

## Information

### Notifying Party

#### 1. Provide details of the notifying party, including:

1.1 **Name:** Shellharbour City Council on behalf of itself, Wollongong City Council and Shoalhaven City Council (together, the **Councils**).

**Address:** 76 Cygnet Avenue, Shellharbour City Centre, NSW 2529

**Telephone number:** (02) 4221 6111

**ABN:** 78 392 627 134

1.2 **Contact person's name:** Courtney Williams

**Telephone number:** (02) 4221 6117

**Email address:** courtney.williams@shellharbour.nsw.gov.au

#### 1.3 A description of its business activities

The Councils are local government authorities as defined under the *Local Government Act 1993* (NSW) (the **Local Government Act**). Under the Local Government Act, the Councils may provide goods, services and facilities, and carry out activities, appropriate to the current and future needs within its local community and of the wider public. The business activities of the Councils includes the provision of services relating to waste removal, treatment and disposal services and facilities, and energy production, supply and conservation.

1.4 Email address for service: courtney.williams@shellharbour.nsw.gov.au

### Details of the notified conduct

#### 2. Indicate whether the notified conduct is for:

2.1 Not applicable

2.2 Not applicable

2.3 The notified conduct is for collective bargaining (s. 93AB) that does not include a collective boycott.

#### 3. Provide details of the notified conduct including:

##### 3.1 a description of the notified conduct:

3.1.1 The Councils each wish to engage a landfill gas contractor by way of a joint Request for Tender process to provide the following services:

- (a) installing and operating landfill gas facilities at the Council's landfill site to capture, manage and destroy landfill gas;
- (b) maintaining and administering the Council's Eligible Offsets Project under an applicable carbon credit scheme and use the landfill gas to generate electricity, realise and sell carbon credits and other tradeable instruments under the carbon credit scheme; and

- (c) any additional services as agreed by the Council and the successful tenderer,

(together, the **Landfill Gas Services**).

3.1.2 In the provision of the Landfill Gas Services, the landfill gas contractor must also provide the 'Landfill Gas Contractor Activities', which comprise each of the works and activities that the landfill gas contractor must undertake in order to perform the Landfill Gas Services. The Landfill Gas Contractor Activities include:

- (a) installing the landfill gas capture, transfer and destruction system and plant at each Council landfill site;
- (b) the provision of operation and maintenance activities to operate and maintain the landfill gas capture, transfer and destruction system and plant at each Council landfill site; and
- (c) activities required to generate electricity and to sell and/or distribute that electricity, including the provision of a power generation plant which is connected to the national grid.

3.1.3 The intended outcome of the Request for Tender process is for each Council to form separate contracts with the successful tenderer for the performance of the Landfill Gas Services. The Request for Tender process allows for each Council to engage separate tenderers or for all three Councils to engage the same tenderer, under separate contracts.

### 3.2 **any relevant documents detailing the terms of the notified conduct**

3.2.1 A copy of the following Request for Tender documents have been attached at Annexure 1 to this notification application:

- (a) Volume 1 – Conditions of Tendering
- (b) Volume 2 – Conditions of Contract
- (c) Volume 3 – Specification
- (d) Volume 4 – Technical Response Schedules
- (e) Volume 5 – Commercial Response Schedules
- (f) Volume 6 – Wollongong Council Reference Documents
- (g) Volume 7 – Shoalhaven Council Reference Documents
- (h) Volume 8 – Shellharbour Council Reference Documents

### 3.3 **the rationale for the notified conduct**

3.3.1 The intention of the Councils is that the Landfill Gas Services will be provided across all local government areas of the Councils by the same or different landfill gas contractors under separate contracts with each Council. All Councils are in close proximity, provide similar waste management and landfill services to the community and have comparable requirements under the agreement.

3.3.2 The Request for Tender process, run by the Illawarra Shoalhaven Joint Organisation (which comprises the Councils, and Kiama Municipal Council), is

modelled on previous tender processes carried out by the Illawarra Shoalhaven Joint Organisation.

**3.4 any time period relevant to the notified conduct.**

3.4.1 The contract term will comprise a term of 10 years with two options for the Councils and the successful tenderer to extend the term for 5 years.

3.4.2 The following timetable provides an indicative timeline for the Request for Tender process:

Action	Time/Date
Tender release (date Tender was advertised)	8 May 2018
Final date for enquiries	29 May 2018
Final date for Updates	29 May 2018
Tender closing time	5 June 2018
Evaluation of Tenders	22 June 2018
Tender award	August 2018 (estimated)
Services Commencement Date	October 2018 (estimated)

**4. Provide documents submitted to the notifying party's board or prepared by or for the notifying party's senior management for purposes of assessing or making a decision in relation to notified conduct and any minutes or record of the decision made.**

4.1 The attached Request for Tender documents have been prepared and released in accordance with the ISJO Procurement Plan.

4.2 A copy of the ISJO Procurement Plan can be provided if required.

4.3 The Request for Tender process for the Landfill Gas Services as described in this notification application has been developed in accordance with the *Tendering Guidelines for NSW Government* (October 2009). The Councils are conducting the Request for Tender for the Landfill Gas Services in accordance with the requirements of the Local Government Act.

**5. Provide the names and/or a description of the persons or classes of persons who may be directly impacted by the notified conduct (including targets in collective bargaining or boycott conduct) and detail how or why they might be impacted.**

5.1 The Councils consider that the notified conduct as described in this notification application will provide significant benefits to ratepayers in each Councils' local government area. Further details of benefits are set out in Item 10 of this notification application.

5.2 Landfill gas contractors who are likely to be interested in the Request for Tender and therefore impacted are listed in Item 12 of this notification application.

## **Market information and concentration**

**6. Describe the products and/or services supplied, and the geographic areas supplied, by the notifying parties. Identify all products and services in which two or more parties to the notified conduct overlap (complete with each other) or have a vertical relationship (e.g. supplier-customer).**

6.1 The Landfill Gas Services are described in Item 3.1 of this notification application. The Councils are each potential acquirers of the Landfill Gas Services in their respective local government areas.

6.2 The Councils consider that the market for the provision of Landfill Gas Services is a national market, or at least a state wide market.

**7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.**

7.1 The relevant industry or industries relevant to the notified conduct include:

7.1.1 waste and landfill management;

7.1.2 landfill gas management; and

7.1.3 electricity generation.

**8. In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.**

As set out in Item 6 of this notification application, the Councils are each potential acquirers of the Landfill Gas Services in their respective local government areas.

**9. Describe the competitive constraints on the parties to the proposed conduct, including any likely change to those constraints should authorisation be granted. You should address:**

**9.1 existing or potential competitors**

In acquiring landfill gas services, the Councils compete with other potential acquirers of such services including other local councils across NSW and Australia. The Councils consider the potential suppliers of these services to the Councils are also likely to offer similar services to other local councils (or groups of local councils) across Australia. The Councils do not consider that there will be any change in competitive constraints as a result of the proposed conduct.

**9.2 the likelihood of entry of new competitors**

The Councils consider the proposed conduct will not have any impact on the number of competitors for the supply of landfill gas services as such contractors would potentially be able to supply multiple customers. As noted above, there are many potential customers for the provision of landfill gas services including local councils across NSW and Australia and potentially private waste contractors as well. It is likely that tenders from other councils in NSW, or nationally, will become available during the Request for Tender process and the resulting terms of the contract with each of the Councils.

**9.3 any countervailing power of customers and/or suppliers**

Not applicable

**9.4 any other relevant factors**

Not applicable

## **Public benefit**

**10. Describe the benefits to the public that are likely to result from the notified conduct. Provide information, data, documents and other evidence relevant to the ACCC's assessment of the public benefits.**

10.1 The Councils consider that the notified conduct as described in this notification application will result in significant public benefits, including:

10.1.1 Improved cost efficiency

- (a) Sharing transaction costs: the joint Request for Tender process between the Councils will enhance the cost-efficiency of the Councils operations by reducing negotiation, contracting and administrative costs for each Council. This will translate to cost savings for rate payers in each Council local government area. The costs saved will allow the Councils to focus their efforts on other Council responsibilities and to better serve the public.
- (b) Coordinating the landfill gas operations of the Councils: the joint Request for Tender process will encourage a competitive market for the provision of Landfill Gas Services and achieve economies of scale for the Councils. The time saved will allow the Councils to focus their efforts on other Council responsibilities and functions to better serve the public.

10.1.2 Improved environmental outcomes

The effective management of landfill gas at each Council landfill site will lead to improved environmental outcomes, including the effective generation of carbon credits which will reduce each Council's carbon footprint, reduce risk of subsurface gas migration and odour control.

## **Public detriment including any competition effects**

**11. Describe any detriments to the public that are likely to result from the notified conduct, including those likely to result from any lessening of competition. Provide information, data, documents, or other evidence relevant to the ACCC's assessment of the detriments.**

11.1 The Councils consider that the notified conduct is not likely to result in any public detriment from any reduction in competition between the Councils to acquire Landfill Gas Services or from alternative landfill gas contractors to bid for the Councils' business for the reasons described in Item 9 of this notification application.

11.2 The Request for Tender process is being conducted in accordance with the requirements of the Local Government Act, including the Tendering Guidelines for NSW Local Government (October 2009).

## **Contract details of relevant market participants**

**12. Identify and/or provide contact details (phone number and email address) for likely interested parties, such as actual or potential competitors, customers and suppliers, trade or industry associations and regulators.**

LMS Energy Pty Ltd  
Contact: Jason Dockerill

Phone number: (08) 8291 9000  
Email address: info@lms.com.au

Run Energy Pty Limited  
Contact: Aaron Demuth  
Phone number: (03) 9538 6200  
Email address: info@runenergy.com

Landfill Gas Industries Pty Ltd  
Contact: Adam Bloomer  
Phone number: (07) 3711 5225  
Email address: enquiries@lgi.com.au

### **Any other information**

13. **Provide any other information you consider relevant to the ACCC's assessment of the notified conduct.**

Not applicable

### **Additional information for collective bargaining (with or without a collective boycott) conduct only**

14. **Confirm that the notifying party is not a trade union, an officer of a trade union or acting at the direction of a trade union.**

The notifying party is not a trade union, an officer of a trade union or acting at the direction of a trade union.

15. **Provide details (name, phone number, email address) of the persons who are current members of the group (contracting entities) on whose behalf the notification is lodged. If relevant, identify the classes of persons who may become contracting parties in the future and on whose behalf the notification is lodged.**

15.1 **Name:** Shoalhaven City Council (David Hojem)

**ABN:** 59 855 182 344

**Phone number:** (02) 4429 3111

**Email address:** council@shoalhaven.nsw.gov.au

15.2 **Name:** Wollongong City Council (Jen Nolan)

**ABN:** 63 139 525 939

**Phone number:** (02) 4227 7111

**Email address:** council@wollongong.nsw.gov.au

16. **Confirm each contracting party reasonably expects to make one or more contracts with the targets for the supply or acquisition of the relevant goods or services and the value of each contract will not exceed A\$3 million (or any other amount prescribed by regulation) in any 12 month period. Provide details of the basis for that expectation.**

16.1 The Councils confirm that they each reasonably expect to make one contract with the successful tenderer for the supply of the Landfill Gas Services, and that each of these contracts will not exceed A\$3 million in any 12 month period.

16.2 The expectation of the Councils set out in section 16.1 above is based on a 'marketplace review' with respect to the joint Request for Tender that was prepared by Golder Associates in September 2015. The result of the marketplace review was that the estimated potential value of the contracts formed with each Council and the successful tenderer/s would fall below the A\$3 million threshold in any 12 month period.

17. **If the contracting parties propose to engage in a collective boycott with respect to the targets, provide details of:**

17.1 **the event/s that would trigger a collective boycott**

17.2 **the process that would be followed**

17.3 **any proposed notice to be given to the target/s prior to commencing a collective boycott**

17.4 **any proposed dispute resolution procedure between the contracting parties and the targets.**

Not applicable


## Declaration by notifying party

Authorised persons of the notifying party must complete the following declaration.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).

.....  
Signature of authorised person

**SHELLHARBOUR COUNCIL**  
  
.....  
**Flora Lepouras**  
**PUBLIC OFFICER**

.....  
Office held

(Print) Name of authorised person

This 11<sup>th</sup> day of July 2018

*Note: If the Notifying Party is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Notifying Party, this fact must be stated.*

## **Annexure 1 – Request for Tender documents**



## ILLAWARRA SHOALHAVEN JOINT ORGANISATION

### Volume 1 - Conditions of Tendering

#### Request for Tender

<b>Tender Title:</b>	<b>Illawarra Shoalhaven Joint Organisation (ISJO) Landfill Gas Services Tender</b>
<b>Tender Number:</b>	<b>ISJO 02/2018</b>
<b>Issue Date:</b>	<b>08 May 2018</b>
<b>Final Date for Updates:</b>	<b>29 May 2018</b>

#### Key Details:

<b>Contact officer:</b>	Tracey Maguire, Regional Procurement Coordinator, Illawarra Shoalhaven Joint Organisation via TenderLink at <a href="http://www.tenderlink.com/ipjo">www.tenderlink.com/ipjo</a>
<b>Closing date and time:</b>	05 June 2018 – 2.00pm
<b>Place for lodgement:</b>	<a href="http://www.tenderlink.com/ipjo">www.tenderlink.com/ipjo</a> or Tender Box, Shellharbour City Council, Administration Centre – Customer Service, 76 Cygnet Avenue (Cnr Cygnet and College Avenue), Shellharbour City Centre, NSW.
<b>Tender questions:</b>	Via the online forum only

#### Documents Comprising this Request For Tender

<b>Item No.</b>	<b>Document Header</b>	<b>Document Title</b>
<b>1</b>	Volume 1	Conditions of Tendering
<b>2</b>	Volume 2	Conditions of Contract
<b>3</b>	Volume 3	Specification
<b>4</b>	Volume 4	Technical Response Schedules
<b>5</b>	Volume 5	Commercial Response Schedules
<b>6</b>	Volume 6	Wollongong Council Reference Documents
<b>7</b>	Volume 7	Shoalhaven Council Reference Documents
<b>8</b>	Volume 8	Shellharbour Council Reference Documents

## VOLUME 1 - CONDITIONS OF TENDERING

This Volume contains the requirements for the preparation and lodgement, timetable, and overview of the evaluation method and criteria, and procedures and protocols for the Landfill Gas Management Services Request for Tender (RFT).

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## **1. INTRODUCTION**

### **1.1 DETAILS OF THE ILLAWARRA SHOALHAVEN JOINT ORGANISATION**

The Illawarra Shoalhaven Joint Organisation (ISJO) represents local government in the Illawarra and South Coast regions of NSW. Member Councils participating in this Request for Tender (RFT) are Wollongong, Shellharbour and Shoalhaven City Councils.

### **1.2 SUMMARY OF THE RFT**

The Councils are each inviting Tenders from appropriately qualified providers experienced in all aspects of Landfill Gas Management Systems. The Contract offered to the Successful Tenderer/s will be for the provision of landfill gas management services.

A separate contract is proposed for the provision of the Landfill Gas Management Services to each Council for that Council's Site. The Contract requires the Contractor to provide the Landfill Gas Management Services in accordance with the Contract including the Specification. The Contractor is required to carry out all necessary Contractor Activities furnish all plant, qualified labour, equipment and materials, and perform all tasks and operations to design and construct, operate and maintain the Landfill Gas Management System for the Site as described in the Specification and Conditions of Contract

The Contract provides for a revenue sharing arrangement under which the proceeds of revenue from Carbon Credit Schemes and Electricity Generation are split in accordance with an agreed Revenue Sharing Proportion (percentage).

The RFT details Councils' requirements. To enable Tenders to be fully assessed responses are sought to all of the Evaluation Criteria. In particular, all Tender Schedules must be completed and returned and all required supporting documentation requested must be provided.

The Tender seeks revenue share responses on two alternative bases:

- ▶ For the provision of Landfill Gas Management Services to each Site separately (i.e. if the Tenderer is only awarded the Contract for that Site);
- ▶ For all of the Sites (i.e. if the Tender is awarded the Contract for all three Sites).

Tenders will be assessed in respect of each Site separately and for all three sites.

The Successful Tenderer for each Site will be selected based on the Evaluation Criteria which include best value considerations including, but not limited to, cost, relevant experience and performance, Work, Health and Safety management, and environmental management.

A more detailed brief of the extent of Services required is set out in Volume 3 'Specification' of the Tender.

### **1.3 START-UP REQUIREMENTS**

Council requires the Successful Tenderer/s to undertake induction initially at each Council of all their Personnel.

The Successful Tenderer/s must have access to internet and email (to receive Purchase Orders and make reports).

The successful Tenderer/s must become fully accredited with the BNG Conserve – Contract Management System.

## 1.4 STRUCTURE OF THIS REQUEST FOR TENDER (RFT)

This RFT comprises the following parts:

### Volume 1: Conditions of Tendering

The purpose of this Volume is to describe the tender process and provide instructions as to the Tender requirements. Part 1 includes:

- ▶ the timetable with regard to the Tender process;
- ▶ the requirements for the preparation and lodgement of Tenders;
- ▶ an overview of the Tender evaluation method and criteria, and
- ▶ the procedures and protocols governing communication between Council and Tenderer during the Tender process.

### Volume 2: Conditions of Contract

A draft copy of the Contract that Council proposes to enter into with the Successful Tenderer/s.

### Volume 3: Specification

Provides all details of the requirement, including outputs and deliverables.

### Volume 4: Response Schedules - Technical

Contains the schedules that Tenderers are required to complete when submitting a Tender with regards to technical aspects.

### Volume 5: Response Schedules - Commercial

Contains the schedules that Tenderers are required to complete when submitting a Tender with regards to pricing and commercial aspects.

## 1.5 CONTACT OFFICERS

Information about this Tender must only be sought and obtained from the Contact Officer.

Tenderers should not seek information from any Councillor, or other Council employee, or Council contractor or their employees or subcontractors. If a Tenderer directly contacts and seeks information from any Councillor, or other Council employee (other than the Contact Officer), or Council contractor or their employees or subcontractors that Tenderer may be eliminated from the RFT.

## 1.6 TENDERING BRIEFINGS

Pre-tender site inspections and tender briefings will be held at the following sites on Tuesday 15 May 2018.

Table 1

15 May 2018	9.00am	West Nowra Recycling and Waste Depot Facility, 114 Flatrock Road, Mundamia, NSW West Nowra Recycling and Waste Depot Facility, 114 Flatrock Road, Mundamia, NSW West Nowra Recycling and Waste Depot Facility, 114 Flatrock Road, Mundamia, NSW
15 May 2018	11.30am	Dunmore Recycling and Waste Disposal Depot located at 44 Buckleys Road, Dunmore, NSW
15 May 2018	2.30pm	Wollongong Waste and Resource Recovery Park (Whytes Gully) located at 133 Reddalls Road, Kembla Grange, NSW

Attendance by a senior member of the Tenderer's organisation is recommended.

The Tender Conditions set out limits on relying on information including that which is provided during these briefing sessions.

No reliance is to be placed on any oral or spoken information provided during this or any subsequent briefings and inspections.

The Tenderer must raise any questions as a result of any pre-tender briefing or site inspection in writing via the TenderLink forum.

The pre-tender briefing does not relieve a Tenderer's responsibility to completely assess the requirements of the Services and to perform and discharge the obligations of the Contract. All Tenderers must make their own enquiries.

Please confirm with the Tracey Maguire, [tmaguire@isjo.org.au](mailto:tmaguire@isjo.org.au) your attendance at these briefings no later than 10.00am 14 May 2018.

Attendance at this meeting is not mandatory.

### 1.7 TENDER TIMETABLE

The timetable below provides indicative events and dates relevant to the RFT process. Dates may vary.

Table 2

Event	Date
Tender release	08 May 2018
Onsite inspection and tender briefing	15 May 2018
Clarification and questions close	29 May 2018
Tender closes	05 June 2018 – 2.00pm
Evaluation of Tenders	19 June 2018
Contract execution	From 30 June 2018

### 1.8 CONDITIONS OF TENDERING

Tenderers must comply with the Conditions of Tendering

By Lodging a Tender, the Tenderer:

- ▶ Warrants and represents that it has complied with and will continue to comply with the Terms and Conditions of Tendering; and
- ▶ Warrants that it will enter into the Contract in accordance with that Tender if successful.

If a Tenderer fails to comply with the Conditions of Tendering, this may be taken into account in the evaluation of the Tender and decision to award the Contract.

## 1.9 AVAILABILITY OF THIS RFT

This RFT is available on the ISJO TenderLink website [www.tenderlink.com/ipjo](http://www.tenderlink.com/ipjo) at no cost.

## 1.10 DEFINITIONS

Unless the context requires otherwise, the following terms used in the RFT have the meanings ascribed to them as set out below. However, please also refer to Part A: Landfill Gas Services Contract [clause 1.3] for definitions of terms used within this document and other documents of the RFT:

**Addenda or Addendum** means any change or amendment to the RFT notified to the Tenderers in accordance with this RFT.

**Closing Date** means the closing date for the lodgement of Tenders as set out on the Cover Page.

**Closing Time** means the time on the Closing Date by which the lodgement of Tenders must have occurred as set out on the Cover Page.

**Conforming Tender** means a Tender that has fully completed and returned each Returnable Schedule.

**Conditions of Tendering** means the conditions of Tender set out in Part 2 of Volume 1 of this RFT.

**Contact Person** means the person nominated as such on the Cover Page.

**Council means each of** The City of Shoalhaven, the City of Shellharbour and the City of Wollongong.

**Council Associate** means any Councillor, employee, servant or agent of Council and any contractor or subcontractor and their respective employees.

**Cover Page** means the cover page of this RFT.

**Disclosed Information** means any information provided by Council or a Council Associate in respect of the RFT or the Services or any Site.

**Evaluation Criteria** means the Mandatory Criteria specified in Table 3 [2.14] and the Commercial and Technical Evaluation Criteria specified in Table 5 [2.15].

**Final Date for Updates** means the last day for Council to issue any Addenda specified on the Cover Page

**Late Tender** means a Tender received by the Council after the Closing Time.

**Nominated Contact** means Council's "Nominated Contact Person" as set out on the Cover Page.

**Non-Conforming Tender** means a Tender other than a Conforming Tender.

**Council's Representative** means the officer nominated by and representing the Council for the purposes of the Contract.

**Request** means the Council's documentation requesting the provision of Services from suitably qualified Successful Tenderer.

**Request for Tender (RFT)** means the Council's documentation requesting the provisions of services from suitably qualified Tenderers. The RFT comprises five volumes, as provided at clause 1.3 of this document for Tender ISJO 01/2018.

**Site** means for each Council the Landfill Site identified as follows:

**Shoalhaven:** West Nowra Recycling and Waste Depot Facility, 114 Flatrock Road, Mundamia, NSW

**Shellharbour:** Dunmore Recycling and Waste Disposal Depot located at 44 Buckleys Road, Dunmore, NSW

**Wollongong:** Wollongong Waste and Resource Recovery Park (Whytes Gully) located at 133 Reddalls Road, Kembla Grange, NSW

**Successful Tenderer** means the Tenderer accepted by Council to provide the Services.

**Tender** means a submission received in response to this RFT.

**Tender Evaluation Committee** means the committee responsible for evaluating responses to the RFT

**Tenderer** means the entity replying to the RFT.

**Terms and Conditions of Agreement** means the Contract formed by the acceptance of a Tender, and governed by the Conditions of Contract for Tender ISJO 01/2018

**Term of Contract** means the Contract duration as defined in Part A: Landfill Gas Services Contract [clause 3.1].

## **2. CONDITIONS OF TENDERING**

### **2.1 HOW TO PREPARE YOUR TENDER RESPONSE**

- 2.1.1 Carefully read all parts of the RFT.
- 2.1.2 Ensure you understand the RFT's requirements.
- 2.1.3 Complete and return the Tender Forms/Returnable Schedules including all attachments. The Tender must be written in typed English.
- 2.1.4 Make sure you have signed the Tender Forms/Returnable Schedules and responded to all of the Selection Criteria.
- 2.1.5 Lodge the Tender before the Deadline.

### **2.2 DISCLOSED INFORMATION**

- 2.2.1 Information on, or in connection with, the Services is provided to Tenderers:
  - (a) in Disclosed Information provided to the Tenderers in writing;
  - (b) in Disclosed Information arising from enquiries, meetings and briefings (as described in these Conditions of Tendering); and
  - (c) through independent due diligence inquiries by Tenderers.
- 2.2.2 A review of publicly available information should also be undertaken by Tenderers.
- 2.2.3 All information made available to Tenderers by or on behalf of Council (or the Council's Associates), is provided for the information of Tenderers and on the basis of the disclaimers, conditions, qualifications and releases set out in this RFT.
- 2.2.4 Further conditions on the disclosure of information by or on behalf of Council to Tenderers in relation to the Services are included in the Conditions of Tendering.

### **2.3 AMENDMENTS TO THE RFT**

- 2.3.1 The Tenderer must not alter or add to the RFT documents unless required by these Conditions of Tendering.
- 2.3.2 Without limiting its rights at law or otherwise, Council may in its absolute discretion by issuing Addendum vary, amend, correct, change, supplement, update or modify any aspect of this RFT.
- 2.3.3 Council may only give Addenda on or before the Final Date for Updates.
- 2.3.4 It is currently proposed that Addenda will be notified by being placed on the TenderLink website (refer to clause 2.3.7 below).
- 2.3.5 Without limiting clause 2.3.2, Council may by Addendum:
  - (a) change the Closing Date, the Closing Time, the Final Date for Updates or any other date or time relating to this RFT process; or
  - (b) include changes to the RFT, including additional documents to be included as Disclosed Information or changes to terms.

- 2.3.6 All Tenders lodged will become the property of Council and on no account will they be returned to Tenderers. Council is not bound to accept the lowest or any Tender.
- 2.3.7 If Council issues an Addendum via the TenderLink website, Council is not responsible if a Tenderer cannot or does not open or read the Addendum on the TenderLink website, for any reason, including as a result of or in connection with any computer viruses, computer defects or system failure.
- 2.3.8 If Council issues an Addendum, then the relevant document is amended accordingly.
- 2.3.9 All conditions of this RFT will apply to any Addendum and any change, amendment, variation, update or supplement to this RFT.

## **2.4 CLARIFICATION OF THE RFT**

- 2.4.1 If the Tenderer has any question regarding the RFT or any doubt as to the meaning of any part of the RFT or the scope of the Work / Specification required, it may make a written enquiry to the Contact Officer up to the date being five (5) Business Days prior to the Closing Time.
- 2.4.2 All requests for clarification must be submitted via the TenderLink Forum which is an open forum that can be seen by all participants.
- 2.4.3 The Contact Officer will respond in writing via the TenderLink Forum, distributing both the clarification enquiry and the reply to all Tenderers subject to clause 2.4.4.
- 2.4.4 The Contact Officer will respond in writing to questions via the TenderLink Forum submitted by Tenderers, however, the nature and extent of the questions will determine the time frame within which Council will be able to respond.
- 2.4.5 The Councils reserve the right not to answer requests for clarifying information made within five (5) Business Days prior to the Closing Time. Alternatively, when submitting its Tender the Tenderer may include a statement of the interpretation upon which it relies and upon which the Tender has been prepared.

If Councils make a response to an enquiry via the TenderLink website, Councils are not responsible if a Tenderer cannot or does not open or read the response on the TenderLink website, for any reason, including as a result of or in connection with any computer viruses, computer defects or system failure.

- 2.4.6 If requested the Tenderer must acknowledge receipt of any response.
- 2.4.7 Unless explicitly stated otherwise in this RFT or otherwise with prior written approval from the Contact Officer, Tenderers must not directly or indirectly contact or direct any enquiries to:
- (a) any government agencies or their representatives or personnel; or
  - (b) Council, Council's Associates or any involved State or Commonwealth officers in relation to any aspect of the Services or this RFT, other than the Contact Officer.
- 2.4.8 All communications regarding the Services must be via the processes set out in this RFT.
- 2.4.9 All media enquiries regarding this RFT must be directed to the Contact Officer. No statement made in the media by any person (whether or not on behalf of Council) shall be binding on Council as between Council and any Tenderer.
- 2.4.10 Tenderers acknowledge and agree that if they approach any government agencies and organisations or any person other than the Contact Officer:
- (a) such government agencies and organisations or persons have no authority to make statements for or on behalf of Council; and

- (b) any statements made by or on behalf of them or information provided or otherwise made available by or on behalf of them:
  - (i) will not be binding on or otherwise commit Council, including in the RFT process, under the Contract or under any subsequent process;
  - (ii) does not necessarily represent the view of Council or any Council's Associate; and
  - (iii) is not necessarily endorsed by Council or any Council's Associate.

## **2.5 CONDITIONS FOR MEETINGS**

The following conditions will apply to all meetings convened under this RFT unless otherwise notified by the Contact Officer prior to the meeting:

- 2.5.1 prior to the meeting the Contact Officer will circulate an agenda and meeting protocol;
- 2.5.2 the Tenderer must provide to the Contact Officer a list of its attendees no later than one Business Day prior to each meeting;
- 2.5.3 minutes of the meetings will be taken and issued by Council, those minutes must be confirmed by the Tenderer no later than two Business Days after receipt by the Tenderer. If within this period there is no written response by a Tenderer notifying disagreement with the minutes, the minutes will be deemed to have been accepted by the Tenderer;
- 2.5.4 Council is not under any obligation to discuss or clarify any matter with, or answer any question of, any Tenderer at a meeting.

## **2.6 TENDERERS TO INFORM THEMSELVES**

- 2.6.1 The Disclosed Information has been provided in good faith. It is intended only as an explanation of the Council's requirements and is not intended to form the basis of a Tenderer's decision on whether to enter into any contractual relationship with the Council.
- 2.6.2 The Disclosed Information provided does not purport to be all-inclusive or to contain all information a prospective contractor may require. Tenderers and their advisers must take their own steps to verify information which they use and must make an independent assessment of the opportunity described in this RFT document after making such investigation and taking such professional advice as they deem necessary.
- 2.6.3 Tenderers will be deemed to have:
  - (a) examined the Disclosed Information, including the RFT and any other information available in writing to Tenderers for the purpose of Tendering;
  - (b) examined all further information relevant to the risks, contingencies, and other circumstances having an effect on its Tender which is obtainable by the making of reasonable enquires;
  - (c) satisfied themselves as to the correctness and sufficiency of their Tenders including tendered prices which will be deemed to cover the cost of complying with this RFT document and of all matters and things necessary for the due and proper performance and completion of the work described therein; and
  - (d) satisfied themselves that they have a full set of the RFT documents and all relevant attachments.

- 2.6.4 The Tenderer is required to independently acquaint and satisfy itself with all aspects of the RFT. The Tenderer is deemed to have:
- (a) examined all information relevant to the risks, contingencies and other circumstances having an effect on the sufficiency of the tendered pricing and the Tender for the provision of the Services and the performance and discharge of the obligations of the Successful Tenderer that are to be performed and discharged;
  - (b) satisfied itself as to the correctness and sufficiency of the RFT and that the tendered rates and prices cover the cost of complying with the RFT and all matters and things necessary for the due and proper provision of the Services in accordance with the Contract.
- 2.6.5 Neither the Council, the Council's directors, officers, employees, agents or advisers makes any representation or warranty as to the adequacy, accuracy, reasonableness or completeness of the Information in this RFT.
- 2.6.6 Neither the Council nor their professional advisers shall be liable for any loss or damage arising as a result of reliance on the Disclosed Information, nor for any expenses incurred by Tenderers at any time in relation to the Disclosed Information or the RFT.
- 2.6.7 Any advisers or agents appointed by the Council, whether legal, financial, technical or other, will not be responsible to anyone other than the Council for providing advice in connection with the RFT.

## **2.7 SUBMISSION OF TENDERS**

- 2.7.1 By Submitting a Tender, the Tenderer represents and warrants that:
- (a) the Tenderer submits its Tender in good faith;
  - (b) no information provided by or on behalf of the Tenderer to Council is or will be false or misleading;
  - (c) it has no conflict of interest at the date of submitting its Tender. The Tenderer will immediately inform Council of it becoming aware of any actual or potential conflict of interest,
  - (d) It has not colluded in any way with any other Tenderer including in an attempt to 'price fix' or decrease the competition of RFT in any way. Evidence of collusive tendering may lead to the rejection of some or all Tenders and the Tenderers involved in such practices may be barred from tendering to Council in the future and may be reported to the Australian Competition and Consumer Commission; and
  - (e) It has not directly approached or attempted to influence any elected or staff member of Council.
- 2.7.2 All Tenders lodged will become the property of Council and on no account will they be returned to Tenderers. Council is not bound to accept the lowest or any Tender.
- 2.7.3 The following documents need to be completed and submitted by the Tenderer:
- Volume 4 - Technical Response Schedules, including:
    - Schedule T1 – Recent Relevant Experience and Referees
    - Schedule T2 – Key Personnel and Experience
    - Schedule T3 – Demand Responsiveness Industrial Relations Information
    - Schedule T4 – Quality Management
    - Schedule T5 – Recording and Reporting
    - Schedule T6 – Preliminary Design
    - Schedule T7 – Preliminary Mobilisation and Commissioning Plan
    - Schedule T8 – Existing Assets

Schedule T9 – Executive Summary  
Schedule T10 – Environmental Management  
Schedule T11 – Work, Health and Safety Management  
Schedule T12 – Industrial Relations Information  
Schedule T13 – Strengthening Local Economies

Volume 5 - Commercial Response Schedule, including:

Schedule C1 – Tender Form  
Schedule C2 – Schedule of Revenue Arrangements  
Schedule C3 – Schedule of Insurance Certificates  
Schedule C4 – Departures, Clarifications and Assumptions  
Schedule C5 – Statement of Conflicts of Interest and Fair Dealing  
Schedule C6 – Statement of Threatened or Pending Litigation  
Schedule C7 – Statement of Compliance

- 2.7.4 Where applicable, each Tender must refer to each Addendum and state that the Tenderer allows for the instruction given in the Addendum.
- 2.7.5 General information about the Tenderer's business, such as brochures, advertising, product or company information other than those expressly requested, are not to be sent with the Tender submission. If required the Tender Evaluation Committee will request these materials separately.

## **2.8 LODGEMENT OF TENDERS**

The Tender must be lodged by the Closing Date and Time and by the method as outlined below:

- 2.8.1 *Option 1 (preferred)* - e-Tendering - electronically via TenderLink through the ISJO online e-tendering portal at [www.tenderlink.com/ipjo](http://www.tenderlink.com/ipjo)
- (a) Should the Tenderer experience any technical difficulties in lodging its Tender via the prescribed electronic manner, they are to avail themselves to the technical support provided by contacting - Electronic Tender Box Technical Help Desk available at [support@tenderlink.com](mailto:support@tenderlink.com) or telephone 1800 233 533.
  - (b) TenderLink is the electronic Tendering system used to allow the electronic publication of information in regards to this RFT, including the RFT documentation, online forum for clarification and questions, issue of Tender notifications and addenda and, to accommodate the electronic submission of Tender responses.
  - (c) Tenders lodged electronically will be treated in accordance with the *NSW Electronic Transactions Act 2000*, and given no lesser level of confidentiality, probity and attention than Tenders lodged by other means.
  - (d) Tenderers electronically lodging a Tender must accept conditions shown on the electronic Tendering website which include conditions with regards to file types and file sizes acceptable. Please review the terms and conditions with regards to the e-Tendering system prior to uploading your Tender response.
  - (e) Council may not consider Tender responses that cannot be evaluated due to being incomplete or corrupt.
  - (f) Electronic lodgement must be "fully complete" by the Closing Date and Time. The electronic link will close on closing time and if a Tender is not complete, it will be deemed as a late Tender and will not be considered.

- (g) Tenders received via electronic transmission other than through the Councils' electronic Tendering site or the expressed electronic format as identified on the cover page (including without limitation an e-mail system, facsimile) will not be accepted.
- (h) Files must be checked by a reputable virus scanning application prior to submission and be found to be free from virus malicious code or other properties (including executable code) that may compromise Councils' IT environment.
- (i) The MS files containing the Schedules provided by Council for completion and return by the Tenderer must remain in the version that they were provided in. i.e. not a different version of MS Word, Excel etc.
- (j) A PDF copy of the Tender should also be provided.

#### 2.8.2 *Option 2 - Via the Tender Box in the Administration Centre of Shellharbour City Council.*

With regards to hard copy Tender submissions, the Tenderer is required to ensure that the Tender is:

- (a) Placed in a sealed envelope clearly marked with the Tender number and title as shown on the front cover of this RFT, and
- (b) Delivered by hand and placed in the Tender Box at Shellharbour City Council Administration Centre – **Customer Service**, 76 Cygnet Avenue (Cnr Cygnet and College Avenue), Shellharbour City Centre, NSW
- (c) Hard copy Tenders must include:
  - (i) two signed copies of the Tender (one to be marked "ORIGINAL" and bound, the other(s) to be marked "COPY"). Only brochures or pamphlets expressly requested are to be attached to both the original and the copies.
  - (ii) all pages must be numbered consecutively and the Tender must include an index; and
  - (iii) a PDF copy of the Tender on either disk or USB. This copy should also not include brochures or pamphlets.

Tenders by any method other than Option 1 or 2 described above will not be accepted.

## 2.9 **ACCEPTANCE OF TENDERS**

- 2.9.1 Unless otherwise stated in the RFT, Tenders may be for all or part of the requirements and may be accepted by the Council either wholly or in part. The Council is not bound to accept the lowest Tenders and may reject any or all Tenders and may waive any irregularities therein.
- 2.9.2 Acceptance of a Tender can only be approved by the passing of a Council resolution, or if a Council has delegated authority for a General Manager to accept a Tender. Once a Council Resolution has been issued accepting a Tender, written notification will be provided to the Successful Tenderer notifying and detailing the extent that their Tender has been accepted.
- 2.9.3 Tenders shall be accepted (and for all purposes shall be deemed to be accepted) when all of the following have occurred:

- (a) a Council resolution has been passed detailing the conditions (if any) of the acceptance of a Tender, or a General Manager with delegated authority accepts a Tender;
- (b) a subsequent Notice of Acceptance or Formal Instrument of Agreement is provided to the Tenderer; or is delivered by prepaid post; or sent by facsimile to the facsimile number given by the Tenderer; or sent by email or some other electronic means to the address furnished in the Offer Form. In the latter case, the time of posting shall be deemed to be the time of acceptance; and
- (c) The Council has executed the Contract.

2.9.4 No legal or other obligation will arise between a Tenderer and the Council in relation to the conduct or outcome of the Tender process unless and until all of the above have occurred.

## 2.10 REJECTION OF TENDERS

2.10.1 A Tender will be rejected without consideration of its merits in the event that:

- (a) It is not submitted on or before the Closing Date and before the Closing Time; or
- (b) It is not submitted at the place and manner specified in the RFT.

## 2.11 TENDER OPENING

- 2.11.1 Following the advertised deadline **hard** copy Tenders will be opened, in the presence of authorised officers, at Shellharbour City Council's Administration Centre at 2.00pm on 05 June 2018
- 2.11.2 **Electronic** Tenders will automatically close at 2.00pm and will be opened, in the presence of authorised officers, at ISJO's offices, 24 Terralong Street, Kiama at 2.45pm on 05 June 2018.
- 2.11.3 Any Tenderer and/or member of the public may attend or be represented at the opening of a Tender.
- 2.11.4 The names of the persons who submitted a Tender by the due deadline will be recorded at the Tender opening/s. The Schedule of Tenders will be displayed at each participating council.
- 2.11.5 No discussions will be entered into between Tenderers and the ISJO / Council's officers present or otherwise, concerning the Tenders submitted.

## 2.12 EVALUATION METHODOLOGY

Tender responses will be evaluated against the Evaluation Criteria.

## 2.13 GENERAL EVALUATION CONSIDERATIONS

- 2.13.1 Information provided by the Tenderer in its response to Volume 4 and Volume 5 of this RFT will be the basis of the evaluation of these criteria. Tenderers are advised to respond clearly to all of the requirements listed in Volume 3 – Specification of this RFT in its response to Volume 4 – Technical Response, and Volume 5 – Commercial Response of this RFT.
- 2.13.2 Those evaluation criteria designated as Mandatory Criteria are evaluation criteria that **MUST** be met by the Tenderer. A Tender that fails to fully comply with those evaluation criteria will be excluded from the Tender without further consideration
- 2.13.3 Technical and Commercial evaluation criteria are evaluation criteria which will be taken into account by the Tender Evaluation Committee when conducting an overall value for money assessment of the Tender. Failure to fully comply with those evaluation criteria may reduce the Tenderer's overall score but will not result in the exclusion of the Tender from further consideration.

- 2.13.4 A Council may, in its sole discretion, seek clarification from any Tenderer regarding information contained in the Tender and may do so without notification to any other Tenderer.
- 2.13.5 A Tenderer may be invited to a one-on-one evaluation conference in order to review and clarify the Tender and to enable Council to interview Key Personnel identified in the Tender.
- 2.13.6 The quality and the format of the Tender will be taken into account during evaluation.
- 2.13.7 Council is not bound or required to accept the lowest price, or any Tender, whether or not it is a Conforming Tender.

## 2.14 MANDATORY CRITERIA

Mandatory Criteria are specified as:

Table 3

Mandatory Criteria	
1.	Submission of all documentation required by the RFT
2.	Departures and Qualifications
3.	Completed Conflict of Interest and Fair Dealing Declaration
4.	Agreement with Key Performances Indicators (KPIs)
5.	Referees provided
6.	Agreement with Councils' right to check financial capacity

- 2.14.1 Each Tender will be assessed on a Compliant/Non-Compliant basis (in effect, a Pass/Fail scenario) as to whether the Tender complies or does not satisfactorily comply with each of the Mandatory Criteria.
- 2.14.2 An assessment of "Non-Compliant" or "Non-Conforming" against any Mandatory criterion will eliminate the Tender from consideration.
- 2.14.3 The following table will be used in the evaluation of Tenders received for this RFT:

Table 4

Mandatory Criteria		Weighting
1.	Submission of all documentation required by the RFT	Compliant/Non-Compliant
2.	Departures and Qualifications	Compliant/Non-Compliant
3.	Completed Conflict of Interest and Fair Dealing Declaration	Compliant/Non-Compliant
4.	Agreement with Key Performances Indicators (KPIs)	Compliant/Non-Compliant
5.	Referees provided	Compliant/Non-Compliant
6.	Agreement with Councils' right to check financial capacity	Compliant/Non-Compliant

## 2.15 COMERCIAL AND TECHNICAL EVALUATION CRITERIA

- 2.15.1 Tenders will be assessed against both Commercial (Pricing/Revenue etc.) and Technical (Non-Price/Revenue) Criteria.
- 2.15.2 Tenders will be assessed using a weighted scoring process based on information provided with the Tender.
- 2.15.3 The following Technical evaluation criteria will be used in the evaluation of Tenders received for this RFT:

Table 5

Scored Criteria		Weighting
1.	Relevant Experience and Satisfactory Performance in undertaking projects and providing Services of similar size, scope and risk profile:	25%
2.	Methodology, capability and capacity.	30%
3.	Environmental and Work Health and Safety Management	20%
4.	Revenue to councils	20%
5.	Strengthening local economy	5%
Total		100%

## 2.16 ALTERNATIVE OR NON-CONFORMING TENDERS

- 2.16.1 The Council reserves the right to accept Alternative or Non-Conforming Tenders.
- 2.16.2 If a Tenderer wishes to submit an Alternative or Non-Conforming Tender it must also:
- submit a conforming Tender;
  - submit an unmarked copy of the Alternative or Non-Conforming Tender, and
  - submit a copy of the non-conforming Tender in a marked up form, which identifies all departures from the conforming Tender. The detail provided must fully describe and price any conditions, qualifications, or departures from the specification for the Alternative or Non-Conforming Tender.

Council may, at its absolute discretion, consider an Alternative or Non-Conforming Tender; however it is not obliged to do so.

## **2.17 DEPARTURES, CLARIFICATIONS AND ASSUMPTIONS**

- 2.17.1 The Tenderer is to declare and detail any departures, clarifications or assumptions that have been taken into account and included in its response to the RFT in Schedule C4 of Volume 5, Commercial Response Schedules.
- 2.17.2 These departures, clarifications or assumptions can address any conditions or positions in the Contract or requirements as detailed in the RFT supplied that are material to the response.
- 2.17.3 Tenders will be accepted as accepting and complying with all terms and conditions of the RFT unless expressly noted in Schedule C4 of Volume 5, Commercial Response Schedules.

## **2.18 TENDER VALIDITY PERIOD**

All Tenders will remain valid and open for acceptance for a minimum period of ninety (90) days from the closing date and time or forty-five days from the Council's decision for determining the Tender, whichever is the later unless extended by mutual agreement between the Council and the Tenderer in writing. Tenderers may withdraw their Tenders at any time after the expiration of the Tender Validity Period.

## **2.19 CLARIFICATION AND AMENDMENT**

- 2.19.1 Following the Closing Time, Council:
  - (a) will consider and assess Tenders in accordance with the RFT;
  - (b) may use any other relevant information obtained in relation to a Tender or Tenderer, including through this RFT process or by independent inquiry, in the evaluation of a Tender;
  - (c) may seek further information from a Tenderer by way of explanation or clarification, or to correct a mistake or anomaly, in relation to any aspect of the Tenderer's Tender;
  - (d) may meet with representatives of the Tenderer to discuss and clarify any aspect of the Tenderer's Tender.
- 2.19.2 For the purposes of clause 2.19.1(c), any further information that Council may, in its absolute discretion, request from a Tenderer may include information to enable the Tender of that Tenderer to be a Conforming Tender. Where the Tenderer does not provide that further information in order to have submitted a Conforming Tender within the time nominated by Council, Council may elect in its absolute discretion to declare the Tender of that Tenderer to be a Non-Conforming Tender.
- 2.19.3 Tenderers acknowledge and agree that Council makes no warranty, guarantee or representation that a Tenderer may be invited to make presentations or to provide further submissions, information or clarifications prior to Council's decision to accept or reject a Tender.
- 2.19.4 Before the Council accepts any of the Tenders, a person who has submitted a Tender may, subject to subparagraphs below, vary the Tender:
  - (a) by providing the Council with further information by way of explanation or clarification, or
  - (b) by correcting a mistake or anomaly.

Such a variation may be made either:

- (a) at the request of the Council, or
- (b) with the consent of the Council at the request of the Tenderer, but only if, in the circumstances, it appears reasonable to the Council to allow the Tenderer to provide information or correction.

If a Tender is varied in accordance with this paragraph, the Council will notify in writing all other Tenderers that have the same or similar characteristics as the varied Tender, and provide them with the opportunity of varying its Tenders in a similar way.

- 2.19.5 The Council will not consider a variation of a Tender if the variation would substantially alter the original Tender.

## **2.20 IDENTITY OF THE TENDERER**

The identity of the Tenderer is fundamental to the Council. The Tenderer will be the individual, individuals, corporation or corporations named as the Tenderer in whose execution appears on the Offer Form in of this RFT in Schedule C1 of Volume 5, Commercial Response Schedules.

## **2.21 TENDERED COMMERCIAL TERMS**

- 2.21.1 Any Revenue, Revenue Share or price outlined in the Tender must be shown both inclusive and exclusive of GST
- 2.21.2 Any price tendered will be gross and reflect what the total amount Council will be required to pay pursuant to the Contract and must include all costs associated with the Contract.
- 2.21.3 Any Revenue to be to the benefit of Council must be shown as the Revenue to be received by Council following all deductions.
- 2.21.4 The Tenderer must provide its Australian Business Number (ABN), or, if it does not have an ABN, the reason for not having one.
- 2.21.5 Payments between Council and the Successful Tenderer will be exclusively in Australian dollars (AUD).

## **2.22 CONDITIONS OF CONTRACT**

Tenders will be deemed to have been made, on the basis of, and to incorporate the Conditions of Contract as provided in the supplied contract located in Volume 2 - Conditions of Contract of this RFT.

## **2.23 PRECEDENCE OF DOCUMENTS**

- 2.23.1 In the event of any conflict or inconsistency between any clauses of documents comprising the RFT, the following order of priority will apply:
- (a) Volume 2 - Conditions of Contract;
  - (b) Volume 3 – Specification;
  - (c) Volume 4 – Technical Response;
  - (d) Volume 5 – Commercial Response;
  - (e) Volume 1 – Conditions of Tendering;

## **2.24 OWNERSHIP OF TENDERS**

- 2.24.1 All documents, materials, articles and information submitted by the Tenderer as part of or in support of a Tender will become property of the Council and will not be returned to the Tenderer at the conclusion of the Tender process. The Tenderer will be entitled to retain copyright and other intellectual property rights therein, unless otherwise provided by the Contract.

2.24.2 The Tenderer does not acquire intellectual property rights in the RFT documents. Tenderers shall not reproduce any of the RFT documents in any material form (including photocopying or storage in any medium by electronic means) without the written permission of the Council other than for use strictly for the purpose of preparing Tenders.

## **2.25 REGISTRATION OR LICENSING OF SUCCESSFUL TENDERERS**

If the Tenderer/s is required to be registered or licensed by any relevant regulation, guideline or law to carry out the Services, the Tenderer shall state in the appropriate Response Schedule, its registration or licence number. The Tender may not be considered if the Tenderer fails to provide such registration or licence number.

## **2.26 WORK HEALTH AND SAFETY OBLIGATIONS**

Lodgement of a Tender will itself be an acknowledgement and representation of compliance with all requirements in relation to WHS. Further, lodgement of a Tender amounts to agreement that the Tenderer will provide Council periodic and requested evidence of compliance, and give access to all relevant information to the Council to demonstrate compliance for the duration of the Contract.

## **2.27 JURISDICTION**

The RFT is governed by the law of NSW. By lodging a Tender the Tenderer irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of NSW.

## **2.28 COSTS OF TENDER**

Tenderers remain responsible for all costs incurred by them in connection with Tenders whether before or after the Closing Date and Time and whether incurred directly by them or their advisers regardless of whether such costs arise as a direct or indirect consequence of amendments made to the RFT by the Council. For the avoidance of doubt, the Council shall have no liability whatsoever to Tenderers for the costs of any negotiations conducted in relation to the RFT.

## **2.29 CANVASSING OF OFFICIALS**

2.29.1 Canvassing of the General Managers, Councillors or any Council staff members will automatically cause the disqualification of your Tender.

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

- (a) offers of any inducement, fee, or reward, to any member or officer of the Council, or any person acting as an adviser for the Council; or
- (b) canvasses any persons referred to in this document; or
- (c) contacting any member or officer of the Council about the RFT or any process relating thereto, except as authorised by this RFT including (but without limitation) for the purposes of discussing the possible employment transfer of the Tenderer member or officer, may be disqualified from involvement in the RFT process (without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract), at the Council's discretion.

## **2.30 CONFIDENTIALITY**

2.30.1 The Council makes information available on condition that it is treated as confidential by the Tenderer and is not disclosed, copied, reproduced, distributed or passed to any other person at any time except for the purpose of enabling a Tender to be made, for example by disclosure by a Tenderer to its insurers or professional advisers, provided they have each given an undertaking at

the time of receipt of the relevant information (and for the benefit of the Council) to keep such information confidential. Other than specified above, or as required by law, and save insofar as the information is in the public domain, Tenderers shall not make any of the Information available to any other parties in any circumstances without the prior written consent of the Council nor use it for any purpose other than that for which it is intended.

- 2.30.2 The Tenderer must identify any information in its Tender which it considers to be commercial-in-confidence by marking such information “commercial-in-confidence”. Such notation will assist the ISJO Councils in deciding which, if any, information should be disclosed but does not necessarily prevent disclosure. Councils may request the Tenderer to provide reasons why it considers the information to be commercial-in-confidence.
- 2.30.3 ISJO Councils will advise the Tenderer/s in contention for appointment under the Contract of what information it agrees not to disclose. Councils’ decision is final, is at Councils’ absolute discretion and the Tenderer will not be entitled to make any claim against Council/s in relation to any action taken under this clause.
- 2.30.4 A decision by Councils under this clause is not a decision which falls within any dispute resolution procedures specified in the Contract being tendered for or entered into under the Contract.
- 2.30.5 Where information is not included in a publicly accessible register or published due to commercial-in-confidence reasons then Council may publish information regarding the facts relating to the information withheld and the reasons for it.
- 2.30.6 Council may publish the identities of all Tenderers but will not disclose other information included in an unsuccessful tender.

## **2.31 STATEMENT OF BUSINESS ETHICS**

- 2.31.1 Councils are committed to the highest standards of honesty, fairness and integrity in all its business dealings. Councils’ Statement of Business Ethics and Code of Conduct provide details of the appropriate conduct and ethical standards that Tenderers can expect of Councils, as well as setting out the standards that Councils expect of its suppliers. Councils’ staff and service providers shall adhere completely with these policies and procedures.
- 2.31.2 These standards of behaviour relate to fair, ethical and honest dealings with Council(s), and ensuring that the best level of service is provided to the community.
- 2.31.3 These documents are available from each participating Council as follows: [Shellharbour City Council](#), Shoalhaven City Council - [Code of Conduct](#), Shoalhaven City Council - [Statement of Business Ethics](#), Wollongong City Council - [Code of Business Ethics](#), [Code of Conduct](#) (staff) and [Code of Conduct](#) (councillors).

## **2.32 GIPA REQUIREMENTS**

Where the arrangement involves the Tenderer providing services on behalf of Council, the *GIPA Act* requires that the following be included in the Contract:

- 2.32.1 The successful Tenderer must, within seven days of receiving a written request by the Agency, provide the Agency with immediate access to the following information contained in records held by the Successful Tenderer.
  - (a) Information that relates directly to the performance of the Services provided to the Agency by the Successful Tenderer pursuant to the Contract;
  - (b) Information collected by the Successful Tenderer from members of the public to whom it provides, or offers to provide, the services pursuant to the Contract, and

- (c) Information received by the Successful Tenderer from the Agency to enable it to provide the services pursuant to the Contract.

2.32.2 For the purpose of sub-clauses 2.32.1, information does not include:

- (a) Information that discloses or would disclose the Successful Tenderer's financing arrangements, financial modelling, cost structure or profit margin;
- (b) Information that the Successful Tenderer is prohibited from disclosing to the Agency by provision made by or under any Act, whether of any State or Territory, or of the Commonwealth; or
- (c) Information that, if disclosed to the Agency, could reasonably be expected to place the Successful Tenderer at a substantial commercial disadvantage in relation to the Agency, whether at present or in the future;

2.32.3 The Successful Tenderer will provide copies of any of the information in sub-clause 2.32.1, as requested by the Agency, at the Successful Tenderer's own expense.

Any failure by the Successful Tenderer to comply with any request pursuant to sub clause 2.32.1 or 2.32.3 will be considered a breach of an essential term and will allow Council to terminate the Contract by providing notice in writing of its intention to do so with the termination to take effect seven days after receipt of the notice. Once the Successful Tenderer/s receives the notice, if it fails to remedy the breach within the seven day period to the satisfaction of the Agency, then the termination will take effect seven days after receipt of the notice.

## **2.33 NON COLLUSION**

Any Tenderer who:

- 2.33.1 Fixes or adjust the amount of its Tender by or in accordance with any agreement or arrangement with any other Tenderers; or
- 2.33.2 Enters into any agreement or arrangement with any other Tenderer that it shall refrain from Tendering or as to the amount of any Tender to be submitted; or
- 2.33.3 Causes or induces any person to enter such agreement or to inform the Tenderer of the approximate amount of any rival Tender for the Contract; or
- 2.33.4 Canvasses any of the person previously discussed in connection with the Tender or the outcome of the Tender process; or
- 2.33.5 Offers, agrees, or does; pay any sum of money, inducement or valuable consideration. This being directly or indirectly to any person for doing, having done, causing, or caused to be done in relation to any other Tender or proposed Tender any act or omission; or
- 2.33.6 Communicates to any person other than the Council the amount or approximate amount of its proposed Tender (except where such disclosure made in confidence in order to obtain quotations necessary for the preparation of the Tender, for insurance or contract guarantee bonds and/or performance bonds or professional advice required for the preparation of the Tender),

may, at the discretion of the Council, be disqualified from any further involvement in the RFT process (without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract).

## **2.34 PUBLICITY**

Tenderers must not furnish any information, make any statements or issue any documents or printed material about this RFT or any of its outcomes for publication in any media, including agreement on the format and content of any publicity, without the prior written approval of Councils.

## **2.35 CONSIDERATION OF TENDERS**

- 2.35.1 Except as required by law, Council is not obliged to consider or evaluate any Tender which is not a Conforming Tender. Council may, in its absolute discretion, waive any irregularity in a Tender or non-conformance of a Tender (including the late submission of a Tender, subject to the requirements of the LG Act) and accept that Tender.
- 2.35.2 To the extent required by law, Council will consider all Conforming Tenders.
- 2.35.3 The decision of Council in relation to a Tender or the outcome of any negotiations conducted by Council as part of the RFT process will be final and not subject to challenge, dispute, explanation or further correspondence.

## **2.36 WARRANTIES BY THE TENDERER**

2.36.1 In submitting its Tender, the Tenderer:

- (a) warrants that:
  - (i) it has the expertise, experience and resources necessary to perform the obligations of the Tenderer as set out in the RFT;
  - (ii) if selected as the successful Tenderer, subject to final agreement on the Contract and execution of the Contract, it fully intends to carry out the Works;
  - (iii) the prices and payments included in the Tender will cover the cost of performing all of its obligations described in this RFT and the Contract and is adequate to form the basis of a sustainable commercial relationship with Council; and
  - (iv) all information provided in its Tender will be true, complete and accurate;
- (b) warrants that it has carried out or will carry out all relevant investigations and has examined and acquainted itself with, and satisfied itself, or will examine and acquaint itself with, and satisfy itself, concerning the accuracy or otherwise of:
  - (i) the contents of the RFT, including all Disclosed Information and any other information which accompanies it or has been provided in connection with this RFT process, and the completeness thereof;
  - (ii) all information which is relevant to its Tender;
  - (iii) all risks, environmental approvals and authorisations, contingencies and other circumstances which could affect the Works and its Tender; and
  - (iv) the correctness and sufficiency of its Tender;
- (c) warrants that:
  - (i) it has not breached the Australian Consumer Law (ACL) in any way in the preparation of its Tender and will not do so in its participation in the RFT process;

- (ii) it has complied with the requirements of the Privacy Act 1988 (Cth) and the Privacy and Personal Information Protection Act 1998 (NSW) in giving any personal information in the Tender and that the individuals whose personal information is disclosed in the Tender have agreed to the use and disclosure of that information by Council for the purposes of its Tender; and
  - (iii) it does not have any actual or potential conflict of interest in lodging its Tender or in carrying out the Works if it is successful in becoming the Contractor;
- (d) warrants that:
  - (i) it is not insolvent and there is no unfilled or unsatisfied judgment or court order outstanding against it or the Tenderer's Associates;
  - (ii) it will inform the Contact Officer promptly in writing of a material change to the information provided in its Tender and of any change in its circumstances which may affect the truth, completeness or accuracy of that information; and
  - (iii) it will not change its proposed consortium members or major subcontractors without the prior written consent of Council (which may be given or withheld in its absolute discretion); and
- (e) acknowledges and agrees:
  - (i) that it releases Council and the Council's Associates in accordance with clause 2.38 and warrants and acknowledges that it will not be entitled to make any Claim against Council or any Council's Associate in relation to any matter the subject of that release; and
  - (ii) to all of the conditions, requirements, qualifications, releases and disclaimers in this RFT.

## **2.37 ACKNOWLEDGEMENTS BY THE TENDERER REGARDING DISCLOSED INFORMATION**

2.37.1 The Tenderer acknowledges and agrees that the Disclosed Information is made available to Tenderers on the following conditions:

- (a) it has not solely relied upon information provided by or on behalf of Council in preparing and submitting its Tender;
- (b) it has not relied upon any warranty or representation made by or on behalf of Council except such as expressly provided for herein;
- (c) the Disclosed Information may be issued to Tenderers from time to time prior to the Closing Time for the information only of the Tenderers and to anyone to whom it is disclosed in accordance with this RFT;
- (d) the Disclosed Information, as may be disclosed to a Tenderer from time to time, does not purport to:
  - (i) comprehensively describe the scope of the Works or contain all of the information that the Tenderer requires for the purposes of preparing and lodging a Tender or making a decision to enter into the Contract; or
  - (ii) have been prepared having regard to the Tenderer's business objectives, financial situation or particular needs;

- (e) except as otherwise expressly provided in the Contract, the Disclosed Information will not limit nor form part of the Contract;
- (f) no representation, guarantee or warranty (either express or implied) is, has been or will be made by Council in relation to the Disclosed Information, and in particular and without limitation, no representation, guarantee or warranty is, has been or will be made by Council that the Disclosed Information:
  - (i) is reliable, complete, current, accurate, suitable, comprehensive, adequate or correct;
  - (ii) represents the opinion of Council or any other person at any time;
  - (iii) contains all information held by or available to Council or any other person at any time;
  - (iv) contains all the information that the Tenderer or any of the Tenderer's Associates may require in preparing Tenders or in making any decisions in relation to the RFT or the Works; or
  - (v) can be relied on by a Tenderer or any other person;
- (g) no representation, guarantee or warranty (either express or implied) is, has been or will be made by Council in respect of:
  - (i) the RFT or the Works;
  - (ii) any transaction or arrangement contemplated by the RFT or under the Contract; or
  - (iii) any other matter relevant to the Tenderer's decision to enter into the Contract;
- (h) neither Council nor any Council's Associate has verified or has any obligation to verify the reliability, completeness, currency, accuracy, suitability, comprehensiveness, adequacy or correctness, of the Disclosed Information;
- (i) Disclosed Information may not have been prepared for the purpose of this RFT or with the Tenderer or any person in the position of the Tenderer in mind or for the purpose of the Works and has not been prepared for the purpose of the Tenderer's particular Tender;
- (j) each Tenderer assumes all risk in respect of their Tender and the Disclosed Information may not be relied upon by any Tenderer or any other person and no recourse may be had against Council or any Council's Associate in respect of any Disclosed Information;
- (k) statements by Council or a Council's Associate or any other person (whether contained within the Disclosed Information or otherwise) prior to this RFT, or made in relation to this RFT or the Works at any time:
  - (i) are not binding on Council or any Council's Associate;
  - (ii) do not commit Council or any Council's Associate to any action or position in respect of any matter;
  - (iii) do not waive, fetter, limit or otherwise affect any right, discretion, power or privilege of Council or any Council's Associate. The rights, discretions, powers and privileges of Council and each Council's Associate are to the full extent of the law maintained, protected and reserved; and
  - (iv) are subject to the disclaimers, limitations, qualifications and releases in this RFT;

#### 2.37.2 Tenderers acknowledge and warrant that:

- (a) they are responsible for obtaining and have obtained their own independent qualified and professional advice and opinions on all matters relating to their Tenders, including financial, accounting, tax, environmental, legal and technical advice;
- (b) they have diligently read and considered the Disclosed Information; and
- (c) to the extent needed for their Tenders, they have diligently carried out their own investigations or made their own enquiries in relation to all matters relevant to their Tenders, including the nature, condition and characteristics of any relevant land, infrastructure and Works, and have satisfied themselves about the reliability, completeness, currency, accuracy, suitability, comprehensiveness, adequacy and correctness of any Disclosed Information;
- (d) disclosing the Disclosed Information to the Tenderer does not constitute an offer or recommendation by Council or any Council's Associate and does not form the basis of, or constitute a representation, guarantee or warranty in relation to, any binding transaction documents; and
- (e) neither Council nor any Council's Associate is obliged to:
  - (i) disclose any information to the Tenderer or Tenderer's Associates;
  - (ii) update any information disclosed to the Tenderer or Tenderer's Associates;
  - (iii) provide a Tenderer or a Tenderer's Associate with any information even if that information materially affects any information that the Tenderer or Tenderer's Associate already has; or
  - (iv) give the Tenderer or a Tenderer's Associate notice if they become aware of any inaccuracy, incompleteness or change in the information disclosed to the Tenderer or Tenderer's Associates.

#### 2.38 RELEASE

2.38.1 Tenderers will have no Claim against Council or any Council's Associate with respect to this RFT, including the Conditions of Tendering, or anything contemplated by this RFT, including:

- (a) the exercise of or failure to exercise Council's rights under this RFT;
- (b) any action taken or not taken;
- (c) any decision made or not made;
- (d) the costs of making or not making a Tender; or
- (e) the costs of participating in the RFT process,

and the Tenderer on behalf of itself and the Tenderer's Associates hereby releases Council and the Council's Associates from any obligation, duty, liability, proceedings, suits or Claims arising out of or in connection with this RFT.

2.38.2 The Tenderer releases Council and the Council's Associates from, and indemnifies Council and the Council's Associate against:

- (a) any Claim by the Tenderer or a Tenderer's Associate; or

- (b) any liability to the Tenderer or a Tenderer's Associate in respect of any damages, losses (including loss of profits), expenses (including legal expenses) or liability whatsoever suffered or incurred by the Tenderer or a Tenderer's Associate,

arising out of or in any way in connection with the Disclosed Information, including in respect of:

- (c) the provision of, or the purported reliance upon, or use of the Disclosed Information, to or by the Tenderer or any other person to whom the Disclosed Information is disclosed or a failure by Council or a Council's Associate to provide any information, data or documents to the Tenderer;
- (d) any negligence by or on behalf of Council or a Council's Associate (the Tenderer specifically acknowledges and agrees that any duty of care that Council or any Council's Associate may otherwise have owed to any Tenderer or Tenderer's Associate is specifically excluded and released);
- (e) any misrepresentation, misleading conduct, omission, inaccuracy, incompleteness or other defect in any Disclosed Information; or
- (f) the Disclosed Information being relied upon or otherwise used in the preparation of any information or document, including any information or document which is 'misleading or deceptive' or 'false or misleading' within the meaning of those terms in sections 18 and 29 of Schedule 2 of the *Competition and Consumer Act 2010* (Cth), or any equivalent provision of State or Territory legislation.

## **2.39 RESERVATIONS**

To the extent permissible by law, and without limiting or otherwise affecting its other rights (including under this RFT), Council may at any time, in its absolute discretion, do any one or more of the following:

- 2.39.1 alter the RFT, including the Mandatory Participation Criteria, Evaluation Criteria and the draft Contract;
- 2.39.2 provide additional information or clarification to any or all Tenderers;
- 2.39.3 amend, alter, suspend or cancel any aspect of the Works, abandon or terminate the Works, or alter the form of the Works, at any stage prior to signing the Contract;
- 2.39.4 end, vary or waive the RFT process, including:
  - (a) withdrawing the RFT, discontinuing the RFT process or any negotiations with any Tenderer, or suspending, varying or abandoning the RFT process at any time for any reason;
  - (b) waiving or varying any obligation of a Tenderer under Contract;
  - (c) varying, cancelling or amending the information, terms, procedures or processes set out in the RFT;
  - (d) changing the structure or timing of the RFT process or any subsequent process; or
  - (e) seeking a written response from any Tenderer in respect of any changes to the RFT, including these Conditions of Tendering;
- 2.39.5 communicate in any way or negotiate with one or any number of Tenderers after the Closing Time, in relation to features of the Tenders, cost, or any other matters;

2.39.6 seek:

- (a) clarification or additional information orally or in writing from one or any number of the Tenderers or any other person, including information from any Tenderer as to its capacity to enter into a contract;
- (b) a written response from any Tenderer on any relevant matter as it deems fit without the need to correspond with other Tenderers; or
- (c) oral presentations without prior notice to any other Tenderer or recipient of this RFT;

2.39.7 respond or not respond to any questions submitted by any Tenderer in relation to the RFT process and disclose the contents of Council's response (if any) to any such question to other Tenderers;

2.39.8 adopt different approaches with different Tenderers;

2.39.9 treat a Tender as having been duly lodged in its absolute discretion;

2.39.10 accept a Tender which is not a Conforming Tender;

2.39.11 refuse to consider or accept any Tender, including:

- (a) where Council is not satisfied that a Tenderer has acknowledged receipt of an Addendum;
- (b) where Council is not satisfied that the Tender conforms to the requirements of this RFT; or
- (c) where the Tenderer has not provided information by way of clarification or in response to a request for information;

2.39.12 if a question is asked, seek clarification or amendment of the question, circulate the question (or not) to all Tenderers and summarise the question or exclude from it commercial or strategically sensitive information;

2.39.13 allow a period of time, after Council has sought clarifications or further information, during which all Tenderers will have an opportunity to amend or change their Tenders;

2.39.14 allow any Tenderer to change its Tender;

2.39.15 enter into a contract with any Tenderer on such terms as Council in its absolute discretion accepts;

2.39.16 vary, amend or add to the Disclosed Information;

2.39.17 publish the names of some particular or all Tenderers;

2.39.18 accept or reject any Tender received after the Closing Time;

2.39.19 disqualify a Tenderer or terminate its further participation in the RFT process;

2.39.20 withdraw Preferred Tenderer status from any Tenderer (or any other person) at any time;

2.39.21 not give any reasons for any decision it makes in respect of the RFT process or the Works;

2.39.22 make any decisions arising out of this RFT or any or all subsequent processes in its absolute discretion; or

2.39.23 formulate any decisions without being required to assign or provide any reason,

and Council will not be liable to any Tenderer if it does any one or more of the above.

## **2.40 OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS**

- 2.40.1 All documents, materials, articles and information submitted by the Tenderer as part of, or in support of a Tender, will become the property of the Council and will not be returned to the Tenderer at the conclusion of the RFT process.
- 2.40.2 The Tenderer will be entitled to retain copyright and other intellectual property rights therein, unless otherwise provided for, by the Contract.
- 2.40.3 As between Council and each Tenderer, all Intellectual Property Rights as may exist in the information contained in this RFT, the Disclosed Information or any related material are, and will remain, the property of Council.
- 2.40.4 Tenderers shall not reproduce any of the RFT documents in any material form (including photocopying or storage in any medium by electronic means) without the written permission of the Council other than for use strictly for the purpose of preparing Tenders.
- 2.40.5 The Tenderer grants to Council and each Council's Associate a licence to:
- (a) use the documents, concepts, ideas, designs, information and materials included in a Tender, including for all Intellectual Property Rights in the Tender; and
  - (b) copy, adapt, modify, amend, disclose or do anything else necessary (in Council's absolute discretion) to the documents, concepts, designs, ideas, information and materials included in a Tender, including all Intellectual Property Rights in the Tender,
- for the purpose of:
- (c) Council's evaluation and assessment of the Tender;
  - (d) seeking clarification of the Tender or any other Tender;
  - (e) other matters relating to the evaluation and assessment of Tenders, including audit or governmental or statutory reporting requirements; and
  - (f) the delivery and performance of the Works (whether by the Tenderer or otherwise).
- 2.40.6 The Tenderer warrants that it has secured all requisite consents, licences and authorisations that are required to grant the foregoing licence to Council and each Council's Associate, including any licences and consents from contractors or consultants that have assisted in preparing the Tender or responding to the RFT.
- 2.40.7 Without limitation, the Tenderer must obtain from each Tenderer's Associate all necessary unconditional and irrevocable:
- (a) consents permitted by applicable laws to any act or omission that would otherwise infringe any of their respective moral rights in the Tender whether occurring before or after a consent is given; and
  - (b) waivers of their respective moral rights in the Tender that are permitted by applicable laws,
- for the benefit of Council and each Council's Associate and anyone authorised by any of them, including consents and waivers permitting:
- (c) any non-attribution or false attribution of artistic work; and
  - (d) any repairs to, maintenance and servicing of, additions, refurbishment or alterations to, relocation, destruction or replacement of the whole or any part of the artistic work or the Works.

2.40.8 In this clause 2.40, the term 'artistic work' has the meaning given in the *Copyright Act 1968* (Cth).

#### **2.41 JURISDICTION**

The Contract, the RFT and the final Contract Documents will be governed by the law of NSW. By lodging a Tender, the Tenderer irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of NSW.

#### **2.42 COSTS OF TENDERING**

2.42.1 Participation in any stage of the RFT process or any subsequent stage, or in relation to any matter concerning this RFT, will be at the Tenderer's sole risk, cost and expense.

2.42.2 Tenderers remain responsible for all costs incurred by them in connection with its Tender preparation and submission, whether before or after the Closing Date and whether incurred directly by them or their Tenderer's Associates regardless of whether such costs arise as a direct or indirect consequence of amendments made to the RFT by the Council.

2.42.3 Council has no liability for any costs or expenses of or associated with the preparation of a Tender or its submission to Council.

2.42.4 All costs and expenses incurred in connection with or in any way associated with:

(a) the RFT process, including in any negotiation process (regardless of whether the Contract is ultimately entered into); or

(b) any subsequent process,

by a Tenderer or any person or organisation associated with the Tenderer (including each Tenderer's Associate) will be borne solely by the Tenderer or that person or organisation. Council will not be liable for or reimburse any such costs or expenses, or for any costs or losses flowing from that Tenderer's or such person's or organisation's acts or omissions in any way associated with this RFT, or from the Tenderer not progressing further in any subsequent process following this RFT.

2.42.5 This clause 2.42 applies whether or not the Tenderer is successful, whether or not Council terminates, varies or suspends the RFT process and whether or not Council takes any other action available to it; and

2.42.6 Council will not be liable for any costs, losses, expenses or damages suffered or incurred by Tenderers arising out of or in any way in connection with:

(a) the RFT process generally, including in connection with any negotiation process (regardless of whether the Contract is ultimately entered into); or

(b) any subsequent process,

including in connection with changes to the timing of the RFT process and any subsequent processes.

#### **2.43 CONTRACT TAXES OR CHARGES**

The Contractor shall be liable for payment of any applicable taxes or charges that may arise on execution of the Contract.

#### **2.44 SECURITY, PROBITY AND FINANCIAL CHECKS**

2.44.1 Council may conduct or procure independent research regarding the Tenderer, the Tenderer's Associates and/or the Tenderer's joint venturers, partners, guarantors or shareholders and the information contained in the Tender. Council reserves the right to take into account any matters revealed as a result of its probity investigations in evaluating Tenders.

2.44.2 Council may perform or procure such security, probity and/or financial checks and procedures as Council, in its absolute discretion, may determine are necessary in relation to the Tenderer, or any of the Tenderer's Associates. The Tenderer agrees to provide all reasonable assistance, at the Tenderer's cost, to Council in this regard.

2.44.3 Council will be under no obligation to provide Tenderers with details of the results of its probity investigations, checks or procedures. Council reserves the right to reject a Tender or take such other action as it considers appropriate in light of any information that it receives as a result of conducting its probity investigations.

## 2.45 CHANGE IN MATERIAL CIRCUMSTANCES

2.45.1 Each Tenderer must promptly inform Council in writing of any material change to their financial capacity, technical capacity or corporate status or to any other information contained in the Tenderer's Tender following lodgement, and of any other material change in circumstances which may affect the truth, completeness, correctness or accuracy of any information provided in, or in connection with, a Tender.

2.45.2 Council may also require Tenderers to confirm in writing that no such material changes have occurred.

## 2.46 KEY PERFORMANCE INDICATORS

2.46.1 During performance of the Contract Council will assess the Tenderer's performance against the following Key Performance Indicators (KPIs) as frequently as it chooses.

KPIs	Benchmark	Threshold Triggers
<b>Response to Council's Representative</b>	The Account Manager responds within 24 hours, or the next Business Day at the latest.	Failure to respond as required more than 5 times.
<b>Reports</b>	Reports are submitted as required by performance specification.	Failure to provide reports as required by the performance specification on more than 2 occasions.
<b>Price</b>	Revenue share payments reflect the portions tendered.	Deviation from the revenue share in the Contract on more than 1 occasion.
<b>Insurances</b>	Are current and valid at all times	Failure to maintain adequate insurance as required by the Contract or the provide evidence of insurance when requested.
<b>Work, Health and Safety</b>	The Contractor meets all work, health and safety requirements in accordance with the Contract.	Failure to comply with requirements of the Contract.
<b>Technical Specification Requirements</b>	The Contractor complies with all aspects of the Technical Specification, including but not limited to operational and maintenance requirements, services, activities, communications, reporting and meetings.	Failure to comply with any aspect of the Specification.

<b>Contract Requirements</b>	The Contractor complies with all aspects of the Contract.	Failure to comply with any aspect of the Contract.
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2.46.2 Success in meeting the KPIs above may result in the following:

- (a) Extension of the contract at councils' discretion

2.46.3 Failure to meet the KPIs above may result in any or all of the following:

- (a) Council issuing a direction or rectification notice
- (b) Withdraw as a reference site – i.e. the Contractor cannot use the Council's name as a reference site, in any marketing materials, or represent the contract as successful to any individual or organisation.
- (c) Council or another provider step in to perform services
- (d) Council Terminating Contract.

END OF VOLUME 1 - CONDITIONS OF TENDERING

## ILLAWARRA SHOALHAVEN JOINT ORGANISATION

### Volume 2 –Conditions of Contract

#### Request for Tender

<b>Tender Title:</b>	<b>Illawarra Shoalhaven Joint Organisation (ISJO) Landfill Gas Services Tender</b>
<b>Tender Number:</b>	<b>ISJO 02/2018</b>
<b>Issue Date:</b>	<b>08 May 2018</b>
<b>Final Date for Updates:</b>	<b>29 May 2018</b>

#### Documents Comprising this Request For Tender

Item No.	Document Header	Document Title
1	Volume 1	Conditions of Tendering
2	Volume 2	Conditions of Contract
3	Volume 3	Specification
4	Volume 4	Technical Response Schedules
5	Volume 5	Commercial Response Schedules
6	Volume 6	Wollongong Council Reference Documents
7	Volume 7	Shoalhaven Council Reference Documents
8	Volume 8	Shellharbour Council Reference Documents

*[Insert Council Logos]*

# **Part A: Landfill Gas Services Contract**

**Tender No: *[insert]*  
Landfill Gas Services Contract**

## Landfill Gas Services Contract

**## City Council**

ABN ##

***[Note to Tenderers: A separate contract will be executed with each of Shellharbour City Council, Shoalhaven City Council and Wollongong City Council and references in the agreement are references to the relevant contracting council.]***

and

**##**

ACN ##

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# Landfill Gas Operation and Maintenance Contract

**Dated**

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## Parties

Name	<b>## ABN ##</b>
Address	<b>##</b>
Email	
Contact	
Short name	<b>Principal</b>

Name	<b>## ACN ##</b>
Address	<b>##</b>
Facsimile	<b>##</b>
Email	<b>##</b>
Contact	
Short name	<b>Contractor</b>

---

## Background

- A. The Principal is the registered owner of the Site and owns all Landfill Gas emanating from the Site.
- B. The Principal wishes to appoint the Contractor to provide the Services to the Principal, which will primarily involve the extraction and management of landfill gas. The Contractor will design, install, operate and maintain the necessary works (including the System) on the Site in order to enable the contractor to perform the Services.
- C. The Contractor agrees to provide the relevant Services to the Principal in accordance with the terms and conditions of this Agreement.
- D. The parties expect that the performance of the Services will generate revenue from a number of potential sources. They have agreed to share the revenue generated in accordance with the terms and conditions of this Agreement.

## Reference Schedule

Item	Description	Details
1.	Services	(a) Landfill Gas Management Services (b) Scheme Administration Services (c) Additional Services [specify].....
2.	Principal's Representative	<b><i>[To be inserted]</i></b> CI 31
3.	Contractor Representative	<b><i>[To be inserted]</i></b> CI 31
4.	Commencement Date	The date of this Agreement. CI 3 .....
5.	Mobilising Date	20 Business Days following the Commencement Date CI 3
6.	Operating Date	25 Business Days following the Commencement Date (unless otherwise agreed in writing) CI 3, cl 8
7.	Electricity Operating Date	<b><i>[For Shellharbour City Council]</i></b> 25 Business Days following the Commencement Date (unless otherwise agreed in writing) CI 3, cl 8 <b><i>[For Shoalhaven City Council]</i></b> 1 June 2018 <b><i>[For Wollongong City Council]</i></b> 16 September 2018
8.	Expiry Date	The date that is 10 years after the Commencement Date or if the Term is extended in accordance with clause 3.2 the date to which the term is so extended CI 3, cl 26
9.	Site	<b><i>[Note: delete as relevant]</i></b> <b><i>[For Shellharbour]</i></b> The Dunmore Recycling and Waste Disposal Depot located at 44 Buckleys Road, Dunmore, NSW as shown in Schedule 1. <b><i>[For Shoalhaven]</i></b> West Nowra Recycling and Waste Depot Facility located in Mundamia (West Nowra) being Lots 436 and 437 of DP 808415, Lot 1 of DP 1018193, Lot 1 of DP 847203 and Lot 1 of DP 870268 as shown in Schedule 1. <b><i>[For Wollongong]</i></b> The Wollongong Waste and Resource Recovery Park (Whytes Gully) located at Reddalls Road,

Item	Description	<b>Details</b> Kembla Grange, NSW being Part Lot 501 DP 1079122, Lot 502 of DP 1079122, Lot 2 of 240 557, Lot 51 on DP 1022266, Lot 52 on DP 1022266 and Lot 52 on DP 1022266 as shown in Schedule 1.
10.	Required Insurance	<b>Public liability insurance:</b>  \$20 million for any one claim and unlimited in the annual aggregate.  <b>Product Liability insurance</b>  Minimum \$20 million for any one claim and \$50 million in the annual aggregate.  <b>Industrial special risks insurance:</b>  For the full replacement value of the System (including all Assets), the Power Generation Plant and any other Contractor Plant respectively.  <b>Workers compensation insurance</b>  <b>As required by clause 20.2</b> of the Services Terms.
11.	Bank Guarantee	\$50,000
	CI 2.3	
12.	Nominated Persons	[## insert as per disputes clause 29]
13.	Access Preconditions	(a) all necessary Authorisations for the conduct of the Landfill Gas Management Services have been obtained and are in force and any conditions of Authorisations that are required to be satisfied prior to the commencement of the Services have been satisfied;  (b) Each Management Plan is a Final Management Plan;  (c) each of the Required Insurances are held and in force and effect and continue to be in force and effect in accordance with this Agreement;  (d) the Bank Guarantee required under clause 2.3 has been given to the Principal Representative and is in force.
14.	Access Agreements	(a) The Lease; and  (b) the Licence.
15.	Development Consent	<b>[Note: Delete as appropriate]</b>  <b>[For Shellharbour City Council]</b> Development consent number DA430/2012 for Landfill gas extraction system and

Item	Description	Details
		flare structure dated 15 March 2013 as amended on 7 August 2015.
		<b><i>[For Shoalhaven City Council]</i></b> Development consent number DA01-1635 for Landfill gas flare and generation modules.
		<b><i>[For Wollongong City Council]</i></b> Development consent number 11_0094 dated 3 April 2013.
16.	EPL	<p><b><i>[Note: Delete as appropriate]</i></b></p> <p><b><i>[For Shellharbour City Council]</i></b> Environment Protection Licence No. 5984, issued under section 55 of the <i>Protection of the Environment Operations Act 1997</i> (NSW).</p> <p><b><i>[For Shoalhaven City Council]</i></b> Environment Protection Licence No. 5877, issued under section 55 of the <i>Protection of the Environment Operations Act 1997</i> (NSW).</p> <p><b><i>[For Wollongong City Council]</i></b> Environment Protection Licence No. 5862, issued under section 55 of the <i>Protection of the Environment Operations Act 1997</i> (NSW).</p>
17.	Transfer Point	The point of entry to the Lease Area as shown in Schedule 1.
18.	Abatement Target	<p>For an Abatement period, the greater of the Contracted Abatement Target and 75% abatement:</p> <p>(a)</p>
19.	Minimum Electricity Efficiency Revenue	<p><b><i>[For Shellharbour City Council]</i></b></p> <p><b><i>[\$insert]</i></b> per Payment Period.</p> <p><b><i>[For Shoalhaven City Council]</i></b></p> <p><b><i>[\$insert]</i></b> per Payment Period.</p> <p><b><i>[For Wollongong City Council]</i></b></p> <p><b><i>[\$insert]</i></b> per Payment Period.</p> <p><b><i>[Note to Tenderers: This must be included in your Tender Response. This is intended to be a floor of minimum payment payable during a Payment Period]</i></b></p>

Item	Description	Details	
20.	First Column	Second Column	Third Column
	Revenue Source	Payment Period	Specified Proportion payable to Contractor and Council
	<b>Abatement Revenue</b>	each Abatement Period	<p>In respect of the Principal ##%;</p> <p>In respect of the Contractor ##%; and</p> <p>OR</p> <p>\$ ## will be allocated to the Contractor and all Abatement Revenue over that amount will be shared as follows:</p> <p>In respect of the Principal ##%;</p> <p>In respect of the Contractor ##%; and</p> <p><b><i>[note : to be inserted as per successful tender]</i></b></p>
	<b>Contracted Electricity Revenue</b>	each calendar month	<p><b><i>[For Shellharbour City Council]</i></b></p> <p><b><i>[Note to Tenderers: This must be included in your Tender Response].</i></b></p> <p><b><i>[For Shoalhaven City Council]</i></b></p> <p><b><i>[For Wollongong City Council]</i></b></p>

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# Services Terms

The parties agree

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## 1. Interpretation

### 1.1 General

In this Agreement, unless expressed or implied to the contrary, defined terms have the meaning as specified in clause 1.3.

### 1.2 Documents comprising the Agreement

The Agreement comprises these Service Terms and each of the schedules indicated in the following table. If a schedule is indicated 'yes' in the third column, then that schedule takes effect as part of this Agreement.

Column 1	Column 2	Column 3
Schedule Number	Schedule title	Is the Schedule a part of this agreement?
Schedule 1	Site Plans	Yes
Schedule 2	Utilities provided by the Principal	Yes
Schedule 3	Greenhouse Gas Abatement	Yes/ No
0	Electricity Generation	Yes/ No
Schedule 5	Management Plans	Yes
Schedule 7	Lease	Yes
Schedule 8	Licence	Yes
Schedule 9	Draft Mobilisation Program	Yes/ No
Schedule 10	Specification	Yes

### 1.3 Definitions

In this Agreement, unless expressed or implied to the contrary:

1.3.1 the following defined terms have the meaning respectively ascribed to them; and

1.3.2 where a term is defined in a Schedule forming part of the Agreement, that definition applies to that term in every other part of the Agreement.

**Abatement Revenue** has the meaning given in Schedule 3.

**Access Preconditions** means the conditions specified in Item 13.

**Access Agreement** means each agreement specified in Item 14.

**Additional Services** means the activities and services (if any) specified as such in Item 1.

**Agreed Variation** means a change, alternation, amendment, modification or variation of or to the Services that is agreed between the Parties and recorded in writing in accordance with clause 19.

**Agreement** see clause 1.2.

**Application** means any application for an Authorisation relating to the Contractor Activities, the Services or the Site.

**Asset** means any plant, equipment and other assets that the Contractor installs or uses to perform the Landfill Gas Management Service including all manifolds, valves, header lines, blowers, pumps and associated pipework, works and infrastructure comprising or necessary for the operation of the System and including the Flare, Existing Assets and the New Assets.

**Authorisation** means:

- (a) an approval, consent, declaration, exemption, accreditation, notarisation, licence, permit, certificate, waiver or other authorisation, however described, required by any law (including, for the avoidance of doubt, approvals specifically defined in this Agreement) including any variation, modification, renewal or amendment thereof; and
- (b) in relation to anything that would be prohibited or restricted by law if an Authority takes an action provided for in legislation within a specified period, the expiry of that period without that action being taken.

**Authority** means any:

- (a) government, government department or government agency;
- (b) governmental, semi-governmental or judicial person carrying out any statutory authority or function; or
- (c) other person (whether autonomous or not) who is charged with the administration of a Law,

including, for the avoidance of doubt, Authorities specifically defined in this Agreement and including the Principal when performing its functions under legislation but in that capacity only.

**Bank Guarantee** means an unconditional undertaking in favour of Council in a form approved by Council. The parties agree that the form set out in Schedule 6 is a form approved by Council.

**Business Continuity Plan** means the so-called plan described in clause 4.4 of Schedule 5.

**Business Day** means a day other than a Saturday, Sunday or public holiday in New South Wales.

**Cell** means an area of the Landfill provided for in the operating plans for the landfill as a cell that is or is to be excavated and within which waste is to be or has been deposited for disposal, as determined by Council from time to time.

**Cell Specific Design** means, for a particular Cell, the design for the System for that Cell and the specific plan for the installation of the System within that Cell (including a time frame for when the installation must be complete). The Cell Specific Design must meet the requirements set out in the Specification.

**Claim** includes any claim, action, demand, proceeding, judgment or order however arising, whether at law or in equity and including:

- (a) under or in connection with this Agreement or any other contract, deed or agreement;
- (b) by operation of legislation (including a Direction by an Authority);
- (c) in tort for negligence or otherwise, including negligent misrepresentations;
- (d) for restitution for unjust enrichment.

**Commissioning and Testing Plan** means the Contractor's plan for commissioning and testing of the System and the Power Generation Plant, prepared as part of the Mobilisation Program.

**Commencement Date** means the date specified in Item 4.

**Consequential Loss** means, in respect of a party, loss of profit, loss of revenue (other than revenue or profit from or contemplated by this contract), loss of goodwill, loss of future opportunities and loss of anticipated savings by that party whether arising in contract, tort (including negligence) or equity or under statute. For the avoidance of doubt, a loss or liability of the Principal under or in connection with a Carbon Abatement Contract or Carbon Credit Scheme is not a consequential loss.

**Contamination** (of land) has the same meaning as on the *Contaminated Land Management Act 1997* (NSW).

**Contractor Activity** means each of the works and activities (including design) that the Contractor undertakes or which it is necessary for the Contractor to undertake in order to perform the Services or to design, install, operate and maintain the System and the Power Generation Plant and includes:

- the Installation Activities;
- the Operation and Maintenance Activities (or **O&M Activities**); and
- the Electricity Activities.

**Contractor Default Event** means an event specified in clause 24.1.

**Contractor Plant** means any plant, implement, appliance or equipment used by the Contractor to undertake the Services.

**Contractor Representative** means the representative of the Contractor specified in Item 3, as changed from time to time by written notice from the Contractor to the Principal under clause 30.2, and includes any delegate of that person.

**Control** means in respect of a company the direct or indirect power to direct or cause the direction of the management and policies of a company or other business entity, whether through ownership of fifty per cent (50%) or more of the voting interest, by contract, or otherwise (and **Controlled** and **Controlling** and **Change of Control** are to be construed accordingly).

**Default Notice** means a notice issued under clause 24.2.

**Defect** means any defect, fault, error, or omission including being not in accordance with the requirements of this Agreement

**Development Consent** means the development consent identified in Item 15.

**Direction** means a direction or requirement to do something or to do something in a particular manner whether given by notice, order or instruction or as a precondition or condition of an agreement, approval, decision or certification.

**Disclosed Information** means all of the information disclosed to the Contractor by or on behalf of the Principal up until the date of this Agreement.

**Dispute** means any dispute or difference between the Principal and the Contractor arising out of or in connection with this Agreement.

**Documentation** means any document, record, system, program or other material (in whatever form, including in electronic format) relating to the Services, including the Management Plans.

**Electricity Activities** means the activities to generate electrical energy using the Power Generation Plant and to sell and distribute that electrical energy and include the establishment and maintenance of the connection to the National Grid and sale of that electrical energy.

**Electricity Operating Date** means the date specified in Item 7.

**Electricity Revenue** has the meaning given in 0.

**Emergency Plan** means the so-called plan described in clause 4.3 of Schedule 5.

**Environment** means all components of the earth, including:

- (a) land, air and water;
- (a) any layer of the atmosphere;
- (b) any organic or inorganic matter;
- (c) any living organism; and
- (d) natural or man-made or modified features or structures,

and includes ecosystems and all elements of the biosphere.

**EPA** means the NSW Environment Protection Authority constituted under the *Protection of the Environment Administration Act 1991* (NSW).

**EPL** means the environment protection licence under the *Protection of the Environment Administration Act 1991* (NSW) specified in Item 16.

**Existing Asset** means any Assets that forms part of the Existing Capture System including those Assets listed in the Specification.

**Existing Capture System** means the Landfill Gas capture, transfer and destruction system that existed on the Site prior to and at the date of this Agreement.

**Expiry Date** means the date specified in Item 8 or that date as extended in accordance with clause 3.

**Final** means:

- (a) in respect of a Management Plan, once the Management Plan has been submitted to the Principal Representative in accordance with clause 3 of Schedule 5 and any comments by the Principal have been addressed to the Principal Representative's satisfaction;
- (b) in respect of a Cell Specific Design, once the Cell Specific Design that has been submitted to the Principal Representative in accordance with this Agreement (clause 9.4) and in respect of which the relevant period of time has expired and Council has not rejected the Cell Specific Design; and
- (c) in respect of any other Documentation, the Documentation has been prepared in accordance with this Agreement and where this Agreement requires:
  - (i) the approval of the Principal or Principal Representative, that approval has been given; or
  - (ii) review by the Principal or Principal Representative, that review has been completed and any comments of the Principal or Principal Representative addressed to their satisfaction.

**Flare** means, for each Site, a flaring module for the combustion of Landfill Gas, as more particularly described in the Specification.

**Force Majeure Event** means an act of war (whether declared or not) or terrorism, civil commotion or riot, earthquake, tsunami, flood or national or State wide industrial action (other than where caused or contributed to by the Contractor or any subcontractor to the Contractor (of any tier)), but only to the extent these render it impossible for the Contractor to perform the Services.

**Further Access Agreements** means, for each extension under clause 3, agreements consistent with the Lease and the Licence but modified as agreed between the parties.

**Good Industry Practice** means, in relation to any undertaking and any circumstances, the exercise of the skill, professionalism, care, prudence, diligence and contracting practice which would be expected from a skilled and experienced operator, contractor, manager or consultant engaged in the same type of undertaking under the same or similar circumstances, applying the best standards currently applied in the Contractor's industry.

**Good Operation and Maintenance Practice** means the exercise of that degree of skill, professionalism, care, prudence, diligence and contracting practice which would reasonably be expected from a skilled and experienced operator, contractor, manager or consultant engaged in the performance of work the same as, or substantially similar to, the O&M Activities.

**Gross Negligence** means a negligent act or omission that arises as a result of a significant departure from the standard of care that would ordinarily be expected from a highly skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances as the negligent person.

**Incident Management Plan** means the document described as such in clause 4.6 of Schedule 5.

**Initial Installation Activities** means:

- (a) in respect of the System all activities necessary or desirable;
  - (i) to install and commission the System ; and
  - (ii) to make the System operational,in accordance with this Agreement (including the Specification) in order to render the System Operational on the Operating Date. ***[Note the Specification and the Commissioning Plan will provide for the System to be staged so the obligation is not an obligation to have the whole of the System installed but that part required by the Specification];*** and
- (b) in respect of the Power Generation Plant, all activities necessary or desirable to make the Power Generated Plant operational by the Electricity Operating Date.

**Initial Licence Area** means that part of the Site identified as the Initial Licence Area in Schedule 1.

**Insolvency Event** means, in relation to a person, any of the following events:

- (a) the person, being an individual, commits an act of bankruptcy;
- (b) the person becomes insolvent;
- (c) the person ceases, suspends or threatens to cease or suspend the conduct of a majority of its business, or disposes of or threatens to dispose of its assets, except for the purposes of a solvent reconstruction or amalgamation previously approved by the Principal;
- (d) the person is or states that it is, or under applicable legislation is taken to be, unable to pay its debts (other than as a result of a failure to pay a debt or claim that is the subject of a dispute in good faith), or stops or suspends, or threatens to stop or suspend, payment of all or a class of its debts;
- (e) a receiver, receiver and manager, administrator, controller or similar officer of any of the assets or the whole or any part of the undertaking of the person is appointed;
- (f) a resolution is passed by the person to appoint an administrator, or an administrator of the person is appointed;
- (g) an order is made to appoint a liquidator or a provisional liquidator of the person;
- (h) the person resolves to wind itself up or otherwise dissolve itself, or gives notice of its intention to do so, except for the purposes of a solvent reconstruction or amalgamation previously approved by the Principal, or is otherwise wound up or dissolved;
- (i) an order is made that the person be wound up;

- (j) the person is, or makes a statement from which it may be reasonably inferred by the Principal that the person is, the subject of an event described in s 459C(2) of the Corporations Act 2001 (Cth);
- (k) the person assigns any of its property for the benefit of creditors or any class of them;
- (l) an order is made or a resolution is passed for the person to enter into any arrangement, compromise or composition with, or assignment for the benefit of, its creditors or any class of them, except for the purposes of a solvent reconstruction or amalgamation previously approved by the Principal;
- (m) any Security Interest becomes enforceable or is enforced against that person;
- (n) the person's interest in or under this Agreement or in the subject matter of this Agreement becomes attached or is taken, in execution or under any legal process;
- (o) a distress, attachment or other execution is levied or enforced against that person in excess of \$10,000;
- (p) the person has a judgment or order given against it in an amount exceeding \$10,000 (or the equivalent in another currency) and that judgment or order is not satisfied or quashed or stayed within 20 Business Days after being given;
- (q) any power of sale is exercised or steps are taken to take possession of any assets of the person subject to a Security Interest;
- (r) any step is taken to do anything listed in the above paragraphs; and
- (s) any event that is analogous or has a substantially similar effect to any of the events specified in this definition in any jurisdiction.

**Installation Activities** means the Initial Installation Activities and the Ongoing Installation Activities.

**Installation and Operation Environmental Management Plan** means the document described as such in clause 4.1 of Schedule 5.

**Intellectual Property Rights** means all current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trademarks, know-how, confidential information, patents, inventions and discoveries and all other intellectual property as defined in article 2 of the *Convention Establishing the World Intellectual Property Organisation 1967* (as amended from time to time).

**Item** means an item in the Reference Schedule.

**Landfill** means the landfill located on the Site that is operated by or on behalf of the Principal.

**Landfill Gas** means gas generated in the Landfill.

**Landfill Gas Management Services** means the capture, management and destruction of Landfill Gas. The method for this is described in the Specification.

**Law** means

- (a) any legislation in force from time to time;

- (b) any Authorisation as applicable from time to time;
- (c) any court order;
- (d) the lawful requirements of Authorities including as specified in any applicable industry code, policy or standard adopted as a requirement of any Authority in respect of services or activities of the same type as the Services or Contractor Activities respectively; and
- (e) any valid, applicable Direction given in writing by an Authority.

**Lease** means a lease of the Lease Area for a period of not more than 5 years on the terms set out in Schedule 7.

**Lease Area** means that part of the Site shown as the Lease Area in Schedule 1.

**Liability** means any liability, duty or obligation (whether actual, contingent or prospective), including for any loss irrespective of when the acts, omissions, events or things giving rise to the liability or obligation occurred.

**Licence** means a licence on the terms set out in Schedule 8, permitting use of the Licence Area.

**Licence Area** means each part of the Site for which the Licence has been granted as shown in Schedule 1 as amended in accordance with this Agreement.

**Loss** includes any damage, loss, cost (including legal costs on a solicitor/own client basis) or expense, either direct or indirect

**Management Plan** means each of:

- (a) Installation and Operation Environmental Management Plan;
- (b) Quality Plan;
- (c) Emergency Plan;
- (d) Business Continuity Plan;
- (e) Site Security Plan; and
- (f) Incident Management Plan.

**Mobilisation Date** means the date specified in Item 5.

**Mobilisation Program** means the Contractor's program for mobilisation and service implementation of the Services prepared in accordance with this Agreement consistent with the draft Mobilisation Program set out in Schedule 9.

**Moral Rights** means any of the rights described in Article 6bis of the Berne Convention for the Protection of Literary and Artistic Works 1886 (as amended and revised from time to time), being 'droit moral' or other analogous rights arising under any statute (including the *Copyright Act 1968* (Cth)) or any other Law (including any Law outside Australia), that exist, or that may come to exist, anywhere in the world.

**National Grid** means the national electricity network operated by the Australian Energy Market Operator.

**New Asset** means any Asset that is not an Existing Asset.

**Nominated Asset** means any Asset that the Principal has determined is a nominated asset in accordance with clause 25.

**Nominated Persons** means the persons stated in Item 12, or, in respect of either party, any replacement person nominated by the relevant party in writing to the other party from time to time.

**O&M Activities** means the activities to operate and maintain the System and the Power Generation Plant in accordance with this Agreement.

**OEH** means the NSW Office of Environment and Heritage and where the term is used in respect of a function to be performed by the EPA, then OEH means the EPA.

**Ongoing Installation Activities** means the activities to install Assets after the Operating Date, in accordance with this Agreement (and in particular clause 9) including the respecification.

**Operating Date** means the date specified in Item 6.

**Overarching Design** means a proposed design for:

- (a) the System and the Power Generation Plant;
- (b) the installation of new elements of the System when new Cells are taken up at the Landfill,

that meets the requirements set out in the Agreement (including the Specification).

**Party** means a party to this Agreement.

**Payment Period** means for each Revenue Source specified in the First Column of the Table in Item 20 the period specified in the Second Column of that Table.

**Pollution** means a release, emission or discharge into the Environment (including of a substance) which causes or has the potential to unlawfully cause (directly or indirectly) damage or harm to any aspect of the Environment, for example unlawful:

- (a) pollution of air
- (b) pollution of waters
- (a) noise; and
- (b) pollution of land,

which is not authorised by a licence obtained under the *Protection of the Environment Operations Act 1997* (NSW) or other Environmental Law.

**Power Generation Plant** means the plant and equipment used to produce electrical energy from Landfill Gas and connect it to the National Grid, including all associated electrical works, as more particularly described in the Specification.

**PPS Act** means the Personal Property Securities Act 2009 (Cth).

**PPS Law** means the PPS Act and the regulations made pursuant thereto.

**Principal Obtained Authorisations** means the Development Consent and the EPL.

**Principal Representative** means the representative of the Principal specified in Item 2 of the Reference Schedule, as changed from time to time by written notice from the Principal to the Contractor under clause 30.1.8 of the Services Terms, and includes any delegate of that person.

**Quality Plan** means the document described as such in clause 4.2 of Schedule 5.

**Reference Schedule** means the Reference Schedule at the commencement of this document

**Remedy** means to remedy or cure a Contractor Default Event or, if the Contractor Default Event is not capable of being remedied or cured, to overcome the consequences of the Contractor Default Event.

**Required Insurance** means the insurance required under clause 20.

**Resolution Institute** means the Institute of Arbitrators and Mediators Australia or such entity as may succeed to the functions of that institute.

**Revenue Source** means each of the Abatement Revenue and Electricity Revenue and if any other revenue is capable of being generated, that other revenue in accordance with any agreement between the Parties in respect of it.

**Revenue Statement** means in respect of each Revenue Source, the Revenue Statement required by Schedule 3 or 0 as applicable or as otherwise agreed between the Parties in respect of any other revenue.

**Review Document** means:

- (a) any application (including an application for the Waste Levy Deduction Certificate);
- (b) Management Plan;
- (c) design (including the Overarching Design or a Cell Specific Design); or
- (d) other document which this Agreement provides that the Principal may or must review or comment before it is adopted in a final document.

**Scheme Administration Services** means the activities, obligations and requirements that the Contractor is required to perform under Schedule 3 or under another provision of this Agreement (including the Specification) that relates to the maintenance of the Declaration of the Project (including as an Eligible Offsets Project) under the applicable Carbon Credit Scheme, completing and complying with all administration requirements of each applicable Carbon Credit Scheme and generating, realising and selling Carbon Credits and other tradeable instruments rights and entitlements under that scheme. Note see Schedule 3 for further defined terms.

**Security** means the Bank Guarantee required to be provided to the Principal under clause 2.3.

**Security Interest** means:

- (a) any mortgage, pledge, lien, charge or other preferential right, trust arrangement, agreement or arrangement of any kind given or created by way of security, including a security interest as defined in the *Personal Property Securities Act 2009*; and

- (b) any agreement to create or grant any arrangement described in paragraph (a).

**Tax** means a tax, levy, contribution requirement, duty, charge, deduction or withholding, however it is described, that is imposed by law (including by an Authority), together with any related interest, penalty, fine or other charge, other than one that is imposed on net income in any jurisdiction.

**Services** means each of the services specified as Item 1 and the provisions of any deliverables (if any) arising out of those Services or otherwise supplied by the Contractor to the Principal under or in connection with this Agreement, including any Documentation.

**Services Term** means clauses 1 to 37 of this Agreement.

**Site** means the site specified in Item 9.

**Site Security Plan** means the document described as such in clause 4.5 of Schedule 5.

**Specification** means the specification in Schedule 10.

**Specified Proportion** has the meaning given in clause 17.1.

**System** means the Landfill Gas capture, transfer and destruction system at the Site including all Assets

Note: the System is generally described in the Specification and will be subject to more detailed design in the Overarching Design and for each Cell in the Cell Specific Design

**Tender Documents** means the following documents:

- (a) Request for Tender (Number *[insert]*) – Landfill Gas Services Contract (**RFT**); and
- (b) the Contractor's proposal submitted in response to the RFT dated *[insert]*.

**Term** means the term of this Agreement being the period commencing on the Commencement Date and terminating on the Expiry Date or earlier termination of the Agreement.

**Transfer Point** has the meaning given in Item 17.

**Waste Levy Deduction Certificate** has the meaning given in the Specification.

**WHS Act** means the *Work Health and Safety Act 2011* (NSW).

**WHS Law** means the WHS Act, the WHS Regulation, and any other work health and safety law, regulation, by-law standards and codes of practice that applies to work being carried out as part of the Services or Contractor Activities.

**WHS System** means the work health and safety system, which is required to be in place and adhered to under clause 13

**WHS Regulation** means the *Work Health and Safety Regulation 2011* (NSW).

## 1.4 Priority of documents

1.4.1 This Agreement prevails over Management Plans. In particular:

- (a) if there is a conflict or inconsistency between the Management Plans, an interpretation that gives effect to the Agreement shall be preferred;
  - (b) if a Management Plan specifies a less stringent or less complete requirement than the Specification or other requirement of the Agreement then the more stringent or complete requirement shall prevail;
  - (c) a Management Plan does not limit:
    - (i) the role or power of the Principal or any Authority;
    - (ii) any duty, liability or obligation of the Contractor; or
    - (iii) any right, power or privilege of the Principal.
  - (d) once a Management Plan becomes a Final Management Plan, then unless expressed to the contrary a reference to that Management Plan in the Agreement is to the Final Management Plan.
- 1.4.2 If there is any ambiguity, discrepancy or doubt about the interpretation of any provision of the Agreement an interpretation that imposes on the Contractor the higher standard, quality of work or level of performance shall prevail.
- 1.4.3 Any discrepancy between documents forming part of this Agreement shall be resolved by giving precedence to documents in the following order of priority:
- (a) the Services Terms and the Reference Schedule;
  - (b) the Schedules other than the Specification;
  - (c) the Specification; and
  - (d) the Final Management Plans.

## **1.5 General Interpretative Provisions**

- 20.2 In this Agreement:
- 1.5.1 a reference to this document or other document includes the document as varied or replaced regardless of any change in the identity of the parties;
  - 1.5.2 a reference to legislation or any particular legislation includes any delegated legislation and any consolidations, amendments, re-enactments or replacements of any of that legislation from time to time.
  - 1.5.3 a person includes a firm, partnership, joint venture, association, corporation or other corporate body;
  - 1.5.4 a particular person includes the legal personal representatives, successors and permitted assigns of that person; and
  - 1.5.5 any body which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the first-mentioned body.
  - 1.5.6 unless expressed to the contrary, a reference to a clause, Schedule, Attachment or Annexure is a reference to clauses in, and Schedules, Attachments or Annexures

to, the Agreement document in which those words appear, all of which are deemed part of this Agreement;

- 1.5.7 a reference to writing includes all modes of representing or reproducing words in a legible, permanent and visible form;
- 1.5.8 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Agreement;
- 1.5.9 labels (if any) are inserted for ease of reference only and do not affect the interpretation of this Agreement;
- 1.5.10 where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- 1.5.11 where the word 'including' or 'includes' is used it means 'including but not limited to' or 'including without limitation';
- 1.5.12 the singular includes the plural and vice versa;
- 1.5.13 a reference to any property or assets of a person includes the legal and beneficial interest of that person in those assets or property, whether as owner, lessee or lessor, licensee or licensor, trustee or beneficiary or otherwise;
- 1.5.14 A reference to a matter being to the knowledge of a person means the matter is to the best of the knowledge and belief of the person after making proper enquiry including enquiry which a reasonable person would be prompted to make by reason of knowledge of a fact;
- 1.5.15 a gender includes the other genders; and
- 1.5.16 a reference to '\$' or 'dollars' is a reference to Australian dollars.

## **1.6 Business Day**

If a payment or other act is required by this Agreement to be made or done on a day which is not a Business Day, the payment or act must be made or done on the next following Business Day.

## **1.7 At its own cost**

Where a provision of this Agreement requires the Contractor to perform any work, service or activity (including the Services and the Contractor Activities) then that provision is taken to require that the Contractor is required to comply with that requirement at its own cost unless specifically stated otherwise.

## **1.8 Preservation of contractual risk allocation**

Subject to this Agreement:

- 1.8.1 the Contractor accepts all costs, expenses and risks of and associated with the Services and Contractor Activities and the performance of the Services and Contractor Activities; and
- 1.8.2 the Contractor is not entitled to and must not make any Claim (including a Claim for an adjustment of a Specified Proportion) against the Principal (or any person acting on the Principal's behalf) arising out of or in connection with any such risk, cost or expense having eventuated or been incurred.

## **1.9 Maintain**

In this Agreement, an obligation to maintain includes the obligation to repair.

## **1.10 Principal as Local Authority**

Nothing in this Agreement shall be construed as limiting, waiving, reducing or fettering any right, power, discretion or privilege of the Principal as the responsible local government authority under the Local Government Act 1993 or any other legislation.

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## **2. Appointment of Contractor**

### **2.1 Appointment**

2.1.1 The Principal appoints the Contractor as an independent and expert contractor with specialist skills and expertise not possessed by the Principal to provide the Services in accordance with this Agreement, during the Term.

2.1.2 The Contractor accepts that appointment.

2.1.3 Any Contractor Activities that are performed by the Contractor must also be performed in accordance with this Agreement.

### **2.2 No Agency**

The Contractor is not an agent of the Principal unless separately and specifically appointed as such by separate written instrument and then only to the extent provided in that written instrument.

### **2.3 Provision of Bank Guarantee**

The Contractor must, on or before the date of this Agreement, provide and deliver to the Principal Representative a Bank Guarantee, for the amount set out in Item 11.

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## **3. Term and renewal**

### **3.1 Term**

3.1.1 This Agreement commences on the Commencement Date and continues for the Term, unless validly terminated by a Party.

3.1.2 This Agreement terminates on the Expiry Date. However, certain provisions survive the expiration of this Agreement to the extent (if any) stated.

### **3.2 Extension of Term**

3.2.1 The Term may be extended for a period of up to 5 years by written agreement of the Parties, executed not less than six months prior to the end of the Term.

3.2.2 The Parties may extend the Term under this clause 3.2 no more than two times.

3.2.3 Where the Parties agree to extend the Term under this clause 3.2, the Principal must grant the Contractor the Further Access Agreements for the period of the extension;

3.2.4 This clause 3.2 does not limit the Principal's rights under clause 24.

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## **4. Mobilisation and Commissioning Plan**

### **4.1 Mobilisation Program and Overarching Design**

4.1.1 The Contractor must within 20 Business Days of the date of this Agreement provide to the Council, and obtain the Principal's approval of:

- (a) a Mobilisation Program that fully specifies how the Contractor proposes to mobilise, install and commission the System and the Power Generation Plant from the Mobilisation Date and in order to comply with this Agreement including:
  - (i) details of the Existing Assets and identification of any Existing Assets that the Contractor considers are not required to perform the Services and proposes to remove;
  - (ii) a program for obtaining Authorisations;
  - (iii) a program for occupation of the Lease Area;
  - (iv) a program for the installation of the System or any works to upgrade the System within the Licence Area;
  - (v) a program for the installation of the Power Generation Plant within the Lease Area; and
  - (vi) a Commissioning and Testing Plan;
  - (vii) a program in 'Gantt chart' format showing sufficient detail to allow monitoring of progress, including milestones;
  - (viii) such other information as is reasonably required by the Principal's Representative; and
- (b) an Overarching Design.

4.1.2 The Mobilisation Program and the Overarching Design must comply with this Agreement.

4.1.3 The Contractor must adjust the Mobilisation Program and the Overarching Design provided under clause 4.1.1 as reasonably required by Council having regard to the requirement of this Agreement in order for Council to approve the Overarching Design.

4.1.4 In determining whether to approve the Mobilisation Program and the Overarching Design the Council may have regard to:

- (a) the efficient operation of the Site (including third party activities);
- (b) the cost and any revenue generation;

- (c) the requirements of this Agreement;
- (d) the requirements of each Authorisation applicable to the Site or the Services;
- (e) the protection of the environment and the health and safety of people.

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## **5. Access**

### **5.1 Early Access**

The Principal will allow the Contractor access to the Site as reasonably necessary for the purpose of designing the System and other Contractor Activities required to be carried out prior to the Mobilisation Date.

### **5.2 Initial Access Agreements**

5.2.1 At least 7 days prior to the Mobilisation Date, the Contractor must provide to the Principal written notice of satisfaction of each of the Access Preconditions.

5.2.2 If having received that notice in accordance with this clause, the Principal is satisfied that the Access Preconditions have all been and remain satisfied, the Principal must, grant to the Contractor:

- (a) the Lease of the Lease Area; and
- (b) the Licence of the Initial Licence Area.

### **5.3 Extension or change of Licence Area**

5.3.1 The Licence Area may be changed, extended or amended by written notice from the Principal to the Contractor.

5.3.2 The Principal may not change, extend or amend the Licence Area in a manner materially detrimental to the Contractor unless:

- (a) the Principal in good faith has consulted with the Contractor to advise the Contractor of the proposed changes; and
- (b) the Principal considers that the change is necessary for the safe or efficient operation of the Site or any activities on the Site.

### **5.4 Accept as is**

The Contractor accepts and must make no Claim against the Principal in connection with:

5.4.1 the Site, Licence Area or Lease Area;

5.4.2 any condition, use of, aspect of or characteristic of the Site, the Licence Area, the Lease Area; or

5.4.3 any structures, assets (including Assets) services, waste, hazard, Contaminant or obstruction, or other thing in, on or adjacent to the Site, Licence Area or Lease Area, whether latent or manifest, whether or not disclosed or able to be deduced from the Disclosed Information, including:

- (a) their condition now and any changes to that condition from time to time;

- (b) any defects or faults;
- (c) any Contamination;
- (d) the presence of asbestos or other hazardous materials;
- (e) the content, nature, characteristics of any waste or material on or disposed of within the Site;
- (f) the stability, compatibility and competency of any material including the ground conditions in the Site or any waste or other material disposed of at the Site;
- (g) the composition of the waste in the Licence Area or elsewhere in the Site;
- (h) the extent, nature, content, absence, intermittency, consistency or other characteristic of the Landfill Gas or the generation of Landfill Gas.

## **5.5 Comply with directions**

- 5.5.1 The Contractor must fully comply with (and ensure the Contractor's employees, contractors and invitees fully comply with) all requirements or directions, as provided from time to time by the Principal to the Contractor, relating to:
- (a) access to, behaviour on or access from any buildings, land, structural assets and other facility owned, occupied, leased or controlled by or on behalf of Council at which Services are to be carried out (including, but not limited to, security and health and safety requirements in relation to such premises); and
  - (b) where arranged and permitted by Council, access to and use of the Principal's computer systems, programs and/or any arrangement Council has in place to access the internet.
- 5.5.2 The Contractor must advise the Principal's Representative of any unauthorised access or use of any part of the Site.

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## **6. Utilities provided by the Principal**

The Principal must provide support services and utilities identified in Schedule 2 to the Contractor in accordance with Schedule 2.

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## **7. Conduct of Mobilisation and Commissioning Activities**

### **7.1 Mobilisation and commissioning activities**

The Contractor must in accordance with the Final Mobilisation Program and the Overarching Design approved by the Council:

- 7.1.1 carry out the Initial Installation Activities and all other work required:
- (a) to commence the Services by the Operating Date in accordance with this Agreement; and

- (b) to commence the Electricity Activities by the Electricity Operating Date in accordance with this Agreement; and
- 7.1.2 carry out all other work specifically required under this Agreement to be carried out prior to the Operating Date or the Electricity Operating Date as applicable.

## **7.2 [For Shoalhaven] Decommissioning Existing Power Generation Plant**

- 7.2.1 In this clause 7.2, the Existing Power Generation Plant means the existing plant and equipment used to produce electrical energy from Landfill Gas and connect it to the grid, including all associated electrical works.
- 7.2.2 If the Contractor does not decide to refurbish and use the Existing Power Generation Plant, the Contractor must remove the Existing Power Generation Plant from the Site and dispose of it prior to the Operating Date.
- 7.2.3 Property in the Existing Power Generation Plant vests in the Contractor upon the Commencement Date, unless another date has been specified in writing by the Principal.

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## **8. Operating Date and Electricity Operating Date**

- 8.1.1 On the Operating Date, the Contractor must:
  - (a) have carried out the works and activities necessary to be able to perform the Services in accordance with this Agreement;
  - (b) be ready and capable of performing the Services; and
  - (c) in accordance with the Specification and this Agreement, have designed, installed, commissioned, tested and upgraded the System and performed all other works and activities necessary so that the System is fully operational and capable of proper and efficient operation to perform the Services.
- 8.1.2 On the Electricity Operating Date, the Contractor must:
  - (a) have carried out the works and activities necessary to be able to perform the Electricity Activities in accordance with this Agreement;
  - (b) have obtained all required Authorisations and entered into all required agreements in order to carry out the Electricity Activities;
  - (c) be ready and capable of performing the Electricity Activities; and
  - (d) in accordance with the Specification and this Agreement have designed, installed, commissioned, tested and upgraded the Power Generation Plant and performed all other works and activities necessary so that the Power Generation Plant is fully operational and capable of proper and efficient operation.

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## **9. Ongoing Installation Activities**

### **9.1 System to be progressively expanded**

The Contractor acknowledges and agrees:

- 9.1.1 that the Principal will progressively develop and fill Cells across the Site;
- 9.1.2 the Principal is not required to design, construct, open or fill any Cell in any particular order or manner; and
- 9.1.3 for each Cell, the Contractor must in a timely manner carry out all necessary work to progressively design, install and commission the System in order to ensure that the System is operational and capable of performing in accordance with this Agreement for every Cell at all times.

## **9.2 Consultation**

The Principal and the Contractor must in good faith consult for the purpose of:

- 9.2.1 keeping the Contractor reasonably informed as to the Principal's program for the opening and filling of each Cell and of changes in the proposed location, dimensions and construction of Cells;
- 9.2.2 the Contractor informing the Principal of the progress of the design, installation and commissioning of the System;
- 9.2.3 agreeing any design of any relevant part of the System in connection with a Cell as it is designed, constructed, opened or filled; and
- 9.2.4 agreeing any or program for the design, installation and commission the System.

The Contractor must comply with any design or program agreed under this clause 9.2 (provided always that this clause does not waive or limit any other requirement of this Agreement).

## **9.3 Request for Information**

- 9.3.1 The Contractor may from time to time in writing request that the Principal provide to the Contractor such information as is necessary for the Contractor to prepare the Cell Specific Designs. The Principal must comply with reasonable requests for such information.
- 9.3.2 The Principal may from time to time in writing request the Contractor to provide to the Principal such information in respect of the System and any designs, components or operational aspects of the System as may be relevant to the development, design, formation or construction of any Cell. The Contractor must comply with reasonable requests for such information.

## **9.4 Cell Specific Design**

- 9.4.1 For each Cell,
  - (a) the Contractor must progressively carry out design of the System as required by the Specification to ensure continued and ongoing operation of the System across all Cells in accordance with this Agreement; and
  - (b) in addition, the Principal may from time to time by written notice, direct that the Contractor provide documented designs and updates to documented designs for the System to be constructed within the Cell. The Contractor must comply with every such direction.
- 9.4.2 Without limiting clause 9.4.1, the Principal may direct the Contractor in accordance with clause 9.4.1 in respect of each new Cell proposed by the Principal and in

respect of changes to design, construction, use or operation of any Cell and as each Cell is filled. A direction under this clause is not a variation and does not entitle the Contractor to make any Claim.

## **9.5 Changes to designs**

The Contractor may in accordance with the Specification submit to Council a Cell Specific Design which amends, replaces or updates a Final Cell Specific Design. The Principal is to consider the proposed changes in accordance with the Specification.

## **9.6 Cell Program**

9.6.1 The Principal may from time to time direct the Contractor to provide to the Principal for review and approval a program (Cell Program) for the development and completion of each Cell Specific Design and the installation of the necessary elements of the System in accordance with the Cell Specific Design. The Cell Program must include a timetable for the development of the design, hold points for review of the design by the Principal and an installation program for the System within the Cell. The Contractor must promptly comply with the direction.

9.6.2 The Principal may review and comment on any Cell Program provided under clause 9.6.1.

9.6.3 The Contractor must make such reasonable amendments to the Cell Program as are required in order for the Principal to approve the Cell Program.

## **9.7 Contractor not to proceed**

The Contractor must ensure that the Ongoing Installation Activities are not commenced or carried out in respect of a Cell or any part of a Cell unless:

9.7.1 there is a Final Cell Specific Design and Final Cell Program in respect of the Cell and the relevant part of the Cell; and

9.7.2 the Ongoing Installation Activities are carried out in accordance with the Final Cell Specific Design and Final Cell Program applicable to those Ongoing Installation Activities in that Cell and that part of the Cell.

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# **10. Performance of the Services and Contractor Activities**

## **10.1 Obligation to perform Services for Council**

10.1.1 During the Term the Contractor must provide the Services to the Council in accordance with the requirements of this Agreement and in order to facilitate achievement of the Services aims and objectives set out in the Specification.

10.1.2 The Contractor must do all things necessary to ensure that each Abatement Target is complied with.

## **10.2 Continuation of Services**

The Contractor must:

10.2.1 ensure that there is no disruption to the Services during the Term except where expressly permitted by this Agreement;

- 10.2.2 except in the case of an emergency, provide advanced written notice to the Principal Representative of any maintenance, repair, replacement, reinstatement or rectification work that is to be performed to the System or the Power Generation Plant; and
- 10.2.3 in performing any maintenance, repair, replacement, reinstatement or rectification work, continue to perform all of the Services or, if that is not possible, perform the relevant maintenance, repair, replacement, reinstatement and rectification work in such a way as to minimise the disruption to the performance of the Services and to other activities on the Site.
- 10.2.4 ensure that all plant, equipment and materials used by the Contractor in constructing the System comply with any standards specified in the Specification.

### **10.3 Shut down periods**

- 10.3.1 If the System or the Power Generation Plant shuts down, the Contractor must comply with the applicable requirements specified in the Specification.
- 10.3.2 If the Services are suspended or interrupted for a period of more than 10 Business Days for a reason other than a Force Majeure Event, the Principal may (without limiting any other right the Principal may have) either itself or through an alternative contractor perform so much of the Services as the Contractor has suspended or interrupted and the reasonable costs of doing so must be paid by the Contractor to the Principal on demand.

### **10.4 Obligation to perform Contractor Activities**

The Contractor must perform all Contractor Activities necessary to enable the Contractor to provide the Services to the Council in accordance with the requirements of this Agreement including:

- 10.4.1 ensuring compliance with the Specification including for design;
- 10.4.2 procuring all equipment, plant, materials, and consumables required to carry out the Services;
- 10.4.3 arranging the delivery, storage, installation and use of all equipment, plant, materials and consumables;
- 10.4.4 rectifying any defect or damage in or too any plant and equipment;
- 10.4.5 complying with each Final Management Plan;
- 10.4.6 maintaining all plant and equipment and every part of the System and the Power Generation Plant in a proper and efficient working condition suitable for the performance of the Services and to comply with law;
- 10.4.7 carrying out all other activities and works necessary to provide the Services and to comply with this Agreement;
- 10.4.8 ensuring all works, plant, equipment, Assets are free of Defects and fit for purpose; and
- 10.4.9 complying with and ensuring all equipment and Assets comply with all relevant Australian Standards.

## **10.5 Standard of performance**

The Contractor must carry out the Services and perform all Contractor Activities in compliance with the Specification and:

- 10.5.1 in a proper, diligent, timely, safe and professional manner and otherwise in accordance with Good Industry Practice and, in respect of the O&M Activities, in accordance with Good Operation and Maintenance Practice;
- 10.5.2 in accordance with the conditions and requirements of all applicable Authorisations, including the EPL and any Carbon Abatement Contract;
- 10.5.3 exercising proper and diligent care, skill and judgment;
- 10.5.4 in accordance with the reasonable directions given by the Principal;
- 10.5.5 in a safe, timely and efficient manner;
- 10.5.6 in a manner that ensures that there is no disruption to the Services during the Term, except where expressly excused by this Agreement;
- 10.5.7 in accordance with Law;
- 10.5.8 taking all steps reasonably practicable to eliminate risks to people and property and prevent harm to the environment in the performance of the Services;
- 10.5.9 ensuring all works, plant, equipment, Assets and materials are free of Defects and fit for purpose;
- 10.5.10 complying with and ensuring that all materials, equipment and Assets comply with Australian Standards.

## **10.6 Standard of efficiency and availability**

Without limiting any other provisions of this Agreement, the Contractor must ensure that the System is available and operated to the standards specified in the Specification.

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## **11. Compliance with Law**

### **11.1 Law generally**

In carrying out the Services and all Contractor Activities, the Contractor must comply with all Laws.

### **11.2 Direction from Authority**

If a Direction of an Authority is served on the Principal or Principal Representative or the Contractor or Contractor's Representative in relation to:

- 11.2.1 the Services;
- 11.2.2 the Contractor Activities;
- 11.2.3 the System or Power Generation Plant;

- 11.2.4 the impact or potential impact of the System or Power Generation Plant, Services or any Contractor Activity or any other work or activity of the Contractor on
- (a) any land (including the Site) and any substance deposited within the Site;
  - (b) any person;
  - (c) the property of any person; or
  - (d) the environment,

the Principal may by written notice to the Contractor, direct the Contractor to comply with that Direction and the Contractor must promptly comply with that Direction

### **11.3 Authorisations**

- 11.3.1 The Contractor must obtain all Authorisations other than the Principal Obtained Authorisations required for it to perform the Services and carry out the Contractor Activities and for the System and Power Generation Plant.
- 11.3.2 The Contractor accepts each Principal Obtained Authorisation and shall make no Claim against the Principal in respect of them.
- 11.3.3 If a change, variation, modification or amendment of a Principal Obtained Authorisation is necessary in order for the Contractor to be able to carry out the Services in accordance with this Agreement (or the Contractor reasonably considers this to be the case) then:
- (a) the Contractor must promptly notify the Principal of the change, variation, modification or amendment that the Contractor considers to be necessary;
  - (b) the Parties must in good faith consult to determine what if any change, variation, modification or amendment is required and to agree the process for obtaining it;
  - (c) the Contractor must:
    - (i) prepare and provide to the Principal all necessary documentation; and
    - (ii) pay to the Principal all fees and charges,required to apply for and support the application for the change, variation, modification or amendment agreed under clause 11.3.3(b);
  - (d) if the Contractor has complied with clause 11.3.3(c)) the Principal must make such applications as are necessary to obtain the change, variation, modification or amendment agreed under clause 11.3.3(b); and
  - (e) the Contractor must do all things necessary and pay on demand any fees or costs of the relevant Authority to obtain the change, variation, modification or amendment agreed under clause 11.3.3(b) .

### **11.4 Applications**

The Contractor may not make an Application for an Authorisation without the prior written permission of the Principal (in that capacity), and each such Application must be consistent with and give effect to the requirements of this Agreement.

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## **12. Environment**

20.2.1 Without limiting clause 11.1, the Contractor must when carrying out the Services or Contractor Activities:

- 12.1.1 ensure that there is no unlawful Pollution, Contamination or other risk of harm to the Environment;
- 12.1.2 not cause or permit any nuisance or hazard to any person; and
- 12.1.3 remediate any Pollution, Contamination or damage to the Environment arising out of, or in any way in connection with, the carrying out of the Services or conduct of the Contractor Activities.

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## **13. Work Health and Safety**

### **13.1 General**

Without limiting clause 11.1, the Contractor must in connection with the Services and Contractor Activities, comply with, and ensure that its workers, including its employees, contractors, subcontractors and agents, comply with all WHS Law and:

- 13.1.1 take all possible and reasonably practicable steps and measures to eliminate risk to health and safety;
- 13.1.2 ensure that it does not cause the Principal to be in breach of any of its obligations under the WHS Law;
- 13.1.3 provide all required assistance to the Principal to comply with the WHS Law in connection with the Services and Contractor Activities;
- 13.1.4 ensure the protection of the health, safety and welfare of any persons engaged in or in connection with the Services or Contractor Activities (whether by the Contractor, contractors, subcontractors or otherwise);
- 13.1.5 comply with any Directions, manuals, policies or rules formulated from time to time by the Principal;
- 13.1.6 manage risks associated with the carrying out of the Services or Contractor Activities in accordance with Part 3.1 of the WHS Regulation;
- 13.1.7 ensure that the Lease Area, the and any premises controlled by the Contractor where any persons are performing work in connection with the Services or Contractor Activities, are safe and without risks to health;
- 13.1.8 ensure that any plant or substance provided for use by any persons performing work in connection with the Services or Contractor Activities is safe and without risks to health when properly used;
- 13.1.9 ensure that systems of work, including the working environment, are safe and without risks to health;
- 13.1.10 provide adequate and safe facilities;
- 13.1.11 ensure that if any Law requires that a person is required to hold any accreditation, certificate or other qualification that they have it and keep it up to date

- 13.1.12 ensure that if any Law requires that a workplace, plant, substance, design, or work (or class of work) be authorised, registered or licensed, that workplace, plant, substance, design, or work is so authorised, registered or licensed; and
- 13.1.13 if requested by the Principal Representative or required by the WHS Law, produce evidence of any Authorisations, registration, prescribed qualifications or experience, or any other information relevant to work health and safety (as the case may be) to the satisfaction of the Principal Representative.

## **13.2 Principal Contractor**

In respect of any works commissioned by, or carried out by or on behalf of, the Contractor on the Site (including in connection with the Services, Contractor Activities, the System or the Power Generation Plant), without limiting or otherwise affecting the obligations of the Contractor under any other provision of the Agreement, the Principal and Contractor agree that, if the works are a construction project to which Chapter 6 of the WHS Regulation applies:

- 13.2.1 the Principal engages the Contractor as principal contractor in respect of such works and the site of the works;
- 13.2.2 the Principal authorises the Contractor to:
  - (a) have management and control of such works and the site of the works; and
  - (b) discharge, exercise and fulfil the functions, duties and obligations of a principal contractor under Chapter 6 of the WHS Regulation in connection with such works and site of the works;
- 13.2.3 the Contractor accepts the engagement as principal contractor and agrees to discharge, exercise and fulfil the functions, duties and obligations imposed on a principal contractor by the WHS Law;
- 13.2.4 to the extent that the Contractor is for any reason, taken or otherwise found not to be the principal contractor for such works and the site of the works, the Contractor nonetheless must discharge, exercise and fulfil the functions, duties and obligations of a principal contractor in respect of such works and the site of the works as if the Contractor was the principal contractor for those works and the site of the works;
- 13.2.5 the Contractor is aware of its obligations as principal contractor, or its obligations that may otherwise arise under clause 13.2.4.

## **13.3 WHS System**

The Contractor must submit to the Principal Representative on or before the Commencement Date (and at other times upon request by the Principal Representative during the Term), evidence to the reasonable satisfaction of the Principal Representative that the Contractor has a sufficient WHS System in place to comply with this Agreement and must adhere to the WHS System.

## **13.4 WHS Law definitions**

All terms used in clause 13.1, 13.2 and 13.3 have the meanings given to them in the WHS Act and the WHS Regulation unless otherwise provided in clause 1.3.

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## **14. Personnel and Subcontracting**

### **14.1 Personnel**

- 14.1.1 The Contractor must engage sufficient personnel to perform the Services and any Contractor Activities in accordance with this Agreement.
- 14.1.2 The Contractor must use relevantly and suitably experienced and skilled personnel to perform its obligations in relation to the Services and Contractor Activities.
- 14.1.3 The Contractor must provide the Services to the Principal and perform its other obligations and activities under this Agreement using a sufficient number of suitably trained, qualified, skilled and experienced personnel. The Contractor is responsible for any training of its personnel. The Principal is not liable to pay any fees, charges or expenses in relation to any such training.

### **14.2 Subcontracting**

- 14.2.1 The Contractor must not contract for the performance of any Service, Contractor Activity, work or other activity or obligation under this Agreement by a subcontractor without the prior written consent of the Principal, which consent (if provided) may be given subject to such conditions as the Principal considers appropriate in its discretion.
- 14.2.2 At the time of requesting consent under clause 14.2.1 and again at the time of contracting with a person as a subcontractor the Contractor warrants and represents to the Principal that each subcontractor (of any tier) engaged is at that time and will remain:
  - (a) appropriately licensed and registered in accordance with Law;
  - (b) suitably qualified and experienced in the performance of services, works and activities the same as, or substantially similar to, the relevant services, works and activities they are engaged to perform; and
  - (c) capable of exercising and will exercise the degree of skill, professionalism, care, prudence, diligence and operating practice which would reasonably and ordinarily be expected from a skilled and experienced contractor engaged in the performance of services, works and activities of a nature the same as, or substantially similar to, the relevant part of the services, works and activities they are engaged to perform.
- 14.2.3 The Contractor is liable for any act, omission, default or negligence of any subcontractor (of any tier) as if it was the act, omission, default or negligence of the Contractor.

### **14.3 Obligations unaffected**

The obligations, duties and liabilities of the Contractor under this Agreement are unaffected by the fact that the Contractor contracts for the performance of any part of the Services or any Contractor Activity by a subcontractor (of any tier) and the Contractor is at all times responsible to the Principal for the performance of all Services and the Contractor Activities, regardless of whether those services are carried out by the Contractor's subcontractors (of any tier).

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## **15. Notification of incidents**

### **15.1 Immediate Notification**

- 20.3 The Contractor must immediately notify the Principal Representative in writing of:
- 15.1.1 any act, fact or circumstances associated with the Services, the Contractor Activities, the System, the Assets, the Power Generation Plant or the Site relevant to the ability of the Contractor to comply with the requirements of clause 10, 11, 12 or 13;
  - 15.1.2 any actual, anticipated or threatened damage to the System, the Assets, the Site, the Power Generation Plant or to the Principal's property, systems or business; and
  - 15.1.3 any
    - (a) unlawful Contamination or unlawful Pollution;
    - (b) incident which is notifiable under any Law;
    - (c) injury or death of a person;
    - (d) property damage which occurs;
    - (e) non-compliance with a Law; or
    - (f) direction being issued to the Contractor by an Authority,in connection with the Services, Contractor Activities, Assets, Site or the Power Generation Plant.

### **15.2 Correct and report**

- 20.4 In respect of any matter of which the Contractor is required to provide notification under clause 15.1, the Contractor must:
- 15.2.1 do everything necessary to minimise harm to people, property and the Environment and to comply with Law; and
  - 15.2.2 within 24 hours of any such matter notified under this clause 15.1, provide a written report to the Principal Representative giving complete details of the matter, including the results of investigations into its cause, a copy of any notification required to be given by WHS Law or any other Law, a copy of any fines, charges or notices received and any recommendations or strategies for prevention of a recurrence.

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## **16. Landfill Gas**

### **16.1 Entitlement to utilisation of Landfill Gas**

In consideration of the performance of the Services and agreement to undertake Contractor Activities in accordance with this Agreement, the Principal:

- 16.1.1 during the Term, grants an exclusive licence to the Contractor to capture the Landfill Gas; and

16.1.2 agrees to the revenue sharing arrangements specified in clause 17.

## **16.2 Ownership of Landfill Gas**

16.2.1 Subject to 16.2.2, the Principal owns all Landfill Gas and will continue to own all Landfill Gas extracted by the Contractor.

16.2.2 Where the Contractor is performing Electricity Activities, title to Landfill Gas used in the Electricity Activities will pass from the Principal to the Contractor at the Transfer Point.

## **16.3 No warranty regarding gas generation**

The Contractor specifically acknowledges and agrees that:

16.3.1 the Principal makes no warranty or representation as to the Landfill Gas or any characteristic of the Landfill Gas including:

- (a) the presence of Landfill Gas at any time, in any location, or at all;
- (b) the gas volume, pressure, flow, recovery, calorific value, moisture or other quality;
- (c) the amount that is able to be extracted from any part of the Site or from the Site as a whole at any time; or
- (d) the ability to generate Carbon Credits at any time or at all, the efficiency of the Landfill Gas for doing so or the value of any Carbon Credit.

16.3.2 Landfill Gas generation at the Site may fluctuate depending on different factors, including the waste quantities and composition deposited at the Site, weather and rainfall,

and:

16.3.3 the Contractor is not entitled to and must not make any Claim (including a Claim for an adjustment of a Specified Proportion) against the Principal (or any person acting on the Principal's behalf) arising out of or in connection with any matter referred to in clause 16.3.1 or 16.3.2, and

16.3.4 The Contractor releases the Principal accordingly.

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## **17. Revenue sharing arrangements**

### **17.1 Revenue Share**

Following the Operating Date, for each Revenue Source specified in the First Column of the Table in Item 20

17.1.1 for each Payment Period, the Principal shall be entitled to receive the proportion (**Specified Proportion**) of that Revenue Source specified in the Third Column of that Table; and

17.1.2 the Contractor shall be entitled to the balance of the revenue.

## **17.2 Abatement Revenue**

For each Payment Period, the Contractor must account to and pay to Council the Specified Proportion of the Abatement Revenue in accordance with Schedule 3.

## **17.3 Electricity Revenue**

For each Payment Period, the Contractor must account to and pay to Council the Specified Proportion of the Electricity Revenue in accordance with 0.

## **17.4 Payment is not conclusive**

Neither the issue of a Revenue Statement nor the payment or acceptance of moneys will be evidence or an admission as to the correctness of a Revenue Statement nor an admission that any Service has been carried out satisfactorily.

## **17.5 Correction of errors**

At any time, the Contractor may correct any error which has been discovered in any previous Revenue Statement issued by the Contractor Representative in respect of this Agreement.

## **17.6 Calculation of consideration**

The Parties acknowledge and agree that:

- 17.6.1 the rights granted by the Principal to the Contractor under clause 16 and the revenue sharing arrangements under this clause 17 are valuable consideration in return for the Contractor's performance of the Services and the Contractor Activities under this Contract, including the Installation Activities and the O&M Activities; and
- 17.6.2 this consideration along with any other consideration that may be payable for 'construction work' carried out under this Agreement, or for 'related goods and services' supplied under this Agreement (in each case as those terms are defined in the *Building and Construction Industry Security of Payment Act 1999* (NSW)), are each calculated otherwise than by reference to the value of the work carried out, or goods supplied, under this Agreement.

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## **18. Reporting and Records**

### **18.1 Record keeping**

The Contractor must maintain written records of:

- 18.1.1 all revenue, income, value and other consideration earned from or derived from each Revenue Source;
- 18.1.2 all other information that is required to be recorded in accordance with the Specification or is reasonably requested by the Principal Representative; and
- 18.1.3 all information required to be generated and maintained by any Law (including any Carbon Credit Scheme as defined in Schedule 3),

and maintain those written records until 12 years after the expiry of the Term.

## 18.2 Reporting

The Contractor must at the times and in the format specified in the Specification or as otherwise reasonably requested by Council, provide Council with detailed written reports:

- 18.2.1 on the performance of the Services and the generation of Abatement Revenue and Electricity Revenue in sufficient detail to allow Council to ascertain whether the Services are being performed in accordance with this Agreement and to fully understand and verify the revenue derived from any Revenue Source; and
- 18.2.2 as required by Law (including any Carbon Credit Scheme as defined in Schedule 3).

## 18.3 Accounts

The Contractor must maintain and make available to the Principal all those financial and financial planning records that would be expected of a prudent, efficient contractor performing the services the nature of the Services and as may be directed by the Principal from time to time.

## 18.4 Compatibility of information systems

Any information, data and records required to be provided to the Principal under this Agreement must be provided, if so requested by the Principal, in a form which is compatible with the Principal's electronic data and records systems as modified and notified from time to time.

## 18.5 Open Book and Good Faith Obligation

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## 19. Variations

### 19.1 Definitions

In this clause 19:

19.1.1 **'Permitted Variation'** means any of the following kinds of variations to this agreement:

- (a) a Principal directed Variation as described in clause 19.2;
- (b) an agreed Variation as described in clause 19.3; or
- (c) a variation to account for a Qualifying Increase in Costs arising as a direct result of a Qualifying Change as described in clause 19.4;

19.1.2 **'Qualifying Change'** means:

- (a) a change in an Act of Parliament or regulation made under an Act of Parliament that directly regulates the manner of conducting the Services which change:
  - (i) directly and naturally results in an increase in the costs of the Contractor's delivery of the Services over and above the Contractor's operating costs immediately prior to the Qualifying Change;

- (ii) was not reasonably able to be foreseen by a competent contractor in the position of the Contractor at the Commencement Date;
    - (iii) was not in fact foreseen by the Contractor on or before the Commencement Date; and
    - (iv) was not caused or contributed to by the conduct of the Contractor after the Commencement Date; or
  - (b) the introduction in legislation of a carbon price or carbon tax, which change directly and naturally impacts the Contractor's operating costs in performing the Services under this Agreement over and above the Contractor's operating costs immediately prior to the Qualifying Change; or
- 19.1.3 **'Qualifying Increase in Costs'** means an actual increase in actual cost (over and above the greater of the costs that applied at the date of this Agreement and the date immediately before the Qualifying Change) that is the direct and natural consequence of a Qualifying Change and which increase in costs:
- (a) was not reasonably able to be foreseen by a competent contractor in the position of the Contractor at the Commencement Date;
  - (b) was not in fact foreseen or allowed for by the Contractor on or before the Commencement Date; and
  - (c) is no more than the increase that would be incurred by a competent and efficient contractor having taken all reasonable and feasible steps to mitigate the impact of the Qualifying Change,
- and deducting any savings, reductions in costs or increases in efficiency or income as a consequence of or relating to the Qualifying Change; and
- 19.1.4 **'Variation'** may include additions, omissions, substitutions, alterations, changes in quality or character, kind or position and changes in specific sequence, method, timing or technology.
- 19.1.5 **'Variation Amount'** means an adjustment of the Specified Proportion assessed, agreed or determined for a Permitted Variation in accordance with this clause 19;

## 19.2 Variation directed by Principal

Principal may at any time by written notice served on the Contractor order any Variation as is considered by desirable for achieving Principal's objectives to any part of the Services or the System.

## 19.3 Agreed variation

- 19.3.1 The parties may by exchange of letters signed by Principal's Representative and the Contractor's Representative, agree:
- (a) a Permitted Variation;
  - (b) the Variation Amount for that Permitted Variation; and
  - (c) a period of time for implementation and operation of the Permitted Variation.
- 19.3.2 the Principal may issue a notice to the Contractor regarding the implementation of an improvement, enhancement or innovation in relation to the System or the

performance of the Services that would reduce the cost of the Services or otherwise enhance the ability of the parties to achieve any objectives specified in this Agreement and upon receipt of such notice, the Contractor and Principal agree to negotiate in good faith regarding agreed variations to this Agreement to implement the improvements, enhancements or innovations.

#### **19.4 Qualifying Change**

- 19.4.1 The Contractor may, subject to and in accordance with this clause 19.4, make a claim to account for a Qualifying Increase in Costs arising as a direct result of a Qualifying Change.
- 19.4.2 Within 30 Business Days after the occurrence of the Qualifying Change, the Contractor must give to the Principal's Representative a written notice setting out:
- (a) sufficient evidence to demonstrate to the reasonable satisfaction of the Principal's Representative that a Qualifying Change has occurred;
  - (b) the increase in costs that the Contractor asserts it will incur as the Qualifying Increase in Costs in sufficient detail (and supported by sufficient evidence) to enable the Principal's Representative to substantiate that amount and the extent to which its various components are in each case a Qualifying Increase in Costs;
  - (c) the proposed Variation Amount the Contractor proposes would compensate it for the Qualifying Increase in Costs, with details of:
    - (i) how such amount has been calculated;
    - (ii) how it relates to the Qualifying Increase in Costs;
    - (iii) the time period over which the Contractor would expect any Variation Amount to be applied as an adjustment to the Specified Proportion; and
    - (iv) the dates on which each such change is to take effect together with the Contractor's estimation impact of the Revenue Sources payable to Principal over the remainder of the Term;
  - (d) a written statement setting out any proposals the Contractor may have for reducing the impact of the increase in costs;
  - (e) a certification that any cost savings, reductions in costs or increases in efficiency to the benefit of the Contractor by reason of the Qualifying Change have been taken into account by the Contractor in determining the amount referred to in paragraphs 19.4.2(b) and (c), and details of those cost savings, reductions in costs or increases in efficiency;
  - (f) a certification that the Contractor has taken all reasonable and feasible steps to mitigate the impact of the Qualifying Change and details of those steps taken; and
  - (g) a certification that there are not at that time any actual or proposed further Claims for any Qualifying Change (or if there are, specifying these).
- 19.4.3 The Contractor must provide such additional or supplementary information as the Principal's Representative may require for the purpose of enabling the Principal's Representative to understand and assess the validity and effect of the claim made.

- 19.4.4 The Contractor must take all reasonable and feasible steps to mitigate the impact of the Qualifying Change and to reduce any associated Qualifying Increase in Costs.
- 19.4.5 Subject to clause 19.4.8, within 60 Business Days of receipt of all of the information required under clauses 19.4.2 and 19.4.3, the Principal's Representative may by written notice to the Contractor notify the Contractor that the Principal:
- (a) accepts that there has been a Qualifying Change, agrees with the value of the Qualifying Increase in Costs and the Variation Amount set out in the Contractor's notice under clause 19.4.2(b) and (c), in which case the amount set out in the Contractor's notice under clause 19.4.2(c), shall be the Variation Amount; or
  - (b) does not accept that there has been a Qualifying Change or any or all of the value of the Qualifying Increase in Costs or the proposed Variation Amount in which case either party may refer the matter for resolution under clause 29 in relation to whether or not there has been a Qualifying Change or to determine the value of the relevant Qualifying Increase in Costs and the Variation Amount.
- 19.4.6 If the Contractor gives the Principal's Representative a notice under clause 19.4.2, the Principal's Representative may within 60 Business Days of receipt of all information required under clauses 19.4.2 and 19.4.3 elect on behalf of Principal to terminate this Agreement, if:
- (a) that notice claims or purports to claim a Qualifying Increase in Costs or a Variation Amount that is in the opinion of the Principal's Representative acting reasonably having regard to the current market information available to the Principal's Representative, excessive;
  - (b) there are alternative contractors able to deliver substantially the same level of service available in the market at a lower cost; and
  - (c) that notice is not withdrawn by the Contractor within 5 Business Days of receiving notice from the Principal's Representative of the Principal's intention to terminate this Agreement under this clause 19.4.6.
- 19.4.7 If the Principal elects to terminate this Agreement under clause 19.4.6 then the Principal must serve a termination notice under clause 24 and clause 24 shall apply.
- 19.4.8 A notice from the Principal's Representative under clause 19.4.6 must be evidenced by written certification by or on behalf of the Principal's Representative.

## **19.5 New Revenue Sources**

The Contractor must in good faith endeavour to identify any additional Revenue Sources other than Abatement Revenue and Electricity Revenue that may arise from a Qualifying Change. These new Revenue Sources must be accounted for in any calculation of Qualifying Increase in Cost or of the Variation Amount.

## **19.6 Payment of Variation Amount**

If there is a Permitted Variation to this Agreement, then the parties may agree that instead of adjusting the Specified Proportion there will be a payment or payments made by the Principal to the Contractor.

## **19.7 Evidence of Variation**

19.7.1 A variation under this clause 19 will only be valid and a variation to this Agreement will only take effect if the variation is a Permitted Variation and a notice directing or certifying the Permitted Variation is provided to the Contractor in writing and signed by or on behalf of the Principal's Representative, following:

- (a) for a Variation directed under clause 19.2, a determination or agreement of the Variation Amount under clause 19.8 or 19.9;
- (b) exchange of letters under clause 19.3; or
- (c) a notice from Principal's Representative under clause 19.4.5(a).

19.7.2 The notice referred to in clause 19.7.1 must include:

- (a) a description of the Permitted Variation;
- (b) a certification of the Variation Amount assessed by the Principal's Representative or agreed or of the amount agreed under clause 19.6.

## **19.8 Variation Amount for directed Variation - Services covered by schedule of rates**

Where a variation has been directed under clause 19.2 in respect of any Services for which a unit rate is specified in this Agreement, the Contractor must calculate the cost increase that is the subject of the variation at the rate so specified.

## **19.9 Variation Amount for directed Variation - Services not covered by schedule of rates**

Where a variation has been directed under clause 19.2 then:

- 19.9.1 the Principal's Representative may request a detailed quotation for the Contractor to perform varied services as a Variation;
- 19.9.2 the Contractor must provide the quotation requested and advise the effect the Variation will have on the delivery of the Services. The Principal will pay a reasonable amount for the provision of the quotation;
- 19.9.3 the parties agree to make all reasonable attempts to agree a price for the Variation;
- 19.9.4 the parties agree that an independent person, agreed upon by the parties, who is expert in the management of Landfill Gas may be used to provide an opinion as to the reasonableness of the Variation Amount;
- 19.9.5 the Principal's Representative may instruct the Contractor in accordance with clause 19.2 to perform the Variation following agreement on the Variation Amount;
- 19.9.6 the Principal's Representative may instruct the Contractor in accordance with clause 19.2 to perform the Variation without agreement on the Variation Amount;
- 19.9.7 the Contractor must perform the Variation if so instructed; and

- 19.9.8 if agreement on the Variation Amount is not reached, then the matter is to be resolved in accordance with clause 29 as a Dispute.

#### **19.10 Contractor claim of a directed variation**

- 19.10.1 If the Contractor considers that a direction has been made by the Principal or Principal's Representative that constitutes a variation under this clause 19 (where not expressly so stated):
- (a) the Contractor must give written notice to the Principal's Representative to that effect immediately upon receipt of the direction and again prior to the start of the work or activity which is the subject of the direction; and
  - (b) despite any other provision in this Agreement, the giving of the notices under clause 19.10.1(a) by the Contractor will be a condition precedent to the Contractor's entitlement to Claim in relation to the direction or to maintain in any manner that the direction was or ought to involve a variation under this clause 19.
- 19.10.2 For the avoidance of doubt, this clause 19.10 does not permit a variation independently of the procedures in clause 19.

#### **19.11 Limited application of clause**

- 19.11.1 For the avoidance of doubt, an entitlement to additional payment under this clause 19 only applies to:
- (a) variations directed by the Principal's Representative or agreed between the parties which require additional work, activities or services over and above that required by this Agreement; or
  - (b) variations under clause 19.4,
- and which are a Permitted Variation and then only in accordance with this clause 19.
- 19.11.2 For the avoidance of doubt:
- (a) a requirement of Principal or Principal's Representative or a comment or a Direction of Principal or Principal's Representative:
    - (i) to require compliance with this Agreement, the requirements of the EPA or of any Law applicable from time to time;
    - (ii) which Principal or Principal's Representative is otherwise entitled to make under this Agreement or any other document;
  - (b) any error, omission, defect or incompleteness in any Disclosed Information; or
  - (c) a requirement of any Authority,
- will not be or permit a variation under this clause 19 or otherwise entitle the Contractor to any costs, payment, extension of time or other Claim, compensation or relief, these matters being matters that the Contractor has accepted the risk of or is required to comply with under this Agreement.

19.11.3 For the avoidance of doubt the Contractor will only be entitled to payment for a Permitted Variation:

(a) for which a notice has been issued by or on behalf of Principal Representative in accordance with clause 19.7; and

(b) that has been carried out in accordance with that notice,

and then only as provided for in this clause 19.

## **19.12 Beneficial variations**

Where:

19.12.1 there is a Qualifying Change that would directly reduce the actual cost of performing the Services or provide an additional benefit (including a credit or income) to the Contractor, which has the effect of offsetting the cost of performing the Services; or

19.12.2 the Contractor identifies an option for improvement or innovation in relation to the performance of the Services that would reduce the cost of the Services,

the Principal's Representative may by written notice to the Contractor, request that the parties negotiate in good faith to determine and agree a change to the Specified Proportion to equitably and reasonably share between the parties that offset, reduction or benefit that is enjoyed in connection with the Services, and the parties must comply with that notice by negotiating in good faith in an attempt to determine and agree that change to the Specified Proportion and its implementation.

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## **20. Insurance**

### **20.1 Insurance**

The Contractor from the Commencement Date until the expiry of the Term or earlier termination of this Agreement, must procure and maintain insurance as required by Law and for:

20.1.1 workers compensation (as provided in 20.2);

20.1.2 professional indemnity;

20.1.3 public liability;

20.1.4 industrial special risks and the repair, replacement and reinstatement of the System, each Asset and any Power Generation Plant; and

20.1.5 products liability, and

each policy must be for an amount not less than the applicable amount specified in Item 10.

### **20.2 Workers compensation**

The Contractor must from the Commencement Date until the expiry of the Term or earlier termination of this Agreement, effect and maintain, and ensure that each of its subcontractors effects and maintains, workers compensation insurance which covers liability of an employer for any injury, damage, expense, loss or liability suffered or incurred by any person engaged in the Services (or their dependants) as required by any applicable Law.

## **20.3 Provisions in policies**

20.3.1 The Contractor must ensure that:

- (a) the public liability insurance referred to in clause this clause 20, provides that all insurance agreements and endorsements note the interests of the Principal and the Contractor for their respective rights and interests;
- (b) the industrial special risks policies referred to in this clause 20 must provide insurance coverage for the full replacement value of the System (including all Assets) and any other Contractor Plant respectively;
- (c) each insurance referred to in clause 20, provides that:
  - (i) failure by any insured to observe and fulfil the terms of the policy or the duty of disclosure does not prejudice the insurance of any other insured; and
  - (ii) notice of a claim by any insured will be accepted by the insurer as notice by all insureds;

20.3.2 except where approved by the Principal (acting reasonably), where the Principal is a joint insured under an insurance policy, the insurer waives all rights, remedies or relief to which it may become entitled by way of subrogation against the Principal to the extent the Principal is insured; and

20.3.3 each insurance referred to in this clause 20 must:

- (a) be effected with an insurer that is APRA (or equivalent) authorised and with an S&P or best rating of 'A' or better; and
- (b) be on standard commercial terms.

20.3.4 The Contractor must not materially change any insurance policy without the Principal's prior written approval (which is not to be unreasonably withheld or delayed). The Contractor must indemnify the Principal for its reasonable legal and other costs (if any) associated with determining whether or not to approve any change.

20.3.5 The Contractor must comply with all terms and conditions of each policy of insurance referred to in this clause 20.

## **20.4 Evidence of policies**

20.4.1 The Contractor must, in respect of each insurance referred to in this clause 20, give the Principal Representative:

- (a) acceptable proof of currency of the insurances referred to in clause 20.1 and 20.2, on or before the Commencement Date; and
- (b) on request, other evidence of the insurances including currency which the Principal Representative reasonably requires.

20.4.2 If the Contractor does not comply with clause 20.4.1, the Principal may procure the relevant insurances and may do any or all of the following:

- (a) recover the cost of doing so as a debt due from the Contractor;

- (b) deduct the premiums payable for them from amounts payable to the Contractor; or
- (c) recover the cost from the proceeds of any Bank Guarantee held under this Agreement.

## **20.5 Notices**

The Contractor must promptly notify the Principal Representative in writing each time the insurer gives the Contractor a notice of cancellation or any other material notice in respect of the insurance policy referred to in this clause 20, including in respect of any variation of the policy terms.

## **20.6 Premiums**

The Contractor must punctually pay all premiums at least yearly in advance in respect of all insurances referred to in this clause 20, and give the Principal Representative evidence of payments for premiums where reasonably requested.

## **20.7 Undertaking to inform**

As soon as the Contractor becomes aware of any actual, threatened or likely claims under any of the insurances referred to in this clause 20 which could materially reduce the available limit of indemnity to a level below that specified in this Agreement or involve the Principal, that party must inform the Principal Representative.

## **20.8 Subcontractors**

Notwithstanding any other provision of this Agreement, the Contractor must ensure that its subcontractors, agents and consultants hold appropriate policies of insurance for workers compensation, professional indemnity and public liability, as is appropriate given the nature of services or work to be performed by them.

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# **21. Security**

## **21.1 Purpose**

The Security is provided by the Contractor under clause 2.3 for the purpose of ensuring due and proper performance of the obligations of the Contractor under this Agreement including any obligation to pay money.

## **21.2 Recourse to a Bank Guarantee**

- 21.2.1 The Principal may through the Principal Representative call on, or otherwise have recourse to, any or all of the Security at any time, without notice to the Contractor, including in respect of any money for which the Contractor may be liable to the Principal whether under this Agreement or otherwise.
- 21.2.2 The Contractor must within 20 Business Days of notice that the Security has been so applied, provide a replacement Bank Guarantee of the same amount as deducted to be held on the same terms.
- 21.2.3 The Contractor is not entitled to, and must not seek, an injunction against either the Principal or the issuer of any Security (if applicable) preventing a demand or payment under the security (whether the demand extends to the whole of the security or part thereof) or the use to which the proceeds of such a demand can be put.

## 21.3 Progressive substitution and release of Bank Guarantees

20.4.1 Any unused part of the Bank Guarantee shall be released within six months after the earlier of the termination or expiry of this Agreement provided that where the Agreement has been terminated, the Principal is not required to make any payment to the Contractor under this clause until all amounts under clause 24.6.1 have been received.

## 21.4 Trusts and interest

20.4.2 The Principal:

21.4.1 shall not be obliged to pay the Contractor interest on:

- (a) the amount of the Security; or
- (b) the proceeds of the Security if it is converted to cash; and

21.4.2 does not hold the proceeds or the Security on trust for the Contractor.

## 21.5 Replacement Bank Guarantee for CPI

21.5.1 Within 10 Business Days of each fifth anniversary for renewal of the Commencement Date during the Term and upon the exercise of the option in clause 3.2, the Contractor must deliver to the Principal Representative a replacement Bank Guarantee to replace the Bank Guarantee in the amount calculated in accordance with clause 21.5.3.

21.5.2 Any unused portion of the Bank Guarantee that is held by the Principal immediately prior to the receipt by the Principal Representative of the replacement Bank Guarantee under clause 21.5.1, must be returned to the Contractor upon receipt of the replacement Bank Guarantee.

21.5.3 The amount of the replacement Bank Guarantee must be calculated as follows:

$$\text{replacement Bank Guarantee amount} = BG_1 + BG_1 \left( \frac{CPI_x - CPI_1}{CPI_1} \right)$$

Where:

**BG<sub>1</sub>** = the Bank Guarantee amount at the Commencement Date, as specified in Item 11

**CPI<sub>x</sub>** = the Consumer Price Index last published by the Australian Statistician when the replacement Bank Guarantee amount is calculated

**CPI<sub>1</sub>** = the Consumer Price Index last published by the Australian Statistician at the Commencement Date.

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## 22. Emergencies

If the Principal Representative considers that it is necessary to urgently prevent harm to a person or to the Environment, or damage to property, the Principal Representative may direct the Contractor to suspend all or any part of the Services and Contractor Activities or to take precautions to prevent such harm or damage. The Contractor must comply with the Principal Representative's directions in accordance with their terms.

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## **23. Force Majeure**

### **23.1 Notice of Force Majeure Event**

23.1.1 If a Force Majeure Event renders impossible the performance by a party of an obligation under this Agreement (other than any obligation to pay money) that party must provide the other party with written notice of the Force Majeure Event, together with full particulars of all relevant facts and matters including:

- (a) details of the Force Majeure Event;
- (b) details of the obligations affected;
- (c) details of the action that the party has taken to remedy the situation and details of the action that the party proposes to take to remedy the situation; and
- (d) an estimate of the time during which the party will be unable to carry out its obligations due to the Force Majeure Event.

23.1.2 A notice under clause 23.1.1 must be given:

- (a) if the Force Majeure Event will affect the ability of the Contractor to perform the Services or any part of the Services – immediately; and
- (b) in any other case within 5 Business Days of becoming aware of the Force Majeure Event.

### **23.2 Suspension of rights and obligations**

If a Force Majeure Event occurs and is notified in accordance with clause 23.1 then:

- 23.2.1 the parties must promptly meet to determine what action is necessary to ensure the continuation of the Services;
- 23.2.2 take all actions necessary to ensure that (as applicable) as far as practicable the Services continue to be provided; and
- 23.2.3 during the Term, to the extent only that obligations are rendered impossible from being performed by the Force Majeure Event, each obligation that is rendered impossible from being performed by the Force Majeure Event are suspended until the suspension ends in accordance with clause 23.4.

### **23.3 Duty to mitigate**

If any obligations are rendered impossible to be performed by the Force Majeure Event notified in accordance with clause 23.1:

- 23.3.1 the parties must promptly identify alternative viable means of performing the obligations affected and to mitigate the effect of the Force Majeure Event;
- 23.3.2 take all available actions, works and opportunities to mitigate the Force Majeure Event promptly, and to the satisfaction of the Principal Representative; and
- 23.3.3 do everything necessary to ensure that as far as possible the Services are not interrupted.

#### **23.4 End of Period of Force Majeure**

Subject to the clause 23.5, the suspension of the obligations of the parties due to a Force Majeure Event ends when the party that has that obligation is no longer prevented from being able to recommence fulfilment of the obligation by the Force Majeure Event. At which time that party must issue a written notice to that effect to the other and immediately recommence the performance of the obligation.

#### **23.5 Termination after extended Force Majeure Event**

23.5.1 If there is a substantial interference to the Services by reason of a Force Majeure Event, and the Principal Representative considers that:

- (a) the Services that have been interfered with must be performed; and
- (b) those Services could be performed by another entity other than the Contractor,

then the Principal Representative may by written notice to the Contractor elect to:

- (c) terminate this Agreement immediately under this clause by written notice to the Contractor specifying the date on which this Agreement will terminate (and this Agreement terminates on the date so specified); or
- (d) take either or both of these actions.

23.5.2 The Principal Representative may make more than one such election and may make elections sequentially as it sees fit.

23.5.3 In this clause 23.5, a substantial interference includes but is not limited to suspension for a period of one month.

20.4.3

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### **24. Default and Termination**

#### **24.1 Contractor Default Event**

20.4.4 For the purposes of this clause 24 each of the following events is a Contractor Default Event:

24.1.1 the Contractor is in breach of any of clauses 2.3, 4, 5.4, 5.5, 7, 8, 9.3, 9.4, 9.5, 9.6, 9.7, 10, 11, 12, 13, 14, 15, 17, 18, 20, 21, 22, 24, 35, Schedule 3, 0 or the Lease or Licence;

24.1.2 without limiting clause 24.1.1:

- (a) the Contractor in the reasonable opinion of the Principal Representative substantially ceases to carry out any portion of the Services;
- (b) the Contractor fails to account for and pay any amount owing to the Principal (including any Specified Proportion of a Revenue Source);
- (c) the Contractor is in breach of the Lease or the Licence entitling the Principal to exercise rights to commence the process to terminate or to terminate the Lease or the Licence;

- 24.1.3 an Insolvency Event occurs in respect of the Contractor; or
- 24.1.4 the Contractor repudiates this Agreement.

## **24.2 Provision of information**

- 24.2.1 If the Principal reasonably suspects that a Contractor Default Event has occurred, the Principal may issue a written notice to the Contractor requiring the Contractor to provide information in respect of that Contractor Default Event to demonstrate whether or not a Contractor Default Event has occurred (**Information Request**).
- 24.2.2 The Contractor must comply with the Information Request promptly (and in any event within 5 Business Days of receiving the Information Request).

## **24.3 Notification of Default Events**

Regardless of whether an Information Request has been issued under clause 24.2, if a Contractor Default Event occurs:

- 24.3.1 the Contractor must promptly notify the Principal of the Contractor Default Event; and
- 24.3.2 whether or not the Contractor has complied with clause 24.3.1, the Principal:
  - (a) may issue a notice to the Contractor, which:
    - (i) must state that it is a Default Notice under this clause 25.3.2; and
    - (ii) if in the opinion of the Principal Representative, the Default Event is capable of being Remedied:
      - (A) require the Contractor to Remedy the Default Event within such reasonable period of time as is specified in the notice; and
      - (B) require that the Contractor submit a plan to the reasonable satisfaction of Principal, within such period of time as is specified in the notice, which plan contains a description of the steps that the Contractor will take to Remedy the relevant Default Event (Remedy Plan); and
  - (b) if the Principal issues a Default Notice then the Contractor must comply with it;
  - (c) if the Principal notifies the Contractor that it is satisfied with the Remedy Plan then the Contractor must fully implement and comply with that Remedy Plan; and
  - (d) if Principal notifies the Contractor that it is not satisfied with the Remedy Plan then the Contractor must promptly and in accordance with any directions of the Principal, review and correct the Remedy Plan and resubmit it to Principal and this clause 24.2 will reapply.

#### **24.4 Termination**

If a Contractor Default Event occurs and the Principal issues a Default Notice under clause 24.2 and:

- 24.4.1 the Contractor Default Event is not in the opinion of the Principal Representative capable of being Remedied;
- 24.4.2 the Contractor has not Remedied the Contractor Default Event the subject of the Default Notice within the period of time as is specified in the Default Notice; or
- 24.4.3 where a Remedy Plan is applicable but the Contractor has not Remedied the Contractor Default Event within the period of time as is specified in the Remedy Plan,

20.4.5 then the Principal may terminate this agreement, by written notice to the Contractor specifying the date on which this Agreement will terminate. This Agreement terminates on the date so specified.

#### **24.5 Effect of termination**

If this Agreement is terminated under clause 19.4, clause 23.5.1 or clause 24.4 then:

- 24.5.1 the rights and obligations of the parties will cease except for accrued rights and obligations and any right or obligation that is expressed to continue;
- 24.5.2 despite termination, the Contractor must comply with each Default Notice that has been served on it up until the date of termination, unless otherwise directed by the Principal Representative;
- 24.5.3 the Lease and the Licence will also terminate on the same date as the agreement; and
- 24.5.4 the Principal will allow the Contractor a reasonable period of time to access the Site and remove the Assets that are not Nominated Assets.

#### **24.6 Payments on Termination**

- 24.6.1 If this Agreement is terminated then the Principal will be entitled to receive and the Contractor must account for:
  - (a) any outstanding payments due by the Contractor to the Principal under this Agreement including the Specified Proportion of any Revenue Sources earned prior to the date of the termination that has not already been paid to the Principal;
  - (b) damages to account for the Specified Proportion of any Revenue Sources the Contractor would have earned prior to the date of termination had the Contractor operated the system efficiently or had the relevant Default Event that lead to termination not occurred;
  - (c) the total amount of any revenue received from any Revenue Sources after the date of the termination; and
  - (d) damages.
- 24.6.2 A party may dispute the calculation of any amounts under clause 24.6.1, in which case clause 29 will apply.

## **24.7 Specific performance**

The parties acknowledge that damages may not be an adequate remedy in respect of a breach of this Agreement and a party is entitled to seek specific performance or pursue any other equitable remedy, including injunction, which it considers appropriate in respect of any other breach.

## **24.8 Other rights not affected**

The termination of this Agreement is without prejudice to the accrued rights of the Principal at the time of termination including rights as to indemnification, payment or set off.

## **24.9 Rights not limited**

The provisions of this clause 24 and any exercise of any right under this clause 24 are in addition to and do not limit:

24.9.1 any other rights, powers or privileges of the Principal and in particular any right of the Principal at law or in equity to terminate this Agreement or to claim damages or other compensation; or

24.9.2 any liability, duty or obligation of the Contractor,  
whether arising from the Contractor Default Event or otherwise.

## **24.10 Delivery of design documentation if Agreement terminated**

If this Agreement is terminated by the Principal, the Contractor must:

24.10.1 immediately deliver the original versions of all as-built drawings and design documentation then in existence in relation to the Services, the Assets, the Power Generation Plant to the Principal at no cost to the Principal;

24.10.2 within 15 Business Days of the date of termination, subject to the requirements of law, grant to the Principal an irrevocable, royalty free licence in relation to the Intellectual Property Rights in that design documentation and clause 35.3 shall apply and have effect as if not terminated; and

24.10.3 upon demand by the Principal, immediately deliver up to the Principal all documents, information, Authorisation and further assurances necessary for the Principal to procure an alternate person to provide the Services and to itself manage the Services.

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## **25. Hand Over of Assets at End of Term or Earlier Termination**

### **25.1 Nominated Assets**

The Principal may from time to time (and if it has not done so already must no later than 6 months prior to the expiry of the Term or within 10 Business Days after the Principal issues a notice of termination of this Agreement) issue a written notice to the Contractor nominating whether the Principal elects to take ownership of:

25.1.1 any Assets; and

25.1.2 any Power Generation Plant,

**(Nominated Assets).**

## **25.2 Handover Plan**

The Contractor must when directed by the Principal prepare and submit to the Principal a Handover Plan that complies with the requirements of this Agreement (including the Specification and any direction of the Principal).

## **25.3 Transition of Handover**

The Contractor must:

- 25.3.1 during the period that is 3 months prior to the expiry of the Term, permit the Principal, and any person nominated by the Principal (including the employees and personnel of the Principal or any such person nominated by the Principal) to observe and participate in the performance of the Services and the operation, maintenance and repair of the Assets and other Contractor Activities; and
- 25.3.2 otherwise carry out all work, activities and services and do all other things required by, and otherwise comply with and perform the Services in accordance with, the Handover Plan.

To avoid doubt, any personnel engaged in observing or participating in the performance of the Services or the operation, maintenance and repair of the System, Assets (as contemplated above) or the Contractor Activities will do so under the direction and control of the Contractor, and the Principal will not be liable for any acts or omissions of any such personnel, except in the event of wilful misconduct.

## **25.4 Handover**

25.4.1 The Contractor must:

- (a) vacate the Site and all other land to which the Contractor has obtained access for the purposes of performing the Services;
- (b) leave the Site and the Nominated Assets in operable, efficient and safe condition fit for their intended purpose;
- (c) remove all Assets that are not Nominated Assets from the Site and the vicinity of the Site; and
- (d) deliver to the Principal, or any person nominated by the Principal, all books, records, plans, designs, drawings, specifications, manuals and other documents (including all copies thereof) relating to the Assets and the performance of the Services, however recorded and in whatever form,

at 4pm on the last day of the Term or upon earlier termination of this Agreement.

25.4.2 The Contractor must ensure that on the last day of the Term and upon earlier termination, title to the Nominated Assets is unencumbered.

25.4.3 Ownership of (and all right, title and interest in) the Nominated Assets will immediately and automatically transfer to and vest in the Principal at the expiry of the Term or upon earlier termination of this Agreement.

## **25.5 Condition of the Assets at Handover**

The Contractor shall ensure that, as at the last day of the Term, each part of the Nominated Assets complies with the requirements for handover set out in this Agreement and is

otherwise fit for its intended purpose, as stated in, or reasonably inferable from, this Agreement.

## **25.6 Removal of other Assets etc**

Other than any Nominated Assets, the Contractor must remove from the Site all plant, equipment, materials and other matters that the Contractor has brought onto the Site within 2 months of the termination or expiry of this Agreement:

25.6.1 unless otherwise directed by the Principal; and

25.6.2 in accordance with the direction of the Principal.

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## **26. Release after end of Term**

On the expiry of the Term, the Contractor:

26.1.1 releases the Principal from all Claims under or in connection with this Agreement; and

26.1.2 acknowledges and agrees that the Principal's obligations in connection with the subject matter of the Agreement are discharged,

other than in respect of any unsatisfied Claim that was made prior to that date.

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## **27. Indemnity and release**

### **27.1 Contractor indemnity of the Principal**

27.1.1 The Contractor indemnifies the Principal from and against any Claim, Loss or Liability brought against, suffered or incurred by the Principal or the Principal Representative arising out of, or in any way in connection with:

- (a) a breach by the Contractor of its obligations under this Agreement;
- (b) the negligence of the Contractor or any sub-contractor (of any tier) of the Contractor;
- (c) damage to, or loss or destruction of, any real or personal property arising out of, or in any way in connection with, the performance of, or any act or omission of the Contractor or of its subcontractors (of any tier) in connection with, the Services or any Contractor Activity, any Asset for the Power Generation Plant;
- (d) injury to, or illness or death of, any person arising out of, or in any way in connection with, the performance of, or any act or omission of the Contractor or of its subcontractors (of any tier) in connection with, the Services or Contractor Activity, any Asset or the Power Generation Plant.

27.1.2 To the fullest extent permitted at law, the indemnity in this clause 27.1.1 includes indemnification of the Principal from any of the following:

- (a) fines;
- (b) cost orders;

- (c) orders requiring the performance of work;
- (d) orders requiring the posting of a bond or other form of security,

27.1.3 The Contractor's liability to indemnify the Principal under this clause 27.1 will be proportionately reduced to the extent that the default or negligence of the Principal or the Principal Representative caused or contributed to the Claim, Loss or Liability.

## **27.2 Contractor release of the Principal**

27.2.1 Subject to this Agreement, the Contractor releases the Principal from any Loss, Claim, Liability, obligation or duty to the Contractor whatsoever in respect of or in connection with any or all of the Site, the Assets, the Power Generation Plant, any other Contractor Plant, the Services including:

- (a) their use, suitability or design;
- (b) their location, adequacy, availability or capacity or any other aspect;
- (c) for any death, illness or injury of any person;
- (d) for any error, misdescription or omission in any of the Disclosed Information; and

any other risk accepted by the Contractor this Agreement.

27.2.2 For the avoidance of doubt, the release applies to any Loss, Claim, Liability, obligation or duty in respect of or arising from the negligence of any person (including the Principal or Principal Representative) in respect of the matters the subject of the release prior to or after the date of this Agreement.

## **27.3 Survives termination and preservation of Contractor's obligations**

27.3.1 The indemnity in clause 27.1 survives termination of this Agreement.

27.3.2 The release in clause 27.2 survives termination of this Agreement.

27.3.3 The Contractor's obligations and releases in this clause 27 are absolute, unconditional and irrevocable.

27.3.4 The liability of the Contractor under this Agreement is not affected by any circumstance, act or omission which, but for this clause 27.3, might otherwise affect them at Law or in equity

## **27.4 Place, manner and time of payment**

Payments by the Contractor under this clause 27 must be made:

- 27.4.1 at a place and by a method reasonably required by the Principal's Representative;
- 27.4.2 by 3.00pm local time in the place where payment is to be made;
- 27.4.3 unconditionally;
- 27.4.4 in immediately available funds and without set-offs, counter claims, abatements or, unless required by law, deductions or withholdings; and

27.4.5 in Australian dollars.

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## **28. Limitations on liability**

### **28.1 Exclusions and limitations do not apply in certain circumstances**

The exclusions and limitations on a party's liability in this Agreement, including this clause 28 do not apply in the case of:

- 28.1.1 fraud or criminal actions;
- 28.1.2 death or personal injury;
- 28.1.3 Gross Negligence;
- 28.1.4 reckless conduct or wilful misconduct;
- 28.1.5 an indemnity given under this Agreement; or
- 28.1.6 any liability to the extent that the same may not be excluded or limited as a matter of applicable Law.

### **28.2 Exclusion of Consequential Loss**

- 28.2.1 Subject to clause 28.2.2, neither party will be liable, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, under or in connection with this Agreement for any Consequential Loss, even if such party has been advised of the possibility of such loss or damage.
- 28.2.2 Without limited any other right of the Principal, the Contractor acknowledges and agrees that, the Principal is entitled to recover any direct loss or damage and any:
  - (a) costs of replacing the Services, the Assets, the System or the Power Generation Plant, including the cost of procuring replacement Services or Assets from a third party;
  - (b) administrative costs and expenses, including for management and staff time;
  - (c) consultant's fees;
  - (d) mitigation costs and expenses; and
  - (e) out-of-pocket costs and expenses,sustained, incurred or suffered by the Principal.

### **28.3 The Principal's Liability for breach**

The total maximum liability of the Principal to the Contractor for all Loss sustained or incurred by the Contractor arising from a breach of this Agreement is capped at \$50,000 for all claims in the aggregate. This clause does not limit clauses 27.1 or 27.2.

### **28.4 Apportionment**

Subject to clause 27.1 and clause 27.2, but otherwise despite any other provision of this Agreement, the liability of a party for any Loss sustained, incurred or suffered by the other

party arising under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, is reduced to the extent that such Loss is caused by the other party's negligence.

## **28.5 Obligation to mitigate**

Each party must use reasonable efforts, to the extent within its control and consistent with each party's obligations under this Agreement, to promptly mitigate any Loss likely to be or actually sustained, incurred or suffered by it under or in connection with this Agreement.

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## **29. Dispute resolution**

### **29.1 Disputes**

Any Dispute between the parties must be resolved under clause 29 except where this Agreement states otherwise.

### **29.2 Notice of Dispute**

If a party wishes to have a Dispute resolved or determined, it must give a written notice (Notice of Dispute) to the other parties. A Notice of Dispute must state that it is a notice under clause 29.2 and must specify in reasonable detail:

29.2.1 the legal basis for and detailed particulars of the Dispute;

29.2.2 the facts relied on; and

29.2.3 the relief or outcome sought.

### **29.3 Negotiation**

Within 10 Business Days after a Notice of Dispute is given (or a longer period agreed by the parties in writing), the parties must ensure that the Nominated Persons meet, undertake good faith negotiations and use their reasonable endeavours to resolve the Dispute.

### **29.4 Submission to expert determination**

If a Dispute is not resolved within the period referred to in clause 29.3, either party may give a written notice to the other party requiring that the Dispute be referred for expert determination in accordance with this clause 29 (**Notice of Referral**).

### **29.5 Appointment of expert**

29.5.1 Only an Expert (as defined in clause 29.5.2) may conduct an expert determination under clause 29.

29.5.2 An Expert is a person:

- (a) agreed between the parties as having the relevant expertise, skills and experience to make determinations in relation to the matters in dispute; or
- (b) where the parties are unable to reach agreement within 10 Business Days of a Notice of Referral, a person appointed by the Resolution Institute (or an office holder or appointee of the Resolution Institute) at the request of a party. The parties must comply with the requirements of the Resolution Institute in making this determination.

29.5.3 The parties must promptly enter into an engagement agreement with the Expert on terms reasonably required by the Expert.

## **29.6 Not an arbitration**

An agreement for expert determination under this Agreement is not an arbitration agreement under the *Commercial Arbitration Act 2010* (NSW).

## **29.7 Procedure for determination**

The procedure before the expert shall be in accordance with procedures required by the Expert and the Expert must:

- 29.7.1 act as an expert and not as an arbitrator;
- 29.7.2 act fairly, impartially and independently of each party;
- 29.7.3 apply the Expert's own knowledge and expertise;
- 29.7.4 determine and notify the parties of the procedure for conducting the expert determination as the Expert thinks fit, and is not bound by the rules of evidence;
- 29.7.5 make any directions for conducting the expert determination a
- 29.7.6 conduct investigations and enquiries, examine documents and interview persons to the extent the Expert considers necessary or desirable to resolve the Dispute;
- 29.7.7 determine the Dispute as expeditiously as possible;
- 29.7.8 give the parties a written determination within 30 Business Days after the date of the engagement agreement referred to in clause 29.5.3, or any later date the parties may agree in writing. The expert shall not be required to give reasons unless a Party requires that the expert do so; and
- 29.7.9 in making the determination act bona fide to give effect to this Agreement.

## **29.8 Legal representation**

Each party is entitled to legal representation during the expert determination.

## **29.9 Disclosure of conflict**

- 29.9.1 The Expert must use all reasonable endeavours to avoid any actual or potential:
  - (a) conflict of interest; or
  - (b) circumstance that may reasonably be considered to adversely affect the Expert's impartiality or independence.
- 29.9.2 The Expert must immediately give the parties written notice if the Expert becomes aware of the existence of anything described in clause 29.9.1.

## **29.10 Expert's determination**

To the extent permitted by law, the Expert's determination is final and binding on the parties unless:

- 29.10.1 there is any fraud;

29.10.2 there is a material miscalculation of figures or a material mistake in the description of any person, thing or matter; or

29.10.3 a party considers that the determination has not been made in accordance with or does not give effect to this Agreement and the parties' respective rights and obligations under it and both conditions below apply:

(a) the value of the claim exceeds \$200,000; and

(b) within 60 Business Days after the Expert gives the parties the determination, a Party gives written notice to the other Party referring the matter to a Court.

#### **29.11 Correction**

Any party may make a written request to the Expert to correct the determination for:

29.11.1 a minor mistake arising from a slip or omission; or

29.11.2 a defect in form.

#### **29.12 Cooperation**

Each party must:

29.12.1 cooperate in good faith with the Expert and the other party in the conduct of the expert determination; and

29.12.2 use reasonable endeavours to comply with all requests and directions reasonably given by the Expert.

#### **29.13 Costs**

The parties must:

29.13.1 comply with any reasonable direction of the Expert to provide security deposits for the Expert's fees and disbursements;

29.13.2 each pay half of the Expert's fees and disbursements in connection with the expert determination; and

29.13.3 bear their own costs in connection with the expert determination.

#### **29.14 Urgent relief**

Nothing in this clause 29 prejudices the right of a party to seek urgent injunctive or declaratory relief for any matter in connection with this Agreement.

#### **29.15 Confidentiality**

29.15.1 Subject to clause 29.15.2, the parties must, and must ensure that the Expert must keep confidential, and not disclose to any other person:

(a) all proceedings and submissions relating to an expert determination under clause, including the fact that any step in the expert determination is occurring; and

(b) all documents and any other information (in any form) relating to the expert determination, including the Expert's determination.

29.15.2 A party may disclose confidential information referred to in clause 29.15.1:

- (a) if that party obtains the prior written consent of the other party;
- (b) as required by law; or
- (c) to the extent necessary to give effect to or to enforce a determination.

#### **29.16 Continuing obligations**

Despite the existence of a Dispute or its referral to expert determination, each party must continue to perform their obligations under this Agreement.

#### **29.17 Subsequent proceedings**

A party must not appoint the Expert as arbitrator, advocate or adviser in any arbitral, judicial or adjudication proceedings relating to the Dispute or any part of it, except with the other party's written consent.

#### **29.18 No Arbitration**

The parties acknowledge and agree that this Agreement is not an arbitration agreement. The Expert acts as an expert not as an arbitrator.

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### **30. Representatives**

#### **30.1 Appointment and role of the Principal Representative**

- 30.1.1 The Principal Representative is appointed to act for and on behalf of the Principal for the purpose of this Agreement.
- 30.1.2 The Principal must appoint a person to be the Principal Representative for the purposes of this Agreement and must give written notice of that appointment (and any subsequent change) to the Contractor. The Principal Representative may delegate some or all of the Principal Representative's functions and powers under this Agreement to one or more persons, and vary or terminate, in whole or part, such delegations from time to time.
- 30.1.3 The Principal shall ensure that at all times there is a Principal Representative.
- 30.1.4 The Principal and the Contractor acknowledge and agree that:
  - (a) the role of the Principal Representative is to monitor the performance of the Contractor and its compliance with the requirements of this Agreement and to perform those functions allocated to the Principal Representative under this Agreement; and
  - (b) the Principal's Representative may also perform such functions of the Principal as the Principal may delegate or assign to the Principal's Representative; and
  - (c) subject to clause 30.1.5 and clause 30.1.6, the Principal Representative is subject to the directions of the Principal.
- 30.1.5 In the exercise of any function specifically allocated to the Principal Representative under this Agreement (other than clause 30.1.4(b)) the Principal Representative is

to act honestly and fairly and, where applicable, arrive at a reasonable measure or value of work, quantities or time.

- 30.1.6 In carrying out its functions specifically allocated to the Principal Representative under this Agreement (other than clause 30.1.4(b)), the Principal Representative is to act within a reasonable time and in accordance with the Agreement.
- 30.1.7 The Principal Representative's powers and functions are those given to it under the Agreement.
- 30.1.8 The Principal may from time to time replace the Principal Representative upon 5 days' written notice to the Contractor.
- 30.1.9 If the Contractor considers that any action of the Principal Representative is outside of the powers of the Principal Representative or is in breach of the Agreement, the Contractor must within 5 Business Days inform the Principal Representative in writing, giving details of the action and the reasons why the Contractor has formed that opinion. The Contractor must continue to perform in accordance with the Agreement.
- 30.1.10 The Contractor is not entitled to make any Claim against the Principal in respect of any Loss in connection with any action of the Principal Representative that is outside of the powers of the Principal Representative or is in breach of the Agreement that has not been notified to the Principal Representative under clause 30.1.9 and the Contractor releases the Principal from any such Claim.

## **30.2 Appointment and role of the Contractor Representative**

- 30.2.1 The Contractor Representative is the agent of the Contractor.
- 30.2.2 The Contractor must appoint a person to be the Contractor Representative for the purposes of this Agreement.
- 30.2.3 All communications, notices, documents or instruments under this Agreement may be served on the Contractor by serving on the Contractor Representative.
- 30.2.4 Matters within the Contractor Representative's knowledge (including directions received from the Principal Representative) shall be deemed to be within the Contractor's knowledge.
- 30.2.5 The Contractor may appoint an alternative Contractor Representative upon 5 days' written notice to the Principal of its intention to do so, provided that the Principal consents to the new appointment (such consent not to be unreasonably withheld).

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## **31. Notices**

### **31.1 Delivery of notice**

A notice or other communication required or permitted to be given to a party under this Agreement must be in writing and may be delivered:

- 31.1.1 personally to the party;
- 31.1.2 by leaving it at the party's address as specified in this Agreement;
- 31.1.3 by posting it by prepaid post addressed to the party at the party's address; or

31.1.4 by electronic mail to the party's email address as specified in this Agreement.

If the person to be served is a company, the notice or other communication may be served on it at the company's registered office.

## **31.2 Particulars for delivery**

31.2.1 The address, facsimile number and email address of each party are set out on I of this Agreement under the heading 'Parties' (or as notified by a party to the other parties in accordance with this clause).

31.2.2 Any party may change its address, facsimile number or email address by giving notice to the other parties.

## **31.3 Time of service**

A notice or other communication is deemed delivered:

31.3.1 if delivered personally or left at the person's address, upon delivery;

31.3.2 if posted within Australia to an Australian address, 6 Business Days after posting and in any other case, 5 Business Days after posting;

31.3.3 if delivered by facsimile, subject to clauses 31.3.5 and 31.3.6, at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the recipient's facsimile;

31.3.4 if delivered by electronic mail, subject to clauses 31.3.5 and 31.3.6, at the time the email containing the notice left the sender's email system, unless the sender receives notification that the email containing the notice was not received by the recipient;

31.3.5 if received after 5.00pm in the place it is received, at 9.00am on the next Business Day; and

31.3.6 if received on a day which is not a Business Day in the place it is received, at 9.00am on the next Business Day.

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## **32. GST**

### **32.1 Definitions**

In this clause:

32.1.1 words and expressions that are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law;

32.1.2 GST Law has the meaning given to that term in the A New Tax System (Goods and Services Tax) Act 1999.

### **32.2 GST exclusive**

Except as otherwise provided by this clause, all consideration payable under this Agreement in relation to any supply is exclusive of GST.

### **32.3 Increase in consideration**

If GST is payable in respect of any supply made by a supplier under this Agreement (**GST Amount**), the recipient will pay to the supplier an amount equal to the GST payable on the supply.

### **32.4 Payment of GST**

Subject to clause 32.5 the recipient will pay the GST Amount at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement.

### **32.5 Tax invoice**

The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST Amount under clause 32.4.

### **32.6 Reimbursements**

If this Agreement requires a party to reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

32.6.1 the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and

32.6.2 if the payment or reimbursement is subject to GST, an amount equal to that GST.

### **32.7 Adjustment events**

If an adjustment event occurs in relation to a taxable supply under this Agreement:

32.7.1 the supplier must provide an adjustment note to the recipient within 7 days of becoming aware of the adjustment; and

32.7.2 any payment necessary to give effect to the adjustment must be made within 7 days after the date of receipt of the adjustment note.

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## **33. PPS Law**

### **33.1 Further Assurances**

The Contractor acknowledges that if this Agreement and the transactions contemplated by it, operate as, or give rise to, a security interest for the purposes of the PPS Law, the Contractor must do anything (including amending any document, obtaining consents, getting documents completed and signed and supplying information) that the Principal considers necessary under or as a result of the PPS Law for the purposes of:

33.1.1 ensuring that the security interest is enforceable, perfected or otherwise effective and has the highest priority possible under the PPS Law;

33.1.2 enabling the Principal to apply for any registration, or give any notification, in connection with the security interest, including the registration of a financing statement or financing change statement; or

33.1.3 enabling the Principal to exercise rights in connection with the security interest and this Agreement.

### **33.2 Contracting out of PPS Act**

If Chapter 4 of the PPS Act applies to the enforcement of the security interest, the Contractor agrees that sections 95, 96, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143 of the PPS Act will not apply to the enforcement of the security interest.

### **33.3 Acknowledgements and undertakings**

The Contractor:

- 33.3.1 acknowledges that the security interests created under or pursuant to this Agreement relate to collateral and all proceeds in respect of that collateral (until the Contractor is paid in full for the collateral);
- 33.3.2 acknowledges that to the maximum extent permitted by law, it waives any right to receive a verification statement under the PPS Law in respect of the security interest; and
- 33.3.3 undertakes it will not register a financing change statement without the prior written consent of the Principal.

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## **34. Security For Payments Legislation**

Any consideration payable under this Agreement is calculated otherwise than by reference to the value of the work carried out, or goods supplied, under this Agreement. The parties agree that this is not a construction contract and that to the fullest extent permissible the *Building and Construction Industry Security of Payment Act 1999* (NSW) does not apply.

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## **35. Representations, warranties and disclaimers**

### **35.1 Contractor's experience, skills, capabilities and equipment**

- 35.1.1 Before the date of the Agreement, the Contractor represented to the Principal that it has the necessary experience, skills, capabilities and equipment to carry out the Services and Contractor Activities.
- 35.1.2 The Contractor warrants to the Principal that the Contractor:
  - (a) at all times shall be suitably qualified and experienced, and shall exercise due skill, care and diligence in the performance of the Services and Contractor Activities;
  - (b) shall engage and retain subcontractors who are suitably qualified and experienced;
  - (c) has the requisite financial capacity and experience to carry out the Services and Contractor Activities, and agrees to provide (from time to time, upon written request) evidence to the satisfaction of the Principal, or its nominees, of its financial capacity, including financial statements.

## **35.2 Standard of performance**

The Contractor warrants to the Principal that:

- 35.2.1 the Services and Contractor Activities will:
- (a) provide the functions and meet the performance criteria set out in the relevant Specifications;
  - (b) be of satisfactory quality, as contemplated by or specified in this Agreement; and
  - (c) be free from Defects;
- 35.2.2 the New Assets will be installed so as to remain, at all times during the Term, fit for their intended purpose, as stated in, or reasonably inferable from, this Agreement;
- 35.2.3 the System and all Assets and all plant, materials and equipment used in the performance of the Installation Activities, will be new, of merchantable quality, free from Defects and otherwise fit for their intended purpose, as stated in, or reasonably inferable from, this Agreement;
- 35.2.4 the System and all Assets and all plant, equipment and materials (including chemicals) used in connection with the performance of the Installation Activities (whether forming part of the Assets or not) will be used, operated and installed in accordance with the relevant manufacturer's instructions, or as otherwise required by this Agreement;
- 35.2.5 the System and the Assets will be operated, maintained and repaired so as to remain, at all times during the Term, fit for their intended purpose, as stated in, or reasonably inferable from, this Agreement;
- 35.2.6 the System and the Assets will be capable of continuous and reliable operation from the Operating Date and throughout the Term;
- 35.2.7 all plant, materials and equipment used in the performance of the Services or Contractor Activities, or incorporated into the Assets, will be new, of merchantable quality, free from Defects and otherwise fit for their intended purpose, as stated in, or reasonably inferable from, this Agreement;
- 35.2.8 if, in the performance of the Services or Contractor Activities, it is required to replace any Asset or material, plant, equipment or part forming part of the Assets, the replacement asset, material, plant, equipment or part will be of equal or better quality to those required by this Agreement, and otherwise fit for its intended purpose, as stated in, or reasonably inferable from, this Agreement; and
- 35.2.9 all plant, equipment and materials used in connection with the performance of the Services or Contractor Activities (whether forming part of the Assets or not) will be used, operated and installed in accordance with the relevant manufacturer's instructions, or as otherwise required by this Agreement.

## **35.3 Ownership of Intellectual Property**

35.3.1 The Contractor warrants that:

- (a) the Contractor has or will have a right to use all design, materials, documents and methods of working produced by or on behalf of the Contractor for the purpose of the Services and the Contractor Activities,

including the right to use such items for the purpose of designing, constructing, operating, performing, maintaining, repairing, rectifying, adding to and altering the Services; and

- (b) any design, materials, documents and methods of working produced by or on behalf of the Contractor for the purpose of the Services or Contractor Activities will not infringe any Intellectual Property Rights.

35.3.2 The Contractor indemnifies the Principal from and against any Claim, Loss or Liability brought against, suffered or incurred by the Principal arising out of, or in any way in connection with, any breach by the Contractor of the warranties under this clause 35.3.

#### **35.4 Moral rights warranty**

The Contractor:

- 35.4.1 must ensure that it does not, and its contractors and subcontractors do not, infringe any Moral Right in carrying out the Services or Contractor Activities; and
- 35.4.2 indemnifies the Principal from and against any Claim, Liability or Loss brought against, suffered or incurred by the Principal arising out of, or in any way in connection with, any breach by the Contractor of its obligations under clause 35.4.1.

#### **35.5 Other representations and warranties of the Contractor**

The Contractor represents and warrants to the Principal that:

- 35.5.1 it has full legal capacity and power to:
  - (a) own its property and to carry on its business; and
  - (b) enter into this Agreement and to carry out the transactions that this Agreement contemplates;
- 35.5.2 it has taken all corporate action that is necessary or desirable to authorise its entry into this Agreement and its carrying out the transactions that this Agreement contemplates;
- 35.5.3 it holds each Authorisation that is necessary or desirable to:
  - (a) enable it to properly execute this Agreement and to carry out the transactions that this Agreement contemplates;
  - (b) ensure that this Agreement is legal, valid, binding and admissible in evidence; and
  - (c) enable it to properly carry on its business,and it is complying with any conditions to which any of these Authorisations is subject;
- 35.5.4 this Agreement constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping;

- 35.5.5 neither its execution of this Agreement, nor the carrying out by it of the transactions that it contemplates, does or will:
- (a) contravene any Law to which it or any of its property is subject or any order of any Authority that is binding on it or any of its property;
  - (b) contravene any Authorisation;
  - (c) contravene any undertaking or instrument binding on it or any of its property;  
or
  - (d) contravene its constitution;
- 35.5.6 as at the date of this Agreement, no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending, or to the knowledge of any of its officers after due inquiry, threatened which, if adversely decided could have a material adverse effect on its business, property or financial condition or its ability to perform its obligations under this Agreement, whether on it or any of its subsidiaries;
- 35.5.7 no 'Controller' (being a receiver or receiver and manager of that property, or anyone else who, whether or not as agent for the person, is in possession, or has control, of that property to enforce an encumbrance) is currently appointed in relation to any of its property, or any property of any of its subsidiaries;
- 35.5.8 all information which it provides to the Principal, whether prior to, on or after the Commencement Date, is on the date provided true and correct in every respect and not misleading or deceptive;
- 35.5.9 it is not entering into this Agreement as trustee of any trust or settlement.

## **35.6 The Principal's representations and warranties**

The Principal represents and warrants to the Contractor that:

- 35.6.1 it has full legal capacity and power to enter into this Agreement and to carry out the transactions that this Agreement contemplates;
- 35.6.2 it has taken all action under the *Local Government Act 1997* (NSW) that is necessary or desirable to authorise its entry into this Agreement and its carrying out the transactions that this Agreement contemplates;
- 35.6.3 it holds each Authorisation that is necessary or desirable to:
- (a) enable it to properly execute this Agreement and to carry out the transactions that this Agreement contemplates; and
  - (b) ensure that this Agreement is legal, valid, binding and admissible in evidence,
  - (c) and it is complying with any conditions to which any of these Authorisations is subject;
- 35.6.4 this Agreement constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping; and

35.6.5 neither its execution of this Agreement, nor the carrying out by it of the transactions that it contemplates, does or will:

- (a) contravene any Law to which it or any of its property is subject or any order of any Authority that is binding on it or any of its property; or
- (b) contravene any undertaking or instrument binding on it or any of its property.

### **35.7 Reliance on representations and warranties**

Each party acknowledges that each other party has executed this Agreement and agreed to take part in the transactions that this Agreement contemplates in reliance on the representations and warranties that are made by that other party in this clause 35.

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## **36. Disclaimer and entire agreement**

### **36.1 Entire Agreement**

This Agreement contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Agreement and have no effect.

### **36.2 Tender documents have no effect**

The Contractor acknowledges and agrees that:

- 36.2.1 no representation or warranty either express or implied is, has been or will be made by the Principal under or in respect of the Tender Documents;
- 36.2.2 statements by the Principal, the Contractor or any other person (whether contained within the Tender Documents or otherwise) prior to the date of this Agreement, or otherwise made in relation to the Services or Contractor Activities at any time:
  - (a) are not binding on the Principal;
  - (b) do not commit the Principal to any action or position in respect of any matter; and
  - (c) do not waive, fetter, limit or otherwise affect any right, discretion, power or privilege of the Principal;
- 36.2.3 any representation, communication and prior agreement in relation to the subject matter of the Tender Documents are merged in and superseded by the Agreement; and
- 36.2.4 the Tender Documents may not be used as an aid to the interpretation of any provision of this Agreement in a way which would limit, reduce or waive any right of the Principal.

### 36.3 Disclosed Information

36.3.1 The Contractor acknowledges and agrees that:

- (a) prior to the date of this Agreement and for the purposes of entering into this Agreement it has:
  - (i) carefully examined the terms of this Agreement and all Disclosed Information;
  - (ii) examined, and relied solely upon its own independent assessment, skill and expertise and made inquiries in respect of, all information (including Disclosed Information) available to a competent contractor or operator upon the making of all reasonable inquiries relevant to the risks, contingencies and other circumstances having an effect on their obligations under this Agreement; and
  - (iii) examined the Site and its surroundings;
- (b) no representation, guarantee or warranty (either express or implied) is, has been or will be made by the Principal in relation to the Disclosed Information, and in particular and without limitation, no representation, guarantee or warranty is, has been or will be made by the Principal that the Disclosed Information:
  - (i) is reliable, complete, current, accurate, suitable, comprehensive, adequate or correct;
  - (ii) represents the opinion of the Principal or any other person at any time;
  - (iii) contains all information held by or available to the Principal or any other person at any time; or
  - (iv) can be relied on by the Contractor or any other person;
- (c) the Disclosed Information:
  - (i) may be incomplete, inaccurate or incorrect; and
  - (ii) may not be relied upon by the Contractor or any other person,and no recourse may be had against the Principal in respect of any Disclosed Information;
- (d) the Principal has not and is not obliged to:
  - (i) verify the currency, reliability, adequacy, accuracy, correctness, suitability, comprehensiveness or completeness of the Disclosed Information;
  - (ii) disclose any information to the Contractor even if that information materially affects or contradicts any information that the Contractor already has;
  - (iii) update any information disclosed to the Contractor; or

- (iv) give the Contractor notice if it becomes aware of any inaccuracy, incompleteness or change in the information disclosed to the Contractor;
- (e) Disclosed Information may not have been prepared for the purpose of the Agreement or with the Contractor or any other person in the position of the Contractor in mind or for the purpose of the Services;
- (f) any opinions expressed in any Disclosed Information are opinions given at the date that the opinion was formed and may have ceased, or may in the future cease, to be appropriate or correct in the light of subsequent facts, circumstances, knowledge or attitudes; and
- (g) the Disclosed Information may not be used as an aid to the interpretation of any provision of this Agreement.

36.3.2 The Contractor warrants and represents that:

- (a) it has understood the limitations of the Disclosed Information and in particular acknowledges its understanding that:
  - (i) the Disclosed Information may not, and has not, been expressly or impliedly represented to provide comprehensive information;
  - (ii) the Disclosed Information may not, and has not, been expressly or impliedly represented to provide comprehensive information about Contamination or any risks from it or as to the suitability of the Site or any other land or matter for any particular use;
- (b) it has obtained its own independent and professional advice and opinions on all matters relating to the Site, Services, Contractor Activities, Assets and the Disclosed Information including financial, accounting, tax, engineering, environmental, legal, technical advice and opinions and the suitability of the Site for any particular use;
- (c) it has satisfied itself as to:
  - (i) the suitability of the Site for any particular use, including the carrying out of the Services or Contractor Activities and the ability to generate gas from the Site; and
  - (ii) the nature, extent, cost and timeframes for carrying out any part of the Services or Contractor Activities by it and or any other person;
- (d) it has carried out independently all relevant tests, enquiries, investigations and analysis it regards as necessary to acquaint itself with and verify to its satisfaction:
  - (i) all aspects of the Services or Contractor Activities; and
  - (ii) the contents, correctness and sufficiency of the Disclosed Information; and
  - (iii) all information which is relevant to the risks, contingencies and other circumstances related to the Services or Contractor Activities.

## **36.4 Release**

The Contractor releases the Principal from, and indemnifies the Principal against:

- 36.4.1 any Claim (whether at law or in equity) by the Contractor; or
- 36.4.2 any obligation, duty or liability to the Contractor in respect of any Loss or Liability whatsoever suffered or incurred by the Contractor,

arising out of or in any way in connection with the Disclosed Information, including in respect of:

- 36.4.3 the provision of, or the purported reliance upon, or use of the Disclosed Information, to or by the Contractor or any other person to whom the Disclosed Information is disclosed or a failure by the Principal to provide any information, data or documents to the Contractor;
- 36.4.4 any negligence by or on behalf of the Principal (the Contractor specifically acknowledges and agrees that any duty of care that the Principal may otherwise have owed to the Contractor is specifically excluded and released);
- 36.4.5 any misrepresentation, misleading conduct, omission, inaccuracy, incompleteness or other defect in any Disclosed Information; or
- 36.4.6 the Disclosed Information being relied upon or otherwise used in the preparation of any information or document, including (to the extent permitted by law) any information or document which is "misleading or deceptive" or "false or misleading" within the meaning of those terms in sections 18 and 29 of Schedule 2 of the Competition and Consumer Act 2010 (Cth), or any equivalent provision of State or Territory legislation.

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## **37. General**

### **37.1 Amendment**

This Agreement may only be varied or replaced by a document duly executed by the parties.

### **37.2 Governing law and jurisdiction**

This Agreement is governed by and is to be construed in accordance with the laws of New South Wales. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and waives any right to object to proceedings being brought in those courts.

### **37.3 Further assurance**

Each party must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this Agreement.

### **37.4 Costs, expenses and stamp duty**

- 37.4.1 Subject to paragraph 37.4.3, each party must pay its own legal costs and expenses in relation to the negotiating, preparation and execution of this Agreement and other documents referred to in it, unless expressly stated otherwise.

- 37.4.2 The Contractor must in a timely manner attend to stamping of all documents in connection with this Agreement which require stamping and to pay all duty on or before the due date for payment.
- 37.4.3 The Contractor must indemnify the Principal against and must pay on demand the amount of any duty (together with any related fines, penalties or interest) that is payable on or in relation to this Agreement or any document, dealing or instrument contemplated by it.

### **37.5 Costs of performing Obligations**

A party which has an obligation to do anything under this Agreement must perform that obligation at its cost unless expressly stated otherwise. In particular, except as expressly provided in this Agreement, the Contractor is responsible for all costs and expenses of complying with its obligations, duties and responsibilities (express or implied) under this Agreement and:

- 37.5.1 unless a particular clause expressly states that the Principal shall pay the costs, losses and expenses of or incurred by the Contractor in respect of or arising from any process, action, inaction, document or instrument contemplated or required by that clause, the Contractor shall have no claim against the Principal for any such costs, losses or expenses;
- 37.5.2 the Contractor release the Principal absolutely from any Claim by or liability to the Contractor for any such costs, losses or expenses; and
- 37.5.3 this clause applies, without limitation, to the provision of documents, information or the taking of action at the request or direction of the Principal or Principal Representative.

### **37.6 Contractor to pay taxes**

The contractor must pay all Taxes, duties or levies including long service levies and any other imposts in respect of the Services, Contractor Activities, the System, the Assets, the Power Generation Plant and the employees, contractors, servants, agents of the Contractor.

### **37.7 Interest payable by lessee on overdue money**

- 37.7.1 Without prejudicing the Principal's other rights and remedies, the Contractor must pay interest to the Principal at the Prescribed Rate on any money due but unpaid by the Contractor.
- 37.7.2 Interest shall be calculated daily from the due date up to and including the date the Principal receives full payment.
- 37.7.3 Failure by the Principal to promptly claim interest on arrears does not waive the Principal's right to claim interest.
- 37.7.4 "**Prescribed Rate**" means the rate prescribed for the purposes of s101 of the Civil Procedure Act 2005 (NSW) as applicable after judgement in the Supreme Court of NSW.

## **37.8 Disclosure, confidentiality and the media**

37.8.1 The Contractor must:

- (a) keep confidential the terms of this Agreement and any information relating to the Services including the discussions and negotiations leading to the creation of this Agreement;
- (b) ensure that each of its officers, employees, subcontractors and consultants complies with the terms of paragraph (a); and
- (c) not make, cause or permit to be made, any statement or release any information about the Services to the media without the Principal's written consent.

37.8.2 However, the Contractor is not obliged to keep confidential any information:

- (a) which is otherwise in the public domain through no default of that party; or
- (b) the disclosure of which is:
  - (i) required by law but only in accordance with and to the extent of that requirement;
  - (ii) given with the prior written consent of the Principal;
  - (iii) given to a court in the course of proceedings in which that party is involved;
  - (iv) made to a party's legal, financial or commercial adviser; or
  - (v) required by this Agreement.

37.8.3 The Contractor acknowledges that the Principal may publish or disclose any information about the Services to OEH.

37.8.4 The Contractor must:

- (a) not either itself or through its employees, agents or sub-contractors
  - (i) respond to any requests regarding the Services or this Agreement directly, from the community, media or Authorities; or
  - (ii) make any statement to the media on behalf of the Principal or in relation to the performance of the Agreement,and must refer any enquiries to the Principal Representative; and
- (b) notify the Principal Representative immediately of any event arising in the course of performing the Services, which may receive media attention.

## **37.9 Waiver and exercise of rights**

37.9.1 A single or partial exercise or waiver of a right relating to this Agreement does not prevent any other exercise of that right or the exercise of any other right.

- 37.9.2 No party will be liable for any loss or expenses incurred by another party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

### **37.10 Acknowledgement**

The Contractor acknowledges and agrees that:

- 37.10.1 none of the receipt or review of; or consultation or comments regarding; or failure to review or comment on; or approval of or consent to, any Review Document nor participating in consultation forums and co-ordination groups, in respect of the Services, Management Plans, Assets, System, Power Generation Plant or the Contractor Activities by the Principal or Principal Representative will:
- (i) impose or create any duty, liability or obligation on the Principal or Principal Representative;
  - (ii) release, limit, reduce, alter or affect the Contractor's duties, liabilities, obligations or responsibilities in any way; or
  - (iii) waive, prejudice or limit the Principal's or Principal Representative's rights;
- 37.10.2 none of the Principal Representative or the Principal owe or incur any duty, liability or obligation to the Contractor to review any Review Document or anything else in respect of the Services, Assets, System, Power Generation Plant or the Contractor Activities for completeness, errors, defects, omissions or compliance with the requirements of this Agreement or otherwise;
- 37.10.3 the liabilities, duties and obligations of the Contractor are not reduced because of any delay by any Authority;
- 37.10.4 the Principal is not liable, nor responsible, for the conduct of any Authority including any delay by an Authority; and
- 37.10.5 the issue of a certificate consent or approval by the Principal or Principal Representative is not proof of compliance or performance.

### **37.11 Civil Liability Act**

- 37.11.1 It is agreed that, to the extent permitted by law, the operation of Part 4 of the *Civil Liability Act 2002* (NSW) is excluded in relation to all and any rights, obligations and liabilities arising under or in relation to this Agreement howsoever such rights, obligations or liabilities are sought to be enforced.
- 37.11.2 The Contractor further agrees that:
- (a) in each subcontract into which it enters for the carrying out of the Services, it will include provisions that, to the extent permitted by law, effectively exclude the operation of Part 4 of the *Civil Liability Act 2002* (NSW) in relation to all rights, obligations or liabilities arising under or in relation to each subcontract howsoever such rights, obligations or liabilities are sought to be enforced; and
  - (b) it will require and ensure that each subcontractor will include in any further contract that it enters into with others for the carrying out of the Services, provisions that, to the extent permitted by law, each such further contract will include provisions that effectively exclude the operation of Part 4 of the *Civil Liability Act 2002* (NSW) in relation to all rights, obligations or liabilities

arising under or in relation to such further contract howsoever such rights, obligations or liabilities are sought to be enforced.

**37.12 No assignment without consent**

- 37.12.1 The Contractor must not sell, assign, novate, transfer, delegate, licence or otherwise deal with, encumber or create a Security Interest over, any of its rights or interests under this Agreement without the prior written consent of the Principal.
- 37.12.2 For the purposes of clause 37.12.1, a change of Control of the Contractor will be deemed to be an assignment by the Contractor respectively of its rights and interests under this Agreement.
- 37.12.3 The Principal may assign and may novate any of its rights, powers, obligations, duties or liabilities under or in connection with this Agreement to a related body corporate, or another person of sufficient financial standing and capacity to meet the obligations of the Principal under this Agreement. The Contractor must sign all documents and do all other things reasonably required by the Principal to effect such assignment or novation.

**37.13 Principal logo and name**

The Contractor may not use the logo or name of the Principal on any communication, hoarding, sign or document without the prior written permission of the Principal Representative in respect of the particular communication, hoarding, sign or document.

**37.14 Warranty**

Each party represents and warrants that there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable

**37.15 Time of the essence**

Time is of the essence as regards all dates, periods of time and times specified in this Agreement for the performance of the Services, the performance of Contractor Activities or the payment of money.

**37.16 No relationship**

No party to this Agreement has the power to obligate or bind any other party. Nothing in this Agreement will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between any of the parties. Nothing in this Agreement will be deemed to authorise or empower any of the parties to act as agent for or with any other party.

**37.17 Survival of indemnities**

Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the parties and survives termination of this Agreement.

**37.18 Enforcement of indemnities**

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity conferred by this Agreement.

**37.19 No merger**

The warranties, undertakings, agreements and continuing obligations in this Agreement do not merge on completion.

**37.20 Rule of construction**

In the interpretation of this Agreement, no rule of construction applies to the disadvantage of the party preparing the document on the basis that it prepared or put forward this Agreement or any part of it.

**37.21 Joint and several**

If a party consists of more than one person, this Agreement binds them jointly and each of them severally.

**37.22 Severance**

37.22.1 If a provision in this Agreement is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.

37.22.2 If it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Agreement.

**37.23 Counterparts**

This Agreement may be executed in any number of counterparts all of which taken together constitute one instrument.

**37.24 GIPA**

20.5 Notwithstanding any other provisions of this Agreement, the Contractor acknowledges and agrees that under the *Government Information (Public Access) Act 2009* (NSW) the Principal may be required to publicly disclose information about this Agreement. As at the date of this Agreement, none of the disclosure obligations require the disclosure of:

37.24.1 the commercial-in-confidence provisions of a contract;

37.24.2 any matter that could reasonably be expected to affect public safety or security; or

37.24.3 information which would be exempt from disclosure if it were the subject of an application under the *Government Information (Public Access) Act 2009* (NSW).

20.6 The Contractor may at any time nominate any items that it considers are confidential and why, so as to assist the Principal in determining what items to disclose.

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## Schedule 1      Site Plans

### 1.          Licence Area

*[Maddocks note: Councils to provide maps]*

*[For Shellharbour City Council]*

*[For Shoalhaven City Council]*

*[For Wollongong City Council]*

### 2.          Lease Area

*[Maddocks note: Councils to provide maps]*

*[For Shellharbour City Council]*

*[For Shoalhaven City Council]*

*[For Wollongong City Council]*

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## Schedule 2 Utilities provided by the Principal

### *[For Shellharbour City Council]*

#### 1. Water

The Principal will provide a water connection point at or near the boundary of the lease and pay for reasonable water supply.

### *[For Shoalhaven City Council]*

#### 1. Waste water

The Principal agrees to accept from the Contractor and to dispose of all water and other liquid waste used in the operation and maintenance of the Facility and which is disposed of by the Contractor.

#### 2. Water

The Principal will supply and deliver to the Contractor, as required by the Contractor, a 25mm water service for the Contractors use in providing the Services and the Contractor Activities.

#### 3. Electricity

3.1.1 The Principal must supply to the Contractor all electricity required by the Contractor for the operation of the System and the Power Generation Plant. The electricity will be drawn from the same supply that is used to provide electricity to the Site.

3.1.2 The work required to be done to connect the System to the Site's electricity supply will be carried out by the Principal.

#### 4. No additional cost

The water and electricity service made available by the Principal in accordance with this Schedule 2 are supplied by the Principal at no cost to the Contractor.

### *[For Wollongong City Council]*

#### 1. Water

The Principal will provide a water connection point at or near the boundary of the lease and pay for reasonable water supply.

#### 2. Electricity

The Contractor will pay for electricity. There is an existing meter that they might be able to use.

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## Schedule 3 Greenhouse Gas Abatement

### Application of Schedule

Part 1 of this Schedule applies from the Commencement Date.

Part 2 of this Schedule applies from the Council Opt In Date.

Part 3 of this Schedule applies from the Commencement Date until the Council Opt In Date if those dates are different.

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## PART 2

### 1. Interpretation

#### 1.1 Definitions

In this Schedule 3:

**Abatement Period** means each period commencing on 1 October of each year and ending on 30 September in the following year, or such other period agreed between the parties in writing.

**Abatement Percentage** for an Abatement Period means the percentage reduction in the total carbon equivalent tonnage emitted from the Site in an Abatement Period from the Non-Abatement Scenario. The Abatement Percentage is calculated in accordance with clause 3.2.

**Abatement Revenue** means for each Payment Period, all revenue, income, value and other consideration earned from or derived from the sale, trade or other dealing with any Carbon Credit.

**Abatement Target** has the meaning given in Item 18 .

**Carbon Credit** means

- (a) For a Project declared under the Carbon Farming Initiative, an 'Australian carbon credit unit' under the Carbon Farming Act;
- (b) For a Project that participates in any other Carbon Credit Scheme any equivalent valuable right or benefit in connection with the abatement of Greenhouse Gas emissions under that other Carbon Credit Scheme.

**Carbon Abatement Contract** means:

- (a) For a Project declared under the Carbon Farming Initiative a 'carbon abatement contract' under the Carbon Farming Act, including the Existing Carbon Abatement Contract (including any Existing Carbon Abatement Contract). ; and
- (b) For a Project that participates in any other Carbon Credit Scheme any agreement or requirement to transfer, sell, generate or obtain any Carbon Credit under that scheme.

**Carbon Credit Bank Account** means the bank account opened under clause 4.1.1.

**Carbon Credit Scheme** means:

- (a) the Carbon Farming Initiative; and
- (b) any other legislated or administrative arrangement or scheme under which a person is entitled to receive any valuable right or benefit in connection with the abatement of Greenhouse Gas emissions.

**Carbon Abatement Purchasing Process:**

- (a) in respect of the Carbon Farming Initiative has the same meaning as in the Carbon Farming Act; and
- (b) In respect of any other Carbon Credit Scheme means the equivalent process for the purchase of Carbon Credits

**Carbon Farming Act** means the Carbon Credits (Carbon Farming Initiative) Act 2011 (Cth).

**Carbon Farming Initiative** means the Carbon Credit Scheme established under the Carbon Farming Act.

**Contracted Abatement Targets** means, for each Abatement Period, the abatement target the Principal is required to meet under its Carbon Abatement Contracts, or, if there is no specific abatement target identified in its Carbon Abatement Contracts, the abatement target the Principal would be required to meet, if the Principal produced the required number of Carbon Credits for that Abatement Period under the Carbon Abatement Contracts.

**Council Opt In Date** means:

- (a) the date specified as such in a notice under clause 1.3; or
- (b) for Wollongong Council, the Commencement Date; or
- (c) for Shoalhaven Council, the Commencement Date.

**Declaration** means:

- (a) in connection with the Carbon Farming Initiative, a declaration of an offsets project as an Eligible Offsets Project under section 27 of the Carbon Farming Act as amended from time to time or any other declaration, certificate, accreditation or entitlement to participate in a Carbon Farming Scheme; **[Note for Shellharbour, the Declaration identification number for the Project is EOP100503, registered 29 January 2014.]**
- (b) in respect of any other Carbon Credit Scheme means any declaration, permission, acknowledgement or authorisation that enables the Project to participate in the scheme.

**Eligible Offsets Project** in connection with the Carbon Farming Initiative means a project or activity that is eligible to generate Carbon Credits under the Carbon Farming Initiative and in respect of any other Carbon Credit Scheme means a project or activity that is eligible to generate Carbon Credits under that scheme.

**Existing Carbon Abatement Contract** means each Carbon Abatement Contract existing at the date of this Agreement. **[Note for Shellharbour: this includes the agreement with the**

***Clean Energy Regulator on behalf of the Commonwealth of Australia, dated 21 August 2015, contract identification number CAC742375.]***

**Greenhouse Gas** means one or more of the gases listed in Annex A to the Protocol of the United Nations Framework Convention on Climate Change adopted at the meeting of the parties in Kyoto, Japan on 10 December 1997 as amended or implemented by the conference of the parties to the Protocol from time to time.

**Non-Abatement Scenario** means the scenario in which the Services were not performed for the relevant Abatement Period.

**Project** means:

- (a) in respect of a Carbon Credit Scheme under the Carbon Farming Act,:
  - (i) the Eligible Offsets Project under the Carbon Farming Act, 'Capture and Combustion of Landfill Gas at Dunmore Recycling and Waste Disposal Depot, Shellharbour City Council' (Project ID 2012236102), registered on 29 January 2014;
  - (ii) the Eligible Offsets Project under the Carbon Farming Act, Shoalhaven Landfill Gas Abatement Facility' (Project ID EOP100245), registered on 14 August 2013; and
  - (iii) the Eligible Offsets Project under the Carbon Farming Act, 'Whytes Gully Landfill Gas Project' (Project ID ERF111278), registered on 7 March 2017; and
- (b) in respect of any other Carbon Credit Scheme, a project or activity authorised to participate in that scheme.

**Project Proponent**

- (a) In respect of the Carbon Farming Initiative has the same meaning as in the Carbon Farming Act; and
- (b) in respect of any other Carbon Credit Scheme means the person responsible for the development and operation of the Project and the maintenance of any declaration under the scheme.

**Qualifying Change** means the repeal of, or significant amendment to, the Carbon Farming Act or other Carbon Credit Scheme, which change directly and naturally:

- (a) reduces the Contractor's ability to generate Carbon Credits; or
- (b) reduces the Contractor's ability to sell Carbon Credits; or

**Services and Activities** means all of the Services and Contractor Activities that result in or effect the Abatement of Greenhouse Gases.

## 1.2 Measurements and Calculations

Any measurements or calculations required to be undertaken for the purposes of this Schedule (including for example of abatement and total carbon equivalent) must be undertaken in accordance with the guidelines and methodologies adopted for the relevant Carbon Credit Scheme.

### 1.3 Council Opt In

A council may, by written notice, require that the Contractor perform the Scheme Administration Services by serving an 'Opt In' notice. The Opt In notice must specify a date that is no earlier than one month after the date of the Opt In notice as the date from which PART 3 of this Schedule 3 will apply. The parties may agree an earlier date.

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## PART 3

### 2. Carbon Credit Scheme

#### 2.1 Compliance with the Carbon Farming Act and Carbon Credit Contracts

2.1.1 The parties acknowledge that the Services and Activities form part of the Project in respect of which the Principal is the Project Proponent.

2.1.2 The Contractor must at its cost conduct the Services and Activities in a manner that:

- (a) is consistent with the *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination 2015* or such other methodology determination as is applicable to the Project from time to time or any other applicable Carbon Credit Scheme;
- (b) is consistent with the Project's Declaration, all scheme requirements of each applicable Carbon Credit Scheme and Carbon Abatement Contract;
- (c) ensures compliance with the requirements of each applicable Carbon Credit Scheme and Carbon Abatement Contract;
- (d) ;
- (e) ; and
- (a) complies with the standards required by the Specification including in respect of the availability of the System and efficiency of the System.

#### 2.2 Request to enter Carbon Credit Contracts

2.2.1 The Contractor may by written notice to the Principal Representative under this clause 2.2, request that the Principal:

- (a) participate in a Carbon Abatement Purchasing Process; or
- (b) enter into further Carbon Abatement Contracts;

in relation to Carbon Credits generated or reasonably expected to be generated by the Project during the Term.

- 2.2.2 The Principal must comply with a request issued by the Contractor under clause 2.2.1 as soon as reasonably practicable, provided that:
- (a) in the opinion of the Principal, acting reasonably:
    - (i) if the request relates to a Carbon Abatement Purchasing Process or Carbon Credit Contract, the Contractor will be able to discharge any Liability of the Principal that may arise under the Carbon Abatement Purchasing Process or Carbon Abatement Contract; and
    - (ii) if the request relates to a Carbon Abatement Contract, the term of the Carbon Abatement Contract will expire on or before the Expiry Date unless otherwise agreed by the Principal; and
  - (b) the Principal is able to do so lawfully and consistently with the terms of this Agreement and applicable policies of the Principal.

## **2.3 Benefit of Carbon Credit Contract and indemnity**

- 2.3.1 The rights to, and interests in any actual or potential Carbon Credits, if any, arising from the performance of the Services or the carrying out of any obligation pursuant to this Agreement shall, as between the Contractor and the Principal, vest in the Principal.
- 2.3.2 The Contractor indemnifies the Principal and the Principal Representative from and against any Claim, Loss or Liability brought against, suffered or incurred by the Principal or the Principal Representative arising out of, or in any way in connection with:
- (a) a Carbon Abatement Contract; or
  - (b) the revocation or termination of the Project's Declaration,
- to the extent caused by the Contractor's performance of the Services and Activities.
- 2.3.3 The Contractor's liability to indemnify a person under this clause 2.3.2 will be proportionately reduced to the extent that the default or negligence of the Principal caused or contributed to the Claim, Loss or Liability.
- 2.3.4 To the fullest extent permitted at law, the indemnity in clause 2.3.2 includes indemnification of the Principal from any of the following:
- (a) penalties or fines;
  - (b) cost orders;
  - (c) orders requiring the performance of work;
  - (d) orders requiring the posting of a bond or other form of security,
- which are made by a Court in proceedings in a prosecution.
- 2.3.5 Clause 2.3.4 does not limit clause 2.3.2.

## **2.4 Scheme Administration Services**

- 2.4.1 The Contractor must implement, complete and comply with all administration, modelling, reporting, notification and auditing requirements under each applicable Carbon Credit Scheme and all Carbon Abatement Contracts, including:
- (a) all steps required to generate, record, register and transfer Carbon Credits;
  - (b) the requirement to give a written report (including, for example, in accordance with section 76 of the Carbon Farming Act) on the Principal's behalf;
  - (c) any audits required (including, for example, under sections 214 or 215 of the Carbon Farming Act); and
  - (d) otherwise performing all necessary administrative activities to enable the Principal to fully comply with each applicable Carbon Credit Scheme and Carbon Abatement Contract,
- but may not submit any report, audit, notification correspondence or other document to any regulator, Authority or person administering the relevant Carbon Credit Scheme without the Principal's prior written consent.
- 2.4.2 The Contractor must give the Principal copies of any report, audit, notification correspondence at the same time it is given to the regulator, Authority or person administering the relevant Carbon Credit Scheme.
- 2.4.3 The Contractor must promptly give the Principal copies of any correspondence or other information it receives from the regulator, Authority or person administering the relevant Carbon Credit Scheme.
- 2.4.4 The Contractor must perform all administrative tasks set out in the Specification.
- 2.4.5 The Contractor must keep, maintain and provide to the Principal on request all necessary records, accounts and documents to properly and efficiently manage the Project's participation in each Carbon Credit Scheme.

## **3. Abatement Target**

### **3.1 Obligation to abate**

- 3.1.1 The Contractor must in each Abatement Period, process the Landfill Gas at the Site to:
- (a) maximise the amount of Landfill Gas that is abated either using the Flare or the Power Generation Plant; and
  - (b) achieve the Abatement Target for that Abatement Period; and
  - (c) comply with the Specification.
- 3.1.2 The Abatement Target will be deemed to have been achieved in respect of the abatement that was performed in an Abatement Period, if the Abatement Percentage for that Abatement Period is greater than or equal to the Abatement Target for that Abatement Period.

### **3.2 Calculating the Abatement Percentage**

- 3.2.1 For each Abatement Period, the Abatement Percentage for the Site is calculated as:

$$A = \left[ 1 - \frac{P}{N} \right] \times 100$$

Where:

**A** = the Total Carbon Equivalent Tonnage emitted in the Abatement Period.

**N** = the Total Carbon Equivalent Tonnage that would have been emitted from the Site in the Abatement Period, had the Non-Abatement Scenario applied.

(In each case calculated in accordance with the methodologies of each applicable Carbon Credit Scheme)

- 3.2.2 The Contractor must:

- (a) engage (at its cost) an independent expert to calculate the Abatement Percentage for each Abatement Period at the end of each Abatement Period; and
- (b) require that independent expert to conduct the calculation and report on it and certify it as accurate to the Principal within 20 Business Days of the end of the Abatement Period, along with sufficient information to enable the Principal to verify the calculation of the specified Abatement Percentage.

- 3.2.3 The Contractor must ensure that the independent expert engaged under clause 3.2.2:

- (a) is a specialist in modelling carbon abatement and have previous experience in this area; and
- (b) acts honestly, reasonably and with the degree of professionalism, care, knowledge, experience, skill and diligence which may reasonably be expected of a firm experience in the performance of the same or similar services; and
- (c) acts independently..

- 3.2.4 If the Principal disputes the Abatement Percentage provided under clause 3.2.2, it may refer the matter for dispute resolution under clause 29.

### 3.3 Abatement improvement plans

- 3.3.1 If for any applicable Carbon Credit Scheme the Abatement Percentage achieved by the Contractor for an Abatement Period is less than the Abatement Target, then:

- (a) the Principal Representative may give the Contractor a notice which:
  - (i) must state that it is an improvement notice under this clause 3.3.1; and
  - (ii) requires that the Contractor submit an improvement plan to the reasonable satisfaction of the Principal Representative, within such reasonable period of time as is specified in the notice, which plan contains a description of the steps that the Contractor will take to ensure that at the end of the next Abatement Period the Abatement

Percentage for that Abatement Period will be equal to or greater than the Abatement Target and to recoup any shortfall from prior periods; and

- (b) if the Principal Representative gives the Contractor an improvement notice then the Contractor must comply with it.

3.3.2 If the Principal Representative notifies the Contractor that it is satisfied with the improvement plan submitted under clause 3.3.1(b) then the Contractor must fully implement and comply with that improvement plan.

3.3.3 If the Principal Representative notifies the Contractor that it is not satisfied with the improvement plan submitted under clause 3.3.1(b) then the Contractor must promptly and in accordance with any directions of the Principal Representative, review and correct the improvement plan and resubmit it to the Principal Representative and clauses 3.3.1(a)(ii), 3.3.1(b) and 3.3.2 shall reapply.

3.3.4 This clause does not limit any other right, power or privilege of the Principal nor any liability, duty or obligation of the Contractor.

#### **4. Abatement Revenue**

##### **4.1 Carbon Credit Bank Account**

4.1.1 Within 20 Business Days of the Operating Date, the Contractor must open a trust account with a bank for the specific purpose of receiving and managing the Abatement Revenue (**Carbon Credit Bank Account**).

4.1.2 All Abatement Revenue that is monetary must be deposited into the Carbon Credit Bank Account.

4.1.3 The Contractor will hold the Specified Proportion of all Abatement Revenue on trust for the Principal.

4.1.4 The Contractor must manage the Carbon Credit Bank Account in accordance with clauses 4.2 and 4.3.

4.1.5 All bank fees for the Carbon Credit Bank Account must be paid by the Contractor.

##### **4.2 Revenue Statement**

Within 40 Business Days of the last day of the Abatement Period, the Contractor must provide a Revenue Statement to the Principal setting out in accordance with this Agreement:

4.2.1 the amount of Actual Abatement Revenue achieved during that Abatement Period;

4.2.2 the calculation of the Specified Proportion payable by the Contractor to the Principal in accordance with clause 4.3 with sufficient information to enable the Principal to verify those calculations.

4.2.3 All other information relating to Abatement Revenue as the Principal may request from time to time.

##### **4.3 Payment**

4.3.1 For each Abatement Period, the Contractor must pay the Principal the Specified Proportion of the Abatement Revenue within 10 Business Days after the date of

the Revenue Statement by electronic bank transfer into the Principal's nominated bank account.

- 4.3.2 The Principal may at any time request the Contractor to provide additional calculations, estimations and documentation to enable the Principal to understand, audit and verify any aspect of any Revenue Statement and the contractor must promptly comply with each such request.
- 4.3.3 The Principal may dispute the content of any Revenue Statement and clause 29 shall apply.

## **5. Qualifying Change**

- 5.1 The Customer will not be entitled to make, and the Principal will not be liable in connection with, any Claim arising out of or in connection with any change to an applicable Carbon Credit Scheme except to the extent expressly provided for this clause 5.
- 5.2 Where a Qualifying Change occurs, the Contractor may give a notice to the Principal setting out sufficient evidence to demonstrate to the Principal Representative that the Qualifying Change has occurred.
- 5.3 Within 30 Business Days after the date of the notice given under clause 5.2 the parties must meet and negotiate in good faith reasonable amendments to this Agreement to address the Qualifying Change. This may include:
  - 5.3.1 a change to the Specified Proportions of the Revenue Sources payable by the Contractor to the Principal under this Agreement; or
  - 5.3.2 the payment of a services fee by the Principal to the Contractor.
- 5.4 If the parties cannot reach agreement within the time frame in clause 5.4 (or such longer time agreed to between the parties), either party may refer the matter for resolution in accordance with clause 29.

## **PART 3 PRIOR TO OPT IN DATE**

### **6. Prior to the Opt In Date**

- 6.1 In the period between the Commencement Date and the Opt In date for a Project:
  - 6.1.1 The Principal Shall itself manage or procure the management of the Project's participation in each applicable Carbon Credit Scheme;
  - 6.1.2 For each Payment Period the Abatement Revenue must be shared between the Principal and the Contractor in the following Proportions:
    - (a) In respect of the Principal ##%;
    - (b) In respect of the Contractor ##%; and

**OR**

- (a) \$ ## will be allocated to the Contractor and all Abatement Revenue over that amount will be shared as follows:
  - (i) In respect of the Principal ##%;
  - (ii) In respect of the Contractor ##%; and

**[Note the option that is selected as the successful tender is to be inserted]**

- 6.1.3 The Principal must ensure that the participation of the Project in the Carbon Abatement Scheme is properly and efficiently managed to ensure compliance with the applicable Abatement Contracts and the requirements of the Carbon Credit Scheme

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## Schedule 4 Electricity Generation

*[For Shellharbour City Council]*

### 1. Definitions

In this 0:

**Electricity Revenue** means for each Payment Period, all revenue, income, value and other consideration earned from or derived from the sale of or other dealing with electricity generated by the Power Generation Plant.

### 2. Electricity Generation

2.1 The Parties agree that:

2.1.1 the Contractor may, subject to obtaining the necessary Authorisations, expand, renovate or carry out works in the Lease Area (including the construction of a Power Generation Plant on the Lease Area) to enable the Contractor to generate electricity from Landfill Gas;

2.1.2 the Contractor will own all rights title and interest in and to the electricity and may distribute and sell it on arms-length commercial terms compliant with all applicable legislation;

2.1.3 the Principal will be entitled to any Carbon Credits resulting from the production of any electricity from the combustion of Landfill Gas and Schedule 3 will apply to those Carbon Credits.

### 3. Payment

#### 3.1 Revenue Statement

Within 10 Business Days of the last day of each Payment Period, the Contractor must provide a Revenue Statement to the Principal setting out in accordance with this Agreement:

3.1.1 the amount of Electricity Revenue the Contractor for that Payment Period;

3.1.2 calculation of the Specified Proportion payable by the Contractor to the Council in accordance with clause 3.2 with sufficient information to enable the Principal to verify those calculations; and

3.1.3 such other information relating to the generation of electricity during the payment period and the Electricity Revenue from the Payment Period as the Principal may from time to time require.

#### 3.2 Payment

3.2.1 For each Payment Period, the Contractor must pay the Principal the Specified Proportion of the Electricity Revenue within 20 Business Days after the date of the Revenue Statement for that Payment Period, by electronic bank transfer into the Principal's nominated bank account.

3.2.2 The Principal may at any time request the Contractor to provide additional calculations, estimations and documentation to enable the Principal to understand, audit and verify any aspect of any Revenue Statement and the contractor must promptly comply with each such request.

3.2.3 The Principal may dispute the content of any Revenue Statement and clause 29 will apply.

***[For Shoalhaven City Council]***

***[Maddocks note: For Shoalhaven who are already generating electricity, there will need to be additional clauses on handover. Please confirm which assets are can be handed over.]***

***[For Wollongong City Council]***

#### **4. Specification**

**[Should there be a provision regarding compliance with the Specification]**

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## Schedule 5      Management Plans

### 1.      Management Plans and requirements

Except as expressly provided otherwise in the Agreement, the Contractor assumes all responsibility for, and must provide all resources in relation to the preparation and implementation of the Management Plans. For the avoidance of doubt, the Principal has no obligations with respect to the preparation and implementation of the Management Plans.

### 2.      Preparation of Management Plans

#### 2.1      Requirement to submit Management Plans to Principal

The Contractor must at its cost prepare and progressively submit drafts of its proposed Management Plans to the Principal Representative for consideration and comment in accordance with this, and in the form and within the timeframe specified under, this Schedule 5 and the Specification.

#### 2.2      Content of Management Plans

2.2.1      Each Management Plan to which this Schedule 5 applies must comply with the requirements of this Schedule 5 and the Specification. In particular:

- (a)      The Installation and Operation Environmental Management Plan must comply with the requirements specified in clause 4.1;
- (b)      the Quality Plan must comply with the requirements specified in clause 4.2;
- (c)      the Emergency Plan must comply with the requirements specified in clause 4.3;
- (d)      the Business Continuity Plan must comply with the requirements specified in clause 4.4;
- (e)      the Site Security Plan must comply with the requirements specified in clause 4.5;
- (f)      the Work Health and Safety Plan must comply with the requirements specified in clause 4.6
- (g)      the Incident Management Plan must comply with the requirements specified in clause 4.7.

### 3.      Finalisation of Management Plans

#### 3.1      Submitting to Principal Representative

The Contractor must submit each Management Plan to the Principal Representative for comment in accordance with the below submission table (**Submission Table**), unless otherwise agreed between the parties. Two submissions of Management Plans must be made, as shown numbered 1 and 2 in the Submission Table. Each submission represents a degree of design completion as shown in column 2 of the Submission Table. For each submission, the documents in column 3 must be submitted on or before the date in column 4 of the Submission Table. The documents must comply with the requirements in column 5 of the Submission Table.

#### Submission Table

Column 1	Column 2	Column 3	Column 4	Column 5
Submission number	Per cent complete	Documents to be submitted	Submission date	Requirements
1	80	All Management Plans	##	All Agreement requirements
2	100	All Management Plans	prior to the Commencement Date	All Agreement requirements

### 3.2 Principal Representative comment

- 3.2.1 The Principal Representative may, but is not obliged to, review a Management Plan provided under this Schedule 5 and may in its discretion provide to the Contractor suggested comments if in the Principal Representative's opinion, the Management Plan:
- (a) does not comply with or may lead to a non-compliance with this Agreement or any applicable Authorisation; or
  - (b) the Management Plan does not adequately address, or may create, a risk in relation to other users of the Site.
- 3.2.2 If the Principal Representative provides comments to the Contractor, the Contractor must at the Contractor's cost address those comments in the Management Plan by amending the Management Plan.
- 3.2.3 Following any amendment of a Management Plan to address any comments referred to in clause 3.2.1, the Contractor must resubmit the Management Plan to the Principal Representative and the procedures set out in clause 3.2.1 and 3.2.2 will re-apply.
- 3.2.4 If following the submission of a Management Plan the Principal Representative makes a request for further or additional information or clarification, the Contractor must ensure that the information requested is promptly provided.
- 3.2.5 For the purposes of clause 3.3, the Principal Representative must provide comments (if any) within 15 Business Days of having been provided with full and complete copies of those documents.

### 3.3 Final Management Plans

Each Management Plan will be a 'Final' Management Plan when any comments by the Principal Representative under clause 3.2, have been addressed to the Principal Representative's satisfaction (**Final Management Plan**).

### 3.4 Compliance with Management Plans

The Contractor must comply with each Final Management Plan in the performance of the Services and the Agreement.

### 3.5 No Change to a Final Management Plan

Except as otherwise provided in clauses 3.6 and 3.7, the Contractor must not change or modify or alter a Final Management Plan except with the prior written approval of the

Principal Representative. The Contractor must at the Contractor's cost provide all necessary information to the Principal Representative to explain and justify the change, modification or alteration.

### **3.6 Amendments to Final Management Plan**

The Principal Representative may, at any time, suggest amendments or updates to a Final Management Plan. The Contractor must accept any reasonable amendments to a Final Management Plan suggested by the Principal Representative or a regulator.

### **3.7 Review of Final Management Plan**

**3.7.1** Each Final Management Plan must be reviewed annually by the Contractor, or as otherwise requested by the Principal Representative.

**3.7.2** Unless otherwise specified in this Agreement, the Contractor must submit to the Principal a revised Management Plan to the Principal (including details of any updates or amendments to the preceding Final Management Plan) one month prior to each anniversary of the Commencement Date.

## **4. Requirements of Management Plans**

### **4.1 Installation and Operation Environmental Management Plan**

**4.1.1** The Installation and Operation Environmental Management Plan must be specific to the Site and must:

- (a) be consistent with ISO 14001:2004;
- (b) cover both the Installation Activities and the O&M Activities;
- (c) detail:
  - (i) the likely impact of the Services and the Contractor Activities on the Environment; and
  - (ii) measures to improve the environmental performance and management;

**4.1.2** The Installation and Operation Environmental Management Plan must include as a minimum:

#### **General**

- (a) reference to environmental regulatory requirements relevant to the Services and other activities performed under this Agreement, including applicable Authorisations and Environmental Law;
- (b) the Contractor's assessment of all Site specific risks to the Environment arising from the Services and the Contractor Activities and the performance of its obligations under this Agreement and identify Site specific controls to manage those risks;
- (c) Environmental policy and objectives adopted by the Contractor;
- (d) Environmental instruction, training and induction procedures;
- (e) Environmental auditing and inspection procedures;

- (f) Environmental incident reporting procedures;
- (g) Reporting requirements, formats and frequency.
- (h) Environmental control measures and management programs;
- (i) Environmental monitoring programs and reporting procedures; and
- (j) any opportunities for environmental improvement identified by the Contractor.

#### **Installation Activities**

- (k) installation procedures and identified equipment and plant to be used in the Installation Activities;

#### **Operation**

- (l) detailed operating parameters and include and operational manual for the System and the Power Generation Plant, including minimum gas flow rates and quality criteria;
- (m) monitoring frequencies, data and documentation requirement;
- (n) operating procedures;
- (o) address management of excess excavated waste and other excavated materials, and storm water management, leachate management, odour and dust management;
- (p) air quality management and monitoring plan;

#### **Maintenance**

- (q) routine service and inspection frequencies and date and documentation recording requirements;
- (r) shutdown and downtime procedure and date and documentation requirements; and
- (s) maintenance procedures.

## **4.2 Quality Plan**

### **4.2.1 The Quality Plan must:**

- (a) identify aspects of the Services where quality is a critical factor;
- (b) establish procedures for meeting the highest possible quality in respect of those aspects of the Services;
- (c) have as an objective, to ensure that the Services are monitored, controlled and managed so that the Services are delivered in a manner that maximises and promotes continuous improvement to resource recovery activities.

4.2.2 The Quality Plan must include:

- (a) details of material tracking procedures and explain how the Contractor will ensure that only materials that are either Waste Levy Exempt or eligible for a Waste Levy Deduction be used within the Landfill;
- (b) quality assurance philosophies, policies and procedures;
- (c) continuous improvement philosophies, policies and procedures;
- (d) details of how the Quality Plan will be implemented, reviewed and maintained;
- (e) performance measures and methods to be used by the Contractor to monitor performance;
- (f) details of processes, such as audits, that will be used to ensure that the Services are provided consistently in accordance with this Agreement;
- (g) reporting procedures and reporting schedule; and
- (h) a process for reviewing and amending the Quality Plan.

**4.3 Emergency Plan**

4.3.1 The Emergency Plan must include:

- (a) a list of events that would constitute an emergency (**Emergency**);
- (b) the name of each person who will declare an event to be an Emergency;
- (c) the procedures for notifying the Principal and Collection Contractor of an Emergency and the actions to be taken in response to the Emergency; and
- (d) the procedure for communicating the effect of the Emergency to other persons if the Principal considers it necessary to inform those persons.

**4.4 Business Continuity Plan**

4.4.1 The Business Continuity Plan must include:

- (a) a list of events or occurrences that would constitute an interruption to the normal day to day operational activities of the Contractor at the Site (**Business Interruption Emergency**);
- (b) the name of each person who will declare an event to be a Business Interruption Emergency and be responsible for restoring normal business operations;
- (c) business resumption plans in response to specific Business Interruption Emergencies;
- (d) the procedures for commencing any alternate arrangements to accept, treat or dispose of material (as required) and for notifying the Principal and Collection Contractor of the Business Interruption Emergency and the actions to be taken in response to the Business Interruption Emergency; and

- (e) the procedure for communicating the effect of the Business Interruption Emergency to other persons if the Principal considers it necessary to inform those persons.

#### **4.5 Site Security Plan**

4.5.1 The Site Security Plan must be in respect of the Site and, at a minimum, include:

- (a) procedures for ensuring all gas manifold station fences and other secured areas remain locked and secure at all time;
- (b) procedures for ensuring that the general public is not able to access the Site;
- (c) procedures for ensuring the security of the keys to the Site issued to the Contractor, including ensuring that no unauthorised copies of the keys are made; and
- (d) provision for persons entering the Site to enter through a controlled entry gate where such persons will be required to complete the Site induction or visitor induction before gaining access to the Site;
- (e) provision for Site surveillance equipment;
- (f) Site access points and protocols;
- (g) emergency contact details; and
- (h) location and type of signage regarding security and evacuation details.

#### **4.6 Work Health and Safety Plan**

4.6.1 The Work Health and Safety Plan must be specific to the Site and must:

4.6.2 cover both the Installation Activities and the O&M Activities;

**4.6.3** detail the site specific work health and safety risk and controls designed to address those risks.

#### **4.7 Incident Management Plan**

4.7.1 The Incident Management Plan must form part of the WHS System and must include:

- (a) a clear statement of accountabilities;
- (b) identification and analysis of risks;
- (c) prevention of incidents;
- (d) preparedness for incidents;
- (e) early notification of incidents, including notification as required under this Agreement;
- (f)** response and recovery to incidents; and

- (g) up to date contact directories, including the names and procedures for 24 hour contact with persons nominated by the Contractor to prepare for, respond to and recover from incidents.

4.7.2 The Contractor must advise the Principal immediately of any changes to the names of persons nominated as contact persons in the Incident Management Plan.

## **5. Design obligations generally**

### **5.1 Design obligations**

5.1.1 The Contractor must ensure that each Management Plan:

- (a) satisfies the requirements of this Agreement;
- (b) satisfies the requirements of the relevant Australian Standard unless there is no appropriate Australian Standard, in which case British Standards are to be adopted;
- (c) is suitable for the purposes for which it is required under this Agreement; and
- (d) is consistent with and give effect to the conditions of the EPL and any other applicable Authorisations.

### **5.2 Provide final documentation**

5.2.1 The Contractor must at its cost on request by the Principal promptly give to the Principal Representative full and complete copies of all of the following documentation:

- (a) all Applications and supporting documentation including environmental assessments, reports or any document required to be lodged with an Authority in order for the Authority to determine the Application;
- (b) all documents setting out strategies for the delivery, design or method of delivery of the Services, including any plans, consultant reports, specifications, models, calculations, material test results drawings and technical specifications;
- (c) all Management Plans;
- (d) any other design documentation and drawings;
- (e) all test results or reports regarding the Site or Services, including any reports prepared pursuant to or for the purposes of compliance with a requirement of this Agreement; and
- (f) all other data, text, diagrams, surveys, geotechnical assessments or reports or information obtained, developed or generated by or on behalf of the Contractor in the course of providing Services, or preparing related deliverables, under this Agreement,

in electronic or written forms that the Contractor or any other person creates in for the purpose of or in the course of carrying out the Services or that the Contractor or any other person provides to the Principal in respect of the Services.

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## Schedule 6      Bank Guarantee

### Approved form of Security

At the request of .....

ACN ..... ABN..... (the *Contractor*) and in consideration of [Waver]

ACN ..... ABN ..... (the *Financial Institution*) unconditionally

undertakes to pay on demand any sum or sums which may from time to time be demanded by the Council to a maximum aggregate sum of .....

..... (\$ ..... )

The undertaking is to continue until notification has been received from the *Council* that the sum is no longer required by the *Council* or until this undertaking is returned to the *Financial Institution* or until payment to the *Council* by the *Financial Institution* of the whole of the sum or such part as the *Council* may require.

Should the *Financial Institution* be notified in writing, purporting to be signed by .....

..... for and on behalf of the *Council* that the *Council* desires payment to be made of the whole or any part or parts of the sum, it is unconditionally agreed that the *Financial Institution* will make the payment or payments to the *Council* forthwith without reference to the *Contractor* and notwithstanding any notice given by the *Contractor* not to pay same.

Provided always that the *Financial Institution* may at any time without being required to do so pay to the *Council* the sum of .....

..... (\$ ..... )

less any amount or amounts it may previously have paid under this undertaking or such lesser sum as may be required and specified by the *Council* and thereupon the liability of the *Financial Institution* hereunder shall immediately cease.

Dated at ..... this ..... day of ..... 20

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## **Schedule 7      Lease**

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**ANNEXURE “A” TO LEASE DATED \_\_\_\_ / \_\_\_\_ / \_\_\_\_**

**LESSOR: Shellharbour City Council ABN 78 392 627 134**

**LESSEE: [insert]**

**Lease Area: [#Description of Premises], Dunmore Resource Recovery Centre, 44 Buckleys Road, Dunmore NSW**

---

**Reference Schedule**

- |    |                           |  |
|----|---------------------------|--|
| 1. | <b>Lessor:</b>            | Shellharbour City Council ABN 78 392 627 134   |
| 2. | <b>Lessee:</b>            | [To be inserted ##Name and ACN ]   |
| 3. | <b>Lease Area:</b>        | The area shown on the Plan, being part of the land contained in Certificate of Title Volume ## Folio ## and known as## [insert address of site eg for <i>Shellharbour: 44 Buckleys Road, Dunmore NSW</i> ] |
| 4. | <b>Commencement Date:</b> | [This will be the Mobilisation Date in the first lease, 5 years from the Commencement Date in the second lease (Sequential Lease)]   |
| 5. | <b>Termination Date</b>   | [This will be 5 years from the Commencement Date in the first lease, 10 years from the Commencement Date in the second lease (Sequential Lease) (being a Term of FIVE (5) years)]                          |
| 6. | <b>Base Rent:</b>         | \$10.00 per annum (if demanded)  |
| 7. | <b>Permitted Use:</b>     | Conducting the Electricity Generating Activities (as that term is defined in the Landfill Gas Services Contract).  |
| 8. | <b>Guaranteed Sum:</b>    | \$50,000.  |

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**1 Definitions and Interpretation**

**1.1 Definitions**

In this Lease unless the contrary intention appears:

**Bank** means an Australian trading bank.

**Bank Guarantee** means an irrevocable and unconditional on demand undertaking on terms approved in writing by the Lessor with no expiry date, issued by a Bank approved in writing by the Lessor. The parties acknowledge and agree that the form set out in Schedule [6] of the Landfill Gas Services Contract is a form approved by the Lessor providing that:

- (a) all references to “Contractor” will include “Lessee”;
- (b) all references to “Principal” will include “Lessor”; and
- (c) the words “Landfill Gas Services Contract” will include “the performance of the Lessee’s obligations under a lease of the Lease Area

**Base Rent** means the amount in **Item 6**.

**Business Day** means a day that is not a Saturday, Sunday or public holiday in Sydney.

**Contract** means the Landfill Gas Services Contract.

**Change of Control** means the change in direct or indirect legal or beneficial ownership of more than 50% of the issued share capital or (if it is convertible into shares), of the loan capital, of the Lessee (or the holding company of the Lessee where relevant).

**Claim** means any action, claim, demand or proceeding (including based in contract, tort or statute or under any indemnity, and including any action based on personal injury or death) made against the person concerned however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

**Contamination** has the meaning given to it in the Landfill Gas Services Contract.

**Commencement Date** means the date referred to as such in the Contract and which is specified in **Item 4**.

**Consequential Loss** means any loss or damage which does not naturally or directly result in the ordinary course of events from the breach, action or inaction in question, whether or not a party has been advised of or is aware of that loss or damage, including any loss of revenue, profit, data, opportunity, business, goodwill or future reputation, any failure to realise anticipated savings, any downtime costs, any damage to credit rating, and any penalties payable under contracts other than this Licence.

**Environment** means all components of the earth, including:

- (a) land, air and water;
- (b) any layer of the atmosphere;
- (c) any organic or inorganic matter;
- (d) any living organism; and
- (e) natural or man-made or modified features or structures,

and includes ecosystems and all elements of the biosphere

**Environmental Laws** means all laws relating to the protection of or prevention of harm to the Environment including but not limited to any law relating to the use of land, planning, environmental assessment, the environmental or historic heritage, water, water catchments, pollution of air, soil, ground water or surface water, noise, soil, chemicals, pesticides, hazardous goods, building regulation, occupation of buildings, public health or safety, occupational health and safety, environmental hazard, any aspect of protection of the environment or the enforcement or administration of any of those laws (whether those laws arise under statute or the common law or pursuant to any permit, licence, approval, notice, decree, order or directive of any governmental agency or otherwise).

**Government Authority** means any:

- (a) government, government department, government agency or government authority;
- (b) governmental, semi-governmental, municipal, judicial, quasi-judicial, administrative or fiscal entity or person carrying out any statutory authority or function; or
- (c) other entity or person (whether autonomous or not) having powers or jurisdiction under any statute, regulation, ordinance, by-law, order or proclamation, or the common law.

**Guaranteed Sum** means the amount specified in **Item 8**.

**Landfill Gas Services Contract** means the agreement between the Lessor as principal and the Lessee as contractor dated on or about **[#date of contract to be inserted]**.

**Law** includes:

- (a) any law, statute, regulation, ordinance, by-law, order or proclamation, and the common law; and
- (b) any authorisation, ruling, judgment, order, decree or other requirement of any Government Authority.

**Lease** means this lease (and any annexure, exhibit, plan and schedule to it) and includes any equitable lease or lease at law evidenced by this document (and any annexure, exhibit, plan and schedule to it).

**Lessee** means the person named in **Item 2** and includes its successors, executors and administrators, its assigns approved by the Lessor and, where the context permits, includes the Lessee's Employees and Agents.

**Lessee's Act or Omission** means any act, default, misconduct, neglect, negligence or omission of any kind of the Lessee or the Lessee's Employees and Agents.

**Lessee's Employees and Agents** means each of the Lessee's employees, officers, agents, contractors, consultants, invitees, sublessors and any other person on or about the Lease Area (with or without invitation) or under the control or direction of the Lessee.

**Lessee's Equipment** means the fixtures, fittings, furnishings, plant and equipment and other items at any time (whether before or after the commencement of the Term) installed in or brought onto any part of the Lease Area by or on behalf of the Lessee, the Lessee's Employees and Agents or the Lessee's Predecessors (and, where the context permits, includes any part of them).

**Lessee's Predecessors** means each and every predecessor in title of the Lessee as lessee under this Lease (and, where this Lease is one in a series of consecutive leases granted pursuant to the exercise of options, it means each and every lessee under a prior lease in the series).

**Lessor** means the person named in **Item 1** and includes its successors and assigns, and where the context permits includes its agents, contractors, employees and sub-contractors.

**Liabilities** means any and all damages, punitive damages, liabilities, actions (including actions based on personal injury or death), obligations, duties, losses, charges, costs or expenses (including legal expenses and consulting fees), interest, penalties, fines and taxes, and includes Consequential Loss and **Liability** has a corresponding meaning.

**Licence** means a licence entered into by the Lessor and the Lessee in respect of part of the Site pursuant to the Landfill Gas Services Contract.

**Lease Area** means (and, where the context permits includes part of) the Lease Area described in **Item 3**.

**Mobilisation Date** means the date specified as such in the Landfill Gas Services Contract.

**Permitted Use** means the use described in **Item 7**.

**Plan** means the plan comprising Attachment 1.

**Sequential Lease** means any lease of the Lease Area on terms substantially similar to this Lease between the Lessor and the Lessee entered into at the same time as this Lease.

**Services** means all services in connection with the Lease Area, including electricity, gas, water, waste collection and telecommunication services.

**Site** has the meaning given in the Landfill Gas Services Contract and, for the avoidance of doubt, includes the Lease Area.

**Term** means the period commencing on the Commencement Date and expiring at midnight on the Termination Date.

**Termination Date** means the date in **Item 5**.

**WHS Law** means the Work Health and Safety Act 2011 (NSW) and all Codes of Practice approved under Part 14 of that Act, the Work Health and Safety Regulation 2011 (NSW)(**WHS Regulation**), and any other work health and safety law that applies to work being carried out on the Lease Area.

Any terms used but not defined in this Lease have the meaning given to them in the Landfill Gas Services Contract.

## **1.2 Interpretation**

The table of contents and headings are for guidance only and do not affect the interpretation of this Lease. This Lease is governed by New South Wales law. In interpreting this Lease, no rule of construction applies to the disadvantage of a party because that party put forward this Lease.

### **1.3 Miscellaneous references**

In the interpretation of this Lease reference to:

- (a) any gender includes every gender;
- (b) singular includes plural and vice versa;
- (c) persons include bodies corporate and other legal entities;
- (d) a Part, clause, schedule or an Item is, unless the context otherwise requires, a reference to a Part, clause or schedule of this Lease or an Item in the Reference Schedule;
- (e) any body which ceases to exist, is reconstituted, renamed or replaced or has its powers transferred, refers to the body established in its place or which serves substantially the same objects as or succeeds to its powers; and
- (f) the president of a body means the person acting as the president (or other principal officer) at a relevant time.

### **1.4 Covenants - joint and several**

Any covenant, indemnity or agreement by TWO (2) or more persons as Lessee binds them collectively and individually.

### **1.5 Lessee not to permit prohibited matters**

Where the Lessee is prohibited from doing any act, matter or thing, it is also prohibited from permitting or suffering the act, matter or thing and it must ensure that the Lessee's Employees and Agents do not breach the prohibition. Despite the preceding sentence, the Lessee is not responsible for the actions of its invitees outside the Lease Area.

### **1.6 Exclusion of implied covenants and powers**

Sections 84, 84A and 85 of the Conveyancing Act, 1919 do not apply to and are not implied in this Lease unless they are expressly included.

### **1.7 No partnership, agency or joint venture**

Nothing in or under this Lease creates the relationship of partners, principal and agent or joint venturers between the Lessor and the Lessee.

### **1.8 Enforceability of powers etc**

Any law which prejudicially affects any party's powers, discretions, remedies, rights or obligations (**Powers**) is excluded to the extent lawfully permissible. If any Power cannot be given full effect, that Power must be severed or read down to maintain (as far as possible) all other provisions of this Lease.

### **1.9 Whole agreement is contained in this lease, the Licence and the Landfill Gas Services Contract**

This Lease, the Licence and the Landfill Gas Services Contract comprise the whole of the agreement between the parties in respect of their subject matter.

### **1.10 Condition before lessor liable**

Despite anything in this Lease to the contrary, the Lessor is not in default in its obligations unless the Lessee has given notice to the Lessor of the default and the Lessor has failed within a reasonable time after notice to take proper steps to rectify the default in accordance with this Lease.

### **1.11 Effect of execution**

Each Lessee is bound by this Lease even though:

- (a) any other Lessee has not executed or may never execute this Lease or the execution of this Lease by any other Lessee is or may become void or voidable, or
- (b) this Lease has not been registered or may never be registered and despite any obligation the Lessor may have to register it.

This Lease is a deed, even if it is not registered.

### **1.12 Notices**

- (a) In this Lease, reference to notice means notice in writing.
- (b) Any notice or other writing served by the Lessor is valid and effective if given under the common seal of the Lessor or signed by an attorney, director, company secretary, authorised officer or solicitor of the Lessor.
- (c) Any notice or other writing is sufficiently served on the Lessee if served personally or if forwarded to the Lessee by courier, facsimile or post to the Lease Area or the last address of the Lessee known to the Lessor.
- (d) If any notice or other writing is served on a day which is not a Business Day or is after 5.00pm (addressee's time) it is deemed to be served on the next Business Day.

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## **2 Lessor's rights and obligations**

### **2.1 Quiet enjoyment**

If the Lessee complies with this Lease, it may possess the Lease Area during the Term without disturbance from the Lessor (or persons claiming through it) except to the extent disturbance is expressly permitted by this Lease.

### **2.2 Entry to Lease Area**

The Lessee may enter and use the Lease Area in accordance with clauses **[8.3.2]** of the Services Terms and **[15.6]** of the Standard Terms in the Landfill Gas Services Contract and subject to this Lease, the law and requirements of statutory authorities.

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## **3 Lessee's Obligations - Base Rent And Other Money**

### **3.1 Payment of base rent and other money**

- (a) **Base rent:** The Lessee must pay Base Rent to the Lessor annually in advance if demanded.
- (b) **Timing for payment of other money:** Unless otherwise specified in this Lease, all money payable by the Lessee to the Lessor must be paid within TEN (10) Business Days after service on the Lessee of the monthly statement requiring payment of the same.
- (c) **Method of payment:**
  - (1) Unless otherwise agreed in writing between the Lessor and the Lessee, the Lessee must, if required by the Lessor, pay all Base Rent to the Lessor by directing the Lessee's bank to debit the Lessee's account for those amounts and credit them to the bank account nominated by the Lessor from time to time.
  - (2) Subject to paragraph (1) and unless the Lessor otherwise notifies the Lessee, all money payable by the Lessee to the Lessor must be paid by unendorsed cheque payable to the Lessor delivered to the Lessor at the place notified by the Lessor.
  - (3) All money payable by the Lessee must be paid free of exchange, without deduction or set-off.
- (d) **Services in Lease Area:** Subject to [Schedule 2] of the Landfill Gas Services Contract and subclause (e), the Lessee must promptly pay all accounts for telephone, oil, gas and other services consumed in the Lease Area by or on behalf of the Lessee. Subject to [Schedule 2] of the Landfill Gas Services Contract the Lessor will supply all electricity required by the Lessee for the Permitted Use at no cost to the Lessee. For the avoidance of doubt, the provisions of Schedule 2 of the Landfill Gas Services Contract override the provisions of this clause (d) to the extent of any discrepancy.

- (e) **Any special charges:** Subject to [Schedule 2] of the Landfill Gas Services Contract, the Lessee must pay the Lessor any assessment for trade waste, excess water or other costs incurred as a result of the Lessee's use or occupation of the Lease Area and the Lessor's costs and expenses in operating, repairing and maintaining the services and facilities (if any) provided to the Lease Area or the Lessee's Equipment. The Lessee must pay all costs assessed directly on the Lease Area (or on the Lessor or the Lessee in respect of the Lease Area). Unless directed otherwise by the Lessor, the Lessee must pay those costs directly to the relevant assessing authority on or by their due date. For the avoidance of doubt, the provisions of Schedule 2 of the Landfill Gas Services Contract override the provisions of this clause (e) to the extent of any discrepancy.
- (f) **GST:**
- (1) In this clause:
    - (A) **GST Law** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999*; and
    - (B) words and expressions that are not defined in this Lease but which have a defined meaning in the GST Law have the same meaning as in the GST Law.
  - (2) Except as otherwise provided by this clause, all consideration payable under this Lease in relation to any supply is exclusive of GST.
  - (3) If GST is payable in respect of any supply made by a supplier under this Lease ("**GST Amount**"), the recipient will pay to the supplier an amount equal to the GST payable on the supply.
  - (4) Subject to sub clause (5) the recipient will pay the GST Amount at the same time and in the same manner as the consideration for the supply is to be provided under this Lease.
  - (5) The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST Amount under sub clause (4).
  - (6) If this Lease requires a party to reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:
    - (A) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and
    - (B) if the payment or reimbursement is subject to GST, an amount equal to that GST.
  - (7) If an adjustment event occurs in relation to a taxable supply under this Lease:
    - (A) the supplier must provide an adjustment note to the recipient within 7 days after becoming aware of the adjustment; and
    - (B) any payment necessary to give effect to the adjustment must be made within 7 days after the date of receipt of the adjustment note.

### 3.2 Interest payable by lessee on overdue money

- (a) Without prejudicing the Lessor's other rights and remedies, the Lessee must pay interest to the Lessor at the Prescribed Rate on any money due but unpaid by the Lessee.
- (b) Interest shall be calculated daily from the due date up to and including the date the Lessor receives full payment.
- (c) Failure by the Lessor to promptly claim interest on arrears does not waive the Lessor's right to claim interest.

- (d) **"Prescribed Rate"** means TWO per cent (2%) more than the Indicator Lending Rate current at the date the money becomes due, and at the first day of each month while the money remains due.

### **3.3 Cost of lease, default, lessor's approval etc**

The Lessee indemnifies the Lessor against, and must pay to the Lessor on demand, all costs and expenses incurred by the Lessor in connection with:

- (a) the stamping and any necessary registration of this Lease (including production of the certificate of title) and any related document (including penalties and fines);
- (b) any request for the consent of the Lessor, any head lessor or the Lessor's mortgagee, regardless of whether the consent is actually given;
- (c) any insurance premium to insure the Lease Area against damage or destruction;
- (d) any amendment to, waiver under, surrender of, or dealing contemplated by, this Lease or any related document;
- (e) any works carried out by or for the Lessee (including amounts incurred by the Lessor in considering, consulting advisers on, and modifying any part of the Lease Area because of, those works);
- (f) any breach of this Lease by the Lessee or the Lessee's Employees and Agents, and the actual or attempted enforcement or protection of any right under this Lease in law or equity; and
- (g) surrender or termination of this Lease other than by expiration,

including legal expenses on a full indemnity basis, the Lessor's internal administration and legal costs at the rate and on the basis determined by the Lessor, and expenses incurred in engaging consultants. The parties are responsible for their own costs in relation to the preparation, negotiation, completion, stamping and registration of this Lease and any further licence.

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## **4 Lessee's General Obligations**

### **4.1 Permitted use**

- (a) The Lessee must only use the Lease Area for the Permitted Use.
- (b) The Lessee must not conduct any illegal, immoral, offensive or unlawful use on the Site or do anything on the Site which causes nuisance, damage or disturbance to any occupier of the Site or any occupier of any nearby property.
- (c) The Lessee must not, without the prior consent of the Lessor (given or withheld in its absolute discretion) have in the Lease Area anything which is flammable, explosive, toxic, hazardous or injurious to health, other than such substances (in type and quantity) as are required in the ordinary course of the Permitted Use as part of the Lessee's business and in relation to which the Lessee has obtained all relevant authorities' consent. If the Lessee, with the prior consent of the Lessor and all relevant authorities, has in the Lease Area or anything which is flammable, explosive, toxic, hazardous or injurious to health, the Lessee must (at intervals of not more than SIX (6) months and more frequently if requested by the Lessor) provide to the Lessor a statement setting out in detail:
  - (1) the type and quantity of the items or materials on the Lease Area which are flammable, explosive, toxic, hazardous or injurious to health; and
  - (2) the licences and permits which the Lessee is required to effect and maintain in relation to those items and materials (together with evidence satisfactory to the Lessor establishing the currency of those licences and permits).

### **4.2 Compliance with statutes**

- (a) The Lessee must comply with all statutes and regulations and all approvals, directions, requirements, notices, orders or permits of any authority in respect of this Lease, the Lease Area, the use of the Lease Area and the health or safety of

people using the Lease Area and the Lessee's Equipment (including all Environmental Laws).

- (b) The Lessee must immediately give notice to the Lessor if the Lessee receives any direction, requirement, notice or order from any government or authority in respect of this Lease, the Lease Area, the Site, the use of the Lease Area or the Site, the health or safety of people using the Lease Area and, the health or safety of people using the Site or the Lessee's Equipment.

#### **4.3 Security**

- (a) The Lessee must keep the Lease Area secure at all times when the Lease Area is not being used by the Lessee.
- (b) Without limiting paragraph (a), the Lessee must keep the Lease Area fenced at all times.

#### **4.4 Signs**

The Lessee must seek the prior written consent of the Lessor before displaying or affixing any signs, advertisements or notices that are visible from outside the Lease Area.

#### **4.5 Fire or emergency drills; evacuation**

- (a) The Lessee must comply with all the Lessor's fire and emergency drills and instruction programs for fire and emergency procedures.
- (b) The Lessee must appoint and keep appointed an adequate number of wardens for the Lease Area. The Lessee must promptly give notice to the Lessor of the names of the wardens.
- (c) The Lessor (if informed of a bomb threat or believing there is a fire or other risk in the Site) may request the Lessee and the Lessee's Employees and Agents to immediately vacate the Lease Area or the Site and they must immediately comply.
- (d) The Lessee and the Lessee's Employees and Agents have no claim against the Lessor for any loss, injury, death, damages for loss of profits, abatement or set-off due to or arising out of any drill, program or evacuation under this clause, except to the extent that the same has been caused by the negligence of the Lessor.

#### **4.6 Lessee to give notice of accident and lack of repair**

Immediately on becoming aware of the same, the Lessee must notify the Lessor of:

- (a) damage, injury, death or loss occurring in and any defect or want of repair in any services in or to the Site, and
- (b) any circumstances likely to cause danger, risk or hazard to any person or property in or services and amenities of the Site, including without limit any Contamination or the spillage or leakage of or odours from any item or material regulated by any Environmental Law.

#### **4.7 No warranty as to suitability, exclusive rights or otherwise**

- (a) The Lessee agrees that (other than as disclosed under sub-clause (b) or as expressly contained in this Lease), no promise, representation, undertaking or warranty given by or on behalf of the Lessor has been relied on by the Lessee in entering into this Lease or has in any material way induced the Lessee to enter into this Lease.
- (b) The Lessee must disclose to the Lessor in writing before the Lessee executes this Lease any promise, representation, undertaking or warranty (other than those expressly contained in this Lease) that the Lessee has relied on in entering into this Lease or which has in any material way induced the Lessee to enter into this Lease.
- (c) The Lessee is liable to the Lessor in damages for all Liabilities which the Lessor suffers or incurs arising out of the Lessee's failure to disclose and for any judgment awarded against the Lessor arising out of any promise, representation,

undertaking or warranty given by or on behalf of the Lessor and not disclosed by the Lessee.

- (d) The Lessee repeats the warranties, representations and undertakings set out in clause [5.4] of the Landfill Gas Services Contract which are hereby incorporated into and form part of this Lease.

#### **4.8 Insurance**

The Lessee must maintain the insurances required pursuant to the Landfill Gas Services Contract in respect of the Lease Area and the Lessee's Equipment at all times during the Term.

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## **5 Lessee's Obligations - Lease Area and equipment**

### **5.1 Alterations to Lease Area, partitioning and fixtures**

- (a) The Lessee must not without the prior approval of the Lessor and all relevant authorities alter the Lease Area or the Site.
- (b) In seeking the Lessor's approval under sub-clause (a), the Lessee must submit to the Lessor the details the Lessor reasonably requires. The Lessor's approval to the matters in sub-clause (a) may be given or withheld in its absolute discretion.
- (c) Any approvals given under sub-clause (a) will be subject to the Lessor's reasonable conditions including (without limit) the standard and quality of finishes and that:
  - (1) any contractor keeps current a public liability policy complying with the Lessee's obligations under the Landfill Gas Services Contract,
  - (2) the Lessee, its contractors and sub-contractors comply with any site agreements applying to the Site,
  - (3) the Lessee pays the Lessor's reasonable costs in considering the Lessee's submissions and supervising those works and the reasonable fees of any consultants engaged by the Lessor, and
  - (4) the Lessee obtains and delivers to the Lessor copies of certificates of compliance issued by relevant authorities.
- (d) The Lessee must obtain and pay the cost of obtaining the approvals of all relevant authorities to the matters referred to in sub-clause (a).
- (e) The Lessee must ensure that all work carried out by it or on its behalf is carried out at times and in a manner which causes no damage or nuisance to and which minimises disturbance and inconvenience to others occupying or using the Site. The Lessee must comply with the Lessor's directions in that respect.

### **5.2 No mortgage of lessee's equipment**

The Lessee must not charge, lease, hire or mortgage any Lessee's Equipment without the Lessor's prior consent which will be given if the Lessee's credit provider is a recognised financial institution who promptly signs and returns the Lessor's usual documentation and the Lessee has paid the Lessor's reasonable costs and expenses of and incidental to the consent and documentation.

### **5.3 Other obligations**

- (a) The Lessee must not bring on the Lease Area plant or equipment which may damage or overload the Lease Area.
- (b) The Lessee must take all reasonable precautions to keep the Lease Area free of vermin, insects, birds and animals and, as required by the Lessor, must employ qualified pest exterminators.
- (c) The Lessee must at all times comply with the Landfill Services Contract and the Licence ensure that all its activities are carried out in the Lased Area and the Site in compliance with each of those documents respectively.

#### **5.4 Work health and safety**

The Lessee must comply with, and ensure that its workers, including its employees, contractors, subcontractors and agents, comply with all WHS Law and:

- (a) take all possible and reasonably practicable steps and measures to eliminate risk to health and safety;
- (b) ensure that it does not cause the Lessor to be in breach of any of its obligations under the WHS Law;
- (c) provide all required assistance to the Lessor to comply with the WHS Law in connection with the Services and Contractor Activities;
- (d) ensure the protection of the health, safety and welfare of any persons engaged in or in connection with the Services or Contractor Activities (whether by the Lessee, contractors, subcontractors or otherwise);
- (e) comply with any directions, manuals, policies or rules formulated from time to time by the Lessor and of which the Lessee has been given notice;
- (f) manage risks associated with the carrying out of the Services in accordance with Part 3.1 of the WHS Regulation;
- (g) ensure that the Lease Area, and any premises controlled by the Lessee where any persons are performing work in connection with the Services, are safe and without risks to health;
- (h) ensure that any plant or substance provided for use by any persons performing work in connection with the Services is safe and without risks to health when properly used;
- (i) ensure that systems of work, including the working environment, are safe and without risks to health;
- (j) provide adequate and safe facilities;
- (k) ensure that if any Law requires that a person is required to hold any accreditation, certificate or other qualification that the relevant person has it and keeps it up to date;
- (l) ensure that if any Law requires that a workplace, plant, substance, design, or work (or class of work) be authorised, registered or licensed, that workplace, plant, substance, design, or work is so authorised, registered or licensed; and
- (m) if requested by the Lessor or required by the WHS Law, produce evidence of any authorisations, registration, prescribed qualifications or experience, or any other information relevant to work health and safety (as the case may be) to the satisfaction of the Lessor.

#### **5.5 Principal Contractor**

- (a) In respect of any works commissioned by, or carried out by or on behalf of, the Lessee on the Site (including in connection with the Services, the System or the Power Generation Plant), without limiting or otherwise affecting the obligations of the Lessee under any other provision of this Lease, the Lessor and Contractor agree that, if the works are a construction project to which Chapter 6 of the WHS Regulation applies:
  - (1) the Lessor engages the Lessee as principal contractor in respect of such works and the Site;
  - (2) the Lessor authorises the Lessee to:
    - (A) have management and control of such works and the Site; and
    - (B) discharge, exercise and fulfil the functions, duties and obligations of a principal contractor under Chapter 6 of the WHS Regulation in connection with such works and the Site;
- (b) the Lessee accepts the engagement as principal contractor and agrees to discharge, exercise and fulfil the functions, duties and obligations imposed on a principal contractor by the WHS Law;

- (c) to the extent that the Lessee is for any reason, taken or otherwise found not to be the principal contractor for such works and the Site, the Lessee nonetheless must discharge, exercise and fulfil the functions, duties and obligations of a principal contractor in respect of such works and the Site as if the Lessee was the principal contractor for those works and the Site;
- (d) the Lessee is aware of its obligations as principal contractor, or its obligations that may otherwise arise under clause (c).

## **5.6 WHS Law definitions**

Except as otherwise provided in clause 0, all terms used in clauses 5.4 and 5.5 have the meanings given to them in the WHS Act and the WHS Regulation.

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# **6 Risk and Indemnity**

## **6.1 Any failure of services**

If any services provided by the Lessor or enjoyed by the Lessee in conjunction with the Lease Area or the Site malfunctions or fails:

- (a) the Lessor is not liable for any resulting Liabilities suffered or incurred by the Lessee or the Lessee's Employees and Agents,
- (b) the Lessee is not entitled to determine this Lease and has no right of abatement or set-off of any money, and
- (c) the Lessee and the Lessee's Employees and Agents have no claim for compensation or damages against the Lessor.

## **6.2 No liability for any losses caused by contractors**

Despite any other provision in this Lease, the Lessor is not liable for:

- (a) failure by any security organisation to prevent any unauthorised entry to the Site or the Lease Area, or
- (b) death, injury, loss or damage caused or contributed to by a contractor (or its agents, employees or sub-contractors),

where the organisation or contractor has been engaged in good faith by or on behalf of the Lessor and the Lessor reasonably believes it is reputable.

## **6.3 Lessee's obligations at own risk and expense**

- (a) Unless this Lease expressly provides otherwise in a particular provision, any act, matter or thing which the Lessee is obliged, required or permitted to do or effect under this Lease, the Lessee's Equipment and the use and occupation of the Lease Area by the Lessee are all at the sole risk, cost and expense of the Lessee.
- (b) The Lessee releases the Lessor from, and agrees the Lessor is not liable for, any Claim or Liability in connection with any damage, loss, injury to or of any person or property in connection with the use or existence of the Lease Area, any services provided for the use of the Lessee or the Permitted Use.

## **6.4 Indemnity**

The Lessee indemnifies the Lessor against any Claim or Liability that the Lessor incurs or is liable for in connection with:

- (a) any damage, loss, death or injury to property or person in connection with the Lease Area, any services provided for the use of the Lessee or the Permitted Use; and
- (b) the use or occupation by the Lessee or the Lessee's Employees and Agents of, or the existence of, the Lease Area.

## **6.5 Condition**

The Lessee accepts the condition of the Lease Area on the Commencing Date.

## **6.6 Landfill Services Contract**

Nothing in this Lease shall be construed as limiting, waiving, reducing, or fettering:

- (a) any right, power, discretion or privilege of the Lessor as Principal under the Landfill Gas Services Contract;
- (b) any duty, obligation or liability of the Lessee as Contractor under the Landfill Gas Services Contract.

## **6.7 Lessor as Local Authority**

Nothing in this Lease shall be construed as limiting, waiving, reducing or fettering any right, power, discretion or privilege of the Lessor as the responsible local government authority under the Local Government Act 1993 or any other legislation.

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# **7 Lessor's General Rights**

## **7.1 Lessor's right to inspect and show Lease Area**

The Lessor may at all reasonable times on reasonable notice (except where the Lessor perceives an emergency, when entry can be at any time and without notice) enter the Lease Area:

- (a) to inspect them to ascertain their repair, condition and value or to determine if the Lessee is in breach,
- (b) to show them to prospective purchasers of the Lease Area,
- (c) to show them to prospective tenants during the last year of the Term (unless the Lessee is then entitled to a further lease of the Lease Area),
- (d) to inspect them for the purpose of carrying out environmental audits, and
- (e) to inspect them for the purpose of carrying out investigations in relation to possible Contamination.

## **7.2 Access for maintenance and authority requirements**

- (a) The Lessor may on reasonable notice (except where the Lessor perceives an emergency, when no notice is required) enter the Lease Area with materials and equipment to:
  - (1) clean, install, inspect, change, maintain, repair, remove or use any part of the Site (other than the Lease Area) and the Lessor's plant, equipment and services in or adjacent to the Lease Area and the fabric or structure of the Site;
  - (2) carry out works consented to by the Lessee acting reasonably;
  - (3) carry out any maintenance or repairs to the Lease Area which are the responsibility of the Lessor; and
  - (4) comply with any law, direction, notice, order, requirement or request for which the Lessee is not liable under this Lease.
- (b) Under sub-clause (a), the Lessor must not interfere with the Lessee's use of the Lease Area more than is reasonably necessary (in the Lessor's opinion).

## **7.3 Easements and rights of support**

- (a) The Lessor may grant rights of support or easements to or enter into any agreement with any person interested in any land or improvement near the Lease Area or any authority, to provide services for or access to the Site, the Lease Area or nearby land or to support any structure at any time on the Lease Area or on nearby land.
- (b) Despite sub-clause (a), the Lessor must not without the Lessee's written consent enter into any agreement derogating substantially from the Lessee's rights in the Lease Area under this Lease. The Lessee must (at the Lessor's request and at its reasonable cost) promptly withdraw any caveat and execute any consents or other documents, to enable the Lessor to exercise its rights under this clause.

#### **7.4 Damage by lessee to the Site or the Lease Area**

The Lessor may make good any damage to the Site or the Lease Area caused or contributed to by the Lessee's Act or Omission and the Lessee must pay to the Lessor the cost of the making good.

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### **8 Transfer, Sub-Letting, Sale Of Shares Etc**

#### **8.1 Transfer, sub-letting, sharing possession, etc**

- (a) The Lessee must not assign, transfer, sub-let, part with or share the possession of, grant any licence affecting, or otherwise deal with or dispose of the Lease Area (or any part of the Lease Area) or the Lessee's interest under this Lease except with the prior written consent of the Lessor.
- (b) If the Lessee assigns its interest in this Lease pursuant to sub-clause (a), the Lessee must procure that:
  - (1) the assignee enters into a deed with the Lessor in the form reasonably required by the Lessor (containing an agreement that it will perform the Lessee's agreements in this Lease and the Licence) and who procures for the Lessor the agreements, indemnities and bank and personal guarantees reasonably required by the Lessor;
  - (2) the Lessee pays to the Lessor within TEN (10) Business Days of notice, the Lessor's reasonable costs (including legal costs) and disbursements of and incidental to the matters referred to in this clause; and
  - (3) the Lessee, assignee and any other party to the transaction strictly comply with the Lessor's reasonable requirements in relation to drawing, stamping and registering the transaction documentation.

#### **8.2 Limits on mortgage of lease**

The Lessee must not charge, mortgage or encumber this Lease or the interest of the Lessee under this Lease or in the Lease Area.

#### **8.3 Change of control of lessee**

If, without the prior written approval of the Lessor, a Change of Control occurs in respect of the Lessee or the holding of the Lessee, the Lessee acknowledges that it will be in breach of this Lease.

#### **8.4 Assignment and share transfer - costs and documents**

The Lessee must pay the Lessor's reasonable costs (including legal costs) and disbursements of and incidental to any proposed dealing under clauses 8.1 or 8.3, even if the Lessee (or other party) does not comply with clauses 8.1 or 8.3 or if the proposed dealing does not proceed.

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### **9 Default and termination**

#### **9.1 Events of Termination**

If:

- (a) the Lease Area is damaged or destroyed or if there is interruption to access to the Lease Area so as to render the Lease Area or any part of the Lease Area wholly or substantially unfit for the occupation or use of the Lessee or inaccessible by any means of access; or
- (b) the Lessee commits a material breach of any of its obligations under this Lease, the Licence or the Landfill Gas Services Contract and has not remedied that breach within a reasonable period of being requested to do so by the Lessor, having regard to the nature of the breach; or
- (c) the Landfill Gas Contract or the Licence is terminated; or

(d) the Lease Area is rendered unfit for the Lessee's use for any reason, then this Lease may be terminated immediately by notice, by the Lessee in the case of **sub clauses (a), (c) and (d)** and by the Lessor in the case of **sub clauses (b) and (c)**. If an event referred to in clause (b) occurs, the Lessee is in breach of a fundamental and essential term of this Lease.

## **9.2 Effect on Rights or Liabilities**

Termination of this Lease does not affect the rights or liabilities of the parties in relation to any cause of action accruing prior to termination. Termination pursuant to clause 9.1(b) is without prejudice to any claim or other remedy which the Lessor has or may have against the Lessee in respect of any breach of this Lease. This clause has effect despite any other provision in this Lease.

## **9.3 Sequential Leases**

- (a) All Sequential Leases which have not commenced at the date of termination of this Lease will terminate automatically at the same time this Lease terminates for any reason (other than expiry). **[Note: This clause 9.3 will not be included in the second consecutive lease.]**
- (b) If a new licence for a Further Term (as that term is defined in the Licence) is not granted pursuant to clause 11 of the Licence, then all Sequential Leases which have not commenced as at the Termination Date will automatically terminate on the Termination Date. The parties must do everything reasonably necessary to give effect to this clause and remove any Sequential Leases which have not commenced at the Termination Date from the title to the land on which the Lease Area is located.

## **9.4 Lessor's right to remedy defaults**

- (a) If the Lessee fails to pay, do or effect anything in accordance with this Lease or with any consent or approval of the Lessor, the Lessor may (after notice to the Lessee specifying the default, except where the Lessor perceives an emergency, when no notice is required) pay, do or effect the thing as if it were the Lessee and at the Lessee's cost. This clause does not affect the Lessor's other rights and remedies.
- (b) The Lessor may enter and remain on the Lease Area to do or effect anything referred to in sub-clause (a) and the Lessee must pay to the Lessor the Lessor's costs and expenses incurred or paid in doing or effecting that thing.

## **9.5 No waiver**

- (a) Failure to exercise, delayed exercise or partial exercise of any available remedy or right does not waive any breach by a party.
- (b) Waiver by a party of a particular breach is not a waiver of any other breach or default.
- (c) Demand or acceptance by the Lessor of money payable under this Lease after the Lessee's breach or default does not prejudice any other right or remedy of the Lessor.

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# **10 Bank Guarantee**

## **10.1 Lessee to obtain unconditional bank guarantee**

- (a) On or by the date in **Item 5**, the Lessee must obtain and deliver to the Lessor a Bank Guarantee to pay to the Lessor on demand any sum up to an aggregate of the Guaranteed Sum. The Bank Guarantee must be in a form acceptable to the Lessor, including being assignable to any new lessor and not specifying an expiry date.
- (b) If a payment is made to the Lessor after a demand under clause 11.2, the Lessee must, within TEN (10) Business Days after being notified by the Lessor, obtain and deliver to the Lessor a further Bank Guarantee for the amount necessary to

ensure that a Bank Guarantee is maintained which secures the Guaranteed Sum to the Lessor.

- (c) If there is a change in the Lessor then, without limiting sub-clause (d), the Lessee must do whatever it can to help the new and continuing lessors to receive the benefit of the Bank Guarantee.
- (d) Despite sub-clause (a), if the Lessee is, after reasonable efforts, unable to obtain a Bank Guarantee which is assignable to any new lessor, the Lessor may elect to accept a Bank Guarantee which is not assignable. If the Lessor elects to accept a non-assignable Bank Guarantee, the following provisions apply:
  - (1) If there is a change in the Lessor, the Lessee must, if requested to do so by the Lessor (and, at the Lessee's cost) obtain and deliver to the Lessor (within TEN (10) Business Days after notice of the request) a Bank Guarantee in favour of the new and continuing Lessors complying with this clause.
  - (2) If the Lessee is, after reasonable efforts, unable to obtain a Bank Guarantee for the purpose of paragraph (1) which is assignable to any new lessor, the Lessor may elect to accept a Bank Guarantee which is not assignable. If the Lessor does so, this sub-clause (d) applies to that Bank Guarantee.
  - (3) If the Lessee does not comply with paragraphs (1) and (2), the Lessor may make demand on the Bank Guarantee it holds and deliver the proceeds to the new lessor, to hold as security on the same basis at the Bank Guarantee was held.

#### **10.2 Bank Guarantee available to meet lessee's breaches**

- (a) The Guaranteed Sum (or any part of it, as determined by the Lessor but not exceeding, in aggregate, the Guaranteed Sum) is payable on the Lessor's demand. The Lessor may not make demand until the Lessee breaches this Lease.
- (b) The Lessee irrevocably agrees that the Bank must act immediately on the Lessor's demand, without reference to the Lessee and even if the Lessee has instructed the Bank not to pay the Lessor.
- (c) Acceptance of the Bank Guarantee or payment under it does not limit the Lessor's rights or waive any breach by the Lessee.

#### **10.3 Duration of bank guarantee**

The Bank Guarantee must continue in force until the earliest of:

- (a) payment to the Lessor by the Bank of the whole of the amount secured by the Bank Guarantee ; or
- (b) the receipt by the Bank of either a notice from the Lessor that the Bank Guarantee is no longer required or the Bank Guarantee (returned with the Lessor's consent).

#### **10.4 Bank Guarantee under Landfill Gas Services Contract**

If the Lessee has complied with its obligation to provide a Bank Guarantee under the Landfill Gas Services Contract, then while the Lessee is the same entity as the Contractor under that Contract:

- (a) the provision of that Bank Guarantee under that Contract will be taken to satisfy the Lessee's obligation to provide a Bank Guarantee under the Lease; and
- (b) that Bank Guarantee shall be taken to secure the obligations and liabilities of the Lessee under the Lease in addition to the Landfill Gas Services Contract.

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## Attachment 1

## Execution

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### Executed by the parties:

We certify this dealing to be correct for the purposes of the Real Property Act 1900 (NSW).

Certified correct for the purposes of the Real Property Act 1900 (NSW) by the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

**Signed** for and on behalf of **Shellharbour City Council ABN 78 392 627 134** by

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....., but not so as to incur any personal liability in the presence of:

.....

.....  
Print Title:

.....

Witness

Certified correct for the purposes of the Real Property Act 1900 (NSW) by the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

**Executed by:**

**[insert]**

in accordance with s.127(1) of the Corporations Act by:

\_\_\_\_\_  
Secretary / Director

\_\_\_\_\_  
Director

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

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## **Schedule 8      Licence**

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**LICENSOR: Shellharbour City Council ABN 78 392 627 134**

**LICENSEE: [insert]**

**Site: Landfill Area, Dunmore Resource Recovery Centre,  
44 Buckleys Road, Dunmore NSW**

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## Reference Schedule

- Item 1. Licensor:** Shellharbour City Council ABN 78 392 627 134
- Item 2. Licensee:** **[To be inserted ##Name and ACN ]**
- Item 3. Licensed Area:** The area shown on the Plan, being part of the land contained in Certificate of Title Volume ## Folio ## and known as ## **[insert address eg for Shellharbour 44 Buckleys Road, Dunmore NSW]**
- Item 4. Commencing Date:** The Mobilisation Date under the Landfill Gas Services Contract. **##[insert]**
- Item 5. Terminating Date:** The date that is 10 Years following the Commencement Date of the Landfill Gas Services Contract **#[insert]**
- Item 6. Licence Fee during Term:** \$10.00 per annum (if demanded)

- Item 7. Further Term(s):**

Details	First Further Term	Second Further Term
Term	5 years	5 years
Commencing Date of Further Term	##	##
Terminating Date of Further Term	##	##

- Item 8. Licence Fee during Further Term(s):** \$10.00 per annum (if demanded).

- Item 9. Permitted use:**
- (a) For access to, and exploration, assessment, development and exploitation of the Licensed Area pursuant to the Landfill Gas Services Contract;
  - (b) to construct, lay, sink and use, well sites, gas pipelines, other pipeworks, electric lines or tracks, compressors, pumps and other facilities comprising the System located within the Licensed Area for that purpose;
  - (c) for access to the Flare and Power Generation Plant in accordance with the Lease; and
  - (d) to lay conduits, ducts, electric cables or install poles for the suspension of electric cables if required to facilitate production of electricity from the Site to the local distribution network.

## This Deed Witnesses

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### 1. Interpretation and definitions

#### 1.1 Definitions

In this Licence:

**Business Day** means a day that is not a Saturday, Sunday or public holiday in Sydney.

**Change of Control** means the change in direct or indirect legal or beneficial ownership of more than 50% of the issued share capital or (if it is convertible into shares), of the loan capital, of the Licensee (or the holding company of the Licensee where relevant).

**Claim** means any action, claim, demand or proceeding (including based in contract, tort or statute or under any indemnity, and including any action based on personal injury or death) made against the person concerned however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

**Commencing Date** means the date specified in Item 4.

**Consequential Loss** means any loss or damage which does not naturally or directly result in the ordinary course of events from the breach, action or inaction in question, whether or not a party has been advised of or is aware of that loss or damage, including any loss of revenue, profit, data, opportunity, business, goodwill or future reputation, any failure to realise anticipated savings, any downtime costs, any damage to credit rating, and any penalties payable under contracts other than this Licence.

**Contamination** has the meaning given to it in the Landfill Gas Services Contract.

**CPI** means the Consumer Price Index - All Groups Sydney or, if this index is not available or is discontinued or suspended, another index that the Licensor reasonably determines represents the rise in the cost of living in Sydney.

**Environment** means all components of the earth, including:

- (a) land, air and water;
- (b) any layer of the atmosphere;
- (c) any organic or inorganic matter;
- (d) any living organism; and
- (e) natural or man-made or modified features or structures,

and includes ecosystems and all elements of the biosphere

**Environmental Laws** means all laws relating to the protection of or prevention of harm to the Environment including but not limited to any law relating to the use of land, planning, environmental assessment, the environmental or historic heritage, water, water catchments, pollution of air, soil, ground water or surface water, noise, soil, chemicals, pesticides, hazardous goods, building regulation, occupation of buildings, public health or safety, occupational health and safety, environmental hazard, any aspect of protection of the environment or the enforcement or administration of any of those laws (whether those laws

arise under statute or the common law or pursuant to any permit, licence, approval, notice, decree, order or directive of any governmental agency or otherwise).

**Further Term** means each further term specified in Item 7.

**Government Authority** means any:

- (a) government, government department, government agency or government authority;
- (b) governmental, semi-governmental, municipal, judicial, quasi-judicial, administrative or fiscal entity or person carrying out any statutory authority or function; or
- (c) other entity or person (whether autonomous or not) having powers or jurisdiction under any statute, regulation, ordinance, by-law, order or proclamation, or the common law.

**Guaranteed Sum** means the amount set out in **Error! Reference source not found..**

**Guarantor** means each person specified in clause **Error! Reference source not found.** and any other person who gives any guarantee, indemnity or other security to the Licensor in relation to this Licence.

**Insolvency Event** means, in relation to a person, any of the following events:

- (a) the person, being an individual, commits an act of bankruptcy;
- (b) the person becomes insolvent;
- (c) the person ceases, suspends or threatens to cease or suspend the conduct of a majority of its business, or disposes of or threatens to dispose of its assets, except for the purposes of a solvent reconstruction or amalgamation previously approved by the Licensor;
- (d) the person is or states that it is, or under applicable legislation is taken to be, unable to pay its debts (other than as a result of a failure to pay a debt or claim that is the subject of a dispute in good faith), or stops or suspends, or threatens to stop or suspend, payment of all or a class of its debts;
- (e) a receiver, receiver and manager, administrator, controller or similar officer of any of the assets or the whole or any part of the undertaking of the person is appointed;
- (f) a resolution is passed by the person to appoint an administrator, or an administrator of the person is appointed;
- (g) an order is made to appoint a liquidator or a provisional liquidator of the person;
- (h) the person resolves to wind itself up or otherwise dissolve itself, or gives notice of its intention to do so, except for the purposes of a solvent reconstruction or amalgamation previously approved by the Licensor, or is otherwise wound up or dissolved;
- (i) an order is made that the person be wound up;
- (j) the person is, or makes a statement from which it may be reasonably inferred by the Licensor that the person is, the subject of an event described in s 459C(2) of the *Corporations Act 2001* (Cth);

- (k) the person assigns any of its property for the benefit of creditors or any class of them;
- (l) an order is made or a resolution is passed for the person to enter into any arrangement, compromise or composition with, or assignment for the benefit of, its creditors or any class of them, except for the purposes of a solvent reconstruction or amalgamation previously approved by the Licensor;
- (m) any Security Interest becomes enforceable or is enforced against that person;
- (n) the person's interest in or under this Lease or in the subject matter of this Lease becomes attached or is taken, in execution or under any legal process;
- (o) a distress, attachment or other execution is levied or enforced against that person in excess of \$10,000;
- (p) the person has a judgment or order given against it in an amount exceeding \$10,000 (or the equivalent in another currency) and that judgment or order is not satisfied or quashed or stayed within 20 Business Days after being given;
- (q) any power of sale is exercised or steps are taken to take possession of any assets of the person subject to a Security Interest;
- (r) any step is taken to do anything listed in the above paragraphs; and
- (s) any event that is analogous or has a substantially similar effect to any of the events specified in this definition in any jurisdiction.

**Item** means an item in the Licence Particulars.

**Landfill Gas Services Contract** means a contract dated [insert date] between the Licensor and the Licensee in relation to the provision of landfill gas services by the Licensee (as contractor) to the Licensor (as principal) at the Site.

**Law** includes:

- (a) any law, statute, regulation, ordinance, by-law, order or proclamation, and the common law; and
- (b) any authorisation, ruling, judgment, order, decree or other requirement of any Government Authority.

**Liabilities** means any and all damages, punitive damages, liabilities, actions (including actions based on personal injury or death), obligations, duties, losses, charges, costs or expenses (including legal expenses and consulting fees), interest, penalties, fines and taxes, and includes Consequential Loss and **Liability** has a corresponding meaning.

**Licence** means this licence between ##specify parties.

**Licence Fee** means the amount specified in Item 6 as reviewed, adjusted or increased under this Licence.

**Licence Particulars** means the schedule of items at the front of this Licence.

**Licensed Area** means the Licensed Area specified in Item 3.

**Licensee** means the Licensee specified in Item 2 and includes the Licensee's successors and assigns.

**Licensee Event** means destruction or damage to all or any part of the Licensed Area caused or contributed to by the Licensee or the Licensee's Employees and Agents.

**Licensee's Employees and Agents** means each of the Licensee's employees, officers, agents, contractors, consultants, invitees, sublessees, licensees and any other person on or about the Licensed Area (with or without invitation) or under the control or direction of the Licensee.

**Licensee's Equipment** means the fixtures, fittings, furnishings, plant and equipment and other items at any time (whether before or after the commencement of the Term) installed in or brought onto any part of the Licensed Area by or on behalf of the Licensee, the Licensee's Employees and Agents or the Licensee's Predecessors (and, where the context permits, includes any part of them).

**Licensee's Predecessors** means each and every predecessor in title of the Licensee as licensee under this Licence (and, where this Licence is one in a series of consecutive licences granted pursuant to the exercise of options, it means each and every licensee under a prior licence in the series).

**Licensor** means the Licensor specified in Item 1 and includes the Licensor's successors and assigns and where it is consistent with the context includes the Licensor's employees and agents.

**Licensor's Property** includes all plant, equipment, fixtures, fittings, furniture, furnishings and other property installed or situated in or relevant to the Licensed Area and owned or controlled by the Licensor.

**Permitted Use** means the use specified in Item 9.

**Plan** means the plan comprising Attachment 1.

**Security Interest** means:

- (a) any mortgage, pledge, lien, charge or other preferential right, trust arrangement, agreement or arrangement of any kind given or created by way of security, including a security interest (as defined in the *Personal Property Securities Act 2009* (Cth)); and
- (b) any agreement to create or grant any arrangement described in paragraph (a).

**Services** means all services in connection with the Licensed Area, including electricity, gas, water, waste collection and telecommunication services.

**Site** has the meaning given to that term in the Landfill Gas Services Contract.

**Term** means the period from the Commencing Date to the Terminating Date and also includes any holding over period.

**Terminating Date** means the date specified in Item 5.

**WHS Law** means the *Work Health and Safety Act 2011* (NSW) and all Codes of Practice approved under Part 14 of that Act, the *Work Health and Safety Regulation 2011* (NSW) (**WHS Regulation**), and any other work health and safety Law that applies to work being carried out on the Licensed Area.

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## **2. Grant of Licence**

### **2.1 Licence**

- 2.1.1 The Licensor grants to the Licensee a non-exclusive licence during the Term for the Licensee to use the Licensed Area in common with the Licensor and persons authorised by the Licensor on the terms of this Licence.
- 2.1.2 The Licensor authorises the Licensee for the Term to travel to, from and across that part of the Site reasonably necessary for the purpose with all necessary materials, plant, equipment, vehicles and tools to carry out the Permitted Use and to do everything incidental to give effect to the terms of this Licence, but the Licensee will be solely responsible for all loss, costs, damage and expenses incurred by the Licensor directly attributable to the exercise by the Licensee of its rights under this Licence.

### **2.2 Nature of Licence**

- 2.2.1 This Licence is personal to the Licensee.
- 2.2.2 The Licensee expressly acknowledges and agrees that:
- (a) this Licence does not give the Licensee any right to exclusive possession or occupancy of the Licensed Area;
  - (b) the Licensor may use, or permit other parties to use, the Licensed Area at any time for any purpose in its absolute discretion;
  - (c) the Licensor may enter the Licensed Area at any time for any purpose;
  - (d) this Licence will not create, or be construed as creating, any form of tenancy or other right or interest in or to the Licensed Area, other than a contractual right;
  - (e) this Licence does not constitute a lease at Law and the Licensee will not claim before a court or tribunal that this Licence constitutes a lease at Law; and
  - (f) if a court or tribunal determines that this Licence is a lease at Law, the Licensor may, at its option, terminate this Licence by written notice to the Licensee.

### **2.3 Landfill Services Contract**

Nothing in this Licence shall be construed as limiting, waiving, reducing, or fettering:

- 2.3.1 any right, power, discretion or privilege of the Licensor as Principal under the Landfill Gas Services Contract;
- 2.3.2 any duty, obligation or liability of the Licensee as Contractor under the Landfill Gas Services Contract.

### **2.4 Licensee as Local Authority**

Nothing in this Licence shall be construed as limiting, waiving, reducing or fettering any right, power, discretion or privilege of the Licensor as the responsible local government authority under the Local Government Act 1993 or any other legislation.

## **2.5 Comply With Landfill Gas Services Contract**

The Licensee must at all times comply with the Landfill Gas Services Contract as it relates to the Licenced Area.

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### **3. Payments by the Licensee**

#### **3.1 Payment of Licence Fee**

The Licensee must pay the Licence Fee to the Licensors annually in advance if demanded.

#### **3.2 Payment of charges for Services**

Subject to Schedule 2 of the Landfill Gas Services Contract, the Licensee must pay all charges in connection with Services provided to the Licensed Area attributable to the Licensee's use. If the Licensed Area is not separately metered, the Licensee must, within 10 Business Days of the Licensors demand:

- 3.2.1 pay to the Licensors the proportion of the charges for the Services that the area of the Licensed Area bears to the total area assessed, to be determined by the Licensors in its absolute discretion; or
- 3.2.2 pay for the cost of installing separate meters to assess the charges for the Services.

#### **3.3 Costs specific to the Licensed Area**

- 3.3.1 The Licensee must, within 5 Business Days of the Licensors demand, pay any cost that the Licensors incur in connection with the Licensed Area that results from the Licensee's particular use or occupation of the Licensed Area.
- 3.3.2 The Licensee must pay to the relevant Government Authorities all taxes and charges levied or imposed on the Licensee or the Licensed Area as a result of the grant to the Licensee an interest in the Licensed Area including land tax payable to the Office of State Revenue under section 21(c) of the Land Tax Management Act 1956 (NSW).

#### **3.4 Costs and expenses**

The Licensee indemnifies the Licensors against, and must pay to the Licensors on demand, all costs and expenses incurred by the Licensors in connection with:

- 3.4.1 the stamping and any necessary registration of this Licence and any related document (including penalties and fines);
- 3.4.2 any request for the consent of the Licensors regardless of whether the consent is actually given;
- 3.4.3 any insurance premium to insure the Licensed Area against damage or destruction in connection with the Licensee's use;
- 3.4.4 any amendment to, waiver under, surrender of, or dealing contemplated by, this Licence or any related document;
- 3.4.5 any works carried out by or for the Licensee (including amounts incurred by the Licensors in considering, consulting advisers on, and modifying any part of the Licensed Area because of, those works);

3.4.6 any breach of this Licence by the Licensee or the Licensee's Employees and Agents, and the actual or attempted enforcement or protection of any right under this Licence in law or equity; and

3.4.7 surrender or termination of this Licence other than by expiration,

including legal expenses on a full indemnity basis, the Licensor's internal administration and legal costs at the rate and on the basis determined by the Licensor, and expenses incurred in engaging consultants. The parties are responsible for their own costs in relation to the preparation, negotiation, completion, stamping and registration of this Licence and any further licence.

### **3.5 No deduction or right of set-off**

The Licensee must pay all amounts due under this Licence to the Licensor without deduction or right of set-off.

### **3.6 Interest on late payments**

The Licensee must pay to the Licensor on demand interest on any money payable by the Licensee under this Licence and remaining unpaid after the due date at the rate per annum equal to the sum of the 90 day bank bill swap reference rate published in the Australian Financial Review on, or as near as possible to, the due date plus 4% (or if no such rate has been published another rate determined by the Licensor acting in good faith). Interest will be computed from the date on which that payment became due.

### **3.7 Method of payment**

The Licensee must make all payments under this Licence in the manner as the Licensor reasonably requires, which may include by direct debit.

### **3.8 Dishonour fees**

The Licensee must reimburse the Licensor on demand for any dishonour fee or other charge the Licensor incurs as a result of any cheque or direct debit being dishonoured.

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## **4. GST**

### **4.1 Definitions**

In this clause:

4.1.1 words and expressions that are not defined in this Licence but which have a defined meaning in the GST Law have the same meaning as in the GST Law;

4.1.2 **GST** means GST within the meaning of the GST Law and includes penalties and interest. If under or in relation to the *Intergovernmental Agreement Implementation (GST) Act 2000* (NSW) the supplier makes voluntary or notional payments, then:

(a) the definition of GST includes those voluntary or notional payments; and

(b) expressions containing the term 'GST' have a corresponding expanded meaning; and

4.1.3 **GST Law** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

## **4.2 GST exclusive**

Except where specified to the contrary in this Licence, all consideration payable under this Licence in relation to any supply is exclusive of GST.

## **4.3 Increase in consideration**

If GST is payable in respect of any supply made by a supplier under this Licence (**GST Amount**), the recipient must pay to the supplier an amount equal to the GST payable on the supply. Subject to clause 4.4, the recipient must pay the GST Amount at the same time and in the same manner as the consideration for the supply is to be provided under this Licence in full and without deduction, set off, withholding or counterclaim (unless otherwise provided in this Licence).

## **4.4 Tax invoice**

The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST Amount under clause 4.3.

## **4.5 Reimbursements**

If this Licence requires a party to pay, reimburse or contribute to any expense, loss or outgoing suffered or incurred by another party, the amount which the first party must pay, reimburse or contribute is the sum of:

- 4.5.1 the amount of the payment, reimbursement or contribution, less any input tax credit in respect of the payment, reimbursement or contribution to which the other party is entitled; and
- 4.5.2 if the payment, reimbursement or contribution is subject to GST, an amount equal to that GST.

## **4.6 Adjustment events**

If an adjustment event occurs in relation to a taxable supply under this Licence:

- 4.6.1 the supplier must issue an adjustment note to the recipient within 5 Business Days after becoming aware of the adjustment; and
- 4.6.2 any payment necessary to give effect to that adjustment must be made within 5 Business Days after the date of receipt of the adjustment note.

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# **5. Maintenance, alterations and safety**

## **5.1 Repairs and maintenance**

The Licensee must give the Licensor prompt written notice of any material damage to the Licensed Area or anything likely to be a risk to the Licensed Area, any property in the vicinity of the Licensed Area or any person in or within the vicinity of the Licensed Area, including without limit any Contamination or the spillage or leakage of or odours from any item or material regulated by any Environmental Law.

## **5.2 Alterations to Licensed Area**

The Licensee must ensure any alterations or works to the Licensed Area or in respect of any Services to the Licensed Area are carried out:

- 5.2.1 in accordance with plans and specifications approved by the Licensor, by qualified tradespersons approved by the Licensor, and otherwise in accordance with the Licensor's reasonable requirements;
- 5.2.2 under the supervision of the Licensor's architect or consultant, if required by the Licensor; and
- 5.2.3 in compliance with all applicable Laws.

## **5.3 Work health and safety**

The Licensee must comply with, and ensure that its workers, including its employees, contractors, subcontractors and agents, comply with all WHS Law and:

- 5.3.1 take all possible and reasonably practicable steps and measures to eliminate risk to health and safety;
- 5.3.2 ensure that it does not cause the Licensor to be in breach of any of its obligations under the WHS Law;
- 5.3.3 provide all required assistance to the Licensor to comply with the WHS Law in connection with the Services and Contractor Activities;
- 5.3.4 ensure the protection of the health, safety and welfare of any persons engaged in or in connection with the Services or Contractor Activities (whether by the Licensee, contractors, subcontractors or otherwise);
- 5.3.5 comply with any directions, manuals, policies or rules formulated from time to time by the Licensor and of which the Licensee has been given notice;
- 5.3.6 manage risks associated with the carrying out of the Services in accordance with Part 3.1 of the WHS Regulation;
- 5.3.7 ensure that the Licensed Area, and any premises controlled by the Licensee where any persons are performing work in connection with the Services, are safe and without risks to health;
- 5.3.8 ensure that any plant or substance provided for use by any persons performing work in connection with the Services is safe and without risks to health when properly used;
- 5.3.9 ensure that systems of work, including the working environment, are safe and without risks to health;
- 5.3.10 provide adequate and safe facilities;
- 5.3.11 ensure that if any Law requires that a person is required to hold any accreditation, certificate or other qualification that the relevant person has it and keeps it up to date;
- 5.3.12 ensure that if any Law requires that a workplace, plant, substance, design, or work (or class of work) be authorised, registered or licensed, that workplace, plant, substance, design, or work is so authorised, registered or licensed; and

- 5.3.13 if requested by the Licensor or required by the WHS Law, produce evidence of any authorisations, registration, prescribed qualifications or experience, or any other information relevant to work health and safety (as the case may be) to the satisfaction of the Licensor.

#### **5.4 Principal Contractor**

- 5.4.1 In respect of any works commissioned by, or carried out by or on behalf of, the Licensee on the Site (including in connection with the Services, the System or the Power Generation Plant), without limiting or otherwise affecting the obligations of the Licensee under any other provision of this Licence, the Licensor and Contractor agree that, if the works are a construction project to which Chapter 6 of the WHS Regulation applies:
- (a) the Licensor engages the Licensee as principal contractor in respect of such works and the Site;
  - (b) the Licensor authorises the Licensee to:
    - (i) have management and control of such works and the Site; and
    - (ii) discharge, exercise and fulfil the functions, duties and obligations of a principal contractor under Chapter 6 of the WHS Regulation in connection with such works and the Site;
- 5.4.2 the Licensee accepts the engagement as principal contractor and agrees to discharge, exercise and fulfil the functions, duties and obligations imposed on a principal contractor by the WHS Law;
- 5.4.3 to the extent that the Licensee is for any reason, taken or otherwise found not to be the principal contractor for such works and the Site, the Licensee nonetheless must discharge, exercise and fulfil the functions, duties and obligations of a principal contractor in respect of such works and the Site as if the Licensee was the principal contractor for those works and the Site;
- 5.4.4 the Licensee is aware of its obligations as principal contractor, or its obligations that may otherwise arise under clause 5.4.3.

#### **5.5 WHS Law definitions**

Except as otherwise provided in clause 1.1, all terms used in clauses 5.3 and 5.4 have the meanings given to them in the WHS Act and the WHS Regulation.

#### **5.6 Failure to repair and maintain**

- 5.6.1 If the Licensee does not carry out any repairs, maintenance or other works required under this Licence within 10 Business Days of receiving written notice from the Licensor, the Licensor may enter the Licensed Area to carry out those repairs, maintenance and works at any reasonable time after giving the Licensee reasonable notice.
- 5.6.2 The Licensee must pay to the Licensor on demand the cost of all those repairs, maintenance and works.

---

## **6. Condition**

- 6.1.1 The Licensee accepts the condition of the Licensed Area on the Commencing Date and as they are at every date thereafter.
- 6.1.2 The Lessee repeats the warranties, representations and undertakings set out in clause 5.4 of the Landfill Gas Services Contract which are hereby incorporated into and form part of this Licence.

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## **7. Use of Licensed Area**

### **7.1 Permitted use**

The Licensee must use the Licensed Area for the Permitted Use only and not for any other purpose.

### **7.2 No warranty**

The Licensor does not warrant that the Licensed Area is suitable for any of the purposes or uses of the Licensee.

### **7.3 Signs**

The Licensee must seek the prior written consent of the Licensor before displaying or affixing any signs, advertisements or notices that are visible from outside the Licensed Area.

### **7.4 Heavy objects and hazardous materials**

Unless consistent with the Permitted Use, the Licensee must obtain the Licensor's written consent before the Licensee brings into the Licensed Area:

- 7.4.1 any inflammable or explosive substances or any other hazardous materials; or
- 7.4.2 any heavy objects or anything likely to damage the Licensed Area.

### **7.5 Insurance**

The Licensee must maintain the insurances required pursuant to the Landfill Gas Services Contract in respect of the Licensed Area and the Licensee's Equipment at all times during the Term.

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## **8. Dealings**

### **8.1 Assignment by Licensor**

The Licensor may assign its rights under this Licence without the Licensee's consent.

### **8.2 Dealings by Licensee**

The Licensee must not assign, sublicense or otherwise deal with its rights and obligations under this Licence with the prior written consent of the Licensor.

### 8.3 Change of control

The Licensee must seek the Licensor's prior written consent where the Licensee is a corporation (other than a corporation listed on any stock exchange in Australia) and there is a proposed Change of Control.

### 8.4 No mortgage of Licensee's Equipment

The Licensee must not charge, lease, hire or mortgage any Licensee's Equipment without the Licensor's prior consent which will be given if the Licensee's credit provider is a recognised financial institution who promptly signs and returns the Licensor's usual documentation and the Licensee has paid the Licensor's reasonable costs and expenses of and incidental to the consent and documentation.

---

## 9. Termination of Licence

### 9.1 Default

The Licensor may terminate this Licence by written notice, require the Licensee to vacate the Licensed Area, and exercise any other legal right, if:

- 9.1.1 **(non-payment)** any part of the Licence Fee, or any other amount payable by the Licensee under this Licence, is in arrears for 10 Business Days, whether or not the Licensor has demanded payment;
- 9.1.2 **(repudiation)** the Licensee repudiates its obligations under this Licence;
- 9.1.3 **(other obligations)** the Licensee does not comply with any other express or implied obligation under this Licence;
- 9.1.4 **(Landfill Gas Contract)** the Licensee is in breach of the Landfill Gas Services Contract the Landfill Gas Services Contract is terminated;
- 9.1.5 **(Insolvency Event)** an Insolvency Event occurs in respect of the Licensee or any Guarantor;
- 9.1.6 **(tenancy)** clause 2.2.2(f) applies; or
- 9.1.7 **(lease)** the Lease terminates for any reason

### 9.2 Damages following termination

If the Licensor terminates this Licence under clause 9.1, the Licensee must compensate the Licensor for any loss or damage the Licensor suffers in connection with the event that gave rise to the termination, including the Licensor's loss of the benefit of the Licensee performing its obligations under this Licence up to the expiry of the Term.

### 9.3 Removal of Licensee's Fixtures and Chattels

At the expiry or other termination of this Licence, the Licensor must comply with the obligations in clause 25 of the Landfill Gas Services Contract regarding handover.

---

## **10. Destruction or damage of Licensed Area**

### **10.1 Reinstatement of Licensed Area**

10.1.1 If all or any part of the Licensed Area is destroyed or damaged, the Licensors may, within 3 months from the date of that damage or destruction:

- (a) terminate this Licence by giving at least one month's written notice to the Licensee, where the Licensors consider that the damage or destruction is such that repairing it is impracticable or undesirable; or
- (b) give written notice to the Licensee that the Licensors propose to reinstate the destroyed or damaged area to a condition where the Licensee can use or have access to the Licensed Area.

10.1.2 The Licensors are not obliged to reinstate any destroyed or damaged area.

---

## **11. Option for Further Term and overholding**

### **11.1 Exercise of option for a Further Term**

If a Further Term is specified in Item 7 the Licensors must grant to the Licensee, at the Licensee's cost, a new licence for the Item 7 Further Term if:

11.1.1 the parties have agreed to extend the term of the Landfill Gas Services Contract in accordance with the Landfill Gas Services Contract;

### **11.2 New licence for Further Term**

The new licence for the Further Term will contain the same terms and conditions as this Licence except that:

11.2.1 **(Licence Fee)** the Licence Fee or the method to be used to adjust the Licence Fee during the Further Term is specified in Item 8 of this Licence;

11.2.2 **(Term)** the term, commencing date and terminating date of the Further Term are as specified in the column 'First Further Term' in Item 7 of this Licence;

11.2.3 **(new Licence Particulars)** Item 6 **(Licence Fee during Term)**, Item 7 **(Further Term(s))** and Item 8 **(Licence Fee during Further Term(s))** of the new licence are amended to reflect:

- (a) the expiry of this Licence;
- (b) the Licensee's exercise of the option under this Licence for a Further Term (for clarity, there will be one less option for a Further Term under the new licence than there is under this Licence); and
- (c) the provisions (as contemplated in the Licence Particulars of this Licence) of the new licence for the Further Term;

11.2.4 **(if no further options)** if the new licence contains no option for another Further Term upon expiry of the new licence, then:

- (a) each table in Item 7 (**Further Term(s)**) and Item 8 (**Licence Fee during Further Term(s)**) of the new licence is deleted and replaced with 'Not applicable';
- (b) this clause 11 is deleted;

11.2.5 **(variations)** the new licence includes any variations made to this Licence during the Term; and

11.2.6 **(change in Law)** the new licence includes any term reasonably required by the Licensor due to any change in Law.

### 11.3 Execution of new licence for Further Term

The Licensee and the Guarantor (where applicable) must execute the new licence for the Further Term and return it to the Licensor within 10 Business Days of receipt from the Licensor. If clause 11.1 applies, the parties will be deemed to have entered into the new licence for the Further Term by virtue of this clause even if the new licence has not been fully executed by the parties.

---

## 12. Personal Property Securities Act

### 12.1 Terms used in this clause

In this clause 12:

12.1.1 **Licensor PPS Property** means any item of property:

- (a) in which the Licensor has an interest; and
- (b) which is situated in the Licensed Area at any time during the term of this Licence;

12.1.2 **Licensee PPS Property** means any item of property (excluding any Licensor PPS Property):

- (a) in which the Licensee has rights;
- (b) which is situated in the Licensed Area at any time during the Term; and
- (c) of which, whether before or after the end of the Term:
  - (i) the Licensor may require the Licensee to transfer ownership to the Licensor; and
  - (ii) the Licensee is obliged to transfer ownership to the Licensor; and
- (d) words and expressions that are not defined in this Licence but which have a defined meaning in the PPS Act have the same meaning as in the PPS Act.

12.1.3 **PPS Act** means the *Personal Property Securities Act 2009* (Cth);

12.1.4 **Security Interest** has the meaning given in the PPS Act;

## **12.2 Licensee's Security Interest in favour of Licensors**

The Licensee:

- 12.2.1 charges its right, title and interest in all Licensee PPS Property in favour of the Licensors, as security for the performance of the Licensee's obligations under this Licence, including the Licensee's obligations to transfer ownership in the whole or any part of the Licensee PPS Property to the Licensors at the expiry or termination of the Licence;
- 12.2.2 acknowledges and agrees that the charge granted by the Licensee under clause 12.2.1 constitutes the grant of a Security Interest which the Licensors are entitled to register under the PPS Act;
- 12.2.3 acknowledges and agrees that the grant of this Licence also constitutes the grant of a Security Interest in the Licensors PPS Property in favour of the Licensors, which interest the Licensors are entitled to register under the PPS Act as a Purchase Money Security Interest (as defined in the PPS Act); and
- 12.2.4 must do all things required by the Licensors from time to time (including signing any documents required by the Licensors) to enable the Licensors to register its above Security Interests under the PPS Act, and to otherwise perfect its Security Interest in the Licensee PPS Property and the Licensors PPS Property so that the Licensors' Security Interests have priority over any other Security Interests under the PPS Act in relation to the Licensee PPS Property and the Licensors PPS Property.

## **12.3 No other Security Interest**

The Licensee:

- 12.3.1 warrants that it has not granted a Security Interest in respect of any Licensors PPS Property on or prior to execution of this Licence that has not been previously disclosed to the Licensors in writing; and
- 12.3.2 must not grant a Security Interest in respect of any Licensors PPS Property or Licensee PPS Property in favour of any person other than the Licensors without the Licensors' prior written consent, which consent may be granted or withheld in the Licensors' absolute discretion and on any conditions that the Licensors considers necessary or desirable at its absolute discretion.

## **12.4 Documents under PPS Act**

The Licensee acknowledges and agrees that:

- 12.4.1 it waives its right under the PPS Act to receive a copy of any 'verification statement' or 'financing charge statement' (as those terms are defined in the PPS Act); and
- 12.4.2 on the expiration or earlier termination of this Licence, the Licensee must sign (and procure any holder of a registered Security Interest to sign) any document that the Licensors considers necessary or desirable under or as a result of the PPS Act to release any registered Security Interests under the PPS Act in relation to the Licensee PPS Property and the Licensors PPS Property.

## **12.5 Possession of Licensee PPS Property**

If this Licence is terminated by the Licensors as a consequence of a default by the Licensee under this Licence, without limitation to any other rights of the Licensors, the Licensors may

take possession of the Licensee PPS Property by way of set off for any loss or damage the Licensor is entitled to recover in connection with the Licensee's breach of the Licence.

## **12.6 Inconsistency with other clauses**

If there is any inconsistency between this clause 12 and any other provision of this Licence, the provisions of this clause 12 will prevail and that other provision will be read down and interpreted accordingly.

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## **13. Governing law**

This Licence is governed by the law applying in New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

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## **14. Interpretation**

### **14.1 Words and headings**

In this Licence, unless expressed to the contrary:

- 14.1.1 words denoting the singular include the plural and vice versa;
- 14.1.2 the word 'includes' in any form is not a word of limitation;
- 14.1.3 where a word or phrase is defined, another part of speech or grammatical form of that word or phrase has a corresponding meaning;
- 14.1.4 headings and subheadings are for ease of reference only and do not affect the interpretation of this Licence; and
- 14.1.5 no rule of construction applies to the disadvantage of the party preparing this Licence on the basis that it prepared or put forward this Licence or any part of it.

### **14.2 Specific references**

In this Licence, unless expressed to the contrary, a reference to:

- 14.2.1 a gender includes all other genders;
- 14.2.2 any legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced and includes any subordinate legislation issued under it;
- 14.2.3 any document (such as a deed, agreement or other document) is to that document (or, if required by the context, to a part of it) as amended, novated, substituted or supplemented at any time;
- 14.2.4 writing includes writing in digital form;
- 14.2.5 'this Licence' is to this Licence as amended from time to time;
- 14.2.6 'A\$', '\$', 'AUD' or 'dollars' is a reference to Australian dollars;
- 14.2.7 a clause, schedule or attachment is a reference to a clause or attachment in or to this Licence;

- 14.2.8 any property or assets of a person includes the legal and beneficial interest of that person of those assets or property, whether as owner, Licensee or Licensor, licensee or licensor, trustee or beneficiary or otherwise;
- 14.2.9 a person includes a firm, partnership, joint venture, association, corporation or other body corporate;
- 14.2.10 a person includes the legal personal representatives, successors and permitted assigns of that person, and in the case of a trustee, includes any substituted or additional trustee;
- 14.2.11 any body (**Original Body**) which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the Original Body; and
- 14.2.12 a month is a calendar month.

### **14.3 Defined Terms**

Terms which are not defined have the meaning given to them in the Landfill Gas Services Contract.

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## **15. General**

### **15.1 Notices**

- 15.1.1 In this Licence, reference to notice means notice in writing.
- 15.1.2 Any notice or other writing served by the Licensor is valid and effective if given under the common seal of the Licensor or signed by an attorney, director, company secretary, authorised officer or solicitor of the Licensor.
- 15.1.3 Any notice or other writing is sufficiently served on the Licensee if served personally or if forwarded to the Licensee by courier, facsimile or post to the Site or the last address of the Licensee known to the Licensor.
- 15.1.4 If any notice or other writing is served on a day which is not a Business Day or is after 5.00pm (addressee's time) it is deemed to be served on the next Business Day.

### **15.2 Variation**

This Licence may only be varied or replaced by a document duly executed by the parties.

### **15.3 Counterparts**

This Licence may be executed in counterparts, all of which taken together constitute one instrument.

### **15.4 Entire agreement and no reliance**

- 15.4.1 This Licence, the Lease and the Landfill Gas Services Contract:
- (a) constitute the entire agreement between the parties; and

- (b) supersede and cancel any contract, deed, arrangement, related condition, collateral arrangement, condition, warranty, indemnity or representation imposed, given or made by a party (or an agent of a party) prior to entering into this Licence.

15.4.2 Each of the Licensee and each Guarantor acknowledges that in entering into this Licence, it has not relied on any representations made by the Licensor (or its agents or employees) other than matters expressly set out in the documents specified in clause 15.4.1.

## **15.5 Liability**

If a party consists of 2 or more people or entities, an obligation of that party binds each of them jointly and severally.

## **15.6 Severability**

15.6.1 Any provision of this Licence that is held to be illegal, invalid, void, voidable or unenforceable must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.

15.6.2 If it is not possible to read down a provision as required by this clause, part or all of the clause of this Licence that is unlawful or unenforceable will be severed from this Licence and the remaining provisions continue in force.

## **15.7 Waiver**

15.7.1 The Licensor's failure at any time to insist on performance of any provision of this Licence is not a waiver of its right at any later time to insist on performance of that or any other provision of this Licence.

15.7.2 Without limiting clause 15.7.1, the Licensor is not taken to have waived its rights under this Licence, or another party's breach of this Licence, by accepting the Licence Fee or any other payment under this Licence (before or after the end of this Licence).

## **15.8 Further assurance**

Each of the Licensee and each Guarantor must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this Licence.

## **15.9 Survival and enforcement of indemnities**

15.9.1 Each indemnity of the Licensee or a Guarantor in this Licence is a continuing obligation, separate and independent from the other obligations of the parties and survives termination of this Licence.

15.9.2 It is not necessary for the Licensor to incur an expense or make payment before enforcing a right of indemnity under this Licence.

## **15.10 Business Day**

If a payment or other act is required by this Licence to be made or done on a day which is not a Business Day, the payment or act must be made or done on the next following Business Day.

#### **15.11 Exclusion of statutory provisions**

To the full extent permitted by law, any legislation that adversely affects an obligation of the Licensee or a Guarantor under this Licence, or the exercise of a right or remedy by the Licensor under this Licence, is excluded from this Licence.

#### **15.12 Licensor's consent**

Unless otherwise provided for in this Licence, where the Licensor is required to give its consent under this Licence:

15.12.1 the Licensor may give or refuse or withdraw its consent subject to such conditions as the Licensor may determine in its absolute discretion; and

15.12.2 the consent must be in writing.

#### **15.13 Licensor's calculations**

The Licensor's determination of any calculation for the purposes of this Licence (including the determination of amounts owing by the Licensee) will be conclusive in the absence of manifest error.

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## Signing Page

**Executed** by the parties as a Deed

##insert sealing clauses

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## Attachment 1 Plan

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## **Schedule 9      Draft Mobilisation Program**

*[Note to Tenderers: This will be the draft Mobilisation Program provided by the Tenderer with their tender response].*

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## **Schedule 10      Specification**

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## Signing Page

**Executed** by the parties

**Signed** for and on behalf of **Shellharbour  
City Council ABN 78 392 627 134** by  
....., but not so as to incur  
any personal liability in the presence of:

)  
) .....  
Print Title:

.....  
Witness

**Executed** by **## ACN ##** in accordance with s  
127(1) of the *Corporations Act 2001*:

)  
)  
)  
)

.....  
Signature of Director

.....  
Signature of Director (or Company Secretary)

.....  
Print full name

.....  
Print full name

## ILLAWARRA SHOALHAVEN JOINT ORGANISATION

### Volume 2 – Specification

#### Request for Tender

<b>Tender Title:</b>	<b>Illawarra Shoalhaven Joint Organisation (ISJO) Landfill Gas Services Tender</b>
<b>Tender Number:</b>	<b>ISJO 02/2018</b>
<b>Issue Date:</b>	<b>08 May 2018</b>
<b>Final Date for Updates:</b>	<b>29 May 2018</b>

#### Documents Comprising this Request For Tender

Item No.	Document Header	Document Title
1	Volume 1	Conditions of Tendering
2	Volume 2	Conditions of Contract
3	Volume 3	Specification
4	Volume 4	Technical Response Schedules
5	Volume 5	Commercial Response Schedules
6	Volume 6	Wollongong Council Reference Documents
7	Volume 7	Shoalhaven Council Reference Documents
8	Volume 8	Shellharbour Council Reference Documents

## ILLAWARRA SHOALHAVEN JOINT ORGANISATION

### Volume 4 - Technical Response Schedules

#### Request for Tender

**Tender Title:** Illawarra Shoalhaven Joint Organisation (ISJO) Landfill Gas Services

**Tender Number:** ISJO 02/2018

**Issue Date:** 08 May 2018

#### Documents Comprising this Request For Tender

Item No.	Document Header	Document Title
1	Volume 1	Conditions of Tendering
2	Volume 2	Conditions of Contract
3	Volume 3	Specification
4	Volume 4	Technical Response Schedules
5	Volume 5	Commercial Response Schedules
6	Volume 6	Wollongong Council Reference Documents
7	Volume 7	Shoalhaven Council Reference Documents
8	Volume 8	Shellharbour Council Reference Documents

## TECHNICAL RESPONSE SCHEDULES

This Volume contains the Technical Response Schedules to be completed and returned to Council as part of the Tenderers submission.

Refer to Volume 2 Draft Contract Part 1 clause 1.3 for definitions of terms used within this document.

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## 1 TENDERERS TO NOTE

### Format of Tender Response

The Tenderer is to complete the response schedules as indicated and shall retain the same format as provided by the Illawarra Shoalhaven Joint Organisation (ISJO).

Tenderers are to input information in response to questions in the areas identified.

Council reserves the right to deem responses non-compliant, pass them over and exclude from further evaluation if they deviate from the format and contents requirements of the Response Schedules contained in this Volume.

Any attachments that are requested, or are required to be completed, contained within the following Schedules must be included within the Response Schedules. No additional documents are to be uploaded with the Tender.

### Notes Regarding Responding to this Tender

Before responding to the following compliance criteria, Tenderers must note the following:

- ▶ All information relevant to your answers to each criterion are to be contained within your Tender;
- ▶ Tenderers are to assume that the Evaluation Panel has no previous knowledge of your organisation, its activities or experience, only the information supplied will be assessed;
- ▶ Tenderers are to provide full details for any claims, statements or examples used to address the qualitative criteria; and
- ▶ Tenderers are to address each issue outlined within a qualitative criterion.

Tenders that do not satisfy the Mandatory Compliance Criteria will be deemed non-compliant and excluded from further evaluation.

Please also note, **no** advertising, product or company information or marketing brochures or presentations other than those expressly requested, are to be sent with the Tender submission. If required the Tender Evaluation Committee will request these materials separately.

## 2 SCHEDULE T1 - RECENT RELEVANT EXPERIENCE AND REFEREES

Tenderers must provide detailed information to demonstrate the Tenderer's experience and capability in relation to this Request for Tender by providing details of three previous contracts/projects similar to the Services requested by the RFT, completed within the last five years in the table provided below.

Contract / Project 1	
<b>Contract / Project Name:</b>	[enter text here]
<b>Client:</b>	[enter text here]
<b>Date Completed:</b>	[enter text here]
<b>Contract / Project Value:</b>	[enter text here]
<b>Project Details:</b>	[enter text here]
<b>Referee</b>	[enter text here]
<b>Name:</b>	[enter text here]
<b>Position:</b>	[enter text here]
<b>Office Phone Number:</b>	[enter text here]
<b>Mobile Phone Number:</b>	[enter text here]
<b>Email:</b>	[enter text here]

### Contract / Project 2

**Contract / Project Name:** [enter text here]

**Client:** [enter text here]

**Date Completed:** [enter text here]

**Contract / Project Value:** [enter text here]

**Project Details:** [enter text here]

**Referee** [enter text here]

**Name:** [enter text here]

**Position:** [enter text here]

**Office Phone Number:** [enter text here]

**Mobile Phone Number:** [enter text here]

**Email:** [enter text here]

### Contract / Project 3

**Contract / Project Name:** [enter text here]

**Client:** [enter text here]

**Date Completed:** [enter text here]

### Contract / Project 3

**Contract / Project Value:** [enter text here]

---

**Project Details:** [enter text here]

---

**Referee** [enter text here]

---

**Name:** [enter text here]

---

**Position:** [enter text here]

---

**Office Phone Number:** [enter text here]

---

**Mobile Phone Number:** [enter text here]

---

**Email:** [enter text here]

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### 3 SCHEDULE T2 - KEY PERSONNEL AND EXPERIENCE

The Tenderer must provide details, including relevant experience, of the Tenderer's proposed Key Personnel to undertake the Services subject to this RFT.

This information shall be sufficient to demonstrate that proposed Key Personnel have successfully completed a minimum of two similar contracts/projects. Details of the relevant experience of the Key Personnel proposed for use on the Services subject to this RFT must be provided in the Table below.

The Key Personnel nominated in the Table below are to be available for interview if required by Council during the Tender evaluation.

In the event that the Tender is successful, the Tenderer shall be bound by the information provided in this Schedule and shall not alter the Personnel used for the works without the prior written permission of the Council.

Proposed Key Personnel 1	
<b>Name:</b>	[enter text here]
<b>Position:</b>	[enter text here]
<b>Proposed Role &amp; Responsibility:</b>	[enter text here]
<b>Qualifications / Experience:</b>	[enter text here]
<i>Relevant Experience Example 1</i>	
<b>Contract / Project Name:</b>	[enter text here]
<b>Client:</b>	[enter text here]
<b>Project Value:</b>	[enter text here]
<b>Details of Contract / Project :</b>	[enter text here]
<b>Role &amp; Responsibilities on Contract / Project:</b>	[enter text here]
<i>Relevant Experience Example 2</i>	
<b>Contract / Project Name:</b>	[enter text here]
<b>Client:</b>	[enter text here]
<b>Project Value:</b>	[enter text here]
<b>Details of Contract / Project :</b>	[enter text here]
<b>Role &amp; Responsibilities on Contract / Project:</b>	[enter text here]

## Proposed Key Personnel 2

**Name:** [enter text here]

**Position:** [enter text here]

**Proposed Role & Responsibility:** [enter text here]

**Qualifications / Experience:** [enter text here]

### *Relevant Experience Example 1*

**Contract / Project Name:** [enter text here]

**Client:** [enter text here]

**Project Value:** [enter text here]

**Details of Contract / Project :** [enter text here]

**Role & Responsibilities on Contract / Project:** [enter text here]

### *Relevant Experience Example 2*

**Contract / Project Name:** [enter text here]

**Client:** [enter text here]

**Project Value:** [enter text here]

**Details of Contract / Project :** [enter text here]

**Role & Responsibilities on Contract / Project:** [enter text here]

**Note to Tenderer – Copy and paste table as required to accommodate all Key Personnel.**

#### 4 SCHEDULE T3 - DEMAND RESPONSIVENESS

The Tenderer must demonstrate an ability to provide the Services in a flexible and adaptable way so as to accommodate the successful delivery of Services as described in the Specification.

##### Response - Demand Responsiveness

Insert response here (please delete this note prior to submission)

[enter text here]

---

## 5 SCHEDULE T4 - QUALITY MANAGEMENT SYSTEMS

The Tenderer must describe and demonstrate how it uses Quality Management processes and methodologies that are aligned to industry standard to deliver the Services.

### Quality Management System and Policies

Does the Tenderer have a third party accredited ISO9001 Quality Management System Certification?

☐ YES

(if the answer to this question is 'Yes', please provide details of the accreditation in the response area provided below and attach a copy of the current certification)

☐ NO

Does the Tenderer have a Quality Management System?

☐ YES

(if the answer to this question is 'Yes', please provide details of the accreditation in the response area provided below)

☐ NO

Does the Tenderer have a current Quality Management Plan?

☐ YES

(if the answer to this question is 'Yes' please provide a copy of the Plan)

☐ NO

Does the Tenderer have Quality Management training strategy for all employees?

☐ YES

☐ NO

### Response – Quality Management Systems

Insert response here (please delete this note prior to submission)

[enter text here]

## 6 SCHEDULE T5 - RECORDING AND REPORTING

Demonstrate and describe the quality of the Tenderer's methodology to collate and validate substantiation information to assure submitted Reports and Tax Invoices are accurate.

### Response – Recording and Reporting

Insert response here (please delete this note prior to submission)

[enter text here]

---

## 7 SCHEDULE T6 - PRELIMINARY DESIGN

Please submit as an attachment, an indicative design of the proposed Landfill Gas System and Power Generation Plant.

The preliminary design should include as a minimum:

- Indicative layout including number of wells
- Listing of Key Equipment and Specifications including capacity of flare, capacity of power generation plant, destruction efficiencies
- Design Gas Flow Rate and % Methane
- Key Operational Parameters

## 8 SCHEDULE T7 - PRELIMINARY MOBILISATION AND COMMISSIONING PLAN

Please submit as an attachment, a plan including timetable and program for mobilization and commissioning.

## 9 SCHEDULE T8 - EXISTING ASSETS

Tenderers are to list any plant and equipment that is on the Site as part of the existing landfill gas capture system that they propose will not be required for the System or the Services. Note the conditions of Contract provide for the successful contractor/s to remove these.

### Response – Existing Assets

Insert response here (please delete this note prior to submission)

[enter text here]

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## 10 SCHEDULE T9 - EXECUTIVE SUMMARY OF PROPOSAL

Please provide an Executive Summary of your proposal no longer than two pages in length in response space provided below.

### Response – Executive Summary Proposal

Insert response here (please delete this note prior to submission)

[enter text here]

---

## 11 SCHEDULE T10 - ENVIRONMENTAL MANAGEMENT

### 11.1 ENVIRONMENTAL MANAGEMENT SYSTEMS

#### Environmental Management

Does the Tenderer have a third party ISO 14001:2015 accredited Environmental Management System? ☐ YES

(if the answer to this question is 'Yes', please provide details of the accreditation in the response area provided below and attach a copy of the current certification) ☐ NO

Does the Tenderer have an environmental management system? ☐ YES

(if the answer to this question is 'Yes', please provide details of the accreditation in the response area provided below) ☐ NO

Does the Tenderer have a current Environmental Policy? ☐ YES

☐ NO

Does the Tenderer have a process for environmental hazard identification, assessment and control? ☐ YES

☐ NO

#### Response – Environmental Management

Insert response here (please delete this note prior to submission)

[enter text here]

### 11.2 RECENT PROSECUTION AND FINES

Please respond to the following questions and provide further detail as required:

#### Recent Prosecution and Fines

Is the Tenderer in default of any fine issued for a breach of the Environmental legislation regulations or requirements? ☐ YES

(if the answer to this question is 'Yes', please provide details of the breach in the response area provided below) ☐ NO

Insert response here (please delete this note prior to submission)

[enter text here]

Has the Tenderer been prosecuted or had a fine imposed on them under the Protection of the Environment Operations Act 1997 (POEO Act) or other Australian environmental legislation in the last two years? ☐ YES

☐ NO

(if the answer to this question is 'Yes', please provide details of every prosecution and fine imposed on the Tenderer in Australia during the last two years, together with a description of actions taken by the Tenderer in response to each prosecution and fine in the response area provided below)

## Recent Prosecution and Fines

Insert response here (please delete this note prior to submission)

[enter text here]

### 11.3 EVIDENCE OF SATISFACTORY ENVIRONMENTAL MANAGEMENT

Nominate three contracts/projects that the Tenderer has completed within the last two years that demonstrate successful environmental management by the Tenderer.

Client	Name and Location of Contract	Contract Price / Project Value	Start Date	Completion Date
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Client	Name and Location of Contract	Contract Price / Project Value	Start Date	Completion Date
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Client	Name and Location of Contract	Contract Price / Project Value	Start Date	Completion Date
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If/when requested, please submit the following additional information for each of three contracts/projects selected from the above list:

- ▶ A client referee report commenting on the Tenderer's performance in relation to environmental management, identifying the referee's name, position, organisation, and telephone and email contact details; or
- ▶ A copy of a third party audit report, or internal audit report, or inspection report or environmental management plan.

- ▶ Submit a copy of an Environmental Management Plan implemented by the Tenderer for a contract/project, similar in type and value to this Contract that was completed within the last two years.

#### **11.4 ENVIRONMENTAL MANAGEMENT OBJECTIVES AND MEASURES**

If/when requested, please submit details of:

- ▶ Environmental management objectives proposed for the work under the Contract;
- ▶ Key environmental management actions proposed for the work under the Contract; and
- ▶ The persons who will be responsible for managing the actions proposed.

## 12 SCHEDULE T11 - WORK HEALTH AND SAFETY MANAGEMENT INFORMATION

This questionnaire forms part of the RFT evaluation process and is to be completed by Tenderers.

The objective of the questions in the table below is to provide an overview of the status of Tenderer's safety management system.

Tenderers may be required to verify responses noted in the questionnaire by providing evidence of ability and capacity in relevant matters.

### 12.1 WHS SYSTEMS, POLICIES AND MANAGEMENT

#### WHS Systems, Policies and Management

Does the Tenderer have a third party accredited AS/NZS4801:2001 Occupational Health and Safety Management, OHSAS 18001: Occupational Health and Safety Assessment Series or ISO45001: Occupational Health and Safety Management System Standard?

☐ YES

☐ NO

(if the answer to this question is 'Yes', please provide details of the accreditation in the response area provided below and attach a copy of the current certification)

Does the Tenderer have a WHS management system?

☐ YES

(if the answer to this question is 'Yes', please provide details of the accreditation in the response area provided below)

☐ NO

Does the Tenderer have a current WHS Policy?

☐ YES

☐ NO

Does the Tenderer have a WHS consultation mechanism for all employees?

☐ YES

☐ NO

Does the Tenderer have WHS training strategy for all employees?

☐ YES

☐ NO

Does the Tenderer have a process for WHS hazard identification, assessment and control?

☐ YES

☐ NO

Is the Tenderer registered with BNG Conserve?

☐ YES

(if the answer to this question is 'Yes', please provide details confirming Registration with your Tender).

☐ NO

#### Response – WH&S Systems

Insert response here (please delete this note prior to submission)

[enter text here]

## 12.2 SAMPLE RISK ASSESSMENT

Please submit as an attachment, a sample risk assessment and control procedure for two activities that may be carried out under the proposed Contract and attach it your response.

## 12.3 RECENT PROSECUTION AND FINES

Please respond to the following questions and provide further detail as required:

### Recent Prosecution and Fines

Is the Tenderer in default of any fine issued for a breach of the WHS legislation, regulations or requirements? ☐ YES

(if the answer to this question is 'Yes', please provide details of the breach in the response area provided below) ☐ NO

**Insert response here (please delete this note prior to submission)**

[enter text here]

Has the Tenderer been prosecuted or had a fine imposed on them with regards to WHS matters in the last two years?

(if the answer to this question is 'Yes', please provide details of every WHS prosecution and fine imposed on the Tenderer in Australia during the last two years, together with a description of actions taken by the Tenderer in response to each prosecution and fine in the response area provided below) ☐ YES ☐ NO

**Insert response here (please delete this note prior to submission)**

[enter text here]

## 12.4 EVIDENCE OF SATISFACTORY WHS MANAGEMENT

Nominate 3 (three) contracts/projects that the Tenderer has completed within the last two years that demonstrate successful management of work health and safety by the Tenderer.

Client	Name and Location of Contract	Contract Price / Project Value	Start Date	Completion Date
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Client	Name and Location of Contract	Contract Price / Project Value	Start Date	Completion Date
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Client	Name and Location of Contract	Contract Price / Project Value	Start Date	Completion Date

If/when requested, please submit the following additional information for each of three contracts/projects selected from the above list:

- ▶ A client referee report commenting on the Tenderer's performance in relation to work health and safety management, identifying the referee's name, position, organisation and telephone and email contact details; and
- ▶ A copy of a third party audit report, or internal audit report, or site safety inspection report, or site safety review report or other similar evidence.

## 13 SCHEDULE T12 - INDUSTRIAL RELATIONS INFORMATION

### 13.1 FEDERAL AND NSW AWARDS

List the Federal and NSW awards to which the Tenderer is bound.

#### Response – Federal and NSW Awards

Insert response here (please delete this note prior to submission)

[enter text here]

### 13.2 ENTERPRISE, WORKPLACE OR OTHER ENFORCEABLE IR AGREEMENTS

List the enterprise, workplace or other enforceable industrial relations agreements to which the Tenderer is bound, and attach copies of those agreements to this Schedule.

#### Response – Enterprise, Workplace or Other Enforceable IR Agreements

Insert response here (please delete this note prior to submission)

[enter text here]

#### Undertaking to provide information

The Tenderer, if offered a Contract, will, on request, provide appropriate information to verify compliance with relevant industrial awards, enterprise or workplace agreements and all other legal obligations relating to employment and/or workplace safety.

## 14 SCHEDULE T13 – STRENGTHENING LOCAL ECONOMIES

### 14.1 OVERVIEW, HISTORY AND LOCALLY SOURCED RESOURCES

Provide a brief overview and history of your company (2-3 paragraphs). Include the number of years you have been in business in the form in which you are presently constituted.

#### Response – Overview and History

**Insert response here (please delete this note prior to submission)**

Time established

Locations of business

Time in operation

Facilities

Resources - machinery, materials and non-labour - indicate % sourced from the Region (Wollongong, Shellharbour, Shoalhaven Local Government Areas)

Resources - labour (permanent & sub-contractors) - indicate % sourced from the Region (Wollongong, Shellharbour, Shoalhaven Local Government Areas)

### 14.2 SOCIAL VALUE – YOUTH EMPLOYMENT

Councils value opportunities for Providers to employ and train youth of the region in-line with the [Illawarra Youth Employment Strategy](#) priority to ensure a regional focus on appropriate education and skills development of young people and that these link to work and job growth.

In the event that the Tenderer is successful, the Tenderer will be bound by the information provided in this Schedule.

#### Youth Employment

If successful will the Tenderer create additional entry level positions for youth e.g. school leaver, cadet, tertiary qualified graduate (where youth means individuals between the ages of 16-24) within 12 months of commencement of the contract? ☐ YES ☐ NO  
(if the answer to this question is 'Yes' please provide details of the opportunities in the response area provided below)

If successful will the Tenderer create additional Traineeship/Apprenticeship positions for youth (where youth means individuals between the ages of 16-24) within 12 months of commencement of the contract? ☐ YES ☐ NO  
(if the answer to this question is 'Yes' please provide details of the opportunities in the response area provided below)

## Response - Youth Employment

Insert response here (please delete this note prior to submission)

[enter text here]

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END OF VOLUME 4 - TECHNICAL RESPONSE SCHEDULES

## ILLAWARRA PILOT JOINT ORGANISATION

### Volume 5 - Commercial Response Schedules

#### Request for Tender

**Tender Title:** Illawarra Shoalhaven Joint Organisation (ISJO) Landfill Gas Services

**Tender Number:** ISJO 02/2018

**Issue Date:** 08 May 2018

#### Documents Comprising this Request For Tender

Item No.	Document Header	Document Title
1	Volume 1	Conditions of Tendering
2	Volume 2	Conditions of Contract
3	Volume 3	Specification
4	Volume 4	Technical Response Schedules
5	Volume 5	Commercial Response Schedules
6	Volume 6	Wollongong Council Reference Documents
7	Volume 7	Shoalhaven Council Reference Documents
8	Volume 8	Shellharbour Council Reference Documents

## COMMERCIAL RESPONSE SCHEDULES

This Volume contains the Commercial Response Schedules to be completed and returned to Council as part of the Tenderers submission.

Refer to Volume 2 Draft Contract Part 1 clause 1.3 for definitions of terms used within this document.

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## 1 TENDERERS TO NOTE

### Format of Tender Response

The Tenderer is to complete the response schedules as indicated and shall retain the same format as provided by the Illawarra Shoalhaven Joint Organisation (ISJO).

Tenderers are to input information in response to questions in the areas identified.

Council reserves the right to deem responses non-compliant, pass them over and exclude them from further evaluation if they deviate from the format and contents requirements of the Response Schedules contained in this Volume.

Any attachments that are requested, or are required to be completed, contained within the following Schedules must be included within the Response Schedules. No additional documents are to be uploaded with the Tender.

### Notes Regarding Responding to this Tender

Before responding to the following compliance criteria, Tenderers must note the following:

- ▶ All information relevant to your answers to each criterion are to be contained within your Tender;
- ▶ Tenderers are to assume that the Evaluation Panel has no previous knowledge of your organisation, its activities or experience, only the information supplied will be assessed;
- ▶ Tenderers are to provide full details for any claims, statements or examples used to address the qualitative criteria; and
- ▶ Tenderers are to address each issue outlined within a qualitative criterion.

Tenders that do not satisfy the Mandatory Compliance Criteria will be deemed non-compliant and excluded from further evaluation.

Please also note, **no** advertising, product or company information or marketing brochures or presentations other than those expressly requested, are to be sent with the Tender submission. If required the Tender Evaluation Committee will request these materials separately.

## 2 SCHEDULE C1 - TENDER FORM

### 2.1 TENDERER'S DETAILS

<b>Business Name:</b>	[enter text here]		
<b>Trading As:</b>	[enter text here]		
<b>Date Established:</b>	[enter text here]		
<b>Business Type:</b>	[enter text here] <b>Note – if trading as a trust, a copy of the Trust Deed must be attached and provided in the response (please delete this note prior to submission)</b>		
<b>ABN:</b>	[enter text here]	<b>ACN:</b>	[enter text here]
<b>Registered Address:</b>	[enter text here]		
<b>Postal Address:</b>	[enter text here]		
<b>Telephone Number:</b>	[enter text here]	<b>Facsimile Number:</b>	[enter text here]
<b>General Email Address:</b>	[enter text here]	<b>Website Address:</b>	[enter text here]
<b>Address of Office Tendering:</b>	[enter text here]		
<b>Postal Address:</b>	[enter text here]		
<b>Telephone Number:</b>	[enter text here]	<b>Facsimile Number:</b>	[enter text here]
<b>Contact Person Name:</b>	[enter text here]		
<b>Position in Company:</b>	[enter text here]		
<b>Telephone Number:</b>	[enter text here]	<b>Mobile Number:</b>	<b>Phone</b> [enter text here]
<b>Email Address:</b>	[enter text here]		

Hereby Tenders to perform the work for:

### 2.2 TENDER DETAILS

<b>Contract Title:</b>	ISJO Landfill Gas Services
<b>Contract Number:</b>	[enter text here] to be completed by Council/s
<b>Council(s) Tendered</b>	Wollongong, Shellharbour, Shoalhaven ( <b>Delete those that are not applicable</b> ).
In accordance with the following documents:	
	Volume 1 – Conditions of Tendering
	Volume 2 – General Conditions of Contract / Special Conditions of Contract

Volume 3 – Specification

Volume 4 – Technical Response Schedules

Volume 5 – Commercial Response Schedules

and Addenda

Numbers:

[enter text here] Please list addenda numbers or 'N/A' (please delete this note prior to submission)

## 2.3 CONTRACT MANAGER

Please provide the details of the proposed Contract Manager to be responsible for managing the agreement.

### Response – Contract Managers Details

Name: [enter text here]

Position: [enter text here]

Phone Number: [enter text here]

Mobile Phone Number: [enter text here]

Email Address: [enter text here]

Comments: [enter text here] Note – any comments input here will not form part of any assessment of the Tender (please delete this note prior to submission)

## 2.4 OWNERSHIP

If your organisation is a company, provide details on your ownership, including the ownership of parent/holding companies and subsidiaries. State whether these companies are Australian based. Name each shareholder holding 20% or more of your issued share capital, paid-up capital and other relevant details. Alternatively, if your organisation is a partnership, provide a list of partners and details of the partnership financial arrangements. Each party to the consortium is to respond to this question.

### Response - Ownership Details

Insert response here (please delete this note prior to submission)

[enter text here]

## 2.5 COMPLIANCE WITH ACTS AND REGULATIONS

The Tenderer warrants that it has NOT, within five years prior to submitting the Tender, been found to have breached any of the following Acts or Regulations. If you have NOT breached the legislation below, answer "No".

Regulation or Act

Breached –  
Yes/No

Details

Fair Work Act 2009 (Cth)

[enter text here or 'N/A']

Industrial Relations Act 1996 (NSW)	[enter text here or 'N/A']
Work Health & Safety Act 2011 (NSW)	[enter text here or 'N/A']
Workplace Injury Management & Workers Compensation Act 1998 (NSW)	[enter text here or 'N/A']
Privacy Act 1988 (Cth)	[enter text here or 'N/A']
Disability Discrimination Act 1992 (Cth)	[enter text here or 'N/A']
Fair Trading Act 1987 (NSW)	[enter text here or 'N/A']
Racial Discrimination Act 1975 (Cth)	[enter text here or 'N/A']
Sex Discrimination Act 1984 (Cth)	[enter text here or 'N/A']
Age Discrimination Act 2004 (Cth)	[enter text here or 'N/A']
Anti-Discrimination Act 1977 (NSW)	
Protection of the Environment Operations Act 1997	[enter text here or 'N/A']
If you answered Yes to any of the above, please provide details.	

### 3 SCHEDULE C2 - REVENUE ARRANGEMENTS

The Contract provides that the Contractor will perform the Services and in return will receive the right to a share of the revenue generated. The revenue is currently expected to be generated from Carbon Credit Schemes (described in the Contract as 'Abatement Revenue') and from the sale of electricity generated using the Landfill Gas (described in the Contract as 'Electricity Revenue'). It is possible that other sources of revenue will be identified over time.

It is expected that the Contractor's revenue share will compensate the Contractor for the provision of the Services (including infrastructure and operational costs).

To avoid doubt, in responding to this Schedule C2, Tenderers should be aware that any revenue calculated under the Contract is to be calculated as the total gross revenue, income, value and other consideration earned or derived by any person in relation to the Services, prior to making any deductions for any purpose.

Please indicate the anticipated infrastructure and operational costs in the table below.

**Table 3.1**

Site	Infrastructure Costs (to contractor)	Operational costs (to contractor)
Shoalhaven		
Shellharbour		
Wollongong		

In the following table provide the anticipated inputs and revenue that the Tenderer expects will be generated at each Site in respect of:

- 'Abatement Revenue', which is defined under the Contract as all revenue, income, value and other consideration earned from or derived from the sale, trade or other dealing with any Carbon Credit (as defined in the Contract) – **this must be estimated for each Abatement Period**; and
- 'Electricity Revenue', which is defined under the Contract as all revenue, income, value and other consideration earned from or derived from the sale of or other dealing with electricity generated by the Power Generation Plant (as defined in the Contract) – **this must be estimated for each calendar month**.

The Abatement Revenue must be estimated for each Abatement Period, being each period commencing on 1 October of each year and ending on 30 September in the following year.

The Electricity Revenue must be estimated for each calendar month.

The table also requires that the Tenderer identify any other revenue that it expects to be generated from the Services. If other revenue sources are identified the Tenderer must describe these sources. The distribution of this other revenue as between Council and the Contractor will be negotiated in accordance with the conditions of Contract.

The Tenderer must clearly state any assumptions made in completing the table.

**Table 3.2**

Item	Estimated input and revenue	Site		
		Shoalhaven	Shellharbour	Wollongong
1.	Electrical Generation Capacity (m <sup>3</sup> /h)			
2.	LFG Generation (m <sup>3</sup> /h)			
3.	LFG Capture (m <sup>3</sup> /h)			
4.	LFG combusted by Generator(m <sup>3</sup> /h)			
5.	LFG combusted by Flare (m <sup>3</sup> /h)			
6.	Total CH <sub>4</sub> combustion (m <sup>3</sup> /h)			
7.	ACCU potential earned and approximate value (pa)			
8.	Electric capacity and approximate value (pa)			
9.	Renewable Energy Credits (REC) value (pa)			
10.	Abatement Revenue (during Abatement Period)			
11.	Electricity Revenue (per calendar month)			
12.	Other revenue (pa)			
13.	Total revenue (pa)			

Please provide the following details and information.

### Alternative 1 The Tenderer is appointed to be the Contractor for all three Sites

In this Alternative it is expected that the same revenue share proportions will apply across all three Sites.

In the following table the Tenderer must insert the proportion of the Revenue Source that is payable to Council and the Contractor under the Contract. (Refer to clause 17 and Item 20 of the Reference Schedule in the Contract.)

**Table 3.3**

Site	Revenue Source	Tendered Council Revenue Share	Tendered Contractor Revenue Share
Shoalhaven Council Site	Abatement Revenue		
	Electricity Revenue		
	Other Revenue	<i>To be negotiated at the relevant time in accordance with the conditions of Contract.</i>	
Shellharbour Council Site	Abatement Revenue		
	Electricity Revenue		
	Other Revenue	<i>To be negotiated at the relevant time in accordance with the conditions of Contract.</i>	
Wollongong Council Site	Abatement Revenue		
	Electricity Revenue		
	Other Revenue	<i>To be negotiated at the relevant time in accordance with the conditions of Contract.</i>	

Clause 6 of Schedule 3 provides a mechanism whereby a Council can determine that for an initial period of time from the Commencement Date, the Council would separately procure the Scheme Management Services up until the "Council Opt In Date". What adjustment to the Revenue Share in Table 3.3 would be available to the Council for the period from the Commencement Date until the Council Opt In Date to reflect the fact that the Council is separately procuring the Scheme Management Services?

*[Tenderers to provide response here indicating the adjustments to the Revenue Share]*

## Alternative 2 The Tenderer is not contracted to all three sites

In this Alternative the Tenderer does not assume it is appointed to be the Contractor for all three sites but that it may be appointed to nil, one, two or three Sites.

In the following table the Tenderer must insert the proportion of the Revenue Source that is payable to Council and the Contractor under the Contract. (Refer to clause 17 and Item 20 of the Reference Schedule in the Contract.)

**Table 3.4**

Site	Revenue Source	Tendered Council Revenue Share	Tendered Contractor Revenue Share
Shoalhaven Council Site	Abatement Revenue		
	Electricity Revenue		
	Other Revenue	<i>To be negotiated at the relevant time in accordance with the conditions of Contract.</i>	
Shellharbour Council Site	Abatement Revenue		
	Electricity Revenue		
	Other Revenue	<i>To be negotiated at the relevant time in accordance with the conditions of Contract.</i>	
Wollongong Council Site	Abatement Revenue		
	Electricity Revenue		
	Other Revenue	<i>To be negotiated at the relevant time in accordance with the conditions of Contract.</i>	

Clause 6 of Schedule 3 provides a mechanism whereby a Council can determine that for an initial period of time from the Commencement Date, the Council would separately procure the Scheme Management Services up until the "Council Opt In Date". What adjustment to the Revenue Share in Table 3.4 would be available to the Council for the period from the Commencement Date until the Council Opt In Date to reflect the fact that the Council is separately procuring the Scheme Management Services?

*[Tenderers to provide response here indicating the adjustments to the Revenue Share]*

## 4 SCHEDULE C3 - INSURANCE CERTIFICATES

The table below details the insurances required for this Contract.

The levels of cover detailed are the minimum acceptable levels of cover for this Contract and will be required to be maintained for the entirety of the Contract (any insurance requirements that will need to extend beyond the completion of the Contract will be noted individually).

Please provide detail of insurance coverage as required in the table below against each of the insurance requirements detailed.

Additionally, the Tenderer must submit as an attachment with its response, Certificates of Currency for the Insurances detailed in the table below

Insurance Type	Insurance Amount Required	Specific Insurance Requirements	Name of Insurer	Insured Amount	Policy Number	Policy Expiration	Copy of Certificate of Currency Attached
<b>Council Requirements</b>			<b>Tenderers to Complete</b>				
PublicLiability	\$20M in aggregate and \$10M in any single claim	For the term of the Contract and for two years after termination					
Professional Indemnity	\$1M	For the term of the Contract and for two years after termination					
Workers Compensation	In accordance with statutory requirements	For the term of the Contract					
Sole Traders:  Personal Accident and Illness, or	Personal Accident and Illness Insurance - Death and Disability cover with a sliding scale of not less than 3 times the Contactor's average annual income.	For the term of the Contract					

Salary Continuance	Salary Continuance Insurance - be at least 75% of the Contractor's average weekly earnings in the event of injury						
Property Loss or Damage	\$20M in aggregate and \$5M in any single claim	For the term of the Contract and for two years after termination					
Plant and Equipment	Replacement cost at a minimum	For the term of the Contract					
Motor Vehicle – Comprehensive	As determined by insurance provider	For the term of the contract					

## 5 SCHEDULE C4 - DEPARTURES, CLARIFICATIONS AND ASSUMPTIONS

The Tenderer is required to submit a conforming offer in accordance with the RFT.

The Tenderer is required to identify any departures from, clarifications, or assumptions to the Tenderer's offer that do not fully meet all of the requirements of the Tender detailed including Volumes 1, 2, 3, 4 and 5, any addenda issued and any other documents that form part of the Tender.

All such departures, clarifications and assumptions must be fully documented in the table below.

Should the Tenderer seek to vary any term or matter set out in this RFT, and/or considers that its Tender does not comply with any requirement specified in this RFT that matter must be specified and addressed in the table below.

Any departures and/or clarifications and assumptions not shown on this Schedule will not be considered.

### Compliance with Tender Requirements

This offer is fully Compliant with all of the requirements of the RFT and the Terms and Conditions of Contract. ☐ YES  
☐ NO  
(if the answer to this question is 'No' the Tenderer shall complete the table below)

---

All departures from, clarifications, and assumptions made by the Tenderer, including those related to the Terms and Conditions of Contract are listed in the table below ☐ YES  
☐ NO

---

## Table of Departures, Clarifications and Assumptions

Reference No.	Item Type	Volume	Clause	Description of Departure, Clarification, or Assumption	Reason for Departure, Clarification, or Assumption	Proposed Variances (if applicable)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

Note to Tenderers – add additional rows as required

Note to Tenders - if there are proposed departures to the conditions of contract it is the strong preference of the Council that the Tenderer provide a marked up amended version of the conditions of contract showing the drafting proposed for the departure.

A conflict of interest arises when the Tenderer, in performing the obligations under the Contract, is influenced or seen to be influenced by other interests.

There will be occasions when the performance of the obligations under the Contract will affect a personal or other interest that the Tenderer, or its employees or agents, may also have. Such interests may be able to be valued in money terms. Other interests which are less direct and do not involve money may also be affected.

Everyone has interests which are personal to them or someone close to them and it is not just the possession of these interests which gives rise to a problem. Similarly, from time to time individuals will deal with a matter as part of their work which affects a personal interest that they have. Again, that in itself may not cause any difficulties if the conflict is resolved in favour of the duty to perform the obligations under the Contract. It is inevitable that conflicts of interest will arise. It is important to emphasise that the mere fact that someone has a personal interest in a matter is not necessarily wrong. It is how the conflict is dealt with which can give rise to problems.

The first step is to recognise what situations could give rise to conflicts. Then the conflict must be resolved in favour of the duty to perform the obligations under the Contract.

### **Pecuniary Interests**

Pecuniary or financial interests may result from owning property, holding shares or positions in companies or trusts, debts owed to other people, receiving gifts, income from working elsewhere, hospitality and sponsored travel. This list is not exhaustive.

It is not necessary for individuals to hold these interests themselves. A member of their family or close associate may hold them. This is seen to be the same as being an interest of the individual employee or agent of the Tenderer because of the closeness of the relationship.

It is not necessary that the Tenderer, or its employee/s or agent/s would or will act in favour of their personal interest. If they are in a position of conflict, there is that temptation. The aim is to prevent situations arising.

### **Non-pecuniary Interests**

There may also be interests which do not have a financial component (that is, non-pecuniary interests). These might include a personal interest arising out of relationships based on common interest such as sporting, social or cultural activities as well as family, sexual and other relationships.

### **How Should Conflicts be Resolved?**

The aim of resolving these conflicts is to prevent personal considerations from influencing the performance of the obligations under the Contract. Once conflicts have emerged they may be capable of resolution or avoidance by removing the source of the conflict or by declaring the interest and thereby limiting the risk of personal interest prevailing over the duty to perform the obligations under the Contract.

The source of the conflict could be removed by requiring the individual to dispose of the interest which has caused the conflict.

Alternatively, it could be removed by a Tenderer, or its employees or agents being precluded from performing any obligations under the Contract regarding the matter in which he or she has the interest.

Each of these two responses would have the effect of removing the source of the conflict.

Adapted from guidance material prepared by the New South Wales Independent Commission Against Corruption (ICAC).

Item	Conflicts of Interests and Fair Dealings
1	<div>The Tenderer has read the above guidance information from the ICAC. The Tenderer confirms that it is compliant with this section – Conflicts of Interest and Fair Dealings, and having nothing to declare. (If the answer to this section is 'No', the Tenderer is to complete Item 2 below)</div> <div><input type="checkbox"/> YES <input type="checkbox"/> NO</div>
2	<div>The Tenderer discloses any and all information with regards to any real or perceived Conflicts of Interests or barrier to Fair Dealing where these exist, below.</div> <div><input type="checkbox"/> YES <input type="checkbox"/> NO</div>

Details Regarding Conflicts of Interest and Fair Dealings
<div>Insert response here (please delete this note prior to submission)</div> <div>[enter text here]</div>

## 7 SCHEDULE C6 - STATEMENT OF THREATENED OR PENDING LITIGATION

### Threatened or Pending Litigation

Does the Tenderer have Litigation claims against them any threatened or pending litigation, claims, or undischarged judgements or orders? ☐ YES  
☐ NO

---

If the answer to the above question is 'Yes', the Tenderer shall provide a statement, on company letterhead and duly authorised by an appropriate authority, that provides the particulars of any threatened or pending litigation, claims, or undischarged judgements or orders.

This Statement of Threatened or Pending Litigation shall be attached to the Tenderers response to this tender.

## 8 SCHEDULE C7 - STATEMENT OF COMPLIANCE

Tenderers are to sign and return this statement of compliance. A digitally signed document or image of the signatures will suffice.

By executing this proposal form in strict accordance with the RFT documents:

- A. the Tenderer submits a proposal and offers to carry out the Services named, shown and described in the RFT;
- B. the Tenderer has detailed any and all Departures, Clarifications and Assumption in the table provided in Schedule C5 – Schedule of Departures, Clarifications and Assumption;
- C. the Tenderer further promises and agrees, in the event of the proposal being accepted, to be bound by the RFT and the submitted proposal and any other terms of the Contract; and
- D. the Tenderer confirms compliance with Schedule C5 - Statement of Conflict of Interest and Fair Dealing.

.....  
(Signature of director)

.....  
(Signature of director/secretary)

.....  
(Print Name of the signatory above)

.....  
(Print Name of the signatory above)

Date: .....

Date: .....

Note: in the case of partnerships all partners are required to sign.

In the case of a company, 2 (two) directors or a director and company secretary are required to sign.

In the case of a proprietary company that has a sole director who is also the sole company secretary, that director is required to sign.

END OF VOLUME 5 - COMMERCIAL RESPONSE SCHEDULES

## ILLAWARRA SHOALHAVEN JOINT ORGANISATION

### Volume 6 – Wollongong Reference Documents

#### Request for Tender

<b>Tender Title:</b>	<b>Illawarra Shoalhaven Joint Organisation (ISJO) Landfill Gas Services Tender</b>
<b>Tender Number:</b>	<b>ISJO 02/2018</b>
<b>Issue Date:</b>	<b>08 May 2018</b>
<b>Final Date for Updates:</b>	<b>29 May 2018</b>

#### Documents Comprising this Request For Tender

Item No.	Document Header	Document Title
1	Volume 1	Conditions of Tendering
2	Volume 2	Conditions of Contract
3	Volume 3	Specification
4	Volume 4	Technical Response Schedules
5	Volume 5	Commercial Response Schedules
6	Volume 6	Wollongong Council Reference Documents
7	Volume 7	Shoalhaven Council Reference Documents
8	Volume 8	Shellharbour Council Reference Documents

**\*OFFICE USE ONLY**

.....  
LORD MAYOR  
GENERAL MANAGER +  
CHIEF EXECUTIVE  
OFFICER

GENERAL MANAGER +  
CHIEF EXECUTIVE  
OFFICER

Gary Blich in approving this plan certify  
Authorized Officer

at all necessary approvals in regard to the allocation of the land shown hereon have been given.

Signature: \_\_\_\_\_

0049/2006

Number: **NA04H278**

Office: Now RA

certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to the

Subdivision ..... set out her

15. 28

Authorised Person/~~General Manager~~/Accredited Certifier

Authority: Wollongong City Council  
6/9/2006

[illegible]

Certificate no: SC2006/150

file no: .....

When the plan is to be lodged electronically in the Land Titles Office:

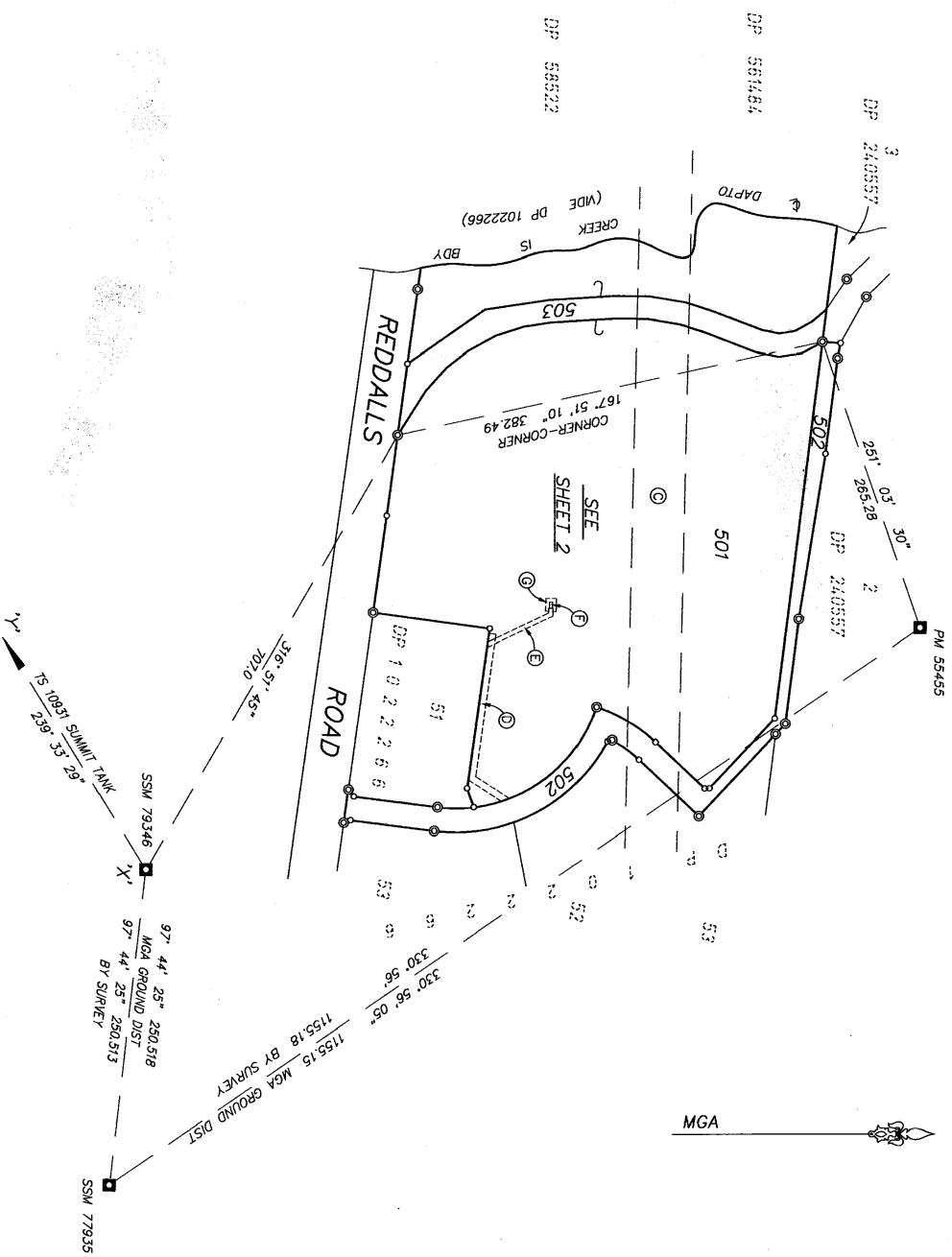
should include a signature in an electronic or digital format approved by the Registrar General.

Nalanda which was in 'immaculate

SURVEYOR'S REFERENCE: 109578 DP (CHECKLIST) 31/5/0

2004M7100 (1499) PARTIAL SURVEY

**WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION**



SURVIVING REGULATION 2001 CLAUSE 3(2)				
MARK	EASTING	NORTHING	ZONE	CLASS ORDER
SM 179.35	296 408.162	6163 502.868	56	B 2
SM 79.346	296 159.902	6163 536.642	56	B 3
PS 55455	297 846.925	6176 512.677	56	C 2
TS 108.31	288 502.177	6178 448.653	56	A 1

SOURCE SCIS 06-9-2004

COMBINED SCALE FACTOR 1.00010

MGA CO-ORDS

LOT 503 IS TO BE ACQUIRED  
FOR ROAD UNDER THE PROVISIONS  
OF THE ROADS ACT 1993,  
SUBJECT TO THE EXISTING EASEMENTS  
FOR TRANSMISSION LINE

**PANEL FOR USE ONLY** for statements of intent to dedicate public roads, to create public reserve drainage reserves, easements, restrictions on the use of land or positive covenants.

Plans used in preparation of survey/computer  
DP 1022266 DP 1080155  
DP 636535  
DP 240557  
DP 628845  
DP 708258

Signature: \_\_\_\_\_ Dated: \_\_\_\_\_  
 Surveyor registered under the Surveying Act 2002  
 Datum Line: 'X' - 'Y'  
 Type: Urban/Rural

The survey relates to... TO LOTS 501, 502, & 503  
EXCEPT RIVER BOUNDARY  
(here specify the land actually surveyed or specify any land shown  
the plan that is not the subject of the survey)  
*James River*

of G.A. GOODMAN SURVEYS P/L  
P.O. BOX 353, WARILDA, 2528 Ph: 429677  
a surveyor registered under the Surveying Act, 2002, hereby certifies  
that the survey represented in this plan is accurate, has been made  
in accordance with the Surveying Regulation 2001 and was completed  
14-07-2005

This is sheet 1 of my plan in 3 sheets.  
(Delete if inapplicable)

Parish: **KEMBLA**  
County: **CAMDEN (31A)**

Locality: **KEMBLA GRANGE**

Lengths are in metres. Reduction Ratio 1: 5000

UNDER THE ROADS  
ACT 1993

PLAN OF LAND TO BE ACQUIRED  
AND ROAD TO BE CLOSED

Ref. Map: PARISH, W8277-1 W0133  
W7377-3  
Last Plan: DP1022266

Title System: CROWN LAND & TORRE

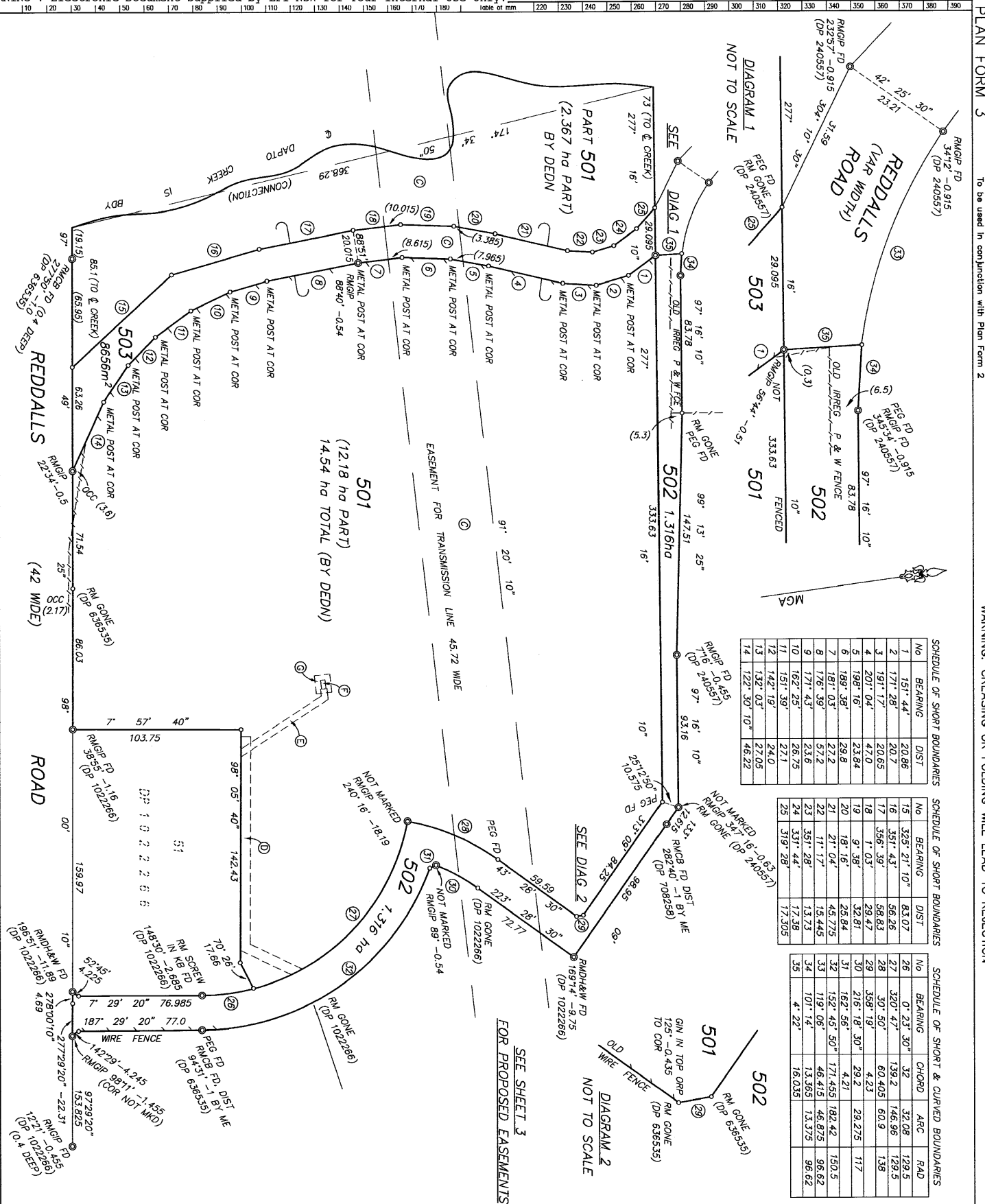
Registered  6.2.2007

DP1079122

Plan Drawing only to appear in this space

Reduction Ratio 1:1500

Surveyor's Reference: 1987B DP (CHECKED) 3/9/06



SCHEDULE OF SHORT BOUNDARIES

No	BEARING	DIST
1	151° 44'	20.86
2	171° 28'	20.7
3	191° 17'	20.65
4	201° 04'	47.0
5	198° 16'	23.64
6	189° 38'	29.8
7	181° 03'	27.2
8	176° 39'	57.2
9	171° 43'	23.6
10	162° 25'	26.75
11	151° 39'	27.1
12	142° 19'	24.0
13	132° 03'	27.05
14	122° 30' 10"	46.22


SCHEDULE OF SHORT BOUNDARIES

No	BEARING	DIST
15	325° 21' 10"	83.07
16	351° 43'	56.26
17	356° 39'	58.83
18	1° 03'	28.47
19	9° 38'	28.81
20	18° 16'	25.84
21	21° 04'	45.75
22	11° 17'	15.445
23	331° 28'	13.73
24	331° 44'	17.38
25	319° 28'	17.305

SCHEDULE OF SHORT & CURVED BOUNDARIES

No	BEARING	CHORD	ARC	RAD
26	0° 23' 30"	32	32.08	129.5
27	330° 47'	139.2	146.96	129.5
28	30° 50'	60.405	60.9	138
29	358° 19'	4.23	29.275	117
30	216° 18' 30"	29.2	150.5	150.5
31	162° 56'	4.21	46.875	96.62
32	152° 45' 50"	171.455	182.42	150.5
33	119° 06'	46.415	46.875	96.62
34	101° 14'	13.365	13.375	96.62
35	4° 22'	16.035		

DP1079122

Registered  of 6.2.2007

This is sheet 2 of my plan in 3 sheets dated 14/01/05

Plants 1/6/6

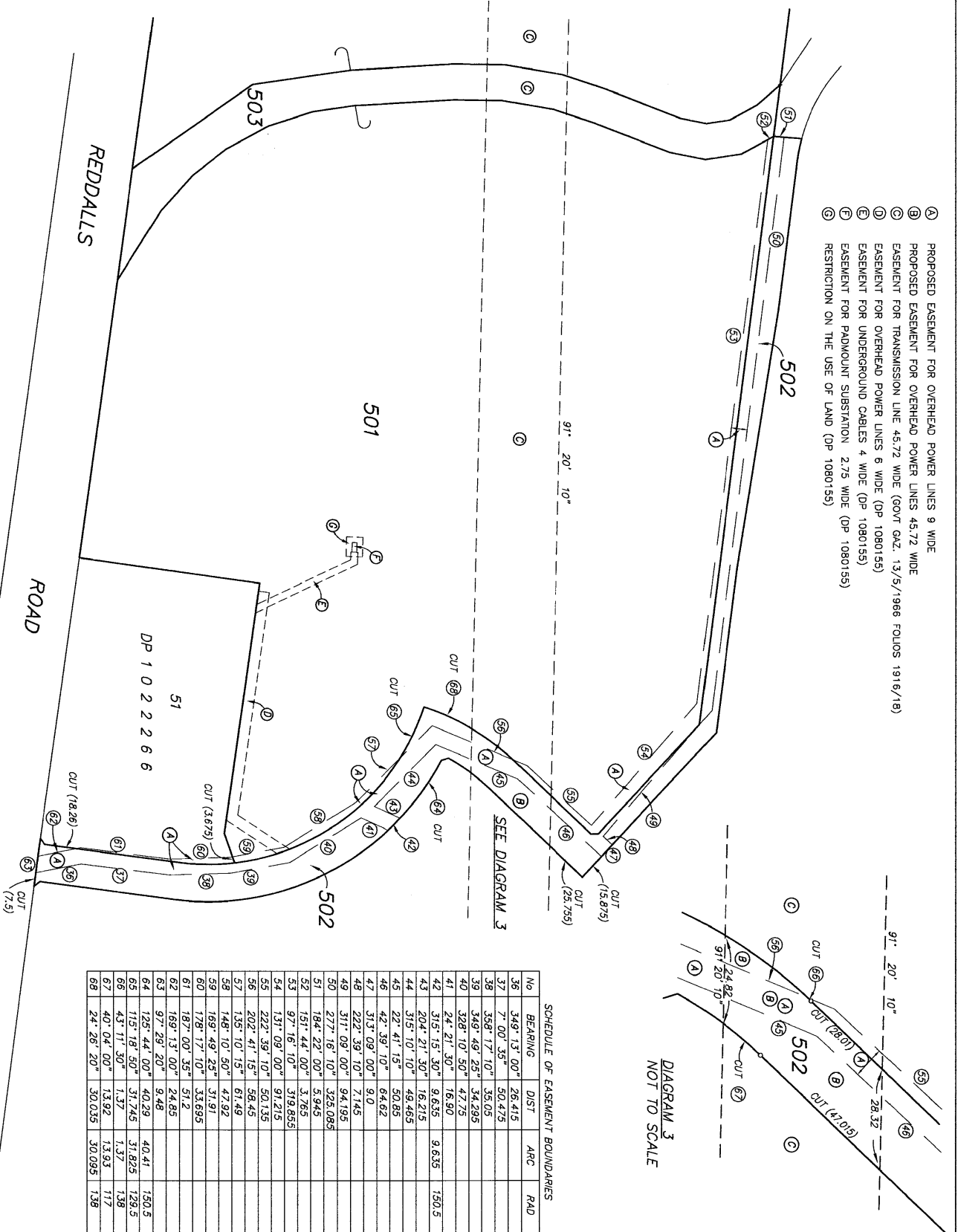
Survey registered under the Surveying Act 2002

This is sheet 2 of the plan of 3 sheets covered by Surveyor's Certificate No. SC2506/150

Authorised Person/Plants Manager/Plants Controller

For use where space is insufficient in any point on Plan Form 2

- (A) PROPOSED EASEMENT FOR OVERHEAD POWER LINES 9 WIDE
- (B) PROPOSED EASEMENT FOR OVERHEAD POWER LINES 45.72 WIDE
- (C) EASEMENT FOR TRANSMISSION LINE 45.72 WIDE (GOVT GAZ. 13/5/1966 FOLIOS 1916/18)
- (D) EASEMENT FOR OVERHEAD POWER LINES 6 WIDE (DP 1080155)
- (E) EASEMENT FOR UNDERGROUND CABLES 4 WIDE (DP 1080155)
- (F) EASEMENT FOR PADMOUNT SUBSTATION 2.75 WIDE (DP 1080155)
- (G) RESTRICTION ON THE USE OF LAND (DP 1080155)



SCHEDULE OF EASEMENT BOUNDARIES

No	BEARING	DIST	ARC	RAD
36	349° 13' 00"	26.415		
37	7° 00' 35"	50.475		
38	358° 17' 10"	35.05		
39	349° 49' 25"	34.295		
40	328° 10' 50"	42.75		
41	24° 21' 30"	18.90		
42	315° 15' 30"	9.635		150.5
43	204° 21' 30"	16.215		
44	315° 10' 10"	49.465		
45	22° 41' 15"	50.85		
46	42° 39' 10"	64.62		
47	313° 09' 00"	9.0		
48	222° 39' 10"	7.145		
49	311° 09' 00"	94.195		
50	277° 16' 10"	323.085		
51	184° 22' 00"	5.945		
52	151° 44' 00"	3.765		
53	97° 16' 10"	319.855		
54	131° 09' 00"	91.215		
55	222° 39' 10"	50.135		
56	202° 41' 15"	56.45		
57	135° 10' 15"	61.48		
58	148° 10' 50"	47.92		
59	169° 49' 25"	31.91		
60	178° 17' 10"	33.695		
61	187° 00' 35"	51.2		
62	169° 13' 00"	24.85		
63	97° 29' 20"	9.48		
64	125° 44' 00"	40.29		150.5
65	115° 18' 50"	31.745		128.5
66	43° 11' 30"	1.37		138
67	40° 04' 00"	13.92		117
68	24° 26' 20"	30.035		138

DP1079122

Registered 8.6.2007

This is sheet 3 of my plan in 3 sheets dated 14/01/05

1/6/16

Surveyor registered under the Survey Act 2002  
This is sheet 3 of the plan of 3 sheets covered by Subdivision Certificate No. SC2006/150

Authorised Person/Consent Manager/Registered Surveyor  
For use where space is insufficient in any panel on Plan Form 2

Reduction Ratio 1: 1500

Plan Drawing only to appear in this space

SURVEYOR'S REFERENCE: 108578 DP (CHECKLIST) 31/5/6

THE COMMON SEAL OF THE COUNCIL  
OF THE CITY OF WOLLONGONG  
WAS HEREBY AFFIXED THIS  
21<sup>st</sup> DAY OF DECEMBER 2000  
PURSUANT TO A RESOLUTION OF  
THE COUNCIL PASSED ON THE  
18<sup>th</sup> DAY OF DECEMBER 2000.  
*Anthony J. ...*  
LORD MAYOR GENERAL MANAGER

Crown Lands Office Approval  
FLAN APPROVED  
Land District  
Paper No.  
Field Book  
pages

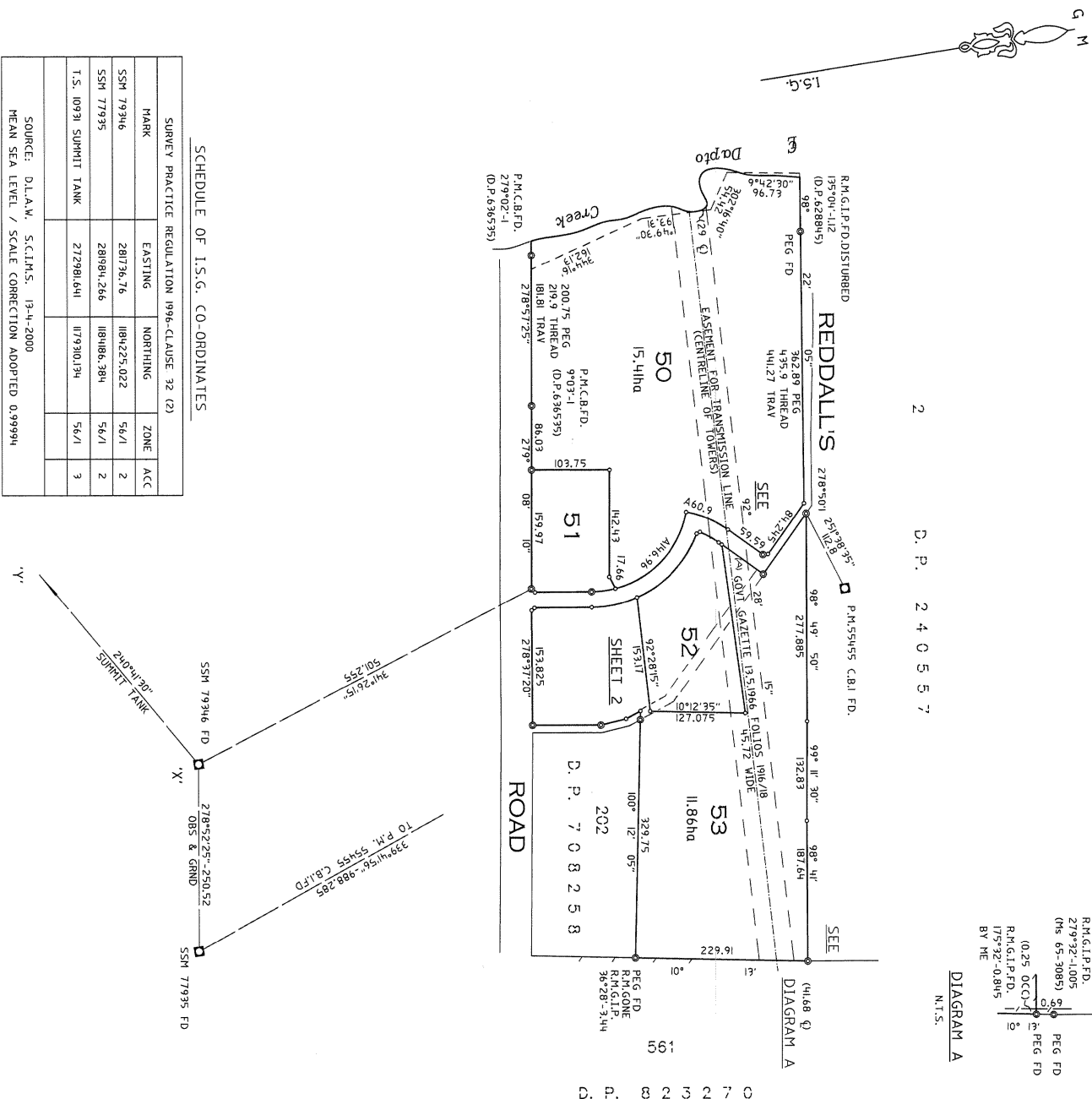
## Subdivision Certificate

hardly certify that:  
(a) the requirements of the Local Government Act 1988 (other than  
x (b) the requirements of Part 3 Division 2 of the Water Board Act 1997  
or 1 Part 5 Division 7 of the Water Board Corporation Act 1997  
have been complied with by the applicant in relation to the  
proposed SUBDIVISION  
Paper No. 6812  
Subdivision No. 6812  
Date 29/11/2000

(Signed) General Manager/Wollongong Council  
Council File No. B30807 E9153

x This part of certificate is to be deleted where the application is only for a  
consolidation or the opening of a new road or where the land to be sub-  
divided is wholly within the area of operations of the Water Board and  
no Water Board Water Corporation Ltd  
is likely to be affected

SURVEYOR'S REFERENCE: 104324/400/TIP



DP1022266

Registered 22/1/2001

CA

Title System: TORRENS

Purpose: SUBDIVISION

Ref Map: PARISH# W8277-1#

W3777-3#

Last Plan: DP708258, DP776338

PLAN OF SUBDIVISION OF  
LOT 203 D.P. 708258 AND  
LOT 301 D.P. 776338

Lengths are in metres. Reduction Ratio 1:4000

LGA: WOLLONGONG

Suburb/Locality: WEST DAPTO

Parish: KEMBIA

County: CAMDEN (3,1A)

This is sheet 1 of my plan in 2 sheets  
(Delete if inapplicable)

Survey Certificate Surveyors' Practical Regulation 1999

I, DAVID ANTHONY LOEBERG

of P.O. BOX 14277 WOLLONGONG 2500

K.E. WILLIAMS &amp; ASSOC'S. P/L

a surveyor registered under the Surveyors Act 1992, hereby certify

that the survey represented in this plan is accurate, has been made

and has commenced on 11TH APRIL 2000

This survey relates to:

I have carefully read and examined the plan and certify that it is correct and true to the original field notes and data.

I declare that the plan is correct and true to the original field notes and data.

I declare that the plan is correct and true to the original field notes and data.

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I declare that the plan is correct and true to the original field notes and data.

I declare that the plan is correct and true to the original field notes and data.

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

DP1022266

Registered 22.1.2001

This is sheet 2 of my plan in 2 sheets dated 11TH APRIL 2000

Surveyor registered under Surveyors Act 1959

This is sheet 2 of the plan of 2 6812 sheets covered by my Certificate of Title 29.11.2000

General Manager/Authorised Person

For use where space is insufficient in any panel on Plan Form 2

2 D. P. 2 4 0 5 5 7

REDDALL'S

R.M.G.L.P.D.  
22°41'-0.675"  
(D.P. 636535)P.M.C.B.F.D.  
278°50'-1"  
(D.P. 708258)

P.M.55445 C.B.I. FD.

278°22'-05"  
362.89

26°49'-10.575"

314.45

25°48'-35"

82.21

98°

271.385

149'

50°

59°41'-56"-988.285

TO S.S.M. 177935 FD

15'

15°

GOVT GAZETTE 13.5.1966 FOLIOS 196/18

45.72 WIDE

10°12'-35"

127.045

(9.76)

10°12'-35"

127.045

(9.76)

10°12'-35"

127.045

(9.76)

10°12'-35"

127.045

(9.76)

10°12'-35"

127.045

(9.76)

10°12'-35"

127.045

(9.76)

10°12'-35"

127.045

(9.76)

10°12'-35"

127.045

(9.76)

10°12'-35"

127.045

(9.76)

10°12'-35"

127.045

(9.76)

10°12'-35"

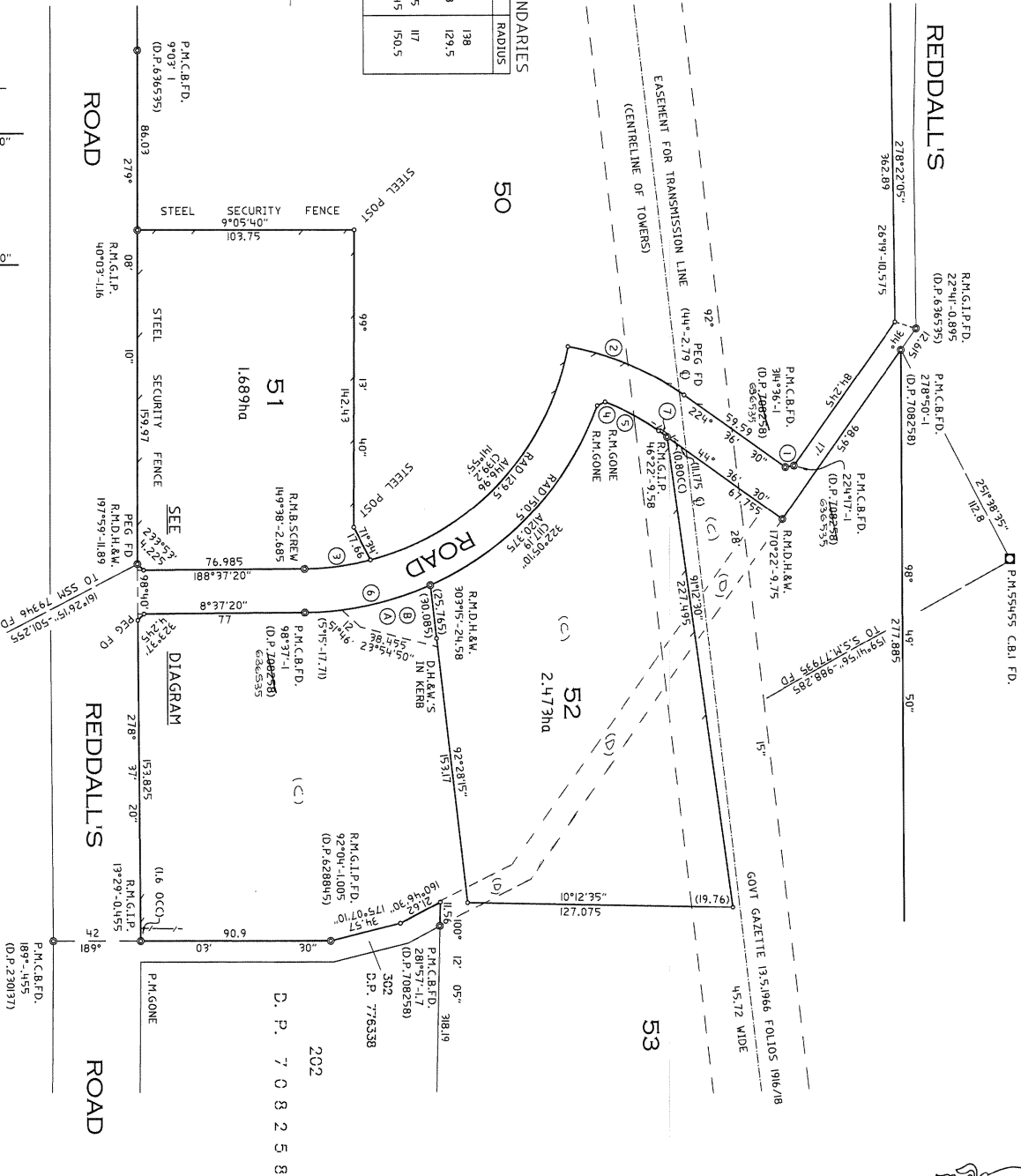
127.045

(9.76)

## SHORT &amp; CURVED BOUNDARIES

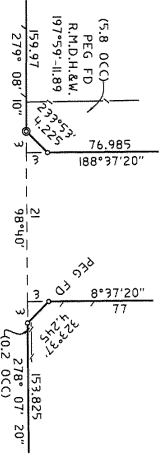
No.	BEARING	CHORD	ARC	RADIUS
1	179°27'	4.23	138	
2	21°58'	60.405	60.9	129.5
3	108°31'30"	32	32.08	129.5
4	344°04'	4.21	29.275	117
5	37°26'30"	29.2	61.605	150.5
6	356°48'40"	61.605	62.045	150.5
7	44°36'30"	5.05		

- (C) RESTRICTION ON THE USE OF LAND -  
DP980288  
(D) EXCEPTING THE LAND BELOW A  
DEPTH OF 20 METRES



## DIAGRAM

1:500

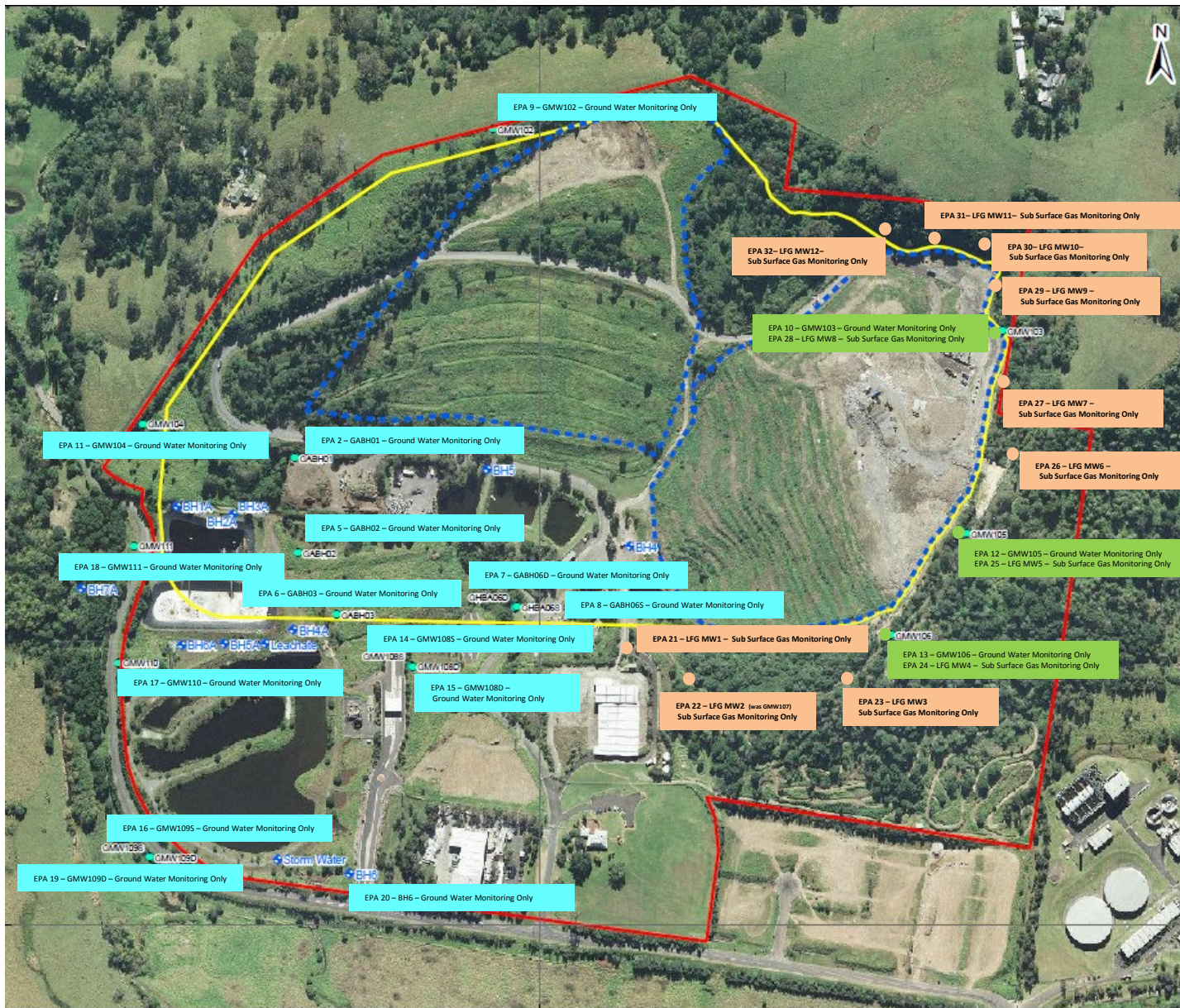


Plan Drawing only to appear in this space

SURVEYOR'S REFERENCE: 104324/400

# Wollongong Waste & Resource Recovery Park– 5862

## Environmental Monitoring Points - Groundwater & Landfill Gas



WHYTES GULLY NEW LANDFILL CELL  
LANDFILL ENVIRONMENTAL  
MANAGEMENT PLAN  
WOLLONGONG CITY COUNCIL

### PROPOSED WATER MONITORING LOCATIONS



#### LEGEND

- Proposed Ground Water Monitoring Locations
- Existing Monitoring Location
- Approximate Extent Of Waste
- Extent of Landfill Works
- Site Boundary

- Sub Surface Gas Monitoring Locations
- Dual Bores

#### NOTES

Extent of waste based on site observations and information provided by Council.

Aerial Ortho-Photograph provided by AAM Pty. Ltd. taken on 16 May 2011, Reference 18703A. Image Georeferenced.

Extent of landfill works as per Golder Design Report.

Investigation locations surveyed by KFW Williams.



SCALE (at A3) 1:4,000

Coordinate System: GDA 1994 MGA Zone 56

PROJECT: 117625003  
DATE: 26/03/2012  
DRAWN: FA  
CHECKED: JMc

FIGURE 12

Centre line of bend  
of existing road

LOT 502

4.0306

25000

300000



Site: Name	Month	Report:	Report: Total LFG	Report: Online %	Report: Av LFG flow	Report: Av LFG Flow SCMH	Report: Av Energy	Report Actual: Av LFG Flow	Report ID	Report ID 2	Total Wells Installed	Total Wells Functioning	Total Wells Non-Functioning	Report: Av LFG Flow per Functioning Well			
		Methane % v/v	Volume SCM		(Period Hrs)	(GCS Online Hrs)	(Online Hrs)	(Period Hrs) @ 50% Methane						SCMH (GCS Online Hours)	GCS Online Hrs	Total Flare 1 Online	GCS Downtime Hours
Whytes Gully Landfill	Mar-18	55.01%	170,066	100%	228.6	229.2	4.27	251.5	Whytes Gully Landfill-3-2018-Flare	Whytes-3-2018-Flare	15	15	0	15.3	742	742	2
Whytes Gully Landfill	Feb-18	52.00%	150,381	100%	223.8	224.8	3.96	232.7	Whytes Gully Landfill-2-2018-Flare	Whytes-2-2018-Flare	15	15	0	15.0	669	669	3
Whytes Gully Landfill	Jan-18	50.55%	151,996	91%	204.3	224.8	3.85	206.6	Whytes Gully Landfill-1-2018-Flare	Whytes-1-2018-Flare	15	15	0	15.0	676	676	68
Whytes Gully Landfill	Dec-17	54.00%	165,226	97%	222.1	229.2	4.19	239.8	Whytes Gully Landfill-12-2017-Flare	Whytes-12-2017-Flare	15	15	0	15.3	721	721	23
Whytes Gully Landfill	Nov-17	53.98%	152,159	93%	211.3	228.5	4.18	228.2	Whytes Gully Landfill-11-2017-Flare	Whytes-11-2017-Flare	15	15	0	15.2	666	666	54
Whytes Gully Landfill	Oct-17	53.25%	173,689	99%	233.5	234.7	4.24	248.6	Whytes Gully Landfill-10-2017-Flare	Whytes-10-2017-Flare	15	15	0	15.6	740	740	4
Whytes Gully Landfill	Sep-17	54.53%	165,772	99%	230.2	232.8	4.30	251.1	Whytes Gully Landfill-9-2017-Flare	Whytes-9-2017-Flare	15	15	0	15.5	712	712	8
Whytes Gully Landfill	Aug-17	58.34%	127,238	73%	171.0	233.0	4.61	199.5	Whytes Gully Landfill-8-2017-Flare	Whytes-8-2017-Flare	15	15	0	15.5	546	546	198
Whytes Gully Landfill	Jul-17	57.14%	173,921	99%	233.8	236.6	4.58	267.1	Whytes Gully Landfill-7-2017-Flare	Whytes-7-2017-Flare	15	15	0	15.8	735	735	9
Whytes Gully Landfill	Jun-17	57.97%	154,217	99%	214.2	215.7	4.24	248.3	Whytes Gully Landfill-6-2017-Flare	Whytes-6-2017-Flare	15	15	0	14.4	715	715	5
Whytes Gully Landfill	May-17	55.63%	133,085	75%	178.9	238.1	4.49	199.0	Whytes Gully Landfill-5-2017-Flare	Whytes-5-2017-Flare	15	15	0	15.9	559	559	185
Whytes Gully Landfill	Apr-17	60.36%	142,024	90%	197.3	219.5	4.49	238.1	Whytes Gully Landfill-4-2017-Flare	Whytes-4-2017-Flare	15	15	0	14.6	647	647	73
Whytes Gully Landfill	Mar-17	65.55%	162,717	99%	218.7	222.0	4.93	286.7	Whytes Gully Landfill-3-2017-Flare	Whytes-3-2017-Flare	15	14	1	15.9	733	733	11
Whytes Gully Landfill	Feb-17	61.65%	126,396	89%	188.1	212.4	4.44	231.9	Whytes Gully Landfill-2-2017-Flare	Whytes-2-2017-Flare		0			595	595	77
Whytes Gully Landfill	Jan-17	54.83%	154,545	95%	207.7	219.5	4.08	227.8	Whytes Gully Landfill-1-2017-Flare	Whytes-1-2017-Flare		0			704	704	40
Whytes Gully Landfill	Dec-16	57.69%	139,123	85%	187.0	219.4	4.29	215.8	Whytes Gully Landfill-12-2016-Flare	Whytes-12-2016-Flare		0			634	634	110
Whytes Gully Landfill	Nov-16	61.95%	102,226	69%	142.0	204.5	4.29	175.9	Whytes Gully Landfill-11-2016-Flare	Whytes-11-2016-Flare		0			500	500	220
Whytes Gully Landfill	Oct-16	58.10%	150,750	97%	202.6	207.9	4.10	235.4	Whytes Gully Landfill-10-2016-Flare	Whytes-10-2016-Flare		0			725	725	19
Whytes Gully Landfill	Sep-16	62.10%	136,117	97%	189.1	194.5	4.09	234.8	Whytes Gully Landfill-9-2016-Flare	Whytes-9-2016-Flare		0			700	700	20
Whytes Gully Landfill	Aug-16	61.60%	150,971	99%	202.9	205.1	4.28	250.0	Whytes Gully Landfill-8-2016-Flare	Whytes-8-2016-Flare		0			736	736	8
Whytes Gully Landfill	Jul-16	59.60%	142,915	96%	192.1	199.9	4.04	229.0	Whytes Gully Landfill-7-2016-Flare	Whytes-7-2016-Flare		0			715	715	29
Whytes Gully Landfill	Jun-16	60%	141,866	98%	197.0	201.2	4.09	236.4	Whytes Gully Landfill-6-2016-Flare	Whytes-6-2016-Flare		0			705	705	15
Whytes Gully Landfill	May-16	56.60%	151,127	99%	203.1	205.9	3.95	229.9	Whytes Gully Landfill-5-2016-Flare	Whytes-5-2016-Flare		0			734	734	10
Whytes Gully Landfill	Apr-16	64.10%	144,173	99%	200.2	201.9	4.39	256.7	Whytes Gully Landfill-4-2016-Flare	Whytes-4-2016-Flare		0			714	714	6
Whytes Gully Landfill	Mar-16	66.90%	132,149	96%	177.6	185.6	4.21	237.7	Whytes Gully Landfill-3-2016-Flare	Whytes-3-2016-Flare		0			712	712	32
Whytes Gully Landfill	Feb-16	68.40%	101,437	86%	145.7	169.6	3.93	199.4	Whytes Gully Landfill-2-2016-Flare	Whytes-2-2016-Flare		0			598	598	98
Whytes Gully Landfill	Jan-16	73.60%	64,577	61%	86.8	141.3	3.53	127.8	Whytes Gully Landfill-1-2016-Flare	Whytes-1-2016-Flare		0			457	457	287
Whytes Gully Landfill	Dec-15	71.60%	22,370	21%	30.1	145.3	3.53	43.1	Whytes Gully Landfill-12-2015-Flare	Whytes-12-2015-Flare		0			154	154	590
Whytes Gully Landfill	Nov-15	57.50%	29,033	46%	40.3	88.2	1.72	46.4	Whytes Gully Landfill-11-2015-Flare	Whytes-11-2015-Flare		0			329	329	391
Whytes Gully Landfill	Oct-15	71.80%	51,376	74%	69.1	93.1	2.27	99.2	Whytes Gully Landfill-10-2015-Flare	Whytes-10-2015-Flare		0			552	552	192
Whytes Gully Landfill	Sep-15	74.30%	57,792	83%	80.3	96.3	2.43	119.3	Whytes Gully Landfill-9-2015-Flare	Whytes-9-2015-Flare		0			600	600	120
Whytes Gully Landfill	Aug-15	73.50%	88,891	91%	119.5	131.9	3.29	175.6	Whytes Gully Landfill-8-2015-Flare	Whytes-8-2015-Flare		0			674	674	70
Whytes Gully Landfill	Jul-15	60.50%	13,055	18%	17.5	96.7	1.98	21.2	Whytes Gully Landfill-7-2015-Flare	Whytes-7-2015-Flare		0			135	135	609
Whytes Gully Landfill	Jun-15	69.70%	50,475	78%	70.1	90.5	2.14	97.7	Whytes Gully Landfill-6-2015-Flare	Whytes-6-2015-Flare		0			558	558	162
Whytes Gully Landfill	May-15	64.10%	79,716	100%	107.1	107.4	2.33	137.4	Whytes Gully Landfill-5-2015-Flare	Whytes-5-2015-Flare		0			742	742	2
Whytes Gully Landfill	Apr-15	73.60%	57,742	72%	80.2	112.1	2.80	118.1	Whytes Gully Landfill-4-2015-Flare	Whytes-4-2015-Flare		0			515	515	205
Whytes Gully Landfill	Mar-15	68%	21,477	28%	28.9	101.8	2.35	39.3	Whytes Gully Landfill-3-2015-Flare	Whytes-3-2015-Flare		0			211	211	533
Whytes Gully Landfill	Feb-15	74.50%	67,053	99%	99.8	101.3	2.56	148.7	Whytes Gully Landfill-2-2015-Flare	Whytes-2-2015-Flare		0			662	662	10
Whytes Gully Landfill	Jan-15	62.10%	49,840	55%	67.0	122.8	2.58	83.2	Whytes Gully Landfill-1-2015-Flare	Whytes-1-2015-Flare		0			406	406	338
Whytes Gully Landfill	Dec-14	70.40%	26,930	35%	36.2	103.2	2.46	51.0	Whytes Gully Landfill-12-2014-Flare	Whytes-12-2014-Flare		0			261	261	483
Whytes Gully Landfill	Nov-14	65.90%	15,128.10	17%	21.0	124.0	2.77	27.7	Whytes Gully Landfill-11-2014-Flare	Whytes-11-2014-Flare		0			122	122	598
Whytes Gully Landfill	Oct-14	68.20%	22,818.60	36%	30.7	84.2	1.95	41.8	Whytes Gully Landfill-10-2014-Flare	Whytes-10-2014-Flare		0			271	271	473
Whytes Gully Landfill	Sep-14	74.50%	52,467.50	70%	72.9	104.1	2.63	108.6	Whytes Gully Landfill-9-2014-Flare	Whytes-9-2014-Flare		0			504	504	216



# SPECIALIST CONSULTING SERVICES FOR THE LANDFILL GAS MANAGEMENT SYSTEM AT WHYTES GULLY – E4482



8/31/2015

## FINAL REPORT

This report outlines the findings of Specialist Services to investigate the trial Whyte's Gully Landfill Gas System (Eastern Gully) on behalf of Wollongong City Council.

# SPECIALIST CONSULTING SERVICES FOR THE LANDFILL GAS MANAGEMENT SYSTEM AT WHYTES GULLY – E4482

## FINAL REPORT

### INTRODUCTION

The background data supplied WCC with their request for quotation (E4482) was reviewed. It was noted that the solid crystalline deposit fouling the flare and blocking feed header pipework is constraining the optimal operation of the landfill gas control system. Therefore, Council required a comprehensive review of a technically challenging operational issue. This warranted senior specialist personnel direct involvement and oversight, with suitable specialist inputs from supporting sub-contractors with direct expertise in this field.

This investigation was staged to ensure it was systematic and reviewed the issue from the broadest perspective, before identifying a dominant mechanism and possible mitigation options. Certain possible mechanisms are postulated and the potential complexity and cost of treatment interventions for gas cleaning strongly supported careful analysis of this problem.

The work has been completed by Allan Boase of Impact Blue Pty Ltd with support from Pacific Environment's Principal Environmental Scientist Aidan Marsh and Landfill Engineer Sam Butler.

An interim report was issued following initial work associated with the following activities:

- 1.1 Project Kick-off*
- 1.2 Data Collection and Desktop Review*
- 1.3 Preliminary Characterization*
- 1.4 Fieldwork Planning*

A possible list of minerals that may explain the current salt deposition in the Landfill Gas Management System was identified and these were further examined and verified by a variety of analytical and investigative techniques.

Fieldwork to collect further specific landfill gas system information was then undertaken by Pacific Environment personnel under the direction of Impact Blue. This culminated in a further factual progress report that addressed the following activities:

- 1.5 Site Investigations and Laboratory Analyses; and*

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**FINAL REPORT**



*1.6 Reporting on Analysis of Findings.*

This stage of the project identified **ammonium bicarbonate** as the most likely fraction of the crystalline deposits recovered from the landfill gas system. The volatility of this material under heating was a key difficulty in analytical work and the most conclusive results came from XRF crystal analysis at two separate laboratories.

The next agreed stage of the project was to promptly summarize the operational implications of the findings and submit that portion of the report to Council at an earlier date than the final report to provide advice and recommendations to the WCC operational personnel.

Finally, the full report addressed the following specific activities:

- 1.7 Benchmarking of similar problems elsewhere;*
- 1.8 Remedial options analysis;*
- 1.9 Cost estimation;*
- 1.10 System Improvement Plan;*
- 1.11 Risk Assessment; and*
- 1.12 Safety Documentation Audit.*

This report represents the final report, covering all of the above items.

## REQUESTS FOR INFORMATION (RFI)

Wollongong City Council has satisfied the RFIs issued by Impact Blue Pty Ltd and provided sufficient data to enable initial characterization to be completed. The RFI Spreadsheet Status is shown in **Attachment 1**.

## SITE INSPECTION & REFERENCE IMAGES

Council has supplied site observation and visual reference material from Run Energy to assist with this investigation. Selected key images of the crystalline fouling of the landfill gas system are attached below.

- RUN ENERGY VIDEO STILL IMAGES - GAS HEADER



WHITE CRYSTALS IN-SITU



WHITE CRYSTALS IN-SITU

- PHOTOGRAPHS FROM MAINTENANCE INSPECTIONS



MANIFOLD DEPOSITION



FLARE FOULING SALT

## LITERATURE REVIEW

IBPL and Pacific Environment have jointly undertaken a Literature Review and provided a commentary on how this information relates to the phenomena under investigation. Due to the size of images sourced, this review is reported separately, referred to as **Appendix A**, and is accessible via a *Dropbox* link as follows:

<https://www.dropbox.com/sh/llyk61yy5ucw2so/AABjlSyMJhqdwk33kM4TS4caa?dl=0>

## SAMPLING & ANALYSIS PLAN

Pacific Environment will implement the Sampling & Analysis Plan (SAP) under the direction of IBPL. Samples will be collected from each phase present including landfill gases, leachate, condensate and solid crystalline deposits for analysis. Chemical and petrographic examination will be used to precisely define the materials present in the collection system. The SAP work will be undertaken in accordance with procedures outlined in the SAP and as per **Appendix B**. The *Dropbox* link to this file is as follows:

<https://www.dropbox.com/sh/llyk61yy5ucw2so/AABjlSyMJhqdwk33kM4TS4caa?dl=0>

## FIELDWORK HEALTH, SAFETY & ENVIRONMENT PLAN

Pacific Environment will undertake the proposed further fieldwork under IBPL direction for the purposes of multi-phase sampling and gas well examination. Their work will be undertaken in accordance with procedures outlined in the Health, Safety & Environment Plan (HSaEP) enclosed as **Appendix C**. The *Dropbox* link to this file is as follows:

<https://www.dropbox.com/sh/llyk61yy5ucw2so/AABjlSyMJhqdwk33kM4TS4caa?dl=0>

## INITIAL FINDINGS

Initial literature review and other findings indicated that a number of possible compounds could be present. These included:

- Silicon dioxide /quartz ( $\text{SiO}_2$ );
- Calcium carbonate / calcite ( $\text{CaCO}_3$ );
- Struvite ( $(\text{NH}_4)\text{MgPO}_4 \cdot 6(\text{H}_2\text{O})$ );
- Calcium Sulphate – Calcium sulphate dehydrate ( $\text{CaSO}_4 \cdot 2\text{H}_2\text{O}$ )
  - Anhydrite ( $\text{CaSO}_4$ )
  - Bassanite ( $2(\text{Ca})_2(\text{SO}_4) \cdot (\text{H}_2\text{O})$ )

Of note was the presence of iron, magnesium and aluminium analytes in some Run Energy initiated laboratory test results. These are possibly from particulates in the system that are deposited with other materials at blockages as they were not found in the more selective crystal analysis work later. The interim report discussed reasons why some of these compounds were less likely in this instance and a gypsum type compound was one likely candidate. This would not account for the observed volatility however.

It was concluded that further fieldwork and laboratory investigation was necessary. This work included bulk and trace gas analysis; X-Ray diffraction identification in minerals lab; Condensate sampling and field measures of constituents of the landfill gas stream at various locations upstream of the flare.

## SAMPLING AND ANALYSIS PLAN FINDINGS

Pacific Environment reported on the sampling and analysis program and came to the conclusion below:

In summary, Pacific Environment considers that crystalline material accumulating in the GCS is **ammonium bicarbonate** and the source of the compound is a relatively warm stream of LFG (.. from the wells..) that is saturated with water vapour containing a high concentration of ammonia. The high concentrations of ammonia, in LFG or leachate, may be generated by waste with large amounts of animal waste. When the gas temperature drops for such a saturated stream (at changes in pipe diameter, bends or the road crossing) liquid dewes out of the gas stream. This liquid rests and accumulates in low points in the GCS. Carbon dioxide that is naturally present in the LFG stream passes through the ammonia liquid and the ammonia bicarbonate crystal deposit is formed (as per the standard industrial process chemistry).

Ammonium bicarbonate is a common industrial and food industry chemical –  $(\text{NH}_4) \text{HCO}_3$

Pacific Environment completed the required fieldwork for the purposes of multi-phase sampling and gas well examination. Their work was undertaken in accordance with procedures outlined in the Health, Safety & Environment Plan (HSaEP) mentioned above. Their full factual report is enclosed as **Appendix D**.

The *Dropbox* link to this file is as follows:

[https://www.dropbox.com/s/loqlh5snc61pafr/20262%20Whytes%20Gully%20report\\_draft%2029.06.15.pdf?dl=0](https://www.dropbox.com/s/loqlh5snc61pafr/20262%20Whytes%20Gully%20report_draft%2029.06.15.pdf?dl=0)

The samples analyzed in the laboratory were found to be volatile, and readily vapourized, giving off a pungent gas. They were not able to be analyzed for chemical composition due to lab safety protocols. However, total nitrogen levels were able to be determined, and these would corresponded to an unusually high level of ammonium ion presence. Crystal examination by X-Ray diffraction was conclusive at two separate laboratories. It is further noted that the previously identified metals such as calcium, magnesium iron and aluminium were not identified. This suggests that crystal formation could sometimes be associated with co-deposition of other particulates. Further sampling would be required to further understand any other non- crystalline deposits. The Contractors ability to clean blockages with hot water is consistent with the solubility properties of this predominant crystal.

Addressing the crystal formation issue requires consideration of the potential sources of high temperature gas, excessive water vapour leading to saturation and ammonia, at levels higher than in normal landfill gas. While a maintenance only approach could be adopted to constantly remove blockages at condensate collection points, treating the source issues may also be warranted, to minimize an unreasonable gas pre-treatment train burden on the future landfill gas system turnkey project.

## OPERATIONAL FINDINGS

At the request of the Council, a brief summary of the operational findings were provided to assist Council operational staff with planning for this site. Details were supplied separately in early August 2015 and are summarized in **Appendix E**.

The *Dropbox* link to the relevant file is as follows:

<https://www.dropbox.com/s/h22fbxui98byqk6/Operations%20Findings%20Project%20Management%20Report%20120815.docx?dl=0>

## BENCHMARKING SIMILAR LANDFILL GAS CONTROL SYSTEMS

Impact Blue sought to identify other similar sites where these fouling issues have occurred. Generally, enquiries have not indicated specific sites with a reference to ammonium bicarbonate as the blockage material. However, we have identified several sites with similar problems in their landfill gas collection system. Condensate blockages of course are more common and widely documented. In addition, the characteristics of this problem are common with flaring systems for biogas from anaerobic digesters, as reported at several wastewater plants. The factors relevant to WCC are noted where possible.

Several examples of such instances are shown in **Table 1**.

**Table 1:** Benchmarking Landfill Gas and Biogas Control Systems

Site	Owner	Issues	Technology Used	Comments
Cedar Hills Landfill	King County, WA,USA	Condensate Blocking Header Mains	Cyclone wet scrubbers	Effective long term solution. The landfill is a larger facility with gas flows an order of magnitude higher than at Whyte's Gully.
Suntown Landfill	Gold Coast City, QLD,AUS	Perched Leachate and Flooded Gas Wells	12 Dual Leachate / Landfill Gas Wells	Multiple cells with perched leachate requires leachate pumping to enable optimum gas removal.
Anaerobic Digesters	Various	Particulates and Foam in Biogas Collection System	Sediment Trap and Foam Separator	Seen as essential in wet biogas systems to minimise condensate formation to protect engines and minimise potential blockages.

Our overview of sediment/condensate blockages in local landfill gas systems indicated the following typical features:



- Condensate blockages are most frequently caused by differential settlement.
- Likely locations for condensate blockage are in any horizontal collectors themselves, at low points along the main gas collection headers and at buried road crossings.
- Often the operator can detect surging or “gurgling” noises in the piping, absence of flow, or fluctuations in pressure readings.
- With above ground system, it is possible to acoustically identify the sound of gas flowing.
- Below grade systems can be listened to at access ports, condensate traps and road crossings.
- Blockages may be isolated by taking a pressure profile across the system by measuring and recording system vacuum at access ports throughout the system and bracketing to isolate the problem. An excessive pressure drop between any two access ports may indicate a potential problem.

This area of benchmarking was not explored in more detail based on informal anecdotal feedback from the local industry that such deposits were not a commonly encountered landfill gas industry problem in Australia.

## REMEDIAL OPTIONS ANALYSIS

### General Considerations

An assessment of remedial options available was undertaken, based on the laboratory test findings and the proposed crystal formation mechanism. It is assumed for the purposes of this report that the utilisation of LFG will be for electricity generation, not other uses such as high calorific direct gas applications or compressed natural gas fuels. This section summarises findings on remedial options. Further technical information on related matters is also included in **Appendix F** as background only. Reference to relevant equipment catalogues is required for specific technical specifications.

A preliminary review of gas collection pipe and header grading and settlement and the contribution these make to the associated condensate and depositional blockage issue has been made. The grading is visibly uneven, and does not reflect long sections of constant grade with condensate management at every low point. On this basis, a survey of actual current grades and levels is recommended. This check may then indicate a need for an alternative route to the flare for some sections of the header pipe. Careful consideration should also be given to the proposed grading and design of main header pipes for other stages of landfill and associated landfill gas system development.

We have also reviewed measures for gas cleaning treatment. The UK Environment Agency Guideline (LFTGN06) “Guidance on gas treatment technologies for landfill gas engines”, provided a primary reference for best practice methods to address identified issues. It is noted that Australian practice is normally to provide “primary treatment” only, as per this reference, at or adjacent to the flare or landfill gas engines /turbines. However, in this case, the widespread evidence for condensate and associated crystal blockages upstream may ultimately necessitate other points being used for the location of treatment equipment.

“Primary treatment” normally includes the removal of moisture and particulates, at the both the flare of gas engine / turbine equipment location. This is supported by the management and balancing of the well field itself, to avoid leachate ingress to gas wells and oxygen impacts on gas generation and collection. Routine maintenance normally addresses such issues. Moisture removal can range from low cost liquid slug removal (KOPs) to more expensive foam removal, and finally the most expensive option is water vapour removal methods. Normally relative humidity levels of less than 80% need to be achieved to protect downstream gas engine equipment. Therefore, a further parallel consideration is minimising system gas cleaning and blockage

problems by managing upstream gas stream moisture content, leachate levels in vertical gas wells, adequate condensate knockout and removal, and pH control.

In terms of primary gas cleaning, we considered media based options such as granular activated carbon contactors, absorbent gels or desiccants, and other particulate/moisture removal technologies such as sediment traps, hydro-cyclones, wet and dry scrubbers. It was considered that secondary treatment processes such as pressure swing adsorption techniques and chemical solvent extractions, if any, would be the responsibility of contractors seeking to optimise their life-cycle project costs.

We consider that each element of the gas control system should be considered to optimise overall feed gas quality, including:

- Wells (Leachate monitoring and/or pumping, manage vacuum levels);
- Collectors (J or P Traps);
- Manifolds (J or P Traps),
- Vacuum pumps or compressors (Particulate removal and Moisture removal) and
- Gas handling prior to flaring (KOPs for Particulate and Moisture removal, plus Refrigeration Drying, plus VOCs/H<sub>2</sub>S removal, plus ammonia removal if required).

## SWOT Analysis

A SWOT Analysis of the broadly available remedial options is presented in **Table 2**.

**Table 2:** SWOT for Remedial Treatment Options

Operational Measures (by WCC)				
Operational Measures Only	Construction	Operations	Maintenance	Consumables
Strengths		Immediately implementable	Simple processes	
Weaknesses	Possible need to regrade or relocate some gas pipe sections.	High labour input. Additional leachate pumping. Disruptions arising from investigations.	Health and safety associated with waste disposal and off gases	Electricity mainly, possible chemical cleaning agents
Opportunities	Increased gas yields by better hot spot, ammonia source and leachate management. Avoidance of pipeline and liner service life reductions.	Eliminate complex capital equipment requirements	Portable equipment used across site	
Threats	Need to breach existing piggyback liner and the integrity of patches	Reducing effectiveness over time and need to increase effort for subsequent stages of project	Equipment life limited by for heavy use.	Oxygen ingress to the gas field

Steam Cleaning	Construction	Operations	Maintenance	Consumables
Strengths	Minor works to inject steam	Applicable to blockages at various locations in header, portable, standard operator training.	Minimal as stainless steel equipment	Water / 240V Electricity Only
Weaknesses	Closure of collection system for short period to install access points.	May overheat thermoplastic pipes and create thermal stresses and pressure de-rating. Capture of ammonia gas and VOC's released.	Specialised maintenance of proprietary steam cleaner.	Need power access at point of use.
Opportunities	Return to leachate system	Mobile unit location flexibility and general cleaning uses.	Minimal	Can add other chemicals to aid cleaning
Threats	Health and safety	Overheating pipes, odorous fugitive emissions	Methane, VOC's and ammonia	Pipeline exposed to higher temperatures
Primary Pre-treatment (by WCC)				
Particulates / Moisture Removal				
Knock-out Pots (Liquid Slugs)	Construction	Operations	Maintenance	Consumables
Strengths	Two existing KOPs, so designs can be standardised	Similar to existing KOPs and simple to operate		Minimal consumables, except for compressors for condensate pumps
Weaknesses	Cut in to live lines.	Carry over moisture is reaching flare at present. Clogging of filter pads if used.	Required on each stage main header, Currently located in positions that don't eliminate all blockages from condensate accumulation.	Harsh operating conditions for existing pumps.
Opportunities	Above ground header is accessible. Could add demisting filter pads to existing KOPs.	Add demisters to existing pots	Could locate one prior to manifolds.	
Threats	Moisture carryover due to excess saturated gas stream	Stripping VOCs in turbulent areas around KOPs.	Liquid slugs are hazardous and difficult to treat side stream condensate. Biomass carryover to engines can be a problem without filters.	Need intrinsically safe explosion proof pumps
Sediment Trap /	Construction	Operations	Maintenance	Consumables

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Foam Separator (Liquid/Gas Foams)				
Strengths	Simple installation of prefab module for particulate and moisture removal.	Simple device with water spray. Limited specialist operator skills required	Manhole access	Water only
Weaknesses	Moderate Cost and need to locate at landfill rather than in gas infrastructure compound and provide a water service.	Need to treat all moisture generated including leachate blowback and foam. Not removing VOC's. Clogging of filters.	Confined space environment, spray nozzle and drip tank maintenance, hydrocarbon contaminated solid sediment	Stainless steel construction and parts. Replace filter pads.
Opportunities	Service multiple stage main headers, reduced design load on downstream gas drying.	Polishing treatment if leachate removal reduction applied elsewhere removes moisture	Above grade installation	Could convert to chemical scrubber if required by addition of acid dosing.
Threats	Need to locate outside future cell footprint	Not optimised for ammonia removal	Condensate quality requires specialised disposal of liquids	Water supply failure
Absorption Vessel (Carbon/Activated Alumina or Silica) Vapour Phase	Construction	Operations	Maintenance	Consumables
Strengths	Pre-fabricated vessels or drums	Series operations possible. Carbon can remove VOCs and H <sub>2</sub> S.	Duty and Standby Units	Proven absorbents available such as granular activated carbon, silica gel, activated alumina and ethylene glycol.
Weaknesses	Required on multiple headers. Specific gas design required for each installation	Redundant capacity required to cover regeneration or maintenance downtime	Regular media replacement	High replacement costs
Opportunities	Standard modules for use across site gas collection systems	Flexibility in types and combinations of absorbents	Drum systems are relaced without needing media removal	Regeneration Systems are Available for some types of absorbent. Bulk supply of absorbents may reduce costs
Threats	Multiple treatment units required on various input lines	Expertise level required to operate system is higher	Explosive atmospheres possible for carbon systems	Excessive media may be required for wet gas system
Particulates: Filter Pad / Hydro-cyclone	Construction	Operations	Maintenance	Consumables
Strengths	Removal to 5-15 or 2 micron	Water /gas phases separated	Low maintenance	Minimal chemical or power required

	particle sizes			
Weaknesses	Medium cost	Skilled treatment process operator required (as for leachate treatment)	Erosion of cyclone body or shell	
Opportunities	Single cyclone could serve several	stages of main header	Banks of cyclones could remove specific size particulate fractions	
Threats	Blockage and deposition	Pressure loss across cyclone. Contaminated waste streams for disposal		
<b>Ammonia Removal</b>				
<b>Wet Scrubber (Vapour Phase)</b>	<b>Construction</b>	<b>Operations</b>	<b>Maintenance</b>	<b>Consumables</b>
Strengths	Can be located on landfill but outside footprint to remove ammonia before downhill header	Ammonia is highly water soluble	Waste streams can be directed to existing leachate collection system	Minimal chemicals for water scrubber
Weaknesses	High cost and site grading on slope to accommodate vertical tower.	Skilled treatment process operator required (as for leachate treatment)	Drip tank maintenance is remote from operators and possible confined spaces created.	Replacement of packed column media if used
Opportunities	Pre-fabricated with simple cut in to header	Aqueous ammonia waste stream has potential uses		Ammonia kept in liquid phase
Threats	Need for piped water supply.	Contaminated waste streams for disposal	VOCs will remain in gas stream	High pH may precipitate metals on equipment
<b>Secondary Pre-treatment (by Turnkey Contractor)</b>				
<b>Advanced Pre-treatment (CO<sub>2</sub> or H<sub>2</sub>S Removal, Siloxanes or Halogenated Hydrocarbons and Refrigeration Drying)</b>	<b>Construction</b>	<b>Operations</b>	<b>Maintenance</b>	<b>Consumables</b>
Strengths	Contractor works amortised over contract period	Proven drying and methane separation technology available		
Weaknesses	High cost and level of technology. Scale factor applies to break even.	Skilled treatment process operator and technical support required (as for leachate treatment)	Skilled treatment process maintenance and technical support required (as for leachate treatment)	Expensive reagents required i.e. glycols, amines or high energy requirements
Opportunities	Turnkey equipment	High energy fuel options as well as		Secondary products produced by

	providers	energy generation		desorption of media
Threats	Space requirement and post - treatment needs	External provider expertise required	Specialised maintenance with handling hazards.	Cost of replacement media or regeneration

## Preferred options.

The most preferred options are those that can be achieved by operational changes only. This includes reducing leachate ingress into gas wells and minimising condensate generation. Maintenance activities that can be simplified are a further priority option. However, the elimination of ammonium bicarbonate precursors is the most positive step.

The introduction of gas treatment infrastructure will have cost and ongoing maintenance implications, and is therefore a less preferred option. However, it may prove to be ultimately necessary to achieve a reasonable maintenance regime for the landfill gas system, especially where these responsibilities may become part of a turnkey contract. It is further regarded as desirable for routine gas pre-treatment to remain the responsibility of any turnkey contractor, if this outsourcing proceeds from the procurement phase. Secondary treatment using solvent scrubbing processes, as used in oil and gas industry projects, are normally beyond the scope and economic viability of landfill projects. Low cost options that have been applied to landfills for H<sub>2</sub>S removal include those that use an iron oxide source to precipitate non-hazardous iron sulphide for landfill disposal. Unfortunately, dry scrubbing for this purpose has high operating costs despite a low capital cost.

## COST ESTIMATION

Estimates of the capital and operating costs for engineered remedial options have been prepared based variously on supplier information, government agency studies, quotes and the latest edition of Rawlinson's Construction Costs Handbook. These were input into a simple life-cycle cost model of the gas control system, to enable a comparative Net Present Value to be calculated for each option based on a discounted cash flow method.

## Unit Costs

The typical unit costs for the operational and capital expenditure that is associated with remedial options is outlined in **Table 3**.

**Table 3:** Unit Cost Allowances for Possible Remedial Options

Item	Description	Capital Expense \$	Annual Cost \$
1	Ammonia Survey	3,000	
2	Thermal Imaging Survey	4,000	
3	Leachate Investigation of Closed Wells and Liner Repairs	7,000	
4	Main Header Grades Pressure and Grade Survey	4,000	1,000

	and Review of Condensate Collection		
5	Re-grading or Covering Sections of Existing Main Header	10,000*	
6	Steam Cleaning of Blockages	7,000	15,000
7	Knock Out Pots and Modifications	25,000	5,000
8	Sediment Trap / Foam Separator	70,000	5,000
9	Absorption Vessels (Activated Carbon)	50,000	20,000
10	Absorption Vessels (Activated Alumina)	40,000	10,000
11	Hydro-cyclone	45,000	5,000
12	Wet Scrubber	250,000	15,000
13	Chiller / Dryer	75,000	15,000
14	Chemical Scrubber Packed Tower	200,000	40,000

\*Optional Expense depending on findings of other work

## Life cycle gas collection, pre-treatment and engine servicing costs

A simple analysis of the marginal costs, over a fifteen year equipment life-cycle, has been completed using a discounted cash flow method. The costs considered exclude gas internal combustion engine, generator, flare and post combustion gas cleaning capital and operating costs. This enables the direct links between equipment maintenance and gas pre-treatment to be explored on an indicative only basis. Detailed engineering design would be required to determine costs to better than the +/- 30 percent accuracy reflected by this analysis.

A summary of the findings is presented in **Table 4** and shown graphically in **Figure 1**.

**Table 4:** Net Present Value Cost Analysis

Option	Title	NPV_15 (x000's)
1	Steam Only	162
2	Steam_General	638
3	Desiccants	678
4	Foam Separator	594
5	Wet Scrubber	833
6	Secondary + Foam	1050

Option 1 indicates the 15 year NPV component for steam cleaning alone i.e. \$162,000. It is likely the small investment in a commercial steam cleaner to remove blockages, as required, has a very short payback period and is recommended.

The remaining options include various equipment maintenance costs and the costs of primary and/or secondary levels of gas pre-treatment. For Options 2-5, Option 4 gives the lowest overall cost for operations with moisture removal leading to savings in blockage maintenance and equipment servicing downstream.

Comparison of Options 3 and 4 show that moisture removal by a foam separator is more cost effective overall than by using desiccants, due to the replacement or regeneration costs for desiccant media over time.

Options 5 and 6 indicate a substantial increase in cost arises due to any attempt to remove ammonia and hydrogen sulphide or halogenated hydrocarbons to trace levels despite a positive effect on equipment life and servicing costs. These measures would not normally be provided.

The analysis highlights aspects that are likely to be warranted at Whyte's Gully Landfill. These include:

- source control of leachate entry to gas wells;
- isolation of ammonia sources;
- reduction in temperature and moisture content of gas stream travelling in the header;
- improvements to header geometry, cover and blockage monitoring;
- the use of steam cleaning to make residual blockage maintenance less time intensive; and
- Finally, the provision of an upstream device to remove gas-liquid foam to reduce header humidity.

Isolating the header from temperature extremes is a further low cost measure.

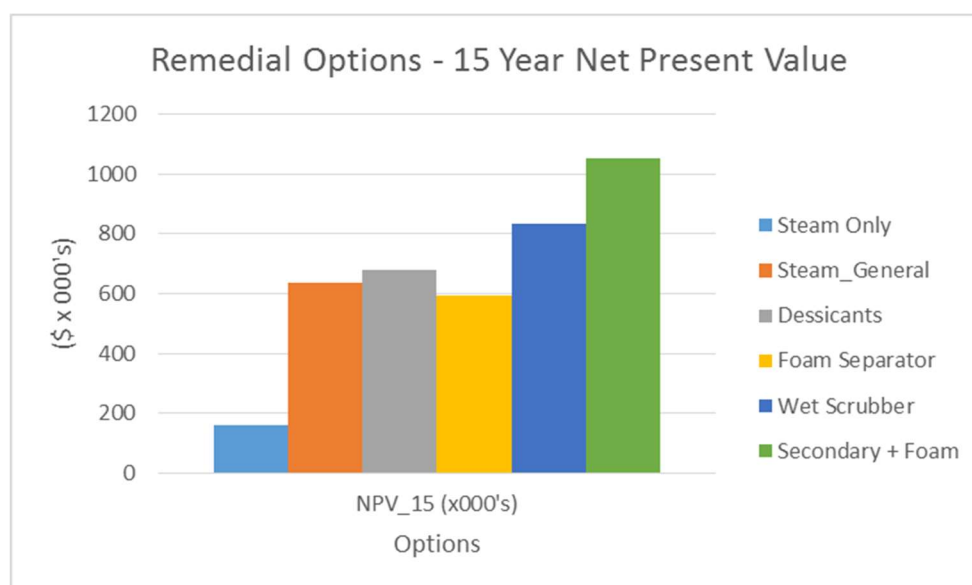


Figure 1: Life-Cycle Comparison Costs

For the information of Council, it is noted that a foam separator is a proprietary stainless steel pressure vessel of approximately one metre diameter and 3-4 metres in height. It would require a water supply connection and an internal demister mesh. Wastewater would be connected to the leachate collection system. It needs to be constructed on a concrete foundation and is essentially connected in-line to the main header at a point outside the landfill footprint, but as close to the manifolds as possible.

The split of costs between Council and the turnkey contractor would need to be determined, as we have reported on system costs, not necessarily Council direct costs. This analysis is general in nature but gives an indication of the implications of various technology combinations. A staged approach would allow the efficacy of each element to be assessed before commitment to higher capital cost items. In the overall context, the items with the highest power and consumables costs became the most expensive and this aspect dominated the initial capital cost differences.

## SYSTEM IMPROVEMENT PROGRAM

### Landfill Gas System Improvement Program

Further to the identification of *ammonium bicarbonate* (ammonium hydrogen carbonate: or teschemacherite,  $(\text{NH}_4)(\text{HCO}_3)$ ), as the principal crystallisation from condensate collection points in the Eastern Gully main gas collection header and elsewhere, a number of operational issues have now been identified. These relate to both addressing the current maintenance requirements arising from blockages and general landfill operational issues, arising from or related to the measured conditions in the landfill gas system.

To reduce the accumulation of crystalline material in the GCS, the following actions is recommended:

- Review the placement and operation of J-Traps;
- Identify and close GCS valves in areas with high ammonia gas;
- Treatment of blockage zones with steam or boiling water; and
- Address Hot Spot identification.

### Review the placement and operation of J-Traps

These are a primary device for condensate and moisture removal from the GCS. The proposed J-Traps have not been sighted during this investigation, although four were proposed for Stage 2 construction by Run Energy. If these are currently covered, there is a need to review their effectiveness and operability to ensure the well heads are protected from excess moisture.

### Identify and close valves in areas with high ammonia gas

For future filling operations it may be prudent to:

- Investigate further the generation of ammonia and its likely sources
- Identify wastes that could cause ammonia generation and separate them.

Wells can be isolated if they have high concentrations of ammonia. This gas can be readily identified using a hand held instrument such as a GasBadge® Pro – Ammonia or equivalent. These instruments can be hired for less than \$100/day and purchased for approximately \$800. If an initial screening was undertaken the wells with high  $\text{NH}_3$  could be identified and the effect assessed at the manifold.

If there is a risk of positive pressure creating liner uplift proprietary one-way ball valves could be fitted to the well heads. Devices such as BaroBall (or equivalent) are low-cost, low maintenance valves that respond to the natural fluctuations of pressure i.e. when the waste mass is under vacuum the well head will be sealed and if the well isolation valve is closed (or the flare shuts down) the positive pressure will lift the valve and allow venting. Unless a biofilter or similar is installed there is a risk of odour release in such cases, but potential for liner uplift should be reduced. This approach will not be effective in the longer term, as methane is required for power generation. Therefore the following approach may be considered.

Ammonia is considered to come from high nitrogen waste sources or leachate from mature methanogenic cells and is likely to be minimised by better leachate control under the liner. It may be necessary to consider the conversion of particular gas wells to dual leachate and gas extraction wells to manage the affected areas.

## Treatment of potential blockages with high-pressure steam or boiling water

The LFG can be allowed to flow freely and the future GCS modified so it can be cleaned out with water or high pressure steam. This approach may be more practical so that the accumulation occurs in locations where the pipe work is easy to access and can be flushed using high-pressure steam or water that is close to boiling point.

At the existing road crossing steam could be directed into the crossing from the inspection pipe next to the road. The effect of the steam (to concentrate around the accumulation) may be improved if the valves either side of road crossing are isolated. The water with dissolved constituents will flow out to the drainage lance and be returned to the waste mass by the pump.

### SWOT Analysis: Steam Cleaning Only

An assessment of the issues associated with stream cleaning maintenance is shown below:

Steam Cleaning	Construction	Operations	Maintenance	Consumables
Strengths	Minor works to inject steam	Applicable to blockages at various locations in header, portable, standard operator training.	Minimal as stainless steel equipment	Water / 240V Electricity Only
Weaknesses	Closure of collection system for short period to install access points.	May overheat thermoplastic pipes and create thermal stresses and pressure de-rating. Capture of ammonia gas and VOC's released.	Specialised maintenance of proprietary steam cleaner.	Need power access at point of use.
Opportunities	Return to leachate system	Mobile unit location flexibility and general cleaning uses.	Minimal	Can add other chemicals to aid cleaning
Threats	Health and safety	Overheating pipes, odorous fugitive emissions	Methane, VOC's and ammonia	Pipeline exposed to higher temperatures

### Hot Spot Investigation

Thermal imaging has been used to identify temperature differences of 1<sup>0</sup>C in cap temperature. It can be useful in this application since the waste is close to the surface. However, confounding factors with this technique can include wind speed and cap cover thickness. Thermal imaging also has the advantage of determining the depth from which higher temperature gas is being produced. However, it is not always conclusive concerning the source of a confined fire.

The best way of monitoring the temperature of the waste is to place a thermocouple or other temperature probe in the well itself for a period of time, should be below ground level to prevent solar heating of the upper well affecting the results. A temperature profile of the well can then be established and course of action taken.

The presence of a hot spot is important due to the potential for piggy-back liner damage by anti-oxidant stripping at higher temperatures. In fact measurements in the gas collection system already exceed a safe margin from the recommended operating temperatures for HDPE (60°C) and LLDPE (71°C). Service life of a liner could be reduced to 20 years under these conditions (60°C), if the reflected landfill ambient temperatures near the liner.

Similarly, stress corrosion cracking of thermoplastic pipes can occur above 60 degrees C, although buried pipes can operate at temperatures to 80 degrees C. PE100/PN10 HDPE pipes used in the gas collection system have a safe working pressure of 88m head at 30 degrees C, but this is reduced to 56m head at 60 degrees C.

## **Operational Works Summary**

The proposed operational works in summary are as follows:

1. Inspect the Eastern Gully gas collection lines, leachate collection and piggyback liner infrastructure to confirm that there is no evidence of leachate springs, leachate saturation, temperature related stress corrosion cracks in pipes or liners, rapid settlement or surface tension cracks over waste areas or fugitive gas emissions from the surface, or around piping.
2. Verify the presence and functionality of the four Run Energy proposed J-Traps, including confirmation that the return pathways to the landfill waste mass are suited to operational objectives. Install an additional J-Trap, if any low point that is not currently drained is identified.
3. Install permanent access ports, for the purpose of monitoring gas vacuum or pressures along the current main header, to aid in the identification of condensate accumulation points and possible blockages.
4. Confirm the grades and vertical profile of the main header by survey to complement the above work and identify any regrading requirements.
5. Bury the existing main header where possible, to better insulate the line and minimise temperature fluctuations and condensate formation. Future headers should also be correctly graded and buried.
6. Isolate any gas collectors with high temperature inputs to the respective well heads (M & N) until the source of such heat is verified. This will also minimise the range of temperatures experienced in the header to avoid excessive thermal expansion/contraction pipe stresses and dew point condensate formation.
7. Install permanent maintenance access ports, if not available already, to allow the trialling of a low pressure dry steam method of clearance for ammonium bicarbonate crystal blockages. Undertake steam clearance in conjunction with Run Energy, as required, to access the effectiveness of this method. Details of the required equipment are enclosed. This equipment is available on a rental or rental purchase basis so its efficacy can be assessed by Council.
8. Consideration should also be given to assessing the potential sub-surface hot spot. This is noted to be evidenced by the presence of hydrogen which is likely to come from a water shift reaction where hydrogen is given off by the reaction of carbon monoxide with water vapour. This assessment can be undertaken in several ways, for example temperature logging in wells and thermal imaging. We

recommend that you undertake a thermal imaging and temperature probe survey of the well-field and gas collection infrastructure, including immediately above the piggyback liner, to identify current liner and landfill operating conditions and any problematic hot spot. There is already direct evidence of high temperatures under the piggyback liner that warrant investigation for operational, health and safety and environmental reasons.

9. For select gas extraction wells with inadequate gas flows or excessive temperature, expose well caps (with hand excavation near the liner) to establish current leachate levels and differential pressure, to determine whether they warrant conversion to dual leachate/gas pumping wells. Both a health and safety and an environmental management plan would be necessary during such work. Repair of the piggyback liner by approved methods would follow on completion. Liquid boot and thermal welding repairs can restore the liner integrity.
10. Review the geotechnical stability factor of safety and service life of the piggy-back liner should be confirmed prior to waste placement at upper levels, in view of the gas pressures, temperatures and cell conditions identified (waste temperature and leachate levels) based on additional leachate investigations to quantify the extent of saturation implied in the gas recovery well area; and the identified high gas pressures and temperature under the piggy-back liner system indicated by this study. The relative humidity in the gas collection lines will also indicate the need or otherwise for capital expenditure on process equipment to remove moisture (and some ammonia) from the gas stream leaving the well heads (manifolds) to further mitigate the crystal formation process, if maintenance requirement remain excessive.

## Capital Works Staging

The staged capital works, subject to whether landfill gas system problems are adequately addressed by the operational works proposed, are as follows:

### Stage1: STANDARD SPECIFICATION LANDFILL GAS DELIVERY

1. Retrofit stainless steel filter pads in existing KOPs to assist with mist elimination by collapsing entrained gas –liquid foam. Review performance.
2. If warranted, install a new Sediment Trap with Drip Tank and a Foam Separator Only. This would be located on the Main Header downstream of existing well heads (manifolds) upstream of KOP2 and be designed to remove particulates and moisture from the gas main header. The design configuration will also likely remove some ammonia as a result of the water spray system used for foam collection. This equipment will reduce condensate production and both the humidity and possibly ammonia content of the main header. This is intended to reduce the long term maintenance requirement in relation to downstream blockages. This equipment would require a pressurised water supply connection to the upper section of the site and connection of waste lines to the leachate collection system.

**Stage 2: PRIMARY LANDFILL GAS PRE-TREATMENT BY THIRD PARTY CONTRACTOR****STANDARD:**

3. Particulates and Moisture Removal, as per standard Australian Landfill Gas Industry Practice. In addition to existing KOPs, there may be a desire for a cyclone for further fine particulate separation after the primary KOP, and chilling or refrigeration methods to remove any uncondensed water vapour to acceptable specification levels, as published by the gas engine equipment manufacturers.
4. Install a granular activated carbon column drum system for hydrocarbon VOCs removal after the foam separator, or after phase separation of condensate hydrocarbons in an oil/water separator, if required.

**Stage 3: SECONDARY LANDFILL GAS PRE-TREATMENT BY THIRD PARTY CONTRACTOR****OPTIONAL:**

5. Install a separate, purpose designed vertical or horizontal packed tower, water based wet scrubber for ammonia removal, to eliminate any remaining ammonia or potential for continuing ammonium bicarbonate formation. This may be warranted to further reduce associated NOx emissions from combustion of ammonia.
6. Hydrogen Sulphide removal by chemical scrubbing. Iron oxide based systems are the simplest of these for landfill applications. Siloxanes precursors have not been identified to date, and siloxane removal is less likely to be needed.

**Stage 4: GAS PRE-TREATMENT FOR HIGH PRESSURE GAS MARKET BY THIRD PARTY CONTRACTOR**

7. Carbon dioxide removal by PSA (pressure swing absorption), using amine based solvents, to produce high energy content pipeline natural gas.

**RISK ASSESSMENT**

A qualitative risk assessment using a method following AS/NZS 33001 was used to assess the risks associated with the preferred remedial option. Risk criteria covered economic, political, social, environmental, community impact and other critical categories. This enabled a risk profile to be developed for the preferred option. That is Option 4. The findings of this assessment are summarised in Table 5.

**Table 5: Risk Assessment Summary****No Action**

	<b>RISK</b>			
<b>CRITERIA</b>	<b>LOW</b>	<b>MEDIUM</b>	<b>HIGH</b>	<b>EXTREME</b>
<b>ECONOMIC</b>	▪ Pipe stresses	▪ Cost of main header and flare	▪ Economic loss due to system	▪ Economic loss due to excessive



	increased	maintenance	downtime	moisture in gas wells or liner service life reduced
<b>POLITICAL</b>		<ul style="list-style-type: none"> <li>Contract disputes possible</li> </ul>	<ul style="list-style-type: none"> <li>Poor image if greenhouse emissions not minimized</li> </ul>	<ul style="list-style-type: none"> <li>Liner replacement unacceptable</li> </ul>
<b>SOCIAL/EMPLOYEES</b>	<ul style="list-style-type: none"> <li>Damaged clothing and PPE costs</li> </ul>	<ul style="list-style-type: none"> <li>Worker concerns about maintenance required</li> </ul>		<ul style="list-style-type: none"> <li>Worker health and safety liability and hydrogen explosion risk</li> </ul>
<b>ENVIRONMENTAL</b>		<ul style="list-style-type: none"> <li>Poor flare and engine performance; condensate released to land</li> </ul>	<ul style="list-style-type: none"> <li>Fugitive emissions while flare not operating due to blockages; high waste oil/condensate management needs</li> </ul>	<ul style="list-style-type: none"> <li>Potential internal combustion not addressed; slope stability issues</li> </ul>
<b>COMMUNITY IMPACT</b>		<ul style="list-style-type: none"> <li>Odour complaints</li> </ul>		<ul style="list-style-type: none"> <li>Hazardous fugitive emissions from hot spots</li> </ul>
<b>MEDIA</b>		<ul style="list-style-type: none"> <li>Odour complaints</li> </ul>	<ul style="list-style-type: none"> <li>Poor image if greenhouse emissions not minimized</li> </ul>	<ul style="list-style-type: none"> <li>Cell failures by various means</li> </ul>

#### With Option 4

	RISK			
CRITERIA	LOW	MEDIUM	HIGH	EXTREME
<b>ECONOMIC</b>	<ul style="list-style-type: none"> <li>Less blockage maintenance</li> </ul>	<ul style="list-style-type: none"> <li>Economic losses from downtime from all sources reduced</li> </ul>	<ul style="list-style-type: none"> <li>Some impact on economic performance due to difficulty of gas well leachate management</li> </ul>	
<b>POLITICAL</b>	<ul style="list-style-type: none"> <li>Consistent feed stream the landfill</li> </ul>	<ul style="list-style-type: none"> <li>Reduced risk of liner impacts and</li> </ul>		

	gas infrastructure and controlled emissions and small CO <sub>2</sub> footprint	slope stability improved		
<b>SOCIAL/EMPLOYEES</b>	<ul style="list-style-type: none"> <li>Controlled emissions of VOCs;</li> <li>Safer routine maintenance with material handling reduced</li> </ul>	<ul style="list-style-type: none"> <li>Safety improved due to reduced blockages and controlled emissions of ammonia and VOCs.</li> </ul>		
<b>ENVIRONMENTAL</b>	<ul style="list-style-type: none"> <li>Improved flare and engine combustion and reduced waste oil disposal cost; All condensate returned to leachate system</li> </ul>	<ul style="list-style-type: none"> <li>Improved management of cell temperature and stability</li> </ul>	<ul style="list-style-type: none"> <li>Primary pre-treatment and combustion may not remove all sensitive constituents, i.e. NO<sub>x</sub> will remain unless ammonia sources eliminated</li> </ul>	
<b>COMMUNITY IMPACT</b>	<ul style="list-style-type: none"> <li>Risk of hazardous emissions reduced</li> </ul>	<ul style="list-style-type: none"> <li>Fugitive odours from steam cleaning are managed by biofilter</li> </ul>		
<b>MEDIA</b>	<ul style="list-style-type: none"> <li>Lower risk of media interest and positive environmental media cover</li> </ul>	<ul style="list-style-type: none"> <li>Cell issues unlikely</li> </ul>		

In conclusion, the proposed interventions in operations and new gas stream pretreatment measures would substantially improve the current landfill gas system and operations risk profile.

## SAFETY DOCUMENTATION AUDIT

As requested, the services included a comprehensive audit of the safety documentation utilized by Run Energy, the current landfill gas system operator. Deficiencies arising in the context of the additional system characterisation undertaken by this study are identified and documented in **Table 6** for Council feedback to the incumbent contractor.

A Material Safety Data Sheet for Ammonium Bicarbonate has been supplied separately to Council to highlight particular issues. In summary, there is little evidence available concerning any chronic health effects. Acute effects can arise from skin or eye contact, inhalation or ingestion. These can be addressed by standard PPE measures. It is noted however that while the salt is neutral and stable at ambient temperatures, it is subject to decomposition into toxic gases at increased temperatures such as encountered in the current gas collection

system and during maintenance where any heat is applied. The salt form of this substance is not readily flammable. The Safe Working Method Statements need to identify the health and safety issues associated with the identified salt, decomposition gases and the condensate associated at this site, in addition to their standard landfill gas issues.

**Table 6:** Audit of Run Energy Safety Documentation

REF	PROCEDURE	CLAUSE	SUGGESTED AMENDMENT
1	JSA_WG KOP Pump Cleaning "Manual Cleaning of KOP"	Task	Add a reference to the possible presence of ammonium bicarbonate salt in solid form and its decomposition gases to the task description
		Task 5	Amend task to include an option for dry steam cleaning method. Also highlight the minimization of hand tool cleaning where possible. Add eye protection and respirator PPE during elevated temperature cleaning.  Review the associated risk assessment to reflect changes. Should become moderate to substantial rather than high with improved cleaning method.  Add a note that fumes of ammonia and VOCs released during cleaning may be toxic and require PPE use.
2	Run Energy SWMS Flare Component Inspection Service Repair_0	As for Ref 1.	
3	Run Energy SWMS Flare Operation Inspection Maintenance	As for Ref 1	

4	Run Energy SWMS Gas Monitoring of Structures, Pits, Bores, Probes & Surface	Risk Assessment /Hazard 3	Expand description of control measures to address fugitive ammonia, VOCs and condensate water vapour.
5	Run Energy SWMS Gas Well Monitoring	Risk Assessment	Under Landfill Gas Hazard, please add reference to the possibility of fugitive ammonia, VOCs and flammable hydrogen gas release under positive pressure when flare not operating.
		Procedure 4	Amend procedure to indicate temperature probes should be used in preference to estimated temperatures under this item, given the possible hot spots present.
6	Run Energy SWMS General Inspections and Tasks	Risk Assessment/Hazardous substances	Add reference to fugitive gases released to atmosphere from steam cleaning header to remove condensate or salt blockages
7	Run Energy SWMS Landfill Incidents (Landfill Fire and Leachate Spills)	Landfill Fire	This procedure shall be applicable to investigation of elevated temperatures being detected at any manifold with the isolation of wells recording over 50 degrees C for further investigation.
8	Run Energy SWMS Leachate Pump and Well Activities	PPE	Site Specific PPE

			mentioned is deemed to include provision for respiratory protection whether contact with salt decomposition fumes or vapour is possible. All condensate handling should prevent skin and eye contact.
9	Run Energy SWMS Working Alone v2_0	Scope	Note this procedure does not include steam cleaning of the main gas header to remove crystalline blockages due to the risk level of associated ammonia and VOC releases being more than low risk.

## RECOMMENDATIONS

Further to a specialist investigation of the landfill gas system at Whyte's Gully Landfill for Wollongong City Council it is recommended that:

1. Council focus on the management of ammonium bicarbonate salt formation in the landfill gas system in the first instance by addressing all source based contributing factors, in preference to capital intensive gas treatment options at the landfill gas equipment enclosure;
2. This report has identified a number of integral landfill operational management issues that are contributing factors to the salt formation mechanism, and these each need to be addressed to minimise the ammonia and water vapour, foam and liquid slugs in the system. This includes several further minor environmental investigations that could either be undertaken by Council or consultants;
3. An unacceptable level of risk is associated with the status quo approach, including several extreme risks, due to potentially high hazard consequences. Therefore, a long term solution is an essential pre-requisite to allocating future risk between a turnkey contractor and Council for any permanent landfill gas use project;
4. Council prioritise the reduction of hydrogen gas, high temperature, ammonia and leachate in the landfill gas system to mitigate potentially extreme associate hazards;
5. Subject to a satisfactory trial, Council to procure steam cleaning equipment for the purpose of efficiently clearing out any condensate related blockages thought out the landfill gas system;

6. Arrange for the retrofitting of stainless steel filter pads to the existing KOPs as demisters to reduce particulate carryover to the gas plant;
7. Install a simple mulch filled bio-filter for treating residual vapour emissions from the gas header during steam cleaning before release to the atmosphere;
8. If deemed necessary after operational changes suggested, procure a proprietary sediment trap with drip tank and foam separator pressure vessel, to treat all gas in the main header as close to the existing manifolds as practicable. Arrange for the necessary foundations and water supply connection and wastewater piping connections to the leachate system on site;
9. Review gas main header grading and alignment to minimise condensate generation points;
10. Characterise any sediments accreting in the system deemed to comprise material other than ammonium bicarbonate, as required; and
11. Characterise the gas stream trace elements present before and after to the recommended works to confirm standard engine feed gas quality standards are attained.

We would be pleased to discuss any aspect of our reports with you as required.

Allan Boase

Director

**IMPACT BLUE PTY LTD**

**31/08/15**

## ATTACHMENT 1: RFI SPREADSHEET

RFI No.	RFI	Party to Action	WCC Response	Impact Blue Notes	Closed Out (Y/N)
1	Timeline of piggyback liner construction versus well construction and chronology of events/observations to date	BH	Construction program issued 8/4/15 including well construction timings. Chronology of events/observations to date to be developed with Waste Services input	Sufficient comment provided.	Yes
2	Approximate filling volumes in the western cell before piggyback liner placed	SB/WP	See email to BH 3:23pm 13/04/2015. Is Impact Blue interested in waste data beneath the piggy back liner (eastern gully) or also the western gully?	Should say eastern gully	Yes
3	Types of waste placed in the said cell. Particularly including inert waste such as concrete, gypsum wallboard, etc., if any	SB/WP	See email to BH 3:31pm 13/04/2015. As specified in RFI no. 2, is Impact Blue interested in eastern gully or western gully?	Data required is eastern gully waste data, below piggyback liner. Question was prepared before site visit.	N
4	Nature and chemical composition of daily and intermediate cover used. Was it soil or slag material?	SB/WP	See email to BH 3:56pm 13/04/2015	Reply is sufficient	Yes
5	Leachate quality at the time the gas wells were installed and current. Are all wells showing methanogenic behaviour or are some still acidogenic	SB/WP	See email to BH 4:00pm 13/04/2015 requesting more information	Monitoring data supplied. Is there a map showing monitoring locations. Any information on the percent methane at time of installation would indicate methanogenic conditions status.	N
6	Type and source of soil gas well granular packing material around screens in wells causing problems	BH	Well installation logs issued 8/4/15. Granular fill material specs need to be requested from RUN Energy	Sufficient information provided.	Yes
7	Any photos from knock out pots during maintenance. Any bench test results on crystalline material apart from lab results provided	SB/WP	See email to BH 4:26pm 13/4/15	Awaiting some more photos that Run Energy had on their laptop at site visit.	N
8	Copies of reports or memos relating to the problem since installation	-	Discussed in meeting that no formal documentation of issue has been prepared (only anecdotal). See email to BH 4:26pm 13/4/15	OK	Yes
9	Surface gas readings in well field area affected, including hydrogen sulphide	SB/WP	Some surface gas data provided in the email email to BH 4:26pm 13/4/15. Not as specific as including details of Hydrogen Sulphide, just regarding Methane levels exceeding threshold	Sufficient data provided.	Yes
10	Current operating status of flare, KOPs, collector and well manifolds and headers	-	Discussed in meeting that system is operating intermittently	OK	Yes
11	Involvement of the regulator, if any, to date	-	Regulator has not been involved	OK	Yes
12	Gas Contractor recommendations for improvement	-	Advised RUN Energy has not experienced issue before. Alternative contact provided to Impact Blue indicating potentially siloxane	Information sufficient. Follow-up proposed.	Yes
13	A1 or A3 size drawings of infrastructure and site layout, including gas well coordinates and RL	BH	Issued 8/4/15	OK	Yes
14	Any details of leachate levels in cell or wells and variations over time	BH	Details of leachate levels at gas well installation provided in email 8/4/15. Leachate levels in cell or wells over time unknown	Responses noted	Yes
15	Leachate flow monitoring results for past twelve months. Dates of major wet weather events in same period	SB/WP	See email to BH 4:26pm 13/4/15	Sufficient data provided.	Yes

## APPENDICES

### A. Literature Review

Refer Separate Dropbox File

### B. Sampling & Analysis Plan (SAP)

Refer Separate Dropbox File

### C. Health, Safety and Environment Plan (HSaEP)

Refer Separate Dropbox File

### D. Laboratory Analytical Results

Refer Separate Dropbox File and MSDS

## E. Operational Management Findings

Refer Attached Recommendations and Separate Dropbox File

### REMEDIAL OPERATIONAL WORKS

The proposed operational works in summary are as follows:

1. Inspect the Eastern Gully gas collection lines, leachate collection and piggyback liner infrastructure to confirm that there is no evidence of leachate springs, leachate saturation, temperature related stress corrosion cracks in pipes or liners, rapid settlement or surface tension cracks over waste areas or fugitive gas emissions from the surface, or around piping.
2. Verify the presence and functionality of the four Run Energy proposed J-Traps, including confirmation that the return pathways to the landfill waste mass are suited to operational objectives. Install an additional J-Trap, if any low point that is not currently drained is identified.
3. Install permanent access ports, for the purpose of monitoring gas vacuum or pressures along the current main header, to aid in the identification of condensate accumulation points and possible blockages.
4. Confirm the grades and vertical profile of the main header by survey to complement the above work and identify any regrading requirements.
5. Bury the existing main header where possible, to better insulate the line and minimise temperature fluctuations and condensate formation. Future headers should also be correctly graded and buried.
6. Isolate any gas collectors with high temperature inputs to the respective well heads (M & N) until the source of such heat is verified. This will also minimise the range of temperatures experienced in the header to avoid excessive thermal expansion/contraction pipe stresses and dew point condensate formation.
7. Install permanent maintenance access ports, if not available already, to allow the trialling of a low pressure dry steam method of clearance for ammonium bicarbonate crystal blockages. Undertake steam clearance in conjunction with Run Energy, as required, to access the effectiveness of this method. Details of the required equipment are enclosed. This equipment is available on a rental or rental purchase basis so its efficacy can be assessed by Council.
8. Consideration should also be given to assessing the potential sub-surface hot spot. This is noted to be evidenced by the presence of hydrogen which is likely to come from a water shift reaction where hydrogen is given off by the reaction of carbon monoxide with water vapour. This assessment can be undertaken in several ways, for example temperature logging in wells and thermal imaging. We recommend that you undertake a thermal imaging and temperature probe survey of the well-field and gas collection infrastructure, including immediately above the piggyback liner, to identify current liner and landfill operating conditions and any problematic hot spot. There is already direct evidence of high temperatures under the piggyback liner that warrant investigation for operational, health and safety and environmental reasons.
9. For select gas extraction wells with inadequate gas flows or excessive temperature, expose well caps (with hand excavation near the liner) to establish current leachate levels and differential pressure, to determine whether they warrant conversion to dual leachate/gas pumping wells. Both a health and safety and an environmental management plan would be necessary during such work. Repair of the piggyback liner by approved methods would follow on completion. Liquid boot and thermal welding repairs can restore the liner integrity.
10. Review the geotechnical stability factor of safety and service life of the piggy-back liner should be confirmed prior to waste placement at upper levels, in view of the gas pressures, temperatures and cell conditions identified (waste temperature and leachate levels) based on additional leachate investigations to quantify the extent of saturation implied in the gas recovery well area; and the identified high gas pressures and temperature under the piggy-back liner system indicated by this study. The relative humidity in the gas collection lines will also indicate the need or otherwise for capital expenditure on process equipment to remove moisture (and some ammonia) from the gas stream leaving the well heads (manifolds) to further mitigate the crystal formation process, if maintenance requirement remain excessive.



## 2. Purchase:

The outright purchase price of this equipment is \$3,000.00 for 4.5 bar and \$4,500.00 for 8 bar.

**Alphaclean Australia**

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 266 Evans Rd  
 PO BOX 228  
 Salisbury QLD 4107  
[www.alphaclean.com.au](http://www.alphaclean.com.au)  
 E-Mail: [mail@alphaclean.com.au](mailto:mail@alphaclean.com.au)  
 Phone: 1300 655 598 Fax: 1300 733 398

**Proposal For**

Impact Blue Pty Ltd  
 Brisbane QLD  
 Australia

**Proposal**

Date 4/8/2015  
 Proposal # PR003127

ABN #  
 Valid Until 2/9/2015  
 Currency AUD  
 Terms Prepaid

**Alphaclean Banking Details**

Westpac  
 BSB: 034-013  
 ACC: 324907  
 Please email [remittances@alphaclean.com.au](mailto:remittances@alphaclean.com.au)

Item Code	Qty	Units	Description	Price	Amount	Tax Amt	Total Amt
S04500	1		Commercial 4.5 Bar Steam only system, (240V - 10 amp) with continuous fill boiler in stainless steel frame & body including various tools & accessories	2,807.00	2,807.00	280.70	2,867.70
S08000	1		Commercial 8 Bar Steam only system, (240V - 10 amp) with continuous fill boiler in stainless steel frame & body including various tools & accessories	3,890.00	3,890.00	389.00	4,279.00
Freight	1		Freight per item to Woolongong	95.00	95.00	9.50	104.50

Subtotal 6,592.00  
 Tax 659.20  
 Total \$7,251.20

Provision of the goods and/or services, the subject of this invoice is governed by Alphaclean's Terms and Conditions of Trade, which can be found at <http://alphaclean.com.au/terms.pdf> or provided on request. By accepting our goods and/or services, you are deemed to have accepted Alphaclean's Terms and Conditions of Trade, and agree to be bound by them.

Should Council choose to rent and trial before purchase, Alphaclean's representative John Parker has indicated that the rental amount would be deducted from the above purchase price.

4.5 BAR: SO4500 DATA SHEET

SO4500



SO4500

Steam Only

- Commercial/Industrial 4.5 bar pressure steam only cleaning system
- Designed for heavily soiled areas requiring cleaning utilising steam only.
- This machine is durable, lightweight and compact featuring a continuous fill boiler system to save time.
- Made from a stainless steel construction featuring a continuous fill boiler system allowing refill at any time during operation.
- Full steam, detergent & vacuum tool kit standard

TECHNICAL DATA

POWER SOURCE:  
Electric

DETERGENT TANK:  
N/A

WEIGHT:  
12kg

DIMENSIONS:  
420(l) x 320(w) x 460(h)

WATER FEEDING:  
5L Continuous

WATTAGE:  
2000W

BARS:  
4.5

VACUUM TANK:  
N/A

For more information please visit [www.alphaclean.com.au](http://www.alphaclean.com.au).



ACCESSORIES / PARTS

PART NO.	ACCESSORY / PART
199M00000	4 Metre Steam Only Hose
199M00015	Floor Brush
199M00020	Triangular Brush
199M00025	Long Steam Nozzle
199M00040	Curved Nozzle
199M00050	Detail Brush-Nozzle
199M00057	*Nylon Brushes Pack of 10
199M00062	*Steel Brushes Pack of 10
199M00075	30mm Round Brush

## 8.0 BAR: SO8000 DATA SHEET

SO8000



**SO8000** The SO8000 is a commercial/industrial 8 bar pressure steam only cleaning system

- Powerful, 8 bar medical steam cleaning machine which has been designed and built specifically for Commercial/Industrial use.
- Made from a stainless steel construction featuring a continuous fill boiler system allowing refill at any time.
- Steam regulation via internal control mechanism.
- Environmentally friendly and has been certified in removing many super bugs including MRSA.
- Full Steam tool kit as standard

**TECHNICAL DATA**

 <b>POWER SOURCE:</b> Electric	 <b>DETERGENT TANK:</b> N/A	 <b>WEIGHT:</b> 25kg	 <b>DIMENSIONS:</b> 550(l) x 400(w) x 580(h)
 <b>WATER FEEDING:</b> 5L Continuous	 <b>WATTAGE:</b> 3000W	 <b>BARS:</b> 8	 <b>VACUUM TANK:</b> N/A

For more information please visit [www.alphaclean.com.au](http://www.alphaclean.com.au)



**ACCESSORIES / PARTS**

PART NO.	ACCESSORY / PART
199M00800	4 Metres Steam Only Hose
199M00810	Extension Tubes a 2metre each machine
199M00815	Floor Brush
199M00820	Triangular Brush
199M00825	Large Brush Elbow
199M00830	Whisker Squeegee
199M00840	Detail Brush Nozzle
199M00857	*Nylon Brushes Pack of 10
199M00862	*Steel Brushes Pack of 10
199M00875	Screen Round Brush

## Treatment Methods

### Other Technical Details of Interest

**Ammonium bicarbonate**, a compound with formula  $\text{NH}_4\text{HCO}_3$ , also called bicarbonate of ammonia, ammonium hydrogen carbonate, hartshorn, or powdered baking ammonia, is the bicarbonate state of ammonia.

Ammonium bicarbonate is sometimes formed commercially by passing carbon dioxide through a solution of the normal compound, when it is deposited as a white powder, which has no smell and is only slightly soluble in water. The aqueous solution of this salt liberates carbon dioxide on exposure to air or on heating, and becomes alkaline in reaction. The aqueous solutions of all the carbonates when boiled undergo decomposition with liberation of carbon dioxide and the substance with which the carbonate ion reacted to form the bicarbonate, in this case, ammonia.

At room temperature, ammonium bicarbonate is a white, crystalline powder with a slight odour of ammonia that can dissolve in water to give a mildly alkaline solution. It is however insoluble in acetone and alcohols. Ammonium bicarbonate decomposes progressively above  $36^\circ\text{C}$  into ammonia, carbon dioxide and water vapour in an endothermic process (as it is with many ammonium salts), and so causes a drop in the temperature of the water. When reacted with acids, carbon dioxide is produced, while reactions with alkalis give ammonia. Ammonium bicarbonate also occurs when  $\text{CO}_2$  is introduced into an aqueous ammonia solution at temperatures between  $35$  and  $40^\circ\text{C}$ , as for the landfill gas system. (Source: Hollemann Wiberg – Lehrbuch der anorganischen Chemie [~ Textbook of Inorganic Chemistry]).

### Condensate Management (Cedar Hills Landfill, USA)

“In a wet landfill, at least as much design work in the gas collection system must go into removing water as in conveying the gas itself. All pipes must be sloped toward condensate drains. Our criteria are that all pipe on waste (that is, subject to settlement) should be sloped at least 2.5%; and that all pipes outside of waste (for example, the perimeter headers) must be sloped at least 1%. Condensate is either drained directly, through gas-tight traps, or pumped to the leachate collection system. There is no maximum-length criterion for the distance between condensate drains; in fact, King County strives to minimize the number of drain points (low points) by maximizing the length of pipe slopes. Site geometry constrains the length of pipe slopes that meet the above-minimum slope criterion.

In a wet landfill, there will be excessive “free water” entrained in the gas stream as droplets of various sizes, in addition to water vapor that condenses out as the gas cools in the header pipes. The free water must be removed before the gas stream enters the blowers, or it will damage the blowers. The size of the droplets and corresponding total mass flow of water that can be entrained depend on the gas velocity in the header pipe. At a large, wet landfill like Cedar Hills, which produces 9,500 scfm of gas, the typical simple knockout pot installed by rule of thumb in a typical gas collection system is not adequate. The original system knockouts experienced bypass problems, including both water and particulate matter from the

landfill that clogged the flare burner heads. These problems were solved with the installation of fiberglass cyclonic water knockouts”.

Source: King County, Washington USA Brochure on Cedar Hills Landfill

As described in this report, treatment methods will focus on limiting the key components causing the formation of Ammonium bicarbonate;  $H_2O$ ,  $NH_3$  and  $CO_2$  within the LFG. Due to the formation of VOCs (including Benzene) within the LFG, a potential occupational hazard is present to operators undertaking maintenance activities on the LFG collection system thus the removal of VOCs is considered as a potential tertiary treatment stage.

## Removal of $H_2O$

Typical primary moisture reduction methods implemented in LFG treatment and processing facilities include knockout devices (KOPs and Coalescing Filters). If necessary, a secondary moisture reduction treatment system could be installed typically employing chilling, drying and compression systems.

### LFG Condensate Traps

LFG condensate traps collect and drain condensate from the collection system. Condensate collected in traps may be drained back to the landfill (where allowed) or to a collection sump or container. Condensate traps come in many configurations. All employ a basic principle known in the refinery/chemical process and wastewater treatment industries as the “liquid” or “loop seal.” A loop seal relies on liquid head pressure to overcome any countervailing force and maintain a seal.

A common trap known in the industry is the “J” or 44P” style condensate trap. These are often fitted with a sealing check valve to seal the system and maintain vacuum in case the liquid seal is lost. Another is known as a “bucket” trap. These basically overflow into a SUMP or container or through a gravel pack and back into the landfill.

Condensate blockages are most frequently caused by differential settlement. Likely locations for condensate blockage are in horizontal collectors themselves, at low points along the main gas collection headers and at buried road crossings. Often the operator can detect surging or “gurgling” noises in the piping, absence of flow, or fluctuations in pressure readings. With above ground system, it is possible to listen to the sound of gas flowing. Below grade systems can be listened to at access ports, condensate traps and road crossings.

Blockages may be isolated by taking a pressure profile across the system by measuring and recording system vacuum at access ports throughout the system and bracketing to isolate the problem. An excessive pressure drop between any two access ports may indicate a potential problem.

### In-line Knockouts

Condensate KOPs slow the gas velocity sufficiently for gravity settling or “knock-out” of liquids to occur. The liquid can then be drained or pumped to a discharge storage tank. The gas travels through the gas outlet at a design velocity, minimizing the entrainment of any moisture in the vapour. KOPs could be installed as a primary moisture treatment method prior to the LFG reaching the manifold M and N.

The inline knockout is a relatively large liquid separator vessel that is, as the name implies, installed inline in a segment of piping and entrained liquid. The inline knockout employs the principles of a separator vessel or demister to remove the entrained liquids. The liquid may be drained back into the landfill, collected in sumps or pumped. An advantage of the in-line knockout is that it can be used in situations where there is little or no slope in the LFG piping.

### Coalescing filters or foam separators

A Coalescing Filter is a mechanical process vessel with a wettable, high-surface area packing on which liquid droplets consolidate for gravity separation from a second phase (for example gas or immiscible liquid), where small particles of one phase must be separated or removed from a large quantity of another phase. The coalescers might be designed vertically or horizontally.

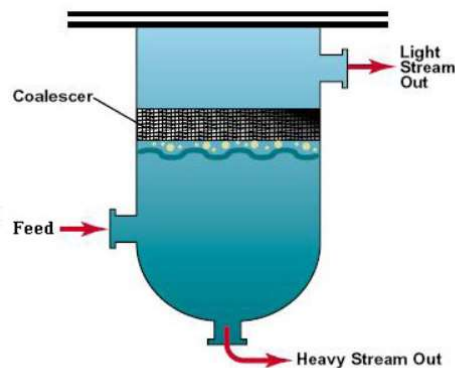


FIGURE 1: VERTICAL COALESCER UNIT

([http://kolmetz.com/pdf/EDG/ENGINEERING\\_DESIGN\\_GUIDELINE\\_coalescer\\_Rev01web.pdf](http://kolmetz.com/pdf/EDG/ENGINEERING_DESIGN_GUIDELINE_coalescer_Rev01web.pdf))

### Chilling, drying and compression

Dependant on the design and efficiency of the primary moisture treatment removal system, a secondary chilling, drying and compression treatment system may be employed to further reduce LFG moisture content. Cooling LFG causes condensation of the water vapor, resulting in dehumidification. The condensate is separated out in a trap installed after the cooling equipment and removed via a siphon or pump. Chlorinated and halogenated compounds and other water-soluble compounds are also removed with condensate. (International Best Practice Guide for LFGE projects, 2012)

Gas compression prior to cooling serves to further dehydrate the air. Gas compression is commonly specified by the distance to the energy recovery systems and by their input pressure requirements. As no energy recovery is employed at the site, gas compression would not be possible at this phase in the project.

([https://www.globalmethane.org/documents/toolsres\\_lfg\\_IBPGch4.pdf](https://www.globalmethane.org/documents/toolsres_lfg_IBPGch4.pdf))

## Desiccants

Moisture reduction by the utilization of materials with affinity of water could also be used, including:

- Glycol
- Silica gel
- Sorbead
- Alumina
- Molecular sieves

## CONDENSATE TREATMENT AND DISPOSAL

Depending upon condensate contaminants, treatment may be simple (pH adjustment or oil water separation) or complex. LFG condensate may consist of two phases, an aqueous (water based) and a hydrocarbon (organic solvent and oil based) phase. There are a number of options for treatment and disposal of LFG condensate. These include:

1. Return to the landfill unit
2. Physical and chemical treatment
3. Biological treatment
4. Discharge to water reclamation (for irrigation)
5. Discharge into the leachate collection and disposal system
6. Recycling (the hydrocarbon phase as waste hydrocarbon or oil)
7. Disposal to sanitary sewer
8. Disposal to a Publicly Owned Treatment Works (POTW)
9. Disposal to a Class I (hazardous) treatment, storage and disposal
10. (TSD) facility
11. Treatment by advanced oxidation potential (AOP) also- known as ultra-violet (UV) and ozone treatment
12. Destruction by combustion in a LFG flare or incinerator.

## Gas drying, ammonia separation

Various methods can be used to reduce the water content (gas-moisture content) in a fuel gas. Although cyclone separators and demisters can be used primarily to remove entrained droplets and condensate that has already formed, ammonia can be further separated by absorption, for example. Ammonia is readily soluble in water, so that scrubbing with water will achieve very high separation rates.

These two tasks, gas drying and ammonia removal, can be implemented in combination by scrubbing the gas and cooling the wash water. Tests using this method has shown very good results as regards separation rate, gas drying and a positive effect on engine availability. A wet scrubber plant is constructed as a reverse-flow scrubber in a packed column. It performs the following functions:

- Gas drying:

- Gas scrubbing: absorption of gas components (NH<sub>3</sub>) and separation of dust and aerosols.

### Wet Scrubbers

The most common add-on control device used to control ammonia emissions is the wet scrubber which employs the method of absorption. Through absorption, gaseous material is collected through direct contact with a scrubbing liquid, which is usually water. The success of the scrubber is dependent on the solubility of a gas in the scrubbing liquor. Since ammonia is highly soluble in water, the wet scrubber is effective in controlling ammonia emissions. Control efficiencies up to 99% have been demonstrated in actual applications. Ammonia gases are most effectively treated by packed column or cross-flow scrubbers, with a crossflow scrubber merely being a packed column scrubber in which the gas flow is horizontal. Packed column scrubbers are continuous operating vertical columns filled with packing material having a large surface area.

The counter current packed column is the most common unit employed for gaseous removal. In this unit, the gas stream ascends through the packing material in the column, while the scrubbing liquid moves downward, resulting in the highest efficiency possible. This high efficiency results from the decreasing solute concentration in the gas stream as it rises, thereby providing fresher solvent for contact. The crossflow scrubber is a horizontal unit in which the gas stream moves horizontally through the packing material and the scrubbing liquor moves downward through the unit. Such units have a low water consumption and a high airflow capacity at a low pressure drop.

Physical absorption depends on properties of the gas stream and liquid solvent, such as density and viscosity, as well as specific characteristics of the pollutant(s) in the gas and the liquid stream (e.g., diffusivity, equilibrium solubility). These properties are temperature dependent, and lower temperatures generally favour absorption of gases by the solvent. Absorption is also enhanced by greater contacting surface, higher liquid gas ratios, and higher concentrations in the gas stream (EPA, 1991). Chemical absorption may be limited by the rate of reaction, although the rate-limiting step is typically the physical absorption rate, not the chemical reaction rate.

The advantages associated with using a wet scrubber include relatively small space requirements, ability to collect gases, ability to handle high-temperature and high-humidity gas streams, and a low capital cost if wastewater treatment is not required. Facilities may or may not be required to treat their scrubber effluent, depending on the locality. Some areas allow the discharge of such effluents directly to the wastewater treatment plant without requiring prior treatment of the water by the facility. Other areas on the other hand require the facility to treat its own process water.

The disadvantages associated with the use of wet scrubbers include a possible water disposal problem, possibility of high pressure drop and horsepower requirements, and corrosion of the unit. Since the wet scrubber has a high corrosion potential, the unit is usually made of stainless steel or another corrosion-resistant material to prevent this from happening. Control efficiencies up to 99% have been demonstrated in actual applications. Refer to <http://www.epa.gov/ttnca1/dir1/ammonia.pdf> for details.



## CO<sub>2</sub> Removal

Generally speaking, there are only three CO<sub>2</sub> removal processes being used on landfill gas or biogas:

- Solvent Extraction (Selexol & Kryosol)
- Pressure Swing Adsorption (PSA)
- Membrane Separation

## Volatile Organic Compounds Removal

The recommended treatment processes to remove VOCs is described in the table below. The selection is depending on complex local conditions and context. The use of activated carbon is the most common for vapour phase applications. Gas streams must be dried before the use of activated carbon treatment, so it is usually a tertiary treatment method.

	Low VOC levels	High VOC levels	Continuous loads	Intermittent loads	Halogenated Organics	Temp >60°C	Temp <60°C	High Flows	Low Flows	High Humidity	Inorganic Particles
Activated Carbon	•		•	•	•		•	•	•		
Thermal Oxidation		•	•			•			•	•	
Scrubbers	•	•	•			•	•	•	•		
Particulate Filters			•	•			•			•	•
Catalytic Oxidation		•	•			•			•	•	

## DURKIN LEGEND

WM	Water Main (WM)
WH	Water House Connection (WH)
WR	Water Main - Recycled (RM)
WS	Water Supply - Digitised (WZ)
UP	Unidentified Pipeline (UP)
EO	Electric Line Overhead - Digitised
EU	Electric Line Underground (EU)
EZ	Electric Line Underground - Digitised (EZ)
GH	Gas House Connection (DG)
HG	Gas Main - High Pressure (HG)
LG	Gas Main - Low Pressure (LG)
GZ	Gas Main - Digitised (ZG)
US	Stormwater Pipe - Unspecified Ø (UJ)
225	Stormwater Pipe - 225 Ø (U1)
DZ	Stormwater Pipe - Digitised (DZ)
WC	Watercourse (Approximate route-indicative only)
DF	Drainage Flow Direction
S	Sewer Main (SM)
SZ	Sewer Main - Digitised (SZ)
T	Telstra - Telephone Line (TN)
TZ	Telstra - Telephone Line - Digitised (TZ)
OU	Optical Fibre (OU)
OZ	Optical Fibre - Digitised (OZ)
UTT	Unable To Trace
UTL	Unable To Lift
EOT	End Of Trace
WSV	Water Stop Valve
WH	Water Hydrant
ECM	Electricity Cable Manhole
SLP	Street Light Pole
P&SLP	Power & Street Light Pole
EJB	Electrical Junction Box
TSC	Traffic Signal Controller
GM	Gas Marker
GP	Gully Pit
SM	Sewer Manhole
TCM	Telstra Concrete Pit
TDP	Telstra Distribution Pillar
OF	Optic Fibre Pit

**Quality Levels of Sub-Surface Utility Investigation (SUI) AS 5488-2013**  
(Reproduced with permission from [SAI Global](#) under licence number 1610-c097)

**Quality Level A (QL-A):** Quality level A is the highest quality level and consists of the positive identification of the attribute and location of a subsurface utility at a point to an absolute spatial position in three dimensions. It is the only quality level that defines a subsurface utility as 'validated'. Where the whole line segment cannot be verified by line of sight, quality level A shall not be attributed to the line segment between validated points. The vertical information for this locating method is to the top or shallowest part of the located service.  
Horizontal and Vertical Tolerance: -/+ 50mm

**Quality Level B (QL-B):** Quality level B provides relative subsurface feature location in three dimensions. The minimum requirement for quality level B is relative spatial position.  
Information is collected by designating the horizontal and vertical location of underground utilities by using electromagnetic pipe and cable location, sondes or flex track, ground penetrating radar and acoustic pulse equipment.  
Horizontal Tolerance: -/+ 300 mm  
Vertical Tolerance: -/+ 500 mm

**Quality Level C (QL-C):** Quality level C is described as a surface feature correlation or an interpretation of the approximate location and attributes of a subsurface utility asset using a combination of existing records (and/or anecdotal evidence) and a site survey of visible evidence. The minimum requirement for quality level C is relative spatial position.  
Information is collected by correlating the survey of visible utility surface features such as marker plates or water hydrants and acquired dual-before-you-dig plans to 'draw' a string which shows the approximate position of services.  
Horizontal Tolerance of Surface Features: -/+ 300 mm

**Quality Level D (QL-D):** Quality level D is the lowest of the four quality levels. The attribute information and metadata of a subsurface utility can be compiled from any, or a combination of the following:  
(a) Existing records.  
(b) Casualty site inspection.  
(c) Anecdotal evidence.

## DRAWING STATUS

Final

Plan Rego.:



DURKIN Construction Pty Ltd  
3/50-52 Derby Street  
Silverwater NSW 2128  
Ph (02) 9712 0308  
Fax (02) 9712 0308  
[www.durkinconstruction.com.au](http://www.durkinconstruction.com.au)

## CLIENT

NSW Public Works

Project Title: Utility Survey at:

113 Reddalls Rd, Kembla Grange

## DRAWING DETAIL

QL-B Utility Plan

LOCATED BY: LM	DATE
SURVEYED BY: MP	06-12-2016
DRAFTED BY: CN/MH	SCALE
CHECKED BY: LM/MP/MH	NTS
DRAWING NUMBER	SHEET NUMBER
D7347/2	1 / 8
	REVISION
	3

SHEET 4

SHEET 3

SHEET 2

SHEET 8

SHEET 6

SHEET 5

SHEET 7

Electronic Sub-surface Utility Information (SUI) detection techniques such as EM & GPR are influenced by Sub-Surface Utility (SSU) type & ground conditions. Best practice detection rates are 80-90% and depth accuracy ranges between +/- 300mm for 90% of readings with significant outliers for the remainder.

All sub-surface utilities shown on this plan are of quality level-B (AS-5488) unless otherwise stated.

Co-ordinate/Height System (Utilities and Aerial): MGA/AHD

Telstra depths are indicative and to be used for design purposes only.  
Telstra Guidelines regarding potholing must be followed prior to any construction works.  
Telstra pipes, conduits and banks may contain optical fibers from other asset owners (e.g. Optus).

Storm Water assets are QL-A at SW Pits unless the pipes have not been accessible (pits full of dirt, rusted gatic lids, etc.) and QL-C between pits. Storm Water pipes have been shown where the judgment could be made based on the location of the SW surface features. In some areas, it's impossible to work out the alignments as the SW pipes bend and change directions. If the exact route of the SW pipes is needed for design purposes, a comprehensive drainage survey using CCTV techniques is required to confirm the alignments and connectivity.  
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Watercourses are not surveyed and are indicative only.

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## DURKIN LEGEND

WM	Water Main (WM)
WHC	Water House Connection (WHC)
WR	Water Main - Recycled (RM)
WZ	Water Supply - Digitised (WZ)
UP	Unidentified Pipeline (UP)
EL	Electric Line Overhead-Digitised
EU	Electric Line Underground (EU)
EZ	Electric Line Underground - Digitised (EZ)
GH	Gas House Connection (DG)
HG	Gas Main - High Pressure (HG)
LG	Gas Main - Low Pressure (LG)
GZ	Gas Main - Digitised (ZG)
US	Stormwater Pipe - Unspecified Ø (UU)
225	Stormwater Pipe - 225 Ø (U1)
DZ	Stormwater Pipe - Digitised (DZ)
WC	Watercourse (Approximate route-indicative only)
DF	Drainage Flow Direction
S	Sewer Main (SM)
SZ	Sewer Main - Digitised (SZ)
T	Telstra - Telephone Line (TN)
TZ	Telstra - Telephone Line - Digitised (TZ)
OU	Optical Fibre (OU)
OZ	Optical Fibre - Digitised (OZ)
UTT	Unable To Trace
UTL	Unable To Lift
EOT	End Of Trace
WSV	Water Stop Valve
WH	Water Hydrant
ECM	Electricity Cable Manhole
SLP	Street Light Pole
PSLP	Power & Street Light Pole
EJB	Electrical Junction Box
TSC	Traffic Signal Controller
GM	Gas Marker
GP	Gully Pit
SM	Sewer Manhole
TMCP	Telstra Concrete Pit
TDP	Telstra Distribution Filler
OPF	Optic Fibre Pit

Quality Levels of Sub-Surface Utility Investigation (SUI) AS 5488-2013  
(Reproduced with permission from SAI Global under licence number 1610-c097)

**Quality Level A (QL-A):** Quality level A is the highest quality level and consists of the positive identification of the attribute and location of a subsurface utility at a point to an absolute spatial position in three dimensions. It is the only quality level that defines a subsurface utility as 'validated'. Where the whole line segment cannot be verified by line of sight, quality level A shall not be attributed to the line segment between validated points. The vertical information for this locating method is to the top or shallowest part of the located service.  
Horizontal and Vertical Tolerance: -/+ 50mm

**Quality Level B (QL-B):** Quality level B provides relative subsurface feature location in three dimensions. The minimum requirement for quality level B is relative spatial position. Information is collected by designating the horizontal and vertical location of underground utilities by using electromagnetic pipe and cable location, sondes or floor trace, ground penetrating radar and acoustic pulse equipment.  
Horizontal Tolerance: -/+ 300 mm  
Vertical Tolerance: -/+ 500 mm

**Quality Level C (QL-C):** Quality level C is described as a surface feature correlation or an interpretation of the approximate location and attributes of a subsurface utility asset using a combination of existing records (and/or anecdotal evidence) and a site survey of visible evidence. The minimum requirement for quality level C is relative spatial position. Information is collected by correlating the survey of visible utility surface features such as marker plates or water hydrants and acquired dial-before-you-dig plans to "draw" a string which shows the approximate position of services.  
Horizontal Tolerance of Surface Features: -/+ 300 mm

**Quality Level D (QL-D):** Quality level D is the lowest of the four quality levels. The attribute information and metadata of a subsurface utility can be compiled from any, or a combination of the following:  
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(b) Curatory site inspection.  
(c) Anecdotal evidence.

## DRAWING STATUS

Final

Plan Rego.:



DURKIN Construction Pty Ltd  
3/50-52 Derby Street  
Silverwater NSW 2128  
Ph (02) 9712 0308  
Fax (02) 9712 0308  
www.durkinconstruction.com.au

## CLIENT

NSW Public Works

Project Title: Utility Survey at:

113 Reddalls Rd, Kembla Grange

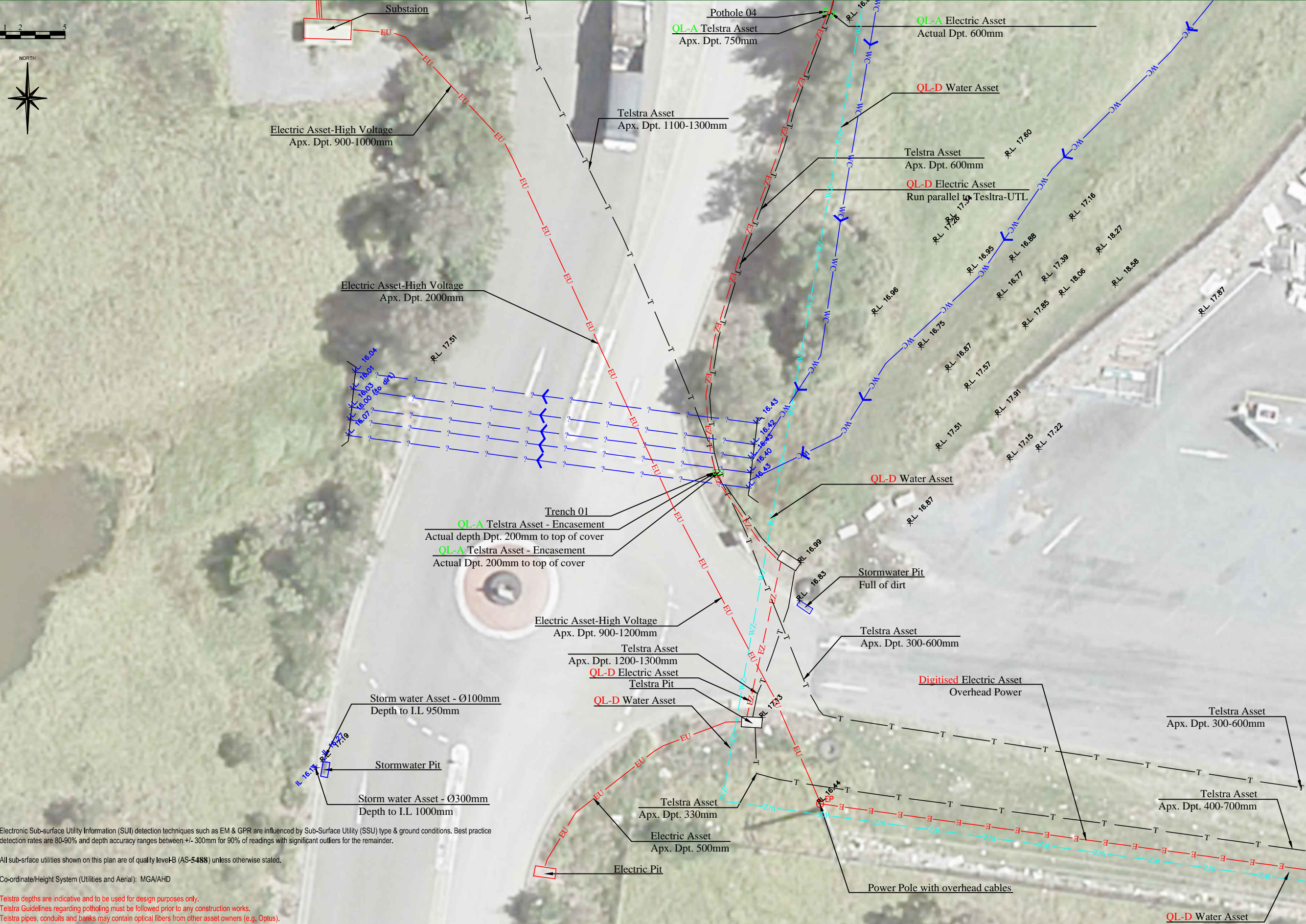
## DRAWING DETAIL

QL-B Utility Plan

LOCATED BY : LM	DATE  06-12-2016	
SURVEYED BY : MP		
DRAFTED BY : CN/MH	SCALE  1:250	
CHECKED BY : LM/MP/MH		
DRAWING NUMBER  D7347/2	SHEET NUMBER:  2 / 8	REVISION  3

0 1 2 3 4 5

NORTH



Electronic Sub-surface Utility Information (SUI) detection techniques such as EM & GPR are influenced by Sub-Surface Utility (SSU) type & ground conditions. Best practice detection rates are 80-90% and depth accuracy ranges between +/- 300mm for 90% of readings with significant outliers for the remainder.

All sub-surface utilities shown on this plan are of quality level-B (AS-5488) unless otherwise stated.

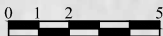
Co-ordinate/Height System (Utilities and Aerial): MGA/AHD

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NORTH



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## DURKIN LEGEND

— W —	Water Main (WM)
— W1 —	Water House Connection (W1)
— WR —	Water Main - Recycled (RM)
— WZ —	Water Supply - Digitised (WZ)
— TP —	Unidentified Pipeline (UP)
— E —	Electric Line Overhead-Digitised
— EU —	Electric Line Underground (EU)
— EZ —	Electric Line Underground - Digitised (EZ)
— GH —	Gas House Connection (DG)
— HG —	Gas Main - High Pressure (HG)
— LG —	Gas Main - Low Pressure (LG)
— GZ —	Gas Main - Digitised (ZG)
— U —	Stormwater Pipe - Unspecified Ø (UU)
— 225 —	Stormwater Pipe - 225 Ø (U1)
— DZ —	Stormwater Pipe - Digitised (DZ)
— WC —	Watercourse (Approximate route-indicative only)
→	Drainage Flow Direction
— S —	Sewer Main (SM)
— SZ —	Sewer Main - Digitised (SZ)
— T —	Telstra - Telephone Line (TN)
— TZ —	Telstra - Telephone Line - Digitised (TZ)
— OU —	Optical Fibre (OU)
— OZ —	Optical Fibre - Digitised (OZ)
UTT	Unable To Trace
UTL	Unable To Lift
EOT	End Of Trace
▲	Water Stop Valve
□ <sup>WH</sup>	Water Hydrant
⊙ <sup>EMH</sup>	Electricity Cable Manhole
⊙	Street Light Pole
⊙	Power & Street Light Pole
□ <sup>EJB</sup>	Electrical Junction Box
□ <sup>TSC</sup>	Traffic Signal Controller
+	Gas Marker
■	Gully Pit
⊙	Sewer Manhole
■	Telstra Concrete Pit
⊙ <sup>TDP</sup>	Telstra Distribution Pillar
□ <sup>OFF</sup>	Optic Fibre Pit

Quality Levels of Sub-Surface Utility Investigation (SUI) AS 5488-2013  
(Reproduced with permission from SAI Global under licence number 1610-c097)

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Horizontal and Vertical Tolerance: +/- 50mm

**Quality Level B (QL-B):** Quality level B provides relative subsurface location in three dimensions. The minimum requirement for quality level B is relative spatial position. Information is collected by designating the horizontal and vertical location of underground utilities by using electromagnetic pipe and cable location, sonde or floor trace, ground penetrating radar and acoustic pulse equipment.  
Horizontal Tolerance: +/- 300 mm  
Vertical Tolerance: +/- 500 mm

**Quality Level C (QL-C):** Quality level C is described as a surface feature correlation or an interpretation of the approximate location and attributes of a subsurface utility asset using a combination of existing records (and/or anecdotal evidence) and a site survey of visible evidence. The minimum requirement for quality level C is relative spatial position. Information is collected by correlating the survey of visible utility surface features such as marker plates or water hydrants and acquired dual-before-you-dig plans to "draw" a string which shows the approximate position of services.  
Horizontal Tolerance of Surface Features: +/- 300 mm

**Quality Level D (QL-D):** Quality level D is the lowest of the four quality levels. The attribute information and metadata of a subsurface utility can be compiled from any, or a combination of the following:  
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(b) Curatory site inspection.  
(c) Anecdotal evidence.

## DRAWING STATUS

Final

Plan Rego.:



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## CLIENT

NSW Public Works

Project Title: Utility Survey at:

113 Reddalls Rd, Kembla Grange

## DRAWING DETAIL

QL-B Utility Plan

LOCATED BY: LM	DATE  06-12-2016	
SURVEYED BY: MP		
DRAFTED BY: CN/MH	SCALE  1:250	
CHECKED BY: LM/MP/MH		
DRAWING NUMBER  D7347/2	SHEET NUMBER:  3 / 8	R

DURKIN LEGEND

- WM

WM

Water Main (WM)
- WHC

WHC

Water House Connection (WHC)
- WR

WR

Water Main - Recycled (WRM)
- WS

WS

Water Supply - Digitised (WS)
- UP

UP

Unidentified Pipeline (UP)
- E

E

Electric Line Overhead - Digitised
- EU

EU

Electric Line Underground (EU)
- EZ

EZ

Electric Line Underground - Digitised (EZ)
- GH

GH

Gas House Connection (GH)
- HG

HG

Gas Main - High Pressure (HG)
- LG

LG

Gas Main - Low Pressure (LG)
- GZ

GZ

Gas Main - Digitised (GZ)
- S

S

Stormwater Pipe - Unspecified Ø (U)
- S25

S25

Stormwater Pipe - 225 Ø (U1)
- DZ

DZ

Stormwater Pipe - Digitised (DZ)
- WC

WC

Watercourse (Approximate route-indicative only)
- DFD

DFD

Drainage Flow Direction
- S

S

Sewer Main (SM)
- SZ

SZ

Sewer Main - Digitised (SZ)
- T

T

Telstra - Telephone Line (TN)
- TZ

TZ

Telstra - Telephone Line - Digitised (TZ)
- OU

OU

Optical Fibre (OU)
- OZ

OZ

Optical Fibre - Digitised (OZ)
- UTT

UTT

Unable To Trace
- UTL

UTL

Unable To Lift
- EOT

EOT

End Of Trace
- WSV

WSV

Water Stop Valve
- WH

WH

Water Hydrant
- ECM

ECM

Electricity Cable Manhole
- SLP

SLP

Street Light Pole
- PSLP

PSLP

Power & Street Light Pole
- EJB

EJB

Electrical Junction Box
- TSC

TSC

Traffic Signal Controller
- GM

GM

Gas Marker
- GP

GP

Gully Pit
- SM

SM

Sewer Manhole
- TCM

TCM

Telstra Concrete Pit
- TDP

TDP

Telstra Distribution Pillar
- OF

OF

Optic Fibre Pit

Quality Levels of Sub-Surface Utility Investigation (SUI) AS 5488-2013  
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Horizontal and Vertical Tolerance: -/+ 50mm

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Horizontal Tolerance: -/+ 300 mm  
Vertical Tolerance: -/+ 500 mm

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DRAWING STATUS

Final

Plan Rego.:



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Fax (02) 9712 0308  
www.durkinconstruction.com.au

CLIENT

NSW Public Works

Project Title: Utility Survey at:

113 Reddalls Rd, Kembla Grange

DRAWING DETAIL

QL-B Utility Plan

LOCATED BY: LM	DATE
SURVEYED BY: MP	06-12-2016
DRAFTED BY: CN/MH	SCALE
CHECKED BY: LM/MP/MH	1:250
DRAWING NUMBER	SHEET NUMBER
D7347/2	4 / 8
	REVISION
	3

Electronic Sub-surface Utility Information (SUI) detection techniques such as EM & GPR are influenced by Sub-Surface Utility (SSU) type & ground conditions. Best practice detection rates are 80-90% and depth accuracy ranges between +/- 300mm for 90% of readings with significant outliers for the remainder.

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Co-ordinate/Height System (Utilities and Aerial): MGA/AHD

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## DURKIN LEGEND

— W —	Water Main (WM)
— W1 —	Water House Connection (W1)
— WR —	Water Main - Recycled (RM)
— WZ —	Water Supply - Digited (WZ)
— TP —	Unidentified Pipeline (UP)
— E —	Electric Line Overhead-Digited
— EU —	Electric Line Underground (EU)
— EZ —	Electric Line Underground - Digited (EZ)
— GH —	Gas House Connection (DG)
— HG —	Gas Main - High Pressure (HG)
— LG —	Gas Main - Low Pressure (LG)
— GZ —	Gas Main - Digited (ZG)
— S —	Stormwater Pipe - Unspecified Ø (UU)
— 225 —	Stormwater Pipe - 225 Ø (U1)
— DZ —	Stormwater Pipe - Digited (DZ)
— WC —	Watercourse (Approximate route-indicative only)
→	Drainage Flow Direction
— S —	Sewer Main (SM)
— SZ —	Sewer Main - Digited (SZ)
— T —	Telstra - Telephone Line (TN)
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— OU —	Optical Fibre (OU)
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UTT	Unable To Trace
UTL	Unable To Lift
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▲	Water Stop Valve
□ <sup>WH</sup>	Water Hydrant
⊙ <sup>EM</sup>	Electricity Cable Manhole
☼	Street Light Pole
⊙ <sup>ES</sup>	Power & Street Light Pole
□ <sup>EJB</sup>	Electrical Junction Box
□ <sup>TSC</sup>	Traffic Signal Controller
+	Gas Marker
■	Gully Pit
⊙	Sewer Manhole
■ <sup>CM</sup>	Telstra Concrete Pit
⊙ <sup>TDP</sup>	Telstra Distribution Pillar
□ <sup>OFF</sup>	Optic Fibre Pit

Quality Levels of Sub-Surface Utility Investigation (SUI) AS 5488-2013  
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## DRAWING STATUS

Final

Plan Rego.:

**DURKIN**

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Project Title: Utility Survey at:

113 Reddalls Rd, Kembla Grange

## DRAWING DETAIL

QL-B Utility Plan

LOCATED BY: LM	DATE
SURVEYED BY: MP	06-12-2016
DRAFTED BY: CN/MH	SCALE
CHECKED BY: LM/MP/MH	1:250
DRAWING NUMBER D7347/2	SHEET NUMBER 5 / 8
	REVISION 3

0 1 2 5

NORTH

Digitised Electric Asset  
Overhead Power

Pothole 01  
QL-A Telstra Asset  
Actual Dpt. 540mm

Telstra Asset  
Apx. Dpt. 300-500mm

Power Pole with overhead cables

Pothole 8  
No services Found  
Hit hard rock at 1800mm depth

Pothole 7  
No services Found  
Hit hard rock at 1800mm depth

Pothole 02  
QL-A Telstra Asset  
Actual Dpt. 690mm

Power Pole with overhead cables

Telstra Asset  
Apx. Dpt. 400-700mm

QL-D Water Asset

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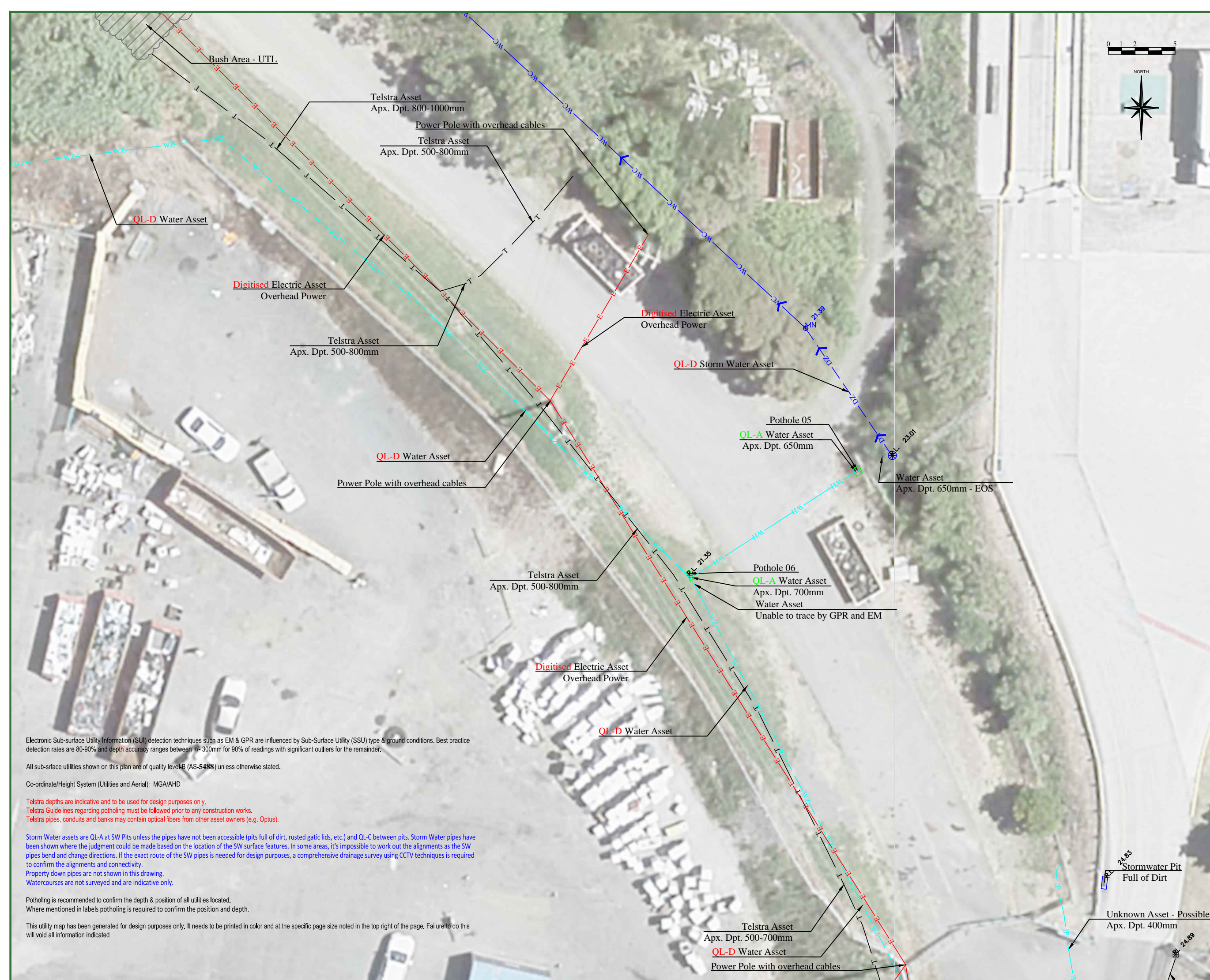
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### DURKIN LEGEND

- |     |   |
|-----|---|
| W   | Water Main (WM)                                 |
| WH  | Water House Connection (WY)                     |
| WR  | Water Main - Recycled (RM)                      |
| WZ  | Water Supply - Digitised (WZ)                   |
| UP  | Unsanitised Pipeline (UP)                       |
| E   | Electric Line Overhead - Digitised              |
| EU  | Electric Line Underground (EU)                  |
| EZ  | Electric Line Underground - Digitised (EZ)      |
| GH  | Gas House Connection (DG)                       |
| HG  | Gas Main - High Pressure (HG)                   |
| LG  | Gas Main - Low Pressure (LG)                    |
| GZ  | Gas Main - Digitised (GZ)                       |
| U   | Stormwater Pipe - Unspecified Ø (U)             |
| 225 | Stormwater Pipe - 225 Ø (U1)                    |
| DZ  | Stormwater Pipe - Digitised (DZ)                |
| WC  | Watercourse (Approximate route-Indicative only) |
| S   | Drainage Flow Direction                         |
| SM  | Sewer Main (SM)                                 |
| SZ  | Sewer Main - Digitised (SZ)                     |
| TN  | Telebra - Telephone Line (TN)                   |
| TZ  | Telebra - Telephone Line - Digitised (TZ)       |
| OU  | Optical Fibre (OU)                              |
| OZ  | Optical Fibre - Digitised (OZ)                  |

- |   |                           |
|---|---------------------------|
| UTT   | Unable To Trace           |
| UTL   | Unable To Lift            |
| EOT   | End Of Trace              |
|  | Water Stop Valve          |
|  | Water Hydrant             |
|  | Electricity Cable Manhole |
|  | Street Light Pole         |
|  | Power & Street Light Pole |
|  | Electrical Junction Box   |
|  | Traffic Signal Controller |

- |   |                          |
|---|--------------------------|
|  | Gas Marker               |
|  | Gully Pit                |
|  | Sewer Manhole            |
|  | Telstra Concrete Pit     |
|  | Telstra Distribution Pit |
|  | Optic Fibre Pit          |

Quality Levels of Sub-Surface Utility Investigation (SUI) AS 5488-2013  
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**Horizontal and Vertical Tolerance:** +/- 50mm

**Quality Level B (QL-B):** Quality level B provides relative subsurface feature location in three dimensions. The minimum requirement for quality level B is relative spatial position. Information is collected by designating the horizontal and vertical location of underground utilities by using electromagnetic pipe and cable locators, sondes or flexi-trace, ground penetrating radar and acoustic pulse equipment.

**Quality Level C (QL-C):** Quality level C is described as a surface feature correlation or an interpretation of the approximate location and attributes of a subsurface utility asset using a combination of existing records (and/or anecdotal evidence) and a site survey of visible evidence. The minimum requirement for quality level C is relative spatial position.

Horizontal Tolerance of Surface Features:  $\pm 300$  mm

**Quality Level D (QL-D):** Quality level D is the lowest of the four quality levels. The attribute information and metadata of a subsurface utility can be compiled from any, or a combination of the following:

- (a) Existing records.
- (b) Cursory site inspection.
- (c) Anecdotal evidence.

### DRAWING STATUS

## Final

Plan Rego.:



**DURKIN Construction Pty Ltd**  
3/50-52 Derby Street  
Silverwater NSW 2128  
Ph (02) 9712 0308  
Fax (02) 9712 0308  
[durkinconstruction.com.au](http://durkinconstruction.com.au)

## CLIENT

NSW Public Works

Project Title: Utility Survey at:

113 Reddalls Rd, Kembla Grange

### DRAWING DETAIL

QL-B Utility Plan

LOCATED BY: LM

DATE \_\_\_\_\_

06-12-2016

SURVEYED BY : MP

DRAFTED BY: CN/M

SCAL

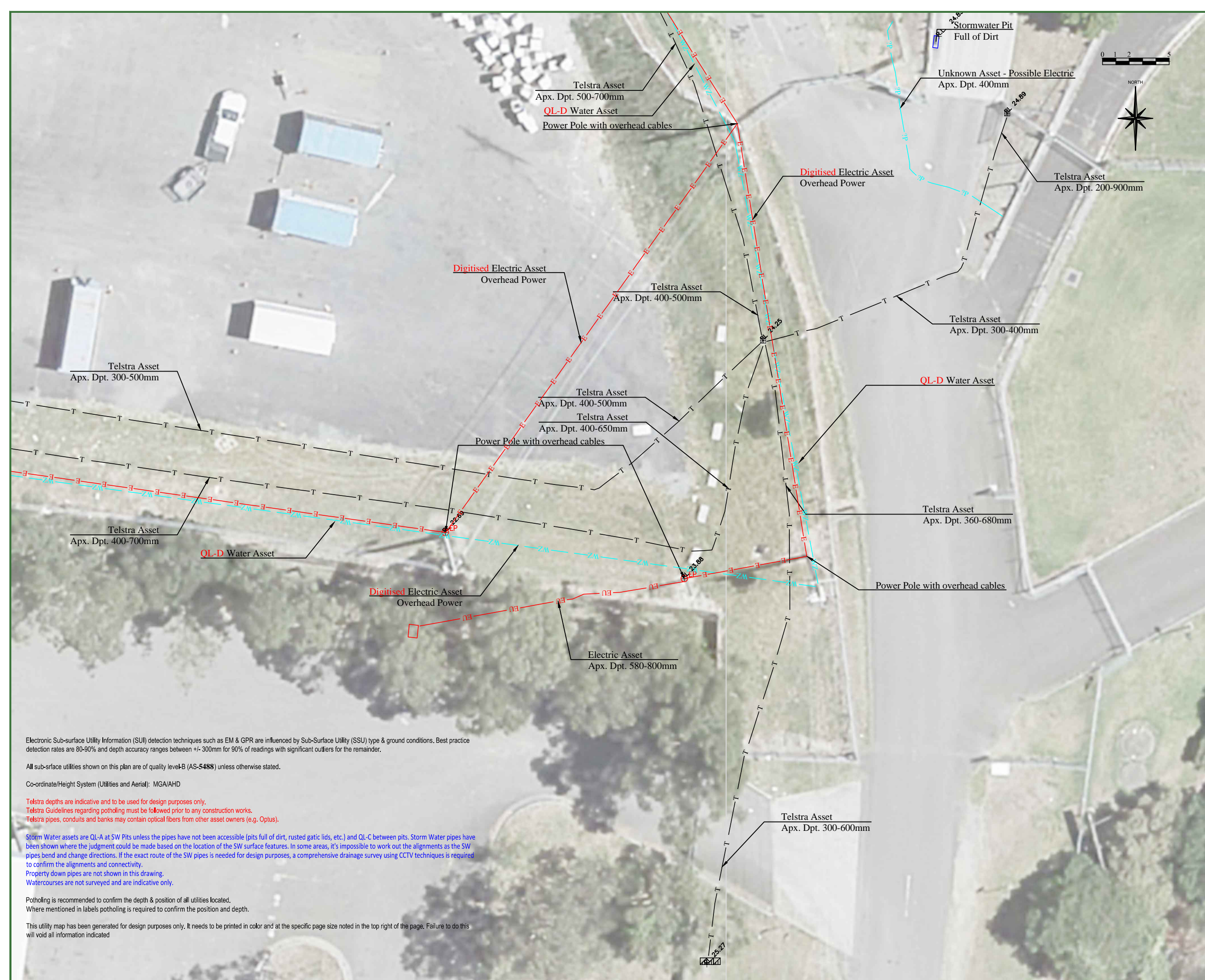
CHECKED BY: LM/MP/MH

---

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D7347/

6 / 8



DURKIN LEGEND

- |  |   |
|--|---|
|  | Water Main (WM)                                 |
|  | Water House Connection (WH)                     |
|  | Water Main - Recycled (RM)                      |
|  | Water Supply - Digitised (WZ)                   |
|  | Unidentified Pipeline (UP)                      |
|  | Electric Line Overhead - Digitised              |
|  | Electric Line Underground (EU)                  |
|  | Electric Line Underground - Digitised (EZ)      |
|  | Gas House Connection (DG)                       |
|  | Gas Main - High Pressure (HG)                   |
|  | Gas Main - Low Pressure (LG)                    |
|  | Gas Main - Digitised (ZG)                       |
|  | Stormwater Pipe - Unspecified (OU)              |
|  | Stormwater Pipe - 225 (U1)                      |
|  | Stormwater Pipe - Digitised (DZ)                |
|  | Watercourse (Approximate route-indicative only) |
|  | Drainage Flow Direction                         |
|  | Sewer Main (SM)                                 |
|  | Sewer Main - Digitised (SZ)                     |
|  | Telesta - Telephone Line (TN)                   |
|  | Telesta - Telephone Line - Digitised (TZ)       |
|  | Optical Fibre (OU)                              |
|  | Optical Fibre - Digitised (OZ)                  |

UTT	Unable To Trace
UTL	Unable To Lift
EOT	End Of Trace

- |  |                             |
|--|-----------------------------|
|  | Water Stop Valve            |
|  | Water Hydrant               |
|  | Electricity Cable Manhole   |
|  | Street Light Pole           |
|  | Power & Street Light Pole   |
|  | Electrical Junction Box     |
|  | Traffic Signal Controller   |
|  | Gas Marker                  |
|  | Gully Pit                   |
|  | Sewer Manhole               |
|  | Telstra Concrete Pit        |
|  | Telstra Distribution Pillar |
|  | Optic Fibre Pit             |

Quality Levels of Sub-Surface Utility Investigation (SUI) AS 5488-2013  
(Reproduced with permission from [SAI Global](#) under licence number 1610-c097)

**Quality Level A (QL-A):** Quality level A is the highest quality level and consists of the positive identification of the attribute and location of a subsurface utility at a point to an absolute spatial position in three dimensions. It is the only quality level that defines a subsurface utility as "validated". Where the whole line segment cannot be verified by line of sight, quality level A shall not be attributed to the line segment between validated points. The vertical information for this locating method is to the top or shallowest part of the located service.

Horizontal and Vertical Tolerance:  $\pm 50\text{mm}$

**Quality Level B (QL-B):** Quality level B provides relative subsurface feature location in three dimensions. The minimum requirement for quality level B is relative spatial position.

Information is collected by designating the horizontal and vertical location of underground utilities by using electromagnetic pipe and cable locators, sondes or flexi-trace, ground penetrating radar and acoustic pulse equipment.

Horizontal Tolerance:  $\pm 300$  mm

Vertical Tolerance:  $\pm 500$  mm

**Quality Level C (QL-C):** Quality level C is described as a surface feature correlation or an interpretation of the approximate location and attributes of a subsurface utility asset using a combination of existing records (and/or anecdotal evidence) and a site survey of visible evidence. The minimum requirement for quality level C is relative spatial position.

Information is collected by correlating the survey of visible utility surface features such as marker plates or water hydrants and acquired dial-before-you-dig plans to "draw" a string which shows the approximate position of services.

Horizontal Tolerance of surface Features:  $\pm 300$  mm

**Quality Level D (QL-D):** Quality level D is the lowest of the four quality levels. The attribute information and metadata of a subsurface utility can be compiled from any, or a combination of the following:

- (a) Existing records.
- (b) Cursory site inspection.
- (c) Anecdotal evidence.

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## Final

Plan Rego.:



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CLIENT

NSW Public Works

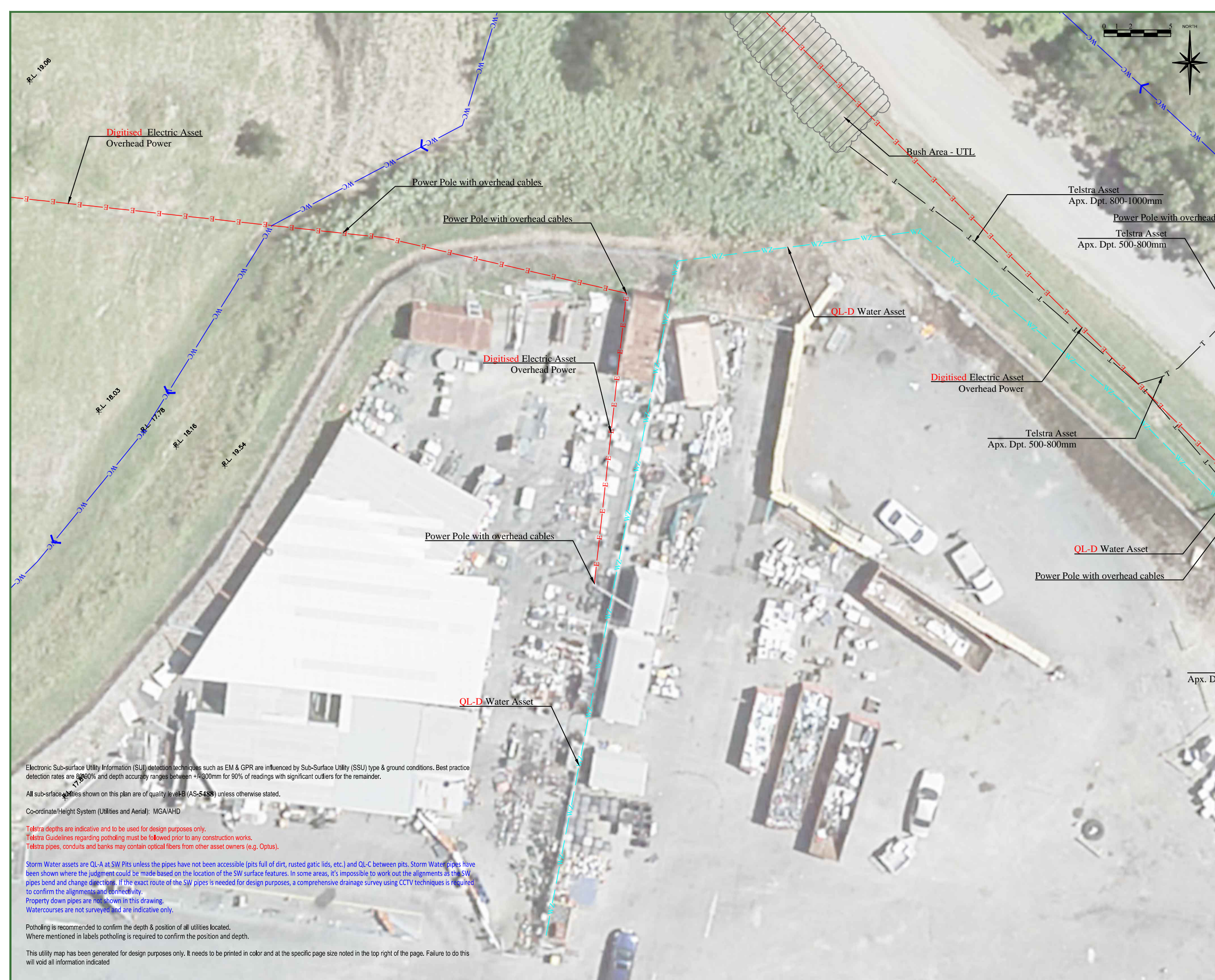
Project Title: Utility Survey at:

113 Reddalls Rd, Kembla Grange

## DRAWING DETAIL

QL-B Utility Plan

LOCATED BY: LM	DATE  06-12-2016	
SURVEYED BY: MP		
DRAFTED BY: CN/MH	SCALE	
CHECKED BY: LM/MP/MH	1:250	
DRAWING NUMBER D7347/2	SHEET NUMBER 7 / 8	REVISION 3



## DURKIN LEGEND

W	Water Main (WM)
WH	Water House Connection (WH)
WR	Water Main - Recycled (RM)
WZ	Water Supply - Digited (WZ)
UP	Undertified Pipeline (UP)
E	Electric Line Overhead-Digited
EU	Electric Line Underground (EU)
EZ	Electric Line Underground - Digited (EZ)
GH	Gas House Connection (DG)
HG	Gas Main - High Pressure (HG)
LG	Gas Main - Low Pressure (LG)
GZ	Gas Main - Digited (ZG)
U	Stormwater Pipe - Unspecified Ø (U)
225	Stormwater Pipe - 225 Ø (U1)
DZ	Stormwater Pipe - Digited (DZ)
WC	Watercourse (Approximate route-indicative only)
→	Drainage Flow Direction
S	Sewer Main (SM)
SZ	Sewer Main - Digited (SZ)
T	Telstra - Telephone Line (TN)
TZ	Telstra - Telephone Line - Digited (TZ)
OU	Optical Fibre (OU)
OZ	Optical Fibre - Digited (OZ)
UTT	Unable To Trace
UTL	Unable To Lift
EOT	End Of Trace
▲	Water Stop Valve
W	Water Hydrant
EMH	Electricity Cable Manhole
SLP	Street Light Pole
PSLP	Power & Street Light Pole
EJB	Electrical Junction Box
TSC	Traffic Signal Controller
+	Gas Marker
GP	Gully Pit
SM	Sewer Manhole
TMCP	Telstra Concrete Pit
TDP	Telstra Distribution Pillar
OPF	Optic Fibre Pit

Quality Levels of Sub-Surface Utility Investigation (SU/I) AS 5488-2013  
(Reproduced with permission from SAI Global under licence number 1610-c097)

**Quality Level A (QL-A):** Quality level A is the highest quality level and consists of the positive identification of the attribute and location of a subsurface utility at a point to an absolute spatial position in three dimensions. It is the only quality level that defines a subsurface utility as "validated". Where the whole line segment cannot be verified by line of sight, quality level A shall not be attributed to the line segment between validated points. The vertical information for this locating method is to the top or shallowest part of the located service.  
Horizontal and Vertical Tolerance: -/+ 50mm

**Quality Level B (QL-B):** Quality level B provides relative subsurface feature location in three dimensions. The minimum requirement for quality level B is relative spatial position.  
Information is collected by designating the horizontal and vertical location of underground utilities by using electromagnetic pipe and cable location, sonde or free trace, ground penetrating radar and acoustic pulse equipment.  
Horizontal Tolerance: -/+ 300 mm  
Vertical Tolerance: -/+ 500 mm

**Quality Level C (QL-C):** Quality level C is described as a surface feature correlation or an interpretation of the approximate location and attributes of a subsurface utility asset using a combination of existing records (and/or anecdotal evidence) and a site survey of visible evidence. The minimum requirement for quality level C is relative spatial position.  
Information is collected by correlating the survey of visible utility surface features such as marker plates or water hydrants and acquired dial-before-you-dig plans to "draw" a string which shows the approximate position of services.  
Horizontal Tolerance of Surface Features: -/+ 300 mm

**Quality Level D (QL-D):** Quality level D is the lowest of the four quality levels. The attribute information and metadata of a subsurface utility can be compiled from any, or a combination of the following:  
(a) Existing records.  
(b) Curatory site inspection.  
(c) Anecdotal evidence.

## DRAWING STATUS

Final

Plan Rego.:

**DURKIN**

DURKIN Construction Pty Ltd  
3/50-52 Derby Street  
Silverwater NSW 2128  
Ph (02) 9712 0308  
Fax (02) 9712 0308  
www.durkinconstruction.com.au

## CLIENT

NSW Public Works

Project Title: Utility Survey at:

113 Reddalls Rd, Kembla Grange

## DRAWING DETAIL

QL-B Utility Plan

LOCATED BY: LM	DATE	
SURVEYED BY: MP	06-12-2016	
DRAFTED BY: CN/MH	SCALE	
CHECKED BY: LM/MP/MH	1:250	
DRAWING NUMBER	SHEET NUMBER:	REVISION
D7347/2	8 / 8	3

Electronic Sub-surface Utility Information (SU/I) detection techniques such as EM & GPR are influenced by Sub-Surface Utility (SSU) type & ground conditions. Best practice detection rates are 80-90% and depth accuracy ranges between +/- 300mm for 90% of readings with significant outliers for the remainder.

All sub-surface utilities shown on this plan are of quality level-B (AS-5488) unless otherwise stated.

Co-ordinate/Height System (Utilities and Aerial): MGA/AHD

Telstra depths are indicative and to be used for design purposes only.

Telstra Guidelines regarding potholing must be followed prior to any construction works.

Telstra pipes, conduits and banks may contain optical fibers from other asset owners (e.g. Optus).

Storm Water assets are QL-A at SW Pits unless the pipes have not been accessible (pits full of dirt, rusted gatic lids, etc.) and QL-C between pits. Storm Water pipes have been shown where the judgment could be made based on the location of the SW surface features. In some areas, it's impossible to work out the alignments as the SW pipes bend and change directions. If the exact route of the SW pipes is needed for design purposes, a comprehensive drainage survey using CCTV techniques is required to confirm the alignments and connectivity.

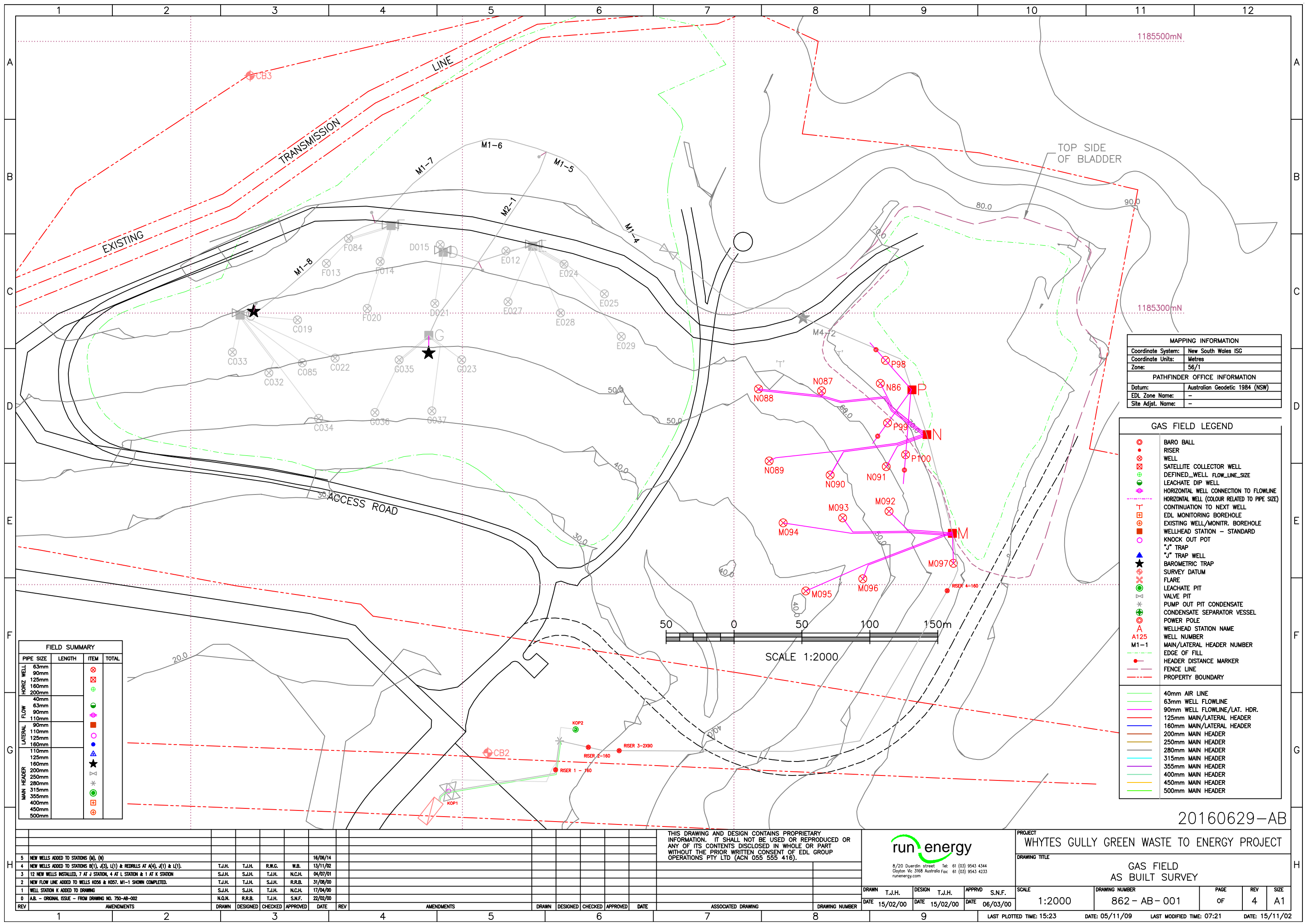
Property down pipes are not shown in this drawing.

Watercourses are not surveyed and are indicative only.

Potholing is recommended to confirm the depth & position of all utilities located.

Where mentioned in labels potholing is required to confirm the position and depth.

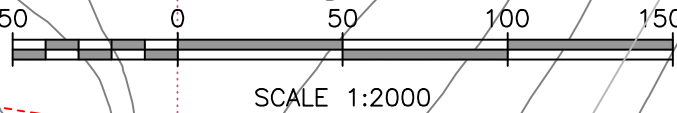
This utility map has been generated for design purposes only. It needs to be printed in color and at the specific page size noted in the top right of the page. Failure to do this will void all information indicated




MAPPING INFORMATION	
Coordinate System:	New South Wales ISG
Coordinate Units:	Metres
Zone:	56/1
PATHFINDER OFFICE INFORMATION	
Datum:	Australian Geodetic 1984 (NSW)
EDL Zone Name:	-
Site Adjst. Name:	-

GAS FIELD LEGEND	
	BARO BALL WELL
	RISER
	SATELLITE COLLECTOR WELL
	DEFINED WELL FLOW LINE SIZE
	LEACHATE DIP WELL
	HORIZONTAL WELL CONNECTION TO FLOWLINE
	HORIZONTAL WELL (COLOUR RELATED TO PIPE SIZE)
	CONTINUATION TO NEXT WELL
	EDL MONITORING BOREHOLE
	EXISTING WELL/MONITR. BOREHOLE
	WELLHEAD STATION - STANDARD
	KNOCK OUT POT
	"J" TRAP
	"J" TRAP WELL
	BAROMETRIC TRAP
	SURVEY DATUM
	FLARE
	LEACHATE PIT
	VALVE PIT
	PUMP OUT PIT CONDENSATE
	CONDENSATE SEPARATOR VESSEL
	POWER POLE
	WELLHEAD STATION NAME
	WELL NUMBER
	MAIN/LATERAL HEADER NUMBER
	EDGE OF FILL
	HEADER DISTANCE MARKER
	FENCE LINE
	PROPERTY BOUNDARY
	40mm AIR LINE
	63mm WELL FLOWLINE
	90mm WELL FLOWLINE/LAT. HDR.
	125mm MAIN/LATERAL HEADER
	160mm MAIN/LATERAL HEADER
	200mm MAIN HEADER
	250mm MAIN HEADER
	280mm MAIN HEADER
	315mm MAIN HEADER
	355mm MAIN HEADER
	400mm MAIN HEADER
	450mm MAIN HEADER
	500mm MAIN HEADER

FIELD SUMMARY				
PIPE SIZE	LENGTH	ITEM	TOTAL	
HORIZ. WELL	63mm			
	90mm			
	125mm			
	160mm			
FLOW	40mm			
	63mm			
	90mm			
	110mm			
LATERAL	90mm			
	110mm			
	125mm			
	160mm			
MAIN HEADER	110mm			
	125mm			
	160mm			
	200mm			
	250mm			
	280mm			
	315mm			
	355mm			
	400mm			
	450mm			
	500mm			



										THIS DRAWING AND DESIGN CONTAINS PROPRIETARY INFORMATION. IT SHALL NOT BE USED OR REPRODUCED OR ANY OF ITS CONTENTS DISCLOSED IN WHOLE OR PART WITHOUT THE PRIOR WRITTEN CONSENT OF EDL GROUP OPERATIONS PTY LTD (ACN 055 555 416).										<div><div>run energy</div><div>8/20 Duerdin street Tel: 61 (03) 9543 4344 Clayton Vic 3168 Australia Fax: 61 (03) 9543 4233 runenergy.com</div></div>										PROJECT WHYTES GULLY GREEN WASTE TO ENERGY PROJECT																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																											
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## ILLAWARRA SHOALHAVEN JOINT ORGANISATION

### Volume 7 – Shoalhaven Reference Documents

#### Request for Tender

<b>Tender Title:</b>	<b>Illawarra Shoalhaven Joint Organisation (ISJO) Landfill Gas Services Tender</b>
<b>Tender Number:</b>	<b>ISJO 02/2018</b>
<b>Issue Date:</b>	<b>08 May 2018</b>
<b>Final Date for Updates:</b>	<b>29 May 2018</b>

#### Documents Comprising this Request For Tender

<b>Item No.</b>	<b>Document Header</b>	<b>Document Title</b>
<b>1</b>	Volume 1	Conditions of Tendering
<b>2</b>	Volume 2	Conditions of Contract
<b>3</b>	Volume 3	Specification
<b>4</b>	Volume 4	Technical Response Schedules
<b>5</b>	Volume 5	Commercial Response Schedules
<b>6</b>	Volume 6	Wollongong Council Reference Documents
<b>7</b>	Volume 7	Shoalhaven Council Reference Documents
<b>8</b>	Volume 8	Shellharbour Council Reference Documents



MMS Work Order



MMS Assets



MMS PMs



Monitor Events



Operations Report Schedule



GCS Operations Reports



Operations/Equipment Lo...



Flare Data



Engine Data

## List All

Displaying drilldown

REPORTS &amp; CHARTS

Save as report...

Report: Period Start  
01-01-2017 - 01-11-2017

with these records

## Records

Records											Site: Name is 's	
Report: Period Start	Report: Period End	Report Type	Report Status	Report: Methane % v/v	Report: Total LFG Volume SCM	Record Owner	Related Report Scheduled	Report: Av LFG Flow SCMh (Online Hrs)	Report: Av LFG flow (Period Hrs) (SCMH)	Station: Tr LFG Volume		
alhaven Landfill - Monthly (11 Records)												
	01-NOV-2017	30-NOV-2017	Flare and Power Station	In Progress	0	Jones, Alan	47		0.0			
	01-OCT-2017	31-OCT-2017	Flare and Power Station	Complete - All data available	48.7%	Jones, Alan	47	335.7	317.6	125.3		
	01-SEP-2017	30-SEP-2017	Flare and Power Station	Complete - All data available	45.5%	Jones, Alan	47	209.8	156.5	112.3		
	01-AUG-2017	31-AUG-2017	Flare and Power Station	Complete - All data available	43.5%	Jones, Alan	47	131.1	130.4	94.3		
	01-JUL-2017	31-JUL-2017	Flare and Power Station	Complete - All data available	49.6%	Jones, Alan	47	236.5	215.5	160.3		
	01-JUN-2017	30-JUN-2017	Flare and Power Station	Complete - Partial data available	57.0%	Jones, Alan	47	292.8	203.9	146.3		
	01-MAY-2017	31-MAY-2017	Flare and Power Station	Complete - Partial data available	48.3%	Jones, Alan	47	371.2	371.2	245.1		
	01-APR-2017	30-APR-2017	Flare and Power Station	Complete - Partial data available	59.0%	Jones, Alan	47	443.9	297.1	205.3		
	01-MAR-2017	31-MAR-2017	Flare and Power Station	Complete - Partial data available	54.2%	Jones, Alan	47	480.1	420.1	312.3		
	01-FEB-2017	28-FEB-2017	Flare and Power Station	Complete - Partial data available	51.4%	Jones, Alan	47	459.5	417.0	270.1		
	01-JAN-2017	31-JAN-2017	Flare and Power Station	Complete - Partial data available	51.8%	Jones, Alan	47	436.8	414.2	308.3		
					2,144,124							

## Run Energy: Operations Data

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MMS: Work Order

MMS: Assets

MMS: PMs

Monitor Events

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GCS: Operati...

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Reports &amp; Charts

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Site: Name Shoalhaven Landfill

Report Type Flare

Report Status Complete - All data available

Report: Period Start 01-MAR-2018

Report: Period End 31-MAR-2018

Quarterly Report

Report: Total Period Hrs 744

## Landfill Gas

Report: Av Methane % 53.2%

GCS Online Hrs 744.0

Report: Total LFG Volume  
SCM 172,540Report: Av LFG Flow SCMH  
(GCS Online Hrs) 231.9Report: Total Methane  
Volume SCM 91,791

## Energy &amp; CO2 Equiv

Total Energy GJ NHV 3,111.7

Total Mass Methane tonne 62.2

Emissions Abatement tonne  
CO2 equiv 1,306.9Emissions from Methane  
Combustion tonne CO2  
equiv 170.5

## Well Performance

Total Wells Installed 93

Total Wells Functioning 57

Total Wells Non-Functioning 36

Report: Av LFG Flow per  
Functioning Well SCMH  
(GCS Online Hours) 4.1

## Flare/Combustion Data

Add Flare Data

Full Report		Grid Edit	Email	More	1 Flare Data	
Met er ID	Methane % v/v	Total LFG Volume (SCM (15.56 C, 101.325 kPa(a)))	Total Methane Volume (SCM (15.56 C, 101.325 kPa(a)))	Ave LFG Flow (Online Hours) (SCMH (15.56 C, 101.325 kPa(a)))	Online (Hours)	
Shoalhaven Landfill (1 Flare Data)						
Flare-1	<u>53.2</u>	172,540	91,791	231.9	744.0	
TOT		172,540				

## Downtime Log

Report: Total Downtime Events Hours

Flare/Kiln: Total Downtime Hours

GCS Downtime Hours

0.0

0

[Add Downtime Event](#)

Start Date	Downtime Type	Downtime Category	Downtime Explanation	Additional Comments	Downtime Hours	Actions Taken
------------	---------------	-------------------	----------------------	---------------------	----------------	---------------

No downtime events found

## Logs, Reports & Notes

[Add Note](#)

### Notes Link

Full Report	Grid Edit	Email	More	2 Notes
Date	Type	Comments/Notes		
<b>Shoalhaven Landfill (2 Notes)</b>				
15-MAR-2018	GCS	GCS Monitoring complete GCS Well Monitoring completed (all wells)		
➔ 16-MAR-2018	GCS	GCS Adjustment complete GCS Well adjustments complete		

### Reports & Logs

Full Report	Grid Edit	Email	More	3 Reports
Date	Report Type	Document	Comments	Work Order No
<b>Shoalhaven Landfill (3 Reports)</b>				
15-MAR-2018	Flare Inspection Log	<a href="#">Document</a>		<a href="#">41003</a>
15-MAR-2018	GCS Inspection Log	<a href="#">Document</a>		<a href="#">41007</a>
19-MAR-2018	Balancing Plan	<a href="#">Document</a>		<a href="#">41006</a>

## Data & Calculation Notes

SCM = Standard Cubic Metre at 101,3 kPa (abs) and 15.56 degC

GCS Online Hours is total online hours for all gas combustion equipment (flares & gensets) - capped at total period hours. Not known whether multiple flares/gensets operate concurrently - data not provided. GCS Online Hours is maximum feasible online hours based on available data - may be over-estimated in some cases. SCMH calculations are therefore conservative - ie lowest feasible average SCMH based on available data - may be under-estimated in some cases.

Energy GJ NHV = methane volume (SCM) x methane NHV (0.0339 GJ NHV/SCM)

1 tonne methane = 50.0 GJ NHV

1 tonne Methane GWP = 21.0 tonne CO2 equiv

CO2 equiv emissions from methane combustion = 2.74 x mass of methane

Created on March 8 at 1:07 PM (AEDT). Last updated by [Jones, Alan](#) today at 9:58 AM (AEST). Owned by [Jones, Alan](#).

## ILLAWARRA SHOALHAVEN JOINT ORGANISATION

### Volume 8 – Shellharbour Reference Documents

#### Request for Tender

<b>Tender Title:</b>	<b>Illawarra Shoalhaven Joint Organisation (ISJO) Landfill Gas Services Tender</b>
<b>Tender Number:</b>	<b>ISJO 02/2018</b>
<b>Issue Date:</b>	<b>08 May 2018</b>
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# LANDFILL GAS MONTHLY REPORT - DUNMORE LANDFILL



<b>Site:</b>	Dunmore Road Landfill	<b>Report issue date:</b>	21-02-2018
<b>Report month:</b>	January 2018	<b>Prepared by:</b>	Thomas McWilliam
<b>Prepared for:</b>	Shellharbour City Council	<b>Checked by:</b>	Jarryd Doran

<b>Comments on changes to existing system:</b>	<p>Jan 2016 - LGI disconnected the 4 lateral wells and 8 vertical wells in the SE corner of the site to assist Shellharbour City Council with ongoing landfill operations.</p> <p>Apr 2016 - LGI technician reconnected the extended capture system of the 8 vertical wells in the SE corner and 4 lateral wells to assist with the landfill gas capture onsite.</p> <p>June 2016 - LGI disconnected the extended gas capture system to further assist Shellharbour City Council with ongoing landfill operations.</p> <p>Sep 2016 - LGI disconnected the extended gas capture system to further assist Shellharbour City Council with ongoing landfill operations.</p> <p>Nov 2016 - site remains on lower flow and quality with the reduction in connected wells. LGI commissioned the connection to leachate sump 6 as of 23-11-2016. This is designed to assist Council in better managing odor and gases around this section of the site.</p> <p>Jan 2017 - LGI met with Council to discuss options around reconnecting sections of the gas collection system. And adding additional extraction infrastructure across the site.</p> <p>May 2017 - LGI installed an additional 10 vertical wells to the existing LFG system, to better manage the landfill gas generated on site.</p>
<b>Comments on flare operation / maintenance:</b>	January 2018: Normal operating conditions were observed during this month.
<b>Recommendations:</b>	Continual upgrades to the gas collection system is recommended to maintain and improve on current gas collection volume. Installation of new vertical wells within the recently completed cell to the south and reconnection of disconnections within the older areas of site. Condensate traps along the main line may require attention to prevent surging or blockages.

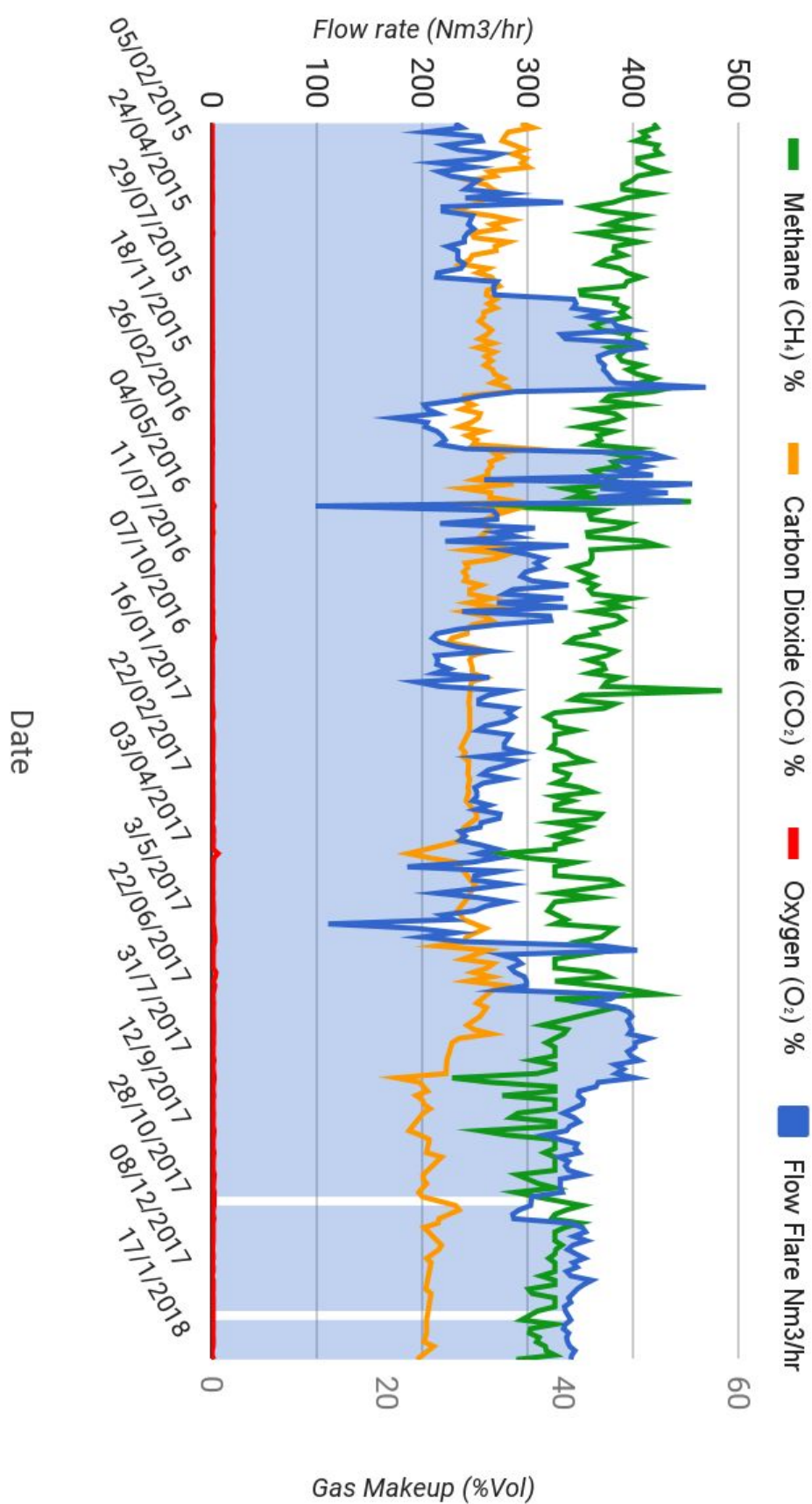
## FLARE DATA RESULTS:

Date	CH4 %	CO2 %	OXYGEN %	STACK TEMP C	CUMULATIVE FLOW m <sup>3</sup> <sup>1</sup>	FLOW m <sup>3</sup> /h
02/01/2018	39.0	-	1	696	9,822,450	334
10/01/2018	37.0	-	1	682	9,887,838	335
17/01/2018	35.2	24.4	0.9	701	9,968,057	340
19/01/2018	39.0	-	1	708	9,960,686	335
24/01/2018	36.1	24.4	0.8	721	10,025,060	338
29/01/2018	37.2	-	1	712	10,063,777	336
30/01/2018	36.9	24.1	1.1	728	10,073,613 <sup>2</sup>	337
<b>Average</b>	<b>37.2</b>	<b>24.3</b>	<b>1.0</b>	<b>707</b>		<b>336</b>

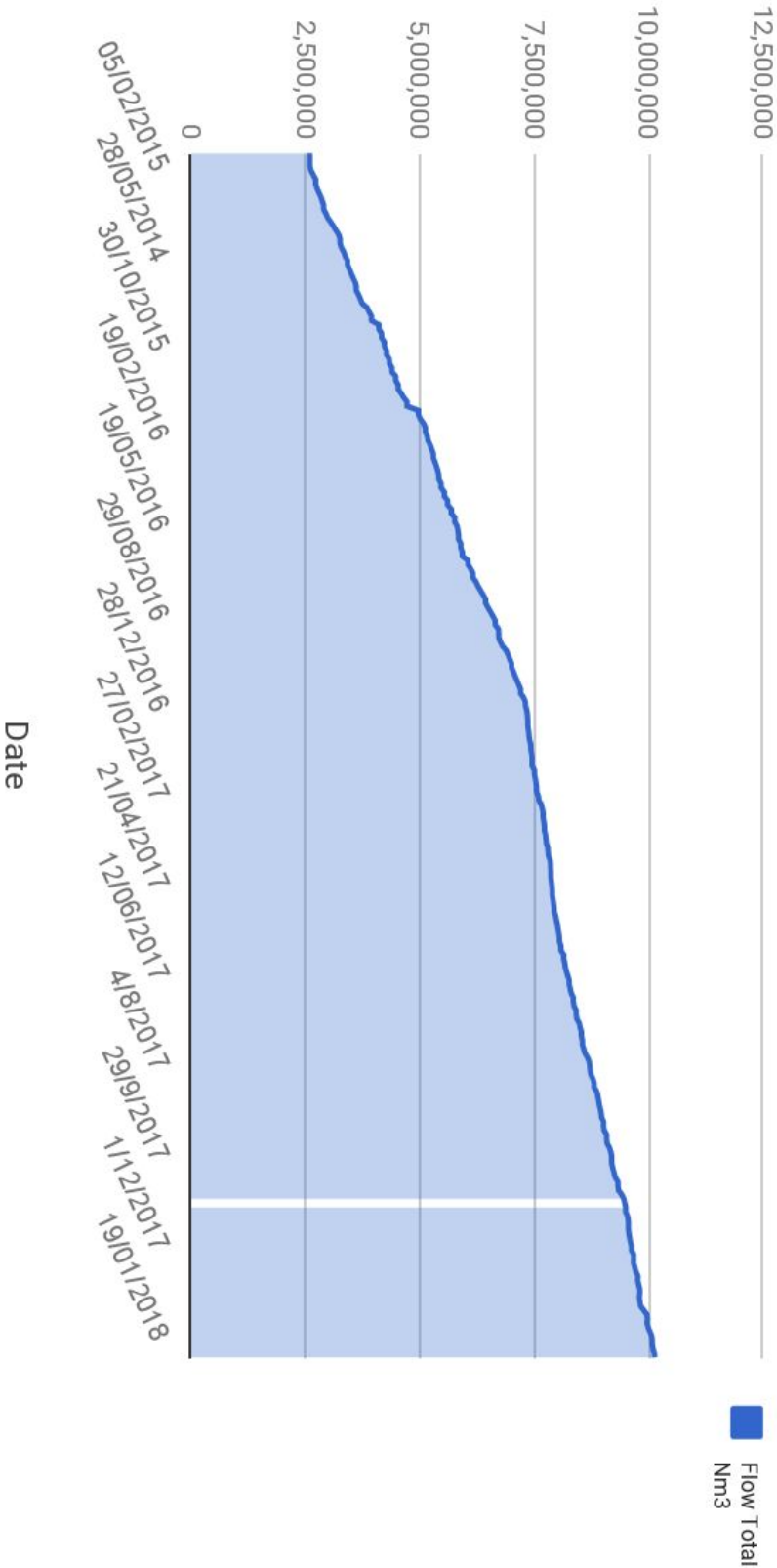
<sup>1</sup> Cumulative flow represents a snapshot recording, taken on the corresponding date. Please note that this value does not account for the volume of gas, which was combusted in the flare unit from 22 September 2014 to 30 January 2015 while the flow meter was removed for repair. LGI has provided an estimate of this additional volume to Council.

<sup>2</sup> 10,073,613m<sup>3</sup> of flared landfill gas up to the 30th of January 2018 represents carbon abatement of approximately 69,856 tonnes of CO<sub>2</sub> equivalent (total methane abated by gas capture system to date).

## Dunmore Flare Gas Fuel Trends



Dunmore Flare Cumulative Flow

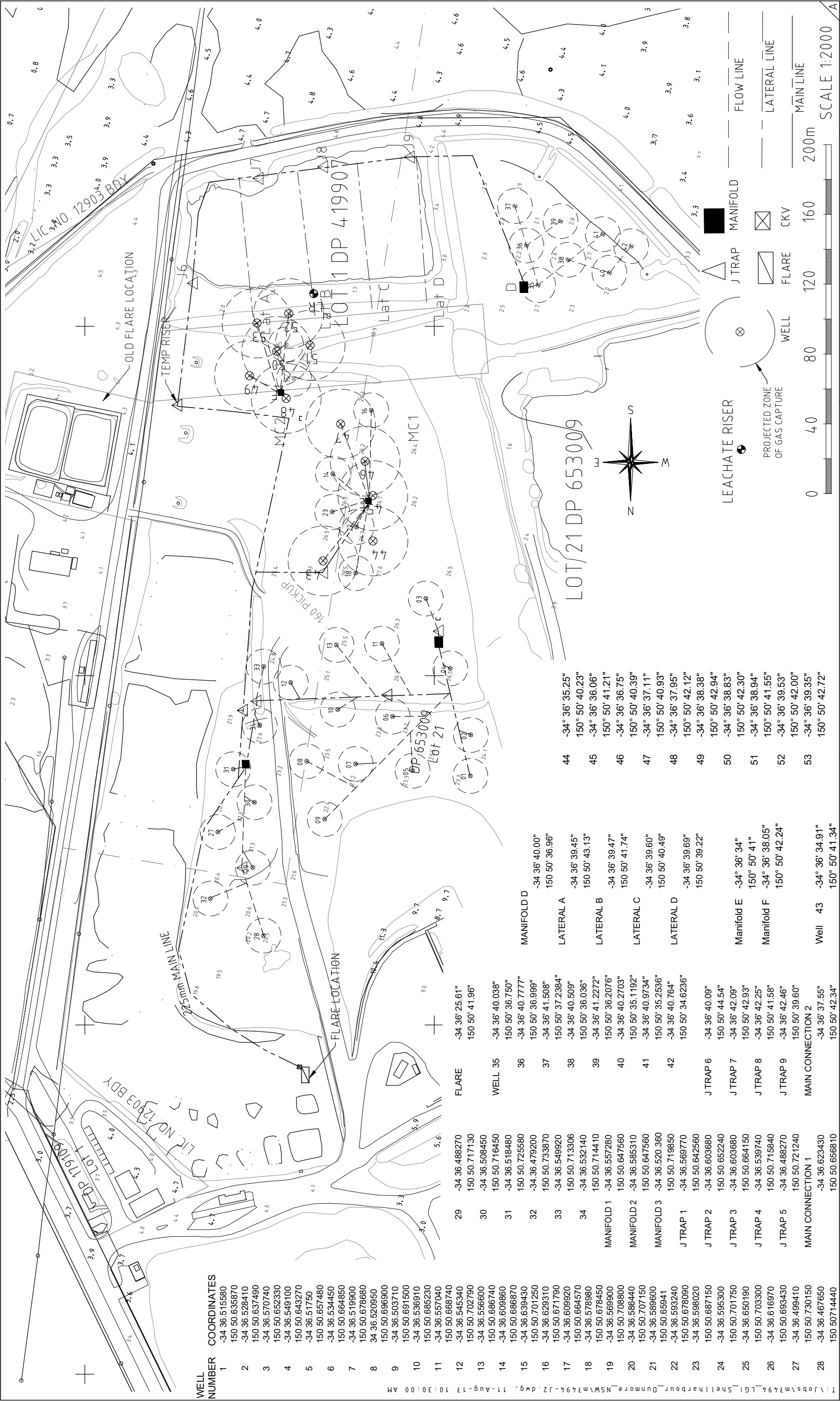


**Please note:**

This report has been prepared by Landfill Gas Industries Pty Ltd (LGI) with all reasonable skill, care and diligence, and taking account of the human power and resources devoted to it by agreement with the client. Information reported herein is based on the interpretation of data collected and has been accepted in good faith as being accurate and valid.

This report is for the exclusive use of the client. No warranties or guarantees are expressed or should be inferred by any third parties. This report may not be relied upon by other parties without written consent from LGI. LGI disclaims any responsibility to the client and others in respect of any matters outside the agreed scope of the work.

Where LGI has been accorded gas rights under the terms and conditions of the agreement with the client, the data contained in this report represents confidential commercial information and should not be copied or disseminated in any form to a third party without prior consent from LGI.



WELL NUMBER	COORDINATES
1	-34 36.515580 150 50.635870
2	-34 36.528410 150 50.637490
3	-34 36.570740 150 50.652330
4	-34 36.549100 150 50.643270
5	-34 36.51750 150 50.657480
6	-34 36.534450 150 50.664850
7	-34 36.519900 150 50.685230
8	-34 36.578680 150 50.620950
9	-34 36.503710 150 50.696900
10	-34 36.536910 150 50.691500
11	-34 36.557040 150 50.678680
12	-34 36.545340 150 50.702790
13	-34 36.556600 150 50.686740
14	-34 36.609860 150 50.686870
15	-34 36.639430 150 50.725580
16	-34 36.629310 150 50.701250
17	-34 36.609920 150 50.671790
18	-34 36.578980 150 50.664570
19	-34 36.569900 150 50.678450
20	-34 36.586440 150 50.708800
21	-34 36.589600 150 50.707150
22	-34 36.593240 150 50.65941
23	-34 36.598020 150 50.678090
24	-34 36.595300 150 50.687150
25	-34 36.701750 150 50.650190
26	-34 36.703300 150 50.616970
27	-34 36.693430 150 50.693430
28	-34 36.499410 150 50.730150
	-34 36.467650 150 50.714440

FLARE	COORDINATES
29	-34 36.488270 150 50.717130
30	-34 36.508450 150 50.702790
31	-34 36.518480 150 50.716450
32	-34 36.479200 150 50.725580
33	-34 36.549920 150 50.733870
34	-34 36.532140 150 50.714410
MANIFOLD 1	-34 36.557280 150 50.647560
MANIFOLD 2	-34 36.585310 150 50.647560
MANIFOLD 3	-34 36.520360 150 50.719850
J TRAP 1	-34 36.569770 150 50.642560
J TRAP 2	-34 36.603680 150 50.652240
J TRAP 3	-34 36.603680 150 50.6293"
J TRAP 4	-34 36.539740 150 50.715840
J TRAP 5	-34 36.489270 150 50.721240
MAIN CONNECTION 1	-34 36.623430 150 50.656810

WELL 35	COORDINATES
35	-34 36' 40.038"
36	-34 36' 40.7777"
37	-34 36' 41.508"
38	-34 36' 40.509"
39	-34 36' 41.2272"
40	-34 36' 40.2703"
41	-34 36' 40.9734"
42	-34 36' 40.764"
J TRAP 6	-34 36' 40.09"
J TRAP 7	-34 36' 42.09"
J TRAP 8	-34 36' 42.25"
J TRAP 9	-34 36' 42.46"
MAIN CONNECTION 2	-34 36' 37.55"

MANIFOLD D	COORDINATES
44	-34 36' 40.00"
45	-34 36' 36.06"
46	-34 36' 36.75"
47	-34 36' 37.11"
48	-34 36' 37.95"
49	-34 36' 38.38"
50	-34 36' 38.83"
51	-34 36' 38.94"
52	-34 36' 39.53"
53	-34 36' 39.35"

LATERAL A	COORDINATES
45	-34 36' 40.00"
46	-34 36' 36.75"
47	-34 36' 37.11"
48	-34 36' 37.95"
49	-34 36' 38.38"
50	-34 36' 38.83"
51	-34 36' 38.94"
52	-34 36' 39.53"
53	-34 36' 39.35"

LATERAL B	COORDINATES
44	-34 36' 35.25"
45	-34 36' 36.06"
46	-34 36' 36.75"
47	-34 36' 37.11"
48	-34 36' 37.95"
49	-34 36' 38.38"
50	-34 36' 38.83"
51	-34 36' 38.94"
52	-34 36' 39.53"
53	-34 36' 39.35"

LATERAL C	COORDINATES
44	-34 36' 35.25"
45	-34 36' 36.06"
46	-34 36' 36.75"
47	-34 36' 37.11"
48	-34 36' 37.95"
49	-34 36' 38.38"
50	-34 36' 38.83"
51	-34 36' 38.94"
52	-34 36' 39.53"
53	-34 36' 39.35"

LATERAL D	COORDINATES
44	-34 36' 35.25"
45	-34 36' 36.06"
46	-34 36' 36.75"
47	-34 36' 37.11"
48	-34 36' 37.95"
49	-34 36' 38.38"
50	-34 36' 38.83"
51	-34 36' 38.94"
52	-34 36' 39.53"
53	-34 36' 39.35"

Manifold E	COORDINATES
44	-34 36' 35.25"
45	-34 36' 36.06"
46	-34 36' 36.75"
47	-34 36' 37.11"
48	-34 36' 37.95"
49	-34 36' 38.38"
50	-34 36' 38.83"
51	-34 36' 38.94"
52	-34 36' 39.53"
53	-34 36' 39.35"

Manifold F	COORDINATES
44	-34 36' 35.25"
45	-34 36' 36.06"
46	-34 36' 36.75"
47	-34 36' 37.11"
48	-34 36' 37.95"
49	-34 36' 38.38"
50	-34 36' 38.83"
51	-34 36' 38.94"
52	-34 36' 39.53"
53	-34 36' 39.35"

Well 43	COORDINATES
43	-34 36' 34.91"

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REVISIONS

E - NEW WELLS, LAT'S AND FLARE	15/10/15
F - NEW MAIN LINE AND WELL DISCONNECTION	17/06/16
G1 - RE-TRIM AREA	27/09/16
H1 - TEMP DISCONNECT WELLS 35-42	24/04/17
J1 - ADDITIONAL WELLS	07/07/17
J2 - ADD FLOW LINE CONNECTIONS	11/08/17

Drawn by:



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PROJECT

SHELLHARBOUR COUNCIL  
BUCKLEYS RD DUNMORE  
RE-WORK

IF IN DOUBT - ASK

A3

SCALE 1:2000

0 40 80 120 160 200m

THIRD ANGLE PROJECTION

