

Volume 1.0

Conditions of Tendering

Winning and Crushing of Class A Gravel

Closing: 2:00pm, 31st of March 2025

Table of Contents

Definitions	_____	4
1 Preamble	_____	5
2 Contract / Project Information	_____	5
3 Relevant Documents	_____	6
4 Contractors Responsibilities	_____	6
5 Supporting Information	_____	6
6 Inspection &/or Pre-Tender Briefing	_____	6
7 Alternative Proposals	_____	6
8 Tender Lodgement	_____	7
9 Tender Evaluation	_____	7
Conditions of Tendering and Quotations	_____	9
10 Interpretation	_____	9
11 Name of Tenderer	_____	9
12 Documents to be Lodged by the Tenderer	_____	9
13 Submission of Tenders	_____	9
14 Compliance with Tender Documents	_____	10
15 Acceptance of Tenders	_____	10
16 Interpretation of Documents	_____	10
17 Tenderer to Comply with W H & S Requirements	_____	10
18 Tenderers to Comply with Statutory Requirements	_____	11
19 Changes to Tenders	_____	12
20 Verbal Advice	_____	12
21 Tenderers to Inform Themselves Fully	_____	12
22 Notice to Tenderers	_____	13
23 Tenders to Become the Property of Council	_____	13
24 Disclosure of Information	_____	13
25 Intellectual Property	_____	13
26 Validity of Tenders	_____	14
27 Estimated Quantities	_____	14
28 Pricing	_____	14

29	<i>Quality Management</i> _____	15
30	<i>Terms and Conditions</i> _____	15
31	<i>Resolution of Inconsistencies</i> _____	15
32	<i>Goods and Services Tax (GST)</i> _____	16

Definitions

Principal: Temora Shire Council

Contractor: Person, business or company contracted for the works set out in the contract

Council: Where the word 'Council' appears, refers to the 'Temora Shire Council'

The word "*shall*" means mandatory, the word "*may*" means non-mandatory.

Where the word "*Tender*" is shown it shall equally apply to Quotes, unless otherwise stated.

1 Preamble

Conditions of the tendering process have been prepared in accordance with the obligations set out within the Local Government Act 1993 and Australian Standard 4120, Code of Tendering. It is the Temora Shire Council's intention to ensure the tender process is conducted in a totally transparent nature with all parties dealt with in an equal & fair manner.

Both Tenderers & Principal shall comply with the requirements of the Local Government Act 1993 and the code requirements of AS 4120, with particular attention, but not limited to, the following obligations in preparation & submission of tender documents;

- ❑ All parties to conform within all legal parameters
- ❑ Parties must not submit tenders without intention and commitment to proceed with contract
- ❑ Conditions of tender are the same for all parties involved
- ❑ Tenderers must not engage in any collusive practice in tender formation
- ❑ All financial and non-financial ties with elected members of council or senior council employees to be disclosed in tender submission.
- ❑ Canvassing of elected members and Council Employees will disqualify consideration of the tenderer forthwith.

2 Contract / Project Information

All relevant and specific requirements, scope of works and project details are contained and defined under 'Contract Specifications' within this document.

This tender document is for contract No.GC001/2025, 'Winning and Crushing of Gravel'

Contract is to commence as from 1st July 2025 and cease as of 30th June 2026, as an initial 1 year term.

3 Relevant Documents

The relevant contract documents that tender submissions should be based upon are;

- ❑ *Volume 1.0 Conditions of Tendering*
- ❑ *Volume 2.0 Conditions of Contract*
- ❑ *Volume 3.0 Contract Specifications*
- ❑ *Volume 4.0 Tender Submission Documents*

4 Contractors Responsibilities

Each Tenderer shall be deemed to have examined each and every aspect of their obligations under these Tender documents.

It is the responsibility of the contractor to ensure that they have the ability and understanding to undertake all requirements of the contract to a satisfactory standard and that site, weather, and any other conditions that may otherwise not be mentioned are accounted for and factored in the Tender submission documents.

5 Supporting Information

All requirements stated within 'Tender Submission Documents', must be supported with documentary evidence of compliance and attached with submission. Failure to do so could render submission invalid.

6 Inspection &/or Pre-Tender Briefing

Inspection of gravel pits can be organised by appointments only. Council's representatives can be contacted to book an appointment

7 Alternative Proposals

Alternative proposals, which satisfy Councils objectives for the overall service of the contract, are encouraged by the council, but should only be submitted along side to a conforming tender, as no guarantee can be given to an altered proposal.

8 Tender Lodgement

A formal tender lodgement process applies. Tenderers must complete the Tender Form provided and lodge it with any accompanying schedules or information electronically within VendorPanel as a Temora Shire Council supplier (Preferred).

Additional option for tender submission to council will see council accept submissions by formal tender box lodgement process. Tenderers must complete the Tender Form provided and lodge it with any accompanying schedules or information in a sealed envelope with the Contract name and number in the tender box located at:

Temora Shire Council Administration Office
105 Loftus Street
TEMORA NSW 2666

Or

Alternatively, the tender application can be mailed to The General Manager Temora Shire Council, PO Box 262 Temora NSW 2666.

All tenders must be received before the closing time and date, 2:00 PM, Thursday 31st of March 2025.

It is recommended that tenderers do not leave lodgement until just prior to the closing time. In accordance with NSW Local Government (General) Regulation 2005 (section 177), late tenders lodged will not be considered by Council.

Under NO circumstances should a tender be sent via email to a Council Officer. Such tenders will not be considered by Council.

9 Tender Evaluation

Evaluation & selection of winning tenders will be in accordance with the requirements of AS4120, Code of Tendering and the NSW Local Government (Tendering) Regulation 1993 under the NSW Local Government Act 1993.

The selection criteria will include but not restricted to the following table :

Evaluation Criteria	Description	Tender Evaluation Criteria Weightings
Price		
Price	Rates will be evaluated across all submissions, with the lowest price receiving the highest score.	55%
Technical		
Conformity to documents	Tenderer to submit documents to Councils expectations and requirements.	Y/N
Safety, quality, environmental, references and evidence of capability	What safety, quality, and environmental measures does the tenderer implement, how high is the overall quality of their documentation, and what evidence of capability and appropriate references do they provide?	25%
Availability	How available is the tenderer, and what commitments do they have over the next year to guarantee that Council projects are prioritised?	10%
Number of external resources used	Tenderer to provide a list of external contractors used. The higher number of subcontractors and external resources used will provide a lower score.	10%

THE SUCCESSFUL TENDERER WILL BE FORMALLY NOTIFIED IN WRITING

Conditions of Tendering and Quotations

10 Interpretation

Temora Shire Council invites Tenders and Quotes for the supply and delivery of goods and services, in accordance with the attached schedules and documents.

11 Name of Tenderer

All offers shall be submitted on the forms provided, supplemented if necessary by supporting documentation. The forms may be reproduced by electronic means, provided that the format is not altered. Forms shall be legible, completed in an indelible form, signed and dated in order to be considered as part of the Tender documents.

The documents shall include the full name of the Tenderer (person or organisation), any other information requested on the Tender Forms and the ABN of the Tenderer where appropriate.

SUBMISSION OF TENDERS SHALL BE SIGNED UNDER SEAL WHERE REQUIRED

12 Documents to be lodged by the Tenderer

The following tender documents shall be lodged:

- Form of Tender
- Schedules of Information (including checklist for compliance)
- Tender Deposit (if relevant)

FAILURE TO COMPLETE DOCUMENTS MAY INVALIDATE A TENDER

13 Submission of Tenders

Not applicable

14 Compliance with Tender Documents

Any Tender that does not comply in every respect with the requirements of this document, may be rejected as a non-conforming Tender by Council in its absolute discretion. Such Tenders shall not be further considered.

Where Council in its absolute discretion declares such a Tender as non-conforming, the Tenderer acknowledges and accepts that the Council has the right to do so, and shall agree to forfeit all rights of action they may have against the Council for making such a declaration.

15 Acceptance of Tenders

Council reserves the right to accept a Tender from more than one Tenderer and/or separate tenders from each. The lowest or any submission received is not necessarily accepted.

The Council shall not be responsible for, or pay for, any expenses or losses which may have been incurred by a tenderer in the preparation of their Tender.

16 Interpretation of Documents

Where a Tenderer has any doubt as to the meaning of any portion of the Tender Documents they shall specify the particular portion and shall include a statement of the interpretation upon which they rely and on which their Tender has been prepared and submitted.

Submission of a Tender will be construed as the Tenderer's acknowledgement and agreement that the Tenderer has a definite duty to inquire about, and clarify any Tender requirements that the Tenderer believes may be open to more than one interpretation.

17 Tenderer to Comply with W H & S Requirements

As a minimum requirement Tenderers shall comply with all applicable legislation relating to Work Health & Safety.

This includes:

- Work Health and Safety Act 2011

- Work Health and Safety Regulation 2017
- Work Health and Safety (Mines and Petroleum Sites) Act 2013
- Work Health and Safety (Mines and Petroleum Sites) Regulation 2022

Whilst the legislation underpins all WHS requirements, Codes of Practice, Advisory Standards, and Australian Standards also impose obligations and requirements that must be observed in Tender submission and consideration. The Tenderer shall make themselves fully aware of these requirements and the obligations place on them.

Where Tenders are submitted for Plant items the Tender Documents shall, as a minimum, meet the requirements of the Plant Advisory Standard and any relevant Australian Standard. Material Safety Data Sheets shall be supplied on, or prior to, delivery where appropriate.

Where Tenders are submitted for the supply of contractor or sub-contractor services the Tenderer shall demonstrate that their Work Health & Safety Management System complies with the Work Health & Safety Act 2011. This is to ensure that the Tenderer and their employees are able to carry out work safely, using safe plant, substances and work systems. The successful Tenderer shall supply to Council details of Drivers Licences, Certificates of Competency and any other Authority or Permits that may be required for certain work processes, for **all staff** that will be involved on the Contract.

The successful Tenderer shall not introduce new staff onto Contract work sites without prior notification to Council and supplying the relevant Licence and Certificate details.

The successful Tenderer shall supply to Council a Risk Assessment identifying the hazards associated with the contract, the risk assessment and the relevant control measures. The Risk Assessment shall be provided prior to commencing the contract.

For major contracts the successful Tenderer shall supply to Council a Work Health & Safety Plan documenting how the Tenderer will manage health & safety during the term of the contract. Regular reports shall be provided to Council on the health & safety performance during the term of the contract.

Council reserves the right to suspend or terminate a contract if, in the opinion of Council, the contractor fails to remedy health & safety breaches.

18 Tenderers to Comply with Statutory Requirements

Tenderers shall comply with the requirements of all Acts of Parliament of the Commonwealth of Australia, and all Acts of the Parliament of the State of New

South Wales. Particular reference shall be made in the Tender documents to the treatment of Environmental Management issues where relevant. All relevant Licences, Permits and other authorisations shall be listed in the documents.

19 Changes to Tenders

In accordance with the Local Government Act 1993, section 488, Council must include this clause in the advertisement to tender if there is a likelihood of any changes to the Tender:

“Council may, prior to making a decision, invite all the persons who have submitted a Tender to change their Tender to take account of a change in the Tender specifications”

Changes to Tender specifications shall be done by way of an Addendum. The addendum shall be forwarded to all Tenderers via email in sufficient time for all Tenderers to consider the addendum properly and fully before the Tender closes. Where appropriate, the Tender period may be extended when an addendum is issued.

20 Verbal Advice

Council shall not be bound by any verbal advice given or information furnished by any officer of the Council in respect of the Tender, but shall be bound only by written advice or written information furnished by Council or an authorised person.

21 Tenderers to Inform Themselves Fully

Each Tenderer shall be deemed to have visited the site for the work where appropriate, and to have examined each and every aspect of their obligations under these Tender documents.

It is the responsibility of Tenderer's to ensure that they have the ability and understanding to undertake all requirements of the Contract to a satisfactory standard and that site, weather, and any other conditions that may otherwise not be mentioned are accounted for and factored in the Tenderer's submission documents.

The Council shall not be held liable for any claim on the grounds of insufficient information.

22 Notice to Tenderers

Every notice to be given to a Tenderer shall be posted to the Tenderer's address given in the Tender. Such posting shall be deemed to be good service of such notice. The time mentioned in such notice or in these Conditions for doing any act shall be reckoned from the time of posting the notice.

23 Tenders to Become the Property of Council

All Tender documents lodged by the Tenderer shall become the property of Council, and shall not be returned to the Tenderer.

24 Disclosure of Information

Any information contained in documents supplied by the Tenderer, which is considered to be of a confidential nature, is to be clearly marked "**Commercial in Confidence**". This will not however apply to the "Form of Tender" or "Pricing Schedules".

Information marked as above shall not be divulged to another party, without written permission of the Tenderer.

Tenderers are advised that where relevant tenders are opened and read in public, all prices read and recorded become a matter of public record and cannot be regarded as "**Commercial in Confidence**". These prices are freely available to anyone requesting such information.

25 Intellectual Property

The Contractor shall fully indemnify Council against any action, claim or demand, costs or expenses arising from or incurred by reason of any infringement of letters patent, design, trade mark or trade name, copyright or other protected rights in respect of any of the goods or services to be supplied under the contract. All payments and royalties payable in one sum or by instalments or otherwise shall be included by the contractor in the tender/quotation price and shall be paid by the contractor to those whom they may be due or payable.

Tenderers shall retain their right to intellectual property submitted with tenders, including title thereto. However the ownership of all intellectual property

developed or otherwise derived from any contract formed from a tender, or as a result of any work or activity undertaken directly or indirectly in association with the performance of any supply of goods and services, shall be vested in the Council and the ownership of all intellectual property within the specifications of this tender shall be vested in the Council.

26 Validity of Tenders

Tenders shall be firm and open to acceptance by Council for a minimum period of sixty (60) days from the time of Tender closing. No price increases during the Tender Validity Period shall be accepted.

In the event that no Tender has been accepted within the period stated, the Tenderer may withdraw their Tender.

27 Estimated Quantities

Where quantities are supplied, Tenderers are advised that these quantities are supplied for information and are estimates only. The Council accepts no responsibility for their accuracy.

Should the actual quantities required over the period of the contract not match the estimated quantities, or even be approximately correct, no claim will be considered by Council for any loss of profits or loss of anticipated profits.

28 Pricing

Prices offered shall be in **Australian Dollars**.

Despite the prices or rates tendered by the Contractor, it is a condition of the contract, and is deemed to be a condition of every contract between the Contractor and Council, that the prices, fees and charges payable by Council in respect of a product or service supplied by the Contractor to Council, must be no less favourable than the prices, fees or charges paid or charged by the Contractor, to any other purchaser for substantially similar products or services in similar circumstances, and under substantially the same terms and conditions.

The Contractor shall at all times act in good faith towards Council.

Without limiting the Contractor's obligation under the Quality provisions below, the Contractor has an obligation not to offer goods or services to which the Tender relates, or substantially similar goods or services, to another Local Government body, Associate Body or Government entity, at a price or fee more favourable than the price or fee tendered by the Contractor, or under more favourable terms and conditions than those contained in the Tender.

29 Quality Management

All goods and services, unless otherwise specified, shall be in accordance with Australian Standards specifications, where such exists. Where an Australian Standard does not exist, relevant I.S.O. Standards shall apply.

It shall be the Tenderer's responsibility to ensure the quality of work performed and that the procedures for work performed comply with an appropriate Quality Management System Standard.

Documentary evidence shall be produced upon request of the Supervising Officer or other authorised officer to show that the Standard for Quality has been complied with. No requirement to test all items will be necessary where a supplier has given proof of Certification to an appropriate Standard.

Tenderers shall be required to have in place an appropriate Quality Management System (where the risk associated with the contract warrants). The Quality Management System shall comply with the relevant AS 9000:2000 series Standard, and provide documentary evidence of Certification. Tenderers shall be prepared to have the Quality Management System audited by a Council officer from time to time if required.

30 Terms and Conditions

Acceptance of Council's Terms and Conditions will be the only way in which Council will enter into any contract with a Tenderer. The successful Tenderer agrees to comply with Council's Terms and Conditions.

31 Resolution of Inconsistencies

All parts of the Tender documents shall be read and construed together as a whole and so that all parts are as far as possible consistent with each other. Where the

Tender documents contradict or are inconsistent with each other, then the Council's documents shall take precedence.

32 Goods and Services Tax (GST)

Despite anything else in this agreement:

In the event that the Goods and Services Tax (GST) or any similar tax imposed in Australia has application to any supply made under or in connection with this agreement the Contractor may, in addition to the agreed price or any other amount or consideration expressed as payable elsewhere in this agreement, but subject to issuing a valid tax invoice, recover from the purchaser an additional amount on account of GST, such amount to be calculated by multiplying the relevant amount or consideration payable by the purchaser for the relevant supply by the prevailing GST rate.

To avoid doubt, this clause does not apply to any amount that is not payable by the Contractor to the Australian Taxation Office (ATO) as GST, such as an amount paid by the Contractor to another entity in respect of which the supplier is not entitled to an input tax credit.

All tendered pricing shall clearly indicate on the appropriate '*Tender Documents*' forms the following;

- (a) The registered business name and business address of the Tenderer.
- (b) The Tenderer's Australian Business Number (ABN).
- (c) Contract number and title.
- (d) Tendered pricing that is applicable to a GST imposition (i.e. price prior to addition of GST).
- (e) Tendered pricing that is deemed GST free/exempt.
- (f) Amount of GST payable.