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TENDERER**

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This file is provided on the Commerce tenders web site when the Request For Tender (RFT) document is issued in Dmax Lite format.

This file contains (below) a brief scope statement and extracts from the RFT documents, but is not a complete RFT document and does not contain the responsible questions.

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Then from the RFT web page (see RFT number below) download a full copy of the RFT documents, including the responsible components, and also any addenda issued to date; and also during the tender period.

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You will need to have a current licensed copy of the Dmax Lite 5.1 software to read, complete, and respond to the RFT with your tender. If you do not currently have such a licensed copy it can be optionally purchased and downloaded when downloading the full RFT documents from the tenders web site.



**NSW Procurement – Contracting Services is a Business Unit of the NSW
Department of Commerce**

**NSW Procurement – Contracting Services invites this tender for and on behalf
of the NSW Government State Contracts Control Board**

Request for Tender 0701776

TENDER FOR THE PROVISION OF A TELEPHONE INFORMATION SERVICE FOR THE NSW DEPARTMENT OF LANDS

**Part A: Tender Conditions – The Requirement and Specifications
Part B: Tender Conditions – The Tender Process**

1 January 2008 to 31 December 2008

Tender Issue Date: 9 October 2007

**Closing Date: 6 November 2007 Closing Time:
9:30 am Sydney Time**

Note: In order to respond to this RFT tenderers must have a current license for DMax Lite software. Licenses can be purchased through NSW Procurement | eBusiness Solutions SupportDesk at:

eBS_SupportDesk@commerce.nsw.gov.au or 1800 003 985

at a cost of \$110 (inclusive of GST) (representing the DecisionMax license fee). This provides 12 months unlimited application to any Tender formatted in TenderMax Pro. It is anticipated that most RFTs released by the SCCB will be in this format.

Alternatively, in downloading this RFT you can follow the prompts to confirm your request and purchase of the DMax Lite software and be issued with your Digital Registering Key to commence preparing your tender submission in the appropriate format.

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For the purposes of this RFT, inquiries should be directed to the Contact Officer nominated in Part A of this RFT.

Other matters should be directed to:

Group General Manager
NSW Procurement – Contracting Services
NSW Department of Commerce
McKell Building
2-24 Rawson Place
Sydney NSW 2000
Tel: (02) 9372 7504
Fax: (02) 9372 7533

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PART A Tender Conditions - The Requirement and Specifications

1. Outline Description of the Requirement

1.1 Introduction

This Request For Tender ("RFT") is made by the State Contracts Control Board ("the Board") for the supply of the Deliverables defined in this RFT and detailed in the Specification.

The Board is responsible for the conduct of the tender process, assisted by NSW Procurement – Contracting Services.

1.2 Outline of the Requirement

This RFT covers the provision of a telephone information service during the Department of Land's peak period for NSW landholders wishing to find out more information about their land value as well as providing general information about the work of Valuation Services. The contract will be for the period one (1) years with two (2) one-year extension options at the Principal's sole discretion.

1.3 Procurement Objective

The objective of this RFT is to appoint a single service provider that will assist the Department to meet the following service objectives:

- The service will provide information on a wide range of issues including land valuations, the objection process, local government rating and basic land tax information for properties throughout the state of New South Wales.
- Each incoming call will be treated in a friendly manner in accordance with a pre-defined call script that is agreed to by Lands. The call script will be backed up by training materials and up-to-date reference materials.
- The telephone customer service must be accessible to all people from culturally and linguistically diverse backgrounds and to older people and those in regional locations.
- The Contractor shall comply with existing government regulations and guidelines on equal employment opportunity, occupational health and safety, privacy and ethics.
- The Contractor must have regard to the Privacy and Personal Information Protection Act 1998 and the principles of confidentiality.

2 Summary information for tenderers

2.1 Interpretation

2.1.1 Definitions of terms used in Parts A-C are contained in cl.6 of Part B

2.2 Structure of Request for Tender

- 2.2.1 This Tender is structured in the TenderMax Pro format.

TenderMax Pro is an e-sourcing application designed to fully automate the traditional paper-based tendering process introducing best practice processes in Electronic Tender production, submission and evaluation

- 2.2.2 This RFT is made up of four Parts as follows:

Tender Conditions

Part A: The Requirement and Specification;
Part B: The Tender Process;

Response to be completed by Tenderer

Part C: Tender Response, to be completed by the Tenderer.

Conditions of Contract

Part D: Agreement

Part C and other responses, once completed forms the Tender, and is to be submitted in accordance with Parts A, B and D.

2.3 Contact Officer

- 2.3.1 Refer requests for information or advice regarding this RFT to:

Name: Jerzy Kortynski
Phone: (02) 9372 7608
Fax: (02) 9372 7622
E-mail: jerzy.kortynski@commerce.nsw.gov.au

- 2.3.2 Any information given to a tenderer to clarify any aspect of this RFT will also be given to all other tenderers if in the Board's opinion the information would unfairly favour the inquiring tenderer over other tenderers.

2.4 Not Used

2.5 Nature and duration of agreement

- 2.5.1 The Requirement is to be met by an agreement between the Principal and the successful tenderer(s) on the terms of Part D.
- 2.5.2 The agreement will be for a term of one (1) years and may be extended by a further term of up to two one-year extension periods at the sole discretion of the Principal.

2.6 Not Used

2.7 Eligibility to tender

- 2.7.1 Tenders must be submitted by a legal entity or, if a joint Tender, by legal entities, with the capacity to contract. The Board will only contract with the relevant legal entity or entities.
- 2.7.2 The Board may submit any financial information provided by the tenderer for independent financial assessment of the Tenderer's business.

- 2.7.3 The Board may ask a tenderer to provide evidence of its legal status or capacity to contract. If Tenders from entities propose to contract in their capacity as trustees, such evidence may include copies of the relevant trust deeds. Any evidence requested is to be provided within 3 working days of the request.
- 2.7.4 The Board reserves the right to reject any Tender if the Board judges the tenderer not to have appropriate financial assets.
- 2.7.5 If the Board judges the tenderer's financial position to be marginal, the Board reserves the right to make acceptance of any Tender conditional upon the tenderer entering into a bank or parent company guarantee, or an unconditional performance bond in a form satisfactory to the Board.
- 2.7.6 Tenderers must read, understand and comply with the requirements of the Commerce Business Ethics Statement, which is available at the link below. Tenderers must disclose any potential conflict of interests (including any relevant relationships) in the Tender Response.

The Board will consider any disclosure and will only enter into an agreement with tenderers that do not have improper conflict of interests. If the Board becomes aware of improper conflict of interests by a successful tenderer at the time an agreement has already been entered into the Board reserves the right to terminate the agreement.

<http://www.commerce.nsw.gov.au/About+Commerce/Business+ethics+statement/Business+ethics+statement.htm#commerce>

2.8 Other Eligibility Requirements

- 2.8.1 The Board will not enter into an agreement with a company that does not have an Australian Business Number and is not registered for GST. Normally, Tenderers must be registered for GST and state their ABN in their Tender Response.
- 2.8.2 Tenders from Tenderers that do not have an ABN and/or are not registered for GST, such as Tenderers commencing business in Australia, may be considered at the Board's discretion if the Tenderer demonstrates that it will obtain an ABN and GST registration before entering into an agreement with the Board. Such Tenderers must state how and when they intend to obtain an ABN and register for GST in their Tender Response.

2.9 Not Used

3. Submission of Tenders

3.1 General instructions for submission of Tenders

- 3.1.1 A Tender must be fully received by the Closing Date and Closing Time.
- 3.1.2 In order to prepare and lodge a response, tenderers must have a current license for the DMax Lite software being used. DMax Lite is the application required to participate and respond to any RFT published in the TenderMax Pro format.

- 3.1.3 A Tender must be lodged into the designated tender box/es, and must be lodged by **electronic lodgement** to the **electronic tender box for this RFT**, in accordance with Section 8 of this RFT, through the NSW Department of Commerce eTendering website at:

<https://tenders.nsw.gov.au/commerce>

Locate the web page for RFT 0701776 and follow the instructions, to lodge the tender through the blue LODGE A RESPONSE link

4. Evaluation of Tenders

4.1 General

- 4.1.1 Tenders will be assessed against the selection criteria listed below, which are not necessarily exhaustive, in order of significance or to be given equal weight.
- 4.1.2 The selection criteria for this RFT that do not relate to price will account for 60% of the total evaluation score. The selection criteria for this RFT that relate to price will account for 40% of the total evaluation score.
- 4.1.3 Information supplied by the tenderer in Part C will contribute to the assessment against each criterion. Tenderers are advised to respond clearly to all the selection criteria listed in this RFT.
- 4.1.4 If any criterion or sub-criterion is stated to be “mandatory” a failure by the Tender to fully comply with that criterion or sub-criterion will result in automatic exclusion of the Tender without further consideration. Mandatory criteria include those in which mandatory language such as “must” or “shall” is used.

4.2 Selection criteria

1. Capacity to perform the agreement.
2. Previous performance
3. Price schedule
4. Project Plan
5. Disaster recovery and quality systems.
6. Financial capacity to perform the contract.
7. Compliance with the proposed conditions of the agreement, as stated in Part D.
8. Compliance with NSW Government procurement policy and other applicable NSW Government policies.
9. Compliance with relevant legislation and standards.
10. Compliance with Specification.

It is the tenderers responsibility to read in Part C policy considerations relevant to this RFT. Tenderers are required to respond to the policy questions provided in Part C.

5. Preparation of Tender – Price Schedule and Project Plan

5.1 Price Schedule

5.1.1 Complete the Price Schedule at Part C3.

5.2 Calculating the Tender Price

5.2.1 The Tender Price must:

- (a) be in Australian dollars;
- (b) cover all costs of performing the agreement, including packing and delivery (if applicable);
- (c) include Goods and Services Tax if it is payable and all other applicable taxes, duties and charges at the rates applicable at the Closing Date and Time for Tenders;
- (d) include all costs associated with the preparation and submission of the Tender;

5.3 Price Variation

5.3.1 The tenderer may determine the Tender Price on the basis of one or more of the four options below. The tenderer will be asked to indicate which option(s) is or are selected in Part C.

- (1) Firm for the entire duration of the agreement one (1) year with two (2) one-year optional extension periods.
- (2) Not Used.
- (3) Firm for the first twelve (12) months of the term of the agreement then subject to review at the end of that period and each twelve (12) months, including for any extension period following based on variations in **labour and material factors**.
- (4) Firm for the first twelve (12) months of the term of the agreement] then subject to review at the end of that period and each twelve (12) months, including for any extension period following based on **Consumer Price Index (CPI)**.

5.3.2 Not Used.

5.3.3 If option (3) is selected, variation will be on the basis of the following formulae.

Labour and Material Factors

$$CP = CPo \times \left(0.1 + \frac{Y(L)}{Lo}\right) + \frac{Z(M)}{Mo}$$

Where:

CP = Current Contract Price.

CPo = Contract Price at start date.

Y = The Labour Factor, expressed as a decimal, being the proportion of the Contract Price subject to variation by

labour costs

L	=	The Weekly Award Rate of pay, or the Effective Award Hourly Rate (EAHR) calculated in accordance with the EAHR formula detailed hereunder, for the category of labour primarily employed on the agreement/s [make singular or plural, as appropriate], most recently published at the date of application for price variation.
Lo	=	The Weekly Award Rate of pay, or the EAHR calculated in accordance with the EAHR formula detailed hereunder, for the category of labour primarily employed on the agreement/s [make singular or plural, as appropriate], most recently published at twenty-one days before tender closing.
Z	=	The Materials Factor, expressed as a decimal, being the proportion of the agreement price subject to price variation by materials costs.
M	=	Materials Cost Index most recently available at the date of application of price variation.
Mo	=	Materials Cost Index, corresponding to the index used for "M", most recently available twenty-one days before tender closing date.

Note: Y (Labour Factor) and Z (Material Factor) must be expressed as a decimal and together, must total 0.9.

EAHR Formula:

Tenderers may elect to use, instead of the weekly award rate of pay in the above formula, an "Effective Award Hourly Rate" (EAHR) which is determined by the following formula. If the award rate of pay is nominated for L and Lo, then this formula does not apply.

$$EAHR = \frac{AW}{HW} \times \frac{(52 + LL)}{(52 - LA)} \times (1 + WC + PT + S)$$

Where:

AW	=	Weekly award rate of pay for the labour primarily engaged in the agreement/s [make singular or plural, as appropriate], including industry allowances and site-specific allowances approved by the appropriate State or Commonwealth Authority.
HW	=	Award hours per week.
LL	=	Award annual leave loading (expressed as a decimal) multiplied by the number of days paid recreation leave covered by the award divided by 5.
LA	=	Award leave allowance divided by 5.
WC	=	The recommended rate (expressed as a decimal) of contribution of Workers Compensation in accordance with the relevant legislation.

PT = Payroll tax percentage (expressed as a decimal).
S = Rate of employer's superannuation as a percentage of the employees' wages in accordance with the relevant award (expressed as a decimal).

5.3.4 If option (4) is selected, variation will be on the basis of the following formulae.

CPI Option

$$RP = OP * \frac{L}{Lo}$$

(Note: * = means multiplication)

Where:

RP = Revised Contract Price.
OP = Original Contract Prices.
L = CPI at price variation date.
Lo = CPI at the Base Date.

5.4 GST Free or Input Taxed Supplies

5.5.1 Tenderers must identify and state the value of any GST Free or Input Taxed Supplies to be made under the agreement.

5.5 Project Plan

5.5.1 Tenderers are to provide a project plan, to be attached to their Tender, detailing how and when the Deliverables would be supplied under the agreement. If advance or progress payments are required, tenderers are to include details of these in the project plan, together with milestones against which such payments are to be made.

5.7 Minimum Tender validity period

5.7.1 Tenders must remain open for acceptance for a period of at least three months from the Closing Date and Time for Tenders. Tenderers must state in Part C if their Tenders will remain open for any longer period.

ANNEXURE 1 TO PART A: SPECIFICATION

SPECIFICATION

1. Objective

- 1.1 Our objective is to provide a telephone information service for NSW landholders wishing to find out more information about their land value as well as providing general information about the work of Valuation Services, during the peak period of 7 January to 4 May 2008. Dates may vary for peak periods in subsequent years. The Contractor will not be required to provide call centre services outside the peak period, unless with the prior written agreement between the Contractor and Lands.
- 1.2 Each incoming call will be treated in a friendly manner in accordance with a pre-defined call script that is agreed to by Lands. The call script will be backed up by training materials and up-to-date reference materials developed by the Contractor.
- 1.3 Callers who phone may be from culturally and linguistically diverse backgrounds, older people and people in regional locations. The operator is to have the necessary skills to communicate effectively with our diverse customers and identify specific communication needs to enable referral to an appropriate service. Lands will nominate specialist service providers (for example interpreter services and services for the hearing impaired) for the purpose of meeting these requirements. Fees and charges for these specialist services will be paid by Lands.
- 1.4 The Contractor shall comply with existing government regulations and guidelines on equal employment opportunity, occupational health and safety, privacy and ethics.
- 1.5 The Contractor must have regard to the Privacy and Personal Information Protection Act 1998 and the principles of confidentiality.
- 1.6 The service will provide information on a wide range of issues including land valuations, the objection process, local government rating and basic land tax information for properties throughout the state of New South Wales.

2. Outcomes

- 2.1 The key outcome is the maintenance of all services as provided by the call centre in the most user friendly, efficient, and cost effective manner possible.
- 2.2 Callers should receive the highest level of customer service and be satisfied that their enquiry has been or will be resolved.
- 2.3 Calls are to be answered by an operator without requiring the caller to make a selection from a menu or to follow prompts.
- 2.4 Callers should be given a reasonable amount of time and assistance to clearly articulate their information request or problem.
- 2.5 Callers should receive information relevant to their query, issue or problem.
- 2.6 Callers should be referred to an appropriate agency or Lands officer where required.
- 2.7 Details recorded by the operator and entered or loaded into Valnet should be up-to-date and maintained in terms of accuracy.

3. About Department of Lands

- 3.1 Valuation Services is a business unit of Land and Property Information (LPI), a division of the New South Wales Department of Lands (Lands).
- 3.2 The Department of Lands undertakes valuations on behalf of the Valuer General under the Valuation of Land Act 1916 for rating and taxing purposes. The Valuer General also determines compensation for compulsory acquisitions under the Land Acquisition (Just Terms) Compensation Act 1991 and is also governed by other legislation including the Land Tax Management Act 1956 and the Local Government Act 1993.
- 3.3 Valuation Services staff are located in 17 locations across New South Wales and carry out several functions including Valuation Audit, Compensation and Special Valuations, Land Data Management, Objections and Appeals and Contracts and Business Administration.
- 3.4 Approximately 2.4 million valuations are made every year for land tax purposes by contract valuers. Approximately one third of these are issued for rating purposes every year on a Notice of Valuation.
- 3.5 Valuation Services data is held in a database known as Valnet. Valnet acts as the Register of Land Values and holds information specific to the property including the area, the ownership of the property and details regarding prior and current land values. Valnet can be accessed through the web using Valnet 2i.

4. Land Valuations

- 4.1 Land valuations in NSW are issued by the Valuer General. These values are used for the determination of rates and taxes and are effective as at 1 July in the valuing year.
- 4.2 Approximately 650,000 – 820,000 Valuation Notices are issued each year in January. These general valuations are used by councils to establish rates.
- 4.3 Land valuations are also used to determine land tax and are issued on approximately 235,000 properties each year. Land tax is calculated using the average of the current land value and the previous 2 land values which form a taxable value.

5. Objections

- 5.1 Land owners have the right to object to their land value(s) as issued in a Notice of Valuation and Land Tax Assessment. Approximately 10,000 objections are lodged each year (This equates to approximately 1% of all land values issued). This number of objections is expected to remain relatively constant, unless there are substantial changes to the land tax system, which may significantly impact on the number of objections received. If this occurs, there could be expected to be an increase in the number of calls received, but the nature of the calls would not be expected to change.
- 5.2 The number of objections that will actually be received will depend largely on the information that is provided to land owners regarding their valuation. The call centre is one element of the Valuation Improvement program aimed at providing better information to the public and improving customer relations.

6. Current Call Centre Arrangements

- 6.1 Since 2005, the peak period of calls has been outsourced to an external call centre provider. Where complex calls cannot be answered by the call centre, a workflow is sent through to Lands, where one of Land's staff will phone back the caller.

- 6.2 From 2008, an internal customer service group will be established in Bathurst to handle all enquiries received outside the peak period and to answer difficult questions not able to be answered by call centre staff during the peak. The Bathurst customer service group will be responsible for sending all mail-outs such as forms and objection kits. The Contractor's responsibilities do not include the mailing of any literature.
- 6.3 Calls are made to the Valuation Services enquiry line through a 1800 number or direct to the local valuation office. All calls made to the 1800 number or a valuation office will be redirected to the call centre when it is operational.
- 6.4 Call Centre statistics for 2006 and 2007 are shown in Attachment S2.

7. Nature of the Services

- 7.1 The majority of calls received on the 1800 number are due to the fact that a property owner has received a Notice of Valuation or a Land Tax Assessment. This is usually the first notification that their rates or land tax payments may change as a result of a new valuation and may therefore be concerned about the impact that the new valuation will have on them financially.
- 7.2 Many callers are often confused regarding the method of valuation and others are uncertain as to why they have received a Notice of Valuation. The majority of calls require a general overview of the valuation process or request an objection kit so that they can lodge an objection.
- 7.3 Because the separation between the Valuer General, Local Government and the Office of State Revenue it is often unclear to members of the public, calls received are sometime more appropriately referred to another agency.
- 7.4 Valuations made by the Valuer General may be high profile, controversial and have been the subject of inquiries such as by the NSW Ombudsman in recent years.

8. Key Deliverables

8.1 Telephone

- The contractor shall operate the telephone customer service from 8:30am to 5pm Monday to Friday, excluding public holidays, with recorded messages for calls in queue and on hold, as well as a recorded message for calls received out of hours.
- The contractor shall supply and operate all telecommunications equipment and facilities, and associated computer systems, required to provide the telephone customer service and will provide the necessary number of staff and lines to efficiently and effectively service and manage incoming calls.

8.2 Information

- The contractor will provide immediate, accurate verbal information to callers on a range of matters including valuations, the objection system and basic level land tax information. Where appropriate, the contractor will refer callers to other agencies including the Office of State Revenue, Local Government and other areas of the Department of Lands.
- The information will be provided to the caller using the information in the answers to Frequently Asked Questions (FAQs). A draft of the Frequently Asked Questions and Answers is located in Attachment S3. These FAQs will be further refined in the coming months and will be updated by Lands on an as needs basis throughout the year. The Contractor will be required to use these FAQs to develop appropriate scripts to be used to answer enquiries.

Where the Contractor or Lands identifies the need for updated scripts, the FAQs will be updated by Lands and the Contractor will be required to develop an appropriate script for approval by Lands. Once approved, the Contractor is to provide adequate training for its operator staff on changes and to update all supporting documentation and other materials utilised by its operator staff in providing the services. This is considered to be integral to the maintenance of the quality and accuracy of the information provided to customers.

- The Contractor will be required to grant Lands the right to use the scripts developed by the Contractor, for use by Lands, for the term of the contract, to provide a telephone information service during the periods the Contractor is not providing the service. The Contractor is not to impose any charge on Lands for using the scripts for the purpose specified herein.
- In response to calls regarding general information or information specific to a caller or property, the telephone customer service operator will provide information that is relevant and where necessary will refer the call on to Lands that requires Lands to phone the caller back with an answer.
- In response to a request for a land value, the operator shall request information from the caller to determine they are the owner following an established protocol, detailed in the FAQs. The operator will also encourage the caller to download the land value for free using the Lands website.
- In response to notification of change of address, or a change to the property address, the telephone customer service operator will make the change directly into Valnet 2i, ensuring any change is consistent with Australia Post standards.
- In response to a request for an objection kit, the operator will record the property number for which the caller would like to object, whether it is to a land tax assessment or a Notice of Valuation and which year(s) they would like to object to. The operator will also collect the name and postal address details for the objection, and where necessary note changes in Valnet 2i. This information will be appropriately coded for mail out by Lands.
- In a response to a request for any other type of publication or a request for a subscription to the Valuer General's newsletter the operator will record the type of publication, the details for whom and where it is to be sent, so that the Lands Bathurst customer service group can complete the mail out.
- The Contractor may also act as an intermediary for customers to contact specific employee of Lands if they do not have their direct contact details. In such cases the operator is to record details of the caller and their request so their enquiry can be forwarded to the appropriate officer for follow up. Phone numbers to Lands' employees or offices are not be given out to customers as the preferred approach is to phone the customer back.

8.3 Data Collection

- All data for change of ASON (Address for Service of Notices or postal address) or property address will be entered into Valnet 2i directly. All data is to be checked for quality, accuracy and is to conform to relevant standards when entered into Valnet 2i.
- All other data, is to be entered directly into the Contractors system and loaded into Valnet through a file. Details of the file formats are included in Attachment S1. Screenshots for Valnet 2i are shown in Attachment S4.
- For all incoming calls, the operator will ask whether the enquiry is regarding a specific property or if it is a general enquiry. If it is regarding a specific property, the property number or property address is to be collected.

- Where the request is property specific or requires further follow up by Lands, the operator is to identify the caller as an owner, agent acting on behalf of the owner or other and record the details, including full name and title.
- Where any information or publication is required to be sent to the caller by Lands, the Address for Service of Notices (ASON) is to be requested of the caller and updated as required.
- All issues raised during a call should be recorded and appropriately coded. Each call may raise one issue or several and may relate to a number of different properties.
- Lands may require additional data to be collected from time to time including whether the caller would be willing to participate in a survey. Lands may request reports on such information in a particular format as required.
- All calls that relate to a specific property are to record the nature of the call and provide specific details regarding the enquiry, regardless of whether the enquiry is general information that can be resolved by the operator. This is to provide a detailed record of the customer contact relating to the property.
- Where an enquiry cannot be answered using the FAQs or where action is required by Lands, full details of the enquiry including a contact number must be recorded. Email address may also be collected where email contact is the preference of the caller.

8.4 Data Migration and Management

- The contractor will update and maintain data, through remote web access, the data in Valnet hosted by Lands.
- Where a call is referred to Lands for resolution, the data is to be provided in the format specified in Attachment S1.
- The data in Valnet is the property of Lands and may not be used for any purpose other than the purposes of providing advice over the telephone as required by the contract.
- The Contractor shall make all reasonable efforts to ensure the data entered directly into Valnet2i or through the file upload is free from data entry errors, that addresses conform to the Australia Post address standards and that all changes are necessary and accurate.

8.5 Complaints and Feedback

- In response to a complaint or feedback from a caller the operator will listen to the details and record them in the system for follow-up and response by the Office of the Valuer General or Lands as appropriate. This is to be coded as feedback for Lands follow up.
- The operator may give the caller the option to put the complaint in writing for follow-up and response where appropriate or at the request of the complainant. In such cases the operator is to direct the caller to the Lands Website or obtain the details for mail-out by the Bathurst office.

8.6 Calls for Urgent Attention of Lands

- Where the caller is from a Minister or Member of Parliament's office, the operator is to provide general advice only and refer the call immediately to the Lands call centre liaison officer for follow up by the Office of the Valuer General.
- Due to the potentially politically sensitive nature of the calls, where call trends indicate there may be issues arising in a particular locality or regarding a particular issue, the arising issue is to be recorded and advised to Lands' call centre liaison officer immediately.

- Where the call centre operator has significant concerns that a caller is not satisfied with the services provided, that they will contact the media, has not received a response within a reasonable timeframe or raises controversial issues, the call is to be escalated within the Contractor's procedures for call resolution and immediately referred to the call centre liaison officer.
- Where the caller identifies themselves as a member of the media, they are to be immediately referred to the Department of Lands Media Liaison Communications Solutions Group (CSG) without providing comment.

8.7 Establishment

- The Contractor is to supply a project plan for the establishment of the call centre. The proposed go live date is 7 January 2008.
- The Contractor is to establish all systems necessary to deliver services as required by these specifications. The Contractor will be required to establish a system in consultation with Lands to load files into Valnet on a daily basis.
- The Contractor is to establish a quality assurance system to ensure services are delivered to the highest possible standards and in accordance with these specifications. Reports may be requested by Lands on quality assurance measures in general or regarding specific incidents as required.

8.8 Billing

- Monthly invoices are to be submitted by the Contractor.
- All invoices need to be itemised and must list all components of the service and the corresponding price.

8.9 Operator and Staff Training

- 8.9.1 The Contractor will provide initial training on site for the operators and, in addition, will provide the following:
- Training manual and all resources including scripts based on Lands FAQs and data management operations
 - Customer Service Protocols and call escalation procedures
 - Follow up on site training that is required and will re-brief staff when changes occur to the FAQs or where the need is identified.
- 8.9.2 A training plan is to be fully detailed in the project plan. A Lands representative may be requested to be present at the staff training at the option of the Contractor to answer questions or provide general information.

9. Performance Indicators and Standards

- 9.1 Performance indicators and standards will be established for the contract and include, but not limited to the following:

KPI	Required Performance Standard
Average call wait time	< 20 seconds
Call abandonment rate	< 5%
Calls resolved by the call centre without referral to Lands	>85%

- 9.2 Additional performance indicators and standards, if any, will be established by mutual agreement between the Contractor and Lands.

10. Project Reporting

10.1 Daily Reports

10.1.1 The contractor shall provide daily reports in a format to be determined, by email and which may be varied from time to time by Lands.

10.1.2 The report is to cover:

- Call type by issues raised
- Average and maximum call waiting time
- Call abandonment - numbers and rate
- Average and maximum call duration
- Numbers of calls offered and answered

10.2 Weekly Reports

10.2.1 Weekly reports will include an executive summary, which is to give an overview of statistics and highlight major issues. The report is to detail performance against performance standards. The report is to be delivered via email at least 1 day prior to and discussed at a fortnightly meeting between Lands and the Contractor.

10.2.2 The weekly report is to include an analysis of the trends in Operator Talk Time and Operator Wrap Up Time, and recommend corrective action, if required, in consultation with Lands.

11. Information system requirements

11.1 The contractor is to provide at its own expense all hardware and software needed to allow its telephone customer service operators to remotely access the Valnet database and load into the system in a secure, efficient and timely manner. The contractor is to provide at its own expense all hardware and software needed to access the Internet.

11.2 For the contractor's database, data archiving, backup and recovery is the responsibility of the contractor. Archiving, backup and recovery of the Valnet database is managed by Lands.

11.3 The Contractor shall use a web browser to remotely access Valnet. Updates to data will be by file nightly, in a secure and accurate manner.

11.4 The Contractor must ensure the security and confidentiality of any data or information created, used, transmitted or stored by it during the course of the day to day operations.

11.5 Data is to be updated for the following reasons including but not limited to:

- Request for change of postal address (ASON)
- Incorrect Property Address

11.6 Facility should be maintained to accommodate additional data collection as requested by Lands from time to time. The Valnet database fields may be supplemented and the interface application may be changed by Lands within the term of the contract.

11.7 The Contractor may have to develop their own systems to enable data exchange with Lands and its systems. It is expected that the Contractor takes this into account and clearly disclose in their tender response any fees or charges as a result.

12. Management Meetings

- 12.1 Fortnightly meetings will be held between Lands and the Contractor. The purpose of these meetings will be to discuss any need for further improvements or additions to FAQs or other information to be provided by Lands, data requests from Lands, performance reviews and any trends or arising issues.

Attachment S1: Call Centre File Layout

Contact Data Upload File Format.

This file may be supplied by the call centre as often as necessary, but a daily load of data is required.

File structure:-

- File will be an semi-colon delimited ASCII flat file
- Record type "A" will be a header record and will be the first record in the file. It includes the date and time of creation and the name of the call centre operator.
- Record type "B" will contain general details regarding ONE call – ie source of call, name of caller, contact details etc. – only ONE "B" record per call.
- Record type "C" will contain details of the property(s) relating to the call – more than one "C" record is allowed – but only one property per "C" record.
- Record type "D" will contain details regarding the call content – the nature of the call – more than one "D" record per call is allowed.
- Record type "E" will contain details as to how the call was resolved and / or any action still required – more than one "E" record per call is allowed.
- Record type "Z" will be a trailer record and is to be the last record in the file. It is to include a count of the different record type supplied.
- Record type "A" and "Z" are included in the total record count.
- Fields within each record type are to be supplied in the order set out below.
- Each field is delimited by a semi-colon. Fields that do not contain data are represented by ;;
- The last field for a record has a trailing delimiter.

Record Type	Field Type	Field Size	Required	Comments
Record A				Header Record
Record type	A	1	Y	"A"
Download Date	D	Date	Y	Format YYYYMMDD HH24:MI
Name	A	40	Y	Call centre name
Record B				Call Details
Record type	A	1	Y	"B"
Contact ID	N	10.0	Y	
Call Date	D	Date	Y	Date / time of call – YYYYMMDD HH24:MI
Contact Type	A	8	Y	All records from Call Centre will be type "CALLCENT"
Source	A	8	Y	Owner / Agent / Other etc
Name	A	40	Y	Given name / Family name preferred
Email Address	A	40	N	
Phone No	A	20	N	Include area code if applicable
Salutation / Name	A	40	N	Eg Mr J Smith – for use in further replies
Address 1	A	40	N	Address for replies / future correspondence
Address 2	A	40	N	"
Address 3	A	40	N	"
Record C				Property Detail
Record type	A	1	N	"C"
Contact ID	N	10.0	Y	
Prop_ID	N	10.0	N	

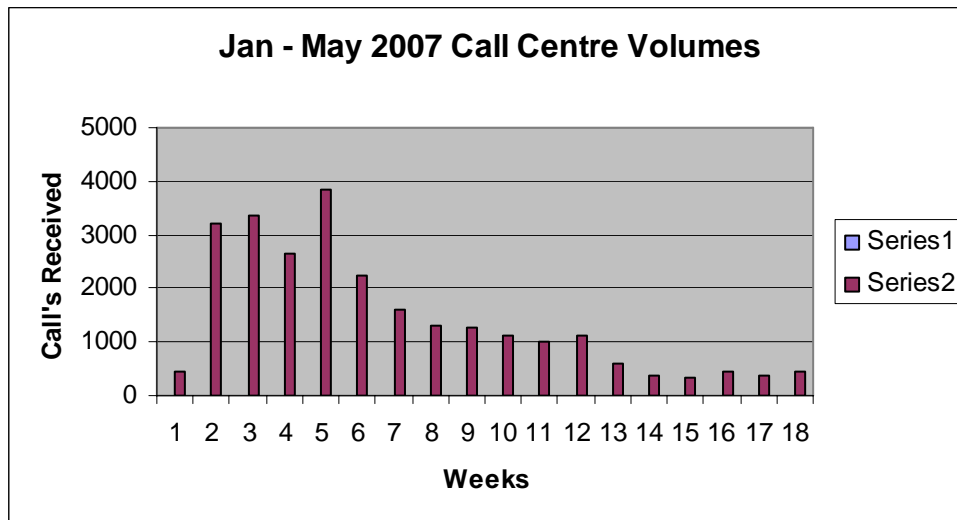
Base_Date	N	8.0	N	Format YYYYMMDD – mandatory if Resolution in E record is "SNDOBKIT"
Land_Value	N	10.0	N	Mandatory if Resolution in E record is "SNDOBKIT"
Record D				Call Content – Nature of Call
Record type	A	1	Y	"D"
Contact ID	N	10.0	Y	
Nature Code	A	8	Y	
Comment	A	250	N	Any special comment regarding the nature of the call.
Record E				Call Resolution
Record type	A	1	Y	"E"
Contact ID	N	10.0	Y	
Resolution Code	A	8	Y	
Comment	A	250	N	Any special comment regarding the resolution of the call – where call requires further action, a comment should always be required.
Record Z				Trailer Record
Record type	A	1	Y	"Z"
Total records	N	12	Y	Includes "A" and "Z" records
Total B records	N	12	Y	
Total C records	N	12	Y	
Total D records	N	12	Y	
Total E records	N	12	Y	

class_scheme	class_code	class_desc
CONTNATR	ADDINFO	General Enquiry - how to get additional info
CONTNATR	AREAQRY	Area Enquiry
CONTNATR	ASONCHNG	ASON address change
CONTNATR	ASONENQ	ASON Enquiry
CONTNATR	BROCHREQ	Brochure request
CONTNATR	CNCLRATE	Council rates received - Query
CONTNATR	COMPCUST	Complaint - Customer service
CONTNATR	DIFFICTQ	Difficult Question - General
CONTNATR	GENOVIEW	General Overview
CONTNATR	LANDTAX	Land Tax enquiry
CONTNATR	LVALTOTS	Land Value Totals
CONTNATR	MEDIAREQ	Media call request for information
CONTNATR	NEWSLREQ	Valuer General - Newsletter request
CONTNATR	NONOTCE	Non receipt of Notice of Valuation
CONTNATR	OBJECENQ	Objection Enquiry / Status
CONTNATR	OBJKITRQ	Objection kit request
CONTNATR	OMBUDENQ	Ombudsman enquiry
CONTNATR	OTHERORG	Enquiry relating to Other Organisation

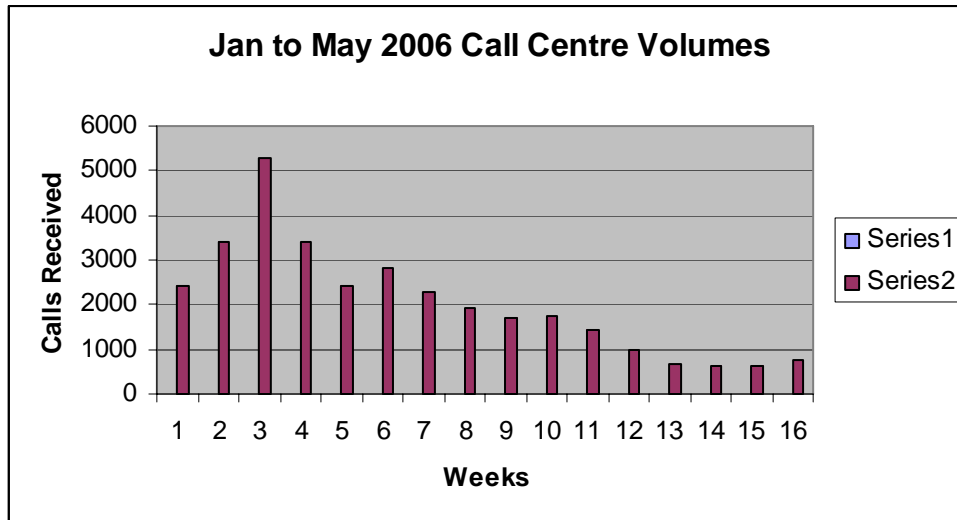
class_scheme	class_code	class_desc
CONTNATR	OWNERSHP	Ownership enquiry
CONTNATR	OWNRMODQ	Ownership Difficult Question - Refer to RMO
CONTNATR	OWUNKWN	Owner unknown at address
CONTNATR	POLITENQ	Ministers Office / MP Office - Political
CONTNATR	PROPCHNG	Property Address Change
CONTNATR	PROPENQ	Property Address Enquiry
CONTNATR	REFTOOSR	Referred to OSR
CONTNATR	SALESREQ	Sales listing request
CONTNATR	SECALLDQ	Secondary Call - DQ
CONTNATR	SECOCALL	Secondary Call
CONTNATR	TITLING	Titling Enquiry
CONTNATR	URGVALUR	Urgent Valuer - Unavailable Sales Report
CONTNATR	VALUATON	Valuation
CONTNATR	VALUERDQ	Valuer specific query
CONTNATR	WATERREQ	Water fact sheet request
CONTNATR	WEBBUSY	Website - busy- no connection
CONTNATR	WEBCCARD	Website - credit card payment issue
CONTNATR	WEBFAIL	Website - download failure
CONTNATR	WEBINCMP	Website - client software incompatibility
CONTNATR	WORKSTAT	Workflow status
CONTRESN	ACTINCOM	Action incomplete / Further action required
CONTRESN	AREARMO	Area / Dimension - referred to RMO
CONTRESN	ASONUPDT	Change of ASON details
CONTRESN	BROCHSNT	Brochure sent
CONTRESN	DESCUPTD	Property Description Updated
CONTRESN	DIFCSTSV	Difficult question - customer service
CONTRESN	DIFFQEST	Difficult question - general
CONTRESN	DIFMEDRQ	Difficult question - media request
CONTRESN	DIFPOLTC	Difficult question - political
CONTRESN	EXPLANAT	Explanation Provided
CONTRESN	FINALISD	Matter finalised
CONTRESN	NEWSLREQ	Valuer General - Newsletter sent
CONTRESN	NOVRETD	Addressee advised to return NOV to LPI
CONTRESN	OBKITSNT	Objection kit sent
CONTRESN	OMBUDENQ	Ombudsman enquiry
CONTRESN	OWNERQRY	Ownership - referred to RMO
CONTRESN	OWNERUPD	Ownership Updated
CONTRESN	PROPUPDT	Property address details updated
CONTRESN	REFCRLDS	Referred to Crown Lands
CONTRESN	REFRDLGA	Referred to Council
CONTRESN	REFRDLTO	Referred to Titling Division
CONTRESN	REFRDOPG	Referred to Objection Processing Group
CONTRESN	REFRDOSR	Referred to OSR
CONTRESN	REFRELOG	Referred to Relevant Organisation
CONTRESN	REISSNOT	Notice of Valuation Re-issued
CONTRESN	SALESSNT	Sales listing sent
CONTRESN	SECDIFFQ	Secondary call - difficult question
CONTRESN	SNDOBKIT	Objection Kit to be Sent
CONTRESN	URGVALCT	Valuer to contact re Unavailable Sales Report
CONTRESN	VALUNQRY	Valuer specific query

class_scheme	class_code	class_desc
CONTRESN	WATERSNT	Water fact sheet sent
CONTRESN	WEBBUSY	Website - busy - no connection
CONTRESN	WEBCCARD	Website - credit card payment issue
CONTRESN	WEBFAIL	Website - download failure
CONTRESN	WEBINCMP	Website - client software incompatibility

Attachment S2: Call Centre Statistics.

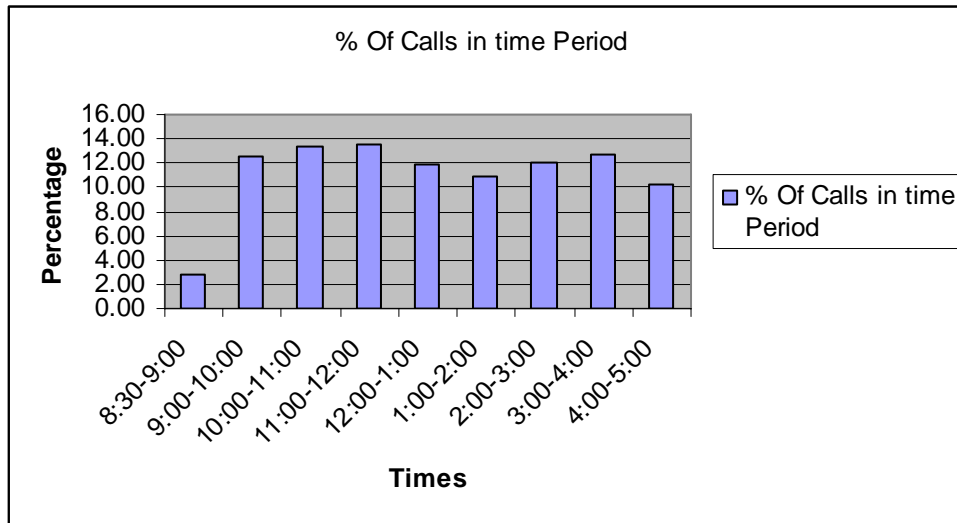


Weeks	Calls Received
1	436
2	3225
3	3374
4	2649
5	3832
6	2247
7	1587
8	1289
9	1271
10	1135
11	997
12	1124
13	579
14	357
15	353
16	462
17	370
18	446



Weeks	Call's received
1	2437
2	3412
3	5269
4	3407
5	2397
6	2810
7	2286
8	1934
9	1707
10	1747
11	1416
12	984
13	682
14	649
15	634
16	739

The data on this page is based on calls from Dec 06 to end August 07 and takes into account the peak period where these numbers could substantially increased.



Time Period	% Of Calls in time Period
8:30-9:00	2.86
9:00-10:00	12.48
10:00-11:00	13.42
11:00-12:00	13.52
12:00-1:00	11.80
1:00-2:00	10.93
2:00-3:00	11.97
3:00-4:00	12.72
4:00-5:00	10.30

Average Talk & Call Wrap Up Time

The average talk time is 5 minutes 21 sec with an additional 1min and 54 secs wrap time which includes review.

Daily data for average and maximum talk times for the peak period in 2007 can be viewed in the table below.

Daily average call time and maximum call time during the 07 peak period (In Seconds)

WEEKS	DATES	TIME	AVG CALL DURATION	MAX CALL DURATION
1	1-5/01/07	Monday		
		Tuesday	358	2057
		Wednesday	319	1377
		Thursday	367	2554
		Friday	316	1166
2	8-12/01/07	Monday	392	2674
		Tuesday	375	2876
		Wednesday	357	2138
		Thursday	342	3263
		Friday	334	2189
3	15-19/01/07	Monday	342	2246
		Tuesday	293	2002
		Wednesday	302	1566
		Thursday	342	2271
		Friday	319	2217
4	22-29/01/07	Monday	324	2113
		Tuesday	331	2285
		Wednesday	305	2669
		Thursday	354	3837
		Friday	Australia	Day
5	29/01/07- 2/2/07	Monday	317	2251
		Tuesday	323	2730
		Wednesday	312	3621
		Thursday	315	1833
		Friday	308	1870
6	5/2/07 - 9/2/07	Monday	335	2776
		Tuesday	347	2321
		Wednesday	324	1767
		Thursday	344	4257
		Friday	334	1804
7	12/2/07 - 16/2/07	Monday	326	1720
		Tuesday	368	2598
		Wednesday	349	1983
		Thursday	314	2256
		Friday	280	1995
8	19/2/07 - 23/02/07	Monday	277	1993
		Tuesday	277	3478
		Wednesday	284	1719
		Thursday	297	1970
		Friday	306	1791
9	26/2/07 - 02/03/07	Monday	286	1882
		Tuesday	286	2013
		Wednesday	282	2055
		Thursday	288	2041
		Friday	281	1728

WEEKS	DATES	TIME	AVG CALL DURATION	MAX CALL DURATION
10	05 - 09/03/07	Monday	264	1215
		Tuesday	286	2463
		Wednesday	311	2079
		Thursday	312	1786
		Friday	323	2393
11	12 - 16/03/07	Monday	294	2186
		Tuesday	292	1717
		Wednesday	296	1522
		Thursday	333	2722
		Friday	315	2103
12	19 - 23/03/07	Monday	290	1613
		Tuesday	314	2482
		Wednesday	311	2288
		Thursday	271	1653
		Friday	277	1296
13	26 - 30/03/07	Monday	358	2733
		Tuesday	285	1824
		Wednesday	297	2100
		Thursday	315	2142
		Friday	316	1604
14	2 - 6/04/07	Monday	290	1655
		Tuesday	350	1823
		Wednesday	295	2294
		Thursday	295	1607
		Good Friday		
15	9 - 13/04/07	Easter Monday		
		Tuesday	285	2314
		Wednesday	330	1729
		Thursday	278	2172
		Friday	326	2575
16	16 - 20/04/07	Monday	287	2270
		Tuesday	301	2056
		Wednesday	338	1509
		Thursday	318	1639
		Friday	298	1929
17	23 - 27/04/07	Monday	255	1840
		Tuesday	293	1982
		Wednesday		
		Thursday	282	2386
		Friday	253	1445
18	30/4 - 04/05/07	Monday	305	5701
		Tuesday	299	1789
		Wednesday	291	2155
		Thursday	317	2280
		Friday	267	987

Issues raised December 2006 to 30 April 2007

Issue	Cumulative
General Overview	3788
Secondary Call	312
Ownership	1191
Valuation	4700
Property Address Inquiry	629
ASON Enquiry	436
Objections Enquiry / Status	1819
Land Tax	1569
General Enquiry - how to get additional info	497
Website - busy - no connection	10
Website – credit card payment issue	8
Website - download failure	109
Website – client software incompatibility	26
Change of ASON details	4771
Change of property address details	605
Brochure sent	23
Valuer General - Newsletter request	17
Objection kit sent	7002
Sales listing sent	463
Water Fact Sheet Sent	20
Addressee advised to return NOV to LPI	263
Area/Dimensions - Referred to RMO	251
customer service	
General difficult question – LPI response	14
Referred to OSR	1425
Media request	4
Ombudsman enquiry	
Political Question	1
Ownership	3120
Secondary call	
Valuer to contact re Unavailable Sales Report	32
Valuer specific query	695
Totals	33800

Attachment S3: FAQ & Answers

Underline = Link to another Web Page

Valuation Frequently asked Questions For Lands Website & Valuation Call Centre

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My Property is of heritage significance, was this considered when valuing the property?	36
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Notification of Land Value

I have just received a Notice of Valuation, is it an account I have to pay?

No, this is a Notice of Valuation, advising you of the latest land value that will be used by your local council for rating purposes from 1 July.

If you are referring to a land tax assessment issued by the Office of State Revenue (OSR), yes this assessment details the amount of land tax you are liable to pay.

Why did I receive a Notice of Valuation?

Your notice has been supplied to advise you of the latest land value that will be used by your local council for rating purposes.

General Valuation lists containing land values are issued to councils for rating purposes at least every four years.

These land values are fixed for rating purposes until a new list is issued.

Why didn't I receive a Notice of Valuation?

If you are the owner of a strata unit, Notices of Valuation are sent to the secretary of the Strata Plan or the owner's corporation. A Notice of Valuation is not issued to the individual unit owners within a Strata Plan. This is because the entire block of land is valued as one.

Alternatively, your local government area may not be scheduled to receive Notices of Valuation this year. Land is valued for rating purposes every 3 to 4 years.

A list of Local Government Areas that were issued Notices of Valuation for 1 July 2007 land values.

Why did I receive a land tax assessment?

The Office of State Revenue (OSR) issues land tax assessments to registered liable owners.

If you own property in NSW, other than your principle place of residence or land used for primary production, you may be liable for land tax if the total value of land exceeds the land tax threshold. The land tax threshold for 2007 was \$352,000,.

your land value for the 2007 land tax year is generally the average of the current year and the two previous land values. For example for the 2007 tax year, your land value is generally the average of the 1 July 2006, 1 July 2005 and the 1 July 2004 land values.

For further information regarding land tax, visit the Office of State Revenue's Website www.osr.nsw.gov.au or call 1300 139 816 (within NSW).

What information is supplied by the Valuer General on the Notice of Valuation?

The Notice of Valuation provides the following information on the front:

- Owners names and postal address, the property address and property description details recorded on the Register of Land Values
- The current land value
- The date of the valuation
- The last date you can lodge an objection

On the back you will find:

- General information about the Notice of Valuation and the review process
- Contact details for general information and interpreter services

What is the property address?

The property address is the address of the property to which you are the recorded owner(s) or lessee(s)

Where do I find the address of the Property?

You can find the address of the property on your Notice of Valuation underneath the names of the property's recorded owner(s) or lessee(s).

Where do I find the property number?

The property number is the number used to identify your property in the register of land values. It can be found on the top left hand corner of your Notice of Valuation, listed under the valuation district.

The Property address is incorrect how can I change that?

I will need to check the system and to do that I need the Property number, do you have that available?

Simple changes to the property address can be made over the telephone, however complex changes must be referred to the appropriate officer who will check it and get back to you.

Where do I find the ASON?

The ASON or address for service of notice is the mailing address to which the Valuation was sent.

The mailing address for the Valuation is incorrect and I would like to Change it?

Could you please provide me with you mailing address and I will be able to make any necessary changes.

If I request a change of mailing address will it remain the mailing address for all future mailing?

Yes

The name is spelt incorrectly or wrong ownership is listed on my Notice of Valuation and would like a new Notice of Valuation issued.

The ownership that we have on our records is taken from the titling system. The ownership of your property will be checked to make sure it matches. You will be advised of any changes that are made. If you would like a new Notice of valuation issued, please put your request in writing and return the original to

Department of Lands, Valuation Services,

PO Box 745 BATHURST NSW 2795

I received a Notice of Valuation addressed to someone other than myself in error.

Please return the notice to

**Department of Lands,
Objection Co-ordinator,
Valuation Services, PO Box 745 BATHURST NSW 2795**

as stated on the top left hand corner of the notice. If you have any forwarding information that may be of assistance, please write it on the envelope.

There is a barcode in the top left hand corner of my Notice of Valuation. What is this barcode used for?

The barcode contains information to help us efficiently process any Notices that may be returned to us.

What is the graph on my Notice of Valuation?

The graph shows the comparison of residential median sales prices to median land values and demonstrates the movement in the property market and land values for the period.

I received a Notice of Valuation that did not have a graph on it. Why?

Graphs have been included on Notices of Valuation for residential properties in local government areas where there have been significant numbers of sales for the graph to meaningfully represent the property market.

Your property may not be zoned residential or there may be insufficient sales in your area.

Land Values

What is the Valuer General doing to improve the quality of land values?

Land valuation outcomes are monitored and reviewed all the time.

The Valuer General has made improvements to valuer training, to the audits of valuation results and to the information available to land holders.

The Valuer General also made a number of improvements recently following the Ombudsman's 2005 investigation into land valuations.

For example, consistent sales analysis methods are being applied across the state and are resulting in more accurate and consistent valuations.

A range of technical measures have been introduced to check the accuracy of the valuations and the Valuer General has set a target of individual valuations of all properties over the next five years.

The Ombudsman recently investigated NSW land values. Is my land value correct?

The Ombudsman said the land valuation system was sound but said there was room for improvement and made some recommendations that are now being acted on.

If you have any concerns about your land value you can talk to one of our valuers.

You also have the right to lodge a formal objection so long as you have supporting evidence. We can send you an objection kit.

Is the method of valuation used to determine my land value sound?

Yes, the land valuation process in NSW is reliable and the same as in many countries around the world.

It is a mass valuation system with built in checks and balances to produce reliable results.

The recent investigation by the Ombudsman also found that the valuation methodology was sound and capable of producing accurate results.

What does land value refer to?

Your land value is the dollar value of your land only. Land value does not include the value of your home or other structures or improvements on your land.

However, works including clearing, draining, filling, grading, excavation, reclamation and retaining walls are included in the land value.

Why was the valuation made?

The value of your land is used by local councils and the State Government for rating and taxation purposes.

Local councils use land value and other factors to determine what rates you will pay. The Office of State Revenue uses land values for land tax purposes.

How is my land valued?

Most land in NSW is valued using the mass valuation approach, where properties are placed together and valued in groups called components. The properties in each component are similar, or are expected to reflect changes in value in a similar way.

Representative properties are selected from components and individually valued each year to determine how much the land value has changed from the previous year. This change is then applied to all properties in the component to determine their new values. Sample valuations are then checked to confirm the accuracy of the new values.

The land is valued by qualified valuers experienced in the local area. They analyse property sales from around the time of the valuation and then apply that value to all the similar properties taking into account such things as size, location, views, topography etc.

To keep the values consistent every property is valued at the same date, 1 July.

How are Strata Units Valued?

The site of a strata development is valued as a single parcel of land using comparable sales of unit sites. A Notice of Valuation is issued to the secretary of the Strata Plan or the owner's corporation.

When determining an individual unit owner's land value for land tax purposes, the Office of State Revenue will issue land tax assessments based upon the total land value apportioned according to unit entitlement as listed in the strata plan. Liable unit owners will be issued with a land tax assessment based on their individual unit value only.

Why did my land value change?

The land value is the market value of the vacant land at the 1 July and is based on the market evidence around the date of valuation. Sale prices of similar properties are the most significant factors in changing land values. Changes affecting your property such as zoning, views and nearby development will also have an impact on your land value.

Who makes my Valuation?

In NSW the Valuer General values all land under the provision of the *Valuation of Land Act 1916*. Independent, professionally qualified valuation contractors carry out valuations for the Valuer-General.

Who was the contract Valuer?

List of Contractors by Local Government Area

What is my land value?

Land Values will be able to be given over the phone, provided the caller can be identified as the owner.

Protocol for giving land values over the phone:

1. Ask the caller what the full ownership of the property
2. Ask the caller for the address of the Property
3. Confirm postal address (check ASON)

Once satisfied the caller is the owner or acting on behalf of the owner, the land value can be given verbally over the phone. The caller should also be encouraged to go to the website for a written confirmation using the land value search.

You can access your land value for the valuing year 1 July 2004, 2005 and 2006 free of charge using the Land Value Search for NSW Landowners option on our website if you are the owner of the property or authorised agent of the owner. You will be required to register to receive an activation key for the searches.

If you are not the owner or if you would like the valuation for a year prior to 2004, the cost of obtaining the land value using the land value search on the website is \$8.50. You may also obtain this search from your local LPI Valuation office for a fee of \$10.50

Under what Act was the value determined?

The Valuation of Land Act 1916

What effect will the new valuation have on my council rates?

Land values are one factor used by councils in the calculation of a landowner's rating liability. Increases in land values do not necessarily lead to similar increases in rates.

You should contact your local council to find out how it uses land values in determining rates.

Was my land inspected?

The valuations are carried out by contract valuers familiar with the local area. They do not record which properties they inspect, but they do inspect a large number of properties in each local government area.

What features of the land were considered when valuing my property?

When comparing property sales to the land being valued, valuers consider such factors as:

- Most valuable practical use for the land
- Location of the land
- Constraints on use such as zoning and heritage restrictions
- Land size, shape and land features such as slope and soil type
- Nearby development and infrastructure

- Views

Have the various physical features of the land and its surrounding area been taken into account?

Yes physical features are considered in the valuation process.

The valuers have a lot of information at their disposal including maps, subdivision plans and town planning information.

What sales were used to determine my land value?

To help you understand your land value, a general valuation sales report for your locality is available.

The report lists sales of properties that were considered for the general valuation and may include both vacant land and improved properties. The report includes the land size, contract date, purchase price and adjusted land value.

The adjusted land value is the sale price adjusted for time to reflect the property market as at 1 July in the year of valuation. Allowance is made for the added value of improvements (if any) to arrive at the adjusted land value.

My Property is of heritage significance, was this considered when valuing the property?

Properties with a heritage significance are recognised under two (2) distinct acts for rating and taxing purposes.

Heritage properties are recognised under the Heritage Act 1977 by a listing on the State Heritage Register. A "heritage value", determined under the provisions of sections 124 and 125 Heritage Act 1977, is used for council rating and land tax purposes. If your property is listed on State Heritage Register and a heritage value has been determined, it should be listed on your Notice of Valuation under 'Valuation Details.'

If the Valuer General has determined that land is heritage restricted within a planning instrument such as a local or regional environmental plan, section 14G of the Valuation of Land Act 1916 applies. The NSW Heritage Office holds the State Heritage Inventory at www.heritage.nsw.gov.au that contains information on heritage restricted properties. Landowners may also apply to the Valuer General at GPO Box 15, Sydney 2001, to make a determination as to whether a particular parcel of land is heritage restricted.

Section 14G of the Valuation of Land Act 1916 provides that land, which is heritage restricted must be valued on the following assumptions:

- (a) that the land may be used only for the purpose for which the land was used when the value was determined,
- (b) all improvements on the land when the value is determined may be "continued and maintained" in order that the use may be continued, and
- (c) that no other improvements, other than those existing at the date at which the value is determined may be made to or on that land.

If your property has been determined 'heritage restricted' it will be noted on the bottom of your Notice of Valuation.

If your Notice of Valuation does not show it is of heritage significance and you believe it is, you may lodge an objection to the land value or put the details in writing so that the particular heritage matters can be considered, alternatively you may wish to speak to a valuer by calling our toll free number 1800 110 038.

My property is affected by an easement/right of way/covenant/caveat. Has this been taken into account when determining my valuation?

The Valuation of Land Act states that the land must be valued ignoring legal encumbrances such as easements, rights of way, covenants or caveats, however the physical effect of works within the easement, for example piping or transmission lines, are considered in assessing the value.

Were water rights considered when valuing my property?

If you own rural land that is irrigable then water rights may have been considered when your property was valued.

However it depends on the date the valuation was made. This date is shown on the bottom of your valuation notice.

The Local Government and Valuation of Land Amendment (Water Rights) Act 2005 had effect from 1st July 2005. All valuations made after that must have regard to the new provisions and must ignore the existence of the Water Access Licences.

What impact will changes to the Water Management Act and the Valuation of Land Act have on my land value?

The Local Government and Valuation of Land Amendment (Water Rights) Act 2005 had effect from 1st July 2005. All valuations with a date the valuation was made after the 1st July 2005 must have regard to the new provisions and must ignore the existence of the Water Access Licences.

If you require further detail on the way that water rights were considered in making your valuation, we can send you a [fact sheet](#).

What is an MUAF?

This is the Mixed Use Apportionment Factor (MUAF) and is the percentage of the land component used for non residential purpose. This factor may be used for calculating land tax. Your Notice of Valuation will show whether an MUAF has been applied to your property.

What is an MDAF?

This is the Mixed Development Apportionment Factor (MDAF) and is the percentage of the land component used for non-residential purposes. This factor will be used for the purposes of determining rating liability. Your Notice of Valuation will show if an MDAF has been applied.

What are Allowances?

Allowances can be for development works on the land carried out by land sub dividers for the added value of the works undertaken by that owner.

Sub dividers allowance can also be provided as a discount from the sale price of the total land values of the lots in a deposited plan had they been sold to one person.

Generally most land does not have these allowances.

What is the difference between land value and UCV?

UCV refers to the Unimproved Capital Value. This term was used until the 1970's in the Valuation of Land Act. The Act has been amended and now refers to land value which includes the added value of land improvements.

Land improvements include the clearing of land, improvement of soil fertility, improvement of land by excavation, filling, levelling draining etc.

Objecting to your Valuation

What is an Objection Kit?

If you believe your valuation is incorrect, you have the right to object.

The objection kit contains:

- Valuation Objection Guide - includes all information in the one booklet – except for the Sales Report
- Information about how to complete your objection
 - Valid & Invalid Supporting Information Fact Sheet
 - Checklist
- Valuation Objection Form
- General Valuation Sales Report

You can download your own Guide and even lodge your objection online by following the prompts.

Simply go to www.lands.nsw.gov.au/valuation and select either objecting to a Valuation, Valuation Objection Kit or Online Services

What are the grounds for lodging an objection?

The grounds for objections are detailed in Section 34 Valuation of Land Act. They include:

- the values assigned are too high or too low;
- the area, dimensions or description of the land are not correctly stated;
- the interests held by various persons in the land have not been correctly apportioned;
- the apportionment of the valuations is not correct;
- lands which should be included in one valuation have been valued separately;
- lands which should be valued separately have been included in one valuation; and/or
- the person named in the notice is not the lessee or owner of the land.

The objection to the land value will only be considered based on factors related to the property and how the value relates to the market evidence. Factors such as your personal circumstances or the amount of council rates or land tax payable cannot be considered.

Where do I lodge my objection?

Your objection must be lodged using the valuation objection form available as part of the [objection kit](#) or you may prefer to lodge online.

If you prefer to lodge on-line

Simply go to www.lands.nsw.gov.au/valuation and select either Objecting to a Valuation, Valuation Objection Kit or Online Services and follow the prompts..

If you prefer to mail your objection

Valuation objections forms can be lodged by sending to

The Department of Lands
Valuation Objections
PO Box 745

BATHURST NSW 2795

as shown on the notice and on the valuation objection form.

Or fax to 02 8258 7435

How long do I have to lodge an objection if I disagree with my land value?

You have 60 days from the date of issue of the Notice of Valuation or the land tax assessment.

The last date to object is recorded on your Notice of Valuation.

I would like to object but am outside the 60 day time limit. Can I still lodge an objection?

The Valuer General may permit a landholder to object if the objection is lodged outside the 60 day time period.

If your objection is lodged late you must detail in writing, the reasons for failing to lodge your objection within the 60 days period.

The Valuer General will determine whether to accept an out of date objection.

I will not be able to lodge my objection in time. Can I have an extension?

If you would like an extension of time, you need to make a request to the Valuer General in writing stating the reasons why you are requesting an extension. Requests for extension can be sent to:

Post:

***The Department of Lands
Program Manager,
Valuation Objections
Valuation Services
PO Box 745
BATHURST NSW 2795***

or

Fax:

(02) 6332 8399

However, If the last date for objection has passed, you should lodge an out of date objection and to include the reasons why their objection was lodged out of time

Why do I need to lodge my objection using a Valuation Objection Form?

Section 33 of the Valuation of Land Act requires that objections be lodged in a form specified by the Valuer General.

The form has been designed to assist the public by providing guidance on matters relating to objections and the issues to be considered. It is also designed to streamline processing to assist Department of Lands to process objections more promptly

If you prefer to lodge on-line

Simply go to www.lands.nsw.gov.au/valuation and select either Objecting to a Valuation, Valuation Objection Kit or Online Services and follow the prompts..

If you prefer to mail your objection:

Valuation objections forms can be lodged by sending to
The Department of Lands
Valuation Objections
PO Box 745
BATHURST NSW 2795
as shown on the notice and on the valuation objection form.
Or fax to 02 8258 7435

Who deals with my objection?

Your objection is examined by an experienced Department of Lands valuer or by a valuation contractor, independent of the initial valuation. The valuer will carry out a thorough review of the concerns raised in your objection.

I have conducted a land value search for my property and believe the land value is incorrect, can I object?

You may object to your land value only if you have received a Notice of Valuation or a land tax assessment from the Office of State Revenue in the current year.

What should I do if I believe the information on the Notice of Valuation is incorrect?

Information from the Register of Land Values is used for your notice.

We would like to know if:

- The name on the notice is spelt incorrectly
- Incorrect ownership is recorded
- The description of the property is incorrect
- Your postal address is incorrect

If the delivery address for your notice changes or if the details recorded are not correct please let us know by phoning 1800 110 038 or writing to:

The Valuer General
GPO Box 15
SYDNEY NSW 2001

I believe the area of the property is incorrectly recorded on my Notice of Valuation.

If you have recently received a Notice of Valuation and you believe the area of your property is incorrectly recorded you may lodge an objection to the land value using a valuation objection form available as part of the objection kit. Alternatively, I can have someone check the details for you and advise you of the outcome if you do not wish to lodge an objection.

The operator will need to take details of what the owner believes the correct area is and confirm the property address. They will also need to obtain contact details so that one of the RMOs can contact them, either by email, phone or in writing. If in writing, confirm ASON.

I believe the land value is incorrect

If you believe your land value is incorrect you have the right to object up to 60 days after the date of issue of Notice of Valuation or land tax assessment. Your objection must be lodged on the valuation objection form available as part of the objection kit, and detail the reasons why you believe the valuation is incorrect.

No heritage valuation or concession is listed on the notice as in previous years

If no heritage value appears on your notice or you were previously entitled to a concession or allowance and believe you should be this year, you may object to your land value on the valuation objection form available as part of the objection kit. You will be required to detail evidence to support the claims you make in your objection.

You should provide details of the State Heritage Register listing or the way in which your property is Heritage Restricted.

I believe that the land value is inconsistent with the current market value of the land.

Valuations are calculated using market evidence that existed at or around 1 July of the valuing year. If you disagree with your land value, you may object using the valuation objection form available as part of the objection kit.

I am dissatisfied with the determination of my objection. What options do I have?

As a landowner you can appeal against the Valuer General's determination by lodging an appeal application with the Land and Environment Court Registry.

The Court is independent of the Valuer General and establishes procedures to be followed in lodging an appeal and appearing in court. It also sets court fees.

As a general rule the Court places the onus on the appellant to prove that the land value issued by the Valuer General is not correct.

I submitted my objection but it was returned to me to provide additional information. Why?

When determining objections, valuers consider the issues and evidence raised by the landholder as well as other valuation evidence they compile.

All objections undergo a screening process on receipt to ensure they meet the objection criteria and provide supporting evidence for the objection. As the best supporting evidence when considering objections is the sale price of comparable properties, or details regarding changes to the physical condition or the permissible use of the land, your objection was returned to give you the opportunity to provide further evidence.

The objection kit contains information that will assist you in lodging your objection including a fact sheet on valid and invalid supporting information.

What is the best evidence I can use to support my objection?

The best supporting evidence when considering objections is the sale price of comparable properties, or details regarding changes to the physical condition or the permissible use of the land.

Your objection should be based on factors relating to the property and how the valuation relates to market evidence.

Information that can **not** be considered when determining your objection includes:

- Comparison of land values to other land values or prior land values
- The increase or decrease in value from previous years
- your personal circumstances
- Your liability for rates and or taxes
- The method used to make the valuation.

The valuation objection kit provides you with the appropriate information for lodging a valid objection.

Land Tax and Your Land Value

Will my land value be used for land tax purposes?

Yes, if you are liable to pay land tax. Land Tax is an annual tax on the total land value of all taxable land owned in NSW as at midnight 31 December each year. Your principal place of residence and land used for primary production is generally not liable to land tax.

You should visit the Office of State Revenue website at www.osr.nsw.gov.au or call OSR on 1300 139 816 for further information on land tax.

Does the Valuer General issue Notices of Valuation to owners advising them of annual land tax values?

No, registered liable land owners are notified of the taxable value of land when issued a land tax assessment by the Office of State Revenue.

The Valuer General is only required to notify a landowner of a rating land value by way of Notice of Valuation issued and used by your Local Council every 3 to 4 years.

However, you may obtain your current land value by conducting a land value search, free of charge.

Why is the land value on my land tax assessment I have received different to the land value on my council rates notice?

The Valuer General issues land values to councils for rating purposes and to the Office of State Revenue (OSR) for land tax purposes.

The land value on your council rates notice may have been calculated for a different valuing year than your land tax assessment.

Councils use the land values supplied by the Valuer General for 3 to 4 years before they are issued with new valuations.

The Valuer General supplies land values annually to the Office of State Revenue.

Liability for land tax for the 2006 tax year is determined using the land value as at the 1 July 2005. The 2007 land tax liability is based on the average of the last three years values.

For the 2007 tax year the taxable value of each parcel of land you own will generally be determined by adding the land value for the current tax year and the land values that applied for the two preceding tax years then calculating the average.

For example: **2007 land value \$560,000** valuing year **1.7.2006**
2006 land value \$450,000 valuing year **1.7.2005**
2005 land value \$400,000 valuing year **1.7.2004**

Total = \$1, 410,000 divided by 3

Average land value = \$470,000

If the land you own was part of a recent subdivision or amalgamation and did not exist for all three taxing dates, the average value will be calculated using the land values for the taxing dates when the property did exist.

What is the land tax threshold?

For the 2007 land tax year a \$352,000 threshold will apply to owners of liable land

For the 2007 and future land tax years the threshold will be averaged. The threshold will be the average of the indexed amount for the new tax year and the previous 2 land tax years, as calculated annually by the Valuer General. As the land tax threshold was abolished for the 2005 land tax year a "notional" threshold of \$342 000 will be used for that year. The threshold cannot fall below that of the previous year and where the average threshold is less than the previous year's threshold, then the previous year's threshold will continue to apply.

For further information regarding land tax, please visit the OSR website at www.osr.nsw.gov.au or phone 1300 139 816 (within NSW).

Am I liable for land tax? What is the amount?

If you are liable for land tax for the first time you will need to lodge a land tax registration form.

The Office of State Revenue has [land tax calculator](#) which may be useful in providing a guide to the amount of tax payable based on your land value.

For further information regarding land tax liability, please visit the OSR website at www.osr.nsw.gov.au or phone 1300 139 816 (within NSW).

How does land tax apply in the case of strata title?

The office of State Revenue states that lots in strata plans are classified as land for land tax purposes.

Shares in Unit Companies

Owners of shares in home unit companies whose shares entitle those owners to exclusive rights of occupancy of part of the building (eg. Company title units) are deemed to own that part as if it were a strata lot. The company is not regarded as the owner of the land.

Car Spaces

Car spaces in strata plans that have their own unit entitlement and are also parcels of land

Tenants in Common

Tenancies in common: Where the ownership of the land entitles each joint owner to an exclusive right of occupancy of a flat, each owner is deemed to own that flat as if it were a strata lot. The owners are not regarded as joint owners of the land.

If you require further information please contact OSR on 1300 139 816.

I would like to provide notification of my principle place of residence.

We do not keep information regarding your principle place of residence on our system. To advise of changes to your principle place of residence you will need to contact the Office of State Revenue on 1300 139 816 (within NSW).

I would like to lodge an objection to my land tax value.

If you would like to object to the land value that appears on your land tax assessment you must do so using the valuation objection form. The form and other information about objecting to your land value can be found in the [Objection Kit](#).

Your objection must be lodged within 60 days of the date of issue on the land tax assessment.

You can object to all land values issued on their land tax assessment. However an objection must be made on the land values at 1 July, not the average land value.

You may only object to a land value that you have not already objected to in the past. For example, If an objection was lodged to the 1/7/2005 land value either from their Notice of Valuation or land tax assessment, you cannot object to that valuation again.

Exceptions: Similar to the Valuer General's discretion for lodging a late objection, landowners who have lodged an objection previously to an issued land value may request to have their objection considered again, however you will need to provide reasons which the Valuer General will consider.

I have lodged an objection to my land value after receiving a land tax assessment and the decision is pending. My land tax payment is due soon. Do I have to pay my land tax?

Yes. You are required to pay your land tax regardless of your pending land value objection. Late payments of land tax assessments may incur interest.

If you are unable to pay your land tax by the due date contact OSR's debt collection & payment arrangements branch to discuss your payment options on 1300 368 710 (within NSW)

Where can I find my Valuer General's Property Number on my land tax assessment?

The property number can be found in the support schedule of your land tax assessment.

How can I contact the Office of State Revenue regarding land tax?

You can visit the Office of State Revenue's website at www.osr.nsw.gov.au or you can call OSR on 1300 139 816 (within NSW).

About us/Contacting us

Who is the Valuer General?

Mr Philip Western

LPI Valuation Services within the Department of Lands deal with enquiries on behalf of the Valuer General.

Who is the Minister for Lands?

The Honourable Anthony (Tony) Kelly, MLC, Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs, Leader of the House in the Legislative Council.

I would like to speak to the valuer who made my valuation

The valuations are made by contractors and they are not available to answer queries. However, I may be able to help you with your enquiry or I can put you in touch with a qualified valuer from the Department of Lands who will address your enquiry.

I called your 1800 number but did not get through to my local LPI valuation office, why?

All calls are directed to the Department of Lands centralised call centre. The 1800 line has been set up to ensure that calls are answered promptly.

What is your website address?

www.lands.nsw.gov.au

How can I contact you?

Mail:

Valuation Services
Department of Lands
GPO Box 15
Sydney NSW 2001

Toll Free Phone:

1800 110 038

Email:

valuergeneral@lands.nsw.gov.au

In Person:

At one of our [LPI Valuation Offices](#)

I would like to provide feedback to the Valuer General

The Valuer General welcomes feedback on the valuation system and publications.

I can take the details of your feedback and someone will follow it up for you.

or

you can write to:

Philip Western, Valuer General
Department of Lands
GPO Box 15
Sydney NSW 2001

I received the Newsletter from the Valuer General and would like to be added to the mailing list.

You can provide us with your details by calling :

Toll Free Phone:

1800 110 038

or Write to us:

Philip Western, Valuer General
Department of Lands
GPO Box 15
Sydney NSW 2001

How can I find out more information?

Land values and the objection process:

- Your land value brochure included with Notice of Valuation or land tax assessment
- Objection brochure included as part of the Objection Kit

- Department of Lands web site,
- Phone toll free 1800 110 038
- Visit one of our offices

Land Tax

- Visit the Office of State Revenue's web site www.osr.nsw.gov.au
- Information included with land tax assessment
- Phone 1300 139 816 (within NSW)

Attachment S4: Screen shots of Valnet 2i Property Information Screen

Property Information Stored in Valnet 2i

Valnet 2i - Property Search - Microsoft Internet Explorer

Address: <http://ipi-online.lpi.nsw.gov.au/4485777cf83dcb15e3867be8cc8a3ee/valnet/search.php>

Department of Lands
Land and Property Information Division

Quick Links: | Property Search | Contact Inbox | General Valuation Sales Report | Workflow Search |

Valnet 2i - Property Search

Please Enter Your Query Criteria

Property No:

Or Plan Number:

Lot Number:

Plan Type:

Section Number:

Or District Code:

Suburb:

Postcode:

Street Name:

House Number:

Property Name:

Additional Criteria

Family Name:

Hist. Val. Number:

Organisation Name:

Include Sales? ☐

Valnet 2i - Property Details - Microsoft Internet Explorer

Address: http://ipi-online.lpi.nsw.gov.au/4485777cf83dcb15e3867be8cc8a3ee/valnet/detail.php?prop_id=12345

Department of Lands
Land and Property Information Division

Related Links: | Change Valnet Postal Address | Change Valnet Property Address | Valnet 1 Archive |

Valnet 2i - Property Details

Property Details

Property	12345
Type	NORMAL
Status	CANCELLED
District	001 - CESSNOCK
Address	
Owner	
Zone	
Area	
Dimensions	
Old Val Num	
State Heritage Listing	
ASON (Owner)	
ASON (Lessee)	
Component	HC - KURRI

Land Values

Base Date	Base Date Type	Base Date Status	Date Made	Land Value	Authority	Basis	Cnscn	Cnscn Amount	Date Notice Printed	Date Notice Returned
01/07/2000	GENERAL	PRIOR	09/10/2000	\$31,100	19				23/11/2000	

Lot/Section/Plan

Plan Type	Plan Num	Section	Lot Type	Lot Num	Lot Area	Encumb Code 1	Encumb Code 2	Unit Ent	Lease Num	Lease Type
DP	316615		WHOLE	C						

Valnet 21 - Property Details - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Address http://ipi-online.lpi.nsw.gov.au/a485777fd83dcb15e3867be9cc8a3ee/valnet/detail.php?prop_id=12345

Base Date	Base Date Type	Base Date Status	Date Made	Land Value	Authority	Basis	Cncsn	Cncsn Amount	Date Notice Printed	Date Notice Returned
01/07/2000	GENERAL	PRIOR	09/10/2000	\$31,100	19				23/11/2000	

Lot/Section/Plan

Plan Type	Plan Num	Section	Lot Type	Lot Num	Lot Area	Encumb Code 1	Encumb Code 2	Unit Ent.	Lease Num	Lease Type
DP	316615		WHOLE	C						

Workflows

Workflow No	Workflow Type	Start Date	Date Completed	Action
75938	Supplementary Valuation	15/08/2001	15/08/2001	XX
1484287	Contact	03/07/2007	03/07/2007	OT

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ANNEXURE 2 TO PART A (Not Used)

PART B Tender Conditions -The Tender Process

6. Definitions of terms used in Parts A-C

6.1 Unless the context indicates otherwise, the following terms, where used in Parts A-C of this RFT, shall have the meanings set out below. Note the defined terms below will not all necessarily appear in this RFT.

“ABN” means an Australian Business Number as provided in the GST law.

“Addendum” means an addendum or addition to this RFT made by the Board before the Closing Date and Time under cl. 7.5.

“Alternative Tender” means a Non-Conforming Tender that is intended to offer a different method of meeting the object and intent of the Requirement.

“Board” means the State Contracts Control Board established under the *Public Sector Employment and Management Act 2002* whose responsibilities include:

- Inviting and accepting tenders;
- Determining the conditions under which tenders are invited or accepted;
- Entering into contracts on behalf of Departments and other public sector agencies ; and
- On-going contract administration and management,

and includes the duly authorised delegates of the Board, including officers of NSW Procurement – Contracting Services.

“Closing Date and Time” means the Closing Date and Time for receipt of tenders, specified on the cover sheet to this RFT.

“Code” means the NSW Government Code of Practice for Procurement as amended from time to time, together with any other codes of practice relating to procurement, including any amendments to such codes that may be applicable to the particular RFT. The code can be viewed and downloaded from:

http://www.treasury.nsw.gov.au/procurement/pdf/code_of_prac-curr.pdf

“Conforming Tender” means a Tender that:

- (a) conforms to the Requirement;
- (b) is in the prescribed form;
- (c) conforms to the terms and conditions of Part D, and
- (d) conforms to all of the other requirements of this RFT.

“Contractor” means the tenderer as a party to the proposed agreement.

“Deliverables” means the goods and services or goods or services sought under this RFT, as detailed in the Specification.

“Department” means New South Wales Department of Lands.

“Government Businesses” means in general, entities which:

- (a) have some form of public sector ownership;
- (b) are engaged in trading goods and/or services;
- (c) have a large measure of self sufficiency; and

- (d) are subject to Executive control.

In this context, the term Government business includes Public Trading Enterprises, State Owned Corporations and General Government Businesses.

“GST” is a goods and services tax and has the same meaning as in the GST Law.

“GST Free Supplies” and **“Input Taxed Supplies”** have the same meaning as in the GST Law.

“GST Law” means any law imposing a GST and includes *A New Tax System (Goods & Services Tax) Act 1999* (C'th) or if that Act does not exist, means any Act imposing, or relating, to a GST and any regulation made under those Acts.

“Lands” means the New South Wales Department of Lands.

“Late Tender” means a Tender received after the Closing Date and Time for tenders and includes a Tender, which is only partly received by the Closing Date and Time.

“Non-Conforming Tender” means a Tender that:

- (a) does not conform to the Requirement;
- (b) is not in the prescribed form;
- (c) does not substantially conform to any one or more of the terms and conditions of Part D, including a Tender which seeks to substantially qualify or amend these conditions, or
- (d) does not conform to any of the other requirements of this RFT.

“OHS&R” means occupational health, safety and rehabilitation.

“On Request Items” means any Deliverables nominated as On Request Items.

“Price” includes a price expressed as a lump sum or a rate per unit of quantity, calculated in accordance with cl.5.3.

“Price Schedule” means the list of Deliverables offered by the tenderer, together with the corresponding pricing information. The Price Schedule forms, or is to be attached to, Part C3 of the RFT.

“Principal” means the party named as Principal in the proposed agreement.

“Requirement” means the requirement for the Deliverables to be met by the Tender, outlined in cl.1 of the RFT and detailed in the Specification.

“RFT” means the Request for Tender.

“Specification” means the detailed description of the required goods and services or goods or services contained in Annexure 1 to Part A.

“NSW Procurement – Contracting Services” means a business unit of the NSW Department of Commerce representing the Board and authorised to arrange and administer contracts on behalf of the Board.

“Tender” means the offer to supply the Deliverables submitted in response to the RFT.

“Tender Price” means, in respect of each Deliverable offered, the Price nominated in the Price Schedule for that Deliverable.

7 Tender Process – General

7.1 Conformity of Tenders

- 7.1.1 The Board seeks Conforming Tenders.
- 7.1.2 Non-Conforming Tenders that do not include a fully completed Part C, in particular those Tenders which do not contain sufficient information to permit a proper evaluation to be conducted, or, in the case of electronic tenders, which cannot be effectively evaluated because the file has become corrupt, may be excluded from the tender process without further consideration at the Board's discretion.
- 7.1.3 Tenderers may, if they choose, submit an Alternative Tender. Tenderers are encouraged to offer options or solutions that contribute to the Principal's ability to carry out its business in a more cost-effective manner.
- 7.1.4 Alternative Tenders will only be considered if submitted in conjunction with a Conforming Tender.
- 7.1.5 The Board may assess an Alternative Tender against the evaluation criteria where submitted with a Conforming Tender.
- 7.1.6 An Alternative Tender must be clearly marked "Alternative Tender".
- 7.1.7 The Board expressly reserves the right to accept, in its discretion, either or both of the following:
 - (a) Any Alternative Tender or part of an Alternative Tender, where submitted with a Conforming Tender; and
 - (b) Any other Non-Conforming Tender or part of a Non-Conforming Tender (not, in either case, being an Alternative Tender or part of an Alternative Tender) that, in the Board's opinion, is substantially a Conforming Tender.

7.2 Prescribed form of Tender

- 7.2.1 The Tender, including any Alternative Tender, must comprise a completed Part C and any attachments to Part C, as may be necessary. Any attachments should be labelled to identify those clauses of the RFT to which they relate.
- 7.2.2 The Tender will be taken to be for the supply of the Requirement on the terms and conditions stated in Part D except to the extent that these are amended by the Tender.

7.3 General instructions for completion of Tenders

- 7.3.1 Prices, responses and other information provided in the Tender are to be in writing and in English.
- 7.3.2 Tenderers must complete ALL of Part C of this RFT, as directed and must not amend any of the questions provided.
- 7.3.3 Tenderers should notify the Contact Officer in writing on or before the Closing Date and Time if they find any discrepancy, error or omission in this RFT.

- 7.3.4 All tenders must be provided in the TenderMax Pro format, using DMax Lite software, and Part C must be included in one or more files with an extension of *.dtr.
- 7.3.5 Product samples, models and other supporting items that are required to be delivered must be identified in the tender and delivered in accordance with arrangements made with the Contact Officer before lodgement of tender.

7.4 Tenderers to inform themselves

7.4.1 Before submitting its Tender, a tenderer must:

- (a) Examine all information relevant to the risks and contingencies and other circumstances having an effect on its Tender; and
- (b) Satisfy itself:
 - (i) that the Tender, including the Tender Price is correct; and
 - (ii) that it is financially and practically viable for it to enter into and perform the proposed agreement.

7.4.2 The following must be considered:

- (a) The eTendering system is at peak use on the morning prior to Tenders closing.
 - 1) Due to communication traffic via this means of communication it may take longer to lodge a Tender near Closing Date and Closing Time than at other times.
 - 2) When lodging through the NSW Department of Commerce *eTendering* website, it is recommended that a Tender be lodged well in advance of the Closing Date and Closing Time.
- (b) The NSW Department of Commerce *eTendering* website may experience difficulties in accepting a large Tender. A tender lodged via the NSW Department of Commerce *eTendering* website should ideally be below 7 megabytes (MB) in total file size. Responses totalling more than 7MB may experience difficulties in lodgement. In this case Tenderers may break down the lodgement into smaller packages if clearly identified eg. package 1 of 3; 2 of 3; 3 of 3. A tenderer is referred to cl. 8.1.4(b) for instructions as to compressing electronically submitted Tenders.
 - (1) If submitting an electronic tender with supporting items:
 - a) The complete Tender, including the required supporting items unless otherwise directed, must be submitted by Closing Date and Closing Time, and
 - b) Supporting items should be clearly designated as "Supporting Items to..." the RFT to which they relate.
 - c) Supporting items not required to be lodged as part of the initial Tender by the RFT should not be lodged in the tender box, and arrangements should be made with the Contact Officer.

- 7.4.3 A tenderer is not required to provide multiple copies of a Tender. Any “Alternative Tender” under clause 7.1 must be attached to the Conforming Tender at Part C of this RFT.
- 7.4.4 If a tenderer provides multiple lodgements, the latest tender received in a NSW Department of Commerce Tender Box will be the tender evaluated.

7.5 Addenda to RFT

- 7.5.1 If, for any reason the Board, at its sole discretion, requires the RFT to be amended before the Closing Date and Time, an Addendum will be issued.
- 7.5.2 In each case, an Addendum becomes part of the RFT.
- 7.5.3 The Board, during the tender period may issue Addenda altering the RFT. In such cases, it is the obligation of the tenderer to verify if any addenda were issued prior to closing date, even if a tender has already been submitted. They must obtain a copy of all addenda as given in clause 7.5.4 or 7.5.5 as applicable.
- 7.5.4 Tenderers must check the web site address, <https://tenders.nsw.gov.au/commerce> and download the Addendum.
- 7.5.5 Failure to complete tender response 21.7 in Part C may result in your tender not being considered.

7.6 Late Tenders

- 7.6.1 In accordance with the requirements of the NSW Government Code of Practice for Procurement, Late Tenders will not be considered except when the Board is satisfied that the delay is not the fault of the tendering party.

7.7 Extension of the Closing Date and Time

- 7.7.1 The Board may, in its discretion, extend the Closing Date and Time.

8. Tender Process – Submission of Tenders

8.1 Electronic Tenders to the NSW Department of Commerce *eTendering* website

- 8.1.1 A tenderer is required, to lodge its Tender electronically through the NSW Department of Commerce *eTendering* website at <https://tenders.nsw.gov.au/commerce>. A tender submitted electronically will be treated in accordance with the *Electronic Transactions Act 2000* (NSW), and given no lesser level of confidentiality, probity and attention than Tenders lodged by other means.
- 8.1.2 A tenderer, by electronically lodging a Tender, is taken to have accepted conditions shown in the Conditions of Tendering and on the NSW Department of Commerce *eTendering* website.
- 8.1.3 A tenderer must follow the following directions:
- (a) RFT for which electronic lodgement is available through the website can be identified by the blue “Lodge a Response” link on the web pages for the RFT.
 - (b) To lodge a Tender electronically, the files containing the Tender Response must be up-loaded through the website. Access to the up-

loading process is through the blue “Lodge a Response” link, then follow the steps and instructions on the NSW Department of Commerce *eTendering* website and any instructions which may have been supplied with the RFT.

8.1.4 A tenderer must observe the following format for lodgements:

- (a) An electronically lodged Tender must be lodged in a file format required by the RFT.
- (b) If a tenderer compresses files, it must be possible to decompress them using WinZip. A tenderer must not submit self-extracting (*.exe) zip files.
- (c) A tenderer must not change pre-existing text in the RFT other than to insert the required information.
- (d) The file/s name/s must have an extension and not have invalid characters or file names/loading pathnames too long for the system, as detailed on the NSW Department of Commerce *eTendering* website

8.1.5 Signatures are not required for a Tender submitted to the NSW Department of Commerce *eTendering* website. A tenderer must ensure that a Tender is authorised by the person or persons who may do so on behalf of the Tenderer and appropriately identify the person and indicate the person's approval of the information communicated.

8.1.6 Electronically submitted Tenders may be made corrupt or incomplete, for example by computer viruses. The Board may decline to consider for acceptance a Tender that cannot be effectively evaluated because it is incomplete or corrupt. Note that:

- (a) To reduce the likelihood of viruses, a tenderer must not include any macros, applets, or executable code or files in a Tender.
- (b) A tenderer should ensure that electronically submitted files are free from viruses by checking the files with an up to date virus-checking program before submission.

8.1.7 If a tenderer experiences any persistent difficulty with the NSW Department of Commerce *eTendering* website in submitting a Tender or otherwise, it is encouraged to advise the Contact Officer promptly in writing.

- (a) If there is a defect or failure of the NSW Department of Commerce *eTendering* website and the Board is advised, the Tender Closing Date and Closing Time may be extended provided that, in the view of the Board, the tender process will not be compromised by such an extension.

9. Tender Process – Evaluation of Tenders

9.1 Variation of Tenders

9.1.1 At any time before the Board accepts any Tender received in response to this RFT, a tenderer may, subject to cl.9.1.2, vary its Tender:

- (a) by providing the Board with further information by way of explanation or clarification;
- (b) by correcting a mistake or anomaly; or

- (c) by documenting agreed changes to the Tender negotiated under cl.10.2 of this Part.

9.1.2 Such a variation may be made either:

- (a) at the request of the Board, or
 - (b) with the consent of the Board at the request of the tenderer;
- but only if,
- (c) in the case of variation requested by the tenderer under cl.9.1.1(a)-(b), it appears to the Board reasonable in the circumstances to allow the tenderer to provide the information or correct the mistake or anomaly; or
 - (d) in the case of variation under cl.9.1.1(c), the Board has confirmed that the draft-documented changes reflect what has been agreed.

9.1.3 If a Tender is varied in accordance with cl. 9.1.1(a) or (b), the Board will provide all other tenderers whose Tenders have similar characteristics with the opportunity of varying their Tenders in a similar way.

9.1.4 A variation of a Tender under cl. 9.1.1 will not be permitted if in the Board's view:

- (a) it would substantially alter the original Tender; or
- (b) in the case of variation under cl.9.1.1(a) or (b), it would result in the revising or expanding of a Tender in a way that would give a tenderer an unfair advantage over other tenderers.

9.2 Corrupt or unethical conduct

9.2.1 If a tenderer, or any of its officers, employees, agents or sub-contractors is found to have:

- (a) offered any inducement or reward to any public servant or employee, agent or subcontractor of the Board, the Client Agency or the NSW Government in connection with this RFT or the submitted Tender;
- (b) committed corrupt conduct in accordance with the provisions of the *Independent Commission Against Corruption Act 1988*, or
- (c) a record or alleged record of unethical behaviour,
- (d) not complied with the requirements of Commerce Business Ethics Statement available at:

<http://www.commerce.nsw.gov.au/About+Commerce/Business+ethics+statement/Business+ethics+statement.htm>

this may result in the Tender not receiving further consideration.

9.2.2 The Board may, in its discretion, invite a relevant tenderer to provide written comments within a specified time before the Board excludes the tenderer on this basis.

9.3 Exchange of information between government agencies

- 9.3.1 Lodgement of a Tender will itself be an authorisation by the tenderer to the Board to make available, on request, to any NSW government agency information, including but not limited to, information dealing with the tenderer's performance on any contract that may be awarded. Such information may be used by the recipient NSW Government agency for assessment of suitability for pre-qualification, selective tender lists, expressions of interest or the award of a contract or termination of contract.
- 9.3.2 The provision of the information by the Board to any other NSW Government agency is agreed by the tenderer to be a communication falling within section 22(1) of the *Defamation Act 1974* (NSW), and the tenderer shall have no claim against the Board and the State of New South Wales in respect of any matter arising out of the provision or receipt of such information, including any claim for loss to the tenderer arising out of the communication.
- 9.3.3 In the evaluation of Tenders, the Board may take into account any information about the tenderer that the Board receives from any source.
- 9.3.4 To avoid doubt, information that may be collected, exchanged and used in accordance with this provision includes "personal information" about the tenderer for the purposes of the *Privacy and Personal Information Protection Act 1998*. Lodgement of a Tender will be an authorisation by the tenderer to the Board to collect such information from third parties, and to use and exchange such information in accordance with this cl. 9.3.
- 9.3.5 The tenderer's attention is drawn to the *Freedom of Information Act 1989* which may confer rights, subject to the terms of that Act, to access, and to require the correction of, information held by certain agencies.
- 9.3.6 During the course of the agreement, the successful tenderer's performance will be monitored and assessed. Performance assessment reports, including substantiated reports of unsatisfactory performance, can be taken into account by NSW government agencies and may result in future opportunities for NSW government work being restricted or lost.

10. Outcomes

10.1 Acceptance or rejection of Tenders

- 10.1.1 The Board may accept all or any part or parts of any Tender or Tenders, including, in accordance with cl. 7.1, any Alternative Tender or other Non-Conforming Tender.
- 10.1.2 The Board is not bound to accept the lowest or any Tender.
- 10.1.3 If the Board rejects all the Tenders received it may:
 - (a) invite fresh Tenders based on the same or different criteria (specifications and details contained in Alternative Tenders will not be used as the basis for the calling of new Tenders), or
 - (b) conduct post-tender negotiations in accordance with cl. 10.3.

10.2 Negotiations before determination of outcome

- 10.2.1 Before making any determination as to acceptance or rejection of Tenders the Board may, at its discretion, elect to conduct limited negotiation with preferred tenderers, including those who have submitted Alternative Tenders or who have submitted substantially Conforming Tenders, to mutually improve outcomes.
- 10.2.2 The Board will generally not enter into negotiations on the standard conditions of contract contained in Part D.

10.3 Post Tender negotiations in the event all Tenders are rejected

- 10.3.1 If the Board rejects all Tenders on the basis that all Tenders are Non-Conforming, but considers that conformity with the requirements of this RFT is achievable, it may enter into negotiations with the least non-conforming tenderer with a view to achieving a Conforming Tender and entering into an agreement. If such negotiations are unsuccessful the Board may then enter negotiations with the next most acceptable tenderer. This process may be repeated with each of the rejected Tenders in order of potential acceptability. However, the Board is not obliged to enter into negotiations with any tenderer.
- 10.3.2 The purpose of the negotiations will be advised by the Board and made clear to the participants before the commencement of negotiation. Negotiations will not seek to play off tenderers' prices against other tenderers' prices.

10.4 Custody of Tenders after receipt

- 10.4.1 All tenders lodged are kept in a NSW Department of Commerce Tender Box, which is a secure tender box, until after the Closing Date and Closing Time.
- 10.4.2 Tenders lodged electronically to the NSW Department of Commerce Tenders website will be treated in accordance with the *Electronic Transactions Act 2000* (NSW) and given no lesser level of confidentiality, probity and attention than Tenders lodged by other means.
 - (a) On receipt of Tenders lodged electronically to the NSW Department of Commerce *eTendering* website, Tenders are encrypted and stored in a secure "electronic tender box."
 - (a) For reasons of probity and security, NSW Department of Commerce is prevented from interrogating the electronic tender box to ascertain whether tenders have been received or for any reason, until after the Closing Date and Closing Time.
 - (b) The e-mail receipt that is sent to the Tenderer after successfully uploading and lodging the Tender electronically is the only evidence of Tender lodgement provided.

10.5 Ownership of Tenders

- 10.5.1 All Tenders become the property of the Board on submission.
- 10.5.2 The Board may make copies of the Tenders for any purpose related to this RFT.

10.6 Discontinuance of the Tender process

- 10.6.1 Where the Board determines that awarding a contract would not be in the public interest, the Board reserves the right to discontinue the tender process at any point, without making a determination regarding acceptance or rejection of Tenders.
- 10.6.2 The Board will not be liable for any losses suffered by a tenderer as a result of discontinuance of the tender process, including costs of tendering.

10.7 Notification of outcome

- 10.4.1 Following the Board's decision, all tenderers will be notified in writing of the outcome of their Tenders.

10.8 Complaints

- 10.8.1 It is the NSW Government's objective to ensure that industry is given every opportunity to win Government contracts. Should any entity feel that it has been unfairly excluded from tendering or unfairly disadvantaged by the Conditions in Part D or the Requirement, it is invited to write to:

Chairman, State Contracts Control Board
Level 22, McKell Building
2-24 Rawson Place
SYDNEY NSW 2000

10.9 Entry into agreement

- 10.9.1 The Board may enter into an agreement with the successful tenderer either by letter of acceptance or by execution of a formal agreement in terms of Part D. If the Board chooses to proceed by way of formal agreement it will indicate in any notification of acceptance that such acceptance will be formalised by execution of a formal agreement.

10.10 Disclosure of information concerning tenderers and outcome of the tender process

- 10.10.1 Details of tenderers and the outcome of the tender process may be disclosed in accordance with the NSW Government Tendering Guidelines, available at:
<http://www.dpws.nsw.gov.au/Government+Procurement/Procurement+Policy+Framework/NSW+Government+Tendering+Guidelines.htm>

An outline of these requirements can be found in Annexure 1 of Part B of this RFT.

10.11 Monitoring of Contractor Performance

- 10.11.1 During the course of the agreement the Contractor's performance will be monitored and assessed. For details refer to the NSW Government Procurement Guidelines on Service Provider performance management which is available on request from the Contact Officer, the NSW Department of Commerce or can be viewed and downloaded from

<http://www.ogp.commerce.nsw.gov.au/NR/rdonlyres/eucuz2722gdb54776cyhkw7ntoj4cpiw5iga5ztwvtvjethi2xujwd4zrgsfte4cye7lgoqtlf4wxywdioutedaph/Service+Provider+Performance+Management.pdf>

- 10.11.2 The terms and conditions of the proposed agreement, set out in Part D, detail the performance criteria to be applied in the monitoring of Contractor performance.

ANNEXURE 1 TO PART B (Disclosure of Information)

Disclosure of information concerning tenderers and outcome of the tender process

1. In accordance with the NSW Government Tendering Guidelines referred to in clause 10.10.1 and found at <http://www.dpws.nsw.gov.au/Government+Procurement/Procurement+Policy+Framework/NSW+Government+Tendering+Guidelines.htm>, the following tender information is required to be disclosed:

Tender Type	Level of disclosure	Basis of disclosure
For all public calls for tender, expressions of interest or other such public calls which may result in a contract with the private sector.	<p>As a minimum:</p> <ul style="list-style-type: none"> a concise description of the proposed works, goods or services the subject of the tender call; the date responses to the tender call close and where responses are lodged; and location of the tender call documents. <p>The names and addresses of all entities which submit responses.</p>	<p>Routine public disclosure at the time tender calls are advertised.</p> <p>Routine public disclosure within 7 days of the date tender calls closed.</p>
In a multi-stage tender process.	The names and addresses of the shortlisted entities, except where such disclosure is likely to compromise the competitiveness of the subsequent tender process.	Routine public disclosure within 7 days of these entities being advised of their shortlisting.

2. In accordance with the NSW Government Tendering Guidelines referred to in clause 10.10.1 above, the following **contract** information is required to be disclosed:

Contract size and type	Level of disclosure	Basis of disclosure
<p>Class 1 contracts All government contracts with estimated value \$150,000 or above).</p>	<p>(a) The name and business address of the contractor;</p> <p>(b) Particulars of any related body corporate (within the meaning of the Corporations Act 2001 of the Commonwealth) in respect of the contractor, or any other private sector entity in which the contractor has an interest, that will be involved in carrying out any of the contractor's obligations under the contract or will receive a benefit under the contract;</p> <p>(c) The date on which the contract became effective and the duration of the contract;</p> <p>(d) Particulars of the project to be undertaken, the goods or services to be provided or the real property to be leased or transferred under the contract;</p> <p>(e) The estimated amount payable to the</p>	<p>Routine public disclosure within 60 days after the contract becomes effective.</p>

Contract size and type	Level of disclosure	Basis of disclosure
	<p>contractor under the contract;</p> <p>(f) A description of any provisions under which the amount payable to the contractor may be varied;</p> <p>(g) A description of any provisions with respect to the renegotiation of the contract;</p> <p>(h) In the case of a contract arising from a tendering process, the method of tendering and a summary of the criteria against which the various tenders were assessed; and</p> <p>(i) A description of any provisions under which it is agreed that the contractor is to receive payment for providing operational or maintenance services.</p>	
<p>Class 2 contracts Class 1 contracts (i.e government contracts with estimated value \$150,000 or above) which also:</p> <ul style="list-style-type: none"> - result from a direct negotiation where there has not been a tender process; or - have been the subject of a tender process and where the final contract terms and conditions are substantially negotiated with the successful tenderer (this includes alliance type contracts); or - involve operation or maintenance obligations for 10 years or longer; or - involve a privately financed project as defined by relevant Treasury guidelines; or - involve a transfer of land or other asset to a party in exchange for the transfer of land or other asset to an agency. 	<p>The information required for class 1 contracts and</p> <p>(a) Particulars of future transfers of significant assets to the State at zero, or nominal, cost to the State, including the date of their proposed transfer;</p> <p>(b) Particulars of future transfers of significant assets to the contractor, including the date of their proposed transfer;</p> <p>(c) The results of any cost-benefit analysis of the contract conducted by the agency;</p> <p>(d) The components and quantum of the public sector comparator if used;</p> <p>(e) Where relevant, a summary of information used in the contractor's full base case financial model (for example, the pricing formula for tolls or usage charges);</p> <p>(f) Where relevant, particulars of how risk, during the construction and operational phases of a contract to undertake a specific project (such as construction, infrastructure or property development), is to be apportioned between the parties, quantified (where practicable) in net present-value terms and specifying the major assumptions involved;</p> <p>(g) Particulars as to any significant guarantees or undertakings between the parties, including any guarantees or undertakings with respect to loan agreements entered into or proposed to be entered into; and</p> <p>(h) Particulars of any other key elements of the contract.</p>	<p>Routine public disclosure within 60 days after the contract becomes effective.</p>
<p>Class 3 contracts Class 2 contracts where the estimated value of the government contract is \$5 million or more.</p>	<p>The information for class 1 and 2 contracts and the complete contract, less confidential information.</p> <p>Note: if some or all of a class 3 contract is not disclosed for reasons of confidentiality, the agency is to disclose:</p> <ul style="list-style-type: none"> • the reasons for not publishing the contract or provisions; 	<p>Routine public disclosure within 60 days after the contract becomes effective.</p>

Contract size and type	Level of disclosure	Basis of disclosure
	<ul style="list-style-type: none">• a statement as to whether the contract or provisions will be published and, if so, when; and• where some but not all of the provisions of the contract have been disclosed, a general description of the types of provisions that have not been published.	

3. Requests for disclosure of additional contract information

Tenderers must acknowledge that any person may make a specific request to the State Contracts Control Board for any item of contract information contained in schedules 1 or 2, or for a copy of a contract, which is not required to be routinely disclosed under section 15A of the FOI Act. The State Contracts Control Board must provide the requested contract information or the requested copy of the contract to the requesting person (less any confidential information) within 60 days of receiving the request.

Where a copy of a contract has been requested and some or all of the contract is not provided for reasons of confidentiality, the State Contracts Control Board will disclose:

- the reasons for not providing;
- a statement as to whether the contract or provisions will be provided and, if so, when; and
- where some but not all of the provisions of the contract have been provided, a general description of the types of provisions that have not been provided.

4. Disclosure of amendments or variations to contract information under the FOI Act

The FOI Act requires that, if there is an amendment to the contract terms or a material variation made under the contract that changes information already routinely disclosed under the FOI Act, the State Contracts Control Board must ensure that the information concerning the change is routinely disclosed within 60 days after such amendment or variation becomes effective, less any confidential information. In the case of class 3 contracts, the full amendment or material variation, less any confidential information, must be disclosed within the 60 day timeframe.

5. Confidential information

None of the disclosure obligations contained in the FOI Act, or the requirements for disclosing tender information or a copy of a contract or information in relation to a contract under these guidelines, require the disclosure of:

- the commercial-in-confidence provisions of a contract (as defined in schedule 3 to the Freedom of Information Act) (the contractor's financing arrangements; the contractor's cost structure or profit margins; the contractor's full base case financial model; any intellectual property in which the contractor has an interest; or any matter whose disclosure would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential contractors, whether at present or in the future.);
- details of any unsuccessful tender;
- any matter that could reasonably be expected to affect public safety or security; or
- information which would be exempt from disclosure if it were the subject of an application under the Freedom of Information Act.

Where such confidential information is withheld, the State Contracts Control Board must inform the requesting person that access to that information may be sought in accordance with the Freedom of

Information Act. This will enable a person seeking the information to have the appeal rights available under the Freedom of Information Act.

6. Tenderers are invited to nominate items they consider are confidential and why.

Part D: Agreement

Dated: <Insert Date>

The Principal

and

AGREEMENT FOR

**THE PROVISION OF A TELEPHONE INFORMATION SERVICE
FOR THE NSW DEPARTMENT OF LANDS**

PART D – CONDITIONS OF AGREEMENT

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THIS AGREEMENT is made on the ____ day of _____ 200..

BETWEEN:

..... *[insert name of contractor]*
of *[insert address]*, in the State of New South
Wales ("the Principal")

AND *[insert name of contractor]* of
..... *[insert address]* in the State of ("the
Contractor")

BACKGROUND:

- A. The Principal issued the Request for Tender for the Supply of the Deliverables.
- B. The Contractor submitted the Tender that was accepted by the Principal.
- C. The Principal and the Contractor have agreed to enter a contract for the supply of Deliverables in the form of this Agreement.

1. Interpretation

1.1 Definitions

"**Agreement**" means this agreement including:

- (a) the Schedules to this agreement;
- (b) the Tender and any documents evidencing agreed changes to the Tender;
- and
- (c) any documents notifying the Principal's acceptance.

"**Base Date**" means the date of the Tender "**Confidential Information**" means Information including any documents or correspondence provided by the Principal to the Contractor that:

- (a) is by its nature confidential;
- (b) is designated by the Principal as confidential; or
- (c) the Contractor knows or ought to know is confidential;

and includes:

- (d) the Contract Material;
- (e) The Principal's Material including but not in any way limited to the financial information, the corporate information and the commercial information of the Principal;
- (f) any material which relates to the affairs of a third party;

“Conflict of interest” means engaging in any activity, or obtaining any interest, likely to conflict with the performance by the Contractor of, or to restrict the Contractor in performing, its obligations under this Agreement.

“Circumstances Beyond the Control of the Contractor” include:

- (a) acts of God;
- (b) fire, flood, or earthquake;
- (c) national emergency or war; or

a serious industrial dispute

“Contract Material” means:

- (a) any material brought into existence as part of, or for the purpose of providing the Deliverables including records, documents and Information stored by any means (“New Contract Material”);
- (b) any material which is existing at the date of this Agreement and which is incorporated with the New Contract Material (“Existing Contract Material”).

“Contractor Information” means the information provided by the Contractor in Schedule 9.

“Contract Price” means in respect of each Deliverable, the price nominated in the Price Schedule and any subsequent variation agreed by the Parties.

“Contractor’s Delegate” means the individual or the position title nominated by the Contractor in its Tender.

“Contractor’s Insolvency” means any of the following:

- (a) The Contractor becomes insolvent;
- (b) The Contractor indicates that it does not have the resources to perform this Agreement;
- (c) An application for winding up is made and not stayed within 14 days;
- (d) A winding up order is made;
- (e) A controller, administrator, receiver and manager, provisional liquidator or liquidator is appointed;
- (f) A mortgagee enters the possession of any property of the Contractor; notice is given of a meeting of creditors for the purposes of a deed of arrangement; or
- (g) Any actions of a similar effect are taken.

“Deliverables” means the goods and/or services to be supplied by the Contractor in accordance with this Agreement.

“Information” includes information in the form of data, text or images.

“Intellectual Property” includes copyright, patent, trademark, design, semi-conductor or circuit layout rights, trade, business or company names, or other proprietary rights, or any rights to registration of such rights existing in Australia, whether created before or after the date of this Agreement.

“On Request Items” means any Deliverables nominated as On Request Items.

“Parties” means the Principal and the Contractor.

“Price Schedule” means the Price Schedule attached to the Tender and any variations to the Price Schedule made by the documents forming Schedule 3 to this Agreement and/or variations made in accordance with this Agreement.

“Principal’s Material” means any material, document, or Information supplied by the Principal, the Principal’s Delegate, or the Crown to the Contractor .

“Principal’s Delegate” means the person or entity acting as contract administrator and is named in Schedule 1.

“Public Service” has the same meaning as that given to it in the *Public Sector Management Act 1988* (NSW).

“Request for Tender” means the request for tender for the Deliverables issued by the Principal, including any addenda.

“Schedule” means a schedule to this Agreement;

“Security” means the security described in Schedule 1 or as otherwise agreed.

“Specification” means the detailed description of the Deliverables to be provided under the Agreement, contained in Part C2 to the Tender (Specification and Statement of Compliance) and any subsequent variation agreed by the Parties.

“State Contracts Control Board ” or “Board” mean the State Contracts Control Board established by the *Public Sector Employment and Management Act 2002* and includes the duly authorised delegates of the Board, including officers of NSW Procurement – Contracting Services.

“State of New South Wales” means the Crown in right of the State of New South Wales.

“NSW Procurement – Contracting Services” means a business unit of the NSW Department of Commerce, representing the Principal and authorised to arrange and, if applicable, administer contracts on behalf of the Principal.

“Statutory Requirements” means the laws relating to the performance of this Agreement or the lawful requirements of any authority with respect to the performance of this Agreement.

“Tender” means the tender submitted by the Contractor in response to the Request for Tender, including any accepted variation to the tender.

“Term” means the term of this Agreement, if any, set out in Schedule 1 or otherwise agreed, and any extension of the Term in accordance with this Agreement.

“Warranty Period” means, in relation to a particular Deliverable, the period of warranty of that Deliverable offered in the Tender.

1.2 Rules for interpreting this Agreement

- 1.2.1 Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- 1.2.2 A reference to:
 - (a) legislation (including subordinate legislation) is a reference to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (b) a document or agreement, or a provision of a document or agreement, is a reference to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (c) a person includes any type of entity or body of persons whether or not incorporated;
 - (d) any thing (including a right, obligation or concept) includes each part of it, for example a reference to a part of this Agreement includes a reference to subordinate parts of that part.
- 1.2.3 A singular word includes the plural and vice versa.
- 1.2.4 A word that suggests one gender includes the other genders.
- 1.2.5 If a word is defined, another part of speech of that word has a corresponding meaning.
- 1.2.6 The Parties may undertake business by the electronic exchange of information and the provisions of this Agreement will be interpreted to give effect to undertaking business in this manner.
- 1.2.7 A reference to the Principal includes, where the context so requires, its employees, agents, sub-contractors, officers and duly authorised delegates.
- 1.2.8 If the Contractor consists of more than one party, each obligation of the Contractor shall bind those parties jointly and severally and will be enforceable against them jointly and severally.
- 1.2.9 If there is an inconsistency between the terms of this Agreement then, for the purpose only of resolving the inconsistency, the documents that comprise this Agreement are to be construed in their date order, in descending order of priority from the latest date to the earliest date.

2. Principal's Delegate

- 2.1 The Principal's Delegate is responsible for administering this Agreement.
- 2.2 The Contractor must comply with any reasonable direction given by the Principal's Delegate in connection with the performance of work under this Agreement.
- 2.3 Unless this Agreement provides otherwise, and subject to the Principal's direction, the Principal's Delegate may exercise rights and discharge obligations conferred or imposed on the Principal under this Agreement.

- 2.4 The Principal's Delegate is not authorised to waive or vary any provision of this Agreement, release the Contractor from any obligation under this Agreement, or terminate this Agreement without the Principal's approval.

3. Supply under an Agreement for the Term

3.1 Nature of the Agreement between the Principal and the Contractor

- 3.1.1 This Agreement is for the term specified in Schedule 1, or as otherwise agreed, unless terminated sooner in accordance with this Agreement.
- 3.1.2 The Principal may in its sole discretion extend this Agreement for the further term or terms specified in Schedule 1.

4. Supply of Deliverables

4.1 Supply

- 4.1.1 The Contractor shall supply the Deliverables as directed by the Principal in accordance with this Agreement, including any agreed project plan.
- 4.1.2 The Contractor shall supply any On Request Items, as and when requested by the Principal at any time during the Term.

4.2 Conforming Deliverables

- 4.2.1 All Deliverables shall conform to the Specification and the standards specified in this Agreement

4.3 Delay in supply

- 4.3.1 The Contractor will give prompt, written notification to the Principal of any likely delay in the supply of any of the Deliverables beyond any agreed delivery date.
- 4.3.2 Written notification of delay will not release the Contractor from its obligation to supply by the agreed delivery date unless the Principal agrees in writing to extend the date.
- 4.3.3 If in the Principal's opinion the delay has arisen from a cause beyond the reasonable control of the contractor, the Principal will not refuse a proposed extended delivery date without reasonable grounds for doing so.
- 4.3.4 The Contractor will not be entitled to any price increase or any costs or expenses in connection with the delay.

4.4 to 4.8 Not Used

5. Prices and Payment

5.1 Contract Price

- 5.1.1 The Contractor must supply the Deliverables for the Contract Price.
- 5.1.2 The Contract Price, except as specifically provided or agreed, is inclusive of all costs and expenses of supply.

5.2 Payment

- 5.2.1 For the purposes of this clause, a Claim is a claim for payment:
 - (a) in the form of a Tax Invoice;
 - (b) substantiated by an itemised account and any further details reasonably requested by the Principal;
 - (c) if made in respect of goods, accompanied by a receipt of delivery from the Principal;
 - (d) if made in respect of services, accompanied by any required certificate of acceptance from the Principal.
- 5.2.2 Subject to this clause, the Principal shall make payment within 30 days of receipt of a Claim for the Deliverables.
- 5.2.3 If the Principal is the Crown all payments shall be made by the Crown acting through the Principal's Delegate and not through the Board.
- 5.2.4 If progress payments are to be made in accordance with an agreed project plan, each progress payment will be made within 30 days of receipt of a Claim for the relevant progress payment.
- 5.2.5 If the Principal has requested further details regarding the invoice, the time for payment will be extended until 14 days after the date the information is supplied.
- 5.2.6 Unless a certificate of acceptance has been issued, a payment is not an acknowledgment that the Deliverables have been supplied in accordance with this Agreement, but shall be taken to be payment on account only.
- 5.2.7 If the Principal disputes the invoice amount it shall certify the amount it believes is due for payment and shall pay that amount. The liability for the balance of payment shall be determined in accordance with this Agreement.
- 5.2.8 The Contractor will not be entitled to any credit charge, service fee or any other fee or charge for extending credit or allowing time for the payment of money becoming due for the provision of Deliverables.

5.3 Set-Off/Money Recoverable by Principal

- 5.3.1 The Principal may deduct from amounts which may be payable or which may become payable to the Contractor, any amount due from the Contractor to the Principal in connection with the supply of the Deliverables.

- 5.3.2 Without limiting the above, any damages, costs and expenses recoverable by the Principal from the Contractor in consequence of the Contractor's breach of this Agreement may be deducted from money then due to the Contractor under this Agreement. If that money is insufficient for that purpose, the balance remaining unpaid will be a debt due by the Contractor to the Principal and may be set off against any other money due to the Contractor by the Principal under this or any other agreement between the Principal and the Contractor.
- 5.3.3 Nothing in this clause will affect the right of the Principal to recover from the Contractor the whole of the debt or any balance that remains owing after deduction.

5.4 Suspension of Payments

- 5.4.1 Should the Contractor refuse or neglect to carry out the instructions or requirements of the Principal in regard to any matter connected with this Agreement, the Principal may suspend all payments to the Contractor without penalty until such instructions or requirements have been complied with by the Contractor.

5.5 Additional expenses

- 5.5.1 The Principal will only reimburse the Contractor any reasonable costs, expenses, or charges incurred by the Contractor and not provided for in this Agreement where the Contractor has first obtained the Principal's written approval.
- 5.5.2 If the Principal is the Crown, all reimbursement shall be made by the Crown acting through the Principal's Delegate, and not through the Board.

5.6 Price Variation (Core with options)

- 5.6.1 Prices are firm unless otherwise stated in this Agreement.
- 5.6.2 Where an agreed price variation mechanism is stated in Part C1 of the Tender, the Contractor must follow the following procedure in making application for any variation to prices in accordance with that mechanism, unless otherwise agreed:
 - 5.6.2.1 The application for variation must be in the form of a written statement, containing details of the existing approved price and the proposed new price in respect of each Deliverable for which price variation is sought.
 - 5.6.2.2 The application must be accompanied by all relevant documents in support of the claim.
 - 5.6.2.3 The application must be submitted in writing to the Principal as far in advance as practicable of, and at least 21 days before, the date from which the variation is sought to commence.
- 5.6.3 The onus will be on the Contractor to prove to the satisfaction of the Principal all details of any variation claimed. The Contractor shall make available to the Principal such further information as the

Principal shall require to satisfy itself as to the details of the claim. Failure to do so shall entitle the Principal to reject the application.

- 5.6.4 No price increase shall be granted retrospectively nor backdated prior to the date of the Contractor's application for approval.

5.7 Not Used

5.8 Maximum ceiling price

- 5.8.1 The Contract Price is a maximum ceiling price which cannot be exceeded without the Contractor applying for a price variation in accordance with this Agreement.

5.9 Goods and Services Tax

- 5.9.1 In this clause and Agreement:

“Consideration”, “Tax Invoice”, Taxable Supply” and “Supply” have the same meaning as provided for in the GST Law.

“GST” is a goods and services tax and has the same meaning as in the GST Law.

“GST Law” means any law imposing a GST and includes *A New Tax System (Goods & Services Tax) Act 1999* (Cth) or if that Act does not exist, means any Act imposing, or relating, to a GST and any regulation based on those Acts.

- 5.9.2 The Contractor must hold an Australian Business Number (ABN) and be registered for GST.

- 5.9.3 Every invoice issued by a person making a Supply must be in the form of, or be accompanied by, a valid Tax Invoice. No amount is payable until a valid Tax Invoice for the Contract Price, or any instalment of the Contract Price, is received.

- 5.9.4 If there is any abolition or reduction of any tax, duty, excise or statutory charge associated with the GST, or any change in the GST, the Consideration payable for the Supply must be varied so that the Contractor's net dollar margin for the Supply remains the same.

- 5.9.5 Any contract entered into by a Party to this Agreement with a third party which involves a Supply being made, the cost of which will affect the cost of any Supply made under or in connection with this Agreement, must include a clause in equivalent terms to this clause.

5.10 The Contractor's on-costs

- 5.10.1 The Principal will not be liable for any of the Contractor's employee “on-costs”, including wages, salaries, holiday pay or allowances, sick pay, Workers' Compensation, or any tax or levy voluntarily undertaken by or imposed (either by statute or otherwise) on the Contractor.

5.11 Mistakes in information

- 5.11.1 The Contractor must pay for the extra costs (if any) occasioned by errors or omissions in Material or other Information supplied by it, even though that Material or Information may have been approved by the Principal.

5.12 Not Used

6. Conduct of Agreement

6.1 The Contractor's personnel

- 6.1.1 The Contractor warrants that all personnel engaged in the provision of the Deliverables are appropriately qualified, competent and experienced.
- 6.1.2 The Contractor must employ only such persons:
- (a) as are careful, skilled and experienced in the provision of the Deliverables or similar Deliverables;
 - (b) (where applicable) who hold all necessary licences, permits and authorities; and
 - (c) whose standards of workmanship are entirely suitable for the supply of the Deliverables and the requirement of this Agreement.
- 6.1.3 In this clause and Agreement, "Specified Personnel" means the key personnel specified in Schedule 1, or as otherwise agreed, required to supply the Deliverables or part of the work constituting the Deliverables or such other personnel as the Principal agrees, in writing, to supply the Deliverables.
- 6.1.4 The Contractor must at all times ensure that the Specified Personnel are engaged in the supply of the Deliverables.
- 6.1.5 The Contractor must ensure that the Specified Personnel undertake work in respect of the Deliverables in accordance with the terms of this Agreement and will not be hindered or prevented in any way in the performance of their duties including by being removed from undertaking work to supply the Deliverables or being requested to perform services which in any way interfere with the due supply of the Deliverables by the Specified Personnel.
- 6.1.6 Where Specified Personnel are unable to undertake work in respect of a Deliverable, due to illness or other incapacity or resignation from employment with the Contractor, the Contractor will notify the Principal immediately and the Contractor will, if requested by the Principal, provide replacement personnel approved in writing by the Principal at no additional charge to the Principal and at the earliest opportunity.
- 6.1.7 Where the Principal is of the opinion that the Specified Personnel are unable to provide a Deliverable in accordance with this Agreement due to illness or other incapacity, the Principal may request in writing

that the Contractor provide replacement personnel at no additional charge. Specified Personnel may, with the prior approval of the Principal, on such conditions, if any, as the Principal thinks fit, be absent from the provision of the Deliverables.

6.1.8 The Contractor warrants that it will not, in the absence of criminal misconduct, terminate any Specified Personnel without first providing the Principal 14 days prior written notice of such termination.

6.1.9 In the event of termination or resignation of a member of the Specified Personnel in circumstances where there is no approved replacement, the Principal may terminate this Agreement for substantial breach.

6.2 Contractor to establish necessary facilities

The Contractor must establish all facilities necessary for the proper and effective conduct and management of all its obligations under this Agreement.

6.3 Access to the Contractor's Premises

The Contractor must at all reasonable times permit officers authorised by the Principal to have access to the premises of the Contractor and where necessary and where requested by the Principal arrange for access to premises of any sub contractors engaged by the Contractor.

6.4 Electronic Commerce

6.4.1 If the Principal requires it, the Contractor must implement the electronic commerce proposals, applications or services submitted in the Tender (if any) for the purposes of this Agreement.

6.4.2 The Principal and the Contractor may agree to do business electronically as is necessary for the performance of the Agreement.

6.5 Sub-contractors

6.5.1 The Contractor may sub-contract part or all of the Agreement to a sub-contractor approved by the Principal from time to time and/or identified in Schedule 13 ("approved sub-contractor") on the terms of this clause.

6.5.2 The Contractor must make the approved sub-contractor aware of the terms and conditions of the Agreement and this clause.

6.5.3 If the Principal requires it, the Contractor must arrange for the approved sub-contractor to execute the statutory declaration at Schedule 5.

6.5.4 The terms and conditions of the sub-contract must be consistent with the Agreement.

6.5.5 The Contractor will continue to be bound by, and responsible for performance of, the Agreement notwithstanding that part or all of it may have been sub-contracted.

- 6.5.6 The Principal may, without incurring liability, withdraw its approval of a sub-contractor if in its reasonable opinion the sub-contractor is not meeting the requirements of the Agreement. The Principal will notify the Contractor in writing that its approval is withdrawn and the Contractor will immediately terminate its arrangement with the sub-contractor.
- 6.5.7 To the extent that loss is not attributable to the Principal's withdrawal of approval of a sub-contractor:
- (a) the Contractor will be liable for any acts or omissions of any sub-contractor or any employee or agent of the sub-contractor as fully as if they were the acts or omissions of the Contractor, and
 - (b) the Contractor will indemnify and release the Principal from any liability or loss resulting from the acts or omissions of any sub-contractor.

6.6 Maintenance of Contractor's Information and Sub-Contractor's Information

- 6.6.1 The Contractor must notify the Principal of any change in the Contractor Information supplied in their Tender, if any.
- 6.6.2 The Contractor must notify the Principal of any change in the sub-contractor Information, if any.
- 6.6.3 The Contractor must provide this information in any manner and format requested by the Principal.

6.7 Security of sub-contract payments

- 6.7.1 "Paid when paid provision" means a term of a sub-contract under which:
- (a) the Contractor's liability to pay for Deliverables is contingent on a payment being made by the Principal or
 - (b) the due date for payment for Deliverables is dependant on the date on which a payment is made by the Principal.
- 6.7.2 The terms of any sub-contract of this Agreement must not include a paid when paid provision.
- 6.7.3 The Principal is not liable for any failure by the Contractor to comply with this clause.

6.8 Not Used

6.9 Contractor's warranties (services)

- 6.9.1 In relation to Deliverables that are services, the Contractor warrants that:
- (a) it will provide the Deliverables in accordance with the requirements of this Agreement, including any agreed project plan, and with due care and skill;

- (b) it will comply with all statements or representations as to the provision of the Deliverables contained in the Tender;
- (c) the information contained in the Tender as to the structure, viability, reliability, insurance cover, capacity, experience and expertise of the Contractor and its employees and subcontractors is correct; and
- (d) it will not enter into any arrangement that impedes or is likely to impede the performance of this Agreement in the manner and to a standard satisfactory to the Customer, without first obtaining the Customer's consent.

6.10 Contractor's warranties (general)

6.10.1 The Contractor warrants that:

- (a) the Deliverables do not infringe the Intellectual Property rights of a third party; and
- (b) the Deliverables shall conform to any legally applicable standards
- (c) It will not allow or cause any action, or enter into any arrangements that impedes or is likely to impede the proper and effective conduct and management of all the contractor's obligations under this Agreement, and to a standard, that is satisfactory to the Principal without first obtaining the Principal's consent.
- (d) it has established and will comply with and maintain during this Agreement, the quality assurance arrangements set out in the Tender

6.11 Not Used

6.12 Defective services

- 6.12.1 If in the opinion of the Principal the Contractor has not supplied a Deliverable in accordance with this Agreement ("Defective Deliverable"), the Principal may require the Contractor to do all things reasonably necessary to remedy the situation.
- 6.12.2 In rectifying the Defective Deliverable the Contractor will, at its own expense, comply with all reasonable directions of the Principal consistent with the terms of this Agreement.
- 6.12.3 If the Contractor fails to comply with such a direction the Principal may arrange for an alternative contractor to supply the Defective Deliverable at the Contractor's expense.
- 6.12.4 Any direction given, or the arrangement of alternative supply of the Deliverable, will not amount to a waiver of the Principal's rights under this Agreement.

6.13 Third party warranties

- 6.13.1 Where the Contractor supplies Deliverables that have been procured from third parties, the Contractor assigns to the Principal to the extent permitted by law, the benefits of any warranties given by the third parties.
- 6.13.2 Assignment of any third party warranties is in addition to the warranties offered directly by the Contractor under this Agreement and does not relieve the Contractor from the obligation to comply with the Contractor's own warranties.

6.14 Not Used

6.15 Performance monitoring

- 6.15.1 The Contractor must meet with the Principal from time to time and/or at nominated intervals, as reasonably directed by the Principal, to evaluate and monitor performance of this Agreement by the Contractor.
- 6.15.2 If there is an agreed project plan for this Agreement, the Principal may choose to monitor performance in accordance with project milestones or stages as set out in that plan.
- 6.15.3 The Principal may also elect, in its discretion, to monitor performance of any sub-contracts under this Agreement.
- 6.15.4 If the Principal elects to monitor sub-contract performance the Contractor will do all things reasonably necessary to facilitate arrangements for such monitoring to take place.
- 6.15.5 As part of the monitoring of performance of this Agreement the Principal may ask the Contractor for it's assessment of the progress of the Agreement and it's assessment of the Principal's performance of its responsibilities under the Agreement including through the Principal's Delegate.
- 6.15.6 At the conclusion of this Agreement the Principal will complete a performance report and pass this report to NSW Supply.
- 6.15.7 NSW Supply will provide the Contractor with a copy of all performance reports prepared with regard to the Contractor (and will similarly provide any sub-contractor with performance reports regarding its sub-contract).
- 6.15.8 NSW Supply will give the Contractor (and any sub-contractor) the opportunity to seek an independent review of each such report by an officer of NSW Supply if required.
- 6.15.7 The Contractor, and any sub-contractor, must bear their own costs of complying with this clause. In particular, to avoid doubt, all meetings under this clause are at no additional costs to the Principal.
- 6.15.11 The Contractor will, at its own cost, submit a monthly progress report to the Principal for the duration of this Agreement, commencing one month after the date on which this Agreement is made.
- 6.15.12 Each Progress Report will detail for the period covered by the report:

- (a) the progress which the Contractor has made in relation to its obligations under this Agreement;
- (b) any expenditure incurred;
- (c) any factors which may affect the Contractor's ability to comply with any of its obligations under this Agreement, especially in relation to the supply of the Deliverables;
- (d) any proposals which the Contractor may have to overcome any potential delays in supply of the Deliverables; and
- (e) any other matter which the Principal may advise in writing to the Contractor.

6.16 Keeping of records and access to records

- 6.16.1 The Contractor must keep proper accounts, records and time sheets in accordance with the accounting principles generally applied in commercial practice.
- 6.16.2 The Contractor must, within a reasonable time of a request from the Principal, give the Principal access to, and copies of, any material relevant to the performance of the Contractor's obligations under this Agreement, and any financial information, that the Principal reasonably requires.

6.17 Exchange of information between government agencies

- 6.17.1 The Contractor authorises the Principal, including the Principal's Delegate and their employees and agents to make available to NSW Government departments or agencies Information concerning the Contractor, including any Information provided by the Contractor to the Principal and/or the Principal's Delegate and any Information relating to the Contractor's performance under the Agreement, or the Contractor's financial position.
- 6.17.2 The Contractor acknowledges that Information about the Contractor from any source including any substantiated reports of unsatisfactory performance, may be taken into account by NSW Government agencies in considering whether or not to offer the Contractor future opportunities for NSW Government work.
- 6.17.3 The Principal regards that the provision of Information about the Contractor to any New South Wales Government department or agency as privileged within section 22 of the *Defamation Act 2005* (NSW).
- 6.17.4 The Contractor releases and indemnifies the State of New South Wales (which term includes its officers, employees and agents) from any claim in respect of any matter arising out of the provision of Information. Without limiting the above, the Contractor releases the State of New South Wales from any claim it may have for any loss to the Contractor arising out of the provision of Information relating to the use of such Information by the recipient of the Information.

6.18 Conflict of Interest

- 6.18.1 The Contractor undertakes that, to the best of its knowledge, no conflict of interest of the Contractor, its employees, agents or sub-contractors exists or is likely to arise in the performance of its obligations under this Agreement.

6.18.2 The Contractor must:

- (a) notify in writing, and consult with, the Principal immediately upon becoming aware of the existence, or possibility, of a conflict of interest; and
- (b) comply with any direction given by the Principal in relation to those circumstances designed to manage that conflict of interest.

6.18.3 The Principal may terminate the Agreement in accordance with clause 16.1 if in its view a conflict of interest exists which prevents the proper performance of the Agreement.

6.19 Not Used

7. Confidentiality

- 7.1 Subject to this clause, the Contractor must not, without the prior written consent of the Principal, disclose any Confidential Information or any other Information in connection with this Agreement to any person other than the Principal or the Principal's Delegate.
- 7.2 The Contractor must use the Confidential Information solely in connection or for the purposes of the provision of the Deliverables.
- 7.3 The Contractor may disclose Confidential Information to its officers, employees and sub-contractors ("permitted recipient") where such disclosure is essential to carrying out their duties or in accordance with this Agreement.
- 7.4 Before disclosing the Confidential Information to a permitted recipient, the Contractor must ensure that the permitted recipient is aware of the confidentiality requirements of this Agreement and is advised that it is strictly forbidden from disclosing the Confidential Information or from using the Confidential Information other than as permitted by this Agreement.
- 7.5 The Principal may terminate this Agreement for substantial breach if the Contractor or any permitted recipient of Confidential Information discloses the Confidential Information other than as permitted under this Agreement or by law.
- 7.6 The Confidential Information must not be copied or reproduced by the Contractor or the permitted recipient without the express prior written permission of the Principal, except for such copies as may be reasonably required for the purposes of this Agreement.
- 7.7 The Principal may at its sole discretion and at any time require the Contractor to promptly execute and arrange for its employees, agents or sub-contractors engaged in the performance of this Agreement, to execute a Statutory Declaration and/or a Deed of Confidentiality substantially in the form appearing in the Schedules.
- 7.8 On termination of this Agreement the Contractor must return to the Principal all documents containing the Confidential Information.
- 7.9 This clause will survive the termination of this Agreement.

- 7.10 This clause does not affect the Contractor's obligation to disclose any Confidential Information which is required to be disclosed by law.

8. Intellectual Property

8.1 Ownership

- 8.1.1 Subject to and in accordance with this clause, ownership of all New Contract Material, including all Intellectual Property rights which may arise in respect of New Contract Material, vests on its creation in the Principal.
- 8.1.2 The Contractor hereby assigns to the Principal copyright, including future copyright, in all New Contract Material, including each and every stage of design and construction of such material.
- 8.1.3 Title to, and Intellectual Property rights (other than copyright) in all New Contract Material, including each and every stage in the design and construction of such material, shall on its creation be transferred and assigned to the Principal without the need for further assurance.
- 8.1.4 This Agreement does not affect the Intellectual Property rights in Existing Contract Material but, unless otherwise agreed, the Contractor hereby grants and shall ensure that relevant third parties grant to Principal, a non-exclusive, non-transferable licence:
- (a) to use, reproduce and adapt for its own use; and
 - (b) where specified in the Agreement, to perform any other act with respect to copyright and to manufacture, sell, hire or otherwise exploit a product or process, or to provide a service, or to license any third party to do any of those things in respect of;
- all those Intellectual Property rights but only as part of the Contract Material (and of any future development of that material).
- 8.1.5 On the expiry or earlier termination of this Agreement, the Contractor shall deliver to the Principal all Contract Material together with all copies thereof except to the extent that the Principal agrees otherwise.
- 8.1.6 This clause does not prevent the contractor from keeping a copy of the Contract Material for their records.
- 8.1.7 The Contractor shall ensure that the Contract Material is used, copied, supplied or reproduced only for the purposes of this Agreement.
- 8.1.8 The Principal may terminate this Agreement for cause if the Contractor infringes any Intellectual Property Rights of the Principal or third parties in performing this Agreement.
- 8.1.9 This clause shall survive the termination of this Agreement.

8.2 Indemnity

- 8.2.1 The Contractor must not at any time infringe any Intellectual Property rights of any third party in the performance of this Agreement.

- 8.2.2 The Contractor agrees to indemnify and keep indemnified the Principal, (the Principal's officers, employees and agents) from and against any actions, claims, proceedings, demands, costs, expenses, losses and damages, arising from or in connection with any infringement or alleged infringement of any Intellectual Property rights.
- 8.2.3 The Principal may take legal proceedings including injunctive proceedings against the Contractor if there is any actual, threatened or suspected breach of this clause.
- 8.2.4 The Principal may terminate this Agreement for substantial breach if the Contractor infringes third party rights in breach of this clause.
- 8.2.5 In the event of any claim being made or brought against the Principal in respect of any breach or alleged breach by the Contractor of any Intellectual Property rights, the Principal will notify the Contractor. The Contractor will, with the reasonable assistance, if required, of the Principal, but at the Contractor's sole expense, conduct all negotiations for the settlement of such claims or any litigation that may arise in connection with the claim. If the Contractor fails to conduct such negotiations or settlement the Principal may suspend payment of any money due to the Contractor under this Agreement until such claim has been satisfied, settled, or withdrawn.

9. Principal's Material

- 9.1 The Contractor must keep secure any Principal's Material and any Contract Material that it holds or controls for the performance of this Agreement.
- 9.2 The Contractor must, within 7 days of completion or termination of this Agreement, or such other period as agreed to in writing by the Principal, return to the Principal any of the Principal's Material it has in its possession or under its control.
- 9.3 The Contractor agrees that it will not make any alteration to the Principal's Material without the prior written consent of the Principal.

10. General Indemnity

- 10.1 The Contractor will be liable in respect of, and indemnifies, and shall keep indemnified, the Principal and the Principal's Delegate, including their officers, employees and agents against any claim, loss or expense (including a claim, loss or expense arising out of personal injury or death or damage to property) which any of them pays, suffers, incurs or is liable for (including legal costs on a solicitor and client basis) (together "the loss") as a result of:
 - (a) any unlawful, negligent, reckless or deliberately wrongful act or omission of the Contractor (or its employees, agents or subcontractors or their employees) in the performance of this Agreement; or
 - (b) any breach of this Agreement or any confidentiality deeds required by this Agreement.
- 10.2 The Contractor's liability shall be reduced proportionally to the extent that any unlawful, negligent, or deliberately wrongful act or omission of the Principal or the

Principal's Delegate or their officers, employees or agents caused or contributed to the loss.

11. Minimum Insurance Requirements

11.1 The Contractor must hold and maintain and must ensure that all subcontractors are beneficiaries under or otherwise hold and maintain, the following insurances for the Term, or for such other period as may be specifically required by this Agreement for the particular policy:

- (a) a broad form liability policy of insurance which includes:
 - (i) public liability insurance to the value of at least the amount specified in Schedule 1 in respect of each claim; and
 - (ii) products liability insurance to the value of at least the amount specified in Schedule 1 for the total aggregate liability for all claims arising out of the Contractor's products for the period of cover.
- (b) workers' compensation insurance in accordance with applicable legislation for all the Contractor's employees; and
- (c) Professional indemnity insurance to the value of the amount specified in Schedule 1 (Agreement Details).

The professional indemnity insurance:

- i) must be maintained by the Contractor for 2 years after the conclusion of this agreement for an amount sufficient to indemnify the Contractor in respect of all liabilities arising out of this Agreement; and
 - ii) must cover the Contractor's liability to the Principal in respect of the services and any products supplied ancillary to the services;
 - iii) must include one automatic reinstatement provision; and
 - iv) must include a description of the risk covered by the policy; and
- (d) such other insurances as are specified in Schedule 1 of the Agreement Details.

12. Compliance with Legal Requirements

12.1 Compliance with laws

12.1.1 The Contractor must, in carrying out this Agreement, comply with:

- (a) all applicable Statutory Requirements;

- (b) the codes, policies, guidelines and Australian standards listed in Schedule 1 or any other codes, policies, guidelines and Australian standards specified in writing by the Principal to the Contractor; and

12.3 Licences and Approvals

- 12.3.1 The Contractor must obtain at its own cost all licences, approvals and consents necessary to perform this Agreement, including any licences listed below or otherwise offered in the Tender.

12.4 Payment of wages and allowances

- 12.4.1 The Contractor shall ensure that all persons employed by it in or in connection with supply of the Deliverables (including any sub-contractors) are paid all wages and allowances required to be paid by or under any relevant award, determination or order of the State or Territory in which the Deliverables are being provided or by or under any industrial agreement that is in force in the State or Territory in which the Deliverables are being provided and that all such persons are employed under the conditions contained in any such award, judgment, order or industrial agreement.
- 12.4.2 If requested by the Principal, the Contractor will provide a statutory declaration that all persons employed by the Contractor in providing the Deliverables have been paid in compliance with the provisions of this clause and a statutory declaration from each sub-contractor to the same effect.

12.5 Not Used

13. Variations

- 13.1.1 This Agreement may not be varied except in writing signed by both the Principal and the Contractor.

14. No Assignment or Novation

- 14.1 The Contractor must not assign or novate this Agreement without first obtaining the written consent of the Principal.
- 14.2 The Principal may make financial checks on the entity proposing to take over this Agreement before determining whether or not to give consent to the assignment or novation.

15 Completion of the Agreement by the Principal

- 15.1 If this Agreement is terminated, the Contractor must assist the Principal in transferring responsibility for the obligations under the Agreement either to an alternative supplier or to the Principal itself, and this will include:
 - (a) upon request by the Principal, the Contractor must produce and make available all Contract Material relating to this Agreement;

- (b) assignment to the Principal, or such other person as the Principal nominates, of any agreement entered into by the Contractor for the supply of any Components or Materials; and (c) if requested, offer to sell, at fair market value, to the Principal, or such other person as the Principal nominates, any equipment used by the Contractor in conjunction with and dedicated solely to the delivery of the Agreement.

15.2 The Contractor must continue to carry out obligations under this Agreement in full until termination of the Agreement.

16. Termination

16.1 Termination for cause

16.1.1 Without prejudice to its rights at common law, the Principal may immediately terminate this Agreement, in whole or in part, by written notice to the Contractor ("Notice of Termination for Cause"):

- (a) where the Contractor makes any statement, fact, information, representation or provides material in the Tender which is false, untrue, or incorrect in a way which materially affects this Agreement;
- (b) where proceedings or investigations are commenced or threatened by the Independent Commission Against Corruption or similar public body against the Contractor including for corrupt conduct or for collusive pricing;
- (c) where the Contractor commits a substantial breach of the Agreement that is not capable of remedy;
- (d) where the Contractor commits a substantial breach of the Agreement in a manner that is capable of remedy and does not remedy the breach within 7 days of receiving a notice from the Principal requiring it to do so ("Notice of Breach"), or such further time, having regard to the nature of the breach and a reasonable time to remedy it, as the Principal may reasonably allow;
- (e) where the Contractor assigns its rights and/or obligations, sub-contracts or novates this Agreement other than in accordance with this Agreement; or
- (f) in the case of the Contractor's Insolvency;
- g) If in the Principal's view a conflict of interest exists for the Contractor, which prevents the proper performance of the Agreement.

16.1.2 If the Principal terminates this Agreement for cause the Principal may:

- (a) at its option, for an appropriate part payment of the Contract Price (as agreed by the parties or failing agreement as determined by an agreed expert), require the Contractor to deliver to the Principal any Deliverables (for example, Deliverables that are components of other

- Deliverables) in the possession or under the control of the Contractor as at the date of termination
- (b) contract with any other person to complete the provision of the Deliverables;
 - (c) deduct loss or damages arising from or in connection with the termination (which may be ascertained and certified by the Principal) from any money due, or which may become due to the Contractor (whether under this Agreement or otherwise) and/or from the Security (if any); and
 - (d) recover from the Contractor in an appropriate court the balance of any monies remaining unpaid as a debt due and payable by the Contractor to the Principal.

16.2 Termination for convenience

16.2.1 The Principal may terminate this Agreement in whole or in part by giving written notice ("Notice of Termination for Convenience") with effect from the date stated in the notice and without the need to give reasons.

16.2.2 Effect of Termination for convenience

16.2.2.1 The Principal shall reimburse the Contractor its unavoidable costs directly incurred as a result of termination provided that any claim by the Contractor:

- (a) must be supported by written evidence of the costs claimed;
- (b) will be in total satisfaction of the liability of the Principal to the Contractor in respect of this Agreement and its termination.

16.2.2.2 The Principal shall not in any circumstances be liable for any consequential loss or loss of profits suffered by the Contractor as a result of the termination of this Agreement by the Principal.

16.2.2.3 If the Principal is the Crown, all reimbursement shall be made by the Crown acting through the Principal's Delegate and not through the Board.

16.2.2.4 The Contractor must, wherever possible, include in all sub-contracts and supply agreements an equivalent provision to this clause.

16.2.2.5 The Principal may at its option, for an appropriate part payment of the Contract Price (as agreed by the parties or failing agreement as determined by an agreed expert), require the Contractor to deliver to the Principal any Deliverables (for example, Deliverables that are components of other Deliverables) in the possession or under the control of the Contractor as at the date of termination

17. Issue Resolution

17.1 General

17.1.2 In order to resolve any conflicts or issues between the Parties promptly and to the satisfaction of the Parties, the issue resolution process stated below will be followed in this order until an issue is resolved:

- (a) Amicable Resolution;
- (b) Expert Determination.

17.2 Amicable Resolution

17.2.1 Either Party may give notice to the other Party of an issue, including a dispute or difference, ("the Issue Notice") about the meaning or effect of the Agreement or about any matter arising under or out of this Agreement. The Issue Notice must be given within a reasonable time of the Party becoming aware of the issue.

17.2.2 If the Party giving the Issue Notice is the Contractor, and this issue has arisen under this Agreement, it must give the Issue Notice to the Principal.

17.2.3 If the Party giving the Issue Notice is the Principal, it must give the Issue Notice to the Contractor.

17.2.4 The Parties must follow the issue resolution process in this clause before either commences proceedings or takes similar action except to seek an urgent injunction or declaration.

17.2.5 If a Party gives an Issue Notice under this clause, each Party will nominate in writing a senior executive who will promptly confer to resolve the issue.

17.2.6 A Party is not entitled to refer an issue to Expert Determination until 21 days after the giving of the Issue Notice.

17.2.7 A Party may only refer an issue to Expert Determination by giving notice in writing specifying the issue to be decided ("the Referral Notice").

17.2.8 If the Party giving the Referral Notice is the Contractor it must give the Referral Notice to the Principal.

17.2.9 If the Party giving the Referral Notice is the Principal, it must give the Referral Notice to the Contractor.

17.2.10 If a Referral Notice has not been given within 28 days of becoming entitled to do so then the issue is barred from Expert Determination or any other action or proceedings (including court proceedings).

17.3 Expert Determination

17.3.1 If a Referral Notice is properly given to refer an issue for expert determination, the expert is to be agreed between the Principal and the Contractor. If they cannot agree within 28 days of the Referral

Notice, the expert is to be nominated by the Chief Executive Officer, Australian Commercial Disputes Centre, Sydney.

- 17.3.2 The expert nominated must be a lawyer unless otherwise agreed. The expert must not be:
- (a) an employee of the Parties;
 - (b) a person who has been connected with the Agreement; or
 - (c) a person who the Parties have not been able to agree on.
- 17.3.3 When the person to be the expert has been agreed or nominated, the Principal, on behalf of both Parties, must engage the expert by letter of engagement (and provide a copy to the Contractor) setting out:
- (a) the issue referred to the expert for determination
 - (b) the expert's fees
 - (c) the procedure for the determination attached as a Schedule to this Agreement
 - (d) any other matter which is relevant to the engagement.
- 17.3.4 The Parties must share equally the fees and out-of-pocket expenses of the expert for the determination, and bear their own expenses.
- 17.3.5 The procedure for expert determination is attached as a Schedule to this Agreement
- 17.3.6 In answer to any issue referred to the expert by a Party, the other Party can raise any defence, set-off, or counter-claim.
- 17.3.7 If the expert determines that one Party must pay the other an amount exceeding the amount shown in Schedule 1 (calculating the amount without including interest on it, and after allowing for set-offs), then either Party may commence litigation, but only within 56 days after receiving the determination.
- 17.3.8 Unless a Party has a right to commence litigation in accordance with this issue resolution procedure
- (a) the Parties must treat each determination of the expert as final and binding and give effect to it; and
 - (b) if the expert determines that one Party owes the other money, that Party must pay the money within 28 days.

17.4 Performance of Agreement during issue resolution

The Parties agree to continue performing their obligations under this Agreement while the issue is being dealt with in accordance with the above issue resolution procedures.

18. General

18.1 Waiver

A waiver in respect of a breach of a term of this Agreement by the other Party shall not be taken to be a waiver in respect of any other breach. The failure of

either Party to enforce a term of this Agreement will not be interpreted as a waiver of that term.

18.2 Severability

If any part of this Agreement is void or voidable, then that part is severed from this Agreement but without affecting the continued operation of the remainder of the Agreement.

18.3 Notices

18.3.1 All notices must be in writing and signed by the relevant Party and must be given either by hand delivery, post or facsimile transmission.

18.3.2 Service of any notice under or relating to this Agreement shall be sufficiently served:

(a) if delivered personally to the Party to be served;

(b) if left at or sent by pre-paid registered post to:

(i) the address of the Party to be served as set out in Schedule 1;

(ii) the last known place of abode or business of the Party to be served which is a company; or

(iii) the registered office of any Party to be served which is a Company;

and in the case of posting such notice shall be deemed to have been duly served on the second day after such notice has been posted; or

(c) if sent by facsimile transmission to the last known facsimile number of the party to be served and shall be deemed to have been duly served at the time such facsimile transmission is sent.

18.3.3 If delivery or receipt of a notice is not made on a business day, then it will be taken to be made on the next business day.

18.4 Counterparts

If there are a number of counterparts of this Agreement, the counterparts taken together constitute one and the same instrument.

18.5 Applicable Law

This Agreement is governed by the laws of the State of New South Wales and the Parties submit to the non-exclusive jurisdiction of the courts of the State of New South Wales and the Commonwealth of Australia.

18.6 Rights Cumulative

The rights and remedies provided under this Agreement are cumulative and not exclusive of any rights or remedies provided by law or any other right or remedy.

18.7 No agency/no employment/no partnership

The Contractor agrees that the Contractor will not be taken to be, nor will it represent that it is, the employee, partner, officer and/or agent of the Principal.

18.8 Survival clause

Unless the context otherwise provides, the rights and obligations under this Agreement will survive the expiration or earlier termination of this Agreement.

18.9 Entire Agreement

This Agreement constitutes the entire agreement between the Parties. Any prior arrangements, agreements, representations or undertakings are superseded.

EXECUTED AS AN AGREEMENT THISDAY OF.....20..

EXECUTION BY GOVERNMENT PARTY:

)	
)	
Signed for and on behalf of)	
)	
.....)
[insert name of Principal])	(signature of Principal's representative)
)	
)	
by.....)	
[insert name of Principal's representative])	
)	
)	
In the presence of.....)
		(signature of witness)
.....		
[insert name of witness]		

THE COMMON SEAL of)
)
)
.....)
[insert name of Contractor])
)
)
ABN:)
[insert Contractor ABN]) (Corporate Seal)
)
)
was duly affixed hereto at)
[insert name of City/Town/Territory]) (signature of Director)
)
)
in the State of)
[insert name of State or Territory])
)
)
In the presence of)
) (signature of Secretary or other
..... permanent officer)
[insert name of Secretary or other permanent
officer]

Signed by.....)
)
 [insert name of Contractor]) (signature of Contractor)
)
 at.....)
 [insert name of City/Town])
)
 in the State of)
 [insert name of State Territory])
)
 in the presence of.....)
) (signature of witness)
 [insert name of witness not a party to the Agreement]

Execution where Contractor is a partnership

SIGNED BY)
)
)
)
 [insert name of partner authorised to sign on beha)
 of partnership])
)
 for and on behalf of the firm)
)
)
)
 [insert registered business name and number of)
 partnership])
)
 at.....)
 [insert name of City/Town])
) (signature of Partner)
)
 in the State of)
 [insert name of State/Territory])
)
)
 in the presence of.....)
)
) (signature of witness)
)
 [insert name of witness not a party to the)
 Agreement])

Schedule 1

Agreement Details

Item 1	Request for Tender No.....date submitted.....
Item 2	Contractor's Name
Item 3	Specified Personnel (if any):
Item 4	<p>Term (if any): Commencement Date: Expiry Date:</p> <p>Period of extended term (if any): Commencement Date: Expiry Date:</p>
Item 5	Supply of Deliverables
Item 6	<p>Insurance</p> <p>(a) Public liability insurance Amount: \$ 20 million</p> <p>(b) Products liability insurance Amount: \$ Nil</p> <p>(c) Professional indemnity insurance Amount: \$ 5 million</p>
Item 7	<p>Codes</p> <ol style="list-style-type: none"> 1. The Code of Practice for NSW Government Procurement. 2. Implementation Guidelines for NSW Government Procurement.

Item 8	Expert Determination Amount: \$A: 100,000 .
Item 9	Security Amount: \$A Not Used Form:
Item 10	Notices to: The Contractor's contact name and address: Name: Address: Position: Telephone: Facsimile: The Principal's contact name and address: Name: Position: Address: Telephone: Facsimile:
Item 11	Principal's Delegate

Schedule 2

The Tender and documents evidencing agreed variations to the Tender

Schedule 3

Documents notifying the Principal's acceptance

Schedule 4

Expert Determination Procedure

4 Questions to be determined by the Expert

4.1 The expert must determine for each issue the following questions (to the extent that they are applicable to the issue):

4.1.1 Is there an event, act or omission which gives the claimant:

- a. a right to compensation under this Agreement
- b. for damages for breach of this Agreement, or
- c. otherwise in law?

4.1.1 If so:

- a. what is the event, act or omission?
- b. on what date did the event, act or omission occur?
- c. what is the legal right which gives rise to the liability to compensation?
- d. is that right extinguished, barred or reduced by any provision of the Agreement, estoppel, waiver, accord and satisfaction, set-off, cross-claim, or other legal right?

4.1.1 In the light of the answers to the above clauses of this Expert Determination Procedure:

- a. What compensation, if any, is due from one party to the other and when did it fall due?
- b. What interest, if any, is due when the expert determines that compensation?

4.1 The expert must determine for each issue any other questions required by the parties, having regard to the nature of the issue.

4 Submissions

2.1 The procedure for submissions to the expert is as follows:

2.2 The Party to the Agreement which has referred the issue to Expert Determination ("Referring Party") must make a submission in respect of the issue, within 15 business days after the date of the letter of engagement referred to in the issue resolution clause of the Agreement.

2.3 The other party ("Responding Party") must respond within 15 business days after receiving a copy of that submission. That response may include cross-claims.

2.4 The Referring Party may reply to the response, but must do so within 10 business days after receiving the response, and must not raise new matters.

2.5 The Responding Party may comment on the reply, but must do so within 10 business days after receiving the reply, and must not raise new matters.

2.6 The expert must ignore any submission, response, reply, or comment not made within the time given in this clause 2 of this Expert Determination Procedure, unless the Principal and the Contractor agree otherwise.

- 2.7 The expert may request further information from either Party. The request must be in writing, with a time limit for the response. The expert must send a copy of the response to the other Party, and give the other Party a reasonable opportunity to comment on the response.
- 2.8 All submissions, responses, replies, requests and comments must be in writing. If a Party to the Agreement gives information to the expert, it must at the same time give a copy to the other Party.

3. Conference

- 3.1 The expert may request a conference with both parties to the Agreement. The request must be in writing, setting out the matters to be discussed.
- 3.2 The Parties agree that such a conference is considered not to be a hearing that would give anything under this Expert Determination Procedure the character of an arbitration.

4. Role of Expert

- 4.1 The Expert:
- 4.1.1 acts as an expert and not as an arbitrator
 - 4.1.1 must make its determination on the basis of the submissions of the parties, including documents and witness statements, and the Expert's own expertise; and
 - 4.1.1 must issue a certificate in a form the expert considers appropriate, stating the expert's determination and giving reasons, within 12 weeks after the date of the letter of engagement referred to above.
 - 4.1.1 If a certificate issued by the expert contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the expert must correct the certificate.

Schedule 5

Statutory Declaration for Sub-Contractors

Oaths Act 1900 (NSW), Ninth Schedule

I

(1) _____

do solemnly and sincerely declare that to the best of my knowledge and belief:

1.[*Insert full sub-contractor company name and its ACN*] ("the sub-contractor") has been selected as a sub-contractor to[*Insert name of the Contractor*] ("the Contractor") for the performance of a contract with..... [*Insert name of the Principal*] ("Principal") for the supply of certain Deliverables ("the Agreement").
2. The sub-contractor is aware of the relevant contractual terms and conditions of the Agreement and will be entering into a sub-contract with the Contractor in the near future on terms that will not be inconsistent with the Agreement for[*Insert short description of the sub-contract*] ("the Sub-Contract").
3. There are no reasons of which I am aware that would prevent the Sub-Contract from being signed and performed in a manner that would allow the satisfactory and timely performance of the Agreement and the Sub-Contract.

And I make this solemn declaration, as to the matter aforesaid according to the law in this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.

.

(2) _____

Declared at _____

the _____ day of _____ 2001 _____

Before me, (3) _____

(4) _____

- (1) Here insert name, address and occupation of person making the declaration and his or her position in the sub-contractor company.
- (2) Signature of person making declaration
- (3) Signature of person before whom the declaration is made *
- (4) Here insert title of person before whom the declaration is made.

* the jurisdiction within which this declaration is made will depend on who may witness the declaration.

Schedule 6

Deed of Confidentiality

BY THIS DEED DATED THE _____ day of _____ 200..

BETWEEN[*Insert the name and address of the Principal.*

AND[*Insert name and address of Confidant*] ("the Confidant ")

RECITALS:

- A. In the course of the Confidant supplying certain deliverables for the Principal (whether directly or indirectly) pursuant to the Agreement, the Confidant will have access to and may become aware of Confidential Information belonging to or in the possession of the Principal.
- B. Improper use or disclosure of the Confidential Information would severely damage the Principal's ability to perform its governmental/statutory functions and would severely damage the commercial interests of the NSW Government.
- C. The Principal requires, and the Confidant agrees, that it is necessary to take all reasonable steps (including the execution of this Deed) to ensure that the Principal's Confidential Information is kept confidential and that the Confidant provides the deliverables faithfully and without any conflicting interest.
- D. This Deed sets out the terms on which the Confidant will have access to the Confidential Information.

OPERATIVE PROVISIONS:

1. Recitals

The Parties acknowledge the truth and accuracy of the Recitals in every particular.

2. Interpretation

2.1 Definitions

In the interpretation of this Deed unless a contrary intention appears requires the following expressions will have the following meanings:

"Agreement" means the Agreement between the Principal and the Contractor dated[*Insert date*] for the supply of the deliverables as defined in the Agreement.

"Confidential Information" means information that:

- (a) is by its nature confidential;
- (b) is designated by the Principal as confidential; or

- (c) the Confidant knows or ought to know is confidential;
- and includes but is in no way limited to:
- (d) the Contract Material;
 - (e) The Principal's Material including the financial information, the corporate information and the commercial information of the Principal;
 - (f) any material which relates to the affairs of a third party;
 - (g) information relating to the policies, strategies, practices and procedures of the NSW Government and any information in the Contractor's possession relating to the NSW Public Service.

"Contractor" means the person named as Contractor under the Agreement.

"Contract Material" means:

- (a) any material created, written or otherwise brought into existence as part of, or for the purpose of performing the Agreement including but not in any way limited to all Records, working papers, programs, flow charts, reports, including documents, equipment and information and data stored by any means ("New Contract Material");
- (b) any material which is existing at the date of the Agreement and which is incorporated with the New Contract Material ("Existing Contract Material").

"Express Purpose" means the Confidant performing the obligations under the Agreement.

"Intellectual Property Rights" includes copyright, patent, trademark, design, semi-conductor or circuit layout rights, trade, business or company names, or other proprietary rights, or any rights to registration of such rights existing in Australia, whether created before or after the date of the Agreement;

"Principal's Material" means any documentation, information or material supplied by or on behalf of the Principal, the Principal's Delegate or the Crown, to the Confidant.

"Notice" means notice in writing given in accordance with this Deed; and

"Records" includes the Contract Material and any other information, documents or data brought into existence by any means and stored by any means in connection with the performance of the Agreement;

2.2 General

- 2.2.1 Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- 2.2.2 A reference to:
- (a) legislation (including subordinate legislation) is a reference to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (b) a document or agreement, or a provision of a document or agreement, is a reference to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (c) a person includes any type of entity or body of persons whether or not it is incorporated or has a separate legal entity;
 - (d) anything (including a right, obligation or concept) includes each part of it.
- 2.2.3 If this Deed expressly or impliedly binds more than one person then it shall bind each such person separately and all such persons jointly.
- 4.1.1 A singular word includes the plural, and vice versa.
- 4.1.1 A word which suggests one gender includes the other genders.
- 4.1.1 If a word is defined, another part of speech of that word has a corresponding meaning.

3. Non disclosure

- 3.1 The Confidant must not disclose the Confidential Information to any person without the prior written consent of the Principal.
- 3.2 The Principal may grant or withhold its consent in its discretion.
- 3.3 If the Principal grants its consent, it may impose conditions on that consent, including a condition that the Confidant procure the execution of a Deed in these terms by the person to whom the Confidant proposes to disclose the Confidential Information.
- 3.4 If the Principal grants consent subject to conditions, the Confidant must comply with those conditions.
- 3.5 Despite this clause, the Confidant may disclose the Confidential Information to its directors, officers, employees, and contractors ("permitted recipients") where such disclosure is essential to carrying out their duties owed to the Confidant or in accordance with this Deed.

- 3.6 Before disclosing the Confidential Information to a permitted recipient, the Confidant will ensure that the permitted recipient is aware of the confidentiality requirements of this Deed and is advised that it is strictly forbidden from disclosing the Confidential Information or from using the confidential information other than as permitted by this Deed.
- 3.7 The Confidential Information must not be copied or reproduced by the Confidant or the permitted recipients without the expressed prior written permission of the Principal, except as for such copies as may be reasonably required for the purposes of this Deed.
- 3.8 The Principal may at any time require the Confidant to promptly arrange for the permitted recipients to execute a Deed of Confidentiality substantially in the form of this Deed.
- 3.9 If any person being any director, officer, contractor or employee of the Confidant, who has had access to the Confidential Information in accordance with this clause leaves the service or employ of the Confidant then the Confidant will procure that that person does not do or permit to be done anything which, if done or permitted to be done by the Confidant, would be a breach of the obligations of the Confidant under this Deed.
- 3.10 The requirements of this Deed do not affect the obligation of the Confidant to disclose any Confidential Information where it is required to be disclosed at law.

4. Restriction on use

- 4.1 The Confidant must use the Confidential Information only for the Express Purpose and must not without the prior written consent of the Principal use the Confidential Information for any purpose other than the Express Purpose.
- 4.2 The Confidant must, unless otherwise authorised by the prior written consent of the Principal:
 - (a) treat as confidential and secret all of the Confidential Information which the Confidant has already acquired or will acquire from the Principal;
 - (b) take proper and adequate precautions at all times and enforce such precautions to preserve the confidentiality of the Confidential Information and take all necessary action to prevent any person obtaining access to the Confidential Information other than in accordance with this Deed;
 - (c) not directly or indirectly use, disclose, publish or communicate or permit the use disclosure, publication or communication of the Confidential Information to any person other than in accordance with this Deed;
 - (d) not copy or disclose to any person in any manner any of the Confidential Information other than in accordance with this Deed; and
 - (e) ensure that the permitted recipients comply with the terms of this Deed and keep the Confidential Information confidential and not use or disclose the Confidential Information other than as permitted by this Deed.

5. Survival

This Deed will survive the termination or expiry of the Agreement.

6. Rights of the Principal

6.1 Production of Documents

6.1.1 The Principal may demand the delivery up to the Principal of all documents in the possession or control of the Confidant containing the Confidential Information.

6.1.2 The Confidant must immediately comply with a demand under this clause .

6.1.3 If the Principal makes a demand under this clause , and the Confidant has placed or is aware that documents containing the Confidential Information are beyond his or her possession or control, then the Confidant must provide full particulars of the whereabouts of the documents containing the Confidential Information, and the identity of the person in whose possession or control they lie.

6.1.4 In this clause, "documents" includes any form of storage of information, whether visible to the eye or not.

6.2 Legal Proceedings

The Principal may take legal proceeding against the Confidant or third parties if there is any actual, threatened or suspected breach of this Deed, including proceedings for an injunction to restrain such breach.

7. Indemnity and release

7.1 The Confidant is liable for and agrees to indemnify and keep indemnified the Principal in respect of any claim, damage, loss, liability, cost, expense, or payment which the Principal suffers or incurs as a result of:

(a) a breach of this Deed (including a breach of this Deed which results in the infringement of the rights of any third party); or

(b) the disclosure or use of the Confidential Information by the Confidant or the permitted recipients other than in accordance with this Deed.

8. No exclusion of law or equity

This Deed does not exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.

9. Waiver

9.1 No waiver by the Principal of one breach of any obligation or provision of this Deed will operate as a waiver of another breach of any other obligation or provision of this Deed.

- 9.2 None of the provisions of this Deed will be taken to have been varied waived discharged or released by the Principal unless by its express consent in writing.

10. Remedies Cumulative

10.1 Cumulative

The rights and remedies provided under this Deed are cumulative and not exclusive of any other rights or remedies.

10.2 Other Instruments

Subject to the other covenants of this Deed, the rights and obligations of the parties pursuant to this Deed are in addition to and do not derogate from any other right or obligation between the parties under any other deed or agreement to which they are parties.

11. Variations and amendments

No term or provision of this Deed may be amended or varied unless reduced to writing and signed by the parties in the same manner as this instrument.

12. Applicable law

This Deed will be governed and construed in accordance with the law of New South Wales and the Commonwealth of Australia.

13. Notices

- 13.1 Notices must be sent to the other party at the address shown in this Deed, or the address last notified to the other party in writing, or in the case of the Confidant, at the Confidant's registered office.
- 13.2 All notices must be in writing and signed by the relevant party and must be given either by hand delivery, post or facsimile transmission.
- 13.3 If delivery or receipt of a notice is not made on a business day, then it will be taken to be made on the next business day.

Executed as a Deed thisday of.....20....

SIGNED, SEALED AND DELIVERED

)
)
)
by)
[insert name and position of person signing]) (signature of authorised officer for the
Principal)
for and on behalf of)
.....)
[Insert name of the Principal under the
Agreement])
)
In the presence of:)
)
)
.....)
[insert name of Witness]) (signature of Witness)

SIGNED, SEALED AND DELIVERED

)
)
)
by.....)
[insert name of Confidant]) (signature of Confidant)
)
in the presence of.....)
.....)
[insert name of Witness]) (signature of Witness)
)

- END OF SCHEDULE 6 -

Schedule 7

Undertaking

THIS DEED is made the day of20...

BETWEEN

.....[
Name, ACN and address of financial institution]) ("**Provider**")

AND..... [Insert name of the Principal under the Agreement.] ("**Beneficiary**")

IT IS AGREED

At the request of [Guide Note: Insert name of the Contractor] ("**Customer**") and in consideration of, among other things, the Beneficiary accepting this undertaking in connection with [Guide Note: describe contract], the Provider unconditionally undertakes to pay to the Beneficiary on demand in writing any sum or sums from time to time up to a maximum aggregate sum of [Guide Note: amount in words] (\$[]) ("**Sum**"). The Provider unconditionally and irrevocably agrees to pay such moneys to the Beneficiary immediately.

This undertaking is to continue until a notification has been received from the Beneficiary that the Sum is no longer required by the Beneficiary or until this undertaking is returned to the Provider or until payment to the Beneficiary by the Provider of the whole of the Sum or such part as the Beneficiary may require.

The Provider may at any time without being required to do so pay to the Beneficiary the Sum less any amount or amounts it may previously have paid under this undertaking or such lesser sum as may be required by the Beneficiary and thereupon the Provider shall cease to be liable.

This deed is governed by and must be construed in accordance with the laws of New South Wales.

Executed as a deed this day of20....

SIGNED, SEALED AND DELIVERED

for and on behalf of

.....
[Insert name of the beneficiary]

by
[insert name of beneficiary's authorised officer]

In the presence of:

.....
[insert name of Witness]

.....
(signature of authorised officer of
beneficiary)

.....
(signature of Witness)

THE COMMON SEAL of

.....
[insert name of Provider]

ABN:.....
[insert Provider ABN]

was duly affixed hereto at.....

.....in the State of
[insert name of City / Town]

.....[insert name of State
or Territory]

in the presence of
[insert name of Secretary or other permanent
officer]

.....
(Corporate seal)

.....
(signature of Director)

.....
(signature of Secretary or other
permanent officer)

- End of Schedule 7 -

Schedule 8

Not Used

Schedule 9

Contractor Information

Schedule 10

Not Used

Schedule 11

Not Used

Schedule 12

Sample Confirmation of Insurances Obtained form

Confirmation of Insurances

Insurance Body:

Insured:

Re: Agreement for the provision of Telephone Information Services between the Insured and the Principal

It is confirmed that:

1. The Insured has obtained the following policies (the Insurance Policies)

- (a) Broad Form Liability Expiry __/__/20__
- (b) The public liability component of the Broad Form Liability policy is to the value of \$AUD____(the Limit of Indemnity) in respect of each claim; and
- (c) The products liability component of the Broad Form Liability policy is to the value of \$AUD____for the total aggregate liability for all claims arising out of the Insured's products for the period of cover.
- (d) Professional Indemnity Insurance to the value of \$AUD_____, Expiry __/__/20__
- (e) Other insurances, if required:

Type of insurance	Value
_____	_____
_____	_____

- 1. The interest of the Principal, the State, and any subcontractor is noted in the insurance policy/ies.
- 2. The Insurance Policies contain a cross-liability clause in which the insurer agrees to waive any rights of subrogation or action that it may have or acquire against all or any of the persons comprising the insured or otherwise entitled to the benefit of the policy.
- 3. The insurer will notify all named insured of any variation or cancellation of the policy and the insurer will accept that a notice of claim given to the insurer by the Principal, the Contractor or the sub-contractor will be accepted by the insurer as a notice of claim given by all of the insured.

Attach a Certificate of Currency for the policy/ies above.

Specify below any exclusions beyond the standard exclusions for the Insurance Policies.

Authorised Representative of Insurer
Position:
Dated:

Signed:

Schedule 13

List of Approved Sub-Contractors

Item	A. List of approved sub-contractors (Clause)
------	---

Schedule 14

Approved Sub-Contractors Information

A.Approved Sub-Contractor Information

Price Schedule

Tenderers are requested to provide pricing details as per the following:

1. Set-up fee

Tenderers may propose a set-up fee which would be a one-off fee payable at the commencement of the contract in the first year and would cover the cost of preparing facilities to service the requirements of Lands. Any set-up fee must be itemised and may include (but not limited to) procuring resources, developing systems etc.

Set-Up Fee (including GST): \$ _____

Provide an itemised breakdown of any proposed set-up fee.

2. Variable fee schedule

Tenderers may use one or both of the following variable pricing models. The tenderer must indicate their preferred pricing model (a or b) if both pricing models are proposed.

The Service Charge is the variable fee payable for the services provided during a Settlement Period.

The Settlement Period for the completed customer contacts is one (1) week consisting of a maximum of five (5) working days.

a. Rate Per Call

Rate Per Call is a set amount for every completed customer contact by telephone. It should include, but is not limited to, the following: direct and indirect labour charges, data charges, technology charges and the cost of facilities.

At the end of every week, the total calls are multiplied by the Rate Per Call as per Table - A to compute the Service Charge for the week.

TABLE - A

Call Volumes per Settlement Period		Estimated Resources Requirement	Rate Per Call (\$ per Call) (Including GST)
Minimum	Maximum		

b. Capacity Charge

Capacity Charge is a flat fee per Settlement Period for volumes of completed customer contacts by telephone, based on a scale. It should include, but is not limited to, the following: direct and indirect labour charges, data charges, technology charges and the cost of other facilities.

At the end of every week, the corresponding Capacity Charge for total calls from the Table - B below will determine the Service Charge for the week.

TABLE - B

Call Volumes per Settlement Period		Estimated Resources Requirement	Capacity Charge (\$) (Including GST)
Minimum	Maximum		

3. Schedule of fees for additional services

Lands may require additional services from time to time. Examples of such services include (but are not limited to) market research, customer research, participation in marketing campaigns and mail-house services.

Tenderer's may attach a schedule of rates for additional services.

4. Alternative Pricing

Tenderers may also choose to provide a different pricing model under the Alternative Tender provisions detailed in Part B clause 7.1. In particular, tenderers submitting an Alternative Tender should be aware that Alternative Tenders will only be considered if submitted in conjunction with a Conforming Tender

5. Tenderer's Pricing Assumptions

Tenderer's must list and provide details of ALL assumptions on which their pricing is based. In all cases, the pricing information must be fully explained.