out of the documents and signed it. I have also updated the risk associated with the contract termination from high to medium in the report and the risk register.

I have not put a date or critical date on the brief yet. Will do this just before we send it to Bruce.

Joley, If you are happy with all that, can you please sign the report?

Thanks,  
Martin

---

**From:** Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
**Sent:** Friday, November 17, 2023 11:00 AM  
**To:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>; Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Subject:** RE: Update on reusable facilities documentation.

OFFICIAL

Hi Martin,

Can you date mine please when you're in there as I left it blank .

Thanks.

**Kind Regards,**

Sean Crowe | Project Director - Infrastructure | ACT NoWaste  
Phone: [REDACTED] | Email: [sean.crowe@act.gov.au](mailto:sean.crowe@act.gov.au)  
Transport Canberra and City Services | ACT Government  
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---

**From:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Sent:** Friday, November 17, 2023 10:52 AM  
**To:** Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>; Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Subject:** RE: Update on reusable facilities documentation.

OFFICIAL

Hi Sean and Joley,



I will update the documents.

Joley, if you are happy with that, I will also sign and send back to you. If you can sign today then I can send it off to the probity advisor for review.

Thanks,  
Martin

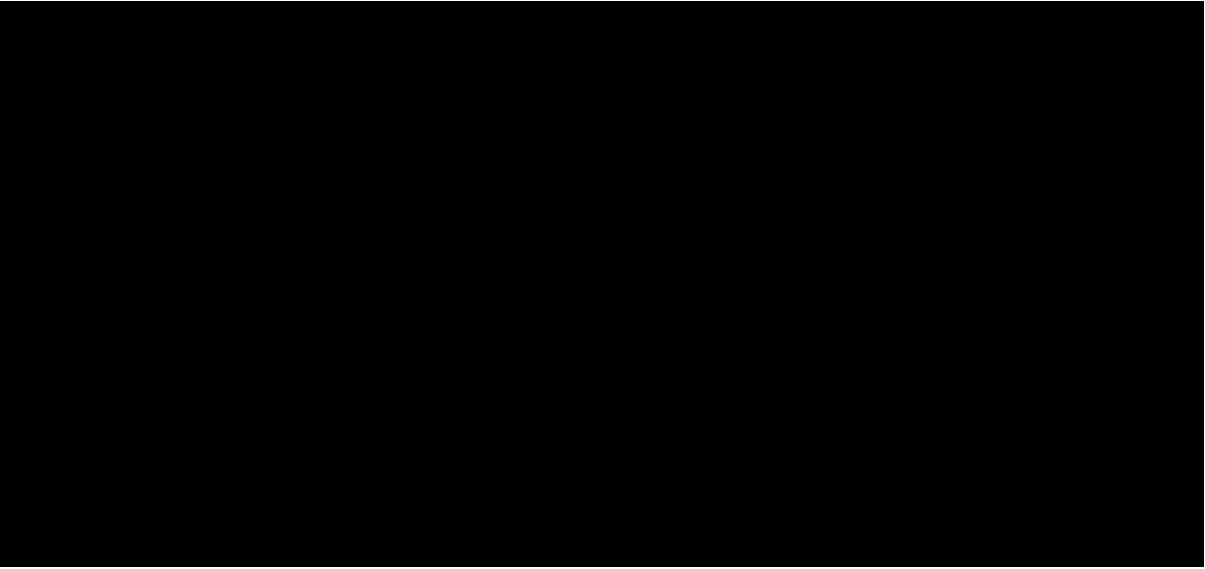
---

**From:** Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
**Sent:** Friday, November 17, 2023 10:43 AM  
**To:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>; Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Subject:** RE: Update on reusable facilities documentation.

OFFICIAL

Hi All,

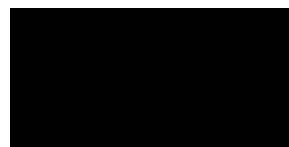
Firstly I have reviewed the documents and with the exception of below I am fine with everything. Made a really minor typo and added by signature for when it is needed.



**Kind Regards,**

Sean Crowe | Project Director - Infrastructure | ACT NoWaste  
Phone: [REDACTED] | Email: [sean.crowe@act.gov.au](mailto:sean.crowe@act.gov.au)  
Transport Canberra and City Services | ACT Government  
480 Northbourne Avenue, Dickson 2602 | GPO Box 158 Canberra ACT 2601 |  
[www.act.gov.au](http://www.act.gov.au) | [www.cityservices.act.gov.au](http://www.cityservices.act.gov.au) |

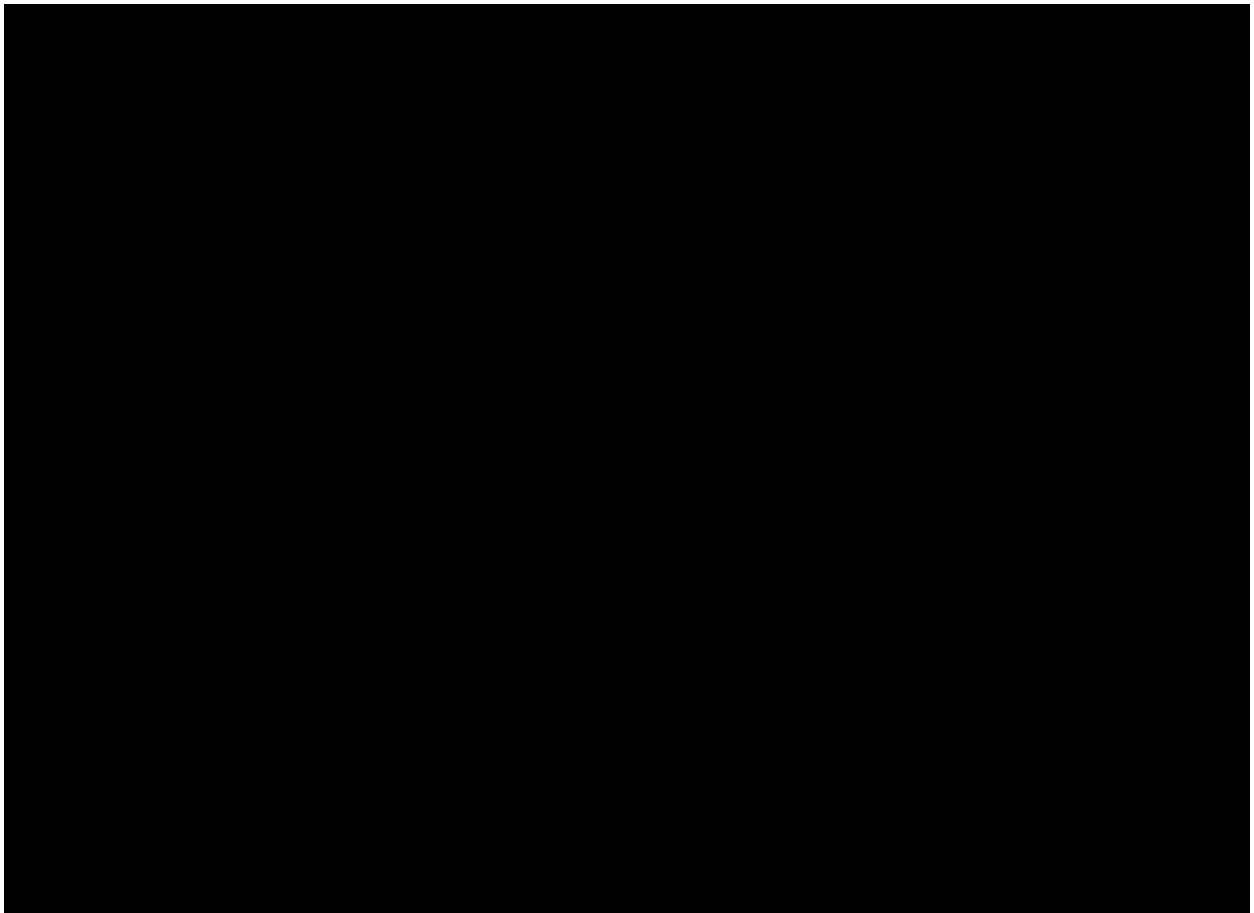
*I acknowledge the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region. I acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.*



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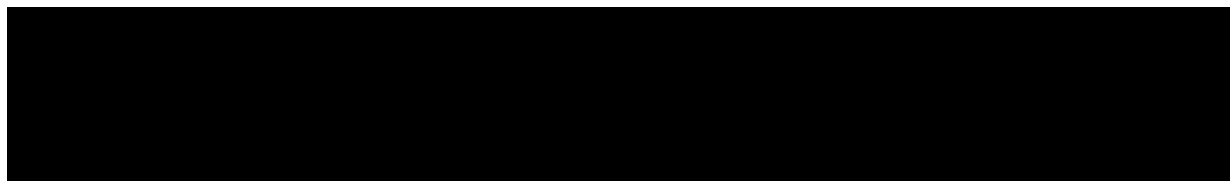
**From:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Sent:** Friday, November 17, 2023 9:57 AM  
**To:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>; Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
**Subject:** RE: Update on reusable facilities documentation.



Cheers,  
Martin

---

**From:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Sent:** Thursday, November 16, 2023 3:59 PM  
**To:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>; Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
**Subject:** RE: Update on reusable facilities documentation.



ta

---

**From:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Sent:** Thursday, November 16, 2023 2:57 PM  
**To:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>; Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
**Subject:** RE: Update on reusable facilities documentation.

OFFICIAL

Hi Joley,

[Redacted]

Thanks,  
Martin

---

**From:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Sent:** Thursday, November 16, 2023 2:34 PM  
**To:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>; Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
**Subject:** RE: Update on reusable facilities documentation.

Thanks Martin,

You have done an amazing job thus far.

[Redacted]

Thanks  
Joley

---

**From:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Sent:** Monday, November 13, 2023 10:51 AM  
**To:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>; Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
**Subject:** Update on reusable facilities documentation.

OFFICIAL

Hi Joley and Sean,

[Redacted]

[Redacted]

I have made some updates to the report and brief since we last reviewed it. Can I ask you both to look over the documents paying particular attention to anything in track changes and the referee reports section of the report?

I have also made two additional attachments. Attachments 6 and 7 are the risk register and the negotiations plan respectively. The risk register has two sheets. The first highlights the risks of each submission while the second part covers off the general project risks and has been slightly updated from the previous version that was approved with the release of the tender.

Can you both please review the Brief, the evaluation report and attachments 6 and 7?

Let me know if you have any questions or would like to discuss anything further.

Thanks,  
Martin

**Martin Berry | Director – Service Integration | Strategic Coordination and Planning**  
P 02 6205 4564 | E [martin.berry@act.gov.au](mailto:martin.berry@act.gov.au)  
**ACT NoWaste | Transport Canberra and City Services Directorate | ACT Government**  
480 Northbourne Avenue Dickson | GPO Box 158 Canberra ACT 2601  
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**From:** [Vidau, Joley](#)  
**To:** [Berry, Martin](#)  
**Subject:** FW: Procurement evaluation brief to load into Objective  
**Date:** Wednesday, 22 November 2023 11:08:00 AM  
**Attachments:** [image001.png](#)

---

Have you let Bruce know its coming or do you want me to?

---

**From:** Berry, Martin <Martin.Berry@act.gov.au>  
**Sent:** Wednesday, November 22, 2023 9:29 AM  
**To:** Connolly, Andrea <Andrea.Connolly@act.gov.au>  
**Cc:** Vidau, Joley <Joley.Vidau@act.gov.au>  
**Subject:** RE: Procurement evaluation brief to load into Objective

OFFICIAL: Sensitive

Hi Andrea,

That is correct. For procurements, it goes straight from the Evaluation Panel chair to the delegate which in this case is Joley to Bruce.

Can I also amend my email below? Can the title be: Provision of Reusable Facilities services, Evaluation Report and Recommendation.

Thanks,  
Martin

---

**From:** Connolly, Andrea <[Andrea.Connolly@act.gov.au](mailto:Andrea.Connolly@act.gov.au)>  
**Sent:** Wednesday, November 22, 2023 9:26 AM  
**To:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Cc:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Subject:** RE: Procurement evaluation brief to load into Objective

OFFICIAL: Sensitive

Hey Martin,

Just checking this does not go through MK?

**Andrea Connolly | Executive Assistant to Margaret Kitchin**  
**Executive Branch Manager, ACT NoWaste**  
**Transport Canberra and City Services Directorate | ACT Government**  
Telephone: 02 6207 9619 | Email: [andrea.connolly@act.gov.au](mailto:andrea.connolly@act.gov.au)  
Dickson Office Building, 480 Northbourne Av, Dickson | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

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**From:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Sent:** Wednesday, November 22, 2023 8:50 AM

**To:** Connolly, Andrea <[Andrea.Connolly@act.gov.au](mailto:Andrea.Connolly@act.gov.au)>  
**Cc:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Subject:** Procurement evaluation brief to load into Objective

OFFICIAL: Sensitive

Hi Andrea,

Can you please load the attached brief and attachments into Objective for me?

The Title of the Brief will be: Reusable Facilities Evaluation Report and Recommendation

This brief is for the outcome of a procurement and is highly confidential so the approval sequence will be different to a normal brief and will just be Me, Joley and Bruce. There is not need for Belinda to QA.

I really need this to get to Bruce this week before he moves to the DDG role. Joley and I can approve this very quickly once it is loaded.

Please let me know if you have any questions.

Thanks,  
Martin

**Martin Berry | Director – Service Integration | Strategic Coordination and Planning**  
P 02 6205 4564 | E [martin.berry@act.gov.au](mailto:martin.berry@act.gov.au)  
**ACT NoWaste | Transport Canberra and City Services Directorate | ACT Government**  
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**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Reusable Facilities - Tender Evaluation and Consensus - Meeting 2  
**Start:** Tuesday, 12 September 2023 2:00:00 PM  
**End:** Tuesday, 12 September 2023 5:00:00 PM  
**Location:** 480NBA 04.127 Kowen Room (Capacity 10, Webex Board)

---



## Procurement ACT



### GS3538978 – THE PROVISION OF REUSABLE FACILITY SERVICES IN THE TERRITORY

Dear [REDACTED],

Thank you for submitting a response for the subject Tender.

The ACT Government (**Territory**) regrets to advise that on this occasion your organisation has not been selected as the preferred Respondent.

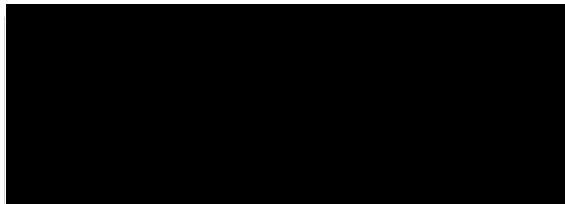
The preferred Tenderer, The St Vincent de Paul Society Canberra/Goulburn Ltd, was assessed by the Evaluation Team as providing the Territory with a response that met all the specified criteria to the greatest degree as well as best overall value for money.

A public text version of the agreement will be published on the Territory's Contracts Register. Public access to the Contracts Register is available at the following website:

<https://www.procurement.act.gov.au/registers/contracts-register>

If your organisation requires a debrief, please reply via email to [Joley.vidau@act.gov.au](mailto:Joley.vidau@act.gov.au) within 5 business days of receipt of this letter in order to arrange a suitable time.

Yours sincerely,



Phil Slater  
DIRECTOR  
PROCUREMENT ACT  
13/03/2024



## Procurement ACT



### GS3538978 – THE PROVISION OF REUSABLE FACILITY SERVICES IN THE TERRITORY

Dear 

Thank you for submitting a response for the subject Tender.

The ACT Government (**Territory**) regrets to advise that on this occasion your organisation has not been selected as the preferred Respondent.

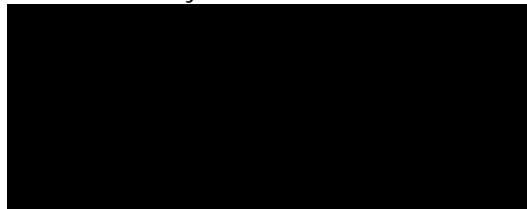
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<https://www.procurement.act.gov.au/registers/contracts-register>

If your organisation requires a debrief, please reply via email to [Joley.vidau@act.gov.au](mailto:Joley.vidau@act.gov.au) within 5 business days of receipt of this letter in order to arrange a suitable time.

Yours sincerely,



Phil Slater  
DIRECTOR  
PROCUREMENT ACT  
13/03/2024

**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: ACT Reusable Facilities pre evaluation briefing  
**Start:** Tuesday, 8 August 2023 11:00:00 AM  
**End:** Tuesday, 8 August 2023 11:45:00 AM  
**Location:** Microsoft Teams Meeting

---

**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Reusable Facilities - Tender Evaluation and Consensus - Meeting 2  
**Start:** Tuesday, 12 September 2023 2:00:00 PM  
**End:** Tuesday, 12 September 2023 5:00:00 PM  
**Location:** 480NBA 04.127 Kowen Room (Capacity 10, Webex Board)

---

**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Reusable Facilities - Tender Evaluation and Consensus - meeting 1

---

**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Reusable Facilities - Tender Evaluation and Consensus - meeting 1

---

**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Reusable Facilities - Tender Evaluation and Consensus - Meeting 2

---

**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Reusable facilities evaluation team catch up.

---

**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Subject:** Declined: Reusable facilities - quick catch up

---

Hi Martin,

[REDACTED]

I can catch up now if you like?

Sean

**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Reusable facilities - quick catch up

---

**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Subject:** RE: d. Evaluation (fA9974450)  
**Date:** Thursday, 14 September 2023 3:28:00 PM

---

OFFICIAL

Done.

Kind Regards,

Sean Crowe | Project Director - Infrastructure| ACT NoWaste  
Phone: [REDACTED] | Email: [sean.crowe@act.gov.au](mailto:sean.crowe@act.gov.au) Transport Canberra and City Services| ACT Government  
480 Northbourne Avenue, Dickson 2602 | GPO Box 158 Canberra ACT 2601| [www.act.gov.au](http://www.act.gov.au) |  
[www.cityservices.act.gov.au](http://www.cityservices.act.gov.au) | I acknowledge the Ngunnawal people as traditional custodians of the ACT and  
recognise any other people or families with connection to the lands of the ACT and region. I acknowledge and  
respect their continuing culture and the contribution they make to the life of this city and this region.

Connected services for the people of Canberra

-----Original Message-----

From: Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
Sent: Thursday, 14 September 2023 1:45 PM  
To: Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
Subject: FW: d. Evaluation (fA9974450)

OFFICIAL

Hi Sean,

Please drop your evaluation documents in here.

Thanks,  
Martin

-----Original Message-----

From: Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
Sent: Tuesday, 12 September 2023 4:04 PM  
To: Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
Subject: d. Evaluation (fA9974450)

Here's the folder I have put both mine and Sean's eval into.

I can do yours or you can, I'm easy.

Thanks

Joley Vidau has sent you a link to "d. Evaluation" (fA9974450) from Objective.

Open in Objective ECM Navigator  
Double click on the attachment

Open in ECM for Browser  
<https://objective.act.gov.au/#/documents/fA9974450/details>

**From:** [Crowe, Sean](#)  
**To:** [Berry, Martin](#)  
**Subject:** Accepted: Final evaluation meeting for reusables

---

**From:** [Crowe, Sean](#)  
**To:** [Vidau, Joley](#)  
**Subject:** RE: Evaluation Template and resources  
**Date:** Thursday, 17 August 2023 11:54:00 AM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.gif](#)  
[image005.png](#)

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OFFICIAL

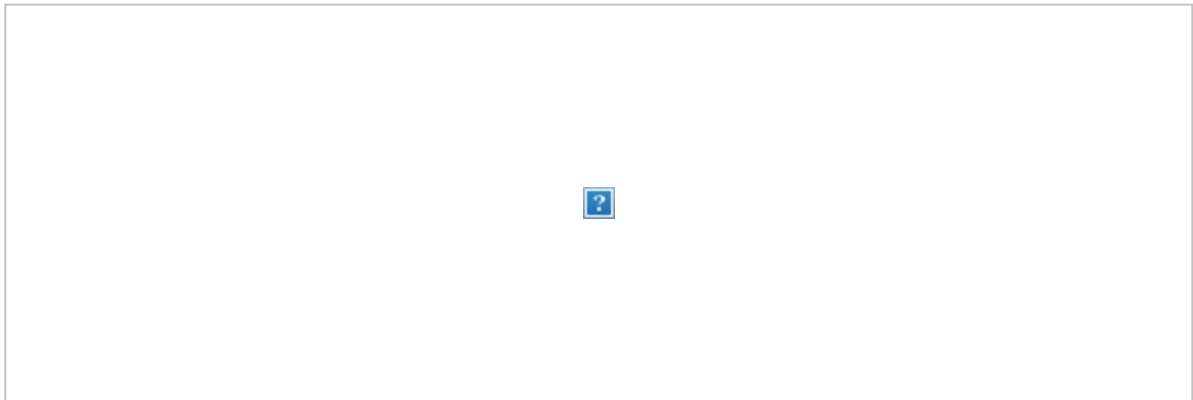
Thanks. For the life of me I couldn't find it!

Have an old mans moment!

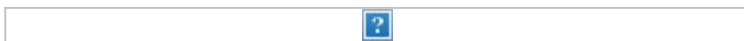
**Kind Regards,**

Sean Crowe | Project Director - Infrastructure | ACT NoWaste  
Phone: [REDACTED] | Email: [sean.crowe@act.gov.au](mailto:sean.crowe@act.gov.au)  
Transport Canberra and City Services | ACT Government  
480 Northbourne Avenue, Dickson 2602 | GPO Box 158 Canberra ACT 2601 |  
[www.act.gov.au](http://www.act.gov.au) | [www.cityservices.act.gov.au](http://www.cityservices.act.gov.au) |

*I acknowledge the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region. I acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.*



Connected services for the people of Canberra



---

**From:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>  
**Sent:** Thursday, 17 August 2023 11:45 AM  
**To:** Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
**Subject:** FW: Evaluation Template and resources

---

**From:** Berry, Martin <[Martin.Berry@act.gov.au](mailto:Martin.Berry@act.gov.au)>  
**Sent:** Friday, 11 August 2023 9:43 AM  
**To:** Vidau, Joley <[Joley.Vidau@act.gov.au](mailto:Joley.Vidau@act.gov.au)>; Crowe, Sean <[Sean.Crowe@act.gov.au](mailto:Sean.Crowe@act.gov.au)>  
**Subject:** Evaluation Template and resources

OFFICIAL

Hi Joley and Sean,

Please see attached evaluation template and tender evaluation plan. The tender evaluation plan contains all the information about how the weighted criteria should be scored.

I have broken the criteria out into dedicated sections in the evaluation template for more refined scoring but it is only the overall score for each criteria that will count towards the final score. Each weighted criteria should be assessed out of 10. A scoring guide is included in the evaluation plan and on the last page of the evaluation template to assist in setting scores.

I have also included the Objective link to the SOR and Contract, however, documents are now on the W drive. The access issues have now been resolved and can be accessed here [W Drive Tender Folder 35](#).

Please reach out if you have any questions.

Thanks,  
Martin

**Martin Berry | Director – Service Integration | Strategic Coordination and Planning**  
**P 02 6205 4564 | E [martin.berry@act.gov.au](mailto:martin.berry@act.gov.au)**  
**ACT NoWaste | Transport Canberra and City Services Directorate | ACT Government**  
480 Northbourne Avenue Dickson | GPO Box 158 Canberra ACT 2601  
[www.act.gov.au](http://www.act.gov.au) | [www.tccs.act.gov.au](http://www.tccs.act.gov.au)



*Connected services for the people of Canberra*

**From:** [Fitzgerald, Bruce](#)  
**To:** [Berry, Martin](#)  
**Subject:** RE: Reusable facilities procurement - Update  
**Date:** Tuesday, 31 October 2023 9:45:25 AM  
**Attachments:** [image001.png](#)

---

OFFICIAL

Thanks Martin

---

**From:** Berry, Martin <Martin.Berry@act.gov.au>  
**Sent:** Tuesday, October 31, 2023 8:22 AM  
**To:** Fitzgerald, Bruce <Bruce.Fitzgerald@act.gov.au>  
**Subject:** Reusable facilities procurement - Update

OFFICIAL

Hi Bruce

I wanted to provide you an update on the status of the reusable facilities procurement. The evaluation is almost complete and the tender evaluation team chair will be sending you the report soon. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] leave until 8 November, so I am hoping to have the report to you soon after that.

Thanks,  
Martin

**Martin Berry | Director – Service Integration | Strategic Coordination and Planning**  
P 02 6205 4564 | E [martin.berry@act.gov.au](mailto:martin.berry@act.gov.au)  
**ACT NoWaste | Transport Canberra and City Services Directorate | ACT Government**  
480 Northbourne Avenue Dickson | GPO Box 158 Canberra ACT 2601  
[www.act.gov.au](http://www.act.gov.au) | [www.tccs.act.gov.au](http://www.tccs.act.gov.au)



*Connected services for the people of Canberra*

## Berry, Martin

---

**From:** Fitzgerald, Bruce  
**Sent:** Wednesday, 22 November 2023 11:56 AM  
**To:** Berry, Martin  
**Cc:** Vidau, Joley; Crowe, Sean  
**Subject:** RE: Update on the Reusable Facilities procurement.

OFFICIAL

Great – thanks Martin

---

**From:** Berry, Martin <Martin.Berry@act.gov.au>  
**Sent:** Wednesday, November 22, 2023 11:29 AM  
**To:** Fitzgerald, Bruce <Bruce.Fitzgerald@act.gov.au>  
**Cc:** Vidau, Joley <Joley.Vidau@act.gov.au>; Crowe, Sean <Sean.Crowe@act.gov.au>  
**Subject:** Update on the Reusable Facilities procurement.

OFFICIAL

Hi Bruce,

I have received advice [REDACTED]  
[REDACTED] we are clear to proceed.

The probity advisor has cleared the evaluation report and I am having the report, supporting brief from the panel chair and other attachments loaded into Objective this morning and I am hoping it will be with you by the end of the day.

[REDACTED]  
[REDACTED] Once you have reviewed the report, the panel is available if you would like to discuss any aspect of the report or the decision making process of the panel.

Thanks,  
Martin

Martin Berry | Director – Service Integration | Strategic Coordination and Planning  
P 02 6205 4564 | E [martin.berry@act.gov.au](mailto:martin.berry@act.gov.au)  
ACT NoWaste | Transport Canberra and City Services Directorate | ACT Government  
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*Connected services for the people of Canberra*

# Transport Canberra and City Services

# Reusable Facility Services

# Procurement

# Industry Briefing

# 04 JULY 2023



**ACT**  
Government  
Transport Canberra  
and City Services



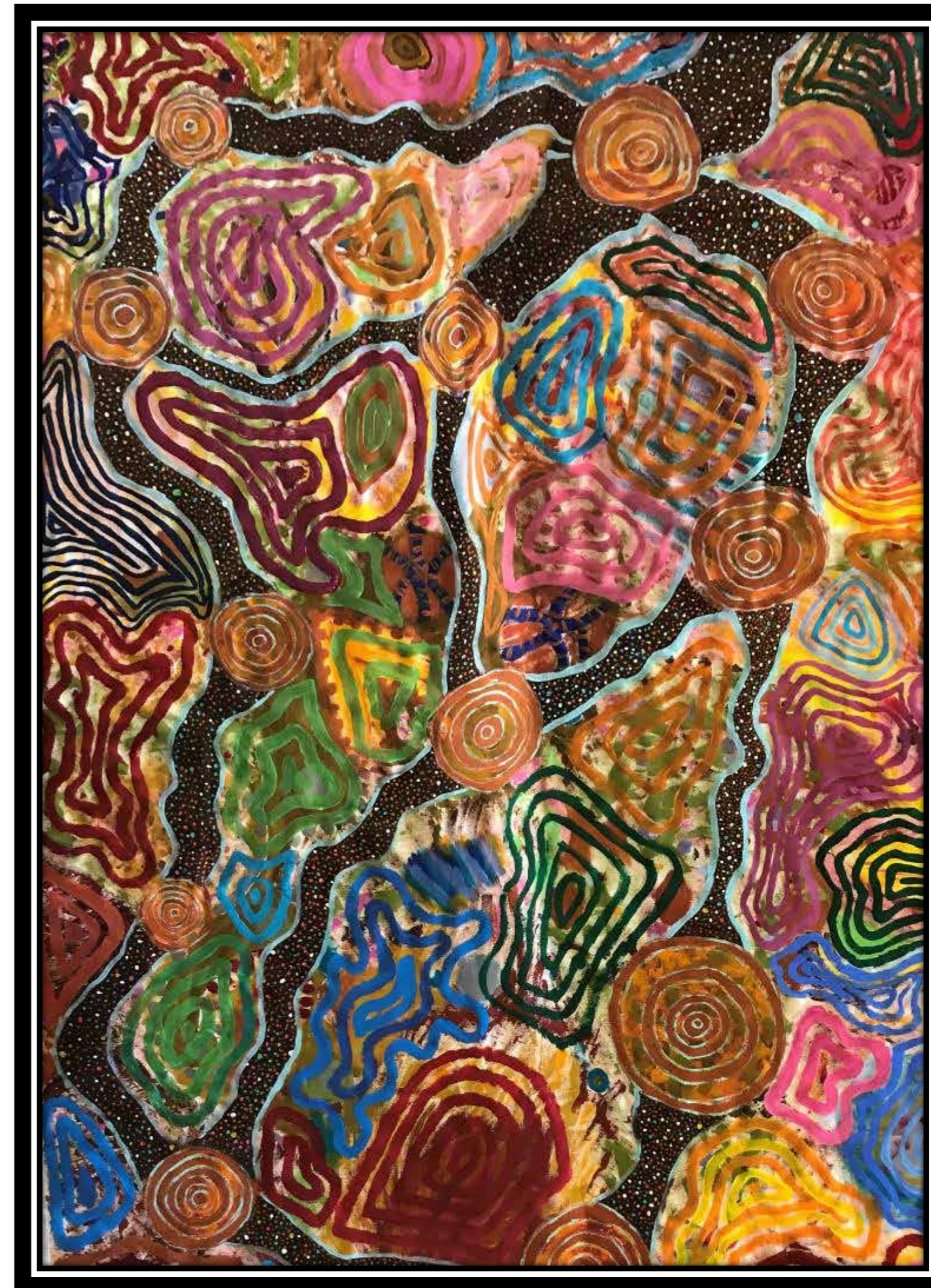
**CANBERRA**

# Acknowledgement

*We acknowledge the Ngunnawal people as traditional custodians of the land we are meeting on and recognise any other people or families with connection to the lands of the ACT and region.*

*We acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region. We would also like to acknowledge and welcome other Aboriginal and Torres Strait Islander people who may be attending today's event.*

Artwork created in collaboration with Richie Allan and ACT NoWaste staff, May 26 2021.





# Agenda

- Housekeeping
- **Probity (Griffin Legal)**
- **Secure Local Jobs Code**
- **Background and Objectives**
- **RFP**
- **Performance Management Framework**
- **Evaluation Criteria**
- **Responses**
- **Timeline**



# Probity Considerations

- Probity is the evidence of ethical behaviour by all parties involved.
- It ensures that all Tenderers have a fair opportunity to participate in this procurement.
- Tenderers should not rely on the information in this session as an alternative to reading the Request for Proposals (RFP) documents in full.
- Any change to the RFP will be published as an Addendum on TendersACT.
- Please make sure that you use the appropriate channels of communication with the Territory as set out in the RFP.
- No private discussions will be held with Tenderers, to ensure that you all receive the same information at the same time.
- Please make sure that you give yourself enough time to upload your tender response prior to the Closing Time.

# ETHICAL TREATMENT OF WORKERS EVALUATION

A **Ministerial Direction** to strengthen the Territory's procurement practices which has 2 components:

## SLJC COMPLIANCE

- „ LRTWE plan submitted for the tender
- „ LRTWE compliance for contracts in the last 12 months
- „ Maintaining compliance with prescribed legislation for the last 5 years

## REPUTATION RISK

- „ Convictions, penalties or other legal action outside the 5 years
- „ Media reporting
- „ Current investigations, alleged breaches
- „ Notices and investigations to any other relevant legislation not included in the prescribed list.



**PROVIDE  
AS MUCH  
INFORMATION AS YOU CAN  
IN YOUR RESPONSES**

- „ Information and evidence to demonstrate what is being done to address and prevent breaches and issues moving forward
- „ Training
- „ Changes to procedures and processes
- „ Engagement or employment of additional or specialist staff

# LABOUR RELATIONS, TRAINING and WORKFORCE EQUITY PLANS



- „ Outlines how a business will comply with the code.
- „ Completed by businesses who hold a SLJC Certificate, as part of their tender response.
- „ Must be developed in consultation with your staff (need to provide supporting evidence of consultation).
- „ Complied with for the duration of the contract.
- „ Is evaluated as part of the tender evaluation process.

## WHO NEEDS TO COMPLETE A LRTWE?

- „ Cleaning, security or traffic management work worth >\$25,000
- „ Construction work >\$200,000



**YOU WILL NEED TO ENSURE THAT YOU PROVIDE:**

- „ Evidence to support your claims
- „ Complete a plan and submit it with each tender response.

# LABOUR RELATIONS, TRAINING & WORKPLACE EQUITY PLAN (LRTWEP)



## Consultation

The Government Procurement Regulations 2007 states that the LRTWEP template **must** be consulted with the tenderer's employees.



**If consultation cannot be held (ie. If you are a sole trader and do not engage with employees), tenderer can:**

- consult with unions or relevant external stakeholders (ie. with repeating sub-contractors) or,
- demonstrate they have a LRTWEP consultation plan in place by providing evidence such as their SLJC policy or a consultation plan that specifically is for LRTWEP or,
- email trail with external stakeholder of a consultation attempt.



## Security of Employment

Response should demonstrate how tenderer can minimise insecure work arrangements for employees and sub-contractors for the duration of the contract if they were successful.

*If available, attaching evidence such as their sub-contractor agreement template or company policy can support their response.*



**Guidance\* questions for tenderers think about:**

- If more staff was to be hired for this contract, how will you support this?
- If there's any opportunities for transitioning employees from former contractors? If so, how will this be supported?
- How will you ensure the sub-contractor you engage with can minimise insecure work arrangements for their employees for the duration of this contract?
- If you were not hiring any staff for this contract, how will you ensure job security for your employees in the duration of the contact?

\*Guidance: The guidance questions are not the legislated questions on the LRTWEP. This is only intended to be a guide for tenderers.

# LABOUR RELATIONS, TRAINING & WORKPLACE EQUITY PLAN (LRTWEP)



## Health & Wellbeing

- Response should demonstrate how the tenderer actively supports the physical and mental health of their employees, including activities that reduce the impact and incidence of impairment in the workplace.
- If available, attaching evidence such as past receipt for team events/training/health programs, company wellbeing policy, identification of EAP can support the response.



### Guidance\* questions for tenderers think about:

- What practices or initiatives is in place to reduce incidence or impairment in the workplace?
- Any team bonding initiatives that may occur in the duration of the contract?
- Rather than directing employees to self-help, what action is the tenderer taking to improve health and wellbeing in the workplace?
- If you are a sole trader, what initiatives or policies do you have in place that addresses health and wellbeing?



## Diversity in the Workplace

- Response should demonstrate what strategies and/or processes are in place from the tenderer to support diversity in the workplace? Particularly if there's any support for employment participation of Aboriginal and Torres Strait Islander people, women, people with disability and people from culturally and linguistically diverse backgrounds.
- If available, attaching evidence such as policy, procedures, targeted traineeships, designated positions or roles, targeted job posts, training content etc...



### Guidance\* questions for tenderers think about:

- In the duration of the contract, will the tenderer hire any staff from the diversity groups? If so, how many and how will this be done?
- Are there any employment program(s) the tenderer engages with that provides employment opportunities? If yes, will they be engaging with any for the duration of the contract?

\*Guidance: The guidance questions are not the legislated questions on the LRTWEP. This is only intended to be a guide for tenderers.

# THINGS TO KNOW



## Responding to LRTWEP Questions

Response on each LRTWEP should answer **specifically** to the Tender that you are submitting for.



## Latest LRTWEP Template

We have made some updates to the Labour Relation, Training & Workplace Equity Plan template. Please use the latest version that is available on the Secure Local Jobs Code resources [website](#).



## New guidance added to the Respondent Guide

A **new appendix** has been added to the **Respondent Guide** and is now uploaded on to our website.. *Note: the examples provided are **not intended to be an exhaustive list of examples** and **is not a marking criteria**.* Assessment Officers will determine the impact based on the assessment risk matrix.

# QUESTIONS

---



Secure Local Jobs Code Branch  
Office of Industrial Relations and Workplace Safety | CMTEDD | ACT Government



# Background

- The Territory's has two Reusable Facilities at the Mugga Lane and Mitchell Resource Management Centres.
- The Management of the Reusable Facilities are both operated by The Green Shed (TGS).
- Two Separate Contracts.
- ACT NoWaste is carrying out this procurement activities to consolidate contracts and engage an experienced provider past the expiry date.
- Duration – 4 years + 2 X 1 year extensions.



# Government Priorities and Strategic Alignment

- *The ACT Waste Management Strategy 2011 – 2025*
- *The draft Circular Economy Policy 2022 – 2025*
- *The Waste Feasibility Study Roadmap 2018*
- *The objectives of the TCCS Services Strategic Plan 2021-2024*

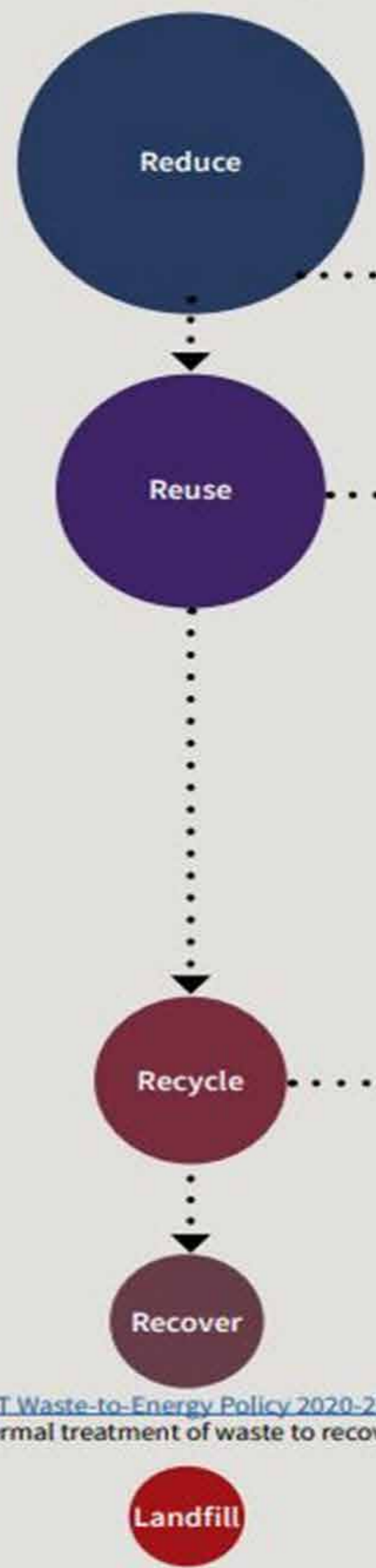
# From the waste hierarchy to a circular future

A circular economy seeks to expand on the traditional model of the waste hierarchy, which focuses on options to reduce waste and maximise resource recovery through a prioritisation of Reduce, Reuse, Recycle, Recover and Landfill options.

Creating a circular economy goes beyond waste to embed the circular concepts across the economy. It expands on the development of prevention (reduce) and reuse measures, reducing the need for consumption in the first place, and focusing on keeping materials in circulation for as long as possible, before needing to recycle them.



## Waste hierarchy



The [ACT Waste-to-Energy Policy 2020-25](#) permits non-thermal treatment of waste to recover energy

As we transition towards a circular economy the safe disposal of residual waste via landfill will still be necessary

## Circular economy hierarchy

<b>Refuse</b>	Make a product redundant by abandoning its function or by offering the same function by a different (e.g. digital) product or service
<b>Rethink</b>	Make a product more intensive (e.g. through product as a service, reuse and sharing models) or by putting multifunctional products on the market
<b>Reduce</b>	Increase efficiency in product manufacture or use by consuming fewer natural resources and materials
<b>Reuse</b>	Reuse of a product which is still in good condition and fulfills its original function (and is not waste) for the same purpose for which it was conceived
<b>Repair</b>	Repair and maintenance of defective product so it can be used with its original function
<b>Refurbish</b>	Restore an old product and bring it up to date (to specific quality level)
<b>Remanufacture</b>	Use parts of a discarded product in a new product with the same function (with quality to sell as new product)
<b>Repurpose</b>	Use a redundant product or its parts in a new product with different function
<b>Recycle</b>	Recover materials from waste to be reprocessed into new products, materials or substances



# Service Objectives

- Provision of a convenient service for the community to drop off or purchase reusable items.
- Provision of effective maintenance of the site, infrastructure, plant and equipment.
- Provision of programs to **support circular economy principles**.
- Deliver **social benefits**.
- Implementation of a reusable items **price policy** that meets the community's expectations.
- Provision of effective stakeholder engagement.
- Provision of accurate and **timely reporting** of the Services.
- Deliver services in compliance with all applicable Territory legislation and government policies and best practice standards.



# Service Model

## Rent

- Peppercorn rent of \$1

## Pricing Policy

- Uncapped allows the future service provider to generate revenue by selling reusable items at fair prices (reasonable market value).
- The future service provider can sell reusable items to other facilities if they are recorded and reported.
- Revenue generated funds social benefits and circular economy support programs.



# Structure of the RFP Pack

- RFP head document
- Attachment A – Terms and Conditions
- Attachment B – Statement of Requirements
- Attachment C – Response Schedules
- Attachment C1 – Performance Management Framework
- Attachment D – Draft Service Agreement
- Attachment E – Economic Contribution Test (ECT)
- Attachment F – Fair and Safe Employment Evaluation Criteria
- Attachment G – Labour Relations, Training and Workplace Equity (LRTWE) Plan



# Statement of Requirements (Attachment B)

- Definitions
- Services
- Plan Development
- Reporting
- Performance Management Framework



# Service Scope

- Acceptance of items in reusable condition from the community
- Salvage items from the Transfer Stations
- Sell reusable items
- Dispose unsold items at the landfill
- Provide **charity activities and social events**
- Provide **social inclusion** (employment)
- **Partnerships** to maximise resource recovery
- Provide **educational programs** and communications to promote circular economy
- Provide **workshops** on reuse, repair and repurpose to the community
- Provide quality customer service
- Provide **quality reports**



# The Facilities

Mugga Lane Reusable Facility	Mitchell Reusable Facility
499 Mugga Lane, Jerrabomberra	100 Flemington Road, Mitchell
<ul style="list-style-type: none"> <li>○ Internal Shed 1935m<sup>2</sup></li> <li>○ Eastern Awning 125m<sup>2</sup></li> <li>○ Total GFA <b>2060m<sup>2</sup></b></li> </ul>	<ul style="list-style-type: none"> <li>○ Internal Shed 1562m<sup>2</sup></li> <li>○ Eastern Awning 768m<sup>2</sup></li> <li>○ North large awning 184m<sup>2</sup> + 105m<sup>2</sup></li> <li>○ Total GFA <b>2619m<sup>2</sup></b></li> </ul>
<ul style="list-style-type: none"> <li>○ Large shed type building with roller doors mostly used for display and sale of second hand goods.</li> <li>○ Office/Staff Area with toilets</li> <li>○ Sorting Area</li> </ul>	<ul style="list-style-type: none"> <li>○ Large standalone shed type building with roller doors mostly used for display and sale of second hand goods.</li> <li>○ Office/Staff Area with toilets</li> <li>○ Small Art Studio</li> </ul>
A small public toilet/storage building has been erected to the north of the building.	A large awning extend from the north face of the Building being used as a vehicle drop-off point.



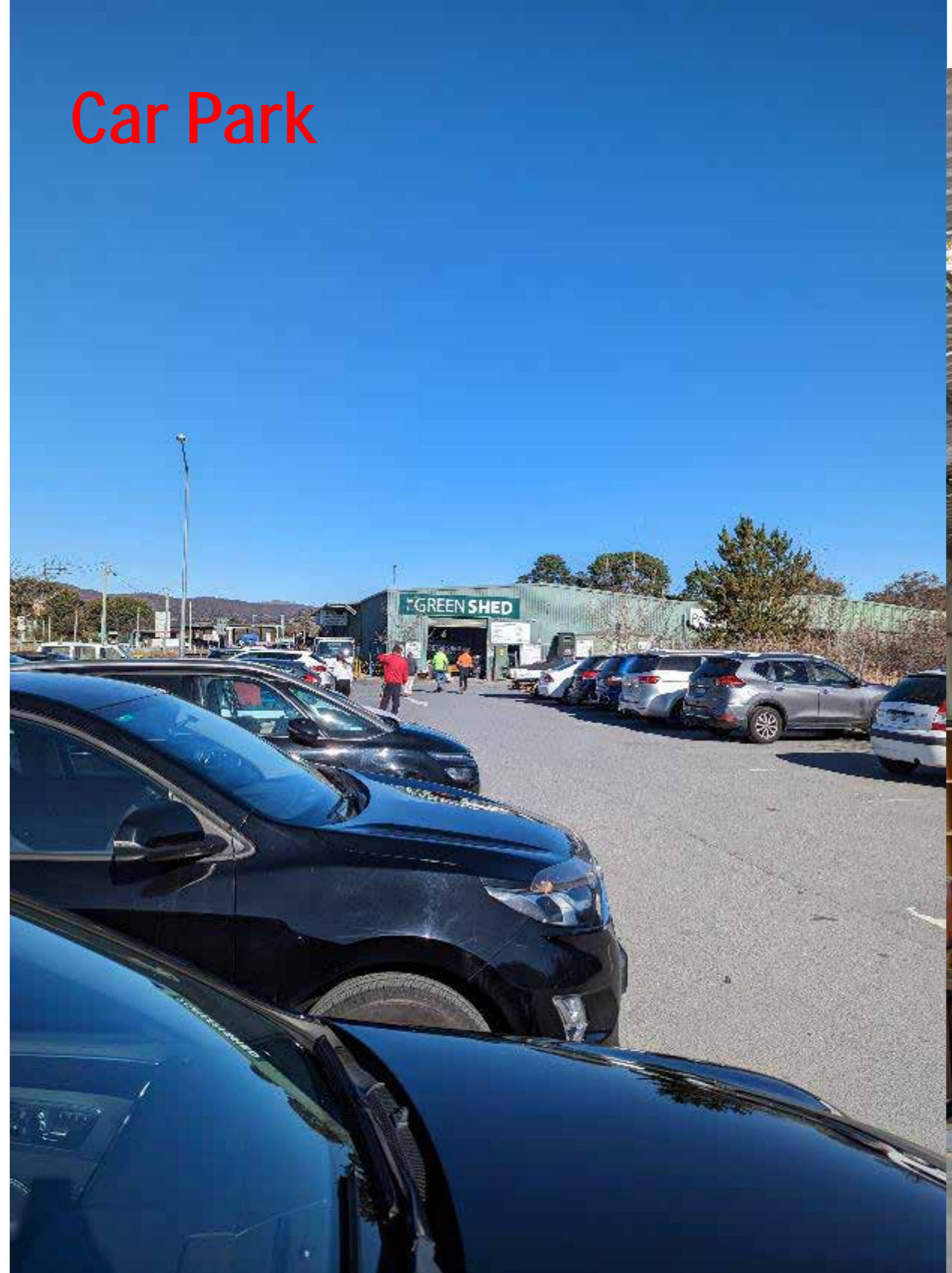
**ACT**  
Government  
Transport Canberra  
and City Services



# The Facilities

499 Mugga Lane, Jerrabomberra

Car Park

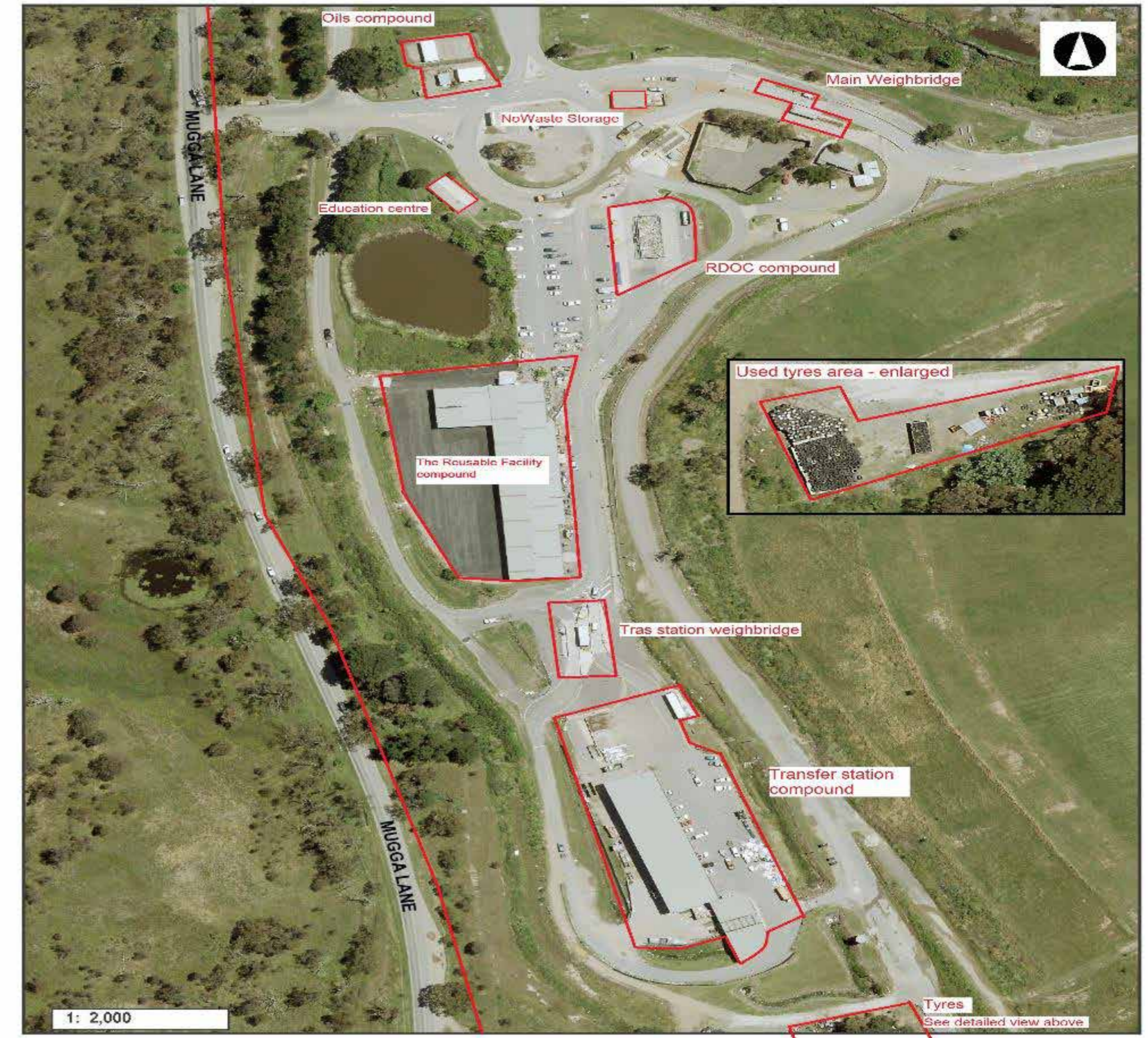


Internal Shed



**MLRMC Contract boundaries  
& Assets locations**

**ACTmapi**  
Sheet 2/2



**Disclaimer** The map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current or otherwise reliable. **03-Mar-2022**



**ACT**  
Government  
Transport Canberra  
and City Services



# The Facilities

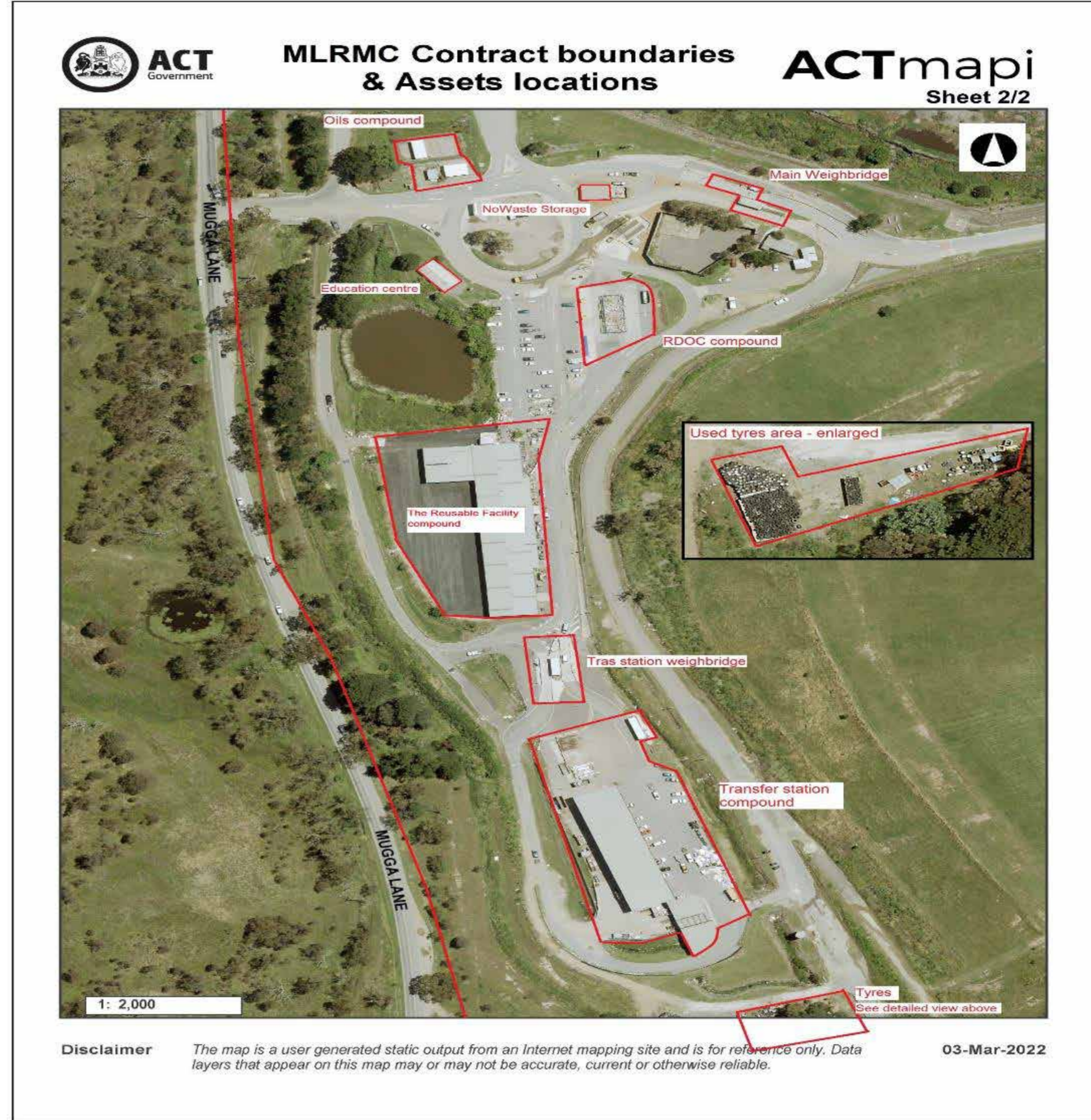
499 Mugga Lane, Jerrabomberra



West Pavement



East Drop off Area





**ACT**  
Government  
Transport Canberra  
and City Services



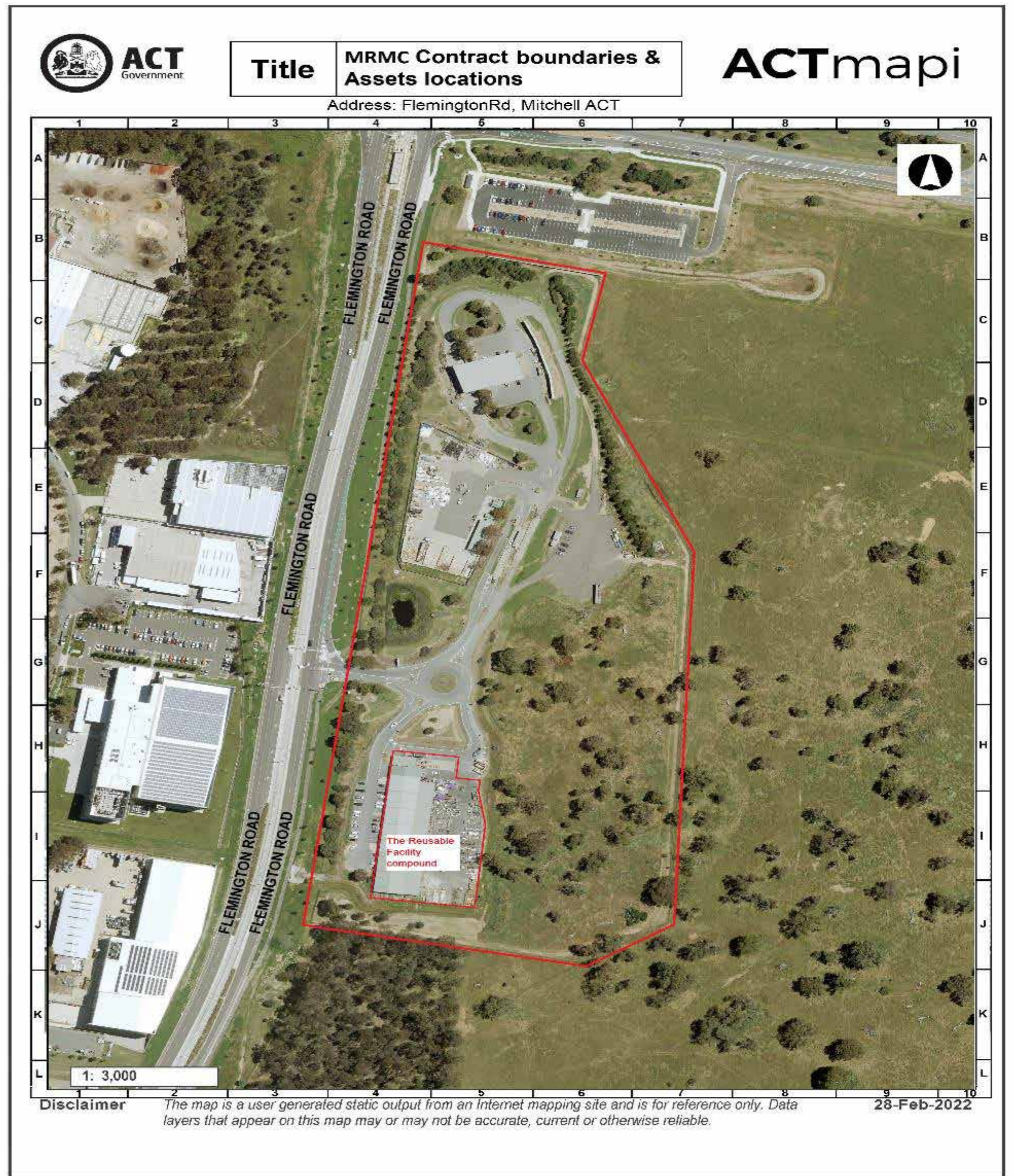
# The Facilities

100 Flemington Road, Mitchell

West Pavement (Car Park)



Internal Shed





**ACT**  
Government  
Transport Canberra  
and City Services



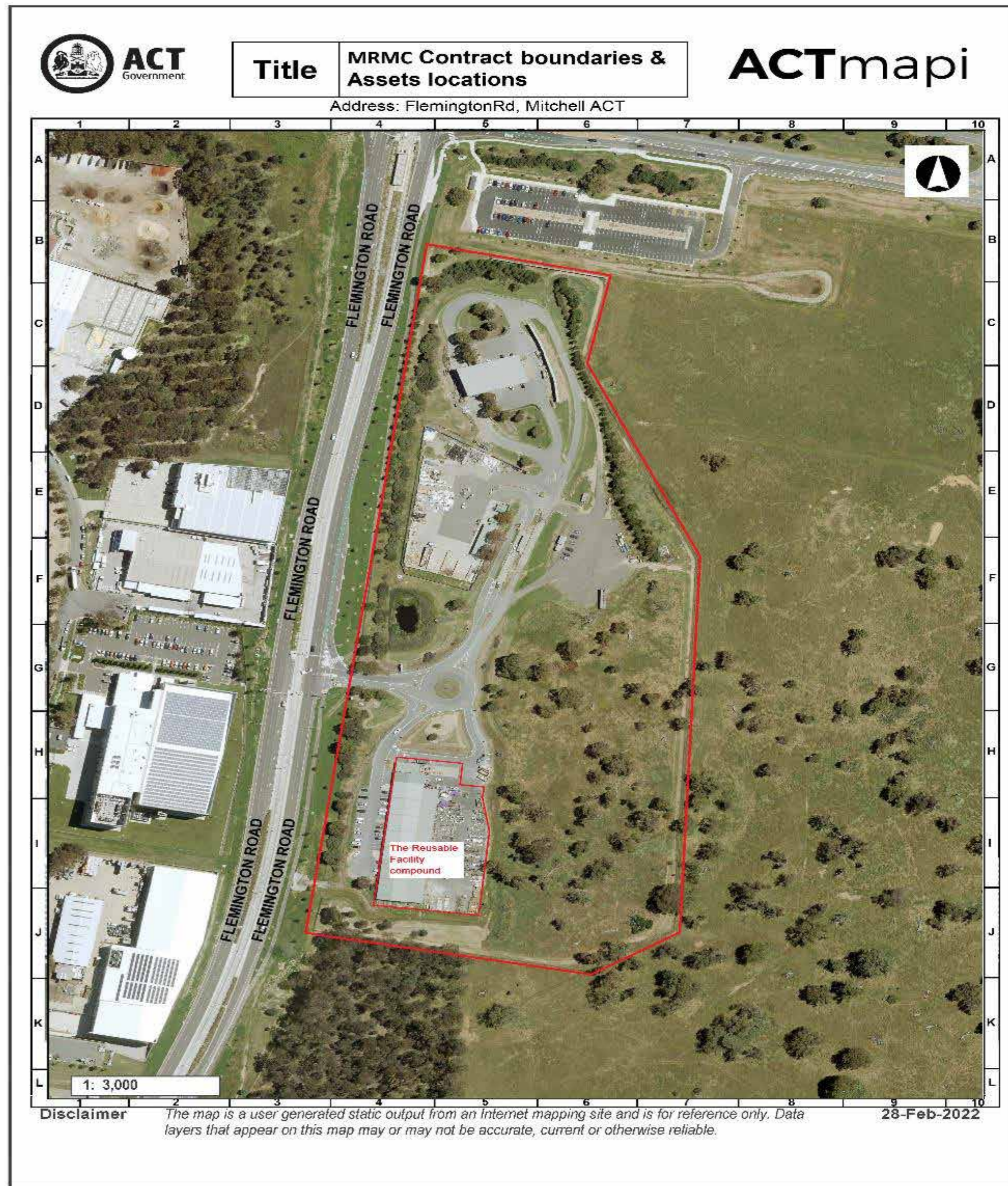
# The Facilities

100 Flemington Road, Mitchell

East Pavement



North Face Awning





# Plans

- Respondents are required to submit WHS and Service Plans to achieve the service objectives.
- The Service Plans are the methodologies, policies, plans, procedures and documents to ensure service delivery.
- The plans must demonstrate the ability to implement technical capabilities to deliver the Service objectives and outcomes in the SOR.

## Required Plans

- Service Plan
- WHS Plan



# Plans Structure

## Plans



### Service Plans

- Reusable Items Management
- Social Benefits and Circular Economy Support Programs
- Site Operations and Maintenance
- Recording and Reporting
- Transition Management

### WHS System

- WHS Plan
- Hazardous Materials Management Plan
- Traffic Management Plan



# Performance Management Framework

- Focus on delivery of outcomes and objectives as shown in plans
- KPI has a checklist corresponding to plans or discrete components of the plans.
- The checklist comprises of weighted compliance items.
- Accurate data reporting.



# Compliance Checklist

- The Territory will manage the delivery of the service through a KPI linked to the “landfill disposal threshold”.
- The KPI will be measured by a checklist scored with a 100% compliance.
- The checklist comprises of weighted compliance items measured through pass/fail criteria
- The Territory has specified compliance items for:
  - § Reporting on quantities of reusable items received, sold, transferred, donated or disposed.
  - § Performance of regular charity activities.
  - § Performance of regular workshops.
  - § Performance of social events.
  - § Number of employees from disadvantaged backgrounds.
  - § Work health and safety.



# Disposal Threshold

- The monthly uncharged Disposal Threshold amount is 20 tonnes, additional 20 tonnes can be earned from achieving KPI's.
- This has been implemented to incentivise performance (to replace a fee).
- Commercial rate of \$182.34 per tonne.
- Threshold assists in achieving resource recovery outcomes.



# Compliance Checklist

**Table 3 - Compliance Checklist**

Compliance Item number	Compliance Item	Method and measure	Weighting (%) (To be Nominated by respondents)
1	Provide reports within <u>timeframe</u> (Reports contain sufficient evidence of provided Services)	<ul style="list-style-type: none"> <li>• Reports will be provided within timeframes specified in Clause 8.2, 8.3 and 8.4 of the SOR</li> <li>• Photo evidence of completed tasks.</li> <li>• Verified quantities of Reusable Items accepted, transferred, sold, <u>donated</u> and disposed.</li> <li>• Any other relevant evidence or reports.</li> </ul>	
2	Charity Activities	<ul style="list-style-type: none"> <li>• Verified record of Reusable Items or financial donations</li> <li>• As per relevant plan or SOR</li> </ul>	
3	Workshops	<ul style="list-style-type: none"> <li>• Workshop attendance record</li> <li>• As per relevant plan or SOR</li> </ul>	
4	Social events	<ul style="list-style-type: none"> <li>• As per relevant plan or SOR</li> </ul>	
5	Number of FTE/PTE/Casual Employees/ Aboriginal and Torres Strait Islander Employees/ Employees with disability  Social Inclusion	<ul style="list-style-type: none"> <li>• As per Clause 4.6 of the SOR</li> </ul>	

Reusable Facility Disposal Threshold	
<u>Baseline Threshold</u>	<u>Compliance Threshold</u>
20 Tonnes per month	20 Tonnes per month
<b>Adjustment Mechanism:</b> Unresolved Action Request or Active Plan 1 Action Plan = -5 Tonnes 2 Action Plans = -10 Tonnes	<b>Adjustment Mechanism:</b> Standard Performance Indicator to the KPI's 85% = 20 Tonnes 72% = 17 Tonnes 65% = 0 Tonne

KPI Indicators	
<u>Standard Indicator</u>	> = 85%
Sub-Standard Indicator	Btw 70 %– 85%
Minimum Indicator	Below 70%



# Example Compliance Checklist

<b>EXAMPLE Customer Service Compliance Checklist</b>			
<b>Compliance number</b>	<b>Compliance Item name and description</b>	<b>Method and measure to evidence compliance</b>	<b>Weighting (%)</b>
1	90% of Customer enquiries and complaints (online and phone) received before 2:00PM on a business day are responded to within one (1) business day.	Evidenced through customer logs during the monthly reporting period.	2%
2	95% of Customer enquiries and complaints (online and phone) received before 2:00PM on a business day are responded to within two (2) business days.	Evidenced through customer logs during the monthly reporting period.	2%
3	100% of Customer enquiries and complaints (online and phone) received before 2:00PM on a business day are responded to within two (3) business days.	Evidenced through customer logs during the monthly reporting period.	2%
4	Daily monitoring and reporting of all urgent road works identified on main municipal streets.	Evidenced through Company Road's jobs tracking system with video or photographic evidence.	5%
5	Weekly monitoring and reporting of all urgent road works identified for minor municipal streets.	Evidenced through Company Road's jobs tracking system with video or photographic evidence.	5%
6	Placement of safety signage for large potholes or damage within one (1) day of the identification time on a <b>main</b> municipal street.	Evidenced through Company Road's jobs tracking system with video or photographic evidence.	5%



# Reporting

## Quality Reporting

- Difficulties in measuring and reporting on mixed loads
- The RFP will have a focus on obtaining quality data.

## Monthly reports

- Reusable Stream entering and exiting the Reusable Facilities
- Monthly reports on social activities

## Quarterly Reports

- Comply with Waste Facility License

## Annual Reports

- Summary of activities throughout the Calendar Year

*More info see section 8 of the SOR*



# Mandatory Evaluation Criteria

- Respondents should take particular note of the Mandatory Evaluation Criteria associated with this RFT processes.
- Respondents **MUST** meet all of the Mandatory Criterion in order for their submissions to proceed through to evaluation:

NO	Mandatory Evaluation Criteria (Pass/Fail)
MC 1	Attendance at Mandatory industry briefing
MC 2	<b>Secure Local Jobs Code Certificate</b> The Respondent must hold a Secure Local Jobs Code Certificate as at the date of close for the Response.
MC 3	<b>Fair and Safe Employment Criteria Response Schedule &amp; Labour Relations, Training and Workplace Equity Plan.</b> The Respondent must complete and submit all attachments included in Attachment F – FSEC Response Schedule



# Responses and Weighting

No	Weighted Evaluation Criteria	Weighting
WC1	Capability and Capacity	10 %
WC2	Managing Reusable Items	20%
WC3	Circular Economy Support Programs and Social Benefits	20%
WC4	Reporting and Data Management	15%
WC5	Transition Management	10%
WC6	Work, Health and Safety (WHS)	15%
WC7	Secure Local Jobs Code – content of Labour Relations, Training and Workplace Equity (LRTWE) Plan	10%



# Submitting a Response

When completing your response please ensure:

- Any questions are sent to [tendersACT@act.gov.au](mailto:tendersACT@act.gov.au).
- Questions received after the 'deadline for enquires' indicated in the RFP Details, may not be responded to.
- You have completed and upload all Response Schedules and attachments provided as part of this RFT.
- **Give yourself plenty of time to upload your submission.**
- If you experience difficulties when uploading documentation, please contact TendersACT as soon as possible as they will be able to provide you with assistance.



# Submissions

- **Closes** **2:00pm Canberra Local time**  
**08 August 2023**
- **Deadline for enquiries** **2:00pm Canberra Local time**  
**24 July 2023**
- **Tenders ACT Team** **02 6207 9000**  
**TendersACT@act.gov.au**



# Timeline

Task/Milestone	Date
Advance Tender Notice	25 May 2023
Release RFP Package on TendersACT	27 June 2023
Industry Briefing/Site Visit	04 July 2023
RFP Response Close	08 August 2023
Evaluate Responses and Select Preferred Service Provider(s)	August 2023
Finalise Evaluation Report	September 2023 – October 2023
Contract Negotiations	October 2023 – November 2023
Contract Execution	Early December 2023
Service Transition / Commencement	Dec 2023 – May 2024

# Thank You !

# Questions?



**ACT**  
Government

Transport Canberra  
and City Services



**CANBERRA**



## Procurement ACT

# GS3538978

# REQUEST FOR PROPOSAL

## The Provision of Reusable Facility Services in the Territory

### ADDENDUM No. 2

<b>Closing Time</b>	<b>2:00 PM (Canberra Local Time) on 08 August 2023</b>
<b>End of period for RFT Questions and Enquiries</b>	<b>2:00 PM (Canberra Local Time) on 24 July 2023</b>
<b>Enquiries and RFT Lodgement</b>	<a href="https://tenders.act.gov.au">https://tenders.act.gov.au</a>

This addendum is issued to incorporate the following:

**1. Questions and Answers (Online Forum Posts)**

<b>1. QUESTIONS AND ANSWERS (from Online Forum Posts)</b>	
<b>Q1</b>	<b>We request access to the following data relating to the existing operation of the reusable facilities:</b>  <b>Divisional P&amp;L – at least three years</b>  <b>Product sale history – at least three years</b>  <b>Equipment hires contracts (if applicable)</b>
<b>A1</b>	The Territory does not have data for profit or loss; historical breakdown of reusable stream transfers or equipment hire contracts.  This tender is seeking robust and reliable methodologies for the future reporting of reusable items for acceptance, sale, donation, transfer or disposal from the Reusable Facilities.



## Procurement ACT

# Request for Proposal (RFP)

## GS3538978

### FOR THE PROVISION OF REUSABLE FACILITY SERVICES IN THE TERRITORY

### ADDENDUM No. One

<b>Closing Time</b>	<b>2:00 PM (Canberra Local Time) on 08/08/2023</b>
<b>End of period for RFT Questions and Enquiries</b>	<b>5:00 PM (Canberra Local Time) on 24/07/2023</b>
<b>Enquiries and RFT Lodgement</b>	<a href="https://tenders.act.gov.au">https://tenders.act.gov.au</a>

This addendum is issued to incorporate the following clarifications in response to recent queries.

#### Contents

1. Question and Answer

1. QUESTIONS AND ANSWERS	
<b>Q1</b>	<b>Can the Territory please provide a copy of the Industry Briefing PowerPoint presentation?</b>
<b>A1</b>	Please see attached Presentation.



## Procurement ACT

# Request for Proposal (RFP)

## GS3538978

# FOR THE PROVISION OF REUSABLE FACILITY SERVICES IN THE TERRITORY

### RFP DETAILS

<b>Issue Date</b>	<b>27 June 2023</b>
<b>Closing Time</b>	<b>2:00 PM</b> (Canberra local time) on <b>08 August 2023</b>
<b>Respondent Enquiries and RFP Lodgement</b>	<a href="https://Tenders.act.gov.au">https://Tenders.act.gov.au</a>
<b>Deadline for Enquiries</b>	<b>2:00 PM</b> (Canberra local time) on <b>24 July 2023</b>

On behalf of: Transport Canberra and City Services

# 1. RFP DETAILS

<b>PROJECT NUMBER</b>	<b>GS3538978</b>														
<b>RFP ISSUE DATE</b>	<b>27 June 2023</b>														
<b>INDUSTRY BRIEFING</b>	<b>04 July 2023</b> (13:30 pm Canberra local time) (see 2.2 below for further details)														
<b>END OF PERIOD FOR RFP QUESTIONS &amp; ENQUIRIES</b>	Respondent questions and enquiries will be permitted until <b>2:00 PM</b> (Canberra local time) on <b>24 July 2023</b>  <b>Contact email:</b> <a href="mailto:TendersACT@act.gov.au">TendersACT@act.gov.au</a>  <b>Telephone:</b> +61 2 6207 9000														
<b>RFP CLOSING TIME</b>	<b>2:00 PM</b> (Canberra local time) on <b>08 August 2023</b>														
<b>RFP INDICATIVE TIMETABLE*</b>	<table border="1"> <tr> <td><b>Release RFP on TendersACT</b></td> <td>27 June 2023</td> </tr> <tr> <td><b>RFP close date</b></td> <td>08 August 2023</td> </tr> <tr> <td><b>Evaluation period</b></td> <td>August/September 2023</td> </tr> <tr> <td><b>Negotiations with shortlisted Respondent(s)</b></td> <td>October 2023</td> </tr> <tr> <td><b>Contract execution date</b></td> <td>November 2023</td> </tr> <tr> <td><b>Service commencement date</b></td> <td>May 2024</td> </tr> <tr> <td><b>Debriefs</b></td> <td>Within 2 weeks after Contract execution.</td> </tr> </table>	<b>Release RFP on TendersACT</b>	27 June 2023	<b>RFP close date</b>	08 August 2023	<b>Evaluation period</b>	August/September 2023	<b>Negotiations with shortlisted Respondent(s)</b>	October 2023	<b>Contract execution date</b>	November 2023	<b>Service commencement date</b>	May 2024	<b>Debriefs</b>	Within 2 weeks after Contract execution.
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	<b>Contract execution date</b>	November 2023													
	<b>Service commencement date</b>	May 2024													
	<b>Debriefs</b>	Within 2 weeks after Contract execution.													
*This timetable is indicative only and may be amended.															
<b>RFP OUTCOME</b>	<input checked="" type="checkbox"/> <b>One Contractor</b>														
<b>INITIAL CONTRACT TERM</b>	The proposed initial Term of the Contract is <b>four (4) years</b> . The Territory may, at its sole and absolute discretion, extend the Term of the Contract by up to <b>two years</b> (2 extension options of 1 year each).														
<b>RESPONSE VALIDITY PERIOD</b>	<b>12 months</b> after the Closing Time.														
<b>TERRITORY TERMS AND CONDITIONS</b>	In preparing a Response, the Respondent acknowledges and confirms it will adhere to <b>Attachment A – Territory Approach to Market Terms and Conditions</b> .														

## 2. REQUEST FOR PROPOSAL

### 2.1. Structure of the RFP

2.1.1. This RFP sets out the details concerning the Territory requirements and contains the following Attachments:

**Attachment A** - Territory Approach to Market Terms and Conditions

**Attachment B** - Statement of Requirements

**Attachment C** - Response Schedules

**Attachment C1** – Performance Management Framework

**Attachment D** - Draft Contract

**Attachment E** – Economic Contribution Test (ECT)

**Attachment F** - Fair and Safe Employment Evaluation Criteria

**Appendices**

### 2.2. Industry Briefing

<b>TIME AND DATE</b>	13:30 pm (Canberra Local Time) on <b>04 July 2023</b>
<b>VENUE</b>	13:30 pm – 480 Northbourne Avenue, Dickson, ACT An invitation will be sent to registered attendees.
<b>MANDATORY</b>	<input checked="" type="checkbox"/> <b>YES*</b> <b>*Responses will only be accepted from organisations that attend the industry briefing.</b>
<b>RESTRICTIONS ON NUMBER OF ATTENDEES</b>	Attendance at the industry briefing is limited to two Respondent representatives per respondent.
<b>ATTENDANCE REGISTRATION</b>	Details of industry briefing attendees, including: <ul style="list-style-type: none"> <li>• Name;</li> <li>• Organisation;</li> <li>• Title;</li> <li>• phone number; and</li> <li>• email address .</li> </ul> must be registered through the Tenders ACT system by no later than 12:00 pm <b>03 July 2023</b> Registrations are made by clicking on the ' <i>Briefing Registrations</i> ' button located under the <i>Briefing</i> section of the Response details page on Tenders ACT.

## 3. RFP BACKGROUND

### 3.1. Standard Conditions of Proposal

- 3.1.1. Respondents must read this Request for Proposal (**RFP**) in conjunction with the *Territory Approach to Market Terms and Conditions* located at **Attachment A**.
- 3.1.2. To the extent of inconsistency between this RFP and Attachment A, this RFP prevails.

### 3.2. Background

- 3.2.1. The Territory has two Reusable Facilities for receiving, storing and selling Reusable Items at following locations:
  - (a) Mugga Lane Resource Management Centre (RMC); and
  - (b) Mitchell RMC.
- 3.2.2. The Territory, as represented by ACT NoWaste, requires a Contractor with the capability and capacity to undertake the following services at Sites:
  - (a) site operation and maintenance;
  - (b) acceptance of items in reusable condition from the community;
  - (c) salvage items from the Transfer Stations;
  - (d) sell reusable items;
  - (e) dispose unsold items at the landfill;
  - (f) provide charity activities and social events;
  - (g) provide social inclusion (employment);
  - (h) provide educational programs and communications to promote circular economy;
  - (i) provide workshops on reuse, repair and repurpose to the community;
  - (j) provide quality customer service; and
  - (k) provide quality reports.
- 3.2.3. Historically both facilities have been managed under separate contracts. The procurement will combine the management of both Reusable Facilities under a single contract arrangement.
- 3.2.4. The provision of the Services is intended to contribute or align with the following Territory policies and priorities:
  - (a) the [ACT Waste Management Strategy 2011 – 2025](#),
  - (b) The *draft Circular Economy Policy 2022 - 2025*
  - (c) The *Waste Feasibility Study Roadmap 2018*
  - (d) the objectives of the Transport Canberra and City Services Strategic Plan 2021-2024:
- 3.2.5. The Territory's requirements are detailed in **Attachment B – Statement of Requirements**.
- 3.2.6. Respondents are invited to submit Proposals for the provision of the requirements as described in the RFP, **Attachment B – Statement of Requirements** subject to the terms and conditions set out or referred to in the RFP and **Attachment D - Draft Contract**.

- 3.2.7. The Statement of Requirements at **Attachment B** to this RFP sets out:
- (a) background information in respect of the Reusable Facilities;
  - (b) the Services the Respondent will be required to deliver;
  - (c) information in respect of Reusable Facilities operations, maintenance and management requirements expected and required of the Respondent in performing the Services.
  - (d) Preliminary Contract Plans and processes the Respondent will be expected and required to deliver as part of the Services;
  - (e) WHS obligations and requirements the Respondent must meet;
  - (f) reporting obligations from the Respondent to the Territory the Respondent must devise, implement and carry out; and
  - (g) the proposed performance management framework.
- 3.2.8. Respondents should carefully review the Statement of Requirements and satisfy themselves of the above matters when preparing Proposals.
- 3.2.9. When preparing their responses, and particularly the Response Schedules, Respondents should consider and address relevant matters set out in the Statement of Requirements.
- 3.2.10. Terms defined in the Statement of Requirements will have the same meaning in the RFP unless stated or unless the context requires another interpretation.

### 3.3. Amendments

- 3.3.1. Any amendments to the requirements of the RFP and its attachments will be provided via addendum through Tenders ACT.
- 3.3.2. Respondents should not rely on any information or statement that purports to amend the requirements unless and until it is released in the form of an addendum by the Territory.

## 4. EVALUATION CRITERIA

- 4.1.1. Respondents will be assessed against the Evaluation Criteria set out below, being Mandatory Criteria (including Fair and Safe Employment Evaluation Criteria), Weighted Criteria and Non-Weighted Criteria.
- 4.1.2. For information on how to respond to each of the Evaluation Criterion, Respondents are invited to review Attachment C – Response Schedule.

### 4.2. Mandatory Evaluation Criteria

No.	<b>MANDATORY EVALUATION CRITERIA (PASS/FAIL)</b>
<b>MC1</b>	<p><b>Attendance at Mandatory Industry Briefing</b></p> <p>The Respondent must attend the mandatory industry briefing.</p>
<b>MC2</b>	<p><b>Secure Local Jobs Code Certificate</b></p> <p>The Respondent must hold a Secure Local Jobs Code Certificate as at the date of close for the Response. The Respondent does not need to supply a Certificate as the Territory will verify its certification status when evaluating the Response.</p>

	<p><b>Note:</b> Under the Secure Local Jobs Code, any subcontractors engaged to perform “Territory Funded Work” (as defined in the Government Procurement Act 2001) will also be required to hold a Secure Local Jobs Code Certificate. Respondents are encouraged to list in the Response any subcontractors it intends to engage for Territory Funded Work, and whether they hold current Secure Local Jobs Code Certificate, noting that commencement of work by those subcontractors will be conditional on holding a Secure Local Jobs Code Certificate.</p>
<p><b>MC3</b></p>	<p><b>Fair and Safe Employment Evaluation Criteria</b></p> <p>The Respondent must complete and submit <b>Attachment F – Fair and Safe Employment Evaluation Criteria Response Schedules</b></p> <ol style="list-style-type: none"> <li>1. Fair and Safe Employment Criteria Response Schedule; and</li> <li>2. Appendix 1 – Labour Relations, Training and Workplace Equity Plan (LRTWEP)</li> </ol> <p>The Territory will assess Responses against the Fair and Safe Employment Evaluation Criteria on a pass/fail basis.</p> <p>For Further Information refer to <a href="https://www.procurement.act.gov.au/securelocaljobs">https://www.procurement.act.gov.au/securelocaljobs</a>.</p> <p><b>Note to Respondents:</b> The Schedules must be completed in full with no omissions. A Respondent that fails to meet this requirement will be considered non-conforming.</p>

4.2.1. A Respondent that does not meet all the Mandatory Evaluation Criteria will be regarded as non-complaint and will not be considered for further assessment.

### 4.3. Fair and Safe Employment Evaluation Criteria

NO.	FAIR AND SAFE EMPLOYMENT CRITERIA
<p><b>FSEC1</b></p>	<p><b>Secure Local Jobs Code compliance</b></p> <p>The Respondent must demonstrate ongoing compliance with their Secure Local Jobs Code obligations:</p> <ol style="list-style-type: none"> <li>(1) Respondent has submitted a completed and compliant Labour Relations Training and Workplace Equity Plan for the procurement;</li> <li>(2) Respondent has complied with and met Labour Relations Training and Workplace Equity Plan reporting obligations for any applicable contracts in the preceding 12 months; and</li> <li>(3) Respondent has maintained compliance with prescribed legislation under the Secure local Jobs Code (see Appendix A of the <i>Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021</i>).</li> </ol> <p>The Respondent is required to complete and submit all attachments included in <b>Attachment F – FSEC Response Schedule</b>.</p> <p><b>Note:</b> For further details on the evaluation of this Evaluation Criterion, see the <i>Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021</i>.</p>
<p><b>FSEC2</b></p>	<p><b>Reputational risk</b></p> <p>In the evaluation of this criteria, the Territory will consider whether the Respondent has demonstrated any actions or omissions that would be likely to have a material adverse effect on:</p>

	<p>(1) The reputation of the Territory or a relevant Territory Entity in relation to its status as a model employer, that only contracts with other employers who show model behaviour towards their employees;</p> <p>(2) The risk to the Territory Entity posed by procuring from an unethical Respondent; and</p> <p>(3) The public interest, or public confidence in the Territory and/or its procurement framework.</p> <p>The Respondent is required to complete and submit all attachments included in <b>Attachment F - FSEC Response Schedule</b>.</p> <p><i>Note: For further details on the evaluation of this Evaluation Criterion, see the Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021.</i></p>
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4.2.1 Following the evaluation of the Fair and Safe Employment Evaluation Criteria, the Territory will determine whether a Respondent will proceed for consideration in the ATM process.

#### 4.4. Weighted Evaluation Criteria

NO.	WEIGHTED EVALUATION CRITERIA	WEIGHTING
<b>WC1</b>	<p><b>Capability and Capacity</b></p> <p>The extent to which the Respondents’ proposal demonstrates the capability and capacity to provide the Services, with respect to the Statement of Requirements.</p>	10
<b>WC2</b>	<p><b>Methodology: Managing Reusables</b></p> <p>The extent the Respondents’ proposed methodology can effectively manage Reusable Items to promote resource recovery, with respect to the Statement of Requirements and matters set out in Attachment C.</p>	20
<b>WC3</b>	<p><b>Circular Economy Support Programs and Social Benefits</b></p> <p>The extent the Respondent’s proposal can effectively deliver proposed circular economy support programs and community benefits in delivering the Services, with respect to the Statement of Requirements and matters set out in Attachment C.</p>	20
<b>WC4</b>	<p><b>Methodology: Reporting and Data Plan</b></p> <p>The extent the Respondents’ proposed methodology for reporting is accurate, valid and consistent for the requirements of the Service and with respect to the to the Statement of Requirements and the matters set out in Attachment C.</p>	15
<b>WC5</b>	<p><b>Transition Management</b></p> <p>The extent the Respondents' proposed transition methodology effectively manages the activities and actions to prepare the Services for commencement and to finalise the Service by the end of the Term.</p>	10

<p><b>WC6</b></p>	<p><b>Work, Health and Safety (WHS)</b></p> <p>The Respondent will be assessed, with reference to the Statement of Requirements and the matters set out in Attachment C, on its past and proposed Work Health and Safety regime.</p> <p>The Respondent should provide a general concept plan setting out the key element of the WHS plan it would prepare should it be appointed under this ATM.</p> <p>The concept plan should at least demonstrate how the Respondent would align its operations with:</p> <ul style="list-style-type: none"> <li>a) the requirement that Work, Health and Safety matters be proactively managed throughout the duration of the term of the proposed Contract; and</li> <li>b) the matters set out in Section 7 of the SOR.</li> </ul> <p>The Respondent should provide for assessment by the Territory copies of organisational Work, Health and Safety policies and procedures the Respondent would apply to the Services and Sites.</p>	<p>15</p>
<p><b>WC7</b></p>	<p><b>Secure Local Jobs Code – content of Labour Relations, Training and Workplace Equity (LRTWE) Plan</b></p> <p>The Territory will evaluate the extent to which the Respondent’s Labour Relations, Training and Workplace Equity Plan (Plan) demonstrates how the Respondent will support employment security, health and wellbeing, diversity, and career development for workers, as well as previous compliance with the Code and Plans (where applicable).</p> <p>The Plan must have been developed in consultation with the Respondent’s employees and include a statement about how this has been done.</p> <p>The Respondent is required to complete and submit Appendix 1 to <b>Attachment F – FSEC Response Schedule</b>.</p> <p>For further information see: <a href="https://www.procurement.act.gov.au/supplying-to-act-government/securelocaljobs">https://www.procurement.act.gov.au/supplying-to-act-government/securelocaljobs</a></p>	<p>10</p>

## 4.5. Non-Weighted Assessment Criteria

NO.	NON-WEIGHTED EVALUATION CRITERIA	
<p><b>NWC1</b></p>	<p><b>Risk</b></p> <p>The Response will be assessed on what risks may be identified including:</p> <ul style="list-style-type: none"> <li>(1) The reputation of the Territory or a relevant Territory Entity in relation to its status as a model employer, that only contracts with other employers who show model behaviour towards their employees;</li> <li>(2) The risk to the Territory Entity posed by procuring from an unethical Respondent; and</li> <li>(3) The public interest, or public confidence in the Territory and/or its procurement framework.</li> </ul>	

	<i>Note: For further details on the evaluation of this Evaluation Criterion, see the Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021</i>
<b>NWC 2</b>	<p><b>Performance Management Framework</b></p> <p>The Territory will assess the suitability of the Performance Management Framework and the Key Performance Indicators.</p> <p>The Respondent is required to complete Attachment C1 – Performance Management Framework to outline the standards of performance.</p>
<b>NWC3</b>	All other Responses to the Schedules of Attachment C will be considered at this stage of the evaluation.

## 5. SECURITY AND CONFIDENTIALITY

### 5.1. Confidentiality

5.1.1. Subject to clause 5.1.2, the Territory agrees to keep confidential:

- (a) prior to completion of the Approach to Market process –any information provided to the Territory by a Respondent; and
- (b) following completion of the Approach to Market process – any information that unsuccessful Respondents have requested in their Response be kept confidential.

5.1.2. Any obligation by the Territory to keep information submitted by Respondents as confidential, is not breached if the relevant information:

- (a) is an exchange of information as specified in **Attachment A - Territory Approach to Market Terms and Conditions**;
- (b) is disclosed by the Territory as specified in this Approach to Market, including to its advisers or employees for the purpose of conducting the Approach to Market process;
- (c) is disclosed by the Territory to any Commonwealth, State or Territory government agency;
- (d) is authorised or required by law to be disclosed; or
- (e) is in the public domain.

5.1.3. Any recipient of Confidential Information (whether a potential Respondent, Respondent or otherwise) (**Recipient**) must keep that information confidential. If a Recipient becomes aware that the Confidential Information has been (or may have been) released to it in error or is not the intended recipient of the Confidential Information, it must immediately notify the Territory, and must not copy or continue to use the Confidential Information for any purpose, nor disclose its contents to any other person.

## 6. CONTRACT REQUIREMENTS

### 6.1. Form of Contract

6.1.1. The Territory reserves the right to alter provisions of **Attachment D – Draft Contract** if an alternative is determined to be more appropriate.

6.1.2. Preferred Respondents status will be conditional on the Respondent obtaining the requisite registration and approvals. No legal obligations will arise until a contract is executed and the Territory reserves the right to cease negotiations at any time.

## 6.2. Insurances

6.2.1. Without limiting the insurance that is required to be held by the successful Respondent by law (e.g. workers' compensation) or under contract with the Territory, the successful Respondent will be required to take out and maintain:

- a) public liability insurance with coverage in the amount of no less than **\$20,000,000** in respect of each occurrence;
- b) Professional Indemnity insurance: **\$10 million** in the annual aggregate;
- c) Workers Compensation as required by law;
- d) Contents insurance to the market value;
- e) Plant and Equipment insurance to the full market value;
- f) Motor vehicle third party property insurance: **\$20 million** in the annual aggregate; and
- g) Any other insurances detailed in **Attachment D - Draft Contract**.

6.2.2. A preferred Respondent will be required to produce evidence of insurances before a Contract is signed.

## 6.3. Subcontractors not approved

6.3.1. Acceptance of a Response by the Territory does not constitute an approval of a proposed Subcontractor, Partnership, or subcontracted work.

## Procurement ACT



# ATTACHMENT A – TERRITORY APPROACH TO MARKET TERMS AND CONDITIONS

## 1. DEFINED TERMS

<b>Approach to Market</b>	<p>means this Approach to Market (ATM) which may be a:</p> <ul style="list-style-type: none"> <li>• Request for Tender (RFT) - single select or public release</li> <li>• Request for Proposal (RFP)</li> <li>• Request for Expression of Interest (REOI)</li> <li>• Panel</li> </ul> <p>Including all parts, attachments, schedules or annexures to it, and any addenda issued by the Territory in respect of it.</p>
<b>Business Day</b>	means any day that is not a Saturday, Sunday, or a Territory/national public holiday.
<b>Closing Time</b>	means time (Canberra Local Time) and date designated in the Approach to Market as the time and date by which Responses must be submitted, as set out in the Approach to Market Details.
<b>Confidential Information</b>	<p>the kind of information that:</p> <ul style="list-style-type: none"> <li>a) is or relates to documents, submissions, consultations, policies, strategies, practices, and procedures of the Territory (including in relation to this Approach to Market) which are by their nature confidential;</li> <li>b) is notified (whether in writing or not) by the Territory to a recipient (whether a potential Respondent, Respondent or otherwise) as confidential;</li> <li>c) the recipient knows or ought to know is confidential; or</li> <li>d) is personal information as defined in the <i>Information Privacy Act 2014</i>;</li> </ul> <p>but does not include information which:</p> <ul style="list-style-type: none"> <li>e) is or becomes public knowledge other than by breach of this Approach to Market or any other confidentiality obligation;</li> <li>f) has been independently developed or acquired by a recipient; or</li> <li>g) has been notified in writing by the Territory to a recipient as being not confidential.</li> </ul>
<b>Contractor</b>	means a party specified in the Contract including a Contractor, Supplier, Consultant or Service Provider.
<b>Draft Contract</b>	means the form of agreement (substantially in the form of the attached <b>Draft Contract</b> ) proposed to engage the preferred Respondent.
<b>Evaluation Criteria</b>	means the criteria specified in the Approach to Market.
<b>Financial Year</b>	means a period of one year commencing on 1 July and ending on 30 June.

<b>Freedom of Information Act 2016</b>	means the 2016 Act which is available at: <a href="https://www.legislation.act.gov.au">https://www.legislation.act.gov.au</a>
<b>GST</b>	means the Goods and Services Tax and has the same meaning as in the GST Act.
<b>GST Act</b>	means <i>A New Tax System (Goods and Services) Act 1999 (Cth)</i> .
<b>Government Procurement Act 2001</b>	means the 2001 Act which is available at: <a href="https://www.legislation.act.gov.au/a/2001-28/">https://www.legislation.act.gov.au/a/2001-28/</a>
<b>ICT</b>	means information and communication technology.
<b>Illegal Worker</b>	means a person who: <ul style="list-style-type: none"> <li>a) has unlawfully entered and remains in Australia;</li> <li>b) has lawfully entered Australia, but remains in Australia after their visa has expired; or</li> <li>c) is working in breach of their visa conditions.</li> </ul>
<b>Intellectual Property Rights</b>	means all intellectual property rights, including: <ul style="list-style-type: none"> <li>a) patents, copyright, rights in circuit layouts, registered designs, trademarks, know how, trade secrets and any right to have Confidential Information kept confidential; and</li> <li>b) any application or right to apply for registration of any of the rights referred to in the above paragraph (a).</li> </ul>
<b>Late Response</b>	means a Response which is lodged after the Closing Time.
<b>Legislative Assembly</b>	means the Legislative Assembly for the Australian Capital Territory, the parliament for the nation's capital. It performs both territory and local level functions and makes decisions that impact the lives of those who live and work in the ACT.
<b>Minister</b>	means a Minister appointed under section 41 of the <i>Australian Capital Territory (Self-Government) Act 1988</i> .
<b>Personal Information</b>	means information or opinion (including information or opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent or can reasonably be ascertained from the information or opinion.
<b>Recipient</b>	Any recipient of Confidential Information (whether a potential Respondent, Respondent or otherwise)
<b>Referee</b>	means a person who is willing to testify to the character or capabilities of an entity in performing the requirement.
<b>Response</b>	means a Response which may, without limitation be in the form of a tender, proposal or expression of Interest submitted by a Respondent to this Approach to Market.

<b>Respondent</b>	means a Respondent that completed the Approach to Market registration process on Tenders ACT and is considering and/or responding to this Approach to Market.  A Respondent may also be referred to as a Tenderer.
<b>SOR (Statement of Requirements)</b>	means the description of the Territory requirements as set out in the attached <b>Statement of Requirements</b> to the Approach to Market.
<b>Subcontractor</b>	means a subcontractor to the Contractor as approved by the Territory.
<b>Validity Period</b>	means the period Respondents must remain valid for acceptance by the Territory specified in the Approach to Market.
<b>Tenders ACT</b>	means the central point for managing Territory ATM's.
<b>Terms and Conditions</b>	means the Approach to Market terms and conditions as set out in this <b>Attachment A – Territory Approach to Market Terms and Conditions</b> .
<b>Terms of Use</b>	means the terms of use of Tenders ACT available in the <b>Quick Reference Guide</b> found in the Library Documents <a href="https://tenders.act.gov.au">https://tenders.act.gov.au</a> .
<b>Territory</b>	a) when used in geographical sense, the Australian Capital Territory, and b) when used in any other sense, the body politic established by Section 7 of the <i>Australian Capital Territory (Self Government) Act 1988 (Cth)</i> .
<b>Territory-Funded Work</b>	has the meaning given by the <i>Government Procurement Act 2001</i> .

## 2. PREPARATION OF RESPONSES

### 2.1. Unethical Behaviour

- 2.1.1. The Respondent, consortium members and their respective officers, employees, Subcontractors, agents, and advisers must not engage in any collusive tendering, anti-competitive conduct or any other similar unlawful or unethical conduct with any other party in relation to the preparation or lodgement of Responses.
- 2.1.2. A Respondent, their Subcontractors and their respective officers, employees, agents, or advisers must not violate any applicable laws or Territory policies regarding the offering of inducements in connection with the preparation of their Response.

### 3. RESPONSE CLOSING TIME

- 3.1.1. Responses must be lodged before the Closing Time.
- 3.1.2. The judgement of the Territory as to the time a Response has been lodged will be final.
- 3.1.3. The Territory may extend the Closing Time for all Respondents at its sole and absolute discretion and will issue an addendum notifying Respondents of the extension in accordance with **clause 10.1.1** of this document.

### 4. RESPONSE LODGEMENT

#### 4.1. Requirement to use Tenders ACT

- 4.1.1. Tenders ACT is the online tendering system for the Territory. Tenders ACT allows Respondents to download Response documentation and upload Responses. Respondents can register at <https://tenders.act.gov.au>.
- 4.1.2. Responses for this Approach to Market must be lodged electronically using the electronic Tender box at Tenders ACT. Access to and use of Tenders ACT is subject to the acceptance of the Terms of Use.
- 4.1.3. A Respondent is required to inform themselves concerning all security measures and other aspects of the Tenders ACT technical environment. A Respondent should make their own assessment of the Tenders ACT system prior to using it for any matter related to this Approach to Market and no responsibility will be accepted by the Territory arising in respect of any use or attempted use by any party of Tenders ACT.

#### 4.2. Tenders ACT Help Desk

- 4.2.1. All enquiries and requests for technical or operational support must be directed to:  
**Tenders ACT Team** (available on Business Days between 9:00 am and 5:00 pm Canberra local time)  
**Telephone:** +61 2 6207 9000 (option 7 – Procurement ACT). **Email:** [tendersACT@act.gov.au](mailto:tendersACT@act.gov.au)

#### 4.3. Virus Checking

- 4.3.1. In submitting their Responses electronically, a Respondent warrants that they have taken reasonable steps to ensure that Response files are free of viruses, malicious code, worms, or other disabling features that may affect Tenders ACT ICT environment. Any Response found to contain viruses, malicious code or other disabling features will be excluded from the evaluation process.

#### 4.4. Response File Formats, Naming Conventions and Sizes

- 4.4.1. A Respondent must lodge their Response in accordance with the requirements set out in this clause for file format/s, naming conventions and file sizes. Failure to comply with any or all of these requirements may result in the Response not uploading successfully and/or may eliminate the Response from consideration.
- 4.4.2. The Territory will accept Responses lodged in Microsoft Word, Microsoft Excel, Adobe Acrobat (.pdf) or other formats specified in the Approach to Market. Adobe Acrobat security settings should be set to allow content copying (copy and paste) and printing of the pdf file.

- 4.4.3. The Response file name/s should:
- (a) incorporate the Respondents name;
  - (b) reflect the various parts of the Response they represent, where the Response comprises multiple files;
  - (c) not contain any of the following characters: \ / : \* ? " < > | ; and
  - (d) not exceed 80 characters.
- 4.4.4. The Respondent is required to complete the attached **Pricing Schedule** of this ATM and must submit it as a single file separate from any non-price information including the Evaluation Criteria and any executive summaries.
- 4.4.5. Response files:
- (a) may not exceed a combined file size of 100 megabytes per upload;
  - (b) should be uploaded from a high level directory on a Respondents desktop/laptop, so as not to impede the upload process; and
  - (c) should be zipped (compressed) together for transmission to Tenders ACT (a Respondent should contact [Tenders ACT](#) if they wish to use compression software other than 'WinZIP' or 'WinRAR' compression software and may only do so if approved by [Tenders ACT](#) in writing).
- 4.4.6. Tenders ACT will accept up to a maximum of 15 files in any one upload of a Response. Each upload should not exceed the combined file size limit of 100 megabytes per upload. If an upload would otherwise exceed 100 megabytes, the Respondent should either:
- (a) transmit the Response files as a compressed (zip) file not exceeding 100 megabytes; or
  - (b) lodge the Response in multiple uploads ensuring that each upload does not exceed 100 megabytes and clearly identify each upload as part of the Response.
- 4.4.7. If a Response consists of multiple uploads, due to the number of files or file size, the Respondent should ensure that transmission of all files is completed before the Closing Time.
- 4.4.8. Responses must be completely self-contained. No hyperlinked or other material may be incorporated by reference.

## 4.5. Lodgement Process

- 4.5.1. Before submitting a Response, the Respondent should:
- (a) ensure their ICT platform meets the minimum requirements identified, if any, on Tenders ACT;
  - (b) refer to [Tenders ACT Supplier User Manual](#), if required, on uploading a submission;
  - (c) take all steps to ensure that the Response is free from anything that might reasonably affect useability or the security or operation of Tenders ACT and/or the Territory's ICT environment;
  - (d) ensure that the Response does not contain macros, script, or executable code of any kind unless that specific material has previously been approved in writing by the Territory; and
  - (e) ensure that the Response complies with all file type, format, naming conventions, size limitations or other requirements specified in this Approach to Market.
- 4.5.2. The Respondent should allow sufficient time for lodgement, including time that may be required for any problem analysis and resolution prior to the Closing Time.

- 4.5.3. The Respondent should be aware that holding the “Submit Electronic Response” page open in the web browser will not hold the electronic Tender box open beyond the Closing Time.
- 4.5.4. Responses lodged through Tenders ACT will be deemed to be authorised by the Respondent.
- 4.5.5. If a Respondent has any problem in accessing Tenders ACT or uploading a Response, they should contact the Tenders ACT Team prior to the Closing Time for technical and operational assistance using the details in **clause 4.2.1**.

## 4.6. Proof of Lodgement

- 4.6.1. When a Response lodgement has successfully completed, an official receipt is provided on screen. The official receipt will record the time and date the Response was received by Tenders ACT and will be conclusive evidence of successful lodgement of a Response. It is essential that the Respondent saves this receipt as proof of lodgement. A separate email confirming receipt of the Response will also be automatically dispatched to the email address registered with Tenders ACT.
- 4.6.2. Failure to receive a receipt means that lodgement has not completed successfully. Where no receipt has been issued by Tenders ACT, the attempted lodgement will be deemed to have been unsuccessful. In these circumstances, the Respondent should lodge the Response again.

## 4.7. Late Responses

- 4.7.1. Responses which are not properly submitted before the Closing Time **will not be accepted**.
- 4.7.2. Lodgement of Responses before the Closing Time are entirely the Respondent’s responsibility.
- 4.7.3. Where a Respondent has problems accessing Tenders ACT, uploading a Response, or has failed to receive a receipt confirming Response lodgement due to a failure at the TendersACT web site:
  - (a) the Respondents should immediately notify Tenders ACT as per **clause 4.2.1** prior to the Closing Time;
  - (b) the Respondent agrees its Response may only be considered for acceptance as valid if it is lodged in accordance with alternative arrangements advised to the Respondent in writing by Tenders ACT; and
  - (c) failure to do so will exclude a Response from consideration.
- 4.7.4. Any attempt to commence lodging a Response, or any discrete component of a Response after the Closing Time will not be permitted by Tenders ACT and will be deemed a Late Response.
- 4.7.5. The Territory will only admit Late Responses to evaluation where they were received late solely due to mishandling by the Territory.
- 4.7.6. Where lodgement of a Response has commenced prior to the Closing Time but concluded after the Closing Time, and upload of the Response file/s has completed successfully, as confirmed by Tenders ACT system logs, the Response will not be deemed to be a Late Response. Such Responses will be identified as having commenced transmission prior to, but completed lodgement after, Closing Time.
- 4.7.7. Where a Respondent lodgement consists of multiple uploads, due to the number and/or size of the files, the Respondent should ensure that transmission of all files is completed and receipted before the Closing Time and **clause 4.7.6** will only apply to the final upload commenced before the Closing Time.

- 4.7.8. Late Responses that are incomplete due to a failure to upload all files by the Closing Time, Responses with electronic files that cannot be read or decrypted, Responses which the Territory believes to potentially contain any virus, malicious code, worms, other disabling features, or anything else that might compromise the integrity or security of Tenders ACT and/or the Territory's ICT environment, will be excluded from evaluation.

## 4.8. Non-Compliant Responses

- 4.8.1. A Response may be deemed to be non-compliant if it is:
- (a) at variance with, or does not respond to, or does not fully comply with any requirement of the ATM; or
  - (b) incomplete, cannot be read or decrypted; or
  - (c) potentially contains any virus, malicious code, or anything else that might compromise the integrity or security of Tenders ACT and/or the Territory's ICT environment.
- 4.8.2. The Territory may at its absolute discretion, in respect of a Response that is non-compliant or which has been deemed by the Territory to be non-compliant having regard to the Terms and Conditions:
- (a) reject and not further consider the Response; or
  - (b) if it is possible to correct the non-compliance without affecting the probity of the ATM process, permit the Respondent to do so; or
  - (c) accept the non-compliance.

## 5. ACCEPTANCE OF RESPONDENT'S OFFER

- 5.1.1. The Territory may accept the whole or any part of the Respondent's offer. Neither the lowest priced Respondent, nor any Response, will necessarily be accepted by the Territory.
- 5.1.2. Despite the evaluation of Responses resulting in the selection of a preferred Respondent/s, the acceptance or purported acceptance of any Response by the Territory is subject to the execution of a contractual document, in a form acceptable to the Territory between the preferred Respondent/s and the Territory.
- 5.1.3. The issue of this ATM (and/or the submission of any Response) does not create any legal relationship or obligation (or quasi-legal relationship or obligation) in respect of:
- (a) the process to be followed (including in relation to evaluation and assessment of any Response); or
  - (b) entering into a contractual arrangement with the Respondent.
- 5.1.4. The Territory is not liable for any incidental, indirect or consequential loss or damage including loss of actual or anticipated revenue or profits or loss of business or goodwill of the Respondent.

## 6. OWNERSHIP OF RESPONSE DOCUMENTS

- 6.1.1. All submitted Responses will become the property of the Territory. Any Intellectual Property Rights that exist in a Response will remain the property of the Respondent.

- 6.1.2. The Respondent grants the Territory a non-exclusive perpetual, irrevocable licence to all Intellectual Property Rights in their Response (including, without limitation a right to sublicense, make copies, adapt, modify, disclose, communicate, or do anything else to all material contained in the Response which the Territory considers necessary) for the purpose of:
- (a) evaluating or clarifying the Response (including any subsequent offer);
  - (b) negotiation of the Draft Contract with the Respondent;
  - (c) managing any resultant agreement with the Respondent;
  - (d) complying with any law, audit, governmental and legislative reporting requirements applicable to the Territory;
  - (e) referring any material suggesting collusion by a Respondent to the Australian Competition and Consumer Commission (ACCC) and the use by the ACCC of that material to conduct any review it deems necessary; and
  - (f) responding to any disputes about the ATM process.
- 6.1.3. This clause does not limit any access rights that exist under legislation, including the *Freedom of Information Act 2016 (ACT)*, the *Ombudsman Act 1976 (Cth)* and the *Auditor-General Act 1996 (ACT)*.

## 7. CORRECTIONS AFTER LODGEMENT

- 7.1.1. If a Respondent becomes aware of any discrepancy, error or omission in its Response and wishes to lodge a correction, the Respondent may lodge an amended Response prior to the Closing Time.
- 7.1.2. The amended Response must:
- (a) be wholly self-contained;
  - (b) meet all of the requirements contained in this ATM; and
  - (c) contain a statement that the amended Response supersedes the earlier Response.
- 7.1.3. Where more than one Response has been submitted, the Territory will evaluate the last submitted Response.
- 7.1.4. The Territory is under no obligation to consider any corrections or additional information provided after the Closing Time.

## 8. UNINTENTIONAL ERRORS OF FORM

- 8.1.1. Without limiting the Territory's other rights in this ATM, the Territory may, in its absolute discretion, allow a Respondent to correct any error of form in a Response that appears to be unintentional, by lodging a correction or additional information, in writing in accordance with the direction of the Territory.
- 8.1.2. No material alteration or addition to the Response will be allowed.
- 8.1.3. An unintentional error of form is an error that:
- (a) represents incomplete information not consistent with the Respondent's intentions and, if relevant, capabilities at the time the Response was lodged; and
  - (b) does not materially affect the competitiveness of the Respondent's bid.

- 8.1.4. If the Territory provides a Respondent with an opportunity to correct an unintentional error of form between the opening of Responses and any decision, the Territory will provide the same opportunity to all participating Respondents.

## 9. EXCLUSION OF RESPONSES

- 9.1.1. The evaluation process will involve the initial clarification and evaluation of Responses against the Evaluation Criteria set out in this ATM.
- 9.1.2. Responses will be rejected without further evaluation if:
- (a) subject to **clause 0**, they are received after the Closing Time.
  - (b) the Respondent does not meet all of the Mandatory Evaluation Criteria.
  - (c) following (when applicable) the evaluation of the Fair and Safe Employment Criteria, the Territory determines that a Respondent will not proceed for consideration in the ATM process.
- 9.1.3. Without limiting any other provision of this ATM that gives the Territory the right to exclude Responses on other grounds, the Territory reserves the right to reject a Response, at its absolute discretion, if in the Territory's opinion the:
- (a) Response contains a false declaration or other false or misleading information or statements;
  - (b) Response contains a statement that materially detracts from or amends the Statement of Requirements and Draft Contract;
  - (c) Response contains alterations or erasures which are not clearly and legibly stated;
  - (d) Response has been compiled with information unlawfully obtained or with the improper assistance of employees, ex-employees, or contractors of the Territory;
  - (e) Respondent has engaged in any collusive tendering, anti-competitive conduct, or any other similar unlawful conduct with any other party in relation to the preparation or lodgement of Responses;
  - (f) Respondent, or a director or officer of the Respondent, is insolvent or bankrupt;
  - (g) Respondent has an actual, potential, or perceived conflict of interest that cannot be managed to the satisfaction of the Territory;
  - (h) Respondent has retracted, or attempts to retract, any part of its tendered offer at any stage of the ATM process; or
  - (i) there has been a significant deficiency in the performance of a substantive requirement or obligation under a prior agreement between the Respondent and the Territory.

## 9.2. Evaluation Process

- 9.2.1. The purpose of the evaluation process is to identify and select Respondents that represent value for money consistent with the Territory procurement framework, inclusive of the *Government Procurement Act 2001*, the *Government Procurement Regulation 2007*, *Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021*, Territory procurement values, procedures, and policies.
- 9.2.2. Responses will be assessed in accordance with the Evaluation Criteria.

- 9.2.3. For the purpose of evaluation of Responses, the Territory may in relation to some or all Respondents:
- (a) ask a Respondent to undertake presentations, demonstrations, or interviews;
  - (b) ask a Respondent to provide written clarification of various aspects of their Response;
  - (c) visit a Respondent's site;
  - (d) have discussions with, obtain information and documents from or undertake visits to third parties (including customers of a Respondent and their subcontractors), whether or not those third parties are listed as Referees in a Response;
  - (e) use any material provided in response to one Evaluation Criteria in the evaluation of other criteria;
  - (f) make independent enquiries about any matters that may be relevant to the evaluation including security, financial and probity checks in relation to the Respondent/s, its personnel, partners, associates or related entities, including consortium members and personnel and its Subcontractors (and a Response may be rejected by the Territory if the Respondent does not provide, at its cost, all reasonable assistance to the Territory in this regard);
  - (g) seek and/or contact any contacts or Referees other than those proposed by a Respondent;
  - (h) normalise Response pricing in order to establish a common base for comparative assessment of Responses, including in relation to:
    - i. consideration of nominal and discounted cash flow;
    - ii. any alternative proposals or financial incentives offered by the Respondent;
    - iii. implementation costs;
    - iv. any risk relating to the prices included in the Response;
    - v. transition out costs;
    - vi. cost of administering the agreement;
    - vii. whole of life costs and benefits;
    - viii. any assumptions or caveats attached to the Response prices;
    - ix. use any relevant information obtained in respect of a Respondent either through this ATM process or by independent inquiry; and
    - x. do anything else required or permitted under law.

9.2.4. The Territory may consider any part of a Response, as well as any other information or material independently obtained, in the evaluation of any or all of the Evaluation Criteria. If the Territory obtains information in the course of its independent enquiries that are adverse to the Respondent, the Territory will provide the Respondent the opportunity to respond to that information.

## 10. ADDENDA, APPROACH TO MARKET QUESTIONS AND ENQUIRIES

### 10.1. Addenda

- 10.1.1. The Territory may vary, supplement, or clarify this ATM prior to the Closing Time, by issuing notices and other information as addenda.
- 10.1.2. A Respondent who has downloaded ATM documentation will be notified by Tenders ACT via email of the issue of any addenda.
- 10.1.3. A Respondent should ensure it has correctly recorded their contact details prior to downloading the ATM documentation. If a Respondent has not recorded their details correctly, they should amend their details and download the ATM documentation again. If a Respondent has obtained the ATM documentation other than from Tenders ACT, they should visit Tenders ACT, register as a user, and download this ATM documentation.
- 10.1.4. All information and notices relating to ATM addenda will be posted on the relevant ATM page on Tenders ACT as an addendum.
- 10.1.5. The Territory accepts no responsibility if a Respondent fails to become aware of any addendum notice which would have been apparent from a visit to the relevant ATM page on Tenders ACT.
- 10.1.6. Each addendum forms part of this ATM upon issue.

### 10.2. Approach to Market Questions and Enquiries

- 10.2.1. All questions and enquiries in relation to this ATM must be directed by email to the Tenders ACT Team or via an online forum. If a time and date for the submission of questions is stated in this ATM, questions and enquiries must be submitted by that time and date.
- 10.2.2. A Respondent must not communicate with or solicit information from Territory employees in relation to this ATM process except through Tenders ACT.
- 10.2.3. All questions and enquiries must be submitted on the basis that the Territory may publish any such questions, without attribution, and the Territory's answers (if any), on Tenders ACT and to all Respondents.
- 10.2.4. Any response by the Territory will be in writing and may, if of general application, be issued as an addendum to the ATM. The Territory will not be responsible for any other interpretation.

### 10.3. Online Forum

- 10.3.1. Tenders ACT features an online forum that enables a Respondent to seek clarifications. The online forum can only be accessed if a Response has been downloaded from Tenders ACT. Posts made to the forum will not be immediately displayed to enable the Territory to review the clarification question and to develop a Response.
- 10.3.2. The Territory may elect to:
  - (a) at its discretion, to not respond to comments or questions received;
  - (b) where it determines that the response is not relevant to all Respondents, not circulate responses to questions to all Respondents;
  - (c) not publish a request for clarification on the forum and instead issue an addendum; or

- (d) to publish the clarification question and a Response on the online forum, without issuing an addendum.

- 10.3.3. The online forum will not display details about the source of any requests for clarification.
- 10.3.4. The Territory accepts no responsibility if a Respondent fails to become aware of any information posted on the online forum which would have been apparent from a visit to the relevant ATM page on Tenders ACT.
- 10.3.1. If a Respondent reasonably believes it has found any discrepancy, error, ambiguity, inconsistency, omission, or misleading statement in this ATM, or in any other information given or made available by the Territory, the Respondent should promptly notify Tenders ACT in writing setting out the error in sufficient detail. Any consequential amendment of this ATM or information provided by the Territory will be made available to all Respondents.

## **11. REQUEST FOR ADDITIONAL INFORMATION & CLARIFICATION**

- 11.1.1. Despite any other requirement of the ATM, the Respondent must, if requested, submit additional written information to allow full consideration of the Response. There is no obligation on the part of the Territory to seek clarifying or any other information.
- 11.1.2. A Respondent must:
  - (a) respond to any request within the time period and in the format specified by the Territory;
  - (b) ensure that information provided answers the Territory's enquiry and is fully consistent with the Response submitted by the Respondent; and
  - (c) not seek to materially alter any aspect of their Response.
- 11.1.3. The Territory will not accept information provided in response to a request if that information alters the original Response in any material respect. If the Respondent fails to supply clarification or additional information to the satisfaction of the Territory, the Territory may exclude that section/s of the Response requiring clarification from further consideration.
- 11.1.4. The Territory may require the Respondent to submit similar information to that required by this ATM in respect of any proposed Subcontractors if that information was not already required to be included in the Response by this ATM.
- 11.1.5. A request for clarification or additional information is not an indication that its organisation will or will not be the preferred Respondent/s. The Respondent should treat all contact as strictly confidential and not disclose the details of any contact to any third parties. A Respondent's failure to observe confidentiality may result in the exclusion of their Response from further consideration.

## **12. CONFLICT OF INTEREST**

- 12.1.1. A Respondent must immediately notify the Territory if the Respondent becomes aware of an actual, potential, or perceived conflict of interest during the ATM process which is not fully disclosed in its Response. A conflict of interest may exist if:
  - (a) the Respondent or any of its officers, employees, agents, Subcontractors, consultants, and advisers have a relationship (whether professional, commercial, or personal) with any personnel in the Territory; or

- (b) the Respondent has a relationship with, and obligations to, an organisation which would affect the performance of the requirement or would bring disrepute to or embarrass the Territory; or
  - (c) the Respondent or any of its personnel have a relationship which could affect the Territory's security.
- 12.1.2. If a Respondent has or may have an actual or potential conflict of interest, the Territory may at its discretion:
- (a) enter into discussions to seek to resolve the conflict of interest;
  - (b) impose conditions on the Respondent for the management of the actual, potential, or perceived conflict of interest; or
  - (c) take any other action which it considers appropriate.
- 12.1.3. If a Respondent is unwilling or unable to enter into discussions under **clause 12.1.212.1.2(a)**, comply with the conditions imposed under **clause 12.1.212.1.2(b)** or otherwise resolve the actual, potential or perceived conflict of interest in a manner satisfactory to the Territory, the Territory may then exclude the Response from further consideration (including terminating any contract negotiations).

## 13. ALTERNATIVE RESPONSE

- 13.1.1. The Respondent may submit an alternative Response for consideration only if the Respondent has submitted a Response which conforms in all aspects with the ATM.
- 13.1.2. Alternative Responses must be clearly identified as an "Alternative Response".
- 13.1.3. Where an alternative Response is submitted, the Respondent must include a fully detailed description of the alternative Response and must:
- (a) state the manner in which it differs from the ATM requirements;
  - (b) propose a solution which satisfies the SOR functionality and performance requirements;
  - (c) separately identify, in detail, the proposed alternative approach or solution;
  - (d) specify each instance of change from the SOR;
  - (e) state the reasons for each instance of change; and
  - (f) demonstrate that the proposed alternative approach or solution is more beneficial to the Territory than the approach specified in this ATM.
- 13.1.4. Failure to provide this information may result in the Territory not considering the alternative Response.
- 13.1.5. Provision of this information does not guarantee such information will be considered and accepted by the Territory.

## 14. NEGOTIATIONS

- 14.1.1. Upon conclusion of the evaluation process, the Territory may select a preferred Respondent/s and then:
- (a) commence contract negotiations with the preferred Respondent/s with a view to conclude those negotiations within the prescribed period of time (if any);
  - (b) negotiate with another Respondent if contract negotiations with the preferred Respondent/s are not concluded within the prescribed period of time (if any); or

- 14.1.2. The Territory may cease negotiations with any Respondent.
- 14.1.3. Negotiations will be undertaken at the sole and absolute discretion of the Territory.
- 14.1.4. Acceptance of any Response will be subject to the execution of a legally binding written agreement, which may be in the form of the attached **Draft Contract**, between the Territory and a Contractor.
- 14.1.5. Without limiting its other rights under this ATM, if the Territory concludes that a Respondent has retracted, or attempts to retract, any part of its tendered offer, the Territory may, in its sole and absolute discretion:
- (a) disqualify that Respondent; and/or
  - (b) enter negotiations with other Respondents.
- 14.1.6. No legal obligations arise until the Territory has executed a Contract with the preferred Respondent/s.
- 14.1.7. The Territory is under no obligation to accept any Response. The ATM process may be varied or discontinued upon the Territory giving written notice to a Respondent.

## 15. DEBRIEF

- 15.1.1. Any Respondent may seek a debrief. All Respondents will be notified in writing via email and offered an opportunity for a debriefing following the execution of an agreement or termination of this ATM process.
- 15.1.2. A Respondent will be debriefed against the Evaluation Criteria. A Respondent will not be provided with information concerning other Responses or Respondents, except for publicly available information and except in so far as comparative statements can be made without breaching confidentiality.

## 16. COMPLAINTS

- 16.1.1. A Respondent who wishes to make a complaint about this procurement process must follow the process outlined in the *ACT Government Supplier Complaints Management Procedure*. This process can be accessed from the Procurement ACT website at:  
<https://www.procurement.act.gov.au>.

## 17. POLICIES AND LEGISLATION

### 17.1. Aboriginal and Torres Strait Islander Procurement Policy

- 17.1.1. The ACT Government launched the Aboriginal and Torres Strait Islander Procurement Policy (ATSIPP) on 31 May 2019. The ACT Government's aim for the ATSIPP is to support the objectives of the ACT Aboriginal and Torres Strait Islander Agreement 2019-2028. The Agreement includes the focus area of employment and economic participation for Aboriginal and Torres Strait Islander peoples in the Canberra Region.
- 17.1.2. For more information please view the *Aboriginal and Torres Strait Islander Procurement Policy (PDF)*. Please contact [Procurement ACT](#) if you have difficulty accessing this document.

## 17.2. Canberra Region Local Industry Participation Policy (LIPP)

- 17.2.1. The Territory is committed to ensuring competitive local businesses are given every opportunity to compete for Territory contracts. LIPP sets out the process and requirements for ensuring opportunities for local industry participation in Territory procurements. LIPP aims to promote the development and growth of the broader Canberra region economy to support local businesses capabilities and ultimately support more local jobs. A Respondent can seek more information and review the LIPP policy at <https://www.procurement.act.gov.au/canberra-region-lipp>.

## 17.3. Competitive Neutrality

- 17.3.1. The *Taxation (Government Business Enterprises) Act 2003* requires that Territory government businesses should not enjoy net competitive advantages over their private sector competitors simply by virtue of public sector ownership.
- 17.3.2. A Respondent from public sector government business enterprises which are listed in the *Taxation (Government Business Enterprises) Regulation 2003* should identify themselves as such and demonstrate in the pricing of their Response that the requirements of competitive neutrality have been met, including payment of relevant taxes and charges, rates of return and costs of funds. Compliance with the requirements of competitive neutrality may be tested by the Territory.
- 17.3.3. It is the responsibility of a government business enterprise submitting a Response to advise whether all commercial costs have been included in their Response.

## 17.4. Ethical Treatment of Workers Evaluation

- 17.4.1. The *Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021* (Direction) applies from 1 February 2022. Like the Secure Local Jobs Code (outlined in clause 17.7), it will strengthen the Territory's procurement practices so contracts are only awarded to businesses that meet the highest ethical and labour standards. Respondents should inform themselves of the Direction, including the procurements to which it applies. The Direction can be accessed at [Government Procurement \(Ethical Treatment of Workers Evaluation\) Direction 2021 | Notifiable instruments \(act.gov.au\)](#).

## 17.5. Personal Information

- 17.5.1. The *Information Privacy Act 2014 (ACT)* regulates how the Territory handles personal information. It covers the collection, storage, use and disclosure of personal information, and an individual's access to and correction of that information.
- 17.5.2. The Respondent should obtain, and will be deemed to have obtained, their own advice on the impact of the *Information Privacy Act 2014 (ACT)* on their participation in this ATM process and any subsequent contractual arrangement.

## 17.6. Prohibition of Illegal Workers

- 17.6.1. The Respondent should note that that the Territory will not engage a business engaging Illegal Workers and the **Respondent's Declaration** in the attached **Response Schedules** contains a statement from the Respondent confirming that it will comply with this policy.

## 17.7. Secure Local Jobs Code

- 17.7.1. Secure Local Jobs strengthens the ACT Government's procurement practices, so its contracts are only awarded to businesses that meet high ethical and labour standards. The requirements create fairer procurement processes for ethical employers whilst holding to account business not meeting their industrial and legal obligations. Respondents should inform themselves about the requirements of Secure Local Jobs, including the procurements to which it applies, by reviewing the policy which can be accessed on the Procurement ACT website <https://www.procurement.act.gov.au/securelocaljobs>.

## 17.8. Sustainable Procurement Policy 2015

- 17.8.1. The Territory is committed to considering environmental issues in the performance of its activities.
- 17.8.2. The Territory has adopted a commonly used "principles based" approach to sustainable procurement. This enables a consideration of sustainability issues relevant to each procurement. For more information please view the *Sustainable Procurement Policy 2015 (PDF)*.

## 17.9. Unpaid Employee Entitlements

- 17.9.1. The Respondent must not have a judicial decision against it or its proposed Subcontractors relating to employee entitlements (not including decisions which are under appeal), in respect of which the Respondent has not paid the claim. The Respondent is required to declare that they have no such unsettled judgements (see **Respondent's Declaration** in the attached **Response Schedules** to the ATM).

## 17.10. Work Health and Safety Act 2011

- 17.10.1. A Respondent must ensure that its business and all employees operate in accordance with the *Work Health and Safety Act 2011*.

## 17.11. Workplace Gender Equality Act 2012

- 17.11.1. A Respondent must comply with their obligations under the *Workplace Gender Equality Act 2012 (Cth)* and must not enter any subcontracting arrangements with a Subcontractor named by the Workplace Gender Equality Agency as an employer currently not complying with the *Workplace Gender Equality Act 2012 (Cth)*.
- 17.11.2. The Respondent must disclose if a Respondent, Subcontractor, or any other party is currently named as non-compliant under the *Workplace Gender Equality Act 2012 (Cth)*. In this case, the Respondent will be required to obtain a letter of compliance from the Workplace Gender Equality Agency to be eligible for Territory business. The letter of compliance may be attached to a Response or provided separately prior to the Closing Time.
- 17.11.3. The Territory will not enter into an agreement with a Respondent not complying with the *Workplace Gender Equality Act 2012 (Cth)* and named by the Workplace Gender Equality Agency (<http://www.wgea.gov.au/non-compliant-list>)

## 18. DISCLOSURE OF ATM INFORMATION

18.1.1. Without limitation to the Confidentiality Deed to be signed by the Respondent, the Respondent must not issue any information, publication, document or article for publication in any media which includes SOR details, or which otherwise refers to or is connected to the Territory or this ATM process, make any public statements (by means of advertisement or otherwise) in relation to this ATM, or any subsequent contractual arrangement arising out of this ATM, without the prior written consent of the Territory. However, nothing in this clause is to be read as limiting a Respondent's right to enter into public debate or criticism of the Territory, its agencies, or personnel.

## 19. DISCLAIMER AND NO CONTRACT

- 19.1.1. The ATM may contain information that may be described as data, documents, and images, prepared by the Territory. While that information has been formulated with care, the Territory does not warrant or represent that it is free from misdescription, error or omission.
- 19.1.2. The Territory is in no way liable for the inaccuracy of any information printed or stored by a Respondent (or other user) after downloading an electronic copy from Tenders ACT. A Respondent who utilises an automatic language translation service in connection with the ATM does so at its own risk.
- 19.1.3. If sufficient information is not available, or a prospective Respondent requires clarification of any information in relation to the ATM, the prospective Respondent is invited to write to the Tenders ACT Team at [tendersACT@act.gov.au](mailto:tendersACT@act.gov.au)
- 19.1.4. The Territory will not be liable to the Respondent based on any promissory estoppel, contractual, quasi contractual or restitutionary grounds whatsoever arising as a consequence of any matter relating or incidental to a Respondent's participation in this ATM process including instances where:
- (a) the Respondent is not invited to participate in any subsequent process following completion of this ATM process;
  - (b) the Territory varies or terminates the ATM process; or
  - (c) the Territory decides not to contract for all or any of the requirements.
- 19.1.5. Nothing in this ATM will be construed to create any binding contract or agreement (express or implied) between the Territory and any Respondent until a written agreement, if any, is entered into by the parties. This ATM, and any conduct or statement made prior to or subsequent to the issuance of this ATM, is not and must not be deemed to be:
- (a) an offer to contract; or
  - (b) a binding undertaking of any kind by the Territory (including, without limitation, quasi-contractual rights, promissory estoppel, or rights with a similar legal basis).
- 19.1.6. Any time or date in this ATM (other than the Closing Time) is for the sole and absolute convenience of the Territory. The establishment of a time or date in this ATM does not create:
- (a) any obligation on the part of the Territory to take any action; or
  - (b) any right in any Respondent that any action will be taken on that date.
- 19.1.7. if the Territory extends the Closing Time or permits the lodgement of new submissions, the new time limit will apply equitably to all participating potential Respondents.

## 20. COST OF RESPONSES

- 20.1.1. The Territory will not be liable and make no payment to a Respondent:
- (a) for any costs, losses or expenses incurred by a Respondent in preparing its Response or any alternative Response; or
  - (b) in respect of any discussions, negotiations, enquiries or requests for details or information made by or on behalf of the Territory after the submission of Responses; or
  - (c) for any work undertaken by any Respondent after its Response is submitted including work requested by the Territory in accordance with any provision of the ATM.
- 20.1.2. The Respondent is responsible for all costs and expenses related to the preparation and lodgement of their Responses, any subsequent negotiations and any other action or response in relation to this ATM.

## 21. PROPRIETARY NAMES

- 21.1.1. When proprietary names, brands, catalogues, or reference numbers are specified in the ATM, they are intended to set a minimum standard, and preference for any particular material or equipment is not intended. The Respondent may offer material or equipment of similar characteristics, type, quality, appearance, finish, method of construction and performance.

## 22. TERRITORY RIGHTS

- 22.1.1. Notwithstanding anything else contained in this ATM or limiting its rights at law or otherwise, the Territory may at any time during the ATM process in its sole and absolute discretion:
- (a) suspend, vary, terminate, or abandon any aspect of this ATM where in the opinion of the Territory:
    - i. that is in the public interest;
    - ii. no Respondent meets the SOR or format requirements (if any);
    - iii. no Respondent is fully capable of complying with the Draft Contract; or
    - iv. no Response represents value for money;
  - (b) determine at any stage or stages after the Closing Time, to shortlist Respondents on any basis that the Territory considers appropriate;
  - (c) seek additional information or clarification from any Respondent at any time (including from or in respect of a Respondent's proposed Subcontractors or agents);
  - (d) provide additional information or clarification to all Respondents at any time (and where the information is provided after the Closing Time, allow the submission of revised Responses);
  - (e) seek amended Responses or call for new Responses;
  - (f) select and negotiate with more than one Respondent and/or discontinue those negotiations at any time for any reason;
  - (g) terminate any negotiations being conducted at any time with any Respondent;
  - (h) publish or disclose the names of Respondent/s (whether successful or unsuccessful);
  - (i) enter into an agreement on terms different to those in the Draft Contract;
  - (j) allow or not allow a related entity to take over a Response in substitution for the original Respondent; and
  - (k) following termination of the ATM process, negotiate with any Respondents or other party on any terms.

- 22.1.2. Without limiting its other rights under this ATM or at law, if the Territory concludes that the preferred Respondent/s has retracted, or attempts to retract, undertakings under which material technical, commercial, financial, corporate, relationship management, legal or contractual issues were resolved during negotiations, the Territory may choose to not proceed with that Response and/or exercise another right given by this ATM.
- 22.1.3. The Territory will not be liable or in any way responsible for any loss, cost, expense, claim, or damage incurred by a Respondent because the Territory:
- (a) exercises or fails to exercise any of the Territory's rights under this ATM; or
  - (b) fails to inform a Respondent of its exercise or non-exercise of those rights.
- 22.1.4. Where the Territory exercises its rights under this ATM the Territory will:
- (a) notify Respondents that are affected by the exercise of those rights;
  - (b) exercise its rights in a way that treats Respondents in the same position equally; but
  - (c) not be required to provide Respondents with reasons for exercising any of its rights.
- 22.1.5. The Territory may reject any Response lodged by a Respondent that is engaging or has engaged in any conduct that contravenes any laws or contravenes the Terms and Conditions as set out in this ATM.

## **23. RESPONDENT ACKNOWLEDGEMENTS**

- 23.1.1. Every Response is submitted on the basis that the Respondent acknowledges that:
- (a) it has examined this ATM and any other documents referenced or referred to in this ATM, and any other information (including the addenda) made available by the Territory to Respondents for the purposes of submitting a Response;
  - (b) it has obtained its own advice on the impact of all relevant legislation on its participation in this ATM process;
  - (c) it has sought and examined all necessary information which is obtainable by making reasonable enquiries relevant to the risks and other circumstances having effect on its Response;
  - (d) the SOR requirements and obligations are based on projected future requirements and may vary significantly from the actual requirements;
  - (e) it has made its own independent assessments of actual workload requirements under any resultant agreement;
  - (f) it has not relied on any express or implied statement, warranty, or representation, whether oral, written or otherwise made by or on behalf of the Territory, its officers, employees, agents or advisers other than any statement, warranty or representation contained in this ATM;
  - (g) it satisfied itself as to the correctness and sufficiency of its Response; and
  - (h) the Territory will be relying on all of the information contained in and all of the representations made in its Response and any subsequent written and/or verbal clarifications of that Response, for the purposes of evaluating the Response.
- 23.1.2. The Respondent agrees to provide access to such information as is determined by the Territory to be necessary in order to evaluate the reasonableness of their Response, including any pricing.

## 24. CONFIDENTIAL TEXT

- 24.1. Respondents must specify in writing any information they wish to propose be treated as confidential text for the purposes of Part 3 of the *Government Procurement Act 2001*. Any proposed text must meet at least one of the grounds specified in section 35(1) of the *Government Procurement Act 2001* and is subject to approval by the Territory. Respondents should seek their own legal advice as to the implication for them of the notifiable contracts provisions of the *Government Procurement Act 2001*.
- 24.1.1. Respondents should be aware that the Territory may be required to disclose information under the Freedom of *Information Act 2016 (ACT)* or when required by the responsible Minister in the Legislative Assembly.

## 25. EXCHANGE OF INFORMATION

- 25.1.1. The exchange of information between the Territory and any third party, including other government department or agencies, for the purpose of conducting the relevant ATM process is acknowledged by the Respondent to be a communication in circumstances of qualified privilege. The Respondent shall have no claim against the Territory, in defamation or otherwise, in respect of any matter arising out of the provision or receipt of such information, including any claim for loss to the Respondent arising out of the communication.
- 25.1.2. The Respondent acknowledges and agrees that the Territory may provide to any directorate, agency or entity that has engaged the Respondent under a current contract, information contained in the Respondent's Response or obtained by the Territory in connection with the Response (including as part of the evaluation of the Response).

## 26. FINANCIAL INFORMATION

- 26.1.1. The Territory may at its discretion require Respondents to submit additional information for the purpose of the Territory evaluating the preferred Respondent/s financial capacity and viability.

## 27. PRESENTATIONS, DEMONSTRATIONS, AND INTERVIEWS

- 27.1.1. The Territory may, at its discretion request presentations, demonstrations, or interviews with a Respondent.
- 27.1.2. Respondents will not be allowed to use presentations, demonstrations, and interviews (if held) to enhance or amend its Response and will be confined to addressing the issues raised by the Territory.
- 27.1.3. Whether interviews, demonstrations and/or presentations are held will be at the Territory's absolute discretion and a Respondent should not rely on being invited to make further submissions (including presentations or demonstrations) or to participate in an interview process following the Closing Time.

## 28. PRICE BASIS, ENGLISH LANGUAGE AND METRIC UNITS

- 28.1.1. Prices must be in Australian dollars and include GST.
- 28.1.2. Responses and all communications with the Territory must be in the English language.
- 28.1.3. All dimensions and units on plans and drawings and all references to measurements must be in metric units.

- 28.1.4. Prices must be inclusive of all customs duty applicable to imported materials, plant and equipment required for the relevant goods or services required and any taxes levied by any authority or government.

## 29. CARETAKER CONVENTIONS

- 29.1.1. A specified caretaker period applies ahead of each scheduled general election of the Legislative Assembly.
- 29.1.2. The Territory publishes guidance ahead of each general election, which outlines the areas in which the Territory must restrict their activities during the relevant caretaker period.
- 29.1.3. Respondents should note the implications of the election and the possibility that the ATM process may not be completed. Respondents should make their own enquiries in relation to any impact this may have on their Responses and any resultant contract.

## 30. NO GUARANTEE OF BUSINESS

- 30.1.1. The Territory does not guarantee, warrant, or otherwise represent that any business or any minimum volume of goods or services or value of business will be contracted, earned or received by any preferred Respondent.

## 31. INCONSISTENCY

- 31.1.1. In the event of any inconsistency between the ATM (other than this **Attachment A**), the terms and conditions in this **Attachment A** or the terms contained on Tenders ACT (including the Tenders ACT terms of use as amended from time to time), the order of precedence will be as follows:
- (a) ATM (other than this **Attachment A – Territory Approach to Market Terms and Conditions**);
  - (b) the terms and conditions in this **Attachment A**; and
  - (c) terms contained on Tenders ACT.

## 32. APPLICABLE LAW

- 32.1.1. The laws of the Australian Capital Territory apply to this ATM process.
- 32.1.2. The Respondent must comply with all relevant laws in preparing and lodging their Response and taking part in this ATM process.



**ACT**  
Government

**Procurement ACT**

**Request for Proposal (RFP)**

**GS3538978**

**THE PROVISION OF REUSABLE FACILITY SERVICES IN THE  
TERRITORY**

**ATTACHMENT B – Statement of requirement**

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# 1. Definitions

## 1.1. Definitions table

- 1.1.1. Unless defined in the definitions table below, the definitions set out in **Attachment A – Territory Approach to Market Terms and Conditions** apply to this SOR.
- 1.1.2. To the extent of any inconsistency between this clause 1.1.2 and the **Attachment A – Territory Approach to Market Terms and Conditions**, the definition in this clause 1.1.2 applies.

Term	Definition
<b>Acceptance and Rejection Policy</b>	means a policy that specifies the criteria for materials to be accepted for reuse, repair, repurpose or refurbishment, and the criteria for the rejection of materials at the Reusable Facility.
<b>Action Plan</b>	means a documented response to an Action Request provided by the Contractor that explains the reason for the non-compliance with KPIs, Plans or Contract requirements, and must include a process and timeframe to remedy non-compliance.
<b>Action Request</b>	means a written request issued by the Territory to the Contractor that identifies areas of non-compliance with KPI, Plans or Contract requirements, and outlines a timeframe for investigation, reporting or remedying the non-compliance.
<b>ACT NoWaste</b>	means the Territory represented by the business unit of the Transport Canberra and City Services Directorate responsible for delivery of the Territory's waste management services known as "ACT NoWaste".
<b>Assets</b>	means assets and equipment at the Reusable Facilities which is owned by the Territory and includes the items identified in Asset Register.

<b>Asset Register</b>	means a complete listing of Territory physical resources, including the location, ownership details, and condition relating to each listed asset, that is provided in Appendix 2(c).
<b>Australian Consumer Law</b>	means the Australian Consumer Law applying in the Territory pursuant to the <i>Fair Trading (Australian Consumer Law) Act 1992</i> (ACT).
<b>Baseline Threshold</b>	means the portion of the Disposal Threshold adjusted by Action Request as detailed in <i>Attachment C1 Performance Management Framework</i> .
<b>Business Day</b>	means a day in the Australian Capital Territory that is not: <ul style="list-style-type: none"> <li>(a) a Saturday or Sunday;</li> <li>(b) a public holiday pursuant to the <i>Holidays Act 1958</i>; or</li> <li>(c) the 27<sup>th</sup>, 28<sup>th</sup>, 29<sup>th</sup>, 30<sup>th</sup> or 31<sup>st</sup> of December.</li> </ul>
<b>Circular Economy</b>	means the practice of the principles specified in the draft <i>ACT Circular Economy Strategy 2022 – 2025</i> or the contemporary strategy that replaces it.
<b>Charity Activities</b>	means actions or events carried out by individuals, groups, or organizations with the aim of aiding or raising funds for people in need, such as Disadvantaged or Vulnerable Community Groups.
<b>Compliance Checklist</b>	means the assessment and evaluation form used to measure the Contractor's compliance in respect of the contract and KPIs.
<b>Compliance Item</b>	means the component of the Compliance Checklist that is nominated by the Territory or the Contractor.
<b>Compliance Threshold</b>	means the portion of the Disposal Threshold adjusted by the extent the Contractor compliance to the Standard Performance Indicator as detailed in <i>Attachment C1 Performance Management Framework</i> .

<b>Contract</b>	means the contract to be entered into between the Contractor and the Territory, substantially in the form of the draft Contract at <b>Attachment D</b> , or as otherwise agreed between the Territory and the Contractor.
<b>Contract Commencement Date</b>	means the date of the Contract.
<b>Contractor</b>	means the person or entity (if any) with whom the Territory enters the Contract.
<b>Contractor's Contract Manager (CCM)</b>	means the Contractor appointed officer responsible for managing/ supervising the Contract on behalf of the Contractor.
<b>Customer</b>	means person or entity: (a) from whom the Contractor receives a Reusable Item; (b) to whom the Contractor sells or donates a Reusable Item; or (c) who accesses, or receives the benefit of, another aspect of the Services provided by the Contractor.
<b>Designated Area</b>	means the area within a Transfer Station where Reusable Items are deposited and stored until such time as it is transported to the Reusable Facilities.
<b>Dilapidation Report</b>	means a report detailing the existing condition of Infrastructure and Assets at the time of the Dilapidation Report is completed.
<b>Disadvantaged or Vulnerable Community Group</b>	includes: (a) Aboriginal and Torres Strait Islander people; (b) people who have been unemployed for 5 years or more; (c) people who have been convicted of a criminal offence in the past;

	<p>(d) people who identify as part of the lesbian, gay, bisexual, transgender, queer, intersex, asexual or other (LGBTQIA+) community; and</p> <p>(e) people with a disability.</p>
<b>Disposal Threshold</b>	means the total volume of Reusable Items that the Contractor can dispose of at the Mugga Lane Landfill or Transfer Stations without incurring gate fees. The monthly Disposal Threshold amount is the Baseline Threshold, and Compliance Threshold.
<b>Drop off Area</b>	means the designated location at the Facility where Customers can drop off Reusable Items.
<b>Electronic Devices</b>	<p>means any electrical or electronic equipment, appliance, instrument or tool, including but not limited to:</p> <p>(a) tablets, computers or computer related instruments or appliances;</p> <p>(b) game consoles;</p> <p>(c) cameras and other recording devices;</p> <p>(d) digital, analogue or streaming application video, audio or music players;</p> <p>(e) cell phones or personal digital assistants,</p> <p>(f) white goods including refrigerators, freezers, washing machines, dryers, ovens, and dishwashers; and</p> <p>(g) any other electronic or battery powered instruments.</p>
<b>Facility Manager</b>	means personnel responsible for overseeing the operations and maintenance of the Reusable Facility.
<b>Gate Fee</b>	<p>means the fee charged for the disposal of waste at the Transfer Station or Mugga Lane Landfill. The fees are prescribed annually through a Disallowable Instrument.</p> <p>[2022-23 instrument can be found in: <a href="https://www.legislation.act.gov.au/di/2022-63/">https://www.legislation.act.gov.au/di/2022-63/</a>].</p>
<b>Infrastructure</b>	means all infrastructure on the Site(s), as specified in the Asset Register and associated maps ( <b>Appendix 2(c)</b> ), including but not limited to:

	<p>(a) roads, paths, concrete/ bitumen/ paved/ grass/ garden/ gravel areas, line marking, kerbs, gutters, drains, grass swale drains, pipes, signage, bollards, posts, speed cushions, traffic management equipment, roads related infrastructure and boom gates;</p> <p>(b) dams, ponds and other water infrastructure;</p> <p>(c) electrical and telecom services including conduits, cabling and other mediums for the transport of services and utilities (other than those owned by a utility provider or government);</p> <p>(d) car parks, hardstands and other paved or improved surfaces;</p> <p>(e) fences and gates;</p> <p>(f) irrigation pumps, power supplies; pipes and sprinklers;</p> <p>(g) buildings and structures; and</p> <p>(h) anything else affixed to the Site(s) by more than its own weight.</p>
<b>Key Performance Indicator (KPI)</b>	means the indicators by which the Contractor’s performance will be measured and as listed in <b>Section 9</b> and <b>Appendix 3</b> of this SOR, which includes Standard Performance Indicator and Minimum Performance Indicator.
<b>Management Plans (Plans)</b>	means each Plan as detailed in Section 6 of this SOR that is to be prepared and maintained by the Contractor for the duration of the Term and is intended to collectively detail the way the Services will be provided.
<b>Minimum Performance Indicator</b>	means the minimum performance level that the Contractor must meet with respect to the KPIs as detailed in <i>Attachment C1 Performance Management Framework</i> .
<b>Mitchell RMC</b>	means the Mitchell RMC located at 100 Flemington Road, Mitchell 2911.
<b>Mugga Lane Landfill</b>	means the landfill located at Mugga Lane RMC where acceptable waste is deposited in a controlled manner.

<b>Mugga Lane RMC</b>	means the Mugga Lane Resource Management Centre located at Symonston ACT 2609, comprising Block 2114, District of Jerrabomberra.
<b>Objectives</b>	means the objectives set out in Clause 3.1 of this SOR.
<b>Operational Hours</b>	means from 7.30am to 5:00 pm each day excluding Christmas Day and Good Friday.
<b>Other Contractors</b>	means individuals or companies that provide services separate from the Contractor at the RMCs including: (a) weighbridge operator; and (b) Transfer Station operator.
<b>Outcomes</b>	means the outcomes set out in clause 3.2 of this SOR.
<b>Partnership (Partners)</b>	means a person or entity engaged by the Contractor to provide an aspect of the Services.
<b>Preliminary Contract Plans</b>	means each draft Plan included in Schedule X of the Contract.
<b>Pricing Policy</b>	has the meaning as described in clause 6.4 of this Attachment B.
<b>Refurbish</b>	means to restore an item or product back to a specific quality level or condition for Reuse. Refurbishment may involve the parts of similar discarded product(s).
<b>Repair</b>	means the maintenance or mending of a defective item or product to a condition capable of fulfilling that item or product's original function and purpose.
<b>Repurpose</b>	means the use of a redundant product or its parts in a new product with a different function.
<b>Resource Recovery</b>	means the practice of redirecting materials away from landfills, and instead finding ways to Reuse, Repair, Repurpose, or Refurbish them.

<b>Reuse</b>	means the use of an item or product that is in a condition capable of fulfilling that item or product's original function and purpose.
<b>Reusable Streams</b>	means the Reusable Item categories specified in the Acceptance and Rejection Policy
<b>Reusable Item(s)</b>	means any item, products or materials that are safe and legal and can be recovered for Reuse, Repurpose, Repair, Refurbishment or otherwise utilised beneficially.
<b>Reusable Facility (Facility)</b>	means, as the context requires: <ul style="list-style-type: none"> <li>(a) the Reusable Facility located at the Mitchell RMC within the area identified in Appendix 2(b); or</li> <li>(b) the Reusable Facility located at the Mugga Lane RMC within the area identified in Appendix 2(a),</li> </ul> and a reference to 'Reusable Facilities' means both the facilities described above.
<b>Reports</b>	means every report the Contractor is required to prepare and provide, to the TCM, under the contract.
<b>RMC</b>	Resource Management Centre
<b>Service(s)</b>	means the whole of the tasks, activities and services to be provided or performed by the Contractor under the Contract, including as set out in this Statement of Requirements.
<b>Services Commencement Date</b>	means the date following the end of the Transition-In Period on which the Contractor must commence providing the Services.
<b>Service Plans</b>	means the Contractor's policies, plans, procedures and documents to ensure the effective planning, delivery, review, reporting, compliance and continuous improvement of Service delivery under the contract.

<p><b>Stakeholders</b></p>	<p><b>means the following entities:</b></p> <ul style="list-style-type: none"> <li>(a) ACT NoWaste;</li> <li>(b) Icon Water;</li> <li>(c) Other Contractors;</li> <li>(d) regulatory bodies and authorities relevant to the Services;</li> <li>(e) Customers;</li> <li>(f) businesses and community groups neighbouring either of the Reusable Facilities at the RMCs; and</li> <li>(g) any Partners.</li> </ul>
<p><b>Standard Performance Indicator</b></p>	<p>means the performance level that the Contractor must meet with respect to the KPIs to be eligible for the Disposal Threshold as detailed in <i>Attachment C1 Performance Management Framework</i>.</p>
<p><b>Statement of Requirements (or SOR)</b></p>	<p>means this document.</p>
<p><b>Stockpile</b></p>	<p>means the temporary storage of Reusable Item(s) for future sales or disposal.</p>
<p><b>Term</b></p>	<p>means the term of the Contract, which is currently intended to be a period of four (2) years with two (2) 1-year extension options.</p>
<p><b>Territory</b></p>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) when used in a geographical sense, the Australian Capital Territory; and</li> <li>(b) when used in any other sense, the body politic established by Section 7 of the Australian Capital Territory (Self-Government) Act 1988 (Cth) – represented by the Transport Canberra and City Services Directorate</li> </ul>
<p><b>Territory Contract Manager (TCM)</b></p>	<p>means the Territory appointed officer responsible for managing/ supervising the Contract on behalf of the Territory.</p>

<b>Transfer Station</b>	means the areas within Mugga Lane RMC and Mitchell RMC sites that receive, sort and manage the various Waste streams.
<b>Transition In Period</b>	means the period of approximately three months, or other agreed timeframe, from the date the Contract is executed to the Services Commencement Date.
<b>Transition Out Period</b>	means the period of approximately three months prior to the end of the Term.
<b>Visitor</b>	means any person attending the Reusable Facilities for any reason other than the Contractor's personnel, Partners or Customers.
<b>Waste</b>	has the meaning given in the <i>Waste Management and Resource Recovery Act 2016</i> (ACT).
<b>Waste Facility Licence</b>	means the licence issued under the Waste Management and Resource Recovery Legislation to an Approved Waste Facility operating within the Territory. <i>Note: the Contractor is required to hold, maintain, and comply with the conditions of, a Waste Facility Licence, including conditions relating to the reporting of Waste activities. A sample waste facility reporting form is provided in Appendix 1.</i>
<b>Waste Management and Resource Recovery (WMRR) Legislation</b>	means: <ul style="list-style-type: none"> <li>• the <i>Waste Management and Resource Recovery Act 2016</i></li> <li>• the <i>Waste Management and Resource Recovery Regulation</i> and related instruments or amendments</li> </ul> (Refer to <a href="https://www.legislation.act.gov.au/a/2016-51/">https://www.legislation.act.gov.au/a/2016-51/</a> )
<b>Work Health and Safety (WHS) Legislation</b>	means: <ul style="list-style-type: none"> <li>(a) <i>the Work Health and Safety Act 2011 (ACT)</i>;</li> <li>(b) <i>the Work Health and Safety Regulation 2011 (ACT)</i>;</li> <li>(c) <i>all instruments issued under the Work Health and Safety Act 2011 or the Work Health and Safety Regulation 2011</i>;</li> <li>(d) <i>all laws that replace the above laws; and</i></li> </ul>

	(e) <i>all other laws, standards and guidelines applicable in the Territory dealing with WHS matters.</i>
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## 2. Background Information

### 2.1. Background

- 2.1.1. The Territory has two Reusable Facilities for receiving, storing and selling Reusable Items at following locations:
- (a) Mugga Lane RMC; and
  - (b) Mitchell RMC.
- 2.1.2. Historically each facility has been managed under a separate contract. The procurement will combine the management of both Reusable Facilities under a single contract arrangement.
- 2.1.3. Through this RFP, the Territory is seeking to engage a Contractor who will deliver the Services.

### 2.2. Strategic Alignment

- 2.2.1. The Services are intended to contribute to or align with to the following Territory policies and priorities:
- (a) the ACT *Waste Management Strategy 2011 – 2025*:
    - i. less waste generated;
    - ii. full resource recovery; and
    - iii. a cleaner environment.
  - (b) the draft *Circular Economy Strategy 2022 – 2025*
    - i. keeping products and materials in use (key principle);
    - ii. grow markets for recovered materials and goods, and circular economy business models; and
    - iii. create high value jobs and attract innovative new enterprises.
  - (c) the *Waste Feasibility Study Roadmap 2018*:
    - i. promoting waste avoidance through education, and
    - ii. industry development and support
  - (d) the objectives of the *Transport Canberra and City Services Strategic Plan 2021-2024*:
    - i. community-centric sustainable outcomes;

- ii. a great place to work; and
- iii. delivering services safely and efficiently.

## 2.3. Mugga Lane RMC

- 2.3.1. The Mugga Lane RMC site is located on 499 Mugga Lane, Jerrabomberra.
- 2.3.2. The map of the Facility is provided in Appendix 2(a) – Mugga Lane Reusable Facility Site Map and comprise of:
  - (a) a large shed and the attached smaller shed;
  - (b) an adjacent compound; and
  - (c) the awning along the east side of the large shed.
- 2.3.3. Based on the data from the Mugga Lane Landfill weighbridge, the Mugga Lane Reusable Facility has, on average, disposed of 400 tonnes per year of unsold Reusable Items to the landfill from January 2018 to December 2022.
- 2.3.4. Based on the data from the Mugga Lane RMC weighbridge, the Mugga Lane Reusable Facility salvaged an average of 200 tonnes per year of Reusable Items from the Transfer Station from January 2018 to December 2022.
- 2.3.5. The Territory has no records on the amount of Reusable Items received and sold at the Mugga Lane Reusable Facility.

## 2.4. Mitchell RMC

- 2.4.1. The Mitchell RMC is located on 100 Flemington Road, Mitchell.
- 2.4.2. The map of the Facility is provided in Appendix 2(b) - Mitchell Reusable Facility Site Map and comprise of:
  - (a) the main shed;
  - (b) yard for storage; and
  - (c) Drop off Area.
- 2.4.3. Based on the data from the Mugga Lane Landfill weighbridge, the Mitchell Reusable Facility has, on average, disposed of 370 tonnes per year of unsold Reusable Items to the landfill from January 2018 to December 2022.
- 2.4.4. Based on the data from the Mitchell RMC weighbridge, the Mitchell Reusable Facility salvaged an average of 230 tonnes per year of Reusable Items from the Transfer Station from January 2018 to December 2022.
- 2.4.5. The Territory has no records on the amount of Reusable Items received and sold at the Mitchell Reusable Facility.

## 2.5. Currently Accepted Items

- 2.5.1. The Reusable Facilities currently accept the following goods:
- (a) antiques;
  - (b) art and craft;
  - (c) bicycles;
  - (d) books, CDs, records;
  - (e) building materials and products including sinks, doors, windows, etc.;
  - (f) carpet squares/tiles, underlay, etc.;
  - (g) clothing and manchester;
  - (h) Electronic Devices;
  - (i) gardening equipment including lawn mowers;
  - (j) gates and fencing items, metal posts/columns and beams;
  - (k) homewares;
  - (l) household appliances;
  - (m) mattresses; and
  - (n) toys.

## 2.6. Emergency Landfill Services

- 2.6.1. In the event of a failure at the Territory's Landfill Facility at Mugga Lane RMC, the Territory may direct the Contractor to stand down the operations of the Services to facilitate temporary "Emergency Landfill" operations for the Territory's ongoing capacity to manage Waste and potential requirement of Waste transfer to alternate Landfill arrangements.
- 2.6.2. During an Emergency Landfill event, Reusable Facility Services at the Sites may be suspended, and the Territory's emergency team may occupy the Sites to coordinate and manage a temporary Waste transfer operation to accept Waste normally destined for the Mugga Lane RMC.
- 2.6.3. During the Emergency Landfill event, the Landfill Operator on behalf of the Territory may utilise the Mugga Lane RMC and Mitchell RMC as temporary drop off locations for consolidation and bulk transfer of Waste to alternate Landfill arrangements. The Contractor must not inhibit the ability of Landfill Operator to manage the Site(s) during an Emergency Landfill event.
- 2.6.4. The Contractor may propose a weekly "Stand Down Fee" to the Territory to cover operational costs during the stand down period.

## 3. Objectives and Outcomes

### 3.1. Objectives

- 3.1.1. The Objectives of the Services are:
- (a) provision of a convenient service for the community to drop off or purchase Reusable Items;
  - (b) provision of an effective maintenance of the site, infrastructure, plant and equipment;
  - (c) provision of programs to support a circular economy;
  - (d) deliver social benefits;
  - (e) implementation of a Reusable Items price policy that meets the community's expectations;
  - (f) provision of an effective Stakeholder engagement;
  - (g) provision of an accurate and timely reporting of the Services; and
  - (h) deliver services in compliance with all applicable Territory legislation and government policies and best practice standards.

### 3.2. Outcomes

- 3.2.1. The Outcomes of the Services are:
- (a) a high level of customer satisfaction and awareness;
  - (b) maximise resource recovery and diversion of materials from landfill;
  - (c) a contribution towards a circular economy;
  - (d) an improvement in the community's capacity to practice Circular Economy principles;
  - (e) an accurate and quality data for reporting;
  - (f) a high level of Service safety; and
  - (g) compliance with legislation and best practice standards;
- 3.2.2. The Contractor acknowledges that the Objectives will be met through the effective delivery of Plans, and the performance of the Plans will be monitored and measured through KPIs (refer to Appendix 3).
- 3.2.3. The initial Term will be a four (4) year period with two extension options of one (1) year each.

### 3.3. Compliance with Legislation and Approvals

- 3.3.1. The Contractor must comply with all relevant legislation, codes and standards applicable to the Reusable Facilities including:
- (a) Work, Health and Safety Legislation;
  - (b) *Second-hand Dealers Act 1906*;
  - (c) *Traders (Licensing) Act 2016*; and
  - (d) the *Sale of Goods Act 1954*
- 3.3.2. The Contractor must obtain all approvals and licences necessary to carry out the Services including pursuant to the *Traders (Licensing) Act 2016*.
- 3.3.3. Without limiting clause 3.3.1 the Contractor must apply for, receive and maintain at all times for the duration of the Term, a Waste Facility Licence under the Waste Management and Resource Recovery Legislation.
- 3.3.4. The Contractor will be responsible for the costs associated with obtaining and maintaining all licences, authorisations, approvals and consents necessary to carry out the Services in accordance with the Contract.
- 3.3.5. The compliance with this section is the sole responsibility of the Contractor.

## 4. Reusable Facility Services

### 4.1. General Requirements

- 4.1.1. The Contractor must provide any Services and perform all functions, obligations, and responsibilities, including any that have not been specified in the contract but are reasonably considered to meet all operational, management and performance standards and requirements.
- 4.1.2. The Contractor's provision of Services must meet the needs of the Territory, including with respect to the growth in population, dwelling and economic activity of the city during the Term.
- 4.1.3. The Contractor must provide the following Services at the Reusable Facilities:
- (a) assessment of all materials presented by Customers for acceptance as a Reusable Item;
  - (b) acceptance of Reusable Items from Customers;
  - (c) salvage and collection of Reusable Items from the Transfer Stations;
  - (d) maximise Resource Recovery and landfill diversion through the Repair, Refurbishment, Repurpose or Reuse of accepted Reusable Items;
  - (e) safe management and stockpiling of accepted Reusable Items;

- (f) sale or donation of Reusable Items;
- (g) safe, correct handling and disposal of unsold Reusable Items;
- (h) provision of education programs to build community capacity to participate in a Circular Economy;
- (i) reporting of Reusable Items received, transferred to other sites, sold, donated or disposed of;
- (j) reporting of the Services; and
- (k) organisation of charity activities.

4.1.4. The Contractor must provide Customer Service by:

- (a) acting professionally and courteously in all dealings with Customers;
- (b) being transparent when providing Services and educating Customers;
- (c) unloading Reusable Items from Customer's vehicles (when safe to do so);
- (d) directing Customers to the relevant facility to dispose of rejected Reusable Items when required;
- (e) safely managing traffic in and around the Sites in accordance with the Traffic Management Plan; and
- (f) promptly responding and resolving to Customer feedback.

4.1.5. The Contractor may engage with Partners to further enhance the delivery of the Objectives and Outcomes. The Contractor must obtain approval from the Territory prior to formalising and commencing any Partnerships.

4.1.6. The Contractor must develop and maintain a database management system as per legislative requirements that contains current and relevant information related to the provision of Services. The Contractor must specify the system's location and ensure that the Territory has unrestricted access to it upon request. The system should contain at a minimum the following information:

- (a) customer enquiries and complaints management;
- (b) work health safety management;
- (c) records of acceptance of Reusable Items;
- (d) records of sales and donations of Reusable Items;
- (e) records of transfer of Reusable Items to other sites;
- (f) records of disposal;
- (g) relevant Service information and records with Partners; and
- (h) any other relevant information in relation to the Services.

- 4.1.7. The Contractor must obtain written approval from the Territory prior to incorporating any additions, improvement or alterations to the Reusable Facilities.
- 4.1.8. The Contractor must advertise a contact phone number to provide Customer Service during Operational Hours. The Contractor's contact number must provide courteous options and responses to all Customer queries.
- 4.1.9. The Contractor must:
- (a) be readily contactable by the telephone and email during Operational Hours;
  - (b) nominate an on-call person available for emergencies 24 hours, 7 days a week; and
  - (c) provide a back-up telephone contact arrangement.
- 4.1.10. The Contractor's website page must be accessible outside Operational Hours and be regularly maintained and updated by the Contractor to ensure currency of information on Services and support, and should include:
- (a) information about the Reusable Facilities;
  - (b) acceptance and rejection policy;
  - (c) information about workshops and charity activities;
  - (d) educational materials promoting Resource Recovery;
  - (e) any other relevant information regarding the services; and
  - (f) interface to facilitate the acceptance, sales and donation of Reusable Items.
- 4.1.11. With respect to any complaint received, the Contractor must:
- (a) inform the Territory Contract Manager in writing within **24 hours**;
  - (b) establish and maintain complaints register for all complaints received from all Stakeholders;
  - (c) contact the complainant within **2 Business Days** of the complaint being received; and
  - (d) investigate and action any complaint within **7 calendar days** of the complaint being received.

## 4.2. Acceptance of Reusable Items

- 4.2.1. The Contractor must accept all Reusable Items in accordance with the agreed Acceptance and Rejection Policy.
- 4.2.2. The Acceptance and Rejection Policy must be developed based on the Reusable Items in clause 2.5.1.
- 4.2.3. The Contractor must ensure the Drop Off Area is only used as a drop off point for the inspection/acceptance and unloading of Reusable Items.

- 4.2.4. The Acceptance and Rejection Policy must:
- (a) deliver on Resource Recovery and Circular Economy outcomes;
  - (b) define the criteria for acceptance and rejection;
  - (c) establish a methodology to categorize accepted Reusable Items into four categories: Reuse, Repair, Repurpose, and Refurbish, with the aim of optimizing resource recovery;
  - (d) establish a methodology to categorised accepted Reusable Items into a relevant Reusable Stream; and
  - (e) be available to the public.
- 4.2.5. The Contractor may provide assistance with the unloading of Reusable Items when requested by a Customer and where it is safe to assist.
- 4.2.6. The Contractor must display signage at the Facilities to inform Customers that:
- (a) ownership of goods passes to the Contractor upon acceptance of Reusable Items; and
  - (b) goods are sold 'as is' and the Contractor makes no warranty as to its quality or fitness for a particular purpose.
- 4.2.7. The Contractor must inspect, test and tag all Electronic Devices in accordance with Australian/ New Zealand Standards AS/NZS 5762 In-service safety inspection and testing – Repaired electrical equipment and AS/NZS 3760 In-service safety inspection and testing of electrical equipment.
- 4.2.8. The Contractor must ensure Electronic Devices:
- (a) are inspected and repaired by qualified personnel;
  - (b) are restored to the factory settings (where applicable); and
  - (c) do not contain any private content or personal information, prior to being offered for sale or donation.
- 4.2.9. The Contractor must ensure that Electronic Devices are restored to the factory settings (where applicable) and do not contain any private or personal information.

### 4.3. Salvaging

- 4.3.1. The Contractor must work with the Transfer Station Contractor to maximise the amount of Reusable Items are recovered from the Landfill.
- 4.3.2. The Contractor must regularly advise and provide training to Transfer Station staff to communicate and coordinate the requirements for salvaging Reusable Items as per the Acceptance and Rejection Policy (refer to clause 6.2). The Contractor must inspect the Designated Area for Reusable Items at least daily, and transfer

accepted Reusable Items to the Reusable Facilities area. The Transfer Station Contractor is entitled to dispose of any items which remain in the Designated Area for more than 24 hours.

- 4.3.3. The Contractor must ensure that Reusable Items transferred from the Transfer Stations are recorded on the Territory's weighbridge system.
- 4.3.4. The Contractor must ensure all employees, carrying out operations in or around the Transfer Stations, are trained to salvage items and conduct themselves in a manner consistent with the Transfer Station Contractor's WHS procedures.
- 4.3.5. Ownership of a Reusable Item will transfer to the Contractor once the item is removed by the Contractor from the Transfer Station.

#### 4.4. Sale of Reusable Items

- 4.4.1. The Contractor may sell Reusable Items at the Reusable Facilities, online or at any other distribution shops approved by the Territory.
- 4.4.2. The Contractor must ensure that all Reusable Items offered for sale are:
  - (a) clean and free from any contaminants or noxious materials;
  - (b) in working order and reasonably fit for their intended purpose unless explicated and clearly labelled otherwise at point of sale; and
  - (c) not faulty or dangerous in a manner not reasonably apparent upon cursory inspection.
- 4.4.3. The Contractor must ensure that all clothing and textiles offered for sale are reasonably clean and hygienically safe.
- 4.4.4. For any Reusable Items in respect of which the sales transaction is completed otherwise than in-person (including online), in addition to the requirements at clause 4.4.2, the Contractor must:
  - (a) ensure it provides the Customer with a detailed and accurate description as to the condition of the Reusable Item; and
  - (b) ensure the terms of the contract of sale between it and the Customer are:
    - i. notified to the Customer before the sale is completed;
    - ii. clear; and
    - iii. fair and reasonable including in respect of delivery, payment, the transfer of title and the transfer of risk.
- 4.4.5. In providing the Services, the Contractor must comply with all relevant laws in connection with the sale of goods in the Territory including the *Sale of Goods Act 1954* (ACT) and the Australian Consumer Law.

- 4.4.6. The Contractor must adhere to the agreed Pricing Policy (refer clause 6.4) in selling and offering for sale Reusable Items.
- 4.4.7. The Contractor must display the Pricing Policy at any point where Reusable Items are offered for sale, including on any website which permits the purchase of Reusable Items online.
- 4.4.8. The Contractor must set prices for the sale of Reusable Items within reasonable community expectations of a similar used item and in accordance with basic supply and demand principles.
- 4.4.9. The Contractor must record every sale transaction and provide a paper or online receipt. The record and receipt must include:
- (a) date;
  - (b) time;
  - (c) item (s) purchased; and
  - (d) amount.
- 4.4.10. The Contractor must ensure Reusable Items presented for sale at the Reusable Facilities:
- (a) have clearly visible price tags;
  - (b) are displayed in a tidy and professional manner; and
  - (c) are able to be safely viewed and physically inspected by customers (including by ensuring items are not stacked on top of each other).
- 4.4.11. The Contractor is responsible for providing any assets and equipment, in addition to the assets provided by the Territory, necessary to present the Reusable Items for sale including shelving.
- 4.4.12. The Contractor must sell Electronic Devices restored to the factory settings and without any private or personal information.

## 4.5. Unsold Reusable Items

- 4.5.1. The Contractor is responsible for any unsold Reusable Items.
- 4.5.2. The Contractor may take any unsold Reusable Items to:
- (a) the Transfer Station resource recovery area or push pit if the vehicle being used to deliver the items has a gross vehicle mass less than 4.5 tonnes; or
  - (b) The Mugga Lane Landfill if the vehicle being used to deliver the items has a gross vehicle mass greater than 4.5 tonnes.
- 4.5.3. The Contractor must ensure that the amount of unsold Reusable Items transferred to the Mugga Lane Landfill or Transfer Stations is recorded on the Territory's weighbridge system prior disposal.

- 4.5.4. The Territory will be responsible for the gate fees associated with the disposal of Reusable Items at the Mugga Lane Landfill and the Transfer Stations up to the Disposal Threshold (refer to Appendix 3).
- 4.5.5. Subject to clause 4.5.4, the Contractor is responsible for all costs associated with the disposal of Reusable Items.

## 4.6. Social Benefits

- 4.6.1. Provision of the Services lends itself to achieving social benefits outcomes through engagement of members of a Disadvantaged or Vulnerable Community Group to perform aspects of the Service.
- 4.6.2. The social benefits outcomes are the measurable positive impacts or value to society of engaging members of a Disadvantaged or Vulnerable Community Group to perform aspects of the Service.
- 4.6.3. Social benefits outcomes may include:
- (a) improvements to health and wellbeing;
  - (b) training and employment opportunities;
  - (c) pathways for long term employment; or
  - (d) any other relevant beneficial and measurable outcome.
- 4.6.4. The Contractor may employ members of Disadvantaged or Vulnerable Community Groups directly or engage them through a Social Enterprise registered with Social Traders (refer to the link below), or by Sub-contracting elements of the Services to a Social Enterprise registered with Social Traders. Employees under this arrangement must reside in the Canberra Region. Refer to the Social Traders website for more information: <https://www.socialtraders.com.au/>
- 4.6.5. The Contractor must detail its social benefits outcomes and targets in the Plans and how they will be achieved for each year of the Agreement, as follows:
- (a) for the first year of Term, from Service Commencement to end of June; and
  - (b) for subsequent years of the Term, from start of July to end of June of the next year.

## 4.7. Charity Activities

- 4.7.1. The Contractor must organise Charity Activities or social events, such as:
- (a) volunteering time to charitable activities;
  - (b) call for Reusable Items;
  - (c) donating Reusable Items; or
  - (d) fundraising at least twice a month.

- 4.7.2. The Contractor must engage in Partnerships with registered charity organisations and social enterprises as an integral part of the charity activities or social events, with the aim of providing social benefits and optimizing resource recovery.
- 4.7.3. The Contractor must outline how organisations and/or individuals will be transparently and ethically selected for charity activities and social events.
- 4.7.4. The Contractor must obtain approval from the Territory before implementing a Charity Activity or social event.

## 4.8. Community Workshops

- 4.8.1. The Contractor must provide weekly workshops relating to Repair, Reuse and Repurpose to the community.
- 4.8.2. The Contractor must comply with all relevant legislation, codes and standards (including the WHS Legislation) when providing workshops.
- 4.8.3. The Territory must approve all venues for the workshops (including online platforms) if the workshops are not at the Reusable Facilities.
- 4.8.4. The Contractor must obtain approval from the Territory before implementing new workshop programs.

## 4.9. Community Education and Engagement

- 4.9.1. The Contractor must develop and implement training programs for the public relating to Repair, Reuse, Repurpose and other matters relevant to the Services.
- 4.9.2. The Contractor must have a social media platform to coordinate with the community educational programs.
- 4.9.3. The Contractor must seek the Territory's approval before releasing or distributing any communication to media outlets or the general public.
- 4.9.4. The Contractor must obtain approval from the Territory for all educational programs and communication before implementation and distribution.
- 4.9.5. Should the Territory require the involvement of the Contractor's representatives, or the Reusable Facilities for education programs conducted by the Territory or its associates, the Contractor must provide all assistance that the Territory may reasonably require, provided the Territory offers reasonable notice to allow the Contractor to comply with such requests.

# 5. Site Operations and Maintenance

## 5.1. General Requirements

- 5.1.1. The Contractor must do all things necessary to effectively operate and manage the Reusable Facilities and provide the Services.

- 5.1.2. The Territory will make available to the Contractor Assets within the Reusable Facilities as detailed in Appendix 2(c).
- 5.1.3. Each Reusable Facility must operate and be open to the public during Operational Hours.
- 5.1.4. The Contractor must provide all plant, equipment, systems and facilities necessary for the operations of the Reusable Facilities and the provision of the Services including telephones, printers, computers, software, an electronic payment system and other office equipment.
- 5.1.5. The Contractor must provide office and toilet consumables such as stationery, light globes, toilet paper, paper towel, cleaning products, etc.
- 5.1.6. The Territory will provide limited telecommunication lines at the Reusable Facilities that would be available to the Contractor for use.
- 5.1.7. The Contractor is responsible for all utilities costs such as water consumption, electricity, etc.
- 5.1.8. The Contractor must maintain comprehensive insurance in respect of all vehicles used in carrying out the Services.
- 5.1.9. The Contractor must ensure that Reusable Items are Stockpiled in accordance with the conditions of the licences such as the Waste Facility Licence.
- 5.1.10. The Territory will provide the Contractor with an Asset Register (refer to Appendix 2(c)).
- 5.1.11. The Contractor must maintain the Reusable Facilities including by:
- (a) removing litter and maintaining visual amenity;
  - (b) undertaking weed and pest control;
  - (c) maintaining equipment in accordance with the manufacturer's recommendations and effecting repairs within **24 hours** where possible;
  - (d) servicing, maintaining and repairing Infrastructure and Assets to the condition at the time of handover; and
  - (e) refer to the Assets Register (Appendix 2(c)) for further maintenance requirements.
- 5.1.12. The Contractor must maintain clean Drop Off Areas and remove all Reusable Items or any other material daily before the end of Operational Hours.
- 5.1.13. The Contractor must implement a sufficient number of housekeeping and cleaning events in order to maintain a standard of cleanliness acceptable to customers, staff and the Territory.
- 5.1.14. The Contractor is responsible for the satisfactory management and suitability of all on-site assets and the working condition of those assets, including assets

provided by the Territory. Any and all repairs and maintenance will be carried out at the Contractor's expense.

- 5.1.15. The Contractor and Territory will negotiate and decide who is responsible for repairing assets not in an appropriate state of repair at the Service Commencement Date.
- 5.1.16. A Dilapidation Report of the Reusable Facilities will be provided by the Territory and agreed with the Contractor at the time of assets handover.
- 5.1.17. The Asset Register (refer to Appendix 2(c)) must be updated and maintained monthly by the Contractor for the duration of the Term.
- 5.1.18. All repairs to Assets are to be undertaken by qualified staff and/or external contractors. This includes additional assets procured during the Term of the contract.
- 5.1.19. The Contractor must ensure that the Reusable Facilities are locked and secured outside of Operational Hours.
- 5.1.20. The Contractor may provide or install, at its own expense, its own equipment to successfully deliver Services. The Contractor's equipment must be maintained to a high standard, in accordance with manufacturer recommendations, to ensure the safe and effective delivery of Services. The Contractor's equipment, unless otherwise agreed by the parties, must be removed at the end of the Term.
- 5.1.21. All significant upgrade or improvements of the Reusable Facilities must be approved by the Territory.
- 5.1.22. At the end of the Term, the following conditions must apply with regard to vacating the Reusable Facilities:
  - (a) the Contractor must remove its equipment from the Facilities; and
  - (b) all management personnel must be retained in their roles and available to assist and transition the next operator of the Sites for a minimum of two weeks before the end of the Term.
- 5.1.23. The Contractor must clean the Reusable Facilities to the satisfaction of the Territory and remove and recover, or dispose of, the following materials:
  - (a) all Reusable Items and residual waste; and
  - (b) any broken, damaged or discarded equipment, parts of equipment or consumables and their packaging or any other materials at the direction of the Territory.
- 5.1.24. The Contractor must provide condition reports, asset review, consolidation and data transfer one month before the end of the Term. Territory will inspect the Facility to confirm the condition reports and to determine if assets need to be made good by the Contractor by the end date.

- 5.1.25. All relevant service history, warranties and Dilapidation Reports must be handed over one month before the end of the Term.
- 5.1.26. The Contractor must effectively communicate and manage relationships with the Other Contractors at the RMCs to foster strong working relationships.

## 5.2. Work Health and Safety

- 5.2.1. The obligations set out in this SOR do not detract from the Contractor's obligations under the WHS Legislation. If there is an inconsistency between this SOR and the WHS Legislation, the Contractor must comply with the WHS Legislation and inform the Territory of the inconsistency.
- 5.2.2. The Contractor must ensure that its business and all its personnel operate and comply with the WHS Legislation and ensure the Services are carried out safely and in a manner that does not put the health and safety of any person(s) at risk.
- 5.2.3. The Contractor must manage the WHS at the Reusable Facilities to ensure safety of Stakeholders, Customers, Visitors, Subcontractors and any personnel required on the sites for the provision of the Services.
- 5.2.4. The Contractor must comply with its duty under the WHS Legislation to consult, cooperate and coordinate activities with all persons who have a WHS duty in relation to the same matter.
- 5.2.5. The Contractor must supply a WHS plan as specified in section 7 of this document.
- 5.2.6. The Contractor must institute and maintain systems to obtain regular written assurances from all Specified Personnel, including Subcontractors and other entities engaged to perform the Services, about their ongoing compliance with the WHS Legislation including the due diligence obligation contained in the WHS Legislation.
- 5.2.7. The Contractor must provide the written assurances, together with written assurances from the Subcontractor about the Contractor's ongoing compliance with WHS Legislation, to the TCM when requested.
- 5.2.8. The Contractor must provide the Territory with a written report on all WHS matters referable to the conduct of the Services, or any other relevant matters required by the Territory including a summary of the Contractor's compliance with WHS Legislation, as part of the Contractor's monthly report, and at other times as requested.
- 5.2.9. Reports on all WHS incidents and accidents must be documented and immediately forwarded to the TCM and no later than 48 hours from the time the incident or accident occurred and no later than 24 hours after a death or dangerous incident occurred.

- 5.2.10. The Contractor must exercise a duty of utmost good faith to the Territory in carrying out the Services to enable the Territory to discharge the Territory's duties under the WHS Legislation.
- 5.2.11. The Contractor must ensure that if any law requires that a person:
- (a) be authorised or licensed (in accordance with WHS Legislation) to carry out any of the Services at a workplace, the person is so authorised or licensed and complies with any conditions of such authorisation or licence, or
  - (b) has prescribed qualifications or experience, or if not, is supervised by a person who has prescribed qualifications or experience (as defined in the WHS Legislation), that person has the required qualifications or experience or is so supervised.
- 5.2.12. The Contractor must ensure that if any law requires that a workplace, plant or substance, design, or work (or class of work) be authorised or licensed, that the workplace, plant or substance, design or work is so authorised or licensed. In this context, 'work' includes the Services, as detailed in this SOR.
- 5.2.13. The Contractor must not direct or allow Specified Personnel to carry out work, including the Services, or use plant or a substance at a workplace without the authorisation, licensing, prescribed qualifications or experience required by any law.
- 5.2.14. If requested by the Territory or required by WHS Legislation, the Contractor must produce evidence of any approvals including any authorisations, licences, prescribed qualifications or experience, or any other information relevant to WHS (as the case may be) to the satisfaction of the Territory before the Contractor or any Subcontractor commences such work.
- 5.2.15. If the Territory reasonably considers that a risk of injury to people or damage to property is arising or likely to arise from the activities of the Contractor (or any of its Specified Personnel) the Territory may direct the Contractor (or the relevant Specified Person(nel) to change its manner of working or cease working and the Contractor or Specified Person(nel) must comply.
- 5.2.16. In the event of injury to people or damage to property, the Contractor must act as required then immediately inform the TCM.
- 5.2.17. In case when the Contractor has failed its WHS duties, the Territory may take any action necessary to protect property or to prevent or minimise risk to health and safety of persons, and the Territory may recover any costs associated with such action from the Contractor.
- 5.2.18. The Contractor must systematically manage its work health and management processes in accordance with the systems, plans, standards and codes specified in the contract and the WHS Legislation.

- 5.2.19. The Contractor must demonstrate to the Territory, whenever requested, that the Contractor has met and is meeting at all times, its obligations under clause 5.2, but such demonstration does not relieve the Contractor of its primary obligation to perform the Services safely.
- 5.2.20. The Contractor must ensure that whenever Specified Personnel are carrying out Services they:
- (a) comply with the contract (including the WHS Plan) and WHS Legislation (including all licence(s) conditions, systems, policies and procedures, etc); and
  - (b) comply with all applicable Territory WHS policies or guidelines relating to the Services they are providing; and
  - (c) carry photo identification containing the Contractor's trading name and logo, (where applicable), and the person's name for cross verification.
- 5.2.21. The Contractor, in connection with the Services, must:
- (a) not do or allow to be done, or omit or allow to be omitted anything which may result in the Contractor being in breach of the WHS Legislation;
  - (b) comply with any system which allows for the effective control and management of health and safety, including a register of all licenses and certificates required to carry out the contracted Services; and
  - (c) must discuss the hazards and risks associated with the work, and the precautions to be taken with the Territory.
- 5.2.22. The Contractor must ensure photo identification for each individual manning any site is current and updated annually, and the updated information is provided to the TCM for record purposes.
- 5.2.23. The Contractor's Integrated Management System must adhere to all Territory WHS and Environmental Protection policies and procedures, and will at a minimum:
- (a) Use proper procedures, plant, equipment and supervision;
  - (b) Provide adequately trained employees, shall immediately discontinue any practice or remove any plant or equipment under their ownership considered by the Territory to be dangerous;
  - (c) Identify health and safety and environmental hazards which are known or ought to reasonably be known to currently exist or might arise;
  - (d) Remove from the works promptly any representative or, or person employed by the Contractor, who shall, in the opinion of the Territory, create any danger on or about the works;

- (e) Assess risks that may, due to hazards result in risks and take all precautions necessary to remove risks, as described in relevant codes for work carried out in dangerous or hazardous locations; and
- (f) Implement control measures proposed to be used at the site to prevent, or minimise the level of risks. Control methods will include training and certification, safe work procedures, personal protective equipment required, barriers, etc.

### 5.3. Staffing

- 5.3.1. The Contractor must provide a sufficient number of staff to carry out the Services.
- 5.3.2. During the Operational Hours, the Contractor must ensure:
  - (a) there are general duties personnel available at the Reusable Facilities to deliver the Services; and
  - (b) there is a Facility Manager at each of the Reusable Facilities to manage the day-to-day activities at the Facility including the management of employees and subcontractors.
- 5.3.3. The Contractor must ensure there is a sufficient number of personnel available at each Drop Off Area during the Operational Hours to inspect, screen and unload items from each vehicle (if agreed by the occupants of the vehicle) so that the average time to onload the vehicle is not more than 5 minutes from its time of arrival.
- 5.3.4. The Contractor must ensure there is a minimum of one staff member presented at the Drop Off Area during Operational Hours.
- 5.3.5. The Contractor must ensure all employees comply with all legislation, codes of conduct, policies and other procedures specified by the Territory from time to time.
- 5.3.6. The Contractor must record and provide proof of staff qualifications, certifications and/or other competencies relevant to the activity being undertaken in the course of the delivery of the Services.
- 5.3.7. The Contractor must ensure its personnel at each Reusable Facility, carry photo identification whilst on duty at the Facility with that personnel's name and the Contractor's trading name and logo (where applicable). The Contractor must ensure the photo identification is current and updated annually, and the updated information is provided to the TCM for record-keeping purposes.
- 5.3.8. The Contractor is responsible for managing the industrial relations within its workforce and for ensuring that its statutory and other industrial relations obligations are met at all times.

## 6. Service Plans

### 6.1. General Requirements

- 6.1.1. The Contractor must develop and implement Service Plans. The Service Plans are the Contractor's policies, plans, procedures and documents to ensure the effective planning, delivery, review, reporting, compliance and continuous improvement of service delivery under the contract.
- 6.1.2. The Service Plans must, at a minimum, demonstrate the Contractor's ability to implement their technical capabilities to deliver the Services to achieve the Objectives and Outcomes of this SOR.
- 6.1.3. The Service Plans must include the following components:
- (a) Reusable Items Management;
  - (b) Social Benefits and Circular Economy Support Programs;
  - (c) Site Operations and Maintenance;
  - (d) Recording and Reporting; and
  - (e) Transition Management.
- 6.1.4. Under each component in clause 6.1.3, the Contractor must develop, at a minimum, Plans to detail the Contractor's application of its capabilities to deliver on the requirements of the Service. The Plans are as follows:
- (a) For the Reusable Items Management Component:
    - i. Acceptance and Rejection Policy;
    - ii. Salvaging;
    - iii. Pricing Policy; and
    - iv. Customer Service and Stakeholder Management Plan.
  - (b) For the Social Benefits and Circular Economy Support Programs:
    - i. Charity Activities Management Plan;
    - ii. Community Workshops Management Plan;
    - iii. Partnership Plans; and
    - iv. Educational Programs Management Plan.
  - (c) For the Site operations and Maintenance Component:
    - i. Maintenance Plan
    - ii. Business Continuity and Risk Management Plan; and
  - (d) For the Recording and Reporting component:

- i. Recording and Reporting Plan.
- (e) For the Transition Management:
  - i. Transition Management Plan.

## 6.2. Acceptance and Rejection Policy

- 6.2.1. The Contractor must develop and provide with the tender submission a draft copy of the Acceptance and Rejection Policy. The policy will enable the Services to effectively manage the quality and quantity of accepted material and maximise Resource Recovery outcomes.
- 6.2.2. The Acceptance and Rejection Policy must be developed in accordance with clause 4.2.
- 6.2.3. Within 30 days from the Contract Commencement Date, the Contractor must submit for approval to the Territory Acceptance and Rejection Policy in respect of materials presented at the Reusable Facilities.
- 6.2.4. The Contractor must seek the Territory's approval to amend the Acceptance and Rejection Policy if there is a change to:
  - (a) the market conditions with regards to the sale, donation, or disposal of Reusable Items;
  - (b) the storage capacity at the Reusable Facilities;
  - (c) the turnover of Reusable Items by the Contractor; and
  - (d) any other matter which is considered relevant by the Territory.
- 6.2.5. The Acceptance and Rejection Policy must define the criteria for refusing or rejecting items presented by Customers.

## 6.3. Salvaging Plan

- 6.3.1. The Contractor must develop and provide the methodology for salvaging Reusable Items from the Transfer Stations. The Salvaging Plan will enable the effective coordination of recovering Reusable Items from the Transfer Station.
- 6.3.2. The Salvaging Plan must be developed in accordance with clause 4.3.

## 6.4. Pricing Policy

- 6.4.1. The Contractor must develop and provide with the tender submission a draft Pricing Policy setting out the Contractor's principles and criteria to meeting community expectations for the sale of Reusable Items.
- 6.4.2. Withing 30 days from the Contract Commencement Date, the Contractor must submit for approval to the Territory the Pricing Policy in respect of materials accepted at the Reusable Facilities.

- 6.4.3. The Pricing Policy must include:
- (a) procedures for determining fair and reasonable prices for the Reusable Items offered for sale; and
  - (b) procedures with regards to price negotiation and advertised prices, including circumstances involving bulk sales.
- 6.4.4. The Contractor must seek the Territory's approval to amend the Pricing Policy if there is a change to:
- (a) the market conditions with regards to the sale/disposal of Reusable Items;
  - (b) the storage capacity at the Reusable Facilities;
  - (c) the turnover of Reusable Items by the Contractor; and
  - (d) any other matter which is considered relevant by the Territory.

## 6.5. Customer Service and Stakeholder Management Plan

- 6.5.1. The Customer Service and Stakeholder Management Plan outlines how the Contractor will engage with the community and stakeholders in relation to the Services to meet customer and community expectations. The plan must include, at a minimum:
- (a) identifying the target audience, which could include Customers, employees, Stakeholders, media outlets, or the general public;
  - (b) method of identifying the most effective communication channels for each audience segment;
  - (c) scheduled timeframes for communication and how frequently they will be distributed;
  - (d) method of communicating in an emergency; and
  - (e) method of developing and distributing communication for events.
  - (f) details of the provision and management of a customer service, including any call centres;
  - (g) details of any customer interface elements such as online communications;
  - (h) resources and capacities of the customer service;
  - (i) Customer complaint procedure;
  - (j) maintenance of electronic records of all visitor numbers, and Customer feedback or complaints; and
  - (k) Stakeholder management including:
    - i. key meetings and requirements for stakeholder engagement;
    - ii. schedules or timeframes for stakeholder meetings;

- iii. methods of engagement with Stakeholders;
  - iv. management of authorised and unauthorised access; and
- (l) complaint resolution procedures and documentation, including proformas and complaint register.

## 6.6. Charity Activities Management Plan

- 6.6.1. The Contractor must develop and provide the methodology for planning, hosting and managing Charity Activities.
- 6.6.2. The Charity Activities Management Plan must be developed in accordance with clause 4.7.
- 6.6.3. The Charity Activities Management Plan must detail the specific Charitable Activities that the Contractor and any Partners intend to undertake. This includes outlining the purpose and scope of each activity.
- 6.6.4. The Charity Activities Management Plan should establish the methodology for engaging stakeholders such as beneficiaries, donors, volunteers, and Partner organizations.
- 6.6.5. The Charity Activities Management Plan must detail any communication channels and strategies to keep stakeholders informed and engaged throughout the program.

## 6.7. Community Workshops Management Plan:

- 6.7.1. The Contractor must develop and provide the methodology for planning, hosting and managing Community Workshops.
- 6.7.2. The Community Workshop Management Plan must be developed in accordance with clause 4.8.
- 6.7.3. The Community Workshop Management Plan should establish the methodology for promoting the workshop and attracting participants.

## 6.8. Partnership Plan

- 6.8.1. The Contractor may detail the proposed Partnerships for any aspect of the Service.
- 6.8.2. The Partnership plan should include:
  - (a) details of the process of establishing Partnerships;
  - (b) details of the capacity and capability (including details of previous experience) of the proposed Partners to successfully manage Reusable Items to promote Resource Recovery, support Circular Economy programs and provide social benefits to the community;

- (c) details of the proposed Partnership history and capabilities regarding health, safety and the environment; and
- (d) details of the role, involvement, expected performance and reporting requirements of the Partnerships in the Service.

## 6.9. Education and Engagement Management Plan

- 6.9.1. The Contractor must develop and provide the methodology for planning, hosting and distributing educational programs to the community to support Resource Recovery and Circular Economy outcomes.
- 6.9.2. The Educational Program Management Plan must be developed in accordance with clause 4.9.
- 6.9.3. The Educational Programs Management Plan must detail the methodology of establishing and delivering educational programs within the community and attracting participants.
- 6.9.4. The Contractor must outline the marketing strategies and tactics that will be employed to advertise the Services to the community including the use of online platforms.

## 6.10. Maintenance Plan

- 6.10.1. Contractor must develop, administer and implement a Maintenance Plan that addresses the requirements set out in this clause 6.10 for the Assets and Infrastructure at the Reusable Facilities specified in the Asset Register (Appendix 2(c)).
- 6.10.2. The Maintenance Plan must include the maintenance schedule for assets and Infrastructure throughout the Term.
- 6.10.3. The maintenance schedule must include, the following infrastructure and assets:
  - (a) building and amenities;
  - (b) utilities;
  - (c) lighting and switchboards;
  - (d) internal and perimeter fencing, barricades and barriers;
  - (e) all plant and equipment;
  - (f) access gates;
  - (g) signage including updates e.g. Operational Hours, special events, etc;
  - (h) sewerage systems;
  - (i) weed control;
  - (j) fauna and pests;

- (k) pathways and hardstand areas;
  - (l) litter, rubbish and dumping receptacles;
  - (m) all of the site Infrastructure including built assets; and
  - (n) any other assets not listed above, but captured Facility handover.
- 6.10.4. The maintenance schedule must be developed with the objective of ensuring the Reusable Facility's Assets and Infrastructure operate in a safe manner and are available to meet demand for the Service. The maintenance schedule must include:
- (a) scheduled repairs and unscheduled repairs;
  - (b) condition assessments, replacement and lifecycle upgrade program;
  - (c) resources and capacities required in the regime; and
  - (d) records of compliance to all relevant standards and legislation.
- 6.10.5. The Contractor must include a visual amenity component in the Maintenance Plan that displays the Contractor's capability to manage buildings, plant and equipment and Infrastructure within the Reusable Facilities in a manner that will maintain the appearance of a professional facility with good housekeeping practices.
- 6.10.6. The visual amenity section must include, but is not limited to:
- (a) details of the site maintenance procedures, including Infrastructure and assets, that allows to keep the site clean, free of litter and vandal and tamper proof; and
  - (b) any additional matters that might further enhance the look of the Reusable Facility.
- 6.10.7. The Contractor must include in the maintenance plan the methodology for safely managing stockpiles at the Reusable Facilities.
- 6.10.8. The Contractor must specify the procedures for monitoring and maintaining the stockpile, such as inspecting the stockpile for signs of damage or deterioration.

## 6.11. Business Continuity and Risk Management Plan

- 6.11.1. The Contractor must develop and submit a Business Continuity and Risk Management Plan that demonstrates the Contractor's capability to identify and prioritise risks and implement appropriate management, mitigation and monitoring of risks.
- 6.11.2. The plan must include the Contractor's capability to effectively protect critical business processes arising from the effects of a range of events, incidents or hazards such as:

- (a) natural disasters, storm, earthquake, flooding, explosions or fires, among others;
  - (b) extreme weather conditions;
  - (c) accidents;
  - (d) equipment failures;
  - (e) deliberate actions such as vandalism, etc;
  - (f) loss of service supplied by others;
  - (g) loss of utilities (e.g. power outage);
  - (h) loss of critical ICT System
  - (i) staffing/resourcing operations
  - (j) transport and/or route impacts to business
  - (k) spills and receipt or release of hazardous or toxic materials or substances;
  - (l) health issues including bushfire smoke, heat, epidemic/pandemic and or any other health/medical condition or emergency e.g. Covid 19; and
  - (m) any other incident not included above but has been risk assessed by the Contractor as having an adverse impact on its operations.
- 6.11.3. The Contractor must develop and provide a Pandemic and Endemic Management Plan that describes methods of risk mitigation during a pandemic event.
- 6.11.4. The Contractor must ensure that the Business Continuity and Risk Management Plan is reviewed and updated to maintain currency:
- (a) at least every twelve months or more frequently as required;
  - (b) each time there:
    - i. are changes to the local and wider organisational structure;
    - ii. is an activation of the Business Continuity and Risk Management Plan;
    - iii. are any change in relevant ACT Government policy, legislation or business processes impacting Contractor;
    - iv. are changes to the threat environment occur; and
    - v. after significant changes in the external or internal operating environment.
  - (c) after an exercise or review that identifies deficiencies in elements of business continuity arrangements or planning.

## 6.12. Reporting and Recording Plan

- 6.12.1. The Reporting and Recording Plan outlines the Contractor's capabilities and methods to deliver the reporting requirements and must include, at a minimum:
- (a) methodology to reporting the quantity of Reusable Items accepted, sold or donated;
  - (b) method of tracking Reusable Items at the Reusable Facilities for reports;
  - (c) other data sources that will be used to generate the report website sales analytics;
  - (d) method of storing and sending the reports to the Territory;
  - (e) methodology that will be used to analyse the data and generate insights, such as statistical analysis or data visualization;
  - (f) establish a process for feedback and evaluation, where reports are reviewed and analysed to identify areas for improvement; and
  - (g) any other report relevant to the Service
- 6.12.2. The reports must be robust, reliable, verifiable and presentable in Microsoft Excel.
- 6.12.3. The reporting plan must establish a system for accurately tracking and recording the inventory of stockpiled Items including:
- (a) maintaining up-to-date records of quantities; and
  - (b) locations, and conditions of the items in the stockpile.

## 6.13. Transition Management Plan

- 6.13.1. The Contractor must develop, provide and comply with a Transition Management Plan that demonstrates the Contractor's competence to commence and finalise the Services.
- 6.13.2. The Transition Management Plan must consist of:
- (a) 'Transition-In' component for commencement of the Services from the Services Commencement Date;
  - (b) 'Transition-Out' component for the finalisation of Services at the end of the Term; and
  - (c) all activities to be undertaken by the Contractor in the Transition In Period and Transition Out Period.
- 6.13.3. The Transition Management Plan must be approved by the Territory.
- 6.13.4. The Contractor must consider the following in the schedule for 'Transition-In' activities:
- (a) managing the stocking of Reusable Items on commencement of the Services;

- (b) photos/images to show the condition of Assets;
  - (c) the acceptance process of the Assets;
  - (d) appointment of the Contractor's personnel responsible for the implementation of the transition management plan **4 weeks** prior to the Services Commencement Date;
  - (e) preparation of operational procedure details such as:
    - i. appointment of the Facility Manager **4 weeks** prior to the Services Commencement Date;
    - ii. staffing appointments **4 weeks** prior to the Services Commencement Date;
    - iii. supply of plant and equipment at least **1 week** prior to the Services Commencement Date;
    - iv. start-up training and appropriate accreditations for all staff;
    - v. engagement with the current service provider;
    - vi. acceptance of assets in a formal handover process; and
    - vii. Services Commencement Date and commencement activities.
- 6.13.5. The Transition Management plan must detail the proposed 'Transition-Out' activities, including:
- (a) the management of Stockpiles during the final twelve (12) months of the Term;
  - (b) the management of disengagement of Services at the end of the Term;
  - (c) the maintenance of Service standards during the final twelve (12) months of the Term;
  - (d) the requirements set out in clause 5.1.24 – 5.1.26.
- 6.13.6. The Transition Management Plan must detail the Contractor's schedule to finalise the Service Plans to be Site Specific before the Service Commencement Date.
- 6.13.7. The Contractor is required to propose operational mechanisms that minimise the risk to the Territory in the event the Contractor fails to deliver Services on the Service Commencement Date.
- 6.13.8. There will be no financial abatements to the Territory associated with the Transition Management Plan.

## 7. Work, Health and Safety Plans

### 7.1. General Requirements

- 7.1.1. The Work, Health and Safety (WHS) Plan must detail the Contractor's WHS system and management of safety specific to the Services. The effective execution of the WHS Plan will ensure that the safety Outcomes are achieved and WHS Law is complied with.
- 7.1.2. The WHS Plan must be submitted to the Territory prior to the Service Commencement Date.
- 7.1.3. The WHS Plan must include, at a minimum, the following details:
- (a) the Contractor's WHS management system;
  - (b) the Contractor's organisational structure and responsibilities;
  - (c) risk identification, assessment, control, monitor, and review management;
  - (d) relevant Reusable Facilities, premises or locations;
  - (e) relevant plant, equipment or substances;
  - (f) safety documents (such as SWMS, JSAs, SDSs);
  - (g) monitoring, data and record keeping;
  - (h) training, resources and capacities;
  - (i) consultation procedures;
  - (j) incident reporting procedures;
  - (k) consultation, inspection, auditing and performance management procedures; and
  - (l) any other requirement important to the Plan.
- 7.1.4. The WHS Plan, must at a minimum, address the following components:
- (a) relevant Personnel;
  - (b) spills and hazards;
  - (c) management of hazardous materials and substances;
  - (d) fire management;
  - (e) first aid;
  - (f) Reusable Facilities and traffic management; and
  - (g) emergency management.
- 7.1.5. The Contractor must manage the WHS of all aspects of the Service to ensure safety of Stakeholders and any personnel engaged during the provision of the Services.

- 7.1.6. The Contractor must ensure that the workplace at which a notifiable incident has occurred must, so far as reasonably practicable, ensure that the site where the incident occurred is not disturbed until a WorkSafe inspector arrives or advises the site can be released as part of incident reporting requirements (clause 8.5).

## 7.2. Consultation, Co-operation and Co-ordination for Work Health and Safety (WHS) matters

- 7.2.1. The Contractor must, so far as is reasonably practicable and when requested by the Territory:
- (a) consult, co-operate and co-ordinate activities with the Territory to ensure compliance with the WHS Legislation in connection with the Services, including (without limitation) taking reasonable steps to facilitate and participate in any meetings, furnish and maintain current information and to take any other steps agreed between the Territory and the Contractor;
  - (b) consult, co-operate and co-ordinate activities with other persons holding a duty under a corresponding WHS Law involved in or connected to the Services, to ensure compliance with the WHS Legislation, including (without limitation) taking reasonable steps to facilitate participation from the Contractor (where relevant) in any meetings, provision and maintenance of current WHS information and to take any other steps agreed between the parties and those other persons;
  - (c) institute and maintain systems to obtain regular written assurances from all subcontractors, and other entities engaged to perform Services about their ongoing compliance with the WHS Legislation including the due diligence obligation contained in the WHS Legislation;
  - (d) provide the written assurances obtained under (c) above, together with written assurances from the Contractor about the Contractor's ongoing compliance with WHS Legislation, to the Territory, when requested;
  - (e) provide the Territory with a written report on all work health and safety matters referable to the conduct of the Services, or any other relevant matters required by the Territory including a summary of the Contractor's compliance with WHS Legislation, at least once per calendar month, and at other times as requested;
  - (f) exercise a duty of utmost good faith to the Territory in carrying out the work under this Agreement to enable the Territory to discharge the Territory's duties under the WHS Legislation;
  - (g) ensure that if any law required that a person:

- i. be authorised or licensed (in accordance with WHS Legislation) to carry out any work at a workplace, the person is so authorised or licensed and complies with any conditions of such authorisation or license; or
  - ii. has prescribed qualifications or experience, or if not, is adequately supervised by a person who has prescribed qualifications or experience (as defined in the WHS Legislation).
- (h) The Contractor must ensure that if any law requires that a workplace, plant or substance, design, or work (or class of work) be authorised or licensed, that workplace, plant or substance, design or work is so authorised or licensed; and
- (i) The Contractor must not direct or allow a person to carry out work or use plant or a substance at a workplace unless the authorisation, licensing, prescribed qualifications or experience required by any law and clauses (g) and (h) above are met.

### 7.3. Spillages

- 7.3.1. The Contractor must address procedures for the management of spills of any hazardous materials in the WHS System.
- 7.3.2. If a hazardous material escapes into the environment, the Contractor is responsible for taking all action necessary to clean up the spill, remediate the environment and ensure the safety of all persons on the site.
- 7.3.3. The Contractor is responsible for all reporting requirements of spillages and uncontrolled releases to the EPA.
- 7.3.4. The Contractor must provide a verbal notification to the Territory within 24 hours upon completing the interim activities. The verbal report must include circumstances leading to the incident, types of Hazardous Waste involved and proposed timeframes for completing remediation.
- 7.3.5. The Contractor must provide a written report on spills of any hazardous materials to the Territory within two (2) Business Days including the following details:
  - (a) the incident causes;
  - (b) the extent of the incident;
  - (c) all clean up and remediation measures undertaken;
  - (d) any issues encountered during remediation;
  - (e) future preventative actions to be put in place; and
  - (f) any possible media implications.

- 7.3.6. Depending on the incident, the Territory may require the Contractor to provide a written close-out report.

## 7.4. Other Hazards

- 7.4.1. The Contractor must be aware of any confined spaces within the Sites and manage any entries accordingly. The Contractor must conduct their own risk assessments to manage these confined spaces.
- 7.4.2. The Contractor must record any asbestos/toxic lead located within the site facilities as soon as it is identified and manage an asbestos register accordingly.
- 7.4.3. The Contractor must assess any working at height activity and act according to the codes and guidance. Any areas that are identified as a risk of fall must be reported to the Territory immediately and temporary isolated.
- 7.4.4. The Contractor must assess and eliminate any slip and/or trip hazards at the Reusable Facilities.

## 7.5. Emergency Management

- 7.5.1. The WHS Plan must include an emergency management component that demonstrates the Contractor's capability to safely manage emergencies in an effective and efficient manner and minimise the impact to the Reusable Facilities and Services.
- 7.5.2. The emergency management component must include, as a minimum:
- (a) a complete set of policies, protocols and rules for identifying, reporting and responding to any and all emergencies;
  - (b) plans for the speedy restoration of any business processes with minimum disruption to the delivery of the Services in the event of an emergency;
  - (c) fire management, including methods related to fire detection;
  - (d) step-by-step instructions, communications and Stakeholder engagement in response to an emergency;
  - (e) management of incidents that could threaten human health or safety or cause environmental harm;
  - (f) events that would constitute an emergency, and the impact the emergency may have on the delivery of the Services;
  - (g) officer's names with the authority to declare an emergency event on behalf of the Contractor;
  - (h) procedures for contacting the Territory's nominated representative to inform of the issue and specify alternate arrangements, if required;
  - (i) training details of the Contractor's staff for emergency situations; and

- (j) resources and procedures for carrying out the Services if the emergency prevents the normal delivery of Services.

## 7.6. Hazardous Materials Management Plan

- 7.6.1. The Contractor must develop and provide a hazardous material management plan that demonstrates the Contractor's competence in the safe management of hazardous materials, in particular, asbestos.
- 7.6.2. The Hazardous Materials Management Plan must include, but is not limited to:
  - (a) the procedures to protect the Contractor's personnel, Stakeholders and Visitors from harm associated with hazardous materials, including asbestos;
  - (b) embedding health monitoring requirements into procedures;
  - (c) the methods of identifying, receiving, processing, storing and disposing of expected or unexpected, compliant or non-compliant hazardous materials; and
  - (d) the procedures to update and maintain hazardous materials register.

## 7.7. Traffic Management Plan

- 7.7.1. The Contractor must ensure, so far as is reasonably practicable, the safety of the Stakeholders, Customers, Visitors and Reusable Facility staff using the public and service roads, footpaths, carparks, hard standing areas, gravel areas, grass areas and all other land areas on the sites. For specific information (refer to the boundary maps in Appendix 2(a) and 2(b)).
- 7.7.2. For all temporary or permanent changes for partial or full road closures within the Reusable Facilities, Territory approval is required to be sought with **14 calendar days'** notice prior to implementation. This includes placing signs and obstacles on roadways or any other areas.
- 7.7.3. The Contractor is responsible for providing the Territory approved temporary Traffic Management Plans (TMP) when required. This includes overseeing and facilitating TMP's for other site users working in the contracted areas and for managing accidents or incidents.
- 7.7.4. The TMP must provide details that set out the routes, speed limits, and other internal rules for traffic entering, operating and exiting the Reusable Facilities in a manner ensuring safe and efficient vehicle operation.
- 7.7.5. The Traffic Management Plan must be submitted to the Territory before the Service Commencement Date.
- 7.7.6. The TMP must also include all required WHS requirements, including but not limited to:

- (a) appropriate risk assessments identifying all reasonably foreseeable risks relevant to traffic management at the Reusable Facilities;
- (b) identification, management and review of all anticipated traffic movements related to the Services and the Reusable Facilities; and
- (c) procedures or requirements to manage vehicles at the Reusable Facilities.

7.7.7. As a minimum, the TMP must detail, but is not limited to:

- (a) speed limits; and
- (b) location and type of signage.

## 8. Reporting

### 8.1. General requirements

- 8.1.1. The Contractor is responsible for the preparation and submission of all reports. Reports must be concise, written in plain English and be submitted in MS Office formats.
- 8.1.2. Reporting requested herein represents a minimum level of reporting required. Additional reporting may be required by the Territory must be completed by the Contractor as required.
- 8.1.3. The Contractor may choose to include any other additional reports/ photos/ information it deems suitable for the Territory to gain data related to activities undertaken in providing the Services.

### 8.2. Monthly Reporting Requirements

- 8.2.1. Monthly reports must be prepared by the Contractor for each calendar month and submitted within **5 Business Days** of the end of the month.
- 8.2.2. The monthly report must include:
  - (a) summary of all services provided;
  - (b) quantification of each Reusable Stream entering and exiting the Reusable Facilities;
  - (c) quantification of repaired and sold Reusable Items;
  - (d) quantification of disposed items;
  - (e) quantification of donated items;
  - (f) Reusable Items recovery rate;
  - (g) number of its personnel at each Reusable Facility and the number of those personnel which are members of a Disadvantaged or Vulnerable Community Group;

- (h) summary list of any maintenance, repairs, monitoring, signage changes or other ancillary activities on-site undertaken during the reporting period;
- (i) summary of all maintenance type works undertaken;
- (j) number of visitors;
- (k) industrial relation matters;
- (l) relationship matters with Other Contractors;
- (m) issues with the Services;
- (n) completed charity activities;
- (o) completed workshops and participation data;
- (p) summary of all incidents, accidents, complaints, non-compliances or other issues which are or may become an issue for the Reusable Facility;
- (q) summary of all items which are written off due to being recalled or banned;
- (r) statement that the information provided within the report represents a true and accurate record of the activities within the reporting period;
- (s) any identified business efficiency improvements, cost savings or safety improvement activity that may be implemented as part of the contract; and
- (t) reporting compliance and performance of the delivery of the Plans through the KPIs and any other information relevant to the contract the Territory may reasonably seek to include.

8.2.3. The Contractor must provide all evidence to justify reported data/information at the request of the Territory within **2 Business Days** of the request.

### 8.3. Quarterly Reporting Requirements

8.3.1. To comply with Waste Facility License, quarterly reports must be prepared for each quarter, inclusive, for the following periods:

- (a) 1 January to 31 March;
- (b) 1 April to 30 June;
- (c) 1 July to 30 September; and
- (d) 1 October to 31 December.

8.3.2. The Contractor must submit quarterly reports within 4 weeks of the end of the nominated period to the TCM and the nominated ACT NoWaste Waste Regulation representative for a Waste Facility License compliance check.

## 8.4. Annual Reporting Requirements

- 8.4.1. Annual reports must be prepared by the Contractor for the period from **1 January** to **31 December** inclusive and submitted to the Territory by **31 March** of the following year.
- 8.4.2. The annual report must include the following, as a minimum:
- (a) description of Services undertaken throughout the year;
  - (b) outcome of annual review of Plans and, where required, submission of updated documents for approval;
  - (c) breakdown of Reusable Items received and sold based on Reusable Streams;
  - (d) any innovations implemented by the Contractor;
  - (e) recommendations for improvement of operations or infrastructure; and
  - (f) statement that the information provided within the report represents a true and accurate record of the activities within the reporting period.

## 8.5. Incident Reporting Requirements

- 8.5.1. The Contractor must develop, and agree with the Territory, Service specific incident response and reporting procedures on engagement. As a minimum, incident reporting is to be undertaken as follows:
- (a) immediate verbal notification to the Territory's Representative following any significant incident or Notifiable Incident causing WHS impact;
  - (b) the Contractor must regularly communicate with the Territory (every 2-3 hours unless directed otherwise) during a significant incident (For example – in the event of a major incident i.e. fire/accident causing death/serious harm);
  - (c) written notification to Territory's Representative within 24 hours of any significant incident causing WHS impact;
  - (d) notification to external parties in accordance with any statutory requirements, conditions and timeframes of applicable WHS and environmental regulations (e.g. immediate verbal notification to Worksafe ACT); and
  - (e) minor incidents and near misses (including contractual breaches) must be reported to the Territory's Representative as part of the monthly reporting.
- 8.5.2. Incident reporting, including any corrective actions and outcomes, will be as summarised within the Monthly Report.
- 8.5.3. Records of all incidents will be made available upon request of the Territory, including the actions taken to respond to the incident, investigate the root cause of the incident, and the measures taken to prevent any future occurrence.

- 8.5.4. The Contractor must report to the Territory, as soon as practical, any issues that may:
- (a) significantly impact (both favourable or unfavourable) the quality or delivery of Services;
  - (b) adversely risk the reputation of the Territory; or
  - (c) be of public interest or affect the public confidence in the Territory.
- 8.5.5. In the management of the any issues, the Contractor must provide regular communications of the progression of the issue (including any corrective actions or remedies). During this time, the Contractor must work with the Territory to manage the needs and expectations of key stakeholders, including the responsible Minister, media and any public communications or protocols.
- 8.5.6. The Contractor must also provide the following information to the Territory, on a monthly basis:
- (a) the number of notifiable incidents
  - (b) the number of 'lost time' injuries suffered by the Contractor's employees or subcontractors;
  - (c) the number of Business days lost due to injury;
  - (d) the number of 'near-miss' incidents;
  - (e) the current status of any injured personnel, damaged property or environmental damage or pollution;
  - (f) the status of the implementation and outcomes of corrective actions undertaken as a result of Work Health and Safety inspections and risk assessments;
  - (g) the status of Work Health and Safety Management System audits undertaken by the Contractor; and
  - (h) the Contractor must, when requested by the Supervisor, provide reports on Work Health and Safety inspections, audits or assessments undertaken during the Term.

## 9. Performance Management Framework

### 9.1. General

- 9.1.1. The Contract will be managed through performance measures, including the monthly review and annual delivery of Plans (as outlined in the Service Plans – Section 6) and the Key Performance Indicator (Attachment C1).
- 9.1.2. The Contract will incorporate the following performance management characteristics:

- (a) focus on achieving the Objectives;
  - (b) use of quantifiable KPIs for all agreed performance measures linked to the Objective as outlined in this SOR;
  - (c) provision of reliable and accurate data collection and reporting systems by the Contractor to the Territory; and
  - (d) a service model that recognises the Contractor's compliance with the Contract.
- 9.1.3. The Contractor's performance will be monitored through a KPI. The KPI will comprise of the following levels of compliance:
- (a) Standard Performance Indicators;
  - (b) Sub-Standard Performance Indicator; and
  - (c) Minimum Performance Indicators.
- 9.1.4. The KPI will be measured through a Compliance Checklist (refer to clause 2.2 of Attachment C1) comprising of weighted Compliance Items. The Compliance Items reflect critical aspects or practices in the Plans.
- 9.1.5. The proposed and nominated Compliance Items are weighted according to its importance to the Plans and Service. The sum of all weightings will amount to 100%. Compliance Items will be assessed on a pass/fail basis.
- 9.1.6. The Compliance Items must follow SMART principles (specific, measurable, achievable, relevant and time phased) and relate to the Objectives. Compliance Items may be measures of outputs (e.g. how many or how often in the process) or impacts (e.g. the achieved result of a process).
- 9.1.7. The Contractor must evidence and report to its performance of the KPI in order to determine the entitlement to the Compliance Threshold.
- 9.1.8. Compliance Items, Compliance Checklists and any other monthly reports, in the final form, will be agreed to by all parties prior to Service commencement.
- 9.1.9. A formal evaluation of the Services, including all reported data, and the Contractor's overall measured performance against the Territory's Objectives, will occur on the anniversary of the Service Commencement Date and continue annually thereafter for the Term.

## 9.2. Performance Management Framework

- 9.2.1. The Performance Management Framework will be used to monitor and measure the Contractor's performance against the KPI, taking into consideration the following components:
- (a) Services;
  - (b) WHS Compliance;

- (c) Maintenance Compliance; and
  - (d) Reporting.
- 9.2.2. The monthly reports provide a mechanism for the Territory to strategically monitor, measure and influence compliance; and provide assurance to the Territory that Objectives and Outcomes are successfully delivered.
- 9.2.3. The Contractor must complete **Attachment C1** by amending or improving of the Territory's proposed KPI and Compliance Items.
- 9.2.4. The Contractor is required to complete the weightings for the Territory proposed Compliances Items.
- 9.2.5. The Contractor's compliance with all aspect of the Plans will be subject to random audits conducted by the Territory. In addition, the Territory may verify compliance by conducting both programmed and random audits as part of an inspection and contract compliance regime.
- 9.2.6. The Territory may request further information to evidence the Contractor's compliance to the Plans and Services. The Contractor must make available, where reasonable, any Services related information if requested by the Territory.

### 9.3. Performance Monitoring by the Territory

- 9.3.1. The Territory will actively monitor and assess the Contractor's implementation of all aspects of this contract via site visits, audits and reports provided to, or developed by, the Territory.
- 9.3.2. The TCM will assess the Contractor's performance and provide notice confirming whether the Contractor complies, partially complies or did not comply with each KPI.
- 9.3.3. The TCM will notify the Contractor of any issues on KPI's that only partially comply or do not comply and seek a written response to the reasons why full compliance has not been achieved and details of the Contractor's proposed actions, measures and dates to fully comply with its obligations.

### 9.4. Audits Initiated by The Territory

- 9.4.1. The Territory also reserves the right to direct the Contractor to request a third party to quote, conduct, or commission audits.
- 9.4.2. The Contractor will be required to fully co-operate with the Territory and authorised persons in the auditing process.
- 9.4.3. The Territory will bear the costs of any audit commissioned by the Territory.
- 9.4.4. The Territory may use audit results to measure or verify the Contractor's performance.

## 9.5. Action Plan

- 9.5.1. Upon receipt of an Action Request from the Territory, the Contractor is required to respond via a documented Action Plan.
- 9.5.2. The Contractor must submit an Action Plan to the TCM within **five (5) Business Days** of receipt of the Action Request.
- 9.5.3. An Action Plan must include the following minimum information:
- (a) Minimum Performance Indicator to which the Action Plan request relates;
  - (b) reasons for not meeting the Minimum Performance Indicator;
  - (c) proposal to remedy the non-compliance, including:
    - i. background and causes of the non-compliance;
    - ii. action proposed;
    - iii. progress indicators;
    - iv. detailed timeline;
    - v. expected outcome; and
    - vi. success criteria and indicators.
- 9.5.4. Failure by the Contractor to develop and undertake the agreed Action Plan may be considered as a breach of the contract. If the Contractor fails to comply with the conditions of the Action Plan the Territory may issue a Direction Notice.

# 10. Contract Management and Governance

## 10.1. General Requirements

- 10.1.1. The Territory requires regular discussion with the Contractor to ensure the Services are delivered to the satisfaction of the Territory.
- 10.1.2. The Contractor must attend monthly meetings with the TCM to report the Contractor's performance as evidenced in the monthly report and checklists.
- 10.1.3. The TCM may conduct inspections of the Services and Sites to measure the Contractor's performance.
- 10.1.4. The Contractor must maintain appropriate working relationships with all Stakeholders associated with the Services under the contract.
- 10.1.5. The Contractor must work collaboratively with the TCM by pro-actively providing advice and information and responding to any queries within **2 Business days**.

## 10.2. Contract Meetings

- 10.2.1. Either party may request additional meetings throughout the Term to aid communication or resolution of issues, and overall contract management, at no additional costs to the Territory.
- 10.2.2. The TCM will coordinate and facilitate performance monitoring meetings with the purpose of analysing achievement against KPIs, identifying gaps and agreeing improvement actions to ensure the Territory's overall Objectives and Outcomes are met.
- 10.2.3. See Table 1 for the list of meetings and their frequency:

Table 1 – Meetings Schedule

Meeting	Location	Frequency	Purpose
<b>Monthly meeting/Performance Management Committee</b>	Territory offices/Online	Monthly	Meet with the TCM to discuss the Contractor's performance against KPIs.
<b>Quarterly Contract review</b>	Territory offices/Online	Each Quarter	Meet with the TCM to review the overall Contract and KPIs to determine any necessary changes required.
<b>Annual Contract review</b>	Territory offices/Online	Annually	Meet with the TCM to conduct clause by clause check of Contract to review compliance.

### 10.3. Documentation milestones

10.3.1. The Contractor must meet the following documentation milestones in the format requested by the Territory:

Table 2 - Documentation milestones

Title	Description	Distribution	Timing
Performance Audit	Every three months commencing from the Service Commencement Date, the Territory will audit the Contractors performance.	N/A	Quarterly
Site Specific Plans	Develop, test, review and amend the Plans to become Site-specific.	TCM	before the Service Commencement Date
Monthly Reports	Refer to clause 8.2	TCM	within 5 Business Days of the end of the month from the Service Commencement Date
Quarterly Reports	Refer to clause 8.3	TCM	within 4 weeks of the end of the nominated period
Annual Reports	Refer to clause 8.4	TCM	before 31 March of the following year
Transition In Plan	Refer to clause 6.13	TCM	before the Service Commencement Date
Transition Out Plan	Refer to clause 6.13	TCM	6 months prior to the conclusion of the Term
Incident Reporting	Refer to clause 8.5	TCM	Call TCM within 24 hours of the incident

# 11. Appendix 1

## 11.1. Waste Facility Licence (sample)

Please refer to separate attachment RFT GS3538978 - Appendix 1 – Waste Facility Licence.

## 12. Appendix 2

### 12.1. Assets

Please refer to separate attachments:

- **GS3538978 - Appendix 2(a) – Mugga Lane Reusable Facility Site Map**
- **GS3538978 - Appendix 2(b) – Mitchell Reusable Facility Site Map**
- **GS3538978- Appendix 2(c)– Asset Register.**

## 13. Appendix 3

### 13.1. Performance Management Framework

Please refer to separate attachment **RFT GS3538978 - Attachment C2 – Performance Management Framework**.

## 14. Appendix 4

### 14.1. Service Plan Example

Please refer to separate attachment ~~REF~~ **GS3538978 – Appendix 4 – Service Plan Example.**



**Procurement ACT**



**ACT**  
Government

## Procurement ACT

# Request for Proposal (RFP) GS3538978

## THE PROVISION OF REUSABLE FACILITY SERVICES IN THE TERRITORY

### ATTACHMENT C – RESPONSE SCHEDULES

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# INSTRUCTIONS AND GUIDELINES FOR RESPONSE

1.1. Attachment C - Response Schedules consists of:

**SECTION 1 – GENERAL**

**SECTION 2 – RESPONDENT’S DECLARATION**

**SECTION 3 – RESPONSE TO EVALUATION CRITERIA**

**SECTION 4 – FINANCIAL AND CORPORATE INFORMATION**

**APPENDIX 1 – ETHICAL SUPPLIER’S DECLARATION**

1.2. All Sections of this Attachment C must be completed in order for the Respondent to submit a compliant Response.

## RESPONDENT ENQUIRIES

Any Enquiries regarding this **Attachment C - Response Schedules** or the ATM in general should be directed to **TENDERS ACT** in accordance with the provisions outlined in **Attachment A- Territory Terms and Conditions**.

## SECTION 1 - GENERAL

TABLE 1 – RESPONDENTS DETAILS	
Respondent business name	
Trading name of Respondent (if different from business name)	
Nature of the legal entity that is responding	<i>eg. individual/ sole trader, partnership, trust, incorporated association, listed company, unlisted public company, subsidiary of another company, educational institution, other</i>
Australian Business Number (ABN) (or foreign equivalent number):	
Australian Company Number (ACN) (or foreign equivalent number):	
Registered business address	
Postal address	
Principal place of business (Head Office)	
Total Number of Full Time Employees (FTE) and Part Time Employees (PTE)	
Date and place of registration or incorporation	
Any related companies within the meaning of the Corporations Act 2001.	
Substantial Shareholders (>20% of issued capital)	
If your organisation is 50% or more Indigenous owned?	<input type="checkbox"/> Yes, see below. <input type="checkbox"/> No
If your organisation is 50% or more Indigenous owned, is your organisation registered on Supply Nation?  <b>Please provide a certificate or letter from a recognised Indigenous organisation such as Land Council, Indigenous Chamber of Commerce or Office of the Registrar of Indigenous Corporations verifying Indigenous ownership.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Website	

TABLE 2 - CURRENT DIRECTORS AND SENIOR EXECUTIVES' DETAILS		
NAME	TITLE	LENGTH OF SERVICE

TABLE 3 - RESPONDENT CONTACT DETAILS		
	PRIMARY CONTACT DETAILS	SECONDARY CONTACT DETAILS
Name		
Title		
Address		
Office Phone		
Mobile		
Email		

NOTE: The Respondent should provide details of two nominated contacts during the ATM process.

TABLE 4 – OFFICE LOCATIONS	
OFFICE ADDRESS	NUMBER OF FTE & PTE

TABLE 5 - TRUST DETAILS	
Trust name	
State the name/s of the Trustee/s of the Trust. If the Trustee/s are people, also provide their addresses and dates of birth (provide separate attachment if necessary).	
Provide details of any judgement debts or court orders against any Trustee of the business.	

**NOTE:** Insert N/A if not applicable.

TABLE 6 – CONSORTIUM/JOINT RESPONDENT DETAILS	
Structure (names, relationship and description of members)	
Structure (diagram)	
Nature of the legal entity that is responding	<i>eg. individual/ sole trader, partnership, trust, incorporated association, listed company, unlisted public company, subsidiary of another company, educational institution, other</i>
Number of years the Respondent has been in operation	
Proposed lead member of Consortium/Joint Response	
Proposed system and governance arrangements for management of the Consortium/Joint Response	
Accountability for compliance with contractual obligations (including provision of Services)	
Other information	

**NOTE:** Insert N/A if not applicable.

## TABLE 7 – CONFLICT OF INTEREST

The Respondent (including any Subcontractors, if applicable) should use this table below to:

- identify and declare any existing or potential Conflict of Interest (including both actual and perceived Conflicts of Interest) that may apply to its Response; and
- describe the procedures and methods it intends to implement to deal with or manage any actual, potential or perceived Conflict of Interest declared in the Response to the above clause.

<b>1. Actual, potential or perceived Conflict of Interest</b>	
<b>Proposed management strategies</b>	
<b>2. Actual, potential or perceived Conflict of Interest</b>	
<b>Proposed management strategies</b>	
<b>3. Actual, potential or perceived Conflict of Interest</b>	
<b>Proposed management strategies</b>	

**NOTE:** The Respondent can add additional rows into the table if required.

## TABLE 8 – LITIGATION AND OTHER PROCEEDINGS

The Respondent **must** disclose any civil or criminal prosecutions within the past five years of the Respondent and known Subcontractors, any related bodies corporate, or any director or officer of the foregoing concerning any of the following, or any allegation of the following:

Failure to pay any taxes, levies, fees, duties, or other similar payments to the Commonwealth of Australia, to any State or local taxing authority within Australia or to any foreign taxing authority.	<i>Insert details or write Nil.</i>
Any breaches of any duties imposed by law in Australia or any foreign jurisdiction relating to provision of goods or services similar to the SOR.	<i>Insert details or write Nil.</i>
Participation in, or acquiescence to, any practices in the dealing with any government in Australia or any foreign jurisdiction that are unlawful under the law of Australia or the foreign jurisdiction concerned, or (if relating to a related body corporate or director or officer thereof) under the law of any jurisdiction that such related body corporate is subject to.	<i>Insert details or write Nil.</i>
The Respondent <b>must</b> disclose any pending investigation of a similar nature of any of the entities or persons denoted in the above sections of which such entity or person has actual notice. <i>Insert details or write Nil.</i>	
The Response <b>must</b> disclose details of any significant events, including litigation, matters or circumstances which have arisen which may significantly affect the provision of the SOR or which may impact on the financial standing of the Respondent. <span style="float: right;"><i>Insert details or write Nil.</i></span>	
The Respondent must disclose whether the Respondent has had a judicial decision against it or its proposed Subcontractors (not including decisions under appeal) relating to employee entitlements and has not paid the claim. <span style="float: right;"><i>Insert details or write Nil.</i></span>	

TABLE 9 – ATM COMPLIANCE	
COMPLIANCE DETAILS	RESPONDENT COMPLIANCE
The Territory will enter into contract only with acceptable legal entities having appropriate financial assets. The Respondent must provide evidence of its legal entity either by providing 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 practising solicitor.	<input type="checkbox"/>
The Respondent must not be named by the Workplace Gender Equality Agency as an employer currently not complying with the <i>Workplace Gender Equality Act 2012 (Cth)</i> , unless the Respondent has obtained a letter of compliance from the Workplace Gender Equality Agency and attaches this letter to its Response or provides this letter to the Department separately prior to Closing Time.	<input type="checkbox"/>
The Respondent has provided all relevant certificates of currency required in <b>Table 10</b> .	<input type="checkbox"/>
The Respondent must confirm that, to the best of its knowledge after making diligent enquiry, neither it, nor its Subcontractors are currently engaging Illegal Workers.	<input type="checkbox"/>
The Respondent must confirm that neither it, nor any proposed Subcontractor, has a judicial decision against it relating to employee entitlements that is not under appeal or unpaid.	<input type="checkbox"/>
Prices <b>must</b> be in Australian dollars and include GST.	<input type="checkbox"/>
Response and all communications with the Territory <b>must</b> be in the English language.	<input type="checkbox"/>
All dimensions and units on plans and drawings and all references to measurements <b>must</b> be in metric units.	<input type="checkbox"/>
<b>Provision of certified copy of any stipulated licences.</b>	<input type="checkbox"/>

**NOTE:** Check box if compliant.

TABLE 10 – INSURANCE	
PUBLIC LIABILITY INSURANCE	
Name of Insurer	
Expiry date	
Insured value (In aggregate and per event)	
Any limitations	
Certificate of Currency attached	<input type="checkbox"/> YES <input type="checkbox"/> NO
WORKER'S COMPENSATION FOR THE AUSTRALIAN CAPITAL TERRITORY	
Name of Insurer	
Expiry date	
Certificate of Currency attached	<input type="checkbox"/> YES <input type="checkbox"/> NO
PROFESSIONAL INDEMNITY INSURANCE	
Name of Insurer	
Expiry date	
Insured value (In aggregate and per event)	
Any limitations	
Certificate of Currency attached	<input type="checkbox"/> YES <input type="checkbox"/> NO
OTHER INSURANCE	
Name of Insurer	
Expiry date	
Insured value (In aggregate and per event)	
Any limitations	
Certificate of Currency attached	<input type="checkbox"/> YES <input type="checkbox"/> NO

**NOTE:** The Respondent must provide certificates of currency for all the above required insurances.

If this insurance cover does not meet the requirements in the Draft Contract, the Respondent **must** advise whether it proposes to obtain additional insurance to meet these requirements prior to the commencement of an executed agreement.

*Insert details or write Nil.*

TABLE 11 – CONFIDENTIAL TEXT		
The Respondent must specify in writing any information they may wish to be treated as confidential in any subsequent agreement (refer to <b>Attachment D - Draft Contract</b> )		
DRAFT CONTRACT CLAUSE	*GROUNDS FOR CONFIDENTIALITY	REASON FOR CONFIDENTIALITY
	Choose an item	
	Choose an item	

**\*NOTE:** The Respondent should be aware that the Territory may be required to disclose information:

- i) under the *Freedom of Information Act 2016 (ACT)* or when required by the responsible Minister in the Legislative Assembly;
- ii) when authorised or required by law to disclose information;
- iii) when required to provide disclosure by the Territory to the responsible Minister;
- iv) under the requirement to publish details of its agreements or standing offers with an estimated liability of \$25,000 or more on the Territory Contracts Register within 21 days of entering into the agreement or standing offer;
- v) due to compliance with record keeping obligations under the *Archives Act 1983 (Cth)* and other standards and guidelines;
- vi) due to the requirement to disclose information to the Legislative Assembly and its committees in response to a request.

Section 35 of the *Government Procurement Act 2001 ACT (Act)* sets out certain grounds upon which the Territory may approve text of the contract as confidential text to be redacted in the public text version of the contract. Those grounds include, but are not limited to:

- i) where the disclosure of the relevant text would be an unreasonable disclosure of Personal Information about a person; or
- ii) where the disclosure of the relevant text would disclose a trade secret; or
- iii) where the disclosure of the relevant text would disclose information (other than a trade secret) having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or
- iv) where the disclosure of the relevant text would be an unreasonable disclosure of information about the business affairs of a person; or
- v) where the disclosure of the relevant text would disclose information that may put public safety or the security of the Territory at risk; or
- vi) where the disclosure of the relevant text would disclose information prescribed by regulation for this section; or

vii) a requirement imposed under law requires a party to the contract to keep the text confidential.

## TABLE 12 - DRAFT CONTRACT COMPLIANCE RESPONSE

In evaluating Responses, the Territory will have regard to the Respondent's response below.

If the Respondent has any doubt about its level of compliance, the Respondent should identify its minimum level of compliance and provide commentary in the comments section. Commentary should be provided to assist the Territory in evaluating the Response.

The Respondent should cross-refer to the relevant parts of **Attachment D - Draft Contract** to confirm whether it complies, partially complies or does not comply with each identified clause.

If a Response only partially complies or does not comply, the Respondent should indicate the reason for, and extent of, non-compliance and propose any alternate wording for the relevant provision. The Respondent should provide details of and reasons for any alternative proposal.

For the purpose of this table the expressions used have the following meaning:

- **Compliant** means in the case of a clause:
  - i) which imposes a contractual obligation, that the condition is agreed to;
  - ii) which specifies a characteristic or performance to be met, that the Response will provide the SOR as specified;
  - iii) which is of an informative nature only, that the clause has been read, understood and is agreed; or
  - iv) where information has been requested, that the information has been provided in the required level of detail and in the required format.
- **Partially Compliant** means that the contractual obligation, characteristic or performance requirement of the clause can and will be substantially met by the Respondent, subject to certain specified qualifications; and
- **Non-Compliant** means that the contractual obligation, characteristic or performance requirement of the clause cannot or will not be met by the Respondent.

After the Closing Time, a Respondent will not be able to alter a clause to which it has indicated full compliance (including during any subsequent stage of the ATM process).

DRAFT CONTRACT CLAUSE	COMPLIANCE STATEMENT	COMMENTS AND PROPOSED AMENDMENT, INCLUDING IMPACT ON SOR OR PRICING AND PROPOSED ALTERNATIVE
N/A	Compliant	The Respondent complies with all clauses not explicitly denoted below.  All clauses that the Respondent does not comply with are denoted below.
	Choose an item	
	Choose an item	

**NOTE:** The Respondent can add additional rows into the table if required.

## TABLE 13 – SUBCONTRACTORS/PARTNERSHIPS

If the Response proposes Subcontractors or partnerships, the Response should cover the capabilities and characteristics of each Subcontractor.

ITEM	SUBCONTRACTOR'S DETAILS
Name, address and ABN of proposed Subcontractor	
Nature of the Subcontractor legal entity	eg. individual/ sole trader, partnership, trust, incorporated association, listed company, unlisted public company, subsidiary of another company, educational institution, other
Number of years the Subcontractor has been in operation	
The Services to be provided by the proposed Subcontractor ( <i>*including which Waste Stream they will be processing</i> )	
<i>Certificates or authorisations to receive relevant Waste Stream material.</i>	
The reasons for using the proposed Subcontractor	
Revenue for last Financial Year	
Ownership and governance structure of the proposed Subcontractor	
The Respondent's previous experience in working with the proposed Subcontractor	
The nature of the commercial arrangements between the Respondent and the Subcontractor	

**NOTE:** The Respondent can add as many additional Subcontractor's if required.

## TABLE 14 – ASSUMPTIONS

The Respondent should specify any assumptions it has made that are critical to the Response, including assumptions relating to the Respondent's ability to provide the SOR in the manner specified in this ATM.

ATM REFERENCE (SECTION, CLAUSE AND PAGE NUMBER)	ASSUMPTION

## SECTION 2 – RESPONDENT’S DECLARATION

The Respondent must complete the Respondent’s Declaration. Provision of a duly executed Respondent Declaration with all mandatory fields substantially completed and optional selections made as appropriate to the Respondent’s circumstances is mandatory.

Respondent's Declaration

I,..... *[insert name and occupation]*

of..... *[address]*

make the following declaration:

1. I am authorised by the Respondent to make this declaration on behalf of the Respondent.
2. The Response to which this declaration is appended (**Response**) has not been prepared with the benefit of:
  - (a) information obtained from a current or former officer or employee of the ACT Government (**Territory**) in circumstances that constitute a breach of confidentiality or fidelity on the part of that person or a breach of section 153 of the *Crimes Act 1900 (ACT)*; or
  - (b) information otherwise improperly obtained from the Territory.
3. The information contained in the Response is true and correct to the best of my knowledge after making careful and thorough enquiries.
4. The Respondent acknowledges that the Territory will not enter into an agreement with Contractors who have had a judicial decision against the Respondent (not including decisions under appeal) in relation to employee entitlements where the Respondent has not paid the claim.
5. The Respondent warrants and undertakes that:
  - (a) before entering into any agreement, the Respondent will provide the Territory with a Declaration stating that it does not have any judicial decisions against it in relation to any employee entitlements that have not been paid;
  - (b) the Respondent through its officers, employees or agents, has not attempted and will not attempt, to influence improperly any Territory officer or employee in connection with the assessment of the Response;
  - (c) it complies with **Table 9 – Approach to Market (ATM) Compliance**;
  - (d) apart from any existing Conflicts of Interest set out in the Response at the date of submitting this Response, no Conflict of Interest, actual, potential or perceived, exists concerning itself or a related entity should the Respondent be successful;
  - (e) it does not, and will not during the term of the agreement engage Illegal Workers;
  - (f) if, before finalisation of the ATM process a conflict of interest, actual, potential or perceived, arises concerning itself or a related entity, the Respondent will notify the Territory immediately in writing of that conflict or risk of conflict and any mitigation strategies that it proposes to undertaken in order to manage the conflict of interest;
  - (g) it has, or will be able to obtain, the skills and resources likely to be required to properly provide the SOR in the agreement;

- (h) the Respondent or any party proposed by the Respondent **\*has / has not\* (\* delete as applicable)** been named under the *Workplace Gender Equality Act 2012 (Cth)*. Refer to **clause 17.11 of Attachment A- Territory ATM Terms and Conditions** for further information;
- (i) the Respondent or any party proposed by the Respondent does not have an unsettled judgement or judicial decision against it (not including a decision(s) under appeal) relating to employee entitlements where the Respondent, or any party proposed by the Respondent, has not paid the claim;
- (j) the Respondent understands and/or has taken appropriate advice on the process and SOR and, subject to any specified confidential text provisions, agrees to all conditions, including without limitation obligations and acknowledgments, included in this ATM;
- (k) the Respondent:
  - i. will not, in respect of this ATM process depart from the information it has provided or statements or claims it has made in its Response; and
  - ii. will keep confidential all communications taking place between the Respondent and the Territory in respect of this ATM process;
- (l) the Respondent certifies that it has sufficient financial resources to provide the requirements, as described in **Attachment B – Statement of Requirements** (including fulfilling any guarantees and warranties);
- (m) the Respondent hereby consents to and authorises the Territory and its officers, employees, agents or advisers to:
  - i. undertake such confidential references, probity and credit checks as the Territory considers appropriate; and
  - ii. seek any financial information required for the purpose of establishing the financial viability of the Respondent;
- (n) the Respondent agrees to provide at the Respondent's expense reasonable assistance to the Territory to assist it in any checking they wish to have undertaken under the ATM;
- (o) the Respondent will, after lodgement of its Response, promptly notify the Territory of any changes to:
  - i. its corporate structure;
  - ii. its ownership structure; or
  - iii. the basis upon which it will have access to the necessary skills, resources, or corporate or financial backing to deliver the requirements as described in **Attachment B – Statement of Requirements** and as proposed under **Attachment D - Draft Contract**.
- (p) if a change under paragraph 5 (o) above alters any of the information or assurances that the Respondent has given in its Response or that I have given in this Declaration or otherwise, the Respondent will immediately:
  - i. notify the Territory in writing of the change;
  - ii. identify with specificity (including the relevant page, section, clause, schedule, exhibit and other like reference to the Response, and any other material and information provided to the Territory), all such information and assurances; and

- iii. state in detail the alterations, their impact and provide such information and assurances as required by such change.
6. The Respondent represents to the Territory that it understands the SOR and, in particular:
- (a) the Territory's ATM objectives;
  - (b) the Territory's time and flexibility requirements; and
  - (c) the contractual relationship the Territory seeks from the Respondent including an Intellectual Property Rights regime that is consistent with the approach set out in the **Attachment D - Draft Contract**, and for this purpose:
    - i. the Respondent commits to provide the requirement as described in **Attachment B - Statement of Requirements** as proposed in its Response and as negotiated with the Territory;
    - ii. the Respondent will ensure appropriate executive leadership and oversight, including committing sufficient time and effort to ensure the success of any ensuing agreement; and
    - iii. the Respondent will not detract from the terms of its Response or of this declaration in any discussions or negotiations with the Territory.
7. The Respondent will ensure that any Subcontractor it proposes executes a declaration substantially consistent with the commitments in the clause above and provide this declaration with its Response.

I believe that the statements in this declaration are true in every particular.

..... (1)

Declared at ..... the ..... day of ..... 20 ,

before me

..... (2)

(1) *Signature of the person making the declaration.*

(2) *Signature full name, qualification and address of person before whom the declaration is made (in printed letters).*

## SECTION 3 – RESPONSE TO EVALUATION CRITERIA

### 1.1 Returnable Schedules

#### How to complete returnable schedules

Respondents are invited to address each Evaluation Criterion in a separate schedule in their response. Each such schedule should correspond to a single Evaluation Criterion. The Territory notes that evaluation criteria set out below is not a complete list of the evaluation criteria, and you should refer to the RFT document. Only evaluation criteria to which a direct response schedule is required has been set out.

Respondents are requested to:

1. clearly number each schedule in their response using numbers that correspond to the Returnable Schedule Number in the Tables below;
2. label each returnable schedule in a manner that identifies the Evaluation Criterion it responds to; and
3. set out on the first page of the schedule the number of pages contained in the schedule.

Respondents are encouraged to frame their response in each schedule with regard to matters set out against each Evaluation Criterion in the tables in this Attachment C. Failure to address such matters may result in poor results in the Territory's evaluation of the schedule and the response overall.

Respondents should note that the Territory has recommended **500 pages** limit in respect of the RFP response. Respondents should attempt to keep their responses within these word limits.

Where the length of the response exceeds the recommendations, the Territory may determine in its absolute discretion to either discontinue reviewing the response after the recommended length is exceeded or reducing the total score.

Respondents will be assessed against each of the Evaluation Criterion. In evaluation each Evaluation Criterion, the Territory will generally have regard only to the identified schedule of each response that purports to respond to that Evaluation Criterion. Respondents are advised that the Territory may not consider (or may consider to a lesser extent) other parts of a response which the Respondent may believe are relevant to an Evaluation Criterion that are outside the relevant schedule.

## 1. 2. Response to Evaluation Criteria

### RESPONDENT INSTRUCTIONS

#### How to complete returnable schedules

Respondents are invited to address each Evaluation Criterion in a separate schedule in their Tender. Each such schedule should correspond to a single Evaluation Criterion.

Respondents are required to:

1. clearly number each schedule in their Tender using numbers that correspond to the Returnable Schedule Number in the Tables below;
2. label each returnable schedule in a manner that identifies the Evaluation Criterion it responds to;
3. set out on the first page of the schedule the number of pages contained in the schedule (discounting attachments relating to the Respondent's documents for systems, policies, procedures or extracts that go to the substance of the Response to the Evaluation Criterion); and
4. use a font of no less than 11 in size, and use Calibri, Ariel or Times New Roman (or similar) for body text (except for attachments which relate to the Respondent's documents for systems, policies, procedures or extracts that go to the substance of the Response to the Evaluation Criterion).

The content of the Response should be as concise as possible and the Respondent should not provide general marketing material that does not relate to the specific ATM requirements.

Respondents are encouraged to frame their response in each schedule with regard to matters set out against each Evaluation Criterion in the tables in this Attachment C. Failure to address such matters may result in poor results in the Territory's evaluation of the schedule and the Tender overall.

Respondents should note the length of the responses to weighted criteria 1 to 6 should not exceed 300 pages (i.e. the sum of pages to weighted criteria 1 to 6 should not exceed 300 pages). Respondents should attempt to keep their responses within these page limits.

Where the length of the response exceeds the recommendations, the Territory may determine in its absolute discretion to either discontinue reviewing the schedule after the recommended length is exceeded, or reducing the score attributed to the Evaluation Criteria evaluated against that schedule.

Respondents will be assessed against each of the Evaluation Criteria. The Territory has set out the identified schedule of each Tender that purports to respond to that Evaluation Criteria. Respondents are advised to cross reference other parts of a Tender which the Respondent may believe are relevant to an Evaluation Criterion that are outside the relevant schedule.

## Mandatory Evaluation Criteria Responses

RETURNABLE SCHEDULE NUMBER.	MANDATORY EVALUATION CRITERIA (PASS/FAIL)	RESPONDENT COMPLIANCE
1	<p><b>Attendance at Mandatory Industry Briefing</b></p> <p>The Respondent must attend the mandatory industry briefing</p>	<input type="checkbox"/>
2	<p><b>Secure Local Jobs Code Certificate</b></p> <p>The Respondent must hold a Secure Local Jobs Code Certificate as at the date of close for the Response. The Respondent does not need to supply a Certificate as the Territory will verify its certification status when evaluating the Response.</p> <p><b>Recommended contents of schedule:</b></p> <p>The Respondent must advise it holds a Secure Local Jobs Certificate as at the date of close for the Response. The Respondent does not need to supply a Certificate as the Territory will verify its certification status when evaluating the Response.</p> <p><i>*Note: Under the Secure Local Jobs Code, any subcontractors engaged to perform "Territory Funded Work" (as defined in the Government Procurement Act 2001) will also be required to hold a Secure Local Jobs Certificate. Respondents are encouraged to list in the Response any subcontractors it intends to engage for Territory Funded Work, and whether they hold current Secure Local Jobs Certificate, noting that commencement of work by those subcontractors will be conditional on holding a Secure Local Jobs Certificate.</i></p>	<input type="checkbox"/>
3	<p><b>Fair and Safe Employment Evaluation Criteria</b></p> <p><b>Recommended contents of schedule:</b></p> <p>The Respondent must complete and submit all attachments included in <b>Attachment F – Fair and Safe Employment Evaluation Criteria Response Schedules</b>:</p> <ol style="list-style-type: none"> <li>1. Fair and Safe Employment Criteria Response Schedule; and</li> <li>2. Appendix 1- Labour Relations, Training and Workplace Equity Plan (LRTWEP)</li> </ol> <p>The Territory will assess Responses against the Fair and Safe Employment Evaluation Criteria on a pass/fail basis.</p> <p>For Further Information refer to <a href="https://www.procurement.act.gov.au/securelocaljobs">https://www.procurement.act.gov.au/securelocaljobs</a>.</p> <p><b>Note to Respondents:</b> <i>The Schedules must be completed in full with no omissions. A Respondent that fails to meet this requirement will be considered non-conforming.</i></p>	<input type="checkbox"/>

**NOTE:** The Respondent **must comply with ALL** denoted Mandatory Evaluation Criteria or its Response will be regarded as non-conforming and will not be considered for further evaluation.

## Weighted Evaluation Criteria Responses

RETURNABLE SCHEDULE NUMBER	WEIGHTED EVALUATION CRITERIA	WEIGHTING 100
1	<p><b>Capability and Capacity</b></p> <p>The extent to which the Respondents' proposal demonstrates the capability and capacity to provide the Services, with respect to the Statement of Requirements.</p> <p>Respondents are required to detail:</p> <p>(a) Previous and Current Projects in delivering similar Services (Past Experience):</p> <p>Provide details of previous projects (Projects) the Respondent has delivered in the last 5 years, and projects the Respondent is currently undertaking, that the Respondent considers demonstrate its capacity, ability and experience in delivering services comparable to the Services.</p> <p>In addressing this criterion, Respondents should provide details of the:</p> <ul style="list-style-type: none"> <li>i. when and where the Projects occurred;</li> <li>ii. the scope of services performed in these Projects; and</li> <li>iii. the outcome of the delivery of services in these projects.</li> </ul> <p>(b) equipment and systems: The extent to which the Respondents proposed equipment and systems demonstrate the capacity capability and methodology to effectively deliver Services.</p> <p>Respondents are required provide evidence of the Respondent's physical assets and resources to deliver the Services. Proposals should consider including:</p> <ul style="list-style-type: none"> <li>i. A table of major equipment's and systems the Respondent owns, leases or plans to acquire that it proposes to deploy to the Facilities should it be selected to perform the Services.</li> <li>ii. Relevant information in respect of any other resources the Respondent relies on to demonstrate its capacity to carry out the services, for example, other Facilities or data management system.</li> </ul> <p>(c) List partnerships and subcontractors: Respondents should identify proposed partnerships and subcontractors (if applicable) who will be engaged to deliver the Services.</p> <p>(d) Site operations including maintenance component: Respondents should provide methods by the way of Service Plans, in particular the "Maintenance Plan" (refer to clause 6.10 of the SOR) to demonstrate their capabilities to deliver the Objectives, Outcomes and Service requirements.</p>	10

<b>2</b>	<p><b>Managing Reusable Items</b></p> <p>The extent the Respondents' proposed methodology can effectively manage Reusable Items to promote resource recovery, with respect to the Statement of Requirements and matters set out in Attachment C.</p> <p>The Respondents are required to demonstrate their ability to deliver the Objectives, Outcomes, and Service requirements, in particular in Section 3 and 4 of the SOR, by providing the following Service Plans or components:</p> <ul style="list-style-type: none"> <li>(a) Acceptance and Rejection Policy (refer to Clause 6.2 of the SOR);</li> <li>(b) Salvaging Plan (refer to Clause 6.3 of the SOR);</li> <li>(c) Pricing Policy (refer to Clause 6.4 of the SOR); and</li> </ul> <p>Customer Service and Stakeholder Management Plan (refer to Clause 6.5 of the SOR).</p>	<b>20</b>
<b>3</b>	<p><b>Circular Economy Support Programs and Social Benefits</b></p> <p>The extent the Respondent's proposal can effectively deliver proposed circular economy support programs and community benefits in delivering the Services, with respect to the Statement of Requirements and matters set out in Attachment C.</p> <p>The Respondents are required to demonstrate their ability to deliver the Objectives, Outcomes, and Service requirements, in particular Section 3 and 4 of the SOR by providing the following Service Plans or components:</p> <ul style="list-style-type: none"> <li>(a) Charity Activities Management Plan (refer to Clause 6.6 of the SOR);</li> <li>(b) Community Workshops Management Plan (refer to Clause 6.7 of the SOR);</li> <li>(c) Partnership Plans (refer to Clause 6.8 of the SOR); and</li> <li>(d) Educational Programs Management Plan (refer to Clause 6.9 of the SOR).</li> </ul> <p>The Territory's assessment of Partnerships as part of this weighted criterion should not be taken as approval by the Territory for the Respondent to engage a Partner for the Services if it is deemed successful.</p>	<b>20</b>
<b>4</b>	<p><b>Methodology: Reporting and Data Plan</b></p> <p>The extent the Respondents' proposed methodology for reporting is accurate, valid and consistent for the requirements of the Service and with respect to the to the Statement of Requirements and the matters set out in Attachment C,.</p> <p>The Respondent should provide a proposed Reporting Plan with reference to Clause 6.12 of the SOR to demonstrate their ability to implement their technical capabilities to deliver the Objectives, Outcomes and Service requirements.</p>	<b>15</b>

<b>5</b>	<p><b>Transition Management</b></p> <p>The extent the Respondents' proposed transition methodology effectively manages the activities and actions to prepare the Services for commencement and to finalise the Service by the end of the Term.</p> <p>Respondents must detail their Transition Management methods by way of the Service Plans, in particularly the "Transition Management Plan (refer to Clause 6.13 of the SOR).</p>	<b>10</b>
<b>6</b>	<p><b>Work, Health and Safety (WHS)</b></p> <p>The extent Respondents' proposed Work Health and Safety regime can manage specific to the requirements of the Service..</p> <p>The Respondent should provide a general concept plan setting out the key element of the WHS plan it would prepare should it be appointed under this ATM.</p> <p>The concept plan should at least demonstrate how the Respondent would align its operations with:</p> <ul style="list-style-type: none"> <li>a) the requirement that Work, Health and Safety matters be proactively managed throughout the duration of the term of the proposed Contract; and</li> <li>b) the matters set out in Section 7 of the SOR.</li> </ul> <p>The Respondent should provide for assessment by the Territory copies of organisational Work, Health and Safety policies and procedures the Respondent would apply to the Services and Sites.</p>	<b>15</b>
<b>7</b>	<p><b>Secure Local Jobs Code – content of Labour Relations, Training and Workplace Equity (LRTWE) Plan</b></p> <p>The Territory will evaluate the extent to which the Respondent's Labour Relations, Training and Workplace Equity Plan (Plan) demonstrates how the Respondent will support employment security, health and wellbeing, diversity, and career development for workers, as well as previous compliance with the Code and Plans (where applicable).</p> <p><b>The Plan must have been developed in consultation with the Respondent's employees and include a statement about how this has been done.</b></p> <p>The Respondent is complete and submit <b>Appendix 1 to Attachment G – FSE Response Schedule.</b></p> <p>For further information see: <a href="https://www.procurement.act.gov.au/supplying-to-act-government/securelocaljobs">https://www.procurement.act.gov.au/supplying-to-act-government/securelocaljobs</a></p>	<b>10</b>

## Non-Weighted Evaluation Criteria

NO.	NON-WEIGHTED EVALUATION CRITERIA
<b>1</b>	<p><b>Risk</b></p> <p>The Response will be assessed on what risks may be identified including:</p> <ol style="list-style-type: none"> <li>(1) The reputation of the Territory or a relevant Territory Entity in relation to its status as a model employer, that only contracts with other employers who show model behaviour towards their employees;</li> <li>(2) The risk to the Territory Entity posed by procuring from an unethical Respondent; and</li> <li>(3) The public interest, or public confidence in the Territory and/or its procurement framework.</li> </ol> <p><i>Note: For further details on the evaluation of this Evaluation Criterion, see the Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021.</i></p>
<b>2</b>	<p><b>Performance Management Framework</b></p> <p>The Territory will assess the suitability of the Performance Management Framework and the Key Performance Indicators.</p> <p>The Respondent is required to complete Attachment C1 – Performance Management Framework to outline the standards of performance.</p>

## 3. Alternative Response Information

Where a Respondent also submits an Alternative Choose an item, it must include any supplementary material, together with associated prices, which demonstrates in detail that such an alternative will fully achieve and/or exceed all the specified outputs or functional and performance requirements together with references as to why the additional features may be advantageous.

The details should be cross-referenced to the appropriate paragraph in **Attachment B - Statement of Requirements**.

## 4. Respondent's Referees

The Respondent must provide the details of three Referees that are based in Australia, that have had contractual relationships for a varying number of years with the Respondent (e.g. one reference at the beginning of the contract term, one reference in the fourth year of the contract term, etc.) and where the Respondent has provided services similar to those described in this ATM within the last five years.

	REFEREE 1	REFEREE 2	REFEREE 3
Name of Referee organisation			
Profile of products/services provided to the Referee organisation			
Involvement of Key Personnel in provision of products/services to Referee organisation			
Timeframe for provision	Start Date: Completion Date:	Start Date: Completion Date:	Start Date: Completion Date:
Referee Contact			
Contact Name			
Contact Title/Position			
Contact Telephone number			
Contact Email			
Other information, as relevant			

## SECTION 4 – FINANCIAL & CORPORATE INFORMATION

### Financial Information

The Respondent should provide details of relevant financial information concerning the Respondent (or if a consortium or joint Response, relevant details of all proposed members or joint Respondents) and any proposed Subcontractor that is likely to be a Major Subcontractor, including:

Provide a brief financial overview of your organisation for the last three complete Financial Year periods.

[Click here to enter text](#)

Provide copies of audited financial statements for the previous three Financial Years.

[Choose an item](#)

[Click here to enter text](#)

Provide copies of annual reports for the previous three Financial Years.

[Choose an item](#)

[Click here to enter text](#)

Provide particulars of any petition, claim, action, judgment or decision which is likely to adversely affect the Respondent's performance; and

[Click here to enter text](#)

Provide a statement of the name and ABN of the ultimate holding company, together with copies of audited financial statements and annual reports for the previous three Financial Years.

[Choose an item](#)

[Click here to enter text](#)

### Audited Financial Statements

The audited financial statements provided by the Respondent should include:

- i) Statement of Financial Performance;
- ii) Statement of Financial Position;
- iii) Statement of Cash Flows;
- iv) Notes to the Financial Statements;
- v) Directors Report;
- vi) Auditors Statement;
- vii) where the Respondent was incorporated/established less than three Financial Years previously, an auditors statement the Respondent was incorporated/established less than three financial years previously and audited financial statements from incorporation/establishment are required;
- viii) where the Respondent is the result of a merger/takeover/consolidation, audited financial statements for the entities prior to the merger/takeover/consolidation for the preceding three

- years should be provided. For example, Company A and Company B merge in March 2019 to form Company AB. In this case audited financial statements should be provided for the previous three Financial Years for Company A and the preceding three financial years for Company B; and
- ix) where the Respondent is not required to be audited under any legislation, unaudited financial statements are permissible where accompanied by a letter of assurance as to their authenticity provided by the Respondent's accountant.

The Respondent should attach a copy of the Certificate of Incorporation for the Respondent where applicable.

The Territory may seek additional financial information in relation to any Respondent (or Subcontractor or joint Respondent) at any stage of the evaluation process.

## Corporate Information

The Respondent should provide a document of no more than 15 pages that addresses the Respondent's background, history, services, and corporate organisation. The Respondent should include a high-level organisation chart.

(Note: this information relates to the Respondent's overall organisation not the proposed organisational structure requested elsewhere in this Schedule)

## Strategic Direction

The Territory places strong emphasis on the need for a long-term strategy. The Respondent should describe its strategic direction, and the implications the strategic direction may have on the Territory. The Respondent should also indicate that if successful what proportion of its business a contract with the Territory would represent.

## Management

The Respondent should provide:

- i) an organisational chart of executive management;
- ii) executive CVs including length of service with the Respondent;
- iii) details of other key personnel to the business (including position and why significance/dependence exists);
- iv) details of key directors and management who have left the business in the last two years;
- v) details of management succession plans (which positions covered by plans and why);
- vi) details of any key man insurance (identity(s) of persons covered, amount, duration and cost of cover); and
- vii) any independent 3rd party reviews of its organisation issued in the past 18 months.

## Information relating to Legal Status of Respondent:

The Respondent should provide the following information relating to the legal status of the Respondent and its ultimate parent or associated entities including directors/executive officers:

- i) details of any litigation proceedings whatsoever, actual or threatened, against the Respondent, its parent or associated entities or any director of the Respondent, its parent or associated entities within the past four (4) years;

- ii) details of any bankruptcy actions against any director of the Respondent, its parent or associated entities within the past four (4) years;
- iii) details of any de-registration actions against the Respondent, its parent or associated entities within the past four (4) years;
- iv) details of any actions of insolvency proceedings, actual or threatened (including Voluntary Administration, Application to Wind Up, or other) against the Respondent, its parent or associated entities within the past four (4) years; and
- v) details of any breaches or defaults, of any agreement, contract, order, award binding upon the Respondent, its parent or associated entities within the past four (4) years.

## APPENDIX 1 - ETHICAL SUPPLIER'S DECLARATION

I, **[Name, address and occupation of person making declaration]** make the following declaration under the *Statutory Declarations Act 1959 (Cth)*,

1. In this declaration a reference to:

**"Adverse Ruling"** means a ruling, order, notice (including without limitation any improvement notice or prohibition notice), conviction or finding made or issued by any Authorised Entity.

**"Authorised Entity"** means any court, tribunal, board, commission, regulatory agency (including without limitation the director-general, commissioner, regulator or any inspector referred to in the Prescribed Legislation) or other entity with jurisdiction to determine employee and industrial relations matters or work health and safety matters to the effect that the Respondent has contravened the Prescribed Legislation.

**"Contract"** means an agreement which has or will shortly be entered into between the Australian Capital Territory and the Contractor for the provision of works in respect of the ATM.

**"Employee"** means a natural person who is employed under a Contract of service (excluding professional or information technology services) to provide the Respondent with his or her labour.

**"Full Details"** means the details of:

- i) the nature of the Adverse Ruling, breach or offence;
- ii) the name of the relevant Authorised Entity;
- iii) the State or Territory in which the proceeding or prosecution was brought;
- iv) the date of the Adverse Ruling was made, or the proceeding or prosecution was commenced and the number or description assigned to the proceeding or prosecution;
- v) the entity against which the Adverse Ruling, breach or offence was made or issued;
- vi) any document setting out the Adverse Ruling, breach or offence (including provision of a copy of the same);
- vii) any conviction recorded or adverse finding made in respect of the Adverse Ruling, breach or offence;
- viii) any penalty, fine or order imposed by an Authorised Entity in respect of the Adverse Ruling, breach or offence and the maximum penalty, fine or order that could have been imposed under the Prescribed Legislation;
- ix) any remedial measures or other actions proposed or recommended by the Authorised Entity and details of steps taken by the Respondent to comply with those remedial measures or other actions; and
- x) the status of the Adverse Ruling, breach or offence as at the date of the declaration.

**"Industrial Instruments"** means an award or agreement, however designated, that is made under or recognised by the Prescribed Legislation.

**"Prescribed Legislation"** means all applicable Acts and subordinate instruments of the Commonwealth and the Territory, which deal with matters relating to industrial relations, employment and/or workplace safety obligations that apply to an entity including (as amended or replaced from time to time) but not limited to:

- i) *Fair Work Act 2009 (Cth)*;

- ii) *Fair Work (Building Industry) Act 2012 (Cth);*
- iii) *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth);*
- iv) *Human Rights Act 2004 (ACT);*
- v) *Income Tax Assessment Act 1997 (Cth);*
- vi) *Independent Contractors Act 2006 (Cth);*
- vii) *Industry Research and Development Act 1986 (Cth);*
- viii) *Long Service Leave Act 1976 (ACT);*
- ix) *Long Service Leave (Portable Schemes) Act 2009 (ACT);*
- x) *Migration Act 1958 (Cth);*
- xi) *Modern Slavery Act 2018 (Cth);*
- xii) *Paid Parental Leave Act 2010 (Cth);*
- xiii) *Payroll Tax Act 2011 (ACT);*
- xiv) *Safety, Rehabilitation and Compensation Act 1988 (Cth);*
- xv) *Superannuation Guarantee (Administration) Act 1992 (Cth);*
- xvi) *Superannuation Guarantee Charge Act 1992 (Cth);*
- xvii) *Work Health and Safety Act 2011 (ACT);*
- xviii) *Workers' Compensation Act 1951 (ACT); and*
- xix) *Workplace Gender Equality Act 2012 (Cth).*

**"Prescribed Works or Services"** means works or services that require the exertion of labour by Employees.

**"Secure Local Jobs Code Certificate"** has the meaning given by the Government Procurement Act 2001.

**"Secure Local Jobs Code"** has the meaning given by the Government Procurement Act 2001.

**"Respondent"** means **Insert full legal name including ACN/ABN as per that identified in this document.**

**"Territory-Funded Work"** has the meaning given by the Government Procurement Act 2001.

2. I am authorised on behalf of the Respondent to make this declaration.
3. The information supplied by the Respondent with and in its Response is true and correct. Any further information to be supplied by the Respondent to enable assessment of it Choose an item will be true and correct.
4. The Respondent is aware that Respondents for Territory-Funded Work must hold a Secure Local Jobs Code Certificate and that once certified Respondents must comply with the Secure Local Jobs Code.
5. The Respondent agrees to comply with all applicable Territory policies and legislation referable to Territory-Funded Work and, if the Respondent is prequalified under a prequalification scheme in the Territory, the WHS Active Certification Policy, if it is the preferred Respondent.
6. By submitting a Choose an item the Respondent authorises the Territory to:
  - i) obtain from any Territory, State or Commonwealth government agency (including for the avoidance of doubt, any regulatory or law enforcement body) and take into account in its evaluation, information, including information about the Respondent's performance under Contracts (whether or not those Contracts were with the Territory,

- State or Commonwealth or another entity and whether or not those Contracts were identified by the Respondent in its Choose an item);
- ii) obtain and consider in its evaluation, information from Referees or other reputable sources on the performance of the Respondent on contracts (whether or not they are identified by the Respondent in their Choose an item);
  - iii) use any information obtained from any Territory, State or Commonwealth government agency (including for the avoidance of doubt, any regulatory or law enforcement body), Referee or other reputable source for any government purposes including, without limitation, assessment of suitability for award of Contract;
  - iv) provide information about the Respondent to any Territory, State or Commonwealth government agency, including information provided by the Respondent and information related to the Respondent's performance at any time and for any reason;
  - v) provide the name of the Respondent and this declaration to Unions ACT; and
  - vi) provide this declaration to any Territory, State or Commonwealth government agency (including any regulatory or law enforcement body, which includes, without limitation WorkSafe ACT) as evidence of the Respondent's consent to allow that agency to release information as requested by the Territory to the Territory.
7. The following Industrial Instruments made pursuant to any Prescribed Legislation specifically applies to the Employees of the Respondent and are binding on it or them.
- Insert details of Industrial Instruments (this is the award you pay your employees under). If no Employees write "N/A"**
8. The Respondent has in the preceding 36 months of the date of this declaration complied with all applicable Industrial Instruments.
- True (delete 8A and initial)       Not true (answer 8A)     N/A No Employees (delete 8A)
- 8A. The Respondent has not complied with the following Industrial Instruments in the following respects.
- Insert full details**
9. The Respondent has in the preceding 36 months of the date of this declaration complied with all Prescribed Legislation
- True (delete 9A and initial)     Not true (answer 9A)
- 9A. The Respondent has not complied with the following Prescribed Legislation.
- Insert full details of the failure to comply with Prescribed Legislation**
10. The Respondent has in the preceding 36 months of the date of this declaration recognised the rights of its Employees to union membership and representation.
- True (delete 10A and initial)     Not true (answer 10A)     N/A No Employees (delete 10A)
- 10A. The Respondent has not recognised the rights of Employees to union membership and representation in the following respects.
- Insert full details of how the Respondent has not recognised the rights of Employees to union membership and representation**

11. The Respondent has in the preceding 36 months of the date of this declaration complied with all amendments to wages and conditions of employment for their Employees as decided by any authorised industrial or wage-setting agency.
- True (delete 10A and initial)  Not true (answer 10A)  N/A No Employees (delete 10A)
- 11A. The Respondent has not complied with all amendments to wages and conditions of employment for their Employees as decided by any authorised industrial or wage-setting agency in the following respects:
- « (Insert full details of how the Respondent has failed to comply with all amendments to wages and conditions of employment) »
12. In the preceding 36 months of the date of this declaration there have been no findings against the Respondent by an Authorised Entity, including a finding of a breach in a non-confidential consent order.
- True (delete 12A and initial)  Not true (answer 12A)
- 12A. There have been the following findings (Full Details of which are provided) against the Respondent by an Authorised Entity:
- Insert full details of findings
13. In the preceding 36 months of the date of this declaration there have been no Adverse Rulings under the Prescribed Legislation against the Respondent.
- True (delete 13A and initial)  Not true (answer 13A)
- 13A. There have been the following Adverse Rulings under the Prescribed Legislation against the Respondent:
- Insert full details of Adverse Rulings
14. There are currently no proceedings or prosecutions against the Respondent in respect of a breach of any Prescribed Legislation.
- True (delete 14A and initial)  Not true (answer 14A)
- 14A. There are currently the following proceedings or prosecutions against the Respondent in respect of a breach of Prescribed Legislation.
- Insert full details of proceedings or prosecutions
15. The Respondent has not been required to implement any remedial measures to ensure future compliance with the Prescribed Legislation.
- True (delete 15A and initial)  Not true (answer 15A)
- 15A. The Respondent has been required to implement the following remedial measures to ensure future compliance with the Prescribed Legislation:
- Insert full details of the remedial measures implemented
16. Below is a complete list of all projects (both completed and current) in the Australian Capital Territory where the Respondent has had management or control of a project site and on which an audit into any aspect of work health and safety performance or compliance has been conducted in the 36 months prior to the date of this declaration.
- Insert full list of projects, or if none "N/A"

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

[Click here to enter text](#)

[Click here to enter text](#)

Signature of person making the Declaration

Printed name of the person making the Declaration

[Click here to enter text](#)

[Click here to enter text](#)

Declared at (location)

On Day Month Year

[Click here to enter text](#)

[Click here to enter text](#)

Signature of the person before whom the Declaration is made

Printed name of the person before whom the Declaration is made

[Click here to enter text](#)

[Click here to enter text](#)

Qualification of the person before whom the Declaration is made

Address of the person before whom the Declaration is made

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years – see section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* – see section 5A of the *Statutory Declarations Act 1959*.

**A statutory declaration under the *Statutory Declarations Act 1959* may be made before–**

- (1) A person who is currently licensed or registered under a law to practice in one of the following occupations:
 

Chiropractor	Dentist	Legal practitioner
Medical practitioner	Nurse	Optometrist
Patent attorney	Pharmacist	Physiotherapist
Psychologist	Trademarks attorney	Veterinary surgeon
- (2) A person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or
- (3) A person who is in the following list:
  - Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public
  - Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the *Consular Fees Act 1955*)
  - Bailiff
  - Bank officer with 5 or more continuous years of service
  - Building society officer with 5 or more years of continuous service
  - Chief executive officer of a Commonwealth court
  - Clerk of a court
  - Commissioner for Affidavits
  - Commissioner for Declarations
  - Credit union officer with 5 or more years of continuous service
  - Employee of the Australian Trade Commission who is:
    - (a) in a country or place outside Australia; and
    - (b) authorised under paragraph 3 (d) of the *Consular Fees Act 1955*; and
    - (c) exercising his or her function in that place

Employee of the Commonwealth who is:

- (a) in a country or place outside Australia; and
- (b) authorised under paragraph 3 (c) of the Consular Fees Act 1955; and
- (c) exercising his or her function in that place

Fellow of the National Tax Accountants' Association

Finance company officer with 5 or more years of continuous service

Holder of a statutory office not specified in another item in this list

Judge of a court

Justice of the Peace

Magistrate

Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the Marriage Act 1961

Master of a court

Member of Chartered Secretaries Australia

Member of Engineers Australia, other than at the grade of student

Member of the Association of Taxation and Management Accountants

Member of the Australasian Institute of Mining and Metallurgy

Member of the Australian Defence Force who is:

- (a) an officer; or
- (b) a non-commissioned officer within the meaning of the Defence Force Discipline Act 1982 with 5 or more years of continuous service; or
- (c) a warrant officer within the meaning of that Act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of:

- (a) the Parliament of the Commonwealth; or
- (b) the Parliament of a State; or
- (c) a Territory legislature; or
- (d) a local government authority of a State or Territory

Minister of religion registered under Subdivision A of Division 1 of Part IV of the Marriage Act 1961

Notary public

Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public

Permanent employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority; or
- (c) a local government authority;

with 5 or more years of continuous service who is not specified in another item in this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police officer

Registrar, or Deputy Registrar, of a court

Senior Executive Service employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority

Sheriff

Sheriff's officer

Teacher employed on a full-time basis at a school or tertiary education institute.



**ACT**  
Government

## Procurement ACT



**ACT**  
Government

**Procurement ACT**

**Request for Proposal (RFP)**

**GS3538978**

**FOR THE PROVISION OF REUSABLE FACILITY SERVICES IN  
THE TERRITORY**

**ATTACHMENT C1 – PERFORMANCE MANAGEMENT  
FRAMEWORK**

# Contents

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# 1. Performance Management Framework

## 1.1. General

- 1.1.1. With reference to the Performance Management Framework (section 9 of Attachment B) and **Schedule 2 of the Draft Contract**, the Contractor will be managed through a Key Performance Indicator (KPI) aligned to the monthly review and delivery of Plans (Section 6, 7 & 8 of Attachment B).
- 1.1.2. The Contract will incorporate the following performance management characteristics:
- (a) a focus on achieving the Objectives and Outcomes;
  - (b) the use of quantifiable standards for all agreed performance measures linked to the Objective as outlined in this SOR;
  - (c) provision of reliable and accurate data collection and reporting systems by the Contractor to the Territory; and
  - (d) a service model that recognises the Contractor’s compliance with the Contract.
- 1.1.3. The Performance Management Framework will be used to monitor and measure the Contractor’s performance against the KPI. Depending on the performance achieved, the Contractor will be entitled to earn part of or all of the Disposal Threshold.
- 1.1.4. The KPIs will relate to the following components:
- (a) Services;
  - (b) WHS Compliance;
  - (c) Maintenance Compliance; and
  - (d) Reporting.
- 1.1.5. Compliance Items will be assessed on a pass or fail basis.
- 1.1.6. The Contractor will be required to evidence and report to its performance against the KPI.

## 1.2. Disposal Thresholds

- 1.2.1. The Disposal Thresholds are detailed in Table 1 below.
- 1.2.2. The **Compliance Threshold** is adjusted based on the **Standard Performance Indicator** being achieved during the reporting month.
- 1.2.3. The **Baseline Threshold** is adjusted based on any active Action Request received during the month, including action request for failure to meet the **Minimum Performance Indicator**.

**Table 1: Reuseable Facility Disposal Threshold**

Reuseable Facility Disposal Threshold	
<u>Baseline Threshold</u>	<u>Compliance Threshold</u>
20 Tonnes per month	20 Tonnes per month
<b>Adjustment Mechanism:</b>	<b>Adjustment Mechanism:</b>

Unresolved Action Request or Active Plan	Standard Performance Indicator to the KPI's
--	---

### 1.3. Minimum and Standard Performance Indicators to KPI

- 1.3.1. Achieving the Standard Performance Indicator for the Reusable Facility is a prerequisite to the Contractor receiving the Compliance Threshold.
- 1.3.2. Failure to achieve the Minimum Performance Indicator for the Reusable Facility may result in the Contractor receiving an Action Request.
- 1.3.3. The Minimum and Standard Performance Indicators have been detailed in Table 2.

**Table 2 Minimum and Standard Performance Indicator**

KPI for the Services		
Performance Indicator	Performance Measure	Compliance Threshold
a) <b>Standard Performance Indicator</b> Contractor performance measured by the monthly Compliance Checklist equals the Performance Measure.	_____ % (Responses to nominate a percentage equal to or greater than 85%)	20 Tonnes
b) <b>Sub-standard Performance</b> Contractor performance as measured by the monthly Compliance Checklist is less than the Standard Performance Indicator and greater than the Minimum Performance Indicator. <i>(The Contractor may wish to nominate more levels of Sub-standard Performance Measures between 70% - 85% and corresponding Compliance Threshold)</i>	< ___ % (<standard)	___ (must be less than 20 tonnes)
	< ___ %	___ tonnes
	< ___ %	___ tonnes
	< ___ %	___ tonnes

<p>c) <b>Minimum Performance Indicator</b></p> <p>Contractor performance measured by the monthly Compliance Checklist is below the Performance Measure.</p>	<p>_____%</p> <p>(Responses to nominate the minimum performance measure. The percentage nominated must not be less than 70%)</p>	<p>0</p>
---	--	----------

## 1.4. Action Request and Baseline Thresholds

- 1.4.1. Each active Action Request during any part of a reporting month will result in the Baseline Threshold being adjusted by a 5-tonne reduction.

## 2. KPI and Compliance Checklist

### 2.1. General

- 2.1.1. The Respondent must complete, in the below Clause 2.2 the weighting, any additional Compliance Items and methods and measures for any additional KPI's. The Respondent's nominated KPI's and weightings will demonstrate the degree of commitment and competence to execute the requirements of Attachment B to the agreed standards.
- 2.1.2. The successful Respondent's response to this Clause 2 of Attachment C1 will be used to populate **Schedule 3 of the draft Contract** (subject to any negotiation that is undertaken as part of the ATM process).

### 2.2. Compliance Items and Weightings

- 2.2.1. The Respondent is required to complete the Table 3 for the Compliance Checklist. Where the Territory has proposed Compliance Items, the C Respondent may amend to improve on the Territory's proposed Compliance Item. The Respondent is required to complete the weightings for the Territory proposed Compliance Items.

**Table 3 - Compliance Checklist**

Compliance Item number	Compliance Item	Method and measure	Weighting (%) (To be Nominated by respondents)
1	Provide reports within timeframe (Reports contain sufficient evidence of provided Services)	<ul style="list-style-type: none"> <li>• Reports will be provided within timeframes specified in Clause 8.2, 8.3 and 8.4 of the SOR</li> <li>• Photo evidence of completed tasks.</li> <li>• Verified quantities of Reusable Items accepted, transferred, sold, donated and disposed.</li> <li>• Any other relevant evidence or reports.</li> </ul>	

2	Charity Activities	<ul style="list-style-type: none"> <li>· Verified record of Reusable Items or financial donations</li> <li>· As per relevant plan or SOR</li> </ul>	
3	Workshops	<ul style="list-style-type: none"> <li>· Workshop attendance record</li> <li>· As per relevant plan or SOR</li> </ul>	
4	Social events	<ul style="list-style-type: none"> <li>· As per relevant plan or SOR</li> </ul>	
5	Number of FTE/PTE/Casual Employees/ Aboriginal and Torres Strait Islander Employees/ Employees with disability Social Inclusion	<ul style="list-style-type: none"> <li>· As per Clause 4.6 of the SOR</li> </ul>	
6	All Stakeholder complaints relevant to the Services are resolved within the timeframe as stated in xxx ;	<ul style="list-style-type: none"> <li>· As per complaints register Clause 6.5 of the SOR</li> </ul>	
7	All equipment maintained and serviced in accordance with Maintenance Plan (Clause XX)	<ul style="list-style-type: none"> <li>· Monthly reporting of scheduled and reactive maintenance as per Clause 6.10 of the SOR.</li> <li>· All repairs are completed within agreed timeframe.</li> <li>· Updated Monthly Asset Register as per Clause 5.1.17 of the SOR.</li> </ul>	

8	<u>Visual appearance</u>	<ul style="list-style-type: none"> <li>Sites are maintained as per Site Maintenance Clause 5 of the SOR</li> <li>Complaints register.</li> </ul>	
9	Stockpile management	<ul style="list-style-type: none"> <li>As per Waste Facility Licence and Clause 6.12.3 of the SOR.</li> </ul>	
10	Rectifying actions to an incident/near miss report is completed within the timeframe	<ul style="list-style-type: none"> <li>As per Monthly Reporting Clause 8.5 of the SOR and Work Health and Safety Act.</li> </ul>	
11	WHS incident reporting	<ul style="list-style-type: none"> <li>As per Monthly Reporting and Incident Reporting Requirements Clause 8.5 of the SOR</li> </ul>	10%
	Add additional as required	<ul style="list-style-type: none"> <li>Include additional methods and measures as needed.</li> </ul>	
<b>KPI Performance Total (sum of the applicable KPI items and weightings)</b>			<b>100%</b>

### 3. Annexure: Example Performance Management Framework

- 3.1.1. This Annexure is an example scenario to demonstrate the Performance Management Framework in calculating Disposal Threshold with respect to the Contractor's performance of Compliance Checklists.
- 3.1.2. This Item uses an example scenario where the Territory has engaged a contractor, "Recycling Company", to deliver "Municipal Street Recycling Services".
- 3.1.3. For the purposes of the example, the relevant Definitions in Statement of Requirements will be used.
- 3.1.4. The fee for each calendar month will be calculated with a simplified formula based on Item 8 of the Statement of Requirement, as follows:  

$$\text{Total Monthly Disposal Threshold} = \text{Baseline Threshold (BT)} + \text{Compliance Threshold (CT)}$$
- 3.1.5. The Contractor will forfeit 5 tonnes of the Baseline Threshold) if the **Minimum Performance Indicator** measure is not met.
- 3.1.6. Under the "Municipal Street Recycling Services" contract, Recycling Company agreed to the KPI's as follows (in Table 4):

**Table 4**

KPI for Customer Service		
Performance Indicator	Performance Measure	Compliance Component (Tonnage)
a) Standard Performance Indicator Contractor performance measured by the monthly Customer Service Compliance Checklist equals the Performance Measure.	90 %	20
b) Sub-standard Performance	< 90 %	15
	< 80%	10

Contractor performance as measured by the monthly Customer Service Compliance Checklist is less than the Standard Performance Indicator and greater than the Minimum Performance Indicator.	< 77%	5
	< 75%	2
c) Minimum Performance Indicator Contractor performance measured by the monthly Customer Service Compliance Checklist is below the Performance Measure.	70%	0

For the purposing of providing an example of a Compliance Checklist, Table 5 is an example of the Customer Service Compliance Checklist, setting out the standards and weighting of Compliance Items for the monitoring, reporting and repairs of municipal streets under the “Municipal Street Recycling Services” contract.

Table 5

<b>EXAMPLE Customer Service Compliance Checklist</b>			
<b>Compliance number</b>	<b>Compliance Item name and description</b>	<b>Method and measure to evidence compliance</b>	<b>Weighting (%)</b>
1	90% of Customer enquiries and complaints (online and phone) received before 2:00PM on a business day are responded to within one (1) business day.	Evidenced through customer logs during the monthly reporting period.	10%
2	95% of Customer enquiries and complaints (online and phone) received before 2:00PM on a business day are responded to within two (2) business days.	Evidenced through customer logs during the monthly reporting period.	25%

3	100% of Customer enquiries and complaints (online and phone) received before 2:00PM on a business day are responded to within two (3) business days.	Evidenced through customer logs during the monthly reporting period.	20%
3	Placement of safety signage at facilities.	Evidenced through photographic evidence.	10%
4	Placement of traffic safety signage during operational hours.	Evidenced through Recycling Company tracking system with video or photographic evidence.	5%
5	Removal of traffic safety signage following outside operating hours	Evidenced through Recycling Company jobs tracking system with video or photographic evidence.	15%
6	Maintenance of visual amenity following at the facility	Evidenced through video or photographic evidence; certification and inspection.	15%
		Total	100%

3.1.7. For the month of January, the BT is **20 Tonnes** and Recycling Company Road's performance against the Compliance Checklist is summarised in table 6 below.

**Table 6**

	Compliance Item	Performance	Compliance Component (Tonnage)
(a)	Service Compliance Checklist	87%	15 Tonnes

3.1.7. Recycling Company free monthly Disposal Threshold is calculated as follows:

- (a) BT = 20 Tonnes (No outstanding action request)
- (b) CT = 15 Tonnes
- (c) Disposal Threshold = BT + CT

= 20 Tonnes + 15 Tonnes  
 = **35 Tonnes** for the month of January

3.1.8. For the month of June, the BT is **10 Tonnes** as Recycling Company has 2 outstanding Action Requests. Recycling Company’s performance against the Compliance Checklist is summarised in Table 7 below.

**Table 7**

	Compliance Item	Performance	Compliance Component (Tonnage)
(a)	Service Compliance Checklist	78 %	10 Tonnes

3.1.9. Recycling Company free monthly Disposal Threshold is calculated as follows::

- (a) BT = 20 Tonnes – Action Requests (2)
  - = 20 Tonnes – 5Tonnes (2)
  - = 20 Tonnes – 10 Tonnes
  - = 10 Tonnes
- (b) CT = 10 Tonnes
- (c) Disposal Threshold = BT + CT
  - = 10 Tonnes + 10 Tonnes
  - = **20 Tonnes** for the month of June



# SERVICES AGREEMENT

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**Parties**

**AUSTRALIAN CAPITAL TERRITORY**

**[INSERT CONTRACTOR]**

**REUSABLE FACILITY SERVICES**

**DRAFT**

**Prepared for**

ACT NoWaste  
Transport Canberra and City Services Directorate  
GPO Box 158  
Canberra ACT 2601

**Version**

ATM version 13.6.23

**Note to Respondents:**

While this draft comprises the essential terms and conditions under which the Territory anticipates entering into an agreement with the selected respondent, the Territory reserves the right to amend the agreement (including the addition of special conditions) before the agreement is signed.

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DRAFT

**PARTIES:** **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) represented by the Transport Canberra and City Services Directorate (**Territory**).

**[INSERT NAME OF CONTRACTOR AND ABN]** of **[INSERT ADDRESS OF CONTRACTOR]** (**Contractor**).

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## BACKGROUND

- A. The Territory has a Reusable Facility at each the Mugga Lane Resource Management Centre and Mitchell Resource Management Centre where Reusable Items are received from the public, stored and sold.
- B. The Territory has undertaken a procurement process and has selected the Contractor to operate each of the Reusable Facilities and provide related services.
- C. The Contractor has agreed to provide the Services in accordance with the terms of this Agreement.

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**IT IS AGREED** by the parties as follows.

### 1. Interpretation

#### 1.1 Definitions

In this Agreement, unless the context otherwise requires:

**Action Plan** means a documented response to an Action Request made under **clause 13.4**, which complies with the requirements of **clause 13.4(2)**.

**Action Request** means a request for an Action Plan issued by the Territory to the Contractor under **clause 13.4**.

**Agreement** means this agreement and includes all schedules and attachments to this agreement.

**Agreement Documentation** means any and all Documentation which the Contractor or any of its Associates prepare, use or provide to the Territory or any of its Associates in the course of carrying out the Services (including the Reports and the Reusable Facilities Dataset) or otherwise in connection with the Agreement and includes all Intellectual Property Rights in that Documentation, but excludes:

- 1) Contractor Documentation; and
- 2) Educational Documentation.

**Application** means any application for an Approval relating to the Services.

**Approval** means any authorisation, direction, consent, instruction, declaration, exemption, accreditation, licence, notarisisation, permit, certificate, waiver or other approval, however described, given by an Authority (including, for the avoidance of doubt, approvals specifically defined in this Agreement) and includes any renewal, amendment, modification or variation of or to any of them by any Authority.

<b>Approved Scope</b>	means for each Approved Subcontractor, the Services specified in <b>Schedule 6</b> which the Territory has consented to that subcontractor carrying out.
<b>Approved Subcontractor</b>	means a subcontractor specified in <b>Schedule 7</b> .
<b>Associate</b>	means, in relation to a person, any officer, agent, adviser, consultant, contractor or employee of that person.
<b>Authority</b>	means any: <ol style="list-style-type: none"><li>(1) government, government department, government agency or government authority;</li><li>(2) governmental, semi-governmental, municipal, judicial, quasi-judicial, administrative or fiscal entity or person carrying out any statutory authority or function; or</li><li>(3) other person or entity which, under a Law, has a right to impose a requirement or whose consent is required in relation to the Services,</li></ol> including the Territory when performing its regulatory functions but in that capacity only.
<b>Best Industry Practices</b>	means the practices required for the delivery of services similar to the Services, which are performed: <ol style="list-style-type: none"><li>(1) with the standard of skill, care and diligence which may reasonably be expected of a skilled and experienced professional suitably qualified in the provision of services similar to the Services;</li><li>(2) by trained and experienced personnel using high quality, safe and proper procedures and in accordance with industry standards;</li><li>(3) with adequate levels of resources, including personnel, materials and supplies; and</li><li>(4) with a commitment to continually adopting innovation to improve service quality and value for money.</li></ol>
<b>Business Day</b>	means a day in the Territory that is not: <ol style="list-style-type: none"><li>(1) a Saturday or Sunday;</li><li>(2) a public holiday for the Territory pursuant to the <i>Holidays Act 1958</i>; or</li><li>(3) the 27th, 28th, 29th, 30th or 31st of December.</li></ol>
<b>Change in Control</b>	means, in relation to any entity (other than a natural person), where at any time, any person or entity, alone or together with any Associate or Associates, ceases to or commences to, directly or indirectly have Control of that entity. For the purposes of this definition: <ol style="list-style-type: none"><li>(1) 'entity' has the meaning given in section 64A of the Corporations Act; and</li><li>(2) 'Associate' or 'Associates' has the meaning given in the Corporations Act and includes a person deemed</li></ol>

to be an associate of a designated body (within the meaning of section 12 of the Corporations Act).

<b>Change in Law</b>	means: <ol style="list-style-type: none"><li>(1) a change in an existing Law; or</li><li>(2) a new Law.</li></ol>
<b>Claim</b>	means any claim, action, demand, suit or proceeding (including by way of contribution or indemnity) made: <ol style="list-style-type: none"><li>(1) under or in connection with this Agreement; or</li><li>(2) at Law or for specific performance, restitution, payment of money (including damages) or any other form of relief.</li></ol>
<b>Commencement Date</b>	has the meaning given in <b>Item 2 Schedule 1</b> .
<b>Compliance Threshold</b>	has the meaning given in <b>Schedule 5</b> .
<b>Confidential Information</b>	means the kind of information that: <ol style="list-style-type: none"><li>(1) is or relates to documents, submissions, consultations, policies, strategies, practices or procedures of a party which are by their nature, or by the circumstances in which they are disclosed, confidential;</li><li>(2) is notified (whether in writing or not) by a party as being confidential;</li><li>(3) is Territory Documentation or Agreement Documentation; or</li><li>(4) is Personal Information;</li></ol> but does not include information that: <ol style="list-style-type: none"><li>(5) is or becomes public knowledge other than by breach of this Agreement; or</li><li>(6) has been notified by a party as not being confidential.</li></ol>
<b>Confidential Text</b>	means any text of this Agreement that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in <b>Item 6 Schedule 1</b> .
<b>Contact Officers</b>	means in relation to each party, the representatives whose names and contact details are specified in <b>Item 1 Schedule 1</b> , or as notified from time to time by one party to the other.
<b>Contract Price</b>	means the amounts specified in, or calculated in accordance with, <b>Schedule 4</b> .
<b>Contractor Documentation</b>	means any and all Documentation (other than Agreement Documentation) including all of the Intellectual Property Rights in that Documentation, which is developed outside of the provision of the Services and this Agreement by the Contractor or any of its Associates and brought to the provision of the Services by the Contractor or any of its Associates.

<b>Contractor's Plant</b>	means any plant, implements, appliances, vehicles and equipment used, or to be used, by the Contractor or its subcontractors to undertake the Services.
<b>Control</b>	<p>means:</p> <ol style="list-style-type: none"><li>(1) control of, or having the capacity to control the composition of the board or partnership committee, or decision making, directly or indirectly, in relation to the financial and operating policies;</li><li>(2) being in a position to cast, or control the casting of, more than 20% of the maximum number of votes that may be cast at a general meeting, meeting of unitholders in a trust, meeting of partners in a partnership or similar; or</li><li>(3) having a relevant interest (as defined in section 608 of the Corporations Act but as if a reference in that section to "securities" were a reference to Securities as defined in this Agreement) in more than 20% of the Securities,</li></ol> <p>of an entity (whether alone or together with any Associates).</p> <p>For the purposes of this definition:</p> <ol style="list-style-type: none"><li>(1) 'entity' has the meaning given in section 64A of the Corporations Act; and</li><li>(2) 'Associate' or 'Associates' has the meaning given in the Corporations Act and includes a person deemed to be an associate of a designated body (within the meaning of section 12 of the Corporations Act).</li></ol>
<b>Corporations Act</b>	means the <i>Corporations Act 2001</i> (Cth).
<b>Customer</b>	has the meaning given in <b>Schedule 2</b> .
<b>Default Event</b>	has the meaning given in <b>clause 20.1</b>
<b>Default Notice</b>	means a notice of a Default Event issued pursuant to <b>clause 20.2(1)</b> and as amended pursuant to <b>clause 20.2(3)</b> (where applicable).
<b>Designated Area</b>	has the meaning given in <b>Schedule 2</b> .
<b>Disposal Deduction</b>	has the meaning given in <b>Schedule 5</b> .
<b>Disposal Threshold</b>	has the meaning given in <b>Schedule 2</b> .
<b>Dispute</b>	<p>means any dispute, controversy or difference between the parties as to:</p> <ol style="list-style-type: none"><li>(1) the construction of this Agreement;</li><li>(2) the rights or obligations of a party under this Agreement; or</li><li>(3) any other matter arising out of or relating to this Agreement.</li></ol>
<b>Documentation</b>	means tangible and intangible information, documents (including any document within the meaning of the <i>Evidence</i>

*Act 2011*), reports, software (including source and object code), inventions, discoveries, designs, innovations, technology, processes, methods, techniques, know-how, data and other materials in any media whatsoever.

**Educational Documentation**

means any and all Documentation which the Contractor or any of its Associates use for the purpose of facilitating or conducting the Community Workshops (as defined in **Schedule 2**) and/or the Education and Engagement Programs (as defined in **Schedule 2**).

**End Date**

means:

- (1) the date specified as the end date in **Item 2 Schedule 1**; or
- (2) where this Agreement is terminated, the date which the termination takes effect.

**Endorse**

means acknowledge – it does not mean approve or adopt. The consequences of Endorsement are set out in **clause 10.1**.

**Environment**

means land, air, water, organisms and ecosystems and includes the built and cultural environment.

**Facilities**

means:

- (1) the Mugga Facility and
  - (2) the Mitchell Facility,
- and 'Facility' has a corresponding meaning.

**Force Majeure Event**

means each of the following events:

- (1) earthquake, natural disaster, landslide, seismic activity, tsunami or mudslide;
- (2) fire, flood or explosion caused by events referred to in paragraph (1);
- (3) epidemics or pandemics, to the extent that the Contractor cannot, in compliance with the Law carry out the Services:

which:

- (4) prevents the Contractor from carrying out the Services or a material part of the Services; and
- (5) was not caused by the Contractor or its Associates or the Territory or its Associates; and
- (6) could not have been prevented, avoided, remedied, overcome or its effects overcome, by the Contractor or its Associates taking those steps which a prudent, experienced and competent Contractor undertaking the Services would have taken using Best Industry Practices (including the expenditure of reasonable sums of money).

**Force Majeure Termination Event**

means a Force Majeure Event which continues (or the effects of which continue) for a period exceeding 30 consecutive days or any other event expressly deemed to be a Force Majeure Termination Event in this Agreement.

<b>Government Party</b>	means all and any of the Territory, and any Authority of the Territory.
<b>GST</b>	has the same meaning as in the GST Act.
<b>GST Act</b>	means <i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i> .
<b>GST Law</b>	has the meaning given in the GST Act.
<b>Information Privacy Act</b>	means the <i>Information Privacy Act 2014</i> .
<b>Insolvency Event</b>	<p>means the occurrence of any of the following events in relation to the Contractor:</p> <ol style="list-style-type: none"><li>(1) a liquidator, provisional liquidator, administrator, trustee in bankruptcy, receiver or receiver and manager or similar officer is appointed in respect of the Contractor or any asset of the Contractor;</li><li>(2) a distress, attachment or other execution is levied or enforced upon or against any assets of the Contractor and in the case of a writ of execution or other order or process requiring payment, it is not withdrawn or dismissed within 10 Business Days;</li><li>(3) an order is made for the administration, dissolution or winding up of the Contractor, or a resolution is passed for the administration or winding up of the Contractor other than for the purposes of a solvent reconstruction or amalgamation on terms approved by the Territory;</li><li>(4) the Contractor ceases, or threatens to cease, to carry on its business or payment of its debts generally, other than for the purposes of a solvent reconstruction or amalgamation on terms approved by the Territory;</li><li>(5) the Contractor enters, or resolves to enter into any scheme of arrangement or composition with its creditors generally, or any class of its creditors, other than for the purposes of a solvent reconstruction or amalgamation on terms approved by the Territory;</li><li>(6) an inspector is appointed under any companies legislation to investigate all or any part of the affairs of the Contractor in relation to a possible contravention by the Contractor of that legislation and the appointment:<ol style="list-style-type: none"><li>(a) is not withdrawn within 10 Business Days; and</li><li>(b) in the reasonable opinion of the Territory, may have a material adverse effect;</li></ol></li><li>(7) the Contractor is, in the reasonable opinion of the Territory, unable to pay its debts when they fall due, or is deemed unable to pay its debts under any applicable Law; or</li><li>(8) where the Contractor is a registered corporation under the Corporations Act, a step is taken under section 601AA, 601AB or 601AC of the Corporations Act to cancel its registration.</li></ol>

**Intellectual Property Rights**

means:

- (1) all copyright and analogous rights;
- (2) all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), designs (whether or not registrable), confidential information (including trade secrets and know-how), circuit layouts and all other rights resulting from intellectual activity in the industrial, scientific or artistic fields; and
- (3) all rights to register, rights in applications for the registration of and rights to extend or renew the registration of any of the foregoing,

whether created or in existence before, on or after the date of this Agreement and whether existing in Australia or otherwise.

**Invoice**

means an invoice that:

- (1) if GST is payable in respect of the provision of the Services, is a valid tax invoice for the purposes of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (2) clearly sets out details of the Services provided and of the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Agreement;
- (3) is accompanied by any other details or reports required under this Agreement; and
- (4) is rendered at the times specified in **Schedule 4** (if any) and addressed to the Territory's Contact Officer.

**Key Performance Indicators (KPIs)**

means each 'Performance Indicator' identified in column 1 of a KPI Table, being the measures of Contractor performance in the Performance Management Framework (**Schedule 5**).

**KPI Table**

means Tables **[INSERT]** of **Schedule 5**.

**Law**

includes:

- (1) Commonwealth, State and Territory legislation including regulations, by laws or other subordinate legislation;
- (2) principles of common law and equity;
- (3) requirements of Authorities and Approvals; and
- (4) guidelines, policies and codes of the Commonwealth, States and Territory and Authorities with which the Contractor is legally required to comply.

**Liability**

means any debt, obligation, claim, action, cost (including legal costs, deductibles or increased premiums), expense, loss (whether direct or indirect), damage, compensation, charge or liability of any kind (including fines or penalties), whether it is:

	<ol style="list-style-type: none"><li>(1) actual, prospective or contingent; or</li><li>(2) currently ascertainable or not,</li></ol> and whether under or arising out of or in any way in connection with this Agreement or arising at Law.
<b>Licence Conditions</b>	means the terms and conditions set out in <b>Schedule 6</b> which apply in respect of the licence of the MRF Site and the licence of each Changeover Site.
<b>Minimum Performance Indicator</b>	means the performance level as detailed in <b>Schedule 5</b> that the Contractor must meet in order to not have a Disposal Deduction apply in accordance with <b>Schedule 5</b> and/or an Action Request made under <b>clause 13.4</b> .
<b>Mitchell Facility</b>	means the area within the Mitchell RMC identified as the 'Reusable Facility' as indicated on the map at <b>Attachment A</b> and includes all Territory Assets at that site.
<b>Mitchell RMC</b>	means the Mitchell Resource Management Centre located at 100 Flemington Road, Mitchell, ACT, comprising Block 847, District of Gungahlin.
<b>Moral Rights</b>	has the meaning given in the <i>Copyright Act 1968</i> (Cth) and any corresponding or similar rights granted under any other laws anywhere in the world.
<b>Mugga Facility</b>	means the area within the Mugga Lane RMC identified as the 'Reusable Facility' as indicated on the map at <b>Attachment B</b> and includes all Territory Assets at that site.
<b>Mugga RMC</b>	means the Mugga Lane Resource Management Centre located at Symonston ACT comprising of Blocks 2114 and 2247, District of Jerrabomberra.
<b>Performance Management Framework</b>	means the system for measuring and benchmarking performance referred to in <b>clause 13</b> and further described in <b>Schedule 5</b> .
<b>Performance Measures</b>	means the service levels agreed by the Territory for each Standard Performance Indicator and Minimum Performance Indicator as detailed in <b>Schedule 5</b> .
<b>Personal Information</b>	means personal information as defined in section 8 of the Information Privacy Act, namely, information or an opinion about an identified individual or an individual who is reasonably identifiable: <ol style="list-style-type: none"><li>(1) whether the information is true or not; and</li><li>(2) whether the information or opinion is recorded in a material form or not,</li></ol> but does not include personal health information (as defined in the <i>Health Records (Privacy and Access) Act 1997</i> ) about the individual.
<b>Plans</b>	means each of the plans required pursuant to <b>Item 1 Schedule 3</b> .

<b>Policy</b>	means each of the policies required pursuant to <b>Item 2 Schedule 3</b> .
<b>Prescribed Insurer</b>	means an insurer that is authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia and rated at AA or better by S&P Global or its subsidiaries.
<b>Procurement Act</b>	means the <i>Government Procurement Act 2001</i> .
<b>Related Activity</b>	means: <ol style="list-style-type: none"><li>(1) the operation of each Transfer Station;</li><li>(2) the operation of the Weighbridge at each RMC;</li><li>(3) any other activity or services performed by, or with the authorisation of, the Territory which interface with the Services.</li></ol>
<b>Related Activity Contractor</b>	means any person or entity authorised by the Territory to perform a Related Activity.
<b>Reports</b>	means each of the reports required pursuant to <b>Item 3 Schedule 3</b> .
<b>Reusable Facilities Dataset</b>	has the meaning provided in <b>Schedule 2</b> .
<b>Reusable Items</b>	has the meaning provided in <b>Schedule 2</b> .
<b>Security</b>	has the meaning provided in <b>clause 17.1</b> .
<b>Securities</b>	means shares, units, interests in a partnership, and any other interests which would constitute "securities" as defined under the Corporations Act.
<b>Services</b>	means the services described in <b>Schedule 2</b> .
<b>Services Commencement Date</b>	means the date specified in <b>Item 3 Schedule 1</b> .
<b>Services Term</b>	means the period commencing on the Services Commencement Date and ending on the End Date.
<b>Share Capital Dealing</b>	means any change to (or transfer of) the issued share capital or units in the Contractor or in any holding entity of the Contractor that results in a Change in Control of the Contractor or any holding entity of the Contractor without the Territory's prior written consent.
<b>Specified Personnel</b>	means any person named in <b>Item 4 Schedule 1</b> , or any other employee or agent of the Contractor, who is approved by the Territory from time to time for the purpose of <b>clause 9</b> .
<b>Stand Down Fee</b>	means the fee specified in <b>Item 2 Schedule 4</b> .
<b>Standard Performance Indicator</b>	means a level of performance by the Contractor with respect to the Performance Measures, where the Contractor is

	entitled to the Compliance Threshold as determined under <b>Schedule 5</b> .
<b>Term</b>	means the term specified in <b>Item 2 Schedule 1</b> .
<b>Territory</b>	means, when used: <ol style="list-style-type: none"><li>(1) in a geographical sense, the Australian Capital Territory; and</li><li>(2) in any other sense, the body politic established by section 7 of the <i>Australian Capital Territory (Self-Government) Act 1988</i> (Cth).</li></ol>
<b>Territory Assets</b>	has the meaning provided in <b>Schedule 2</b> .
<b>Territory Documentation</b>	means any and all Documentation (other than Agreement Documentation) including all of the Intellectual Property Rights in that Documentation which is developed outside of the provision of the Services and this Agreement by the Territory or any of its Associates and brought to the provision of the Services by the Territory or any of its Associates.
<b>TPPs</b>	means the Territory Privacy Principles provided for in section 13 and set out in Schedule 1 of the Information Privacy Act.
<b>TPP Code</b>	means a code of practice about information privacy which, having regard to section 21(1) and (3) of the Information Privacy Act, binds an agency that engages the Contractor in the provision of the Services.
<b>Transfer Station</b>	has the meaning provided in <b>Schedule 2</b> .
<b>Transition In Period</b>	means the period commencing on the Commencement Date and ending on the day immediately prior to the Services Commencement Date.
<b>Transition In Plan</b>	means the transition in plan at <b>Attachment C</b> to this Agreement.
<b>Transition Out Period</b>	means the period set out in the Transition Out Plan over which the Contractor must transition out.
<b>Transition Out Plan</b>	means the transition out plan: <ol style="list-style-type: none"><li>(1) prepared by the Contractor in accordance with <b>Item 1.3 Schedule 3</b> and Endorsed by the Territory in accordance with <b>clause 10.3</b>; or</li><li>(2) determined by the Territory pursuant to <b>clause 10.3(8)</b> or <b>clause 10.3(9)</b>.</li></ol>
<b>Use</b>	means, in relation to any Documentation, the accessing, possessing, using, storing, reproducing, communicating to the public, copying, translating, adapting, modifying, customising, and enhancing of that Documentation, and includes the incorporation of that Documentation with other Documentation and the creation of new versions of or derivations from that Documentation.

**Weighbridge** has the meaning provided in **Schedule 2**.

## 1.2 General

In this Agreement, unless the context otherwise requires:

- (1) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any determinations, notifiable instruments or other subordinate legislation issued under that legislation or legislative provision;
- (2) the singular includes the plural and vice versa;
- (3) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (4) a reference to any gender includes all genders;
- (5) a reference to a recital, clause, schedule, annexure or exhibit is to a recital, clause, schedule, annexure or exhibit of or to this Agreement;
- (6) a recital, schedule, annexure or description of the parties forms part of this Agreement;
- (7) a reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions), as amended, novated, supplemented or replaced from time to time;
- (8) a reference to any party to this Agreement, or any other document or arrangement, includes that party's executors, administrators, substitutes, successors and permitted assigns;
- (9) where an expression is defined anywhere in this Agreement it has the same meaning throughout;
- (10) a reference to "dollars" or "\$" is to an amount in Australian currency;
- (11) the word "include" and its derivations are not to be construed as words of limitation; and
- (12) the expression **this Agreement** includes the agreement, arrangement, understanding or transaction recorded in this Agreement.

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## 2. Services

### 2.1 Performance of the Services

The Contractor must provide the Services on and from the Services Commencement Date and for the Services Term in accordance with:

- (1) the provisions of this Agreement including any requirements specified in **Schedule 2**;
- (2) Best Industry Practices;
- (3) all applicable Laws; and
- (4) any reasonable directions made by the Territory from time to time.

### 2.2 Acceptance of risk

Subject to this Agreement, the Contractor:

- (1) accepts all risks of, and associated with, the Services or the Reusable Items including:
  - (a) the demand for or revenue generated from the Services being less than estimated;
  - (b) liability for taxes and the creation or imposition of taxes or imposts, whether or not existing at the date of this Agreement;

- (c) in connection with any Law (as at the date of this Agreement or in the future) including any Change in Law or any new Law, including any requirement to obtain or modify any Approval or the conditions of, delay in obtaining, modifying or refusal of any Approval or the challenge to the validity of any Approval; and
  - (d) in connection with the financing, design, construction, commissioning operation and maintenance of any Contractor's Plant;
- (2) is solely responsible for the cost and conduct of the Services and assumes the risk of all delay, increased costs and any loss it suffers or incurs in relation to the Services;
  - (3) acknowledges that the Territory makes no warranty or representation as to the volume, quality or characteristics of the Reusable Items the Contractor may receive at the Facilities; and
  - (4) is not entitled to and must not make any Claim under this Agreement (including a Claim for an adjustment of part of all of the Contract Prices) against the Territory (or any person acting on the Territory's behalf) arising out of or in connection with any such risk, cost or expense having eventuated or been incurred in connection with the Services or this Agreement.

### **2.3 Contractor plant, equipment and infrastructure**

The Contractor must at its cost provide all management systems, management and technical support services, supervision, employees, materials and equipment and other services, consumables and all other things whether of a temporary or permanent nature which are necessary to provide the Services.

### **2.4 Title to Reusable Items**

The title to, and ownership of, any Reusable Item:

- (1) accepted by the Contractor from a Customer, will transfer from the Customer to the Contractor upon acceptance; or
- (2) removed from the Designated Area by the Contractor, will transfer from the Territory to the Contractor upon removal by the Contractor of the Reusable Item from the Designated Area.

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## **3. Facilities**

### **3.1 Licence of Facilities**

During the Services Term:

- (1) the Contractor may use each Facility for the purpose of providing the Services; and
- (2) the parties agree to be bound by the Licence Conditions in respect of each Facility.

### **3.2 Transition In Period**

During the Transition In Period, the Contractor may access each Facility in consultation with the Territory and the outgoing contractor for the purpose of undertaking transition-in activities under the Transition In Plan.

### **3.3 Use of Facilities by Territory**

- (1) If due to any incident, emergency or unforeseen circumstance, the Territory requires the use of any Facility (or any part of a Facility) for any purpose other than for the provision of the Services, the Territory may:
  - (a) use that Facility (or part of a Facility) for that other purpose; and/or
  - (b) direct the Contractor to, temporarily or permanently, suspend the Services or use another site within the Territory for the purposes of performing certain Services.
- (2) The Territory is not required to obtain the Contractor's consent to use the Facility

as contemplated by **clause 3.3(1)**.

- (3) If, pursuant to **clause 3.3(1)**:
- (a) the Territory directs the Contractor to temporarily suspend its provision of Services at a Facility; and
  - (b) the Territory does not direct the Contractor to use another site within the Territory for the purpose of providing the relevant Services,
- the Contractor will be entitled to payment of the Stand Down Fee for each day that it cannot use the Facility to provide the Services.

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#### **4. Term**

- (1) This Agreement is for the Term unless terminated earlier.
- (2) Subject to **clause 4(3)**, the Territory may extend this Agreement, in its absolute discretion, for a further period of 12 months, on the terms and conditions then in effect, by the Territory providing the Contractor with written notice at least 30 days before the expiry of the Term.
- (3) The Territory may exercise its right to extend the Agreement pursuant to **clause 4(2)** on two occasions.

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#### **5. Contract Price**

Subject to the Contractor providing the Services in accordance with the terms of this Agreement, the Contractor will be entitled to the Contract Price.

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#### **6. Approvals**

The Contractor must at its cost in connection with the Services:

- (1) make (and use reasonable endeavours to progress) in sufficient time to comply with its obligations under this Agreement, every Application for every Approval necessary for the provision of the Services and ensure that each such Approval has been obtained, and is maintained and complied with and where necessary renewed;
- (2) pay all lodgement or other fees in relation to any Application;
- (3) promptly fully and accurately respond to any requests for further information made by any Authority in respect of any Application;
- (4) in sufficient time to comply with its obligations under this Agreement, provide to any relevant Authority and other relevant person all information, assurances, bonds, payments and securities necessary or required by the Authority or that person to evaluate, process, determine, grant, obtain or comply with any necessary Approval;
- (5) upon written request by the Territory, give the Territory copies of all documents (including Approvals and other notices):
  - (a) an Authority issues to it; or
  - (b) it issues to an Authority;
- (6) comply with:
  - (a) the lawful requirements of each Authority to enable proper consideration by the Authority of any Applications for Approvals made;
  - (b) the proper requirements of any relevant person (other than an Authority) to enable proper consideration by that person of Applications made;
  - (c) all lawful terms and conditions of the Approvals issued (whether or not obtained by and issued to the Contractor) and with all lawful directions given by an Authority; and

- (d) all applicable orders, decisions, findings or rulings made by a court, commission or tribunal; and
- (7) provide written notice to the Territory if any amendments are required to any waste facility licence granted under the *Waste Management and Resources Recovery Act 2016* (ACT) and that is held by the Contractor or its Associate in connection with a Facility or the performance of the Services.

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## **7. Ownership of Documentation**

### **7.1 Ownership of Documentation**

- (1) Ownership of:
  - (a) all Agreement Documentation, including any Intellectual Property Rights in that Documentation, vests in the Territory at the time of its creation and at each and every stage of its development and the Contractor irrevocably assigns to the Territory all right, title and interest (including Intellectual Property Rights) in all Agreement Documentation with effect from the time of its creation, development or production;
  - (b) all Territory Documentation, including any Intellectual Property Rights in that Documentation, remains with the Territory;
  - (c) all Educational Documentation, including any Intellectual Property Rights in that Documentation, is not affected by this Agreement; and
  - (d) any Contractor Documentation, including any Intellectual Property Rights in that Documentation, is not affected by this Agreement.
- (2) The Contractor warrants that it owns the Contractor Documentation and the Educational Documentation, or to the extent that it does not, it has the authority to grant the licences in this **clause 7**.

### **7.2 Licence of Documentation**

- (1) The Territory grants to the Contractor a royalty-free, non-exclusive, limited licence (excluding the right to sublicense) to Use the Agreement Documentation and Territory Documentation for the Term to the extent reasonably necessary for the Contractor to undertake the Services or as otherwise agreed by the Territory.
- (2) The Contractor grants to the Territory a royalty-free, non-exclusive, perpetual, limited licence (including the right to sublicense) to Use:
  - (a) the Educational Documentation for the purpose of policy development and waste-related education programs; and
  - (b) the Contractor Documentation for the purpose of the Territory obtaining the full benefit of the Services or for the purpose of exercising its rights under this Agreement.

### **7.3 Third party rights**

The Contractor warrants to the Territory that the Use of any Agreement Documentation, Educational Documentation or Contractor Documentation by the Territory or any person authorised by the Territory as permitted or contemplated by this Agreement will not:

- (1) breach or infringe the Intellectual Property Rights, Moral Rights or other rights of any person; or
- (2) result in, or give rise to, any Liability on the part of the Territory, its Associates or any person nominated or authorised by the Territory to use the material including to pay fees or royalties.

### **7.4 Moral rights**

The Contractor must, in relation to the authors of any work that comprises or forms part of the Agreement Documentation procure from those authors their genuine written consent for the Territory to:

- (1) not attribute the authorship of the author when using the work (including exhibiting or performing the work in or to the public); and/or
- (2) materially alter the work in any way.

#### **7.5 Safekeeping and preservation of Documentation**

The Contractor must ensure the safe-keeping and proper preservation of Agreement Documentation and Territory Documentation in its possession or control and deliver to the Territory all Agreement Documentation and Territory Documentation on the expiration or termination of this Agreement (other than copies of Documentation that the Territory has authorised the Contractor to retain).

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### **8. Territory access to records relating to Services**

- (1) Without limiting the powers of the Territory's Auditor-General under the *Auditor-General Act 1996* the Territory (or its nominated representative) may, at its cost, inspect records and Documentation kept by the Contractor and conduct audits and other checks, to monitor the Contractor's:
  - (a) delivery of the Services and compliance with this Agreement; and
  - (b) financial position, resources and their ability to otherwise continue to deliver the Services for the Term.
- (2) The Contractor must act reasonably to cooperate with persons authorised to conduct an audit or checks and allow the Territory (at the Territory's expense) to take copies of all relevant records.

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### **9. Contractor's personnel and subcontractors**

#### **9.1 Contractor's personnel**

- (1) The Contractor must:
  - (a) in performing the Services, engage only persons who have the skills, training and expertise appropriate for the Services;
  - (b) comply with all reasonable requirements notified by the Territory regarding the suitability and fitness of persons engaged by the Contractor for the performance of Services;
  - (c) ensure the Services are performed by Specified Personnel (if any) and provide replacement personnel acceptable to the Territory at no additional charge and at the earliest opportunity if the Specified Personnel are unable to perform any of the Services; and
  - (d) if the Territory requires, ensure that each person engaged in the performance of the Services executes a deed of confidentiality in a form acceptable to the Territory (including with respect to not accessing or otherwise safeguarding Personal Information as applicable), and provide those executed deeds to the Territory in accordance with any requirements that the Territory notifies.
- (2) The obligations, duties and liabilities of the Contractor under this Agreement are unaffected by the fact that the Contractor contracts for the performance of any service, work or other activity by a subcontractor and the Contractor is at all times fully responsible to the Territory for the provision of the Services and all other services, works or other activities or obligations under this Agreement irrespective of whether the Services or other works, activities or obligations under this Agreement are provided by the Contractor or its Associates and must ensure that the Contractor's Associates involved in performing any part of the Services fully comply with the Contractor's obligations under this Agreement and do not (by act or omission) cause the Contractor to be in breach of this Agreement.
- (3) Except where this Agreement otherwise provides, the Contractor will be liable to the Territory for the acts, defaults, omissions and negligence of any employees of the Contractor, any employees of any of the Contractor's Approved

Subcontractors, and any agents of the Contractor or the Approved Subcontractors as if they were those of the Contractor.

## 9.2 Subcontracting

- (1) Subject to **clause 9.2(2)**, the Contractor must not subcontract the performance of any material aspect of the Services without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.
- (2) In seeking the Territory's consent to a subcontracting arrangement pursuant to **clause 9.2(1)**, the Contractor must provide the Territory with:
  - (a) details of the Services to be performed by the proposed subcontractor;
  - (b) details of the capability and capacity of the proposed subcontractor to provide the Services proposed to be performed by it; and
  - (c) any other information reasonably requested by the Territory.
- (3) The parties acknowledge and agree that the Territory has provided its consent to each Approved Subcontractor carrying out those Services within the applicable Approved Scope.
- (4) The Contractor must ensure that at all times during the Term it maintains an agreement with each Approved Subcontractor which includes obligations on the Approved Subcontractor that are consistent with the Contractor's obligations to the Territory under **clauses 8 and 15**.
- (5) The Contractor acknowledges that any consent given by the Territory under this **clause 9.2** does not release the Contractor from any of its obligations under this Agreement and that the Contractor will be liable to the Territory for the acts, defaults, negligence or omissions of its Approved Subcontractors as if they were acts or omissions of the Contractor.

## 9.3 Co-operation with Related Activity Contractors

- (1) The Contractor must:
  - (a) co-operate and liaise with the Related Activity Contractors to manage any interface between any part of the Services and the Related Activities;
  - (b) coordinate the performance of the Services with the performance of the Related Activities to avoid or minimise any impacts on the performance of the Related Activities;
  - (c) ensure that the performance of the Services does not delay, impede, disrupt, restrict or interfere with the performance of the Related Activities;
  - (d) ensure no damage is caused to any property or works of any Related Activity Contractor;
  - (e) provide documents, information and assistance as required for the purposes of coordinating the performance of the Related Activities and Services; and
  - (f) attend meetings with those involved in performing Related Activities as required to coordinate the performance of the Related Activities and Services.
- (2) The Territory will be responsible for determining any dispute between the Contractor and any Related Activity Contractor.

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## 10. Plans, Policies, Reports and meetings

### 10.1 Endorsement

- (1) If a document, policy, plan or system is 'Endorsed' by the Territory:
  - (a) the Territory is merely acknowledging that that document, policy, plan or system will be used by the Contractor under this Agreement;

- (b) the Contractor must not amend the document, policy, plan or system without further Endorsement from the Territory; and
  - (c) the parties may use the document, policy, plan or system as Endorsed as one basis for auditing and monitoring performance by the Contractor under this Agreement subject to any other requirements of this Agreement and any conditions of the Endorsement.
- (2) The Territory has no liability for, arising from, or in connection with, the Endorsement of a document, plan or system and anything the Contractor does or does not do under or in accordance with that document, plan or system is entirely at the risk of the Contractor.
  - (3) The Endorsement of a document:
    - (a) is not a representation or admission that the document, policy, plan or system is adequate, complete, correct, reliable or that it has any other characteristic;
    - (b) does not impose or create any duty, liability or obligation on the Territory;
    - (c) does not waive, prejudice or limit the Territory's rights, powers or privileges; and
    - (d) does not affect, limit, alter, release or reduce the obligations, duties, liabilities or responsibilities of the Contractor under this Agreement in any way.
  - (4) An Endorsed document does not form part of this Agreement.
  - (5) The Territory may:
    - (a) Endorse a document subject to conditions;
    - (b) refuse to Endorse a document; or
    - (c) vary or withdraw its Endorsement of a document.

## 10.2 Contractor's Plans and Policies

- (1) The Contractor must prepare, implement and comply with its Plans and Policies for the provision of the Services.
- (2) The Plans and Policies must:
  - (a) address the matters required by **Schedule 3**;
  - (b) be consistent with all applicable Laws; and
  - (c) where applicable, be of a standard favourably comparable with Best Industry Practice.
- (3) The Contractor acknowledges and agrees that its compliance with the Plans and Policies will not release or discharge it from compliance with its obligations under this Agreement.

## 10.3 Endorsement of Plans and Policies

- (1) Within the timeframe specified in **Schedule 3**, the Contractor must prepare and submit to the Territory a copy of each Plan and Policy.
- (2) The Territory must either:
  - (a) give written notice to the Contractor Endorsing a Plan or Policy submitted to it under **clause 10.1(1)**; or
  - (b) if the Territory reasonably considers that any of a Plan or Policy (or components of a Plan or Policy) do not comply with the requirements of this Agreement, give notice to the Contractor within 10 Business Days of receipt of the relevant Plan or Policy specifying the areas of non-compliance.
- (3) If the Territory gives a notice under **clause 10.3(2)(b)**, the Contractor must:

- (a) amend the relevant Plan or Policy or component to address the matters identified in that notice; and
  - (b) within 10 Business Days of the notice re-submit the amended Plan or Policy or component of a Plan or Policy to the Territory.
- (4) The provisions of **clauses 10.3(2)** and **10.3(3)** will apply to any re-submitted Plan or Policy or components of a Plan or Policy as if they were the Plan or Policy or component of a Plan or Policy originally submitted under **clause 10.3(1)**.
- (5) The provision of comments or Endorsement by the Territory or any of those persons not providing comments or refusing to provide Endorsement in relation to:
  - (a) a Plan or Policy under **clause 10.3(2)**; or
  - (b) an update to an Endorsed Plan or Endorsed Policy under **clause 10.3(3)**,does not limit the obligations or potential liability of the Contractor or rights of the Territory.
- (6) Subject to **clause 10.3(8)** and **clause 10.3(9)**, where a Plan or Policy is resubmitted in accordance **clause 10.3(4)** on three occasions (or for the Transition Out Plan, on two occasions) and the Territory has not Endorsed the Plan or Policy, either party may treat the matter as a Dispute in accordance with **clause 26**.
- (7) Where the parties come to an agreement in respect of the Plan or Policy during the dispute resolution process under **clause 26**, the Plan or Policy (as applicable) will be taken to be Endorsed by the Territory for the purpose of this **clause 10.3**.
- (8) Where the Transition Out Plan is the subject of a Dispute Notice issued pursuant to **clause 26.1** and the parties do not come to a resolution through the dispute resolution process, the Territory may, acting reasonably, determine the Transition Out Plan which is to apply for the purpose of **clause 22**.
- (9) Where the Territory has issued a termination notice to the Contractor and:
  - (a) the Contractor has failed to submit the Transition Out Plan in accordance with **Item 1.3 Schedule 3**; or
  - (b) the Territory does not Endorse the Transition Out Plan submitted by the Contractor pursuant to **Item 1.3 Schedule 3**,the Territory may, acting reasonably, determine the Transition Out Plan which is to apply for the purpose of **clause 22**.

#### 10.4 Updating Plans

- (1) The Contractor must throughout the Term in the performance of the Services implement continuous improvements, adopt systems, invest in technology and introduce efficiency measures consistent with good industry practice, to at least the standard common to providers of similar services in Australia.
- (2) The Contractor must review and update the Plans at least every 12 months during the Term (**Review Period**), and at such other times upon the request of the Territory, to take into account:
  - (a) deficiencies or omissions in the Plans of which the Contractor or the Territory becomes aware;
  - (b) improvements in the Plans;
  - (c) as necessary to reflect any change in Law;
  - (d) any changes to the Contractor's organisational structure or operating environment; and
  - (e) as necessary to reflect any change in Territory policy or business processes relevant to the Services.

- (3) The Contractor must submit a copy of each updated Plan to the Territory for Endorsement in accordance with **clause 10.3**, within 20 Business Days of each Review Period or request from the Territory pursuant to **clause 10.4(2)**.

#### **10.5 Updating Policies**

- (1) The Contractor may review and update a Policy where permitted under **Item 2 Schedule 3**.
- (2) The Contractor must submit a copy of any updated Policy to the Territory for Endorsement in accordance with **clause 10.3**.
- (3) The Contractor must not implement a Policy until the Policy is Endorsed by the Territory.

#### **10.6 Reports**

- (1) The Contractor must prepare and submit each Report in accordance with the relevant timeframes and requirements set out in **Item 3 Schedule 3**.
- (2) If required by the Territory, the Contractor must update and resubmit a Report to the Territory:
  - (a) to ensure that the Report contains complete and accurate information in respect of the relevant aspects of the Services;
  - (b) as necessary to reflect any changes to the nature, understanding or status of the Services; or
  - (c) as necessary to reflect any change in Law.
- (3) The Contractor must comply with any reasonable request of the Territory in relation to the format in which any Report is submitted to the Territory.

#### **10.7 Meetings**

- (1) The Contractor must attend and participate in meetings with the Territory arranged at the times set out in **Item 4 Schedule 3**.
- (2) The Contractor must attend meetings, whether virtually or in person, in addition to those specified in **clause 10.7(1)** where reasonably requested by the Territory.

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### **11. WHS obligations**

#### **11.1 Definitions**

Unless the context otherwise requires, in this **clause 11**, 'WHS Legislation' means:

- (1) the *Work Health and Safety Act 2011*;
- (2) the *Work Health and Safety Regulation 2011*;
- (3) all instruments issued under the *Work Health and Safety Act 2011* and the *Work Health and Safety Regulation 2011*;
- (4) all laws that replace the above laws; and
- (5) all other laws applicable in the Territory dealing with work health and safety matters, and

#### **11.2 WHS obligations**

- (1) The obligations set out in this Agreement do not detract from the Contractor's obligations under the WHS Legislation. If there is an inconsistency between this Agreement and the WHS Legislation, the Contractor must comply with the WHS Legislation and inform the Territory of the inconsistency.
- (2) The Contractor must:
  - (a) comply with the WHS Legislation and ensure all work is carried out safely and in a manner that does not put the health and safety of persons at risk;

- (b) exercise a duty of utmost good faith to the Territory in carrying out the work under this Agreement to enable the Territory to discharge the Territory's duties under the WHS Legislation;
  - (c) systematically manage its work health and management processes in accordance with the systems, plans, standards and codes specified in this Agreement and the WHS Legislation; and
  - (d) comply with its duty under the WHS Legislation to consult, cooperate and coordinate activities with all persons who have a work health and safety duty in relation to the same matter.
- (3) The Contractor must:
- (a) institute and maintain systems to obtain regular written assurances from all subcontractors and other entities engaged to perform Services about their ongoing compliance with the WHS Legislation, including the due diligence obligation contained in the WHS Legislation; and
  - (b) provide the written assurances obtained under **clause 11.2(3)(a)**, together with written assurances from the Contractor about the Contractor's ongoing compliance with WHS Legislation, to the Territory when requested.
- (4) The Contractor must provide the Territory with a written report on all work health and safety matters referable to the conduct of the Services, or any other relevant matters required by the Territory including a summary of the Contractor's compliance with the WHS Legislation, at least once per month, and at other times as requested.
- (5) The Contractor must ensure that if any law requires that a person:
- (a) be authorised or licensed (in accordance with WHS Legislation) to carry out any work at a workplace, the person is so authorised or licensed and complies with any conditions of such authorisation or licence; or
  - (b) has prescribed qualifications or experience, or if not, is supervised by a person who has prescribed qualifications or experience (as defined in the WHS Legislation), that person has the required qualifications or experience or is so supervised.
- (6) The Contractor must ensure that if any law requires that a workplace, plant or substance, design, or work (or class of work) be authorised or licensed, that workplace, plant or substance, design or work is so authorised or licensed.
- (7) The Contractor must not direct or allow a person to carry out work, or use plant or a substance at a workplace unless the authorisation, licensing, prescribed qualifications or experience required by any law and **clauses 11.2(5) and 11.2(6)** are met.
- (8) If requested by the Territory or required by WHS Legislation, the Contractor must produce evidence of any approvals including any authorisations, licences, prescribed qualifications or experience, or any other information relevant to work health and safety (as the case may be) to the satisfaction of the Territory before the Contractor or any subcontractor commences such work.
- (9) If the Territory reasonably considers that a risk of injury to people or damage to property is arising or likely to arise from the activities of the Contractor (or any of its subcontractors) the Territory may direct the Contractor (or the relevant subcontractor) to change its manner of working or cease working and the Contractor or subcontractor must comply.
- (10) The Territory may take any action necessary to protect property or to prevent or minimise risk to health and safety of persons, which the Contractor must take but does not and the Territory may recover any costs associated with such action from the Contractor.

- (11) The Contractor must demonstrate to the Territory, whenever requested, that the Contractor has met and is meeting at all times, its obligations under this Item but such demonstration does not relieve the Contractor of its primary obligation to perform work safely.

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## 12. Secure Local Jobs Code

### 12.1 Definitions

For the purpose of this **clause 12**, the following definitions apply:

- (1) **Adverse Ruling** means a ruling by any court, tribunal, board, commission or other entity (including but not limited to the Fair Work Commission) with jurisdiction to determine the matter, that the Contractor or one of its Associated Entities has contravened an Industrial Law;
- (2) **Applicable Subcontractor Work** means works or services that would, if provided to a Territory Entity, be Territory-Funded Work;
- (3) **Approved Auditor** has the meaning as set out in the Procurement Act;
- (4) **Associated Entity** has the meaning given by section 50AAA of the Corporations Act;
- (5) **Code** means the Secure Local Jobs Code made under the Procurement Act;
- (6) **Full Details** means:
  - (a) the nature of the Adverse Ruling;
  - (b) any conviction recorded or adverse finding made in respect of the Adverse Ruling;
  - (c) any penalty or orders imposed by a court, tribunal, board, commission or other entity in respect of the Adverse Ruling and the maximum penalty that could have been imposed under the relevant Industrial Law;
  - (d) the name of the court, tribunal, board, commission or other entity, the jurisdiction in which the proceeding or prosecution was brought, the date on which the proceeding or prosecution commenced and the number or description assigned to the proceeding or prosecution by the court, tribunal, board, commission or other entity;
  - (e) the name of the entity against which the Adverse Ruling was made; and
  - (f) any other relevant information that the Contractor may rely on as grounds for not terminating this Agreement as a result of the Adverse Ruling;
- (7) **Industrial Law** means any Commonwealth, State or Territory legislation that deals with matters relating to industrial relations and includes employment and workplace safety obligations;
- (8) **Labour Relations, Training and Workplace Equity Plan** has the meaning as set out in the Procurement Act;
- (9) **Registrar** has the meaning as set out in the Procurement Act;
- (10) **Secure Local Jobs Code Certificate** has the meaning as set out in the Procurement Act;
- (11) **Territory Entity** has the meaning as set out in the Procurement Act; and
- (12) **Territory-Funded Work** has the meaning as set out in the Procurement Act.

### 12.2 Contractor's Secure Local Jobs responsibilities

- (1) The Contractor must comply with all of its obligations under the Code.
- (2) The Contractor must maintain a valid Secure Local Jobs Code Certificate during the Term.

- (3) Where the Contractor breaches **clause 12.2(2)**, the Territory may terminate this Agreement upon providing written notice to the Contractor.
- (4) If at any time during the Term, an Adverse Ruling is made, the Contractor must, within 7 Business Days of the making of the Adverse Ruling, provide a statutory declaration by an authorised representative of the Contractor setting out the Full Details of the Adverse Ruling and (if applicable) any existing or planned remedial measures taken or to be taken to prevent a contravention, breach or offence similar to the contravention, breach or offence on which the Adverse Ruling is based from recurring.
- (5) The Contractor must provide the Territory with a statutory declaration in a form approved by the Territory regarding its compliance with the Code:
  - (a) within 5 Business Days of a written request from the Territory; and
  - (b) if requested in writing by the Territory, at the time the Contractor provides an Invoice.
- (6) Failure of the Contractor to provide a statutory declaration in accordance with **clause 12.2(5)** or the making of a false statement in a statutory declaration by the Contractor or its representative will constitute a breach of this Agreement.
- (7) If the Contractor fails to provide a statutory declaration in accordance with **clause 12.2(5)(b)** the Territory may withhold payment of monies otherwise due to the Contractor in respect of the relevant Invoice until the statutory declaration is received.
- (8) The Territory may require that Contractor conduct face-to-face induction sessions with employees at the commencement of Territory-Funded Work or commencement of employment in relation to Territory-Funded Work.
- (9) The Territory may require a union workplace delegate or employee representative to attend staff induction sessions held by the Contractor except in circumstances where attendance would result in a conflict with Commonwealth laws.
- (10) The Contractor must, at all reasonable times, allow the Territory, Registrar or person nominated by the Territory or Registrar to enter the Contractor's worksite where the Territory-Funded Work is being performed in order to undertake education and awareness raising activities in relation to the Code. A person may not be nominated by the Territory or Registrar under this **clause 12.2(10)** in circumstances where entry would result in a conflict with Commonwealth laws.
- (11) Without limiting the powers of the Territory's Auditor-General under the *Auditor-General Act 1996* (ACT), the Territory (or nominated representative) and Approved Auditors may, at the Territory's cost, access records kept by the Contractor or its subcontractors and conduct audits and other reviews and checks, to monitor the delivery of the Services and compliance with this Agreement and the Code, except in circumstances where a nomination would result in a conflict with Commonwealth laws.
- (12) If the Contractor was required to submit a Labour Relations, Training and Workplace Equity Plan as part of its tender for the Services:
  - (a) the Contractor must implement its commitments set out in its Labour Relations, Training and Workplace Equity Plan;
  - (b) the Contractor must report to the Territory on its compliance with **clause 12.2(12)(a)** quarterly during the Term;
  - (c) the Contractor must attend any meetings scheduled by the Territory to review its progress in implementing its commitments set out in the Labour Relations, Training and Workplace Equity Plan; and
  - (d) failure to comply, in whole or in part, with the commitments contained in any Labour Relations, Training and Workplace Equity Plan may be taken into

account in the award of future contracts for Territory Entities and/or the granting of future Secure Local Jobs Code Certificates by the Registrar.

### 12.3 Subcontractors performing Territory-Funded Work

- (1) The Contractor must, in relation to any subcontractors engaged to perform Territory-Funded Work:
  - (a) ensure terms are included in the agreement with the subcontractor:
    - (i) requiring the subcontractor to comply with the Code; and
    - (ii) imposing obligations on the subcontractor in the same form as those set out in **clause 12** and imposed on the Contractor (subject to any necessary variation to reflect the different parties);
  - (b) ensure:
    - (i) the subcontractor holds a Secure Local Jobs Code Certificate; and
    - (ii) the subcontractor maintains a Secure Local Jobs Code Certificate during the term of their agreement; and
    - (iii) the obligations in **clause 12.3(1)(b)(i)** and **clause 12.3(1)(b)(ii)** are included in the relevant agreement with the subcontractor.
- (2) The Territory may by written notice request the Contractor obtain a statutory declaration from a subcontractor engaged to perform Applicable Subcontractor Work regarding its compliance with the Code and provide it to the Territory within 15 Business Days of the date of the written notice. The Contractor must use its reasonable endeavours to ensure the subcontractor supplies the declaration to the Territory in accordance with this **clause 12.3(2)**.
- (3) The Territory (or nominated representative) and Approved Auditors may, at the Territory's cost, access records kept by subcontractors engaged to perform Applicable Subcontractor Work and conduct audits and other reviews and checks, to monitor compliance with this clause and the Code, except in circumstances where a nomination would result in a conflict with Commonwealth laws.

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## 13. Performance Management Framework

### 13.1 Key Performance Indicators

The purpose of the Key Performance Indicators is to measure the Contractor's performance throughout the Term.

### 13.2 Change to Key Performance Indicators

- (1) The Territory's Representative may from time to time review and by written notice to the Contractor propose changes to the Key Performance Indicators or new Key Performance Indicators.
- (2) Upon the Contractor's receipt of such proposal, the parties may by written agreement subsequently amend the Key Performance Indicators in any way, including creating new Key Performance Indicators.

### 13.3 Measuring performance

Each calendar month the Territory will review the performance of the Contractor against the agreed Key Performance Indicators and determine the Compliance Threshold under **Schedule 5**, and notify the Contractor of the Compliance Threshold in its monthly reporting.

### 13.4 Action Plan

- (1) If in any month during the Term the Contractor has not complied with an obligation under this Agreement, including in failing to meet a Minimum Performance Indicator as specified in the Performance Management Framework, then:

- (a) the Territory's Representative may, instead of or in addition to exercising the Territory's rights under **clause 13.3**, give the Contractor a notice (**Action Request**) which:
    - (i) must state that it is a request for an Action Plan under this **clause 13.4**;
    - (ii) requires that the Contractor submit an Action Plan to the reasonable satisfaction of the Territory's Representative, within 5 Business Days of receipt of the Action Request, which plan contains a description of the steps that the Contractor will take to ensure that the non-performance or non-compliance will not be repeated, and at a minimum includes the information specified in **clause 13.4(2)**; and
  - (b) if the Territory's Representative gives the Contractor an Action Request then the Contractor must comply with it.
- (2) The Action Plan must at a minimum include the following details:
- (a) the performance failure or non-compliance to which the Action Request relates;
  - (b) an explanation as to why the Contractor failed to meet the performance requirements of the Service or Agreement obligations;
  - (c) a proposal to remedy the performance failure or non-compliance, including:
    - (i) background and causes of the non-compliance;
    - (ii) action proposed;
    - (iii) progress indicators;
    - (iv) detailed timeline;
    - (v) expected outcome; and
    - (vi) success criteria and indicators.
- (3) If the Territory's Representative notifies the Contractor that it is satisfied that the Action Plan submitted under **clause 13.4(1)** includes the information required by **clause 13.4(1)** and **13.4(2)**, then the Contractor must fully implement and comply with that Action Plan.
- (4) If the Territory's Representative notifies the Contractor that it is not satisfied that the Action Plan submitted under **clause 13.4(1)** includes the information required by **13.4(1)** and **13.4(2)**, then the Contractor must promptly and in accordance with any directions of the Territory's Representative, review and correct the Action Plan and resubmit it to the Territory's Representative and **clauses 13.4(3)** and **13.4(4)** shall reapply.

### **13.5 The Territory's rights not affected**

The parties acknowledge and agree that:

- (1) the application of the Performance Management Framework, including any adjustment to the Disposal Threshold or the requirement for the preparation and implementation of an Action Plan under **clause 13.4**, in relation to poor performance or non-performance by the Contractor will not limit or waive the Territory's rights under **clause 20** or any other provisions of this Agreement in relation to such poor performance or non-performance; and
- (2) the reductions or increases in the Disposal Threshold through the application of the Performance Management Framework do not limit the Territory's rights to recover damages from the Contractor for a failure to comply with this Agreement.

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## 14. Privacy

The Contractor must:

- (1) comply with the TPPs and any applicable TPP Code and must not, and must procure that its Associates do not, act or engage in a practice that breaches a TPP or applicable TPP Code;
- (2) co-operate with any reasonable requests or directions of the Territory arising directly from, or in connection with, the exercise of the privacy functions of the information privacy commissioner under the Information Privacy Act;
- (3) promptly notify the Territory of any complaint the Contractor becomes aware of which alleges an interference with the privacy of an individual in connection with the Services (**Complaint**); and
- (4) keep the Territory informed of any action taken in relation to the Complaint.

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## 15. Confidential Information

### 15.1 Non-disclosure of Confidential Information

- (1) (**Non-disclosure**): Other than as set out further in this **clause 15** or as permitted under this Agreement, the parties must not disclose any Confidential Information of the other party without the prior written consent of the other party.
- (2) (**Permitted disclosures**): **Clause 15** does not apply to:
  - (a) the Territory to the extent that the disclosure of Confidential Information is:
    - (i) required or authorised to be disclosed under Law;
    - (ii) reasonably necessary for the enforcement of the criminal law;
    - (iii) disclosed to the Territory's solicitors, auditors, insurers or advisers;
    - (iv) generally available to the public;
    - (v) in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;
    - (vi) disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees;
    - (vii) disclosed to the ombudsman or for a purpose in relation to the protection of public revenue; or
    - (viii) is disclosed to the ACT integrity commissioner; and
  - (b) the Contractor in relation to:
    - (i) a disclosure of Confidential Information where such disclosure is necessary to comply with the rules of the Australian Securities Exchange or otherwise required by Law provided the Contractor first consults with the Territory in relation to any disclosure and unless prohibited by Law from doing so, complies with any reasonable request of the Territory in relation to the disclosure;
    - (ii) a disclosure of Confidential Information to its professional advisers, its auditors or its Associates where such disclosure is necessary and is made in circumstances where the adviser, auditor or Associate receiving the information is under an express duty to maintain the confidential nature of the Confidential Information proposed to be disclosed;
    - (iii) a disclosure of Confidential Information to an Approved Subcontractor to the extent that it needs to know and provided that the Approved Contractor only uses the Confidential Information for the purposes performing the Services subcontracted to it and the Contractor has an

agreement with the Approved Subcontractor which satisfies **clause 9.2(3)**; and

(iv) Confidential Information which is generally available to the public.

## **15.2 Use and protection of Confidential Information**

- (1) **(Use)**: The Contractor must only use Confidential Information of the Territory held in connection with this Agreement for the purposes of fulfilling its obligations under this Agreement.
- (2) **(Protection)**: Each party must take all reasonable measures to ensure that Confidential Information of the other party accessed or held by it in connection with this Agreement is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and that only its authorised personnel have access to Confidential Information.
- (3) **(Contractor's Associates)**: The Contractor must do all things necessary to ensure that Confidential Information accessible to the Contractor and its Associates by virtue of the performance of this Agreement is not accessed, published or communicated in any way, including imposing upon the Contractor's Associates obligations of confidentiality with respect to Confidential Information.

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## **16. Confidential Text under Procurement Act**

### **16.1 Territory may make Agreement publicly available**

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under Law, to keep the information confidential. In accordance with those principles, this Agreement may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Agreement available to the public, including by publication on a public contracts register.

### **16.2 Confidential Text**

If **Item 6 Schedule 1** states that this Agreement is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in **Item 7 Schedule 1**, and **clause 16.3** applies.

### **16.3 Territory must not disclose Confidential Text**

Except as provided in this Agreement, the Territory must not disclose Confidential Text to any person without the prior written consent of the Contractor (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under Law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;
- (6) is disclosed by or to the responsible Minister or in reporting to, or following a request from, the Legislative Assembly or its committees;
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue; or
- (8) is disclosed to the ACT integrity commissioner.

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## **17. Security**

### **17.1 General**

Within 15 Business Days after the Commencement Date, the Contractor must provide to the Territory security in the amount set out in **Item 8 Schedule 1 (Security)**, for the purpose of ensuring the due and proper performance of the Contractor's obligations under this Agreement, including the Licence Conditions (if applicable) and an obligation to pay money.

### **17.2 Form of Security**

The Security must be:

- (1) an irrevocable and unconditional undertaking to pay on demand on terms approved in writing by the Territory with no expiry date; and
- (2) provided by the Territory office of an Australian bank or financial institution approved in writing by the Territory.

### **17.3 Recourse to Security**

- (1) The Territory may call on, or otherwise have recourse to, any or all of the Security at any time, without notice to the Contractor, in respect of:
  - (a) any debt or other moneys due from the Contractor to the Territory; or
  - (b) any claim to money which the Territory has, or may have, against the Contractor whether for damages (liquidated or unliquidated) or otherwise,whether under this Agreement or otherwise in connection with the Services, the Facilities or this Agreement.
- (2) The Contractor is not entitled to, and must not seek, an injunction against either the Territory or the issuer of any Security (if applicable) preventing a demand or payment under the security (whether the demand extends to the whole of the security or part thereof) or the use to which the proceeds of such a demand can be put.
- (3) The exercise by the Territory of any of its powers and rights under this clause will not prejudice or affect any other right or entitlement which the Territory is entitled to claim under this Agreement or at law.

### **17.4 Reinstatement of Security**

If the Territory demands and has recourse to the Security, then no later than 10 Business Days after the Territory gives the Contractor a notice asking for it, the Contractor must deliver to the Territory a replacement or additional security so that the total held by the Territory equals the amount stated in **Item 15 Schedule 1**.

### **17.5 Release of Security**

Within 60 Business Days after the End Date, and provided the Contractor has duly and punctually performed all of its obligations under this Agreement, the Territory will release any unused portion of the Security to the Contractor.

### **17.6 Trusts and interest**

The Territory:

- (1) shall not be obliged to pay the Contractor interest on:
  - (a) the amount of the Security; or
  - (b) the proceeds of the Security if it is converted to cash; and
- (2) does not hold the proceeds or the Security on trust for the Contractor.

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## 18. Indemnity

### 18.1 General indemnity

The Contractor indemnifies the Territory from and against any Claim or Liability suffered or incurred by the Territory or any of its Associates in connection with:

- (1) any damage to the Facilities;
- (2) any harm to the Environment;
- (3) any loss or damage to or of property, including any real or personal property and including property belonging to the Territory or its Associates;
- (4) any injury to, illness or death of, any person; or
- (5) any third party actions brought against the Territory or its Associates,

to the extent caused or contributed to by the Contractor or any of its Associates in connection with the Services or the Contractor's use of the Facilities.

### 18.2 Limit on Contractor's indemnity

The Contractor's liability to indemnify the Territory and its Associates in accordance with this Agreement will be reduced to the extent that any such Claim or Liability is caused or contributed to by:

- (1) any breach by the Territory of this Agreement;
- (2) any fraudulent, negligent, reckless, unlawful or malicious act or omission of the Territory or any of its Associates.

### 18.3 Continuing obligation

- (1) Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the parties.
- (2) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity under this Agreement.

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## 19. Insurance

### 19.1 Insurance requirement

The Contractor must effect and maintain during the Term and for any prudent run-off period:

- (1) the insurances set out in **Item 5 Schedule 1** (if any); and
- (2) all insurance which a prudent owner and operator would maintain when undertaking works or carrying out activities of a similar nature to the Services,

collectively referred to as **Insurances**.

### 19.2 General insurance requirements

The Contractor must:

- (1) effect all Insurances with Prescribed Insurers;
- (2) punctually pay all premiums and other amounts payable in connection with the Insurances, and give the Territory confirmation to the reasonable satisfaction of the Territory of payment of premiums if and when requested by the Territory;
- (3) not alter, extend, discontinue or cancel any Insurance, or allow any Insurance to lapse, where this would result in the relevant Insurance not meeting the requirements of this Agreement, without the prior written approval of the Territory;
- (4) not do or permit, or omit to do, anything which prejudices any Insurance;
- (5) promptly rectify anything which might, if not rectified, prejudice any Insurance;
- (6) fully and promptly disclose all material information to all relevant insurers (and any persons acting on their behalf) relating to the Insurances;

- (7) comply at all times, with the terms of each Insurance; and
- (8) do everything reasonably required by the Territory or its Associates to whom the benefit of such Insurance extends, to enable the Territory or its Associates (as the case may be) to claim, and to collect or recover, money due under that Insurance.

### 19.3 Indemnity not effected by Insurances

- (1) The Territory is not obliged to make a claim or institute proceedings against any insurer under the Insurances before enforcing any of its rights or remedies under the indemnities referred to in this Agreement or generally.
- (2) The Contractor is not relieved from and remains fully responsible for its obligations under this Agreement regardless of whether the Insurances respond or fail to respond to any claim and regardless of the reason why any Insurance responds or fails to respond.

### 19.4 Notification and making of claims

The Contractor:

- (1) must promptly notify the Territory of any occurrence that may give rise to a claim in connection with the Services under any Insurances except where an insured's right of indemnity under the relevant Insurances would be prejudiced by giving such notice;
- (2) must keep the Territory informed of subsequent developments concerning the occurrence under **clause 19.4(1)**; and
- (3) must diligently pursue any claim which it has under any Insurances which has arisen in connection with the Services.

### 19.5 Evidence of Insurances

Whenever reasonably requested by the Territory, the Contractor must give the Territory evidence satisfactory to the Territory that the Insurances have been effected and continue to be maintained in accordance with this Agreement to enable the Territory to satisfy itself that all of the Insurance requirements under this Agreement are being complied with.

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## 20. Default

### 20.1 Events of Default

For the purposes of this **clause 20** and **clause 21.3**, each of the following is a '**Default Event**':

- (1) **(breach)**: the Contractor fails to perform or observe any of its obligations under this Agreement;
- (2) **(breach of Licence Conditions)**: the Contractor breaches any of the Licence Conditions;
- (3) **(failure to comply with any Plan)**: the Contractor fails to comply with any Plan Endorsed by the Territory;
- (4) **(failure to meet KPIs)**: the Contractor fails to meet a KPI in two consecutive months or on three separate occasions;
- (5) **(Insolvency Event)**: subject to the *Corporations Act 2001* (Cth), an Insolvency Event occurs in relation to the Contractor;
- (6) **(breach of Law)**: the Territory is satisfied on reasonable grounds that the Contractor is non-compliant with any Law;
- (7) **(representations and warranties)**: a representation or warranty given by the Contractor under this Agreement is found to be materially incorrect or misleading or a financial audit report discloses fraudulent, false, misleading or negligent reporting by the Contractor in respect of any financial statements or invoices or other books or records of the Contractor;

- (8) **(fraud)**: the Contractor engages in fraud, collusion or dishonest conduct in performing its obligations under the Agreement;
- (9) **(assignment, transfer or disposal)**: the Contractor assigns, transfers or otherwise disposes of any of its right, title or interest in or under this Agreement other than in accordance with this Agreement.

## 20.2 Default Notice

- (1) If a Default Event occurs the Territory may give the Contractor notice in writing:
  - (a) stating that a Default Event has occurred;
  - (b) identifying and providing details of the Default Event; and
  - (c) if the Default Event:
    - (i) is capable of remedy, stating a reasonable date by which the Contractor must remedy the Default Event;
    - (ii) is not capable of remedy, stating any reasonable requirements of the Territory in connection with that Default Event to overcome the consequences of the Default Event and a reasonable date by which the Contractor must comply with those requirements; or
    - (iii) is not capable of remedy, and the Territory has formed the view (acting reasonably) that there are no reasonable requirements that can be met by the Contractor to overcome the consequences of, or compensate the Territory for, a Default Event, a statement to that effect along with its reasons for forming that view.
- (2) If the Contractor considers, in good faith, that:
  - (a) the time stated in a Default Notice (or any other requirements of the Default Notice) is not reasonable; or
  - (b) it does not agree with the Territory's view stated in the Default Notice that there are no reasonable requirements that can be met by the Contractor to overcome the consequences of, or compensate the Territory for, the Default Event,

it must promptly notify the Territory including the reasons why and the time which it believes is reasonably required to remedy the Default Event or comply with any reasonable requirements of the Territory or overcome the consequences of, or compensate the Territory for, the Default Event.
- (3) The Territory must in good faith consider any notice issued by the Contractor pursuant to **clause 20.2(2)** and:
  - (a) may make any changes to the Default Notice that it considers reasonable as a consequence of the Contractor's notice; and
  - (b) must notify the Contractor of such changes (if any).

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## 21. Termination

### 21.1 Termination for convenience or reduction of Services

- (1) The Territory may:
  - (a) at any time, for its convenience, and for any reason, terminate this Agreement or reduce the Services for any reason by giving the Contractor not less than 60 Business Days' notice; and
  - (b) thereafter, at its absolute discretion, undertake any uncompleted part of the Services either itself or by engaging others to do so.
- (2) Termination of this Agreement for convenience or reduction of the Services will take effect upon the date specified in the notice given under **clause 21.1** and the Territory will be liable to the Contractor only for:

- (a) payments under this Agreement for Services rendered before the date of termination; and
  - (b) any reasonable costs incurred by the Contractor and directly attributable to the termination or reduction of Services, but not in respect of loss of prospective profits.
- (3) On receipt of a notice of termination or reduction, the Contractor must:
- (a) stop work as specified in the notice;
  - (b) take all available steps to minimise loss resulting from that termination or reduction of Services; and
  - (c) continue to perform any part of the Services not affected by the notice.

## 21.2 Termination for Force Majeure

- (1) If a Force Majeure Termination Event occurs (or is deemed to have occurred) and its effects are subsisting then either party may terminate this Agreement by giving written notice to the other party.
- (2) Termination of this Agreement for a Force Majeure Termination Event will take effect upon the date specified in the notice given under **clause 21.2(1)** and the Territory will be liable to the Contractor only for payments under this Agreement for Services rendered before the date of termination.

## 21.3 Termination for Default Event

If:

- (1) a Default Event is capable of remedy and the Contractor fails to remedy the Default Event within the time set out in the Default Notice; or
- (2) a Default Event is not capable of remedy and the Contractor fails to diligently comply with any reasonable requirements of the Territory to overcome the consequences of the Default Event within the time stated in the Default Notice; or
- (3) the Territory has formed the view (acting reasonably) that there are no reasonable requirements that can be met by the Contractor to overcome the consequences of, or compensate the Territory for, a Default Event,

the Territory may terminate this Deed by notice in writing to the Contractor, and in that event the Territory will not be liable for any Claim or Liability of the Contractor incurred by reason of the termination. Termination of this Deed for a Default Event will take effect upon the date of the notice given under this **clause 21.3**.

## 21.4 No prejudice

Nothing in this **clause 21** prejudices any other rights or remedies of the Territory in respect of any breach of this Agreement.

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## 22. Transition Out

### 22.1 Application of transition-out clauses

The provisions of this **clause 22**:

- (1) survive the expiry or earlier termination of this Agreement; and
- (2) may include circumstances where a new party (**Incoming Contractor**) is to be engaged by the Territory to provide the Services (or any part of the Services) in place of the Contractor.

### 22.2 Transition Out Period

During the Transition Out Period, the Contractor must:

- (1) continue to provide those Services directed by the Territory in accordance with the Transition Out Plan and the terms of this Agreement;

- (2) comply with the Transition Out Plan;
- (3) provide the Territory with a copy of the Reusable Facilities Dataset at the times and in the form reasonably requested by the Territory;
- (4) cooperate with the Territory and, where relevant, the Incoming Contractor to ensure that the transfer of the Services and Agreement Documentation to the Incoming Parties is carried out in a timely, orderly and efficient manner; and
- (5) provide reasonable assistance required by the Territory and comply with all reasonable directions given by the Territory,

to ensure the timely, orderly and efficient transfer of Services and Agreement Documentation to the Territory or Incoming Contractor (as applicable).

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## **23. Force Majeure Event**

### **23.1 Suspension of obligations**

- (1) Neither party will be liable for any delay or failure to perform its obligations pursuant to this Agreement to the extent and for the time that the delay or failure is caused by a Force Majeure Event.
- (2) If any delay or failure of a party to perform its obligations is caused by a Force Majeure Event, the performance of that party's obligations will be suspended to the extent and for the time necessitated by the Force Majeure Event.

### **23.2 Force Majeure Plan**

- (1) A party must as soon as possible after the occurrence of Force Majeure Event, which causes that party to delay the performance of, or fail to perform, its obligations pursuant to this Agreement, give notice and full particulars of it to the other party (**Force Majeure Notice**).
- (2) Promptly following the issue of a Force Majeure Notice, the parties must negotiate in good faith to agree on a plan to mitigate the effects of the Force Majeure Event and facilitate the continued performance of the Services (**Force Majeure Plan**).

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## **24. Contractor Warranties**

### **24.1 Warranties**

The Contractor represents and warrants for the benefit of the Territory (except as to matters notified by it to the Territory and accepted by the Territory in writing) that:

- (1) it has the power to execute, deliver and carry out its obligations under this Agreement and all necessary action has been taken to authorise that execution, delivery and performance;
- (2) the execution, delivery and carrying out of its obligations under this Agreement to which it is a party does not and will not violate any Law, or any document or agreement to which it is a party or which is binding on it or any of its assets;
- (3) this Agreement constitutes a valid and legally binding obligation on it in accordance with its terms;
- (4) it is duly registered, properly constituted and remains in existence;
- (5) it holds and will continue to hold all licences, registrations, accreditations and certifications that it is required by Law to hold in order to lawfully execute, deliver and carry out its obligations under this Agreement;
- (6) except as stated in this Agreement, it is not the trustee of any trust nor does it hold any property subject to or impressed by any trust;
- (7) there has been no material change in the financial condition as has been disclosed to the Territory by the Contractor which would prejudice the ability of the Contractor to perform its obligations under this Agreement; and

- (8) all information that has been provided to the Territory is materially true and correct at the time it is provided to the Territory and the Contractor is not aware of any material facts or circumstances that have not been disclosed to the Territory and which might, if disclosed, materially adversely affect the decision of a prudent person considering whether or not to enter into (or continue with) this Agreement with the Contractor.

#### **24.2 Repetition of representation and warranties**

Each representation and warranty given by the Contractor under this Agreement:

- (1) is made on the date of this Agreement; and
  - (2) will be deemed to be repeated each day during the Term,
- with reference to the facts and circumstances then subsisting.

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### **25. GST**

#### **25.1 GST payable by Supplier**

If GST becomes payable on any Taxable Supply made by a party (**Supplier**) under or in connection with this Agreement:

- (1) any amount payable or consideration to be provided in accordance with any other provision of this Agreement for that supply (**Agreed Amount**) is exclusive of GST unless stated otherwise;
- (2) an additional amount will be payable by the party which is the recipient of the Taxable Supply (**Recipient**), equal to the amount of GST payable on that Taxable Supply as calculated by the Supplier in accordance with the GST Law, which will be payable at the same time and in the same manner as for the Agreed Amount; and
- (3) the Supplier will provide a Tax Invoice to the Recipient in connection with that supply, either at the time expressly set out in any other provision of this Agreement or not later than the time at which the Agreed Amount for that Taxable Supply is to be provided in accordance with this Deed. The Recipient is not obliged to pay any amount in accordance with this **clause 25.1** unless and until a Tax Invoice is received by the Recipient in connection with the Taxable Supply except where the Recipient is required to issue the Tax Invoice.

#### **25.2 Variation in GST payable**

If for any reason, the GST payable by the Supplier in connection with a supply it makes under or in connection with this Agreement (incorporating any increasing adjustments or decreasing adjustments relating to that supply) varies from the additional amount it received from the Recipient under **clause 25.1** in connection with that supply, the Supplier will provide a refund or credit to, or will be entitled to receive from, the Recipient (as appropriate) the amount of this variation. Where an adjustment event occurs in relation to a supply, and except where the Recipient is required to issue the Adjustment Note:

- (1) the Supplier will issue an Adjustment Note to the Recipient in connection with that supply within 14 days after becoming aware of that adjustment event occurring; and
- (2) no additional amount will be payable by the Recipient unless and until an Adjustment Note is received by the Recipient.

#### **25.3 Reimbursement and similar payments**

If a party is required under this Deed to reimburse or pay another party an amount calculated by reference to a cost, expense, or amount paid or incurred by that other party, the reimbursement or payment will be the GST inclusive cost, expense or amount less the amount of any input tax credit entitlement arising in respect of any acquisition to which that cost, expense or amount relates.

## 25.4 Definitions

In this **clause 25** unless otherwise defined in this Agreement, terms used have the meanings given to them in the GST Law.

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## 26. Dispute resolution

### 26.1 Dispute Notice

If a party claims that a Dispute has arisen, it must promptly give written notice to the other party of:

- (1) the nature of the Dispute and the circumstances giving rise to the Dispute;
- (2) the party's proposed resolution of the Dispute; and
- (3) contact details of the senior representative of that party with authority to resolve the Dispute,

(with such notice being the **Dispute Notice**).

### 26.2 Dispute resolution process

- (1) The parties must:
  - (a) arrange a meeting involving a senior representative of each party who has authority to resolve the Dispute, whether electronically or in person, within 10 Business Days of receipt of the Dispute Notice; and
  - (b) otherwise endeavour to resolve the Dispute by negotiations.
- (2) If the Dispute has not been resolved by negotiations within 20 Business Days of the receipt of the Dispute Notice, then the parties will refer the Dispute to mediation on the basis that:
  - (a) the mediator will be an independent mediator agreed by the parties within 5 Business Days or, failing agreement, nominated by the Chairman of the Resolution Institute;
  - (b) any meetings required by the mediator will be held in the Territory at a venue and time as reasonably determined by the mediator in consultation with the parties;
  - (c) unless otherwise agreed by the parties, the parties costs of the mediator are to be borne equally by the parties; and
  - (d) the referral will be performed in accordance with the Resolution Institute's rules and standard form agreement, subject to the following amendments:
    - (i) any nominated mediator must disclose to the parties any relationship or interest with the parties prior to accepting any appointment and the parties must notify the nominated mediator of any objection to that appointment within 5 Business Days of nomination, whereupon an alternative mediator will be nominated; and
    - (ii) the mediation will terminate if the Dispute is not resolved within 30 Business Days of the submission of all required information and documents by the parties to the mediator.
- (3) The dispute resolution procedures in this **clause 26** do not apply to impair, delay or otherwise prejudice the exercise by a party of its rights provided in this agreement (including without limitation any right of termination).
- (4) Despite the existence of a Dispute, or the referral of the Dispute for resolution in accordance with this **clause 26**, each party must continue to comply with its obligations in accordance with this agreement.

- (5) Subject to **clause 26(6)**, a party may commence or maintain a court action or proceedings on a Dispute once the party has complied with all its relevant obligations under this **clause 26**.
- (6) Nothing in this **clause 26** prevents either party from seeking an urgent interlocutory injunction or declaration from a court of competent jurisdiction in relation to matters arising out of this agreement or from commencing legal proceedings to preserve any rights it may have.

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## **27. General**

### **27.1 Territory's executive rights, duties and functions**

- (1) Unless otherwise expressly provided, nothing in this Agreement gives rise to any duty on the part of the Territory to consider interests other than its own interests when exercising any of its rights or carrying out any of its obligations in accordance with this Agreement.
- (2) Notwithstanding anything expressly provided or implied in this Agreement to the contrary, the parties agree that the Territory:
  - (a) is not obliged to exercise any executive or statutory right or duty, or to influence, over-ride, interfere with or direct any other Government Party in the proper exercise and performance of any of its executive or statutory rights or duties; and
  - (b) nothing expressly provided or implied in this Agreement has the effect of constraining the Territory or placing any fetter on the Territory's discretion to exercise or not to exercise any of its executive or statutory rights or duties.
- (3) The Contractor is not entitled to make any Claim against the Territory for any Liability relating to any exercise or failure of the Territory to exercise any of its executive or statutory rights or duties

### **27.2 Reasonable endeavours of Territory**

Any statement in this Agreement providing that the Territory or any officer or agent of the Territory will use or exercise "reasonable endeavours" or "act reasonably" in relation to an outcome, means that the Territory or any officer or agent of the Territory:

- (1) will take steps to bring about the relevant outcome so far as it is reasonably able to do so, having regard to its resources and other responsibilities;
- (2) does not guarantee the relevant outcome will be brought about; and
- (3) is not required to:
  - (a) exercise a right of any Government Party, or to influence, over-ride, interfere with or direct any other Government Party in the proper exercise and performance of its legal, statutory or executive duties and functions;
  - (b) exercise a power or discretion in a manner that the Territory regards as not in the public interest;
  - (c) develop or implement new policy or a change in policy;
  - (d) procure any new legislation or a change in legislation; or
  - (e) act in any way that the Territory regards as not in the public interest.

### **27.3 Civil Law (Wrongs) Act**

- (1) It is agreed that, to the extent permitted by law, the operation of any legislative proportionate liability regime (including Chapter 7A of the *Civil Law (Wrongs) Act 2002* (ACT)) is excluded in relation to all and any rights, obligations and liabilities arising under or in relation to this Agreement however such rights, obligations or liabilities are sought to be enforced.
- (2) The Contractor agrees that:

- (a) in each subcontract into which it enters, it will include provisions that, to the extent permitted by law, effectively exclude the operation of any legislative proportionate liability regime (including Chapter 7A of the *Civil Law (Wrongs) Act 2002* (ACT)) in relation to all rights, obligations or liabilities arising under or in relation to each subcontract however such rights, obligations or liabilities are sought to be enforced; and
- (b) it will require and ensure that each subcontractor will include in any further contract that it enters into with others for the carrying out of the Services, provisions that, to the extent permitted by law, each such further contract will include provisions that effectively exclude the operation of any legislative proportionate liability regime (including Chapter 7A of the *Civil Law (Wrongs) Act 2002* (ACT) ) in relation to all rights, obligations or liabilities arising under or in relation to such further contract however such rights, obligations or liabilities are sought to be enforced.

#### **27.4 Conflict of interest**

The Contractor warrants that no conflict of interest exists or is likely to arise in the performance of the Services and its other obligations under this Agreement and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

#### **27.5 No employment, partnership, agency or good faith relationship**

Nothing in this Agreement:

- (1) creates a partnership, joint venture, fiduciary, employment or agency relationship between the Territory and the Contractor; or
- (2) imposes any duty of good faith on a party (unless otherwise expressly provided).

#### **27.6 No assignment**

- (1) The Contractor must not assign the whole or any part of this Agreement without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.
- (2) A Change in Control of the Contractor or a company that controls the Contractor (except a company listed on an Australian stock exchange) is taken to be an assignment.
- (3) If the Contractor breaches **clause 27.6(1)**, the Territory reserves its rights, including requiring the Contractor to provide information regarding the proposed subcontractor's or assignee's capability to continue performing this Agreement or to provide security to ensure the proper performance of this Agreement.

#### **27.7 Set off**

The Territory may set off against any amount due and payable by the Territory to the Contractor any amount the Territory, acting reasonably, considers is due and payable by the Contractor to the Territory.

#### **27.8 Entire agreement**

This Agreement comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements in relation to the Services.

#### **27.9 Severability**

Any provision of this Agreement that is illegal, void or unenforceable will not form part of this Agreement to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Agreement will not be invalidated by an illegal, void or unenforceable provision.

#### **27.10 Variation**

This Agreement may be varied, or the Term extended only by the written agreement of the parties prior to the expiration of this Agreement.

#### **27.11 No waiver**

- (1) A waiver given by a party under this Agreement is only effective and binding on that party if it is given or confirmed in writing by that party.
- (2) A failure to exercise or enforce, a delay in the exercise or enforcement of or the partial exercise or enforcement of a right provided by Law or under this Agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right provided by Law or under this Agreement.
- (3) No waiver of a breach of a term of this Agreement operates as a waiver of another breach of that term or of a breach of any other term of this Agreement.

#### **27.12 Governing law and compliance with the law**

This Agreement is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Contractor must comply with all Laws in performing the Services.

#### **27.13 Counterparts**

This Agreement may be signed in any number of counterparts and by the parties in separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart to the other party either physically or electronically. All such counterparts taken together will be deemed to constitute one and the same Agreement.

#### **27.14 Electronic execution**

A party may sign this Agreement, and any variations to it, by electronic means where permitted by Law. Each other party consents to that party signing by electronic means.

#### **27.15 Notices**

Any notice, including any other communication, required to be given or sent to either party under this Agreement must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two Business Days after the date on which it was sent;
- (3) if sent by electronic mail, on whichever of the following occurs first:
  - (a) the other party's acknowledgement of receipt by any means;
  - (b) the sender's electronic mail device recording that the electronic mail has been successfully transmitted to the recipient's address; or
  - (c) the expiration of two Business Days after the date on which it was sent without receipt of a notification that the delivery failed,

and if given in two or more ways, on the first of paragraphs (1) to (3) occurring.

#### **27.16 Survival of clauses**

- (1) All provisions of this Agreement which, expressly or by implication from their nature, are intended to survive rescission, termination or expiration of this Agreement will survive the rescission, termination or expiration of this Agreement, including any provision in connection with:
  - (a) the Territory's rights to set-off and recover money;
  - (b) confidentiality or privacy;

- (c) intellectual property rights;
  - (d) audit;
  - (e) any obligation to make any accounts and records available to the Territory;
  - (f) any indemnity, release or financial security given under this Agreement;
  - (g) any limitation on liability; and
  - (h) any right or obligation arising on termination or expiry of this Agreement.
- (2) No provision of this Agreement which is expressed to survive the termination, rescission or expiration of this Agreement will prevent any other provision of this Agreement, as a matter of interpretation, also surviving the termination, rescission or expiration of this Agreement.
- (3) No right or obligation of any party will merge on completion of any transaction under this Agreement. All rights and obligations under this Agreement survive the execution and delivery of any transfer or other document which implements any transaction under this Agreement.

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## Schedule 1 – Contract Details

<b>Item 1.</b>	<b>Contact Officers</b>	For the Territory:  [INSERT]  For the Contractor:  [INSERT]
<b>Item 2.</b>	<b>Term</b>	The period commencing on the Commencement Date and ending on the End Date, where the:  Commencement Date is [INSERT]; and  End Date is the date which is 4 years from the Commencement Date.
<b>Item 3.</b>	<b>Services Commencement Date</b>	[INSERT]
<b>Item 4.</b>	<b>Specified Personnel</b>	[INSERT]
<b>Item 5.</b>	<b>Other amounts and insurance</b>	Public and products liability insurance: \$20 million in respect of each occurrence;  Professional Indemnity insurance: \$10 million in the annual aggregate;  Workers Compensation as required by law;  Contents insurance to the market value;  Plant and Equipment insurance to the full market value; and  Motor vehicle third party property insurance: \$20 million in the annual aggregate.
<b>Item 6.</b>	<b>Confidential Text</b>	This Agreement is a “notifiable contract” under the Procurement Act and the following is Confidential Text:  [INSERT]
<b>Item 7.</b>	<b>Grounds for confidentiality of Confidential Text</b>	The Procurement Act, part 3 (Notifiable Contracts) applies to this Agreement. The Territory is satisfied that the Confidential Text is “confidential information” for the purposes of that Act because disclosure of the text would:  [INSERT]
<b>Item 8.</b>	<b>Security</b>	\$\$40,000

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## Schedule 2 – The Services

[Note to respondents: This Schedule may be updated to align with the response of the successful respondent.]

### 1. Definitions

1.1 For the purpose of **Schedule 2, Schedule 3, Schedule 4, Schedule 5** and **Schedule 6** unless the context otherwise requires:

- (1) **Acceptance and Rejection Policy** means the policy prepared by the Contractor in accordance with **Item 2.1(1) Schedule 3** and Endorsed by the Territory pursuant to **clause 10.3**;
- (2) **ACNC** means the Australian Charities and Not-for-profits Commission established pursuant to the *Australian Charities and Non-for-profits Commission Act 2012* (Cth);
- (3) **ACT EPA** means the Environment Protection Authority responsible for administering the *Environmental Protection Act 1997* (ACT);
- (4) **ACT NoWaste** means the administrative branch of the Transport Canberra and City Services Directorate responsible for delivery of the Territory's waste management services;
- (5) **Approved Shopfront** means a retail premises other than a Facility approved by the Territory as premises from which the Contractor may offer Reusable Items for sale to the public;
- (6) **Australian Consumer Law** means the Australian Consumer Law applying in the Territory pursuant to the *Fair Trading (Australian Consumer Law) Act 1992* (ACT);
- (7) **Circular Economy** means the practice of the principles set out in the 'Draft ACT Circular Economy Strategy 2022-2025' published by the Territory;
- (8) **Charity Activities** means the activities or events to be carried by the Contractor under the Charity Activities Management Plan;
- (9) **Charity Activities Management Plan** means the plan prepared by the Contractor in accordance with **Item 1.1(3) Schedule 3** and Endorsed by the Territory pursuant to **clause 10.3**;
- (10) **Community Workshop** means the community workshops detailed in the Community Workshop Management Plan to be delivered by the Contractor;
- (11) **Community Workshop Management Plan** means the plan prepared by the Contractor in accordance with **Item 1.1(4) Schedule 3** and Endorsed by the Territory pursuant to **clause 10.3**;
- (12) **Customer** means any person or entity:
  - (a) who presents a Delivered Item to the Contractor;
  - (b) from whom the Contractor accepts a Reusable Item;
  - (c) to whom the Contractor sells or donates a Reusable Item; or
  - (d) who accesses, or receives the benefit of, another aspect of the Services provided by the Contractor;
- (13) **Delivered Item** means any item which is presented by a Customer to the Contractor at a Facility for the purpose of the Contractor accepting the item as a Reusable Item;
- (14) **Designated Area** means the area within each Transfer Station which is designated by the TS Contractor as the area which the Contractor is to collect Reusable Items from;
- (15) **Disadvantaged or Vulnerable Community Group** includes:
  - (a) Aboriginal and Torres Strait Islander people;

- (b) people who have been unemployed for 5 years or more;
  - (c) people who have been convicted of a criminal offence in the past;
  - (d) people who identify as part of the lesbian, gay, bisexual, transgender, queer, intersex, asexual or other (LGBTQIA+) community;
  - (e) people with a disability.
- (16) **Disposal Threshold** means, for any given month, the tonnes calculated in accordance with **Schedule 5** based on the Contractor's performance against the KPIs in that month;
- (17) **Drop Off Area** means the area at each Facility identified on the maps at **Attachment A** and **Attachment B**;
- (18) **Education and Engagement Management Plan** means the plan prepared by the Contractor in accordance with **Item 1.1(5) Schedule 3** and Endorsed by the Territory pursuant to **clause 10.3**;
- (19) **Education and Engagement Program** means the education and engagement programs specified in the Education and Engagement Management Plan to be delivered by the Contractor;
- (20) **Electronic Devices** means any electrical or electronic equipment, appliance, instrument or tool, including but not limited to:
- (a) tablets, computers or computer related instruments or appliances,
  - (b) game consoles;
  - (c) cameras and other recording devices;
  - (d) video, audio or music players;
  - (e) cell phones or personal digital assistants;
  - (f) white goods including refrigerators, freezers, washing machines, dryers, ovens, and dishwashers; and
  - (g) any other electronic or battery powered instruments;
- (21) **Gate Fee** means the fee charged for the disposal of Waste at the Transfer Station or Mugga Lane Landfill as prescribed under the *Waste Management and Resource Recovery Act 2016* (ACT);
- (22) **Landfill** means a site for the disposal of waste materials by burying;
- (23) **Mugga Lane Landfill** means the Landfill site within the Mugga Lane RMC;
- (24) **Operational Hours** means from 7.30am to 5:00 pm each day excluding Christmas Day and Good Friday;
- (25) **Pricing Policy** means the policy prepared by the Contractor in accordance with **Item 2.1(2) Schedule 3** and Endorsed by the Territory pursuant to **clause 10.3**;
- (26) **Quarter** each of the following 3 month periods during the Term:
- (1) 1 January to 31 March;
  - (2) 1 April to 30 June;
  - (3) 1 July to 30 September; and
  - (4) 1 October to 31 December;
- (27) **Refurbish** means to restore an item or product back to a specific quality level or condition for Reuse, including through the use of parts from similar products and **Refurbishment** has a corresponding meaning;
- (28) **Registered Charity** means an organisation registered as a charity with the ACNC;
- (29) **Repair** means the maintenance or mending of a defective item or product to a condition capable of fulfilling that item or product's original function and purpose;

- (30) **Repurpose** means the use of a redundant item or product in a new product with a different function;
- (31) **Resource Recovery** means the practice of diverting materials away from Landfill;
- (32) **Reuse** means the use of an item or product that is in a condition capable of fulfilling that item or product's original function and purpose;
- (33) **Reusable Facilities Database** means the database to be established and maintained by the Contractor in accordance with **Item 2.3 Schedule 2**;
- (34) **Reusable Facilities Dataset** means the dataset which the Contractor is required to store on the Reusable Facilities Database in accordance with **Item 2.3 Schedule 2**;
- (35) **Reusable Item** means any item, product or material that:
- (a) can be recovered for Reuse or otherwise utilised beneficially including through the Repurpose, Repair or Refurbishment of that item; and
  - (b) satisfies any criteria set out in the Acceptance and Rejection Policy in order to be accepted as a reusable item at a Facility;
- (36) **Reusable Stream** means each category of Reusable Item identified in the Acceptance and Rejection Policy;
- (37) **RMC** means the Mitchell RMC and/or the Mugga Lane RMC as the context requires;
- (38) **Specified Individual** means a person who:
- (a) is a member of a Disadvantaged or Vulnerable Community Group; and
  - (b) resides in the Canberra Region;
- (39) **Social Benefits Outcomes** means the social benefit outcomes for the relevant period as specified in the Customer Service and Stakeholder Management Plan Endorsed by the Territory pursuant to **clause 10.3**;
- (40) **Social Enterprise** means an entity which:
- (a) engages Specified Individuals;
  - (b) operates for a purpose related to the improvement of social or community issues; and
  - (c) is registered with Social Traders Ltd ABN 42 132 665 804;
- (41) **Territory Assets** means:
- (a) the physical structure of any buildings at a Facility, including the roof, walls, ceilings and lifts;
  - (b) any improvements forming part of a Facility as at the Commencement Date or erected at the expense of the Territory;
  - (c) any fittings, fixtures, or goods at a Facility existing as at the Commencement Date or erected, installed or placed by the Territory; and
  - (d) any systems installed at a Facility as at the Commencement Date including the air-conditioning system (where applicable) and fire and sprinkler systems;
- (42) **Traffic Management Plan** means the traffic management component of the Work Health and Safety Plan prepared by the Contractor in accordance with **Item 1.1(10)(m) Schedule 3** and Endorsed by the Territory pursuant to **clause 10.3**;
- (43) **Transfer Station** means the area and facilities within each the Mugga Lane RMC and the Mitchell RMC which are used for the collection and sorting of waste material;

- (44) **TS Operator** means the entity engaged by the Territory to operate and manage the Transfer Stations;
- (45) **Visitor** means any person attending the Reusable Facilities for any reason other than the Contractor's personnel, the Approved Subcontractors, Customers or the Territory;
- (46) **Waste** has the meaning given in the *Waste Management and Resources Recovery Act 2016* (ACT);
- (47) **Weighbridge** means the weighbridge at each RMC.

## 2. Operation of Facilities

2.1 The Contractor must operate each Facility in accordance with the Plans and the requirements set out in this **Schedule 2**.

2.2 The Contractor must:

- (1) ensure each Facility is open to the public during the Operational Hours;
- (2) ensure the Facility is appropriately staffed and there is a sufficient number of personnel at each Drop Off Area during Operational Hours (and in any event at least one person at all times during Operational Hours) to inspect and assess Delivered Items and assist in unloading any Reusable Items so that the average waiting time of vehicles is no more than 5 minutes;
- (3) safely managing traffic in and around the Facilities in accordance with the Traffic Management Plan; and
- (4) ensure the Drop Off Area at each Facility is only used for the purpose of the Contractor assessing Delivered Items and Reusable Items being unloaded from Customer's vehicles.

2.3 The Contractor must maintain an electronic database (**Reusable Facilities Database**) and record on the Reusable Facilities Database:

- (1) each Reusable Item accepted at each Facility (whether from a Customer or salvaged through the Transfer Station);
- (2) in respect of each Reusable Item accepted at a Facility:
  - (a) the Facility where the Reusable Item was accepted;
  - (b) the estimated weight of the Reusable Item;
  - (c) the Reusable Stream relevant to the Reusable Item;
  - (d) where the Reusable Item is yet to be sold, donated or disposed of, the current physical location of the Reusable Item;
  - (e) where the Reusable Item is sold, the date and time at which it was sold, the price for which it was sold and the location from which it was sold;
  - (f) where the Reusable Item is donated, the date on which it is donated and the entity to which it was donated;
  - (g) where the Reusable Item is disposed of, the date on which it is disposed of and the location where it is disposed of; and
  - (h) any other information which the Contractor is required to record by Law or under any Approval;
- (3) the total revenue generated from the sale of Reusable Items;
- (4) the total number and weight of Reusable Items sold, donated and disposed of;
- (5) the details of complaints received by Customers; and
- (6) any work health safety incidents or issues.

2.4 The Contractor must regularly backup the Reusable Facilities Dataset and ensure that a copy of the backup is stored securely off the premises at such location agreed with the

Territory or with a cloud service provider agreed with the Territory. In the event that a Reusable Facilities Dataset is stored with a cloud service provider, the Contractor must provide the Territory with such authority, in a form acceptable to the Territory and the service provider, necessary to enable the Territory to retrieve copies of the Reusable Facilities Dataset at any time during the Term upon the written request of the Territory.

- 2.5 The Contractor must ensure its personnel at each Facility carry photo identification whilst on duty at the Facility with that personnel's name and the Contractor's trading name and logo (where applicable).
- 2.6 The Contractor must not close (whether in full or part) any roadways within a Facility or an RMC (including through the placement of signs or other obstacles) without the Territory's prior written approval.
- 2.7 The Contractor must not accept any Waste or other materials at the Facility other than Reusable Items.

### **3. Acceptance of Reusable items**

- 3.1 The Contractor must assess all Delivered Items in accordance with the Acceptance and Rejection Policy to determine whether the item is a Reusable Item.
- 3.2 The Contractor must accept any Delivered Item which is a Reusable Item.

### **4. Salvaging of Reusable Items**

- 4.1 At least once each day (with the exception of Christmas Day and Good Friday), the Contractor must move any Reusable Items from each Designated Area to the respective Facility.
- 4.2 The Contractor must ensure each Reusable Item transferred to a Facility pursuant to **Item 4.1 Schedule 2** is weighed and recorded (whether individually or collectively with other Reusable Items) at the relevant Weighbridge in the manner directed by the Territory.
- 4.3 The Contractor acknowledges that the TS Contractor is entitled to dispose of any items which remain in the Designated Area for more than 24 hours.
- 4.4 The Contractor must:
  - (1) work co-operatively with the TS Contractor to maximise the amount of Reusable Items that are recovered from Landfill;
  - (2) provide the TS Contractor with a copy of the Acceptance and Rejection Policy and, where necessary, advice and training on the application of Acceptance and Rejection Policy; and
  - (3) ensure its Associates comply with any requirements of the TS Contractor in respect of accessing the Designated Area including safety and emergency management requirements.

### **5. Repair or Refurbishment of Reusable Items**

The Contractor is responsible for undertaking any Repair or Refurbishment to, or cleaning of, a Reusable Item to make it suitable for sale in accordance with **Item 6 Schedule 2**.

### **6. Sale of Reusable Items - General**

- 6.1 Subject to **Item 7.1 Schedule 2**, the Contractor may only offer the Reusable Items for sale at the Facilities, online or the Approved Shopfronts.
- 6.2 The Contractor must ensure that all Reusable Items offered for sale are:
  - (1) clean and free from any contaminants or noxious materials;
  - (2) in working order and reasonably fit for their intended purpose unless clearly indicated otherwise at point of sale; and
  - (3) not faulty or dangerous in any way unless this is reasonably apparent upon cursory inspection or clearly indicated otherwise at point of sale.
- 6.3 The Contractor must ensure that all:

- (1) clothing and textiles offered for sale are reasonably clean and do not pose a hygiene risk; and
  - (2) Electronic Devices offered for sale are:
    - (a) inspected, tested and tagged in accordance with 'Australian/ New Zealand Standards AS/NZS 5762 In-service safety inspection and testing – Repaired electrical equipment' and 'AS/NZS 3760 In-service safety inspection and testing of electrical equipment' by suitably qualified personnel;
    - (b) restored to the factory settings;
    - (c) do not contain any material of a personal or offensive nature or Personal Information.
- 6.4 The Contractor must determine the price for which a Reusable Item is offered for sale:
- (1) in accordance with the Pricing Policy; and
  - (2) having regard to community expectations and supply and demand principles.
- 6.5 The Contractor must display the Pricing Policy at any point where Reusable Items are offered for sale, including on any online platform which Reusable Items are offered for sale.
- 6.6 In the advertising and sale of Reusable Items, the Contractor must comply with all relevant laws in connection with the sale of goods in the Territory including the *Sale of Goods Act 1954* (ACT) and the Australian Consumer Law.
- 6.7 The Contractor must record every sales transaction of a Reusable Item in the Reusable Facilities Database and provide the Customer with a paper or electronic receipt. The receipt must include:
- (1) the date and time of the sale;
  - (2) a description of each Reusable Item sold;
  - (3) the amount for which each Reusable Item is sold; and
  - (4) the GST charged in the sales transaction.
- 7. Sale of Reusable Items – at Facilities and Approved Shopfronts**
- 7.1 The Contractor must use reasonable endeavours to ensure that a range of Reusable Items are offered for sale at each Facility.
- 7.2 The Contractor must ensure Reusable Items presented for sale at the Facilities and Approved Shopfronts:
- (1) have clearly visible price tags;
  - (2) are displayed in a tidy and professional manner; and
  - (3) are able to be safely viewed and physically inspected by customers (including by ensuring items are not stacked on top of each other).
- 7.3 The Contractor must display a notice at the Facilities and Approved Shopfronts to inform Customers that:
- (1) ownership of goods passes to the Contractor upon acceptance of Reusable Items; and
  - (2) goods are sold 'as is' and the Contractor makes no warranty as to its quality or fitness for a particular purpose.
- 7.4 The Contractor must provide an electronic funds transfer at point of sale (EFTPOS) facility at each Facility for Customers to purchase Reusable Items.
- 7.5 The Contractor is responsible for providing any assets and equipment, in addition to the assets provided by the Territory, necessary to present the Reusable Items for sale at the Facilities and Approved Shopfronts including shelving.

## 8. Sale of Reusable Items - online

8.1 For any Reusable Items in respect of which the sales transaction is completed otherwise than in-person (including online), in addition to the requirements in **Item 6 Schedule 2**, the Contractor must ensure:

- (1) the Customer is provided with a detailed and accurate description as to the condition of the Reusable Item prior to the Reusable Item being sold to the Customer; and
- (2) the terms of the contract of sale between it and the Customer are:
  - (a) notified to the Customer before the Reusable Item is sold to the Customer;
  - (b) clear; and
  - (c) fair and reasonable including in respect of delivery, payment, the transfer of title and the transfer of risk.

## 9. Customer Service and engagement

9.1 The Contractor must ensure its personnel responsible for providing the Services, provide customer service to a standard consistent with Best Industry Practices including by:

- (1) acting professionally and courteously in all dealings with Customers;
- (2) being transparent when providing Services and educating Customers;
- (3) unloading Reusable Items from Customer's vehicles (when safe to do so);
- (4) directing Customers to the relevant facility to dispose of Delivered Items which are rejected by the Contractor in accordance with this Agreement;
- (5) promptly responding to Customer enquiries; and
- (6) where possible, resolving Customer complaints.

9.2 The Contractor must:

- (1) advertise a phone number for the Facilities;
- (2) be readily contactable by telephone and email during Operational Hours;
- (3) nominate an on-call person available for emergencies 24 hours, 7 days a week; and
- (4) provide a back-up telephone contact arrangement.

9.3 The Contractor must establish and maintain a website page which provides the public with information regarding:

- (1) the Facilities;
- (2) the Acceptance and Rejection Policy;
- (3) Community Workshops;
- (4) Charity Activities;
- (5) Community Education and Engagement Programs and educational materials promoting Resource Recovery;
- (6) any other relevant information regarding the Services.

9.4 The Contractor must ensure the website required pursuant to **Item 9.3 Schedule 2** is accessible at all times (except for any reasonable downtime due to maintenance or outages) and contains current information on the matters in **Item 9.3 Schedule 2**.

9.5 With respect to any complaint received, the Contractor must:

- (1) inform the Territory Contract Officer in writing within 24 hours;
- (2) record the details of the complaint on the Reusable Facilities Database;

- (3) contact the complainant within 2 Business Days of the complaint being received; and
- (4) investigate and action any complaint within 7 days of the complaint being received.

#### **10. Donation of Reusable Items**

10.1 The Contractor may donate Reusable Items to Registered Charities.

#### **11. Unsold Reusable Items**

11.1 Subject to **Item 11.4 Schedule 2**, the Contractor is responsible for disposing of any unsold Reusable Items and the costs associated with the disposal.

11.2 The Contractor may take any unsold Reusable Items to:

- (1) a Transfer Station resource recovery area or push pit if the vehicle being used to deliver the items has a gross vehicle mass less than 4.5 tonnes; or
- (2) the Mugga Lane Landfill if the vehicle being used to deliver the items has a gross vehicle mass greater than 4.5 tonnes.

11.3 The Contractor must ensure any unsold Reusable Items disposed of pursuant to **Item 11.2 Schedule 2** are recorded at the Weighbridge prior to disposal.

11.4 Each month commencing from the month after that which the Services Commencement Date occurs, the Contractor may provide the Territory with an Invoice for the Gate Fees incurred by the Contractor in disposing of unsold Reusable Items in accordance with **Item 11.2 Schedule 2** in the preceding month (**Claim Period**), provided:

- (1) the Contractor provides evidence to satisfy the Territory:
- (2) that it has disposed of the unsold Reusable Items in accordance with **Item 11.2 Schedule 2**; and
  - (a) it has paid the Gate Fee associated with the disposal of those Reusable Items; and
- (3) if the total weight of the unsold Reusable Items disposed of by the Contractor pursuant to **Item 11.2 Schedule 2** in the Claim Period is above the Disposal Threshold, the Contractor only provides the Territory with an Invoice for the Gate Fees which would apply for the disposal of items equal to the Disposal Threshold.

#### **12. Social Benefit requirement**

12.1 The Contractor must deliver the Social Benefit Outcomes including by having aspects of the Services performed by Specified Individuals.

12.2 For the purpose of delivering the Social Benefit Outcomes, and subject to first obtaining the Territory's written consent for the purpose of **clause 9.2(1)**, the Contractor may engage Specified Individuals directly through Disadvantaged or Vulnerable Community Groups or through a Social Enterprise.

12.3 In addition to any information required by the Territory pursuant to **clause 9.2(1)**, prior to providing its consent to the Social Enterprise performing the relevant part of the Services, the Territory may require the Contractor to provide information:

- (1) reasonably necessary to satisfy the Territory that the entity is a Social Enterprise; and
- (2) in respect of how the engagement of the Social Enterprise will contribute towards the delivery of Social Benefit Outcomes.

#### **13. Charity Activities**

The Contractor must undertake Charity Activities in accordance with the Charity Activities Management Plan.

#### **14. Community Education and Engagement**

14.1 The Contractor must deliver:

- (1) the Education and Engagement Programs in accordance with the Education and Engagement Management Plan; and
  - (2) the Community Workshops in accordance with the Community Workshop Management Plan.
- 14.2 The Contractor must obtain the Territory's approval prior to announcing or undertaking any Education and Engagement Program or Community Workshop not previously approved by the Territory.
- 14.3 From time to time and upon the provision of reasonable notice, the Territory may request the Contractor to be involved in an education program conducted by the Territory. In such event, the Contractor must provide reasonable assistance as required by the Territory including through the involvement of its personnel and access to the Facilities.

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## Schedule 3 – Plans, Policies, Reports and Meetings

### 1. Plans

1.1 Subject to **Item 1.2 Schedule 3** and **Item 1.3 Schedule 3**, within 6 months of the date of this Agreement, the Contractor must prepare and submit to the Territory the following Plans for Endorsement by the Territory in accordance with **clause 10.3**.

- (1) **Customer Service and Stakeholder Management Plan** which includes:
  - (a) details of how the Contractor will engage with the community and stakeholders in relation to the Services to meet Customer expectations;
  - (b) the identity of the target audience, which could include Customers, employees, stakeholders, media outlets, or the general public;
  - (c) methods of identifying the most effective communication channels for each audience segment;
  - (d) scheduled timeframes for communication and how frequently they will be distributed;
  - (e) methods of communicating in an emergency;
  - (f) methods of developing and distributing communication for events;
  - (g) details of the provision and management of customer service;
  - (h) details of any customer interface elements such as online communications;
  - (i) resources and capacities of the customer service;
  - (j) Customer complaint procedures;
  - (k) maintenance of electronic records of all Visitor numbers, and Customer feedback or complaints; and
  - (l) stakeholder management including:
    - (i) key meetings and requirements for stakeholder engagement;
    - (ii) schedules or timeframes for stakeholder meetings;
    - (iii) methods of engagement with stakeholders;
    - (iv) management of authorised and unauthorised access; and
  - (m) complaint resolution procedures and documentation, including proformas and complaint register;
  - (n) its Social Benefit Outcomes for the period from 1 July to 30 June of the following year (or in respect of the first Plan, the period from the Services Commencement Date to 30 June) and details of how these Social Benefit Outcomes will be achieved.
- (2) **Salvaging Plan** which provides the methodology for salvaging of Reusable Items from the Designated Areas in accordance with **Item 4 Schedule 2**;
- (3) **Charities Activities Management Plan** which:
  - (a) includes the methodology for planning, hosting and managing Charity Activities;
  - (b) details the specific Charity Activities the Contractor intends to undertake including the purpose and scope of each activity;
  - (c) includes the methodology for engaging stakeholders such as beneficiaries, donors, volunteers and partner organisations; and
  - (d) details any communication channels and strategies to keep stakeholders informed and engaged throughout the program.

- (4) **Community Workshops Management Plan** which:
- (a) details the specific Community Workshops the Contractor intends to undertake each week including the venue for each Community Workshop, whether that be online or at one of the Facilities;
  - (b) provides the methodology for planning, hosting and managing Community Workshops; and
  - (c) establishes a methodology for promoting the workshop and attracting participants.
- (5) **Education and Engagement Management Plan** which:
- (a) details the specific Community Education and Engagement Programs the Contractor intends to undertake including the purpose and scope of each program;
  - (b) includes the methodology for planning and delivering Community Education and Engagement Programs to the community to support Resource Recovery and Circular Economy outcomes;
  - (c) outlines the marketing strategies and tactics that will be employed to advertise the Community Education and Engagement Programs to the community including the use of online platforms.
- (6) **Maintenance Plan** which includes:
- (a) the maintenance schedule for each Facility and the Territory Assets throughout the Term including with respect to:
    - (i) the building, amenities and infrastructure at each Facility;
    - (ii) utilities;
    - (iii) lighting and switchboards;
    - (iv) internal and perimeter fencing, barricades and barriers;
    - (v) all plant and equipment;
    - (vi) access gates;
    - (vii) signage including updates e.g. Operational Hours, special events, etc;
    - (viii) septic and sewerage systems;
    - (ix) weed control;
    - (x) fauna and pests;
    - (xi) pathways and hardstand areas;
    - (xii) litter, rubbish and dumping receptacles;
  - (b) scheduled repairs and unscheduled repairs;
  - (c) condition assessments, replacement and lifecycle upgrade program;
  - (d) resources and capacities required in the regime;
  - (e) records of compliance to all relevant standards and legislation.
  - (f) details of how the Contractor will maintain and improve the visual amenity of each Facility and Territory Assets including details of how each Facility will be kept clean, free of litter and vandalism and any proposals to further enhance the visual amenity of the Facility;
  - (g) the methodology for safely managing stockpiles at each Facility;
  - (h) the procedures for monitoring and maintaining the stockpile, such as inspecting the stockpile for signs of damage or deterioration

- (7) **Business Continuity and Risk Management Plan** which includes:
- (a) details the Contractor's measures to protect critical business processes and mitigate the impacts of events (including natural disasters, equipment failures and industrial actions) on the delivery of the Services;
  - (b) the risk framework;
  - (c) identification, assessment, register and tracking of risks;
  - (d) risk prioritisation and mitigation;
  - (e) policies, procedures or protocols to risk management, response, and reports;
  - (f) relevant Contractor personnel and responsibilities, skills and training;
  - (g) engagement and reporting to the relevant stakeholders;
  - (h) contingency protocols, processes and associated resources; and
  - (i) a pandemic and endemic management plan which describes the method that will be adopted to mitigate the disruption to Services in the event of a pandemic or endemic including business continuity measures, the management of employees and the processes to deal with positive cases of the disease on-site;
- (8) **Reporting and Recording Plan** which:
- (a) includes a methodology to reporting the quantity of Reusable Items accepted, sold or donated;
  - (b) includes a method of tracking Reusable Items at the Facilities for reports;
  - (c) identifies other data sources that will be used to generate the report website sales analytics;
  - (d) includes the method of storing and sending the reports to the Territory;
  - (e) includes the methodology that will be used to analyse the data and generate insights, such as statistical analysis or data visualisation;
  - (f) establishes a process for feedback and evaluation, where reports are reviewed and analysed to identify areas for improvement; and
  - (g) details a system for accurately tracking and recording the inventory of stockpiled Items including:
    - (i) maintaining up-to-date records of quantities of Reusable Items; and
    - (ii) locations, and conditions of Reusable Items in the stockpile.
- (9) **Work Health and Safety Plan** which includes:
- (a) details of the Contractor's work health and safety management system including risk identification, assessment and management practices;
  - (b) the Contractor's organisational structure and responsibilities;
  - (c) details of any relevant plant, equipment or substances;
  - (d) safety documents (such as SWMS, JSAs, SDSs);
  - (e) monitoring, data and record keeping;
  - (f) training, resources and capacities;
  - (g) consultation, inspection, auditing and performance management;
  - (h) incident reporting procedures;
  - (i) key personnel and their roles;
  - (j) procedures for spills and hazards;

- (k) first aid procedures;
  - (l) a traffic management plan setting out the Contractor's processes for the safe management of pedestrian and traffic movement within the Facility including details of:
    - (i) routes, speed limits, and other internal rules for traffic entering and exiting the Facility; and
    - (ii) risk assessments identifying all reasonably foreseeable risks relevant to traffic management at the Facility;
  - (m) an emergency management plan including:
    - (i) a complete set of policies, protocols and rules for identifying, reporting and responding to any and all emergencies that the Contractor should reasonably anticipate may occur in carrying out the Services;
    - (ii) its plans for the speedy restoration of any business processes with minimum disruption to the delivery of the Services in the event of an emergency;
    - (iii) fire management, including methods by which fires will be detected;
    - (iv) step-by-step instructions, communications and stakeholder engagement as to what it will do in response to an emergency;
    - (v) processes for the management of incidents that could threaten human health or safety or cause environmental harm;
    - (vi) events that would constitute an emergency, and the impact the emergency may have on the delivery of the Service;
    - (vii) the name of officers with authority to declare an event to be an emergency on behalf of the Contractor;
    - (viii) the procedures for contacting the Territory's nominated representative to inform of the issue and specify alternate arrangements, if required;
    - (ix) training details of the Contractor's personnel for emergency situations arising in relation to the Services including planned and unplanned emergency scenarios;
    - (x) the resources and procedures for carrying out the Services if the emergency prevents the normal delivery of Services.
  - (n) a hazardous materials management plan which includes:
    - (i) the procedures to protect the Contractor's personnel, Customers and Visitors to the Facilities from harm associated with hazardous materials, including asbestos;
    - (ii) embedding health monitoring requirements into procedures;
    - (iii) the methods of identifying, receiving, processing, storing and disposing of expected or unexpected, compliant or non-compliant hazardous materials; and
    - (iv) the procedures to update and maintain hazardous materials register.
- 1.2 For the purpose of **clause 10.3**, the draft Transition In Plan at **Attachment C** is to be taken to be Endorsed by the Territory and the Contractor is not required to prepare and submit an updated Transition In Plan during the Term.
- 1.3 At least 6 months prior to the End Date in **Item 2 Schedule 1**, or in the event this Agreement is terminated within 5 Business Days upon receipt of the termination notice, the Contractor must prepare and submit to the Territory the Transition Out Plan for Endorsement by the Territory in accordance with **clause 10.3**. The Transition Out Plan must detail the Contractor's plan to vacate the Facilities and transfer the Services to the relevant incoming contractor or the Territory (as the case may be) in a timely, orderly and

efficient manner at the end of the Agreement and over a period of up to 60 Business Days.

## 2. Policies

2.1 Within 30 days of the Commencement Date, the Contractor must prepare and submit to the Territory the following Policies for Endorsement by the Territory in accordance with **clause 10.3**:

(1) **Acceptance and Rejection Policy** which:

- (a) is in a form suitable to be made available to the public;
- (b) defines the criteria to be applied by the Contractor for acceptance or rejection of a Delivered Item as a Reusable Item;
- (c) establishes a methodology to categorise accepted Reusable Items into four categories: Reuse, Repair, Repurpose, and Refurbish, with the aim of optimising Resource Recovery;
- (d) prioritises Resource Recovery and Circular Economy outcomes;
- (e) establish as methodology to categorise Reusable Items into a Reusable Stream, with Reusable Streams to be developed based on the following streams:
  - (i) antiques;
  - (ii) art and craft;
  - (iii) bicycles;
  - (iv) books, CDs, records;
  - (v) building materials and products including sinks, doors, windows, etc.;
  - (vi) carpet squares/tiles, underlay, etc.;
  - (vii) clothing and manchester;
  - (viii) Electronic Devices;
  - (ix) gardening equipment including lawn mowers;
  - (x) gates and fencing items, metal posts/columns and beams;
  - (xi) homewares;
  - (xii) household appliances;
  - (xiii) mattresses; and
  - (xiv) toys; and

(2) **Pricing Policy** which:

- (a) is in a form suitable to be made available to the public;
- (b) includes procedures to be followed by the Contractor for determining fair and reasonable prices for the Reusable Items offered for sale; and
- (c) includes procedures with regards to price negotiation and deviations from advertised prices, including circumstances involving bulk sales; and
- (d) is consistent with community expectations in respect of the pricing of Reusable Items.

2.2 The Contractor may seek to amend or update the Acceptance and Rejection Policy and/or the Pricing Policy where there is a change to:

- (1) the market conditions with regards to the sale/disposal of Reusable Items;
- (2) the storage capacity at a Facility;
- (3) the turnover of Reusable Items by the Contractor; and

- (4) any other matter which is considered relevant by the Territory.

### 3. Reports

- 3.1 **(Monthly Report):** Within 5 Business Days following the end of each calendar month during the Term, the Contractor must provide the Territory with a report (**Monthly Report**) in respect of the previous calendar month (**Reporting Period**) which includes:
- (1) a summary of the Services provided in the Reporting Period;
  - (2) the Reusable Facilities Dataset;
  - (3) the Reusable Item recovery rate calculated as follows:  
 $[1 - (\text{RI Disposed} / \text{RI Accepted})] \times 100$   
Where:
    - (a) 'RI Disposed' is the total tonnes of Reusable Items disposed of at Landfill; and
    - (b) 'RI Accepted' is the total tonnes of Reusable Items accepted at the Facilities;
  - (4) number of its personnel at each Facility and the number of those personnel which are Specified Individuals;
  - (5) summary list of any maintenance, repairs, monitoring, signage changes or other ancillary activities on-site undertaken during the Reporting Period;
  - (6) summary of all maintenance type works undertaken;
  - (7) number of Visitors;
  - (8) industrial relation matters;
  - (9) relationship matters with Related Activity Contractors;
  - (10) issues with the Services;
  - (11) completed Charity Activities;
  - (12) completed Community Workshops and related participation data;
  - (13) summary of all incidents, accidents, complaints, non-compliances or other issues which are or may become an issue for the Facilities;
  - (14) summary of all items which are 'written-off' due to being recalled or banned;
  - (15) any identified business efficiency improvements, cost savings or safety improvement activity that the Contractor has implemented;
  - (16) a report of its performance in the Reporting Period against key requirements of the Plans;
  - (17) a report detailing its performance in the Reporting Period against the KPIs including details of any calculations; and
  - (18) any other information which the Territory may reasonably request from time to time in relation to the Services or the Facilities.
- 3.2 **(Quarterly Report):** Within 20 Business Days of the end of each Quarter during the Term, the Contractor must provide the Territory with a report (**Quarterly Report**) in respect of the previous Quarter (**Reporting Period**) which includes any details it is required to report pursuant to its waste facility licence granted under the *Waste Management and Resources Recovery Act 2016* (ACT).
- 3.3 **(Annual Report):** By 31 March each year of the Term, the Contractor must provide the Territory with a report (**Annual Report**) in respect of the previous calendar year (1 January to 31 December) (**Reporting Period**) which includes:
- (1) a description of the Services undertaken throughout the Reporting Period;
  - (2) a summary of the outcome of its review of the Plans;

- (3) a breakdown of Reusable Items received and sold based on Reusable Streams;
  - (4) any innovations implemented by the Contractor during the Reporting Period; and
  - (5) recommendations for the improvement of operations of the Facilities or the Territory Assets.
- 3.4 **(Statement of accuracy):** Each Monthly Report, Quarterly Report and Annual Report must be accompanied by a statement signed by an authorised officer of the Contractor that confirms that the information contained in the Report is true and accurate.
- 3.5 **(Work Health and Safety Performance Report):** Within 5 Business Days of the end of each month, the Contractor must provide to the Territory a report in respect of the preceding month (**Reporting Period**) detailing:
- (1) the number of notifiable incidents in the Reporting Period;
  - (2) the number of 'lost time' injuries suffered by the Contractor's employees or subcontractors in the Reporting Period;
  - (3) the number of working days lost due to injury in the Reporting Period;
  - (4) the number of 'near miss' incidents in the Reporting Period;
  - (5) the current status of any injured personnel, damaged property or environmental damage or pollution;
  - (6) the status of the implementation and outcomes of corrective actions undertaken as a result of Work Health and Safety inspections and risk assessments;
  - (7) the status of Work Health and Safety Management System audits undertaken by the Contractor; and
- 3.6 **(Compliance Reports):** The Contractor must provide the Territory with a copy of any report produced by a third party regarding findings of audits or inspections conducted in respect of the Contractor, the Services or the Facility.
- 3.7 **(Information requests):** The Contractor must provide to the Territory any further information or evidence requested by the Territory from time to time:
- (1) to support any of the information or data contained in any of the reports;
  - (2) regarding the implementation of the Contractor's work health and safety management system;
  - (3) in relation to work health and safety audits or inspections conducted at the Facility during the Term; and/or
  - (4) in connection with the Services,
- within 2 Business Days of the date requested by the Territory.
- 3.8 **(Incident Notification and investigation):** The Contractor must:
- (1) if required by the WHS Legislation to give a notice to an Authority of an accident occurring during the performance by the Contractor of its obligations under the Agreement, the Contractor must give a copy of the notice to the Territory at the same time as providing it to the relevant Authority;
  - (2) notify the Territory of any notifiable incidents under the WHS Legislation, injuries or damage to property of a serious nature that occur in connection with the Services, as soon as reasonably practicable but no later than any prescribed timeframes under the WHS Legislation (where applicable); and
  - (3) in relation to any incident notified to the Territory under **Item 3.8(2) Schedule 3**, the Contractor must:
    - (a) actively cooperate, share and provide to the Territory any information relating to the notifiable incident or accident; and
    - (b) implement corrective actions relevant to the Contractor's duties.

3.9 **(Asset Register):** The Contractor must maintain a register of all Territory Assets at each Facility, including a description of each asset and its condition, and provide this to the Territory upon request.

**4. Meetings**

The Territory's Contract Officer (or such other personnel nominated by the Territory) will arrange meetings with the Contractor's Contract Officer and any other personnel nominated by the Contractor at the frequency and location and for the purpose identified in the table below.

Location	Frequency	Purpose
Territory offices or online	Monthly	To discuss the Contractor's performance against the Integrated Management System and KPIs.
Territory offices or online	Quarterly	To review the Services and overall Agreement, including the Integrated Management System and KPIs and discuss any potential changes.
Territory offices or online	Annual	To review the Services and overall Agreement, including the Integrated Management System and KPIs and discuss any potential changes.

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**Schedule 4 – Contract Price**

- Item 1. Contract Price** The Contract Price is the value derived by the Contractor from:
- (1) the sale of Reusable Items pursuant to this Agreement; and
  - (2) its ownership of the Reusable Items accepted at the Facilities pursuant to this Agreement.
- Item 2. Stand Down Fee** [INSERT]

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## Schedule 5 – Performance Management Framework

*[Note to Respondents: to be populated from the Respondents response to Attachment C1]*

### 1. Calculating Disposal Threshold

The Disposal Threshold for each month is calculated in accordance with the following:

$$DT = BT + CT - DD$$

Where:

- (1) DT is the Disposal Threshold
- (2) BT is the Baseline Threshold of 20 tonnes;
- (3) CT is the Compliance Threshold applicable to the Performance Measure achieved by the Contractor in the relevant month against all KPIs as determined in accordance with **Item 2 Schedule 5**, being a maximum of 20 tonnes;
- (4) DD is the Disposal Deduction, being 5 tonnes for each Action Request issued by the Territory which:
  - (a) the Territory has not received an Action Plan; or
  - (b) the Contractor has not taken the required steps under the Action Plan to the reasonable satisfaction of the Territory.

### 2. KPI and Compliance Checklist

**Table 2A: Key Performance Indicators**

KPI for the Services		
Performance Indicator	Performance Measure	Compliance Threshold
a) Standard Performance Indicator	___%	20 tonnes

Contractor performance measured by the monthly Compliance Checklist equals the Performance Measure.		
<b>b) Sub-standard Performance</b>	< ___ %(<standard)	___tonnes (must be less than 20 tonnes)
Contractor performance as measured by the monthly Compliance Checklist is less than the Standard Performance Indicator and greater than the Minimum Performance Indicator.	< ___%	___tonnes
	< ___%	___tonnes
	< ___%	___tonnes
<b>c) Minimum Performance Indicator</b>		
Contractor performance measured by the monthly Compliance Checklist is below the Performance Measure.	_____%	0

**Table 2B: Compliance Checklist**

Compliance number	Compliance Item name and description	Method and measure to evidence compliance	Weighting (%)
1	Provide reports within timeframe (Reports contain sufficient evidence of provided Services)	<ul style="list-style-type: none"> <li>• Reports will be provided within timeframes specified in <b>Schedule 3</b></li> <li>• Photo evidence of completed tasks.</li> <li>• Verified quantities of Reusable Items accepted, transferred, sold, donated and disposed.</li> <li>• Any other relevant evidence or reports.</li> </ul>	
2	Charity Activities	<ul style="list-style-type: none"> <li>• Verified record of Reusable Items or financial donations</li> <li>• As per Charity Activities Management Plan</li> </ul>	

3	Workshops	<ul style="list-style-type: none"> <li>Workshop attendance record</li> <li>As per Community Workshops Management Plan</li> </ul>	
4	Social events	As per Charity Activities Management Plan	
5	Number of FTE/PTE/Casual Employees/ Aboriginal and Torres Strait Islander Employees/ Employees with disability Social Inclusion	As per relevant plan	
6	All Customer complaints relevant to the Services are resolved within the timeframe indicated in <b>Item 9.5 Schedule 2.</b>	As per complaints register	...
7	All equipment maintained and serviced in accordance with Maintenance Plan	<ul style="list-style-type: none"> <li>Monthly reporting of scheduled and reactive maintenance as per <b>Schedule 3.</b></li> <li>All repairs are completed within agreed timeframe.</li> <li>Asset Register is maintained in accordance with <b>Item 3.9 Schedule 3.</b></li> </ul>	
8	<u>Visual</u> appearance	<ul style="list-style-type: none"> <li>Facilities are maintained as per Licence Conditions</li> <li>Complaints register.</li> </ul>	...
9	Stockpile management	As per Waste Facility Licence and Reporting and Recording Plan	
10	Rectifying actions to an incident/near miss report is completed within the timeframe	Reporting as per <b>Item 3.8 Schedule 3.</b>	
11	WHS incident reporting	Reporting as per <b>Item 3.5 Schedule 3</b> and <b>Item 3.8 Schedule 3.</b>	...
...	...	...	...

	<i>(please add rows as required)</i>		
	<b>Compliance Checklist Performance Total (sum of the applicable compliance items and its weighting)</b>		<b>100%</b>

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## Schedule 6 – Licence Conditions

### 1. Definitions

1.1 For the purpose of this **Schedule 6**, unless the context otherwise requires:

- (1) **Contractor's Property** means each of the following, as applicable:
  - (a) the Reusable Items at each Facility;
  - (b) any improvements including buildings or other structures:
    - (i) constructed or placed at a Facility by the Contractor; or
    - (ii) constructed or placed at a Facility at the Contractor's expense and/or direction;
  - (c) any fittings, fixtures or goods erected, installed or placed at a Facility by the Contractor including any partitions or devices for heating or cooling or fire prevention; and
  - (d) any light bulbs, light fittings, fluorescent tubes or other illuminating devices at a Facility installed by the Contractor;
- (2) **Dangerous Substances** has the same meaning given to it in the Dangerous Substances Legislation;
- (3) **Dangerous Substances Legislation** means the *Dangerous Substances Act 2004* (ACT) the *Dangerous Substances (General) Regulation 2004* (ACT), as amended from time to time;
- (4) **Job Hazard Assessment** means a document that outlines work activities to be carried out at a workplace into logical job steps, identifies hazards associated with each step and the procedures to control the identified hazards;
- (5) **Key** means a physical device for fastening or opening lock(s) securing a Facility, including but not limited to, a traditional key, a swipe card and a wireless "smart" key;
- (6) **Land** means:
  - (a) for the Mitchell Facility, that part of Block 847, District of Gungahlin on which the Mitchell Facility is situated as shown at **Attachment A**; and
  - (b) for the Mugga Facility, that part of Blocks 2114 and 2247, District of Jerrabomberra on which the Mugga Facility is situated as shown at **Attachment B**;
- (7) **Leases Act** means the *Leases (Commercial and Retail) Act 2001* (ACT);
- (8) **Licence Commencement Date** means the Services Commencement Date;
- (9) **Licence End Date** means the End Date (as defined in **clause 1.1**);
- (10) **Minor Works** means works of a minor nature, not classified as construction work and, in the reasonable opinion of the Territory, have minimum impact on the day-to-day operations of the Contractor;
- (11) **Permitted Use** means the provision by the Contractor of the Services;
- (12) **Security Code** means a series of numbers, letters and/or symbols used to fasten or open locks securing a Facility using a touchpad or other input device;
- (13) **WHS Legislation** has the meaning given in **clause 11.10**; and
- (14) the definitions set out in **clause 1.1** of this Agreement and **Schedule 2** apply.

## **2. Licence only**

The rights granted in this Agreement in respect of the Facilities are personal to the Contractor and are not to be construed as creating any estate or interest in the Land or the Facilities in favour of the Contractor.

## **3. Use of Facilities**

3.1 The Contractor may only use and occupy each Facility for the Permitted Use and any other purpose consented to by the Territory in writing.

3.2 The Contractor must not do anything in or about a Facility which, in the reasonable opinion of the Territory and having regard to the nature of the Services:

- (1) is noisy, obnoxious, immoral, offensive or a nuisance or disturbance to other persons using the Facility or the Land;
- (2) may be the cause of damage or unreasonable vibration (as determined by the Territory); or
- (3) interferes with the orderly operation of the Facility or the relevant RMC.

3.3 The Contractor acknowledges that no promise, representation, warranty or undertaking has been given by or on behalf of the Territory as to the suitability of a Facility for any purposes or as to the fittings, finishing, facility and amenities of a Facility, except as contained in this Agreement.

3.4 The Contractor must comply, at its expense, with all laws and the requirements of any authority in connection with the Contractor's use or occupation of each Facility.

3.5 Where the activities conducted by the Contractor at a Facility requires the consent of any authority, the Contractor must obtain and maintain that consent at its own expense.

3.6 The Contractor must not fix or place any sign, notice, advertisement or other thing on any part of a Facility without the consent in writing of the Territory and then only in such colour, size and style and in such places as approved by the Territory, such approval not to be unreasonably withheld.

3.7 The Contractor must keep the Territory Assets, the Land and immediate surroundings clean and tidy, and free from refuse and vermin.

3.8 If the Contractor receives a notice from any authority in respect of a Facility, the Contractor must immediately notify the Territory in writing attaching a copy of the notice.

3.9 The Contractor must immediately give notice to the Territory of any damage to a Facility or the Territory Assets and any accident affecting water, gas or oil pipes, electrical wiring, the air-conditioning system or any defect in them or any other fittings, fixtures or facilities provided by the Territory.

## **4. Flammables and dangerous Substances**

4.1 The Contractor must not store or use flammable, combustible, volatile, poisonous or explosive chemicals or substances at a Facility except and only to the extent necessary for the performance of the Services by the Contractor.

4.2 Where the Contractor stores or uses flammable, combustible, volatile, poisonous or explosive chemicals or substances at a Facility it must:

- (1) not create any actual or potential fire hazard at the Facility; and
- (2) keep those substances in a safe and secure manner consistent with all applicable laws (including Dangerous Substances Legislation), standards (including AS 1940:2017) and guidelines of all relevant authorities.

4.3 The Contractor must permit the Territory to enter a Facility at any time to control any actual or potential fire hazard.

- 4.4 The Contractor must not handle, store or use Dangerous Substances at a Facility except for substances used in the normal course of the Contractor's business consistent with the Permitted Use.
- 4.5 If the Contractor stores or uses Dangerous Substances in accordance with **Item 4.4**, the Contractor must keep those substances in a safe and secure manner consistent with all laws (including the Dangerous Substances Legislation) and guidelines of all relevant authorities.
- 4.6 The Contractor must:
- (1) not do anything at a Facility which is, or reasonably might be, contrary to the Dangerous Substances Legislation; and
  - (2) immediately notify the Territory if the Contractor becomes aware of any situation which results in, or reasonably might result in, a breach of the Dangerous Substances Legislation.
- 4.7 The Contractor is responsible for installing and maintaining appropriate placarding and licensing for Dangerous Substances handled or stored at a Facility in accordance with the Dangerous Substances Legislation. The Contractor must notify the Territory if any placarding and/or licensing is required.
- 4.8 If any infectious illness occurs at a Facility, the Contractor must immediately notify the Territory and if directed by the Territory have the Facility fumigated and disinfected by a suitably certified contractor, at the expense of the Contractor, to the satisfaction of all relevant authorities.

## **5. Work Health and Safety**

- 5.1 Without limiting the application of the WHS Legislation, the Contractor is responsible for all aspects of work, health and safety in connection with its business or undertaking carried out at a Facility including:
- (1) the safe performance of its business or undertaking at the Facility;
  - (2) the health and safety of any workers or others employed, engaged or who visit the Facility at any time for any purpose;
  - (3) the provision and maintenance of a work environment that is without risk to health and safety, so far as is reasonably practicable;
  - (4) the provision and maintenance of safe systems of work;
  - (5) the safe use, handling and storage of plant, structures and substances at or in connection with a Facility;
  - (6) the provision of adequate facilities for the welfare at work of workers in carrying out work for the Contractor at or in connection with a Facility including ensuring access to those facilities;
  - (7) the provision of any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking of the Contractor at the Facility; and
  - (8) that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers arising from the conduct of the business or undertaking of the Contractor at the Facility.

## **6. Keys and Access**

- 6.1 Where a Facility is secured by Key access, the Territory must provide two copies of any Key required for access on or before the Licence Commencement Date.
- 6.2 Where Territory updates or changes locks or security system protecting a Facility which requires new Keys, the Territory must provide the Contractor two copies of any new Keys as soon as possible after making such a change.

- 6.3 Where requested by the Contractor the Territory may, at its discretion, provide additional Keys to the Contractor at the Contractor's expense.
- 6.4 The Contractor must not copy any Key without the written consent of the Territory. The Contractor must not identify the purpose of a Key including the address of a Facility in any key tag, key chain, key ring or device attached to a Key.
- 6.5 The Contractor must advise the Territory of the person with custody of each copy of all Keys at any time requested by the Territory and must immediately report the loss or damage of any Key to the Territory as soon as possible upon discovering such loss or damage.
- 6.6 Where a Facility is secured by Security Code access, the Territory must advise the Contractor of the Security Code on or before the Licence Commencement Date.
- 6.7 The Contractor must take all reasonable precautions to keep the Security Code secret and must not provide it to any person other than:
- (1) persons authorised by the Contractor to open and secure a Facility; and
  - (2) any person permitted by the Territory to know the Security Code.
- 6.8 The Contractor must advise the Territory on request of each person the Contractor is aware knows the Security Code (whether or not the Contractor disclosed the Security Code to such persons) and must immediately report any unauthorised disclosure of the Security Code to the Territory as soon as possible upon discovering such disclosure.
- 6.9 The Contractor must reimburse the Territory on demand for all reasonable costs that relate to the replacement of any Key lost by the Contractor.
- 6.10 Where the Territory, in its reasonable opinion, is required to change the locks or otherwise alter the security or access to a Facility due to the loss of any Key or unauthorised disclosure of any Security Code by the Contractor or any person who obtained a Key and/or Security Code from the Contractor, the Contractor:
- (1) must pay all reasonable costs of the Territory in changing locks and/or access arrangements to the Facility; and
  - (2) indemnifies the Territory for all costs, loss and damage, arising from and/or related to the loss of the Key and/or unauthorised disclosure of the Security Code.
- 7. Statutory Outgoings, Service Charges, General Charges**
- 7.1 The Contractor must promptly pay:
- (1) all charges for gas, electricity, oil and water separately metered or supplied and consumed at a Facility;
  - (2) all charges in respect of any telephone, data or other communication services connected to a Facility; and
  - (3) all other charges for the supply of any service separately supplied to a Facility.
- 7.2 If gas, electricity, oil or water consumption is supplied but not separately metered to a Facility, the Contractor must within 30 days of demand by the Territory pay a proportion of the amount of consumption charges for the provision of these items to the Facility as the Territory deems reasonable, having regard to the size of the Facility, other occupants on the Land, the respective use by all occupants of these items on the Land (including the Contractor) and any other factor which the Territory deems relevant.
- 7.3 Unless related to a matter provided for in **Items 7.1** and/or **7.2**, within 30 days of receipt of a written request from the Territory, the Contractor must pay to the Territory the proportion of charges and expenses for the outgoings and charges set out in the column headed "Percentage of Contractor Responsibility (B)" in the table at **Item 15**.
- 7.4 The Territory must, if required by the Leases Act, give the Contractor a report, within three months after the end of each accounting period in accordance with the Leases Act, which:

- (1) details the Contractor's expenditure for that accounting period on account of applicable outgoings to which the Contractor is required to contribute; and
- (2) complies with the provisions of section 66 of the Leases Act.

## **8. Alterations and Fitout**

- 8.1 The Contractor must not, without the prior written of the Territory:
- (1) make any alterations or additions in or to a Facility or allow the same to be made; or
  - (2) mark, paint, drill or in any way deface or damage the walls, partitions, ceiling, floor or surrounds of a Facility.
- 8.2 The Territory may grant or withhold consent in respect to a request from the Contractor under **Item 8.1** at its absolute discretion and upon such conditions as the Territory may determine.
- 8.3 The Contractor must, in the course of any alterations or additions:
- (1) comply with the requirements of the Territory and all relevant authorities; and
  - (2) if required, use persons nominated or approved by the Territory to carry out the work.
- 8.4 The Contractor must not, without the prior written consent of the Territory, install any water, electrical or gas fixture or appliance or any apparatus for light, air, heating or cooling.

## **9. Repairs, Maintenance, Replacement and Inspection**

- 9.1 Except where the Territory elects to carry out repairs pursuant to **Item 9.2 Schedule 6**, the Contractor must maintain each Facility and the Territory Assets in good and tenable repair and condition having regard to the condition of the Facility and the Territory Assets:
- (1) at the Commencement Date; or
  - (2) where a Facility or Territory Asset is upgraded or replaced during the Term, the date which the Facility or Territory Asset was upgraded or replaced.
- 9.2 Where the cost of repairing a Territory Asset on any one occasion exceeds \$2,000 excluding GST, the Contractor must notify the Territory and the Territory may elect to carry out the repairs itself or direct the Contractor to carry out the repairs.
- 9.3 Where, following notification pursuant to **Item 9.2**, the Territory elects to carry out the repairs itself, the Territory may require the Contractor to contribute \$2,000 (**Repair Contribution**). The Territory will be under no obligation to repair unless and until the required contribution is made by the Contractor to the Territory.
- 9.4 Where the Territory has directed the Contractor to carry out repairs pursuant to **Item 9.2 Schedule 6**:
- (1) the Territory will pay for the costs of repairing the Territory Asset to the extent that those costs exceed the Repair Contribution, provided:
    - (a) the requirement for repair has not arisen as a result of the negligence or act or omission of the Contractor or its Associates;
    - (b) the Contractor contributes the Repair Contribution to the costs of repairing the Territory Asset;
    - (c) the Contractor obtains the Territory's written consent to the repairs being undertaken and the costs of the repairs prior to the repairs being undertaken;
    - (d) the Contractor complies with any reasonable requirements of the Territory in connection with the repairs including as to the number of quotations to be obtained by the Contractor in respect of the repairs and the party carrying out the repairs; and

- (e) the costs of the repairs do not exceed the amount approved by the Territory,  
and
  - (2) the Contractor must keep the Territory informed as to the progress of the repairs;  
and
  - (3) the Contractor must provide the Territory with any information and documentation  
reasonably requested by the Territory in connection with the repairs including to  
substantiate and evidence that the repairs have been undertaken and the costs of  
undertaking the repairs have been properly incurred by the Contractor.
- 9.5 The Contractor must not damage or allow to be damaged (which includes damage  
occasioned by incorrect, inappropriate, negligent or deliberate operation) a Facility or the  
Territory Assets, fair wear and tear excepted.
- 9.6 The Contractor must:
- (1) maintain fire extinguishers and smoke detectors within each Facility in accordance  
with the requirements of law, all relevant authorities and otherwise to the  
satisfaction of the Territory; and
  - (2) undertake routine maintenance and repairs on the Territory Assets including the  
light switches, power points and light fittings within each Facility in accordance with  
any applicable manufacturer's specifications and any reasonable requirements  
notified by the Territory to the Contractor from time to time.
- 9.7 The Contractor must maintain and keep the Contractor's Property in good and tenantable  
repair and condition.
- 9.8 Where required, the Contractor must replace with items of the same specifications, all  
disposable light bulbs, disposable lighting tubes and disposable fluorescent starters for  
lighting at a Facility at its own expense.
- 10. Make Good**
- The Contractor must, at the time of, or immediately before, the expiration of the  
Contractor's occupancy (and in this regard time is of the essence);
- (1) carry out any outstanding repairs it is obliged to undertake under **Item 11**;
  - (2) reinstate all floor coverings, light and power outlets, switches, telephone outlets,  
fire sprinklers and air-conditioning and any other fixtures or fittings of the Territory  
and make good any damage to a Facility arising as a result of such reinstatement;
  - (3) remove all signs, notices, advertisements, ornaments or other things placed by the  
Contractor at a Facility and make good any damage to the Facility arising as a  
result of such removal;
  - (4) remove the Contractor's Property and make good any damage arising as a result  
of such removal;
  - (5) leave each Facility clean and tidy, free from all rubbish and in the condition required  
pursuant to **Item 9.1** (fair wear and tear excepted); and
  - (6) peaceably surrender and yield up each Facility.
- 11. Notices to repair**
- 11.1 The Territory may, at any time, serve on the Contractor a notice in writing of any defect  
which the Contractor is required to repair. The Contractor must repair the defect within  
21 days of the date of service of the notice (or such other period as agreed). The Territory  
may specify a period of less than 21 days within which to repair the defect if the defect is  
likely to cause damage to a Facility or may cause injury to any person.
- 11.2 Where the Territory is required to repair, due to the default of the Contractor, the  
Contractor must pay to the Territory the cost of those repairs and any associated  
expenses within 7 days of notification of the amount.

## **12. Leaving Contractor's Property, goods or fixtures behind**

- 12.1 To the extent permitted by law, if the Contractor leaves any Contractor's Property, goods or fixtures at a Facility for more than 7 days after the Licence End Date, the Territory may dispose of them in any way the Territory sees fit. In addition, any such Contractor's Property will, at the Territory's election, become the Territory Assets absolutely and the Territory may deal with them without accounting to the Contractor or being required to compensate the Contractor for the same.
- 12.2 The Contractor is not entitled to receive any form of compensation from the Territory in respect of any Contractor's Property left at a Facility after the Licence End Date.

## **13. Territory's right to enter**

- 13.1 The Territory and persons authorised by the Territory have the right to enter a Facility with necessary materials and equipment at reasonable times, and upon providing at least 5 Business Days written notice (but without any notice in any case which the Territory considers an emergency):
- (1) to view the state of repair and condition of a Facility and conduct investigations;
  - (2) to carry out Minor Works or make any repairs or alterations or additions to a Facility;
  - (3) to carry out repairs as the Territory thinks fit;
  - (4) where the Contractor has failed to repair any defect in accordance with any notice served by the Territory;
  - (5) to comply with the terms of any present or future law affecting a Facility or any notice served on the Territory or the Contractor by the Territory or any competent authority;
  - (6) to audit the Contractor's compliance with this Agreement; or
  - (7) where otherwise permitted under this Agreement.
- 13.2 The Territory will use reasonable endeavours to minimise the impacts of its access to a Facility and, where applicable, the carrying out of repairs or Minor Works, on the Contractor's operations at the relevant Facility.
- 13.3 The Contractor must co-operate with the Territory and do all things reasonably necessary to facilitate the access to a Facility required by the Territory including by temporarily suspending or changing or practices and operations to allow for the Minor Works or repairs to be conducted by, or on behalf of, the Territory.
- 13.4 Whilst attending a Facility and carrying out activities under this **Item 13**, the Territory must use reasonable endeavours to ensure that persons attending the Facility under its authority or control:
- (1) follow all reasonable instructions from the Contractor in respect of safety at the Facility; and
  - (2) take all reasonable steps to minimise any impact of their activities on the Contractor's operations at the Facility.
- 13.5 The Contractor must not, and must ensure its personnel do not:
- (1) interfere with the repairs or Minor Works; or
  - (2) damage any Minor Works,
- undertaken by the Territory or its Associates at the Facility.

## **14. Default and Re-entry**

Where the Contractor is in breach of any of the Licence Conditions and fails to remedy that breach within 30 days after receiving a notice from the Territory requiring it to do so, the Territory may remedy the breach at any time without notice to the Contractor and without limiting the rights of the Territory as a consequence of that breach. Where the Territory so acts, all reasonable costs and expenses incurred by the Territory (including

reasonable legal costs on a solicitor and client basis) in remedying any breach, must be paid by the Contractor to the Territory immediately upon written notification of the amount and, in default, the amount may be recovered in a court of competent jurisdiction.

**15. Distribution of outgoings, service charges and general charges**

For the purpose of **Item 7.3**, the responsibility of each party for the charges in connection with each Facility are as set out in the table below.

<b>Details of Charges</b>	<b>Percentage of Territory responsibility (A)</b>	<b>Percentage of Contractor responsibility (B)</b>
<b>SECTION 1 - STATUTORY OUTGOINGS</b>		
Land Tax	100%	0%
General Rates	100%	0%
Water and Sewerage Rates	100%	0%
<b>SECTION 2 - SERVICE AND GENERAL CHARGES</b>		
Electricity	0%	100%
Gas	0%	100%
Water Usage	0%	100%
Telephone and Communications	0%	100%
Cleaning – General	0%	100%
Cleaning - Windows (Internal)	0%	100%
Cleaning - Windows (External)	0%	100%
Cleaning – Toilet requisites	0%	100%
Rubbish Removal/Trade Waste	0%	100%
Grease Trap/Triple Inceptor – Cleaning and Emptying	N/A	N/A
Gutter Cleaning	0%	100%
Plate Glass Insurance	0%	100%
Public Liability Insurance	0%	100%
Landscaping/Gardening	0%	100%
After-hours Air-Conditioning	0%	100%
Air-Conditioning System Repairs, Maintenance and Replacement	100%	0%
Security - Monitoring	0%	100%
Building Security System – Hardware	100%	0%
Security Attendance	0%	100%
Pest Control	0%	100%

Building Insurance	100%	0%
Fire Brigade Monitoring	N/A	N/A
Fire Protection & Fire Extinguishers	0%	100%
Signage (Internal, External)	0%	100%
Painting	0%	100%
Lifts	N/A	N/A
Locks and Keys	0%	100%
Lighting	0%	100%
Floor coverings	0%	100%
Billy Unit/Hot & Cold Water unit Maintenance, Repair and Replacement	0%	100%

**16. Leases Act**

- 16.1 Subject to **Item 16.3** below, the parties agree that the provisions of the Leases Act apply to this Licence. Where there is an inconsistency between the provisions of the licence created pursuant to this Agreement and the Leases Act, the Leases Act will prevail.
- 16.2 The Licensee warrants that it was advised of the existence of the approved handbook which may be found at:  
<https://www.accesscanberra.act.gov.au/ci/fattach/get/49290/1437434055/redirect/1/file/name/Leases+++Commercial+and+retail+handbook.pdf> as early as was practicable in negotiations relating to this Licence.
- 16.3 The standard provisions in any regulations prescribed under the Leases Act do not apply to the licences created pursuant to **clause 3.1**.
- 16.4 The Contractor warrants:
- (1) that it has been independently advised by a lawyer (as defined in the Leases Act and not acting for the Territory) of the Contractor's rights pursuant to section 104 of the Leases Act; and
  - (2) that the lawyer has provided the certificate in the form set out in **Attachment D**, as required by section 104 of the Leases Act.

### Schedule 7 – Approved Subcontractors

Approved Subcontractor	ABN	Approved Scope

DRAFT



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**Attachment A – Mitchell Facility**

DRAFT

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**Attachment B – Mugga Facility**

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**Attachment C – Transition In Plan**

DRAFT

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**Attachment D – Leases Act Certificate**

**LAWYER'S CERTIFICATE**  
under section 30 and 104 of the Leases Act

I.....

of.....

certify:

1. I am a solicitor of the Supreme Court of the Australian Capital Territory.
2. I act for..... (**Contractor**).
3. I do not act for the Australian Capital Territory, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**), in its capacity as the licensor under the agreement between the Territory and the Contractor for Reusable Facility Services (**Agreement**).
4. In this Certificate a reference to a Contractor when a Contractor is an Association, is a reference to an authorised representative of that Association.
5. Before the Contractor executed the licence forming part of the Agreement (**Licence**), at the request of the Contractor I explained:
  - (a) the effect of clause 16 of the Licence and of this Certificate;
  - (b) how section 30 of the Leases Act would apply in relation to the Licence if the Licence did not include this clause; and
  - (c) the effect of section 104 of the Leases Act and that the giving of this Certificate may result in the Licence being for a term of less than five years.
6. The Contractor told me that:
  - (a) the Contractor was not acting under coercion or undue influence in asking for or agreeing to the inclusion of this clause (including this Certificate) in the Licence;
  - (b) the Contractor was not required by the Territory to use a lawyer acting for or nominated by the Territory; and
  - (c) the Contractor was aware of, and had chosen to waive, the time limits under section 30 of the Leases Act.

DATED this.....day of .....20

Signed

.....  
Solicitor, ACT.



# CANBERRA REGION LOCAL INDUSTRY PARTICIPATION POLICY

## Economic Contribution Test (ECT)

Procurements with a value of \$200,000 to \$5million

April 2019

This template is for the Economic Contribution Test (ECT). The ECT is an assessment criteria in the ACT Government's procurement process.

If your business is successful in winning this procurement, your compliance with this ECT maybe evaluated as part of the final contract performance evaluation. The evaluation can be considered as part of your future procurement submissions.

More information on the Canberra Region Local Industry Participation Policy is available at <https://www.procurement.act.gov.au/canberra-region-lipp>

**CANBERRA REGION LOCAL INDUSTRY PARTICIPATION POLICY**

**ECONOMIC CONTRIBUTION TEST (ECT)**

**Procurements with a value of \$200,000 to \$5million**

**Tender and business information**

Information you enter into the tables below must be able to be verified. Where possible quantify items in your statements.

Tender\* title

Tender number

Responsible Territory Entity / Directorate

\* *Tender refers to tender, quotation or any other form of bid/response to a procurement for territory-funded work issued by the Territory for the supply of goods, services and/or works, intended to result in a contract.*

Legal entity name

ABN

Trading name

Business project manager/contact person

Telephone

Email

**What is your physical presence in the Canberra region?**

Head office

Branch office

Warehouse/ Depot

Home office

Nil

Other

(Select all that apply)

Specify:

**When was this presence established?**

How many full time employees (FTE) do you currently employ in the Canberra region?

Describe your existing relationships with other businesses in the Canberra region?

**CANBERRA REGION LOCAL INDUSTRY PARTICIPATION POLICY**

**ECONOMIC CONTRIBUTION TEST (ECT)**

**Procurements with a value of \$200,000 to \$5million**

**A: Regional employment**

This section measures the potential economic benefit to the Canberra region through the use of Canberra region sourced labour throughout the contract term.

**Labour hours from the Canberra region**

*See Guidance Note 1*

**Head contract**

**A1: Estimated internal FTE required to deliver the contract.**

# of FTE:

*See Guidance Note 1*

% from the Canberra region

**A2: Estimated head count of internal labour required to deliver the contract.**

# of FTE:

*See Guidance Note 1*

% from the Canberra region

**Subcontract/s or outsourced labour arrangements**

**A3: Will you need to engage Canberra region based subcontractors to deliver this contract?**

Yes

No

**Complete A4**

**Go to Section B**

**A4: Estimated FTE of subcontracted labour intended to be used to perform the contract.**

# of FTE:

*See Guidance Note 2*

% from the Canberra region

**Guidance Note:**

- 1) The labour your business will employ directly to deliver the contract should you be successful. Do not include labour related to outsourced or subcontracted work.
- 2) An estimate of the labour from any outsourced and subcontracted Canberra region work to deliver the contract.

**CANBERRA REGION LOCAL INDUSTRY PARTICIPATION POLICY**

**ECONOMIC CONTRIBUTION TEST (ECT)**

**Procurements with a value of \$200,000 to \$5million**

**B: Regional suppliers**

This section measures the potential economic benefit to the Canberra region by using Canberra region sourced goods and services, and any other non-labour inputs required.

Excluding labour	Total	Sourced from the Canberra Region
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**B1: Estimated value of goods and services required to deliver the contract?**

**B2: Will you engage Canberra region based suppliers to deliver goods and services for this contract?**

Yes

No

**Complete B3**

**Go to Section C**

**B3: List the supply inputs (including bundled work packages) to be sourced from Canberra region suppliers.**

**Name and location of regional supplier**

**Estimated value of input**

*See Guidance Note 3*

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**Guidance Note:**

3) Supply inputs include but are not limited to: lease/hire of major equipment, heavy machinery or heavy vehicles; purchase of merchandise; finished products; food and beverages; supplies and raw material; and accommodation.

Describe how you will identify local products and capabilities that meet contract requirements, including:

- ▶ how you will inform local industry about particular opportunities (for example, a communication strategy)
- ▶ how you intend to identify and engage with suppliers in relation to delivery of the contract including your supply chain
- ▶ a commitment to liaising with Canberra region business advocacy groups to identify the availability of local goods and services
- ▶ establishing procedures or policies that encourage local industry participation.

**Insert or attach your response here:**

# CANBERRA REGION LOCAL INDUSTRY PARTICIPATION POLICY

## ECONOMIC CONTRIBUTION TEST (ECT)

### Procurements with a value of \$200,000 to \$5million

#### C: Regional skills development

Provide details of any training and skills development that will be provided to Canberra region labour in relation to this contract, including:

- ▶ opportunities for engaging and training apprentices
- ▶ the number of existing positions, local apprenticeships and traineeships to deliver this contract
- ▶ opportunities for increasing the skills of Canberra region employees
- ▶ training programs designed to support employee career development
- ▶ training programs designed for this contract.

**Insert or attach your response here:**

#### Outline evidence and the value of your business' contributions to skills and training development

Evidence of contribution	Estimated value (\$AUD) incl. GST

# CANBERRA REGION LOCAL INDUSTRY PARTICIPATION POLICY

## ECONOMIC CONTRIBUTION TEST (ECT)

### Procurements with a value of \$200,000 to \$5million

#### D: Regional investment

Describe how you will identify additional business undertakings that promote economic growth in the Canberra region resulting from this contract. This could include:

- ▶ value-added research or partnerships with universities/CIT
- ▶ potential to undertake further innovation and research, or the development of technology related to this contract
- ▶ use of emerging technologies and materials
- ▶ collaboration with international organisations to increase opportunities for Canberra region businesses.

**Insert or attach your response here:**

# CANBERRA REGION LOCAL INDUSTRY PARTICIPATION POLICY

## ECONOMIC CONTRIBUTION TEST (ECT)

### Procurements with a value of \$200,000 to \$5million

#### Declaration

I am a duly authorised officer of

(Business Name)

I am familiar with the principles and objectives of the Canberra Region Local Industry Participation Policy and the responsibilities under these.

If awarded the contract the business will:

- ▶ note that the Territory reserves the right to negotiate and/or clarify commitments in this ECT before finalising the contract
- ▶ meet the commitments in this or an amended ECT (as agreed by the Territory)
- ▶ attend any meeting scheduled by the Territory to review progress implementing commitments in this ECT.

Signature

Date

Name

Position



**REQUEST FOR**  
TENDER/PROPOSAL/EXPRESSIONS  
OF INTEREST. (RFT/RFP/REOI)

INSERT GS #

Insert Project Title

**ATTACHMENT G- Fair and Safe Employment Criteria (FSEC)  
Response Schedule**

## PART A – FAIR AND SAFE EMPLOYMENT CRITERIA

Respondents must submit this **Attachment G - Fair and Safe Employment Criteria – Response Schedule** as a stand-alone document and complete submission. The Fair and Safe Employment Criteria Response should not reference any other part of a Respondent’s submission and should be self-contained.

Respondents may attach documents to the end of this **Attachment G - Fair and Safe Employment Criteria - Response Schedule** to add further detail to any of their responses. Attachments must be clearly marked, identifying which part of the response the further detail is in relation to.

TABLE 1 – RESPONDENT DETAILS	
Respondent name	
Australian Business Number (ABN) or foreign equivalent number (if applicable):	

TABLE 2 – SECURE LOCAL JOBS CODE CERTIFICATE AND LABOUR RELATIONS, TRAINING AND WORKPLACE EQUITY PLAN		
Respondents must have a current Secure Local Jobs Code Compliance Certificate (Certificate) and submit a Labour Relations, Training and Workplace Equity Plan (LRTWEP) in response to this Response. The Territory will take into consideration as part of its assessment, the Respondent’s: <ol style="list-style-type: none"> <li>1. Ongoing compliance with Secure Local Jobs Code requirements;</li> <li>2. LRTWEP submitted as part of this Response (refer to <b>Appendix 1</b>)</li> </ol>		
1	Secure Local Jobs Code Compliance Certificate  <small>Note: “Secure Local Jobs Code Certificate” has the meaning given by the <i>Government Procurement Act 2001</i>.</small>	<input type="checkbox"/> Yes <input type="checkbox"/> No
2	The Respondent has remained compliant with the Secure Local Jobs Code requirements whilst holding a Certificate	<input type="checkbox"/> Yes <input type="checkbox"/> No If no, please provide details of any non-compliance if not captured below
3	The Respondent has remained compliant with and met LRTWEP reporting obligations for any applicable contracts in the preceding 12 months	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable Provide details of all relevant contracts and Territory contract managers/ contact officers for applicable contracts

## TABLE 3 – LITIGATION AND OTHER PROCEEDINGS

The Respondent **must** disclose any civil or criminal prosecutions against the Respondent, any Related Entities, or any director or officer of the foregoing concerning any of the following, or any allegation of the following:

The Respondent **must** disclose whether the Respondent has not complied with or been subject to an Adverse Ruling relating to industrial relations, employment and/or workplace safety obligations under, any Prescribed Legislation in the preceding 5 years.

Legislation	Non-compliance or Adverse Ruling
<i>Fair Work Act 2009 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Building and Construction Industry (Improving Productivity) Act 2016 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Income Tax Assessment Act 1997 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Independent Contractors Act 2006 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Industry Research and Development Act 1986 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Labour Hire Licensing Act 2020</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Long Service Leave Act 1976</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Long Service Leave (Portable Schemes) Act 2009</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Migration Act 1958 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Paid Parental Leave Act 2010 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Payroll Tax Act 2011</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Safety, Rehabilitation and Compensation Act 1988 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Superannuation Guarantee (Administration) Act 1992 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Superannuation Guarantee Charge Act 1992 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Work Health and Safety Act 2011</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Workers Compensation Act 1951</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Workplace Gender Equality Act 2012 (Cth)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Discrimination Act 1991</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	<p>Where you answer “yes” to any question, provide details below of any non-compliance and Adverse Rulings (whichever is applicable) under the Prescribed Legislation above and any remedial actions taken), making sure to <b>insert Full Details of any Adverse Rulings (if applicable) or write Nil below:</b></p> <p><i>Add lines here if more space is required.</i></p>
<p>The Respondent <b>must</b> disclose whether the Respondent has not complied with any applicable order, direction and decision of an Authorised Entity concerning the Prescribed Legislation.</p>	<p>Select only one:</p> <p><input type="checkbox"/> No, nothing to declare</p> <p><input type="checkbox"/> Yes (provide complete and accurate details below including whether any remedial actions have been taken and details of any such remedial actions)</p> <p><i>Add lines here if more space is required.</i></p>
<p>The Respondent <b>must</b> disclose whether the Respondent has not complied with or been subject to an Adverse Ruling relating to an Industrial Instrument that applies to it or its Employees.</p>	<p>Select only one:</p> <p><input type="checkbox"/> No, nothing to declare</p> <p><input type="checkbox"/> Yes (provide complete and accurate details below including whether any remedial actions have been taken and details of any such remedial actions)</p> <p><i>Add lines here if more space is required.</i></p>
<p>Any pending investigation or proceedings of a similar nature in relation to any of the above, of which the Respondent has actual notice.</p>	<p>Select only one:</p> <p><input type="checkbox"/> No, nothing to declare</p> <p><input type="checkbox"/> Yes (provide complete and accurate details below including whether any remedial actions have been taken and details of any such remedial actions)</p> <p><i>Add lines here if more space is required.</i></p>

**"Adverse Ruling"** has the same meaning as in the *Government Procurement (Secure Local Jobs) Code 2020*.

**"Authorised Entity"** means any court, tribunal, board, commission, regulatory agency (including without limitation the director-general, commissioner, regulator or any inspector referred to in the Prescribed Legislation) or other entity with jurisdiction to determine employee and industrial relations matters or work health and safety matters to the effect that the Respondent has contravened the Prescribed Legislation.

**"Employee"** means a natural person who is employed under a Contract of service (excluding professional or information technology services) to provide the Respondent with his or her labour.

**"Full Details"** means the details of:

- i) the nature of the Adverse Ruling, breach or offence;
- ii) the name of the relevant Authorised Entity;
- iii) the State or Territory in which the proceeding or prosecution was brought;
- iv) the date the Adverse Ruling was made or the proceeding or prosecution was commenced, and the number or description assigned to the proceeding or prosecution;
- v) the entity against which the Adverse Ruling, breach or offence was made or issued;
- vi) any document setting out the Adverse Ruling, breach or offence (including provision of a copy of the same);
- vii) any conviction recorded or adverse finding made in respect of the Adverse Ruling, breach or offence;
- viii) any penalty, fine or order imposed by an Authorised Entity in respect of the Adverse Ruling, breach or offence and the maximum penalty, fine or order that could have been imposed under the Prescribed Legislation;
- ix) any remedial measures or other actions proposed or recommended by the Authorised Entity and details of steps taken by the Respondent to comply with those remedial measures or other actions; and
- x) the status of the Adverse Ruling, breach or offence as at the date of the declaration.

**"Industrial Instrument"** has the same meaning as in the *Government Procurement (Secure Local Jobs) Code 2020*.

**"Prescribed Legislation"** has the same meaning as in the *Government Procurement (Secure Local Jobs) Code 2020*.

**"Related Entities"** has the same meaning as in the *Government Procurement (Secure Local Jobs) Code 2020*.

## TABLE 4 – OTHER DECLARATIONS

The Respondent <b>must</b> disclose whether the Respondent has made payments to a superannuation scheme on behalf of each of its employees for the last 5 years.	<input type="checkbox"/> Yes <input type="checkbox"/> No (provide reasons below) <i>Add lines here if more space is required.</i>
The Respondent <b>must</b> disclose whether the Respondent is required to make contributions to the ACT Long Service Leave Authority.	<input type="checkbox"/> Yes <input type="checkbox"/> No (provide reasons below) <i>Add lines here if more space is required.</i>
The Respondent <b>must</b> disclose whether the Respondent has a workers compensation insurance policy for all their staff.	<input type="checkbox"/> Yes <input type="checkbox"/> No (provide reasons below) <i>Add lines here if more space is required.</i>
The Respondent <b>must</b> disclose whether the Respondent is required to pay payroll tax in any State or Territory where their business operates.	<input type="checkbox"/> Yes <input type="checkbox"/> No (provide reasons below) <i>Add lines here if more space is required.</i>
The Respondent <b>must</b> disclose whether the Respondent pays employee entitlements in accordance with a Modern Award or an Enterprise Agreement.	<input type="checkbox"/> Yes – Modern award (Provide the details of award below (name, year)) <input type="checkbox"/> Yes – Enterprise agreement (Provide the details of agreement below (name, year)) <input type="checkbox"/> No (provide reasons below) <i>Add lines here if more space is required.</i>
The Respondent <b>must</b> disclose whether the Respondent is required by an enterprise agreement (or other industrial instrument) to make contributions to an industry fund, levy or scheme.	<input type="checkbox"/> Yes (Provide the industry fund, levy or scheme name for each contribution below) <input type="checkbox"/> No (provide reasons below) <i>Add lines here if more space is required.</i>
The Respondent <b>must</b> disclose whether the Respondent has systems or policies in place to ensure employees and subcontractors understand their obligations under the Secure Local Jobs Code.	<input type="checkbox"/> Yes (Provide below evidence of systems or policies in place to ensure employees and subcontractors understand their obligations under the Secure Local Jobs Code) <input type="checkbox"/> No (provide reasons below) <i>Add lines here if more space is required.</i>
Please identify any other instances of non-compliance with the <i>Government Procurement (Secure Local Jobs) Code 2020</i> .	<i>Insert details or write Nil below.</i> <i>Add lines here if more space is required.</i>

**TABLE 4 – OTHER DECLARATIONS**

The Respondent should identify to the best of their knowledge if they have engaged in any acts or omissions that would be likely to have a material adverse effect on:

- the reputation of the Territory or a relevant Territory Entity in relation to its status as a model employer, that only contracts with other employers who show model behaviour towards their employees.
- the risk to the Territory Entity posed by procuring from an unethical Respondent.
- the public interest, or public confidence in the Territory and/or its procurement framework.

For further information and guidance as to the above criteria, see [here](#).

*Insert details or write Nil below.*

*Add lines here if more space is required.*



# Labour Relations, Training and Workplace Equity Plan

Procurements with a value between \$25,000 - \$5 million

March 2022

## Important note

This template is for the Labour Relations, Training and Workplace Equity Plan. This Plan is an assessment criterion in the ACT Government's procurement process. Information you enter must be able to be verified. Where possible quantify items in your statements.

If your business is successful in winning this procurement, your compliance with this Plan is evaluated as part of the final contract performance evaluation. The evaluation can be considered as part of your future procurement submissions.

The Labour Relations, Training and Workplace Equity Plan is a requirement under the *Government Procurement Act 2001* Part 2B Secure Local Jobs Code. For more information visit [procurement.act.gov.au](https://procurement.act.gov.au)

# Labour Relations, Training and Workplace Equity Plan

## Procurements with a value of \$25,000 to \$5 million

### Consultation with staff and their representatives

The Government Procurement Regulation 2007 states that this Plan must be developed in consultation with your employees and include a statement on how this was done.

**Respondents are required to demonstrate how consultation was undertaken with your employees on the development of this plan and provide evidence on how this was done**

Failure to demonstrate consultation with staff may result in your response being assessed as non-compliant and excluded from evaluation

**Describe how you consulted with your employees on this Plan and provide evidence on how this was done.**

See Guidance note 1 and 2

#### Guidance note:

- 1) Consultation can include with eligible unions or relevant staff representatives.
- 2) Evidence can include meeting minutes, briefing records, or toolbox talk records.

### Declaration

I am a duly authorised officer of

(Business Name)

I am familiar with the principles and objectives of the Secure Local Jobs Code and the responsibilities under it. If awarded the contract the business will:

- ▶ note that the Territory reserves the right to negotiate and/or clarify commitments in this Labour Relations, Training and Workplace Equity Plan before finalising the contract
- ▶ meet the commitments in this or an amended Labour Relations, Training and Workplace Equity Plan (as agreed by the Territory)
- ▶ attend any meeting scheduled by the Territory to review progress implementing commitments in this or an amended Labour Relations, Training and Workplace Equity Plan (as agreed by the Territory)
- ▶ report to the Territory on the business' performance implementing its commitments set out in this or an amended Labour Relations, Training and Workplace Equity Plan (as agreed by the Territory) quarterly during the term of the contract.

Signature

Date

Name

Position

# Labour Relations, Training and Workplace Equity Plan

Procurements with a value of \$25,000 to \$5 million

## Tender and business information

Tender\* title

Tender number

Responsible Territory Entity / Directorate

Legal entity name

ABN

Trading name

Business Project / Contact Person

Tender\* title

Telephone  Email

**What is your physical presence in the**

Head office    Branch office    Warehouse / Depot    Home office    Other    Nil

*(Select all that apply)*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>Specify:</i>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**When was this**

How many full-time employees do you currently employ in the Canberra region?

Describe your existing relationships with other businesses in the Canberra region?

# Labour Relations, Training and Workplace Equity Plan

## Procurements with a value of \$25,000 to \$5 million

### A: Compliance with the Secure Local Jobs Code

Describe how your business will comply with its obligations under the Secure Local Jobs Code for the duration of the contract, including:

- ▶ getting and maintaining a Secure Local Jobs Code Certificate
- ▶ adhering to relevant laws, including industrial relations, employment and workplace safety
- ▶ promoting opportunity for job security and reducing the incidence of insecure work
- ▶ ensuring subcontractors and sub-subcontractors comply with the Code
- ▶ maintaining communication with the workforce throughout the project.

#### A1: Internal operations

#### A2: For subcontractors

*See Guidance note 3*

#### *Guidance note*

3. *Provide supporting evidence to demonstrate you have systems in place to only engage Code compliant subcontractors. For example, subcontractors engaged at any tier of the supply chain in connection with the territory-funded work must hold a valid Secure Local Jobs Code Certificate and comply with Code requirements.*

# Labour Relations, Training and Workplace Equity Plan

## Procurements with a value of \$25,000 to \$5 million

### B: Systems of work

Describe how your business will incorporate compliance with the Secure Local Jobs Code into policies and systems of work.

#### B1: Internal operations

*See Guidance note 4*



#### *Guidance note*

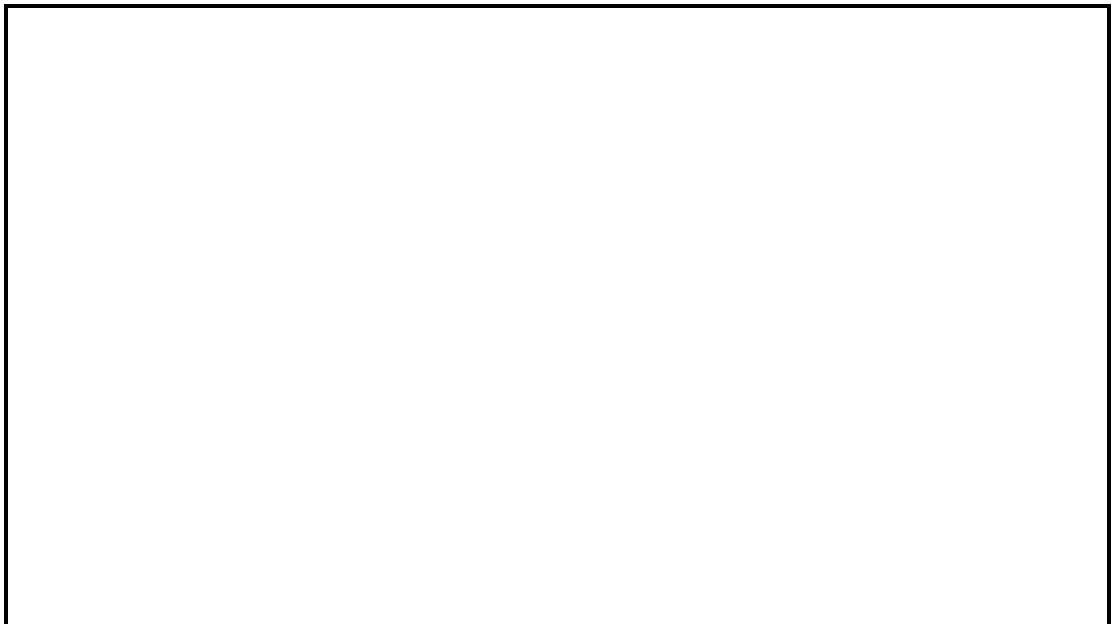
4. *This could include a policy or procedure covering obligations under the Code.*

### C: Understanding Secure Local Jobs Code obligations

Describe how your business will ensure directors, executive managers and employees understand obligations under the Secure Local Jobs Code.

#### C1: Internal operations

*See Guidance note 5*



#### *Guidance note*

5. *This could include training plans, meeting minutes, or a policy or procedure covering directors, executive managers and employee obligations under the Secure Local Jobs Code.*

# Labour Relations, Training and Workplace Equity Plan

## Procurements with a value of \$25,000 to \$5 million

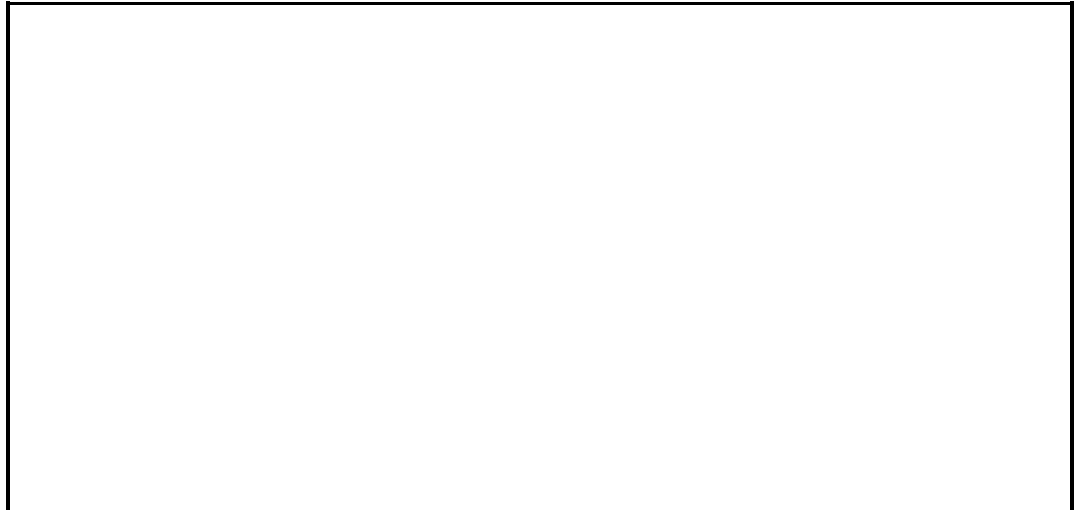
### D: Security of Employment

Describe how your business seeks to minimise insecure work arrangements. This includes:

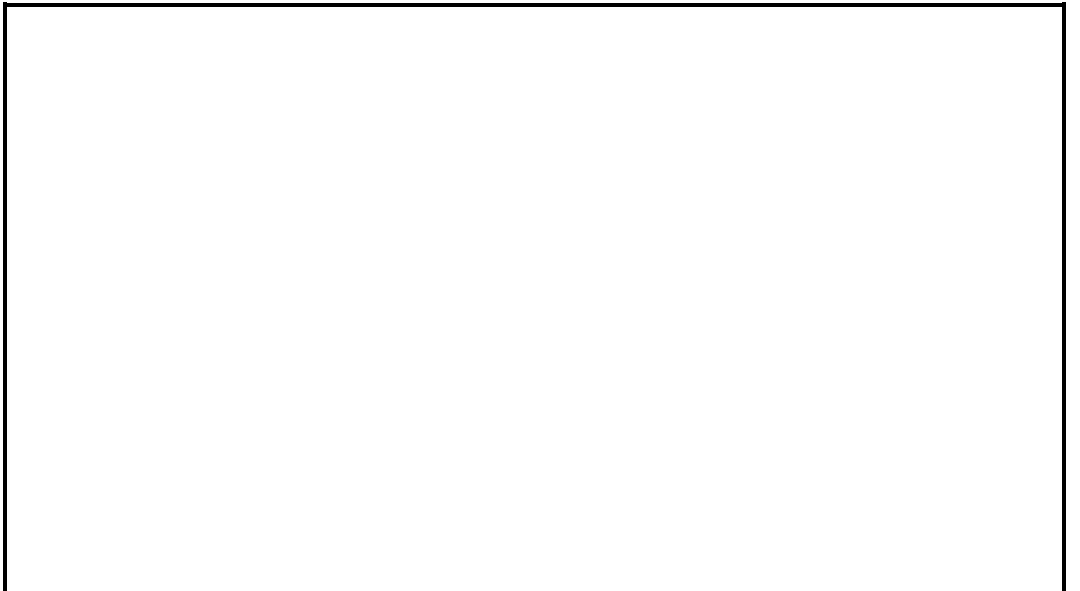
- whether and how you will support transitioning employees from an existing contractor to your business if successful in this contract
- how you will minimise insecure work arrangements by your subcontractors.

See *Guidance note 6*

#### D1: Internal operations



#### D2: Subcontractors or labour hire arrangements (if applicable)



#### *Guidance note*

6. *Examples of insecure work arrangements includes:*

- *temporary employment arrangements*
- *casual employment arrangements.*

# Labour Relations, Training and Workplace Equity Plan

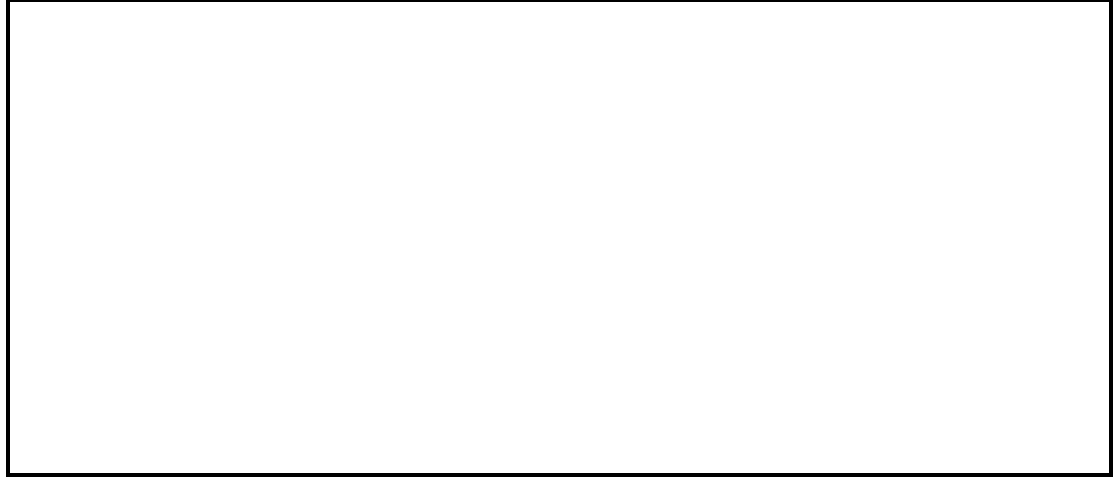
Procurements with a value of \$25,000 to \$5 million

## E: Employees' health and wellbeing

Describe and provide evidence of how your business actively supports the physical and mental health of your employees, including activities that reduce the impact and incidence of impairment in the workplace.

### E1: Internal operations

See Guidance note 7



#### Guidance note

7. This could include providing employees with access to an Employee Assistance Provider (EAP), workplace policy or procedure, drug and alcohol training, domestic violence training, access to rehabilitation and support services, safety and impairment awareness training, and other measures to support employee health and wellbeing.

## F: Diversity in the workplace

Describe how your business strategies and processes to:

- support employment participation of Aboriginal and Torres Strait Islander people, women, people with disability and people from culturally and linguistically diverse backgrounds
- address barriers to employment or career development for people from these groups.

### F1: Internal operations

See Guidance note 8



#### Guidance note

8. Evidence could include workplace policy or procedures, targeted traineeships/apprenticeships, designated positions or roles, training or support for staff (i.e. literacy and numeracy training, cultural awareness policies or training, LGBTQI awareness policies or training, domestic violence awareness training or supported leave), and other action you have taken to remove barriers to employment and support career development.





**ACT**  
 Government  
 Transport Canberra  
 and City Services

# NoWaste Waste Facility Reporting

## Waste Received

Please select from the dropdown below (Required)	
Waste Facility	
Reporting Quarter	

Index	Source Stream	Received/Source	Waste Category	Waste Type
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				



**ACT**  
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 Transport Canberra  
 and City Services

# NoWaste Waste Material o

	<b>If blank, please fill in the details in the first tab/worksheet (1. Waste Received)</b>
<b>Waste Facility</b>	Please enter details in the first tab/worksheet (1. Waste Received)
<b>Reporting Quarter</b>	Please enter details in the first tab/worksheet (1. Waste Received)

Index	Source Stream	Movement Type	Recovered Product (only if applicable)	Waste Facility (transported to)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				



**ACT**  
 Government  
 Transport Canberra  
 and City Services

# NoWaste Waste Facility Reporting Summary Details

	<b>If blank, please fill in the details in the first tab/worksheet (1. Waste Received)</b>
<b>Waste Facility</b>	Please enter details in the first tab/worksheet (1. Waste Received)
<b>Reporting Quarter</b>	Please enter details in the first tab/worksheet (1. Waste Received)

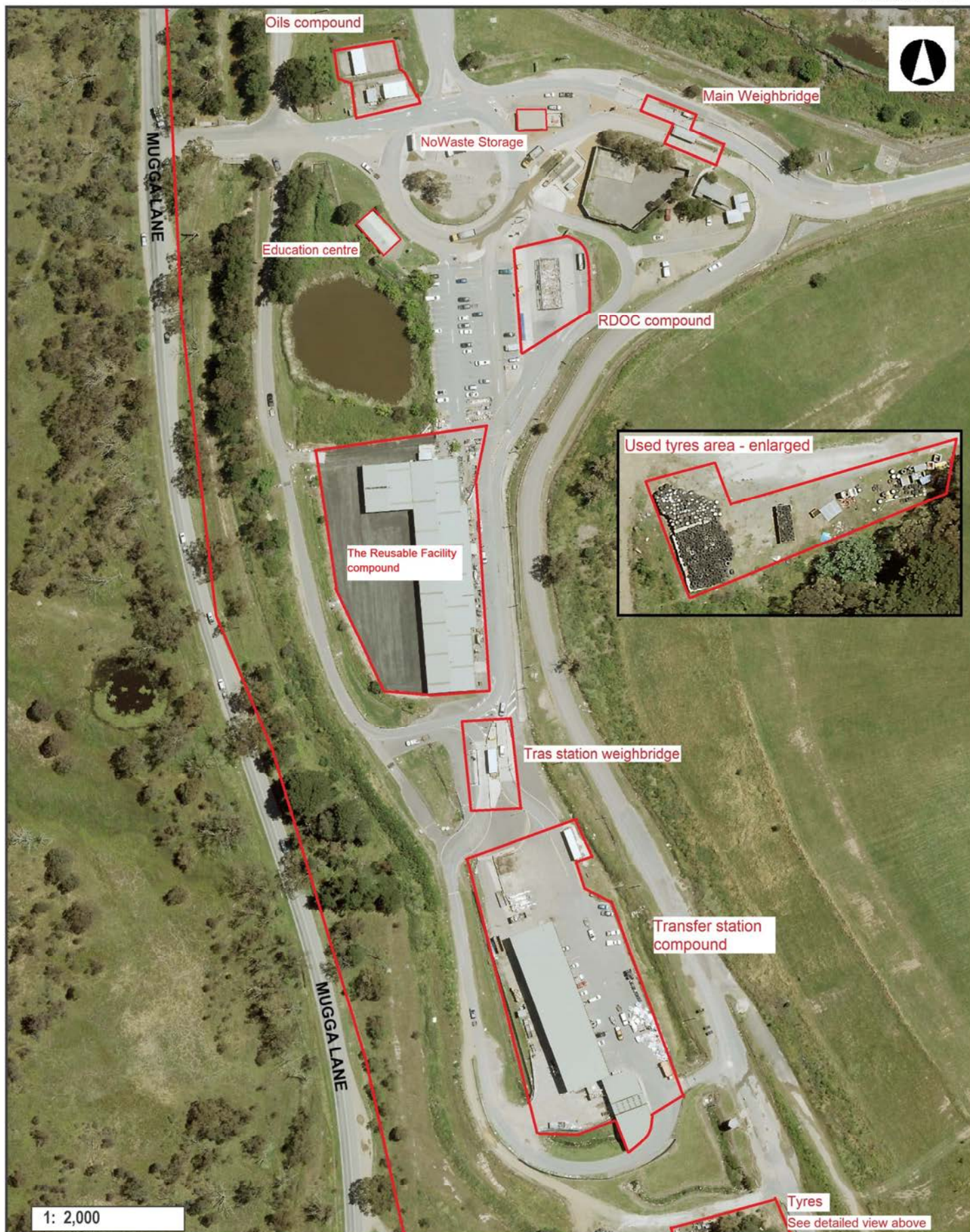
<b>Total Waste Received for the Reporting Period</b>	<b>Tonnes</b> 0.00
<b>Total Material Out for the Reporting Period</b>	0.00
<b>Net position for the Reporting Period</b>	0.00



# MLRMC Contract boundaries & Assets locations

# ACTmapi

Sheet 2/2



### Disclaimer

The map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current or otherwise reliable.

03-Mar-2022



<b>Title</b>	<b>MRMC Contract boundaries &amp; Assets locations</b>
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# ACTmapi

Address: FlemingtonRd, Mitchell ACT



Disclaimer

The map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current or otherwise reliable.

28-Feb-2022

**MLRMC Greenshed contract** (For the condition at the time of handover - please review the Dilapidation report),

Parent asset	Child Asset	Description	Location/Map ID	Maintenance instructions	Frequency
Main facility and amenities	Main staff lunchroom and bathrooms	Operation amenities		Clean and maintain.	weekly basis
	Buildings and structures	Buildings and structures within the contract boundaries		General condition assessment and inspection of structural elements.	Annual
	Buildings and structures	Buildings and structures within the contract boundaries		Building wash down with potable water	Up to 10 years (where applicable)
	Buildings and structures	Buildings and structures within the contract boundaries, roofs and Gutters		Gutters, leave traps and downpipes to be cleaned and repair if damaged. Inground storwater drains to be clear and in working order.	Biannual
Drop off area	Open structure		East side	Clean and maintain. Repair any damages to structure. Keep clear of any stocks or piles accumulating.	weekly basis
Yard and roads	Materials stockpiles, vehicles parking	any pavement between the buildings and to the gates		Keep tidy and clean. Do not block exits, fire hydrants, first aid cabinets or any other assential access.	weekly basis
	vegetation control	any pavement between the building and the fences and gates		Weed free, trees and bushes trimmed	As required with Quarterly inspection
	Roads, intersection, Parking and hardstands	Sealed and unsealed roads as per maps attached, including the The enterance and around the building		Repair of local potholes and cracks unless agreed to be repaired by the Territory.Eliminate trip hazards. Ensure traffic safety.Clear debris and any vegetation growth around the edges of the pavements.	As required with Annual inspection
	Traffic controls	Bollards, speed humps, islands,kerbs,roundabouts, Barrier etc.as per maps attached.		Repair any damages. Eliminate trip hazards. Ensure traffic safety.Paint and Clear debris and any vegetation growth around the edges of the pavements and speed humps.	As required with Annual inspection
	Signs	Traffic, warnings, guidance and information signs within the Contract boundaries		Faded, peeled off or damaged signs should be repaired or replaced. Washing with potable water and soft bristles to remove dirt, debris and marine salt spray.	As required with Quarterly inspection
	line marking	Any road lines within the Contract boundaries as per maps attached, including any car parks ,storage area inside and outside the buildings and along the perimeter lines.		Refresh of existing markings or modify if changes to traffic apply.	Annual
	Temporary traffic controls	Any temporary traffic controls such as detour signs, cones, fencing.		Maintain to standards, remove when not in use.	As required
Gates & fences	Gates	Any gate		Gates are in working order and lockable. Repair as required.	As required with quarterly inspection
	Fences	Fences Within the contract boundaries		General inspection, fences are weed-free and intact	As required with quarterly inspection
Housekeeping	Trees, vegetation and weeds	Within the contract boundaries and to the fence line		Mowing, pruning, weed control spray and fire strips maintenance	As required with biannual inspection
	Debris,Litter and illegal damping	Any Litter, illegal damping or other out of the ordinary items desposed on site		Clean and collect to the site boundaries and 5m beyond. Site should be clean and representative at any given time.	As required with weekly inspection
Site lights & power	Electric boards	Main power boards within the bounderies		Electrical inspection - RCD, Thermal testing and inspection in accordance with AS/NZS 3017 and AS/NZS 3019. General inspection:ventilation,water seals,dust, Pests control etc.	Annual
	Electrical Supply	Overhead and buries cables, poles, transformers and switchgear etc.		Supervise the services provider visiting site.	As required
	Boxes	Meter and power boxes on site		Clear access for reading. Internal and external clean.	As required with annual inspection
	Lights	All type of lights within the contract boundaries		Maintain, clean or replace faulty lights, repair any damage to poles or light support. Lights ballast testing.	As required with 4 years inspection
	Emergancy lights	Lights and illuminated exit signs		Inspection and maintenance of emergency lighting in accordance with AS 2293.2.	Bi Annual

*Review comments*

**MLRMC Greenshed contract** (For the condition at the time of handover - please review the Dilapidation report),

Parent asset	Child Asset	Description	Location/Map ID	Maintenance instructions	Frequency
Telecommunications Infrastructure		Buried tele pit		Keep access clear	As required
Site drinking water & sewage system	Sewage Pipes & manholes	All sewage utilities within the contract boundaries		Ongoing maintenance, repairs in case of fault or blockage	As required
	Filters	Any water filter or under the sink filtration systems		Inspect, clean and Replaceas per supplier's manuals	As specified by the supplier
	Water features	Taps, valves etc		Maintain, clean and repair, Exercise large valves routinely when process permits.	As required
	Water features	Pipes, in and above ground		Repair if damaged by the contractor	As required with annual inspection
	Water Meter box			Maintain. Clear access for reading. Internal and external clean.	As required with annual inspection
	Water RPZ	Flow prevention devices if applicable		Inspection by a certified Plumber	Annual
Fire suppression gear	Fire Hydrants pits and fire hoses	All fire hydrants and Red/Blue/Silver hydrant connections within the contract boundaries		Test and maintenance of fire systems in accordance with AS 1851 - 2012 - Routine service of fire protection systems and equipment.	As specified
	Fire Cabinets, fire hoses	Fire storage cabinets		Visual check,cabinet is clean, dry, locked and fire gear is stored intact.	Biannual
	Fire extinguishers	All fire extinguishers within the contract boundaries		visual inspection every 6 months. Pressure testing and refills should be carried out at least once every 5 years	Biannual
	Fire detectors-Domestic	Any stand alone detector installed in offices or sheds within the boundaries of the contracts		Batteries to be replaced and alarm tested.	Annual
	Fire detectors systems	Any detectors system installed in offices or sheds within the boundaries of the contracts		Test and maintenance of fire systems by qualified contractor.	Monthly or as per the standards and guides
	Fire Sprinklers	Sprinkler system within the main facility, if applicable.		Inspection as specified by law	As specified
Litter, rubbish and dumping receptacles		Any container , skip or bin that is NoWaste property or the contractor's ,within the contract boundaries		Inspect for damages, repair or report. Any contractor skip or bin should be painted,representative and hold the logos.	As required with Quarterly inspection
Stormwater system	Culverts, drains and sumps	Under road culverts, concrete drains.		Concrete patch repairs as necessary to spalled concrete. Clear debris and any vegetation growth.	Biannual
		Grated sumps		Remove debris and flush drainage sump with low-pressure	Annual
Trade waste system		Any equipment related to the TW system including any tanks,oil traps,pumps,piping and alike, if applicable.		Inspections by certified entity, sampling and monitoring. Conduct any on- going repairs if required.	As required with annual inspection
Others	Roller doors			Inspect and maintain-follow the suppliers reccomendations	As specified by the supplier
	CCTV	if applicable		Clean and maintain	As required with Quarterly inspection
	HVAC/Air condition systems	Any air condition system within the contract boundaries / offices		Inspection and service in accordance with AIRAH DA19.	Annual

*Review comments*

**MRMC Greenshed contract** (For the condition at the time of handover - please review the Dilapidation report),

Parent asset	Child Asset	Description	Location/Map ID	Maintenance instructions	Frequency
Main facility and amenities	Main staff lunchroom and bathrooms	Operation amenities		Clean and maintain.	weekly basis
	Buildings and structures	Buildings and structures within the contract boundaries		General condition assessment and inspection of structural elements.	Annual
	Buildings and structures	Buildings and structures within the contract boundaries		Building wash down with potable water	Up to 10 years (where applicable)
	Buildings and structures	Buildings and structures within the contract boundaries, roofs and Gutters		Gutters, leave traps and downpipes to be cleaned and repair if damaged. Inground storwater drains to be clear and in working order.	Biannual
Drop off area	Open structure		North side	Clean and maintain. Repair any damages to structure. Keep clear of any stocks or piles accumulating.	weekly basis
Yard and roads	Materials stockpiles, vehicles parking	any pavement between the buildings and to the gates		Keep tidy and clean. Do not block exits, fire hydrants, first aid cabinets or any other assential access.	weekly basis
	vegetation control	any pavement between the building and the fences and gates		Weed free, trees and bushes trimmed	As required with Quarterly inspection
	Roads, intersection, Parking and hardstands	Sealed and unsealed roads as per maps attached, including the The enterance and around the building		Repair of local potholes and cracks unless agreed to be repaired by the Territory.Eliminate trip hazards. Ensure traffic safety.Clear debris and any vegetation growth around the edges of the pavements.	As required with Annual inspection
	Traffic controls	Bollards, speed humps, islands,kerbs,roundabouts, Barrier etc.as per maps attached.		Repair any damages. Eliminate trip hazards. Ensure traffic safety.Paint and Clear debris and any vegetation growth around the edges of the pavements and speed humps.	As required with Annual inspection
	Signs	Traffic, warnings, guidance and information signs within the Contract boundaries		Faded, peeled off or damaged signs should be repaired or replaced. Washing with potable water and soft bristles to remove dirt, debris and marine salt spray.	As required with Quarterly inspection
	line marking	Any road lines within the Contract boundaries as per maps attached, including any car parks ,storage area inside and outside the buildings and along the perimeter lines.		Refresh of existing markings or modify if changes to traffic apply.	Annual
	Temporary traffic controls	Any temporary traffic controls such as detour signs, cones, fencing.		Maintain to standards, remove when not in use.	As required
Gates & fences	Gates	Any gate		Gates are in working order and lockable. Repair as required.	As required with quarterly inspection
	Fences	Fences Within the contract boundaries		General inspection, fences are weed-free and intact	As required with quarterly inspection
Housekeeping	Trees, vegetation and weeds	Within the contract boundaries and to the fence line		Mowing, pruning, weed control spray and fire strips maintenance	As required with biannual inspection
	Debris,Litter and illegal damping	Any Litter, illegal damping or other out of the ordinary items desposed on site		Clean and collect to the site boundaries and 5m beyond. Site should be clean and representative at any given time.	As required with weekly inspection
Site lights & power	Electric boards	Main power boards within the bounderies		Electrical inspection - RCD, Thermal testing and inspection in accordance with AS/NZS 3017 and AS/NZS 3019. General inspection:ventilation,water seals,dust, Pests control etc.	Annual
	Electrical Supply	Overhead and buries cables, poles, transformers and switchgear etc.		Supervise the services provider visiting site.	As required
	Boxes	Meter and power boxes on site		Clear access for reading. Internal and external clean.	As required with annual inspection
	Lights	All type of lights within the contract boundaries		Maintain, clean or replace faulty lights, repair any damage to poles or light support. Lights ballast testing.	As required with 4 years inspection
	Emergancy lights	Lights and illuminated exit signs		Inspection and maintenance of emergency lighting in accordance with AS 2293.2.	Bi Annual

*Review comments*

**MRC Greenshed contract** (For the condition at the time of handover - please review the Dilapidation report),

Parent asset	Child Asset	Description	Location/Map ID	Maintenance instructions	Frequency
Telecommunications Infrastructure		Buried tele pit		Keep access clear	As required
Site drinking water & sewage system	Sewage Pipes & manholes	All sewage utilities within the contract boundaries		Ongoing maintenance, repairs in case of fault or blockage	As required
	Filters	Any water filter or under the sink filtration systems		Inspect, clean and Replace as per supplier's manuals	As specified by the supplier
	Water features	Taps, valves etc		Maintain, clean and repair, Exercise large valves routinely when process permits.	As required
	Water features	Pipes, in and above ground		Repair if damaged by the contractor	As required with annual inspection
	Water Meter box			Maintain. Clear access for reading. Internal and external clean.	As required with annual inspection
	Water RPZ	Flow prevention devices if applicable		Inspection by a certified Plumber	Annual
Fire suppression gear	Fire Hydrants pits and fire hoses	All fire hydrants and Red/Blue/Silver hydrant connections within the contract boundaries		Test and maintenance of fire systems in accordance with AS 1851 - 2012 - Routine service of fire protection systems and equipment.	As specified
	Fire Cabinets, fire hoses	Fire storage cabinets		Visual check, cabinet is clean, dry, locked and fire gear is stored intact.	Biannual
	Fire extinguishers	All fire extinguishers within the contract boundaries		visual inspection every 6 months. Pressure testing and refills should be carried out at least once every 5 years	Biannual
	Fire detectors-Domestic	Any stand alone detector installed in offices or sheds within the boundaries of the contracts		Batteries to be replaced and alarm tested.	Annual
	Fire detectors systems	Any detectors system installed in offices or sheds within the boundaries of the contracts		Test and maintenance of fire systems by qualified contractor.	Monthly or as per the standards and guides
	Fire Sprinklers	Sprinkler system within the main facility, if applicable.		Inspection as specified by law	As specified
Litter, rubbish and dumping receptacles		Any container , skip or bin that is NoWaste property or the contractor's ,within the contract boundaries		Inspect for damages, repair or report. Any contractor skip or bin should be painted, representative and hold the logos.	As required with Quarterly inspection
Stormwater system	Culverts, drains and sumps	Under road culverts, concrete drains.		Concrete patch repairs as necessary to spalled concrete. Clear debris and any vegetation growth.	Biannual
		Grated sumps		Remove debris and flush drainage sump with low-pressure	Annual
Trade waste system		Any equipment related to the TW system including any tanks, oil traps, pumps, piping and alike, if applicable.		Inspections by certified entity, sampling and monitoring. Conduct any on- going repairs if required.	As required with annual inspection
Others	Roller doors			Inspect and maintain-follow the suppliers recommendations	As specified by the supplier
	CCTV	if applicable		Clean and maintain	As required with Quarterly inspection
	HVAC/Air condition systems	Any air condition system within the contract boundaries / offices		Inspection and service in accordance with AIRAH DA19.	Annual

*Review comments*



# Request for Proposal (RFP)

## GS3538978

### FOR THE PROVISION OF REUSABLE FACILITY SERVICES IN THE TERRITORY

Service Plan Example – Appendix 4

SAMPLE

#### Version Control

Version	Amendments	Approved by	Date



1. Table of Contents
2. Introduction (Suggested Structure)
  - *Purpose*
  - *Objective*
  - *Scope*
3. Roles and Responsibilities (Suggested Structure)
  - *Personnel*
  - *Stakeholders*
  - *Partners*
  - *Sub-Contractors*
4. Methodology

For Service Plans:

- (a) Reusable Items Management
- (b) Social Benefits and Circular Economy Support Programs
- (c) Site Operations and Maintenance
- (d) Recording and Reporting
- (e) Transition Management

For WHS Plans:

- (a) WHS Plan
- (b) Hazardous Materials Management Plan
- (c) Traffic Management Plan

[Suggested Structure. Please note, some sections may be more relevant to a component of the Plan]

- *Policy*
- *Accreditations and Certifications*
- *Compliance requirements*
- *Processes and Management*
- *Training and competencies*
- *Timelines and Schedules*
- *Communications*
- *Data and Reporting*
- *Indicators and Performance levels*
- *Risk Identification*
- *Risk Management*
- *Testing, Monitoring and Review*

5. Appendix and Attachments