



---

# **DUNGOG SHIRE RURAL LANDS STRATEGY CONSULTANCY BRIEF**

---

**Tender 03 / 2019**

**Dungog Shire Council**

**ABN 62 610 350 05**

Closing date:

**COB Thursday 31 October 2019**

Date of issue:

**8 October 2019**

Contact person:

Ms Em Tischner  
Strategic Planner  
Dungog Shire Council  
PO Box 95 (198 Dowling Street)  
Dungog, NSW, 2420  
Phone: 4995 7777  
Email: [emilyt@dungog.nsw.gov.au](mailto:emilyt@dungog.nsw.gov.au)

# Contents

<b>PART A</b> .....	<b>3</b>
1. INTRODUCTION .....	3
2. PURPOSE OF THIS BRIEF .....	3
3. BACKGROUND.....	3
4. STUDY AREA .....	4
5. OBJECTIVES AND INTENDED OUTCOMES .....	4
6. SCOPE OF WORKS.....	5
<b>PART B</b> .....	<b>6</b>
7. METHODOLOGY .....	6
<b>PART C</b> .....	<b>12</b>
5. TENDER REQUIREMENTS.....	12
5.1 Requirements of Quotation/Tender .....	12
5.2 Payment Schedule and timing .....	14
<b>TENDER CONDITIONS</b> .....	<b>15</b>
5.3 Insurance Requirements .....	15
5.4 Work Health & Safety Management System .....	15
5.5 Code of Practice and Code of Tendering .....	15
5.6 Tender Documents (Project Brief) .....	16
5.7 Confidentiality of Tender Documents.....	16
5.8 Process Matters .....	17
5.9 Tender to Constitute Offer .....	17
5.10 Acceptance of Tender.....	17
5.11 Rights of Council.....	18
5.11 Unsuccessful Tenderers .....	19
5.12 Performance Reporting.....	19
5.13 Project Administration .....	20

## PART A

### 1. INTRODUCTION

---

The Dungog Local Government Area is bordered by the World Heritage-listed Barrington Tops plateau to the north and has strong connections to Maitland and Port Stephens to the south. It contains the local service centres of Dungog, Clarence Town and Paterson and is characterised by important agricultural and water catchment areas.

Dungog's future lies in strengthening its tourist connection to Barrington Tops, diversifying its already-strong agricultural base and capitalising on its potential as an events venue and as a lifestyle living location of choice.

#### *Regional priorities*

As identified in the Hunter Regional Plan, Dungog's priorities are to:

- Support the growth and diversification of the agricultural sector.
- Expand the tourism sector by leveraging its strengths, including growing of fresh produce and nature tourism.
- Protect the water supply.

The Dungog Local Environmental Plan (LEP) 2014 is due for review. In order to achieve this, Council is seeking a suitably qualified Consultant to prepare a Rural Lands Strategy as a foundation document to the LEP development process.

### 2. PURPOSE OF THIS BRIEF

---

Our Rural Lands Strategy is to provide a strategic framework that provides a vision for the future use and sustainable management of rural land within the Shire. The Strategy will:

- identify opportunities for agricultural diversification and enhanced contribution of tourism to the local economy
- identify areas for rural residential growth
- make recommendations in regard to environmental conservation, vegetation and wildlife corridors.

### 3. BACKGROUND

---

The agricultural sector is changing, and a number of industry and wider business factors are impacting on traditional farming practice and the viability of farm holdings that – historically for communities such as Dungog – have been a principal source of local employment and economic contribution.

Combined with population growth and increasing demand for rural residential living, land use concerns and potentially conflicting uses are emerging issues for our local community. In combination with the change in our agricultural sector these concerns make it vital that we address the economic future of our area and that identify, protect and manage valuable productive

agricultural lands while at the same time we provide scope for sustainable rural residential growth and protection of lands of environmental value.

#### 4. STUDY AREA

---

The study area for the Rural Lands Strategy is the Dungog Local Government Area (LGA). The Dungog LGA is situated in the lower hunter sub – region of the Hunter. Adjoining the LGA is Mid – Coast Council to the north east, Singleton Council to the west, Upper Hunter to the north west, Port Stephens to the east and Maitland to the south. The LGA is located an hour from Newcastle and 2 hours from Sydney.

There are three principal rivers in the LGA being the Williams, Paterson and Allyn. All are tributaries of the Hunter River and traverse the Shire in a general north-west to south-east direction. Collectively the rivers contribute over 40% of the flow of the Hunter.

The LGA covers an area of 2,248 Square kilometres and is situated at the southern end of the Barrington Tops National Park. Its topography grades from rugged undulating country to areas of river flats. While our area is largely rural in nature a number of villages dot our landscape.

These villages include:

- Dungog
- Gresford
- Paterson
- Vacy
- Martins Creek
- Clarence Town

#### 5. OBJECTIVES AND INTENDED OUTCOMES

---

The objectives of our Rural Lands Strategy are to:

- (a) Investigate opportunities and constraints for diversifying land uses in rural areas in suitable locations to support high value rural industries, intensive agricultural production, accommodate tourism demands and other appropriate uses which are compatible with the primary purpose of the rural areas.
- (b) Investigate opportunities for rural industry localities i.e. Cattle farming, horses and rural industries that are complementary to these. Identify the appropriate MLS for undertaking scale productive agricultural practices on RU1 primary Production lands.
- (c) Investigate the opportunity for small lot primary production industries (RU4 Small Lot primary Production zoning), suitable locations for such industry and appropriate MLS controls and land uses.
- (d) Identify lands zoned R5 Rural Residential that are not viable for development due to environmental constraints. Identify alternative zoning, land use and MLS.
- (e) Investigate and identify areas that require strategies to support and promote appropriate and sustainable agricultural enterprises, particularly where intensive and extensive agriculture is no longer viable.

- (f) Investigate opportunities for innovative agricultural practices and opportunities for diversification of agricultural and rural industries to provide for a future local economy
- (g) Investigate lands of environmental significance and the application of an E2 Environmental Conservation zoning to protect and conserve such lands. Investigate the use of the current environmental zonings (E3 Environmental Management and E4 Environmental Living). Factors such as supply chains, key products and markets and the infrastructure supporting them (for example abattoirs and saleyards and the transport routes connecting them). Opportunities for logistics and freight growth could be considered as could linkages to the Airport and Port of Newcastle.

## 6. SCOPE OF WORKS

---

The strategy is to comprise four stages:

### Stage 1 –

Background / desktop review leading up to development of an Issues and Opportunities Paper.

### Stage 2 –

Arising out the initial review, development of a policy directions paper to provide direction for the strategy.

### Stage 3 –

Development of a draft Rural Lands Strategy. The draft Strategy will provide clear strategic direction to inform the Comprehensive LEP and will provide mapping of amendments to rural zones, environmental zones and rural residential zones across the LGA. The draft strategy will be placed on public exhibition.

### Stage 4 –

Preparation, following community consultation processes, of a final Strategy for adoption by Council.

## 7. METHODOLOGY

The successful tenderer will be required to undertake the following:

<b>STAGE 1</b>																							
<b>Demographics Analysis</b>	<ul style="list-style-type: none"> <li>• Provide a breakdown of population trends of the LGA including the village/town split</li> <li>• Define the social challenges and opportunities regarding the ageing population, changing households and accommodating growth. Identify the impacts of these in regards to land use and the effects on land zoning and permissible land uses.</li> <li>• Develop projections for each individual town and locality using ABS data and data from the Department of Planning, Industry and Environment (Note that DPIE will be releasing re-based 2016 population figures in the near future).</li> </ul>																						
<b>Planning framework</b>	<p>Review and assess the directions and implications of major planning and strategic frameworks including:</p> <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"><b><i>State Legislation &amp; Policy</i></b></th> <th style="text-align: left;"><b><i>Dungog Policies and Strategies</i></b></th> </tr> </thead> <tbody> <tr> <td>Environmental Planning and Assessment Act 1979</td> <td>Dungog Land Use Strategy 2010</td> </tr> <tr> <td>State Environmental Planning Policy (Primary Production and rural development) 2019</td> <td>Dungog LGA Situation Analysis</td> </tr> <tr> <td>NSW Primary Industries Policy – Maintaining Land for Agricultural Industries</td> <td>Dungog Community Strategic Plan 2030 and Dungog Community Participation Plan</td> </tr> <tr> <td>Department of Primary Industries – Buffer zones to reduce land use conflict with Agriculture</td> <td>Dungog, Paterson and Clarence Town Flood Studies</td> </tr> <tr> <td>Hunter Regional Plan 2036</td> <td>Dungog Heritage Review 2014</td> </tr> <tr> <td>Upper Hunter Strategic Regional Land Use Plan 2012</td> <td>Tillegra Land Use Management Plan</td> </tr> <tr> <td>Section 9.1 – Ministerial Directions</td> <td>Upper Hunter Water Plan</td> </tr> <tr> <td>Upper Hunter Economic Diversification Project 2011</td> <td>Hunter Regional Transport Plan 2014</td> </tr> <tr> <td>Upper Hunter Economic Diversification Action Plan 2017</td> <td>Hunter Regional Action Plan 2021</td> </tr> <tr> <td></td> <td>Upper Hunter Regional Land Use Plan 2012</td> </tr> </tbody> </table>	<b><i>State Legislation &amp; Policy</i></b>	<b><i>Dungog Policies and Strategies</i></b>	Environmental Planning and Assessment Act 1979	Dungog Land Use Strategy 2010	State Environmental Planning Policy (Primary Production and rural development) 2019	Dungog LGA Situation Analysis	NSW Primary Industries Policy – Maintaining Land for Agricultural Industries	Dungog Community Strategic Plan 2030 and Dungog Community Participation Plan	Department of Primary Industries – Buffer zones to reduce land use conflict with Agriculture	Dungog, Paterson and Clarence Town Flood Studies	Hunter Regional Plan 2036	Dungog Heritage Review 2014	Upper Hunter Strategic Regional Land Use Plan 2012	Tillegra Land Use Management Plan	Section 9.1 – Ministerial Directions	Upper Hunter Water Plan	Upper Hunter Economic Diversification Project 2011	Hunter Regional Transport Plan 2014	Upper Hunter Economic Diversification Action Plan 2017	Hunter Regional Action Plan 2021		Upper Hunter Regional Land Use Plan 2012
<b><i>State Legislation &amp; Policy</i></b>	<b><i>Dungog Policies and Strategies</i></b>																						
Environmental Planning and Assessment Act 1979	Dungog Land Use Strategy 2010																						
State Environmental Planning Policy (Primary Production and rural development) 2019	Dungog LGA Situation Analysis																						
NSW Primary Industries Policy – Maintaining Land for Agricultural Industries	Dungog Community Strategic Plan 2030 and Dungog Community Participation Plan																						
Department of Primary Industries – Buffer zones to reduce land use conflict with Agriculture	Dungog, Paterson and Clarence Town Flood Studies																						
Hunter Regional Plan 2036	Dungog Heritage Review 2014																						
Upper Hunter Strategic Regional Land Use Plan 2012	Tillegra Land Use Management Plan																						
Section 9.1 – Ministerial Directions	Upper Hunter Water Plan																						
Upper Hunter Economic Diversification Project 2011	Hunter Regional Transport Plan 2014																						
Upper Hunter Economic Diversification Action Plan 2017	Hunter Regional Action Plan 2021																						
	Upper Hunter Regional Land Use Plan 2012																						

<p><b>Research &amp; Analysis with relevance to Dungog LGA</b></p>	<ul style="list-style-type: none"> <li>• Identify agricultural trends, innovative and emerging agricultural practices, opportunities for diversification of existing agricultural industries</li> <li>• Investigate and identify clusters that require different strategies to support and promote appropriate and sustainable agricultural enterprises</li> <li>• Consider impacts of climate change and hazard management impacts (flooding, bushfire)</li> <li>• Analyse dwelling approvals on undersized lots, RU1 and E4 and supply &amp; demand for R5 allotments</li> <li>• Consider Infrastructure shortfalls – Transport (nodes and access), Infrastructure (Servicing), resource management. This works should take into account the content of Objectives and Intended Outcomes 5 (e)</li> <li>• Analyse and compare minimum lot size and holding size to adjoining rural council areas</li> </ul>
<p><b>Land Capability Assessment</b></p>	<ul style="list-style-type: none"> <li>• Use the Department of Planning, industry and Environment Important Agricultural Lands Mapping (to be available mid 2020) and the Strategic Agricultural Land Mapping as a base and incorporate additional info to include sub climates that can be optimised for agriculture and rural industries</li> <li>• Include information of physical attributes of rural land and its capacity to support productive agricultural uses, soil type, climate, vegetation cover, access to water, slope and drainage, while providing for the protection of significant environmental areas and assets</li> </ul>
<p><b>Economic performance</b></p>	<ul style="list-style-type: none"> <li>• Collect, collate and monitor data on the economic performance, type and location of agricultural enterprises</li> <li>• Review local and Regional economic impacts</li> <li>• Review economic impact of tourism and opportunities for tourism</li> </ul>

<p><b>Environmental Lands</b></p>	<ul style="list-style-type: none"> <li>• Identify issues with the use and protection of water supply catchments and conflicts with agricultural practices</li> <li>• Investigate the Dungog DCP to ensure that development in the water catchment adequately protects the resource (ref. HRP Direction 15 and concerns expressed by Hunter Water about complying development in the DWC not being adequately backed up by the DCP)</li> <li>• Review the existing Environmental Zones applied in the LGA (E3 Environmental Management and E4 Environmental Management)</li> <li>• Undertake ecological studies to identify any areas of environmental and ecological significance. In regard to this matter, note: <ul style="list-style-type: none"> <li>– HRP 2036 14.1: Identify terrestrial and aquatic biodiversity values and protect areas of high environmental value to sustain the lifestyle, economic success and environmental health of the region.</li> <li>– CSP Strategy 1.10: Maintain a strong regional approach to the management of our natural environment</li> <li>– Draft LSPS A1: Develop vegetation and rural capability GIS mapping layers</li> </ul> <p>In light of the above points it would be advantageous if there was a line of sight between the HRP action to identify and protect high environmental values. The output could expand on the brief's requirement to take steps towards the LSPS draft A1 above.</p> </li> <li>• Identify lands that are significantly constrained by environmental factors to later inform appropriate land uses and zonings</li> </ul>
<p><b>Consultation and Engagement</b></p>	<ul style="list-style-type: none"> <li>• Prepare a comprehensive community engagement package utilising qualitative and quantitative data methods</li> <li>• Engage and consult with the project Steering committee throughout the project and Council staff (face to face meetings)</li> <li>• Consult with Government Agencies: <ul style="list-style-type: none"> <li>– NSW Department of Planning, Industry and Environment</li> <li>– Hunter Water Corporation</li> <li>– NSW Department of Primary Industries</li> <li>– Hunter Local Land Services</li> <li>– NSW Department of Premier and Cabinet Hunter and Central Coast</li> <li>– Hunter and Central Coast Development Corporation</li> <li>– Water NSW</li> <li>– TfNSW</li> <li>– LALC</li> <li>– OEH National Parks and Wildlife</li> <li>– RDA Hunter</li> </ul> </li> </ul>
<p><b>Rural Issues Paper</b></p>	

<b>Rural Lands</b>	<ul style="list-style-type: none"> <li>• Consider the position of the Dungog LGA in terms of Agricultural industry and outputs in the wider Hunter Region</li> <li>• Assess the current and likely future state of the dominant agricultural industries in the LGA and their viability</li> <li>• Review the application and appropriateness of RU1 Primary production and the 60 hectare minimum lot size (MLS )</li> <li>• Consider any issues which might arise from the blanket application of the RU1 zoning</li> <li>• Review and assess biosecurity, buffer zone and land use conflicts.</li> </ul>
<b>Environmental Lands</b>	<ul style="list-style-type: none"> <li>• Review and assess the application and applicability of the E3 Environmental Management and E4 Environmental Living zones, including permissible land uses and MLS</li> </ul>
<b>Economic development</b>	<ul style="list-style-type: none"> <li>• Assess the current state of tourism enterprises in the LGA and, arising from this, make recommendations as to what's working and what's not</li> <li>• Review the current spread of Rural Residential (R5 Lands) and the viability of lands already zoned but not yet developed</li> </ul>

<b>Stage 2</b>	
<b>Policy Directions Paper</b>	
<b>Policy Directions Paper</b>	<ul style="list-style-type: none"> <li>• Identify issues and opportunities to meet the strategy objectives and for the following key areas: <ul style="list-style-type: none"> <li>– Agriculturally important and productive lands and their protection</li> <li>– Rural infrastructure shortfalls</li> <li>– Environmental conservation, management and living</li> <li>– Sustainable agricultural land use, new rural industries and natural resource management</li> <li>– Catchment management and water quality</li> <li>– Telecommunications access for rural communities</li> <li>– Peri-urban development and rural lifestyle landowners, rural workers dwellings</li> <li>– Rural landownership, fragmentation and dwelling entitlement</li> </ul> </li> </ul>
<b>Stage 3</b>	
<b>Draft Rural Lands Strategy</b>	
<b>Zoning, land use and precinct development</b>	<ul style="list-style-type: none"> <li>• Prepare a strategic planning framework to guide the zoning, land use permissibility and appropriate minimum lot sizes, for the protection and development of: <ul style="list-style-type: none"> <li>– Agricultural and resource lands</li> <li>– Rural lifestyle living opportunities</li> <li>– Landscape and environmental values</li> </ul> <p>Note that investigations into the towns and villages do not form part of the Rural Lands Strategy</p> </li> <li>• Investigate and identify areas that require additional strategic planning strategies to support and promote appropriate and sustainable agricultural enterprises and rural residential living</li> <li>• Investigate the opportunities for development precincts, such as Agricultural precincts (horses, horticulture, cattle etc), tourism precincts, rural residential precincts and biodiversity corridors</li> </ul>

<p><b>Key Strategy outcomes</b></p>	<ul style="list-style-type: none"> <li>• Identify agriculturally productive lands for RU1 Primary Production land zoning, appropriate minimum lot size and dwelling entitlement</li> <li>• Review the existing and potential boundaries of R5 Large Lot Residential E3 Environmental Management and E4 Environmental Living zones, determining the applicability of those zonings.</li> <li>• Identify opportunities for rural land zoning RU2 Rural Landscape, RU4 Small Lot Primary Production and Environmental Zone E2 Environmental Conservation</li> <li>• Identify relevant lot size and land use permissibility for all zones</li> <li>• Identify rural and environmental tourism opportunities</li> <li>• Identify conservation corridors and scenic landscape protection schemes</li> <li>• Investigate and develop strategies for areas where intensive agriculture is marginalised</li> <li>• Economic development strategy for agricultural lands, emerging agricultural industries and tourism. Identify opportunities for financial incentives for rural industry development – rating, etc.</li> <li>• Prepare appropriate draft DCP controls to manage development proposed in the strategic planning framework</li> <li>• Identify key transport connections – markets and tourist focal points</li> <li>• Identify shortfalls in infrastructure to provide for productive agricultural activities, rural industry and rural residential development</li> <li>• Identify servicing issues for Rural residential development</li> <li>• Hazard management and water catchment issues</li> </ul>
<p><b>GIS mapping</b></p>	<ul style="list-style-type: none"> <li>• Access mapping information – MapInfo table format or Arcview shape files. Datum – GDA 94, Projections MGA zone 56</li> <li>• Prepare mapping for all identified Strategy options including, but not limited to: <ul style="list-style-type: none"> <li>– Agricultural activities including the mapping of clusters based on agricultural production types</li> <li>– Areas where intensive agriculture is marginalised</li> <li>– Hazards constraining potential rural lifestyle development</li> <li>– Land use constraints</li> <li>– Subdivision viability</li> </ul> </li> <li>• Prepare draft LEP maps</li> </ul>
<p><b>Stage 4</b></p>	
<p><b>Final Rural Lands Strategy</b></p>	
<p><b>Final Strategy</b></p>	<ul style="list-style-type: none"> <li>• Submit final draft strategy to Council for review</li> <li>• Produce final Strategy Package including final mapping</li> </ul>

## PART C

### 5. TENDER REQUIREMENTS

---

#### 5.1 Requirements of Quotation/Tender

The quotation for tender provided by the Consultant must respond to the project brief and provide the following:

- Demonstrated understanding of the project brief and the Dungog LGA
- A proposed methodology to complete the scope of work required in this brief including key milestones and completion dates
- A project delivery timeframe. Please note Council is on a reduced timeframe for the delivery of this project and invites the consultant to provide a timeframe similar to the indicative timetable provided below.
- A detailed Payment Schedule. Payments are to be provided in lump sum figures and percentage of total cost break down. Identify and include any hold points for review of documentation
- The proposed hours of work to be completed by each staff member and their costings
- Demonstration of capacity and capability to undertake the works identified in the brief
- Demonstration of experience and qualifications of each staff member and their role in the project
- Detailed statements of availability of team members during the course of the Project
- Examples of similar projects completed.

#### Details of Sub Consultants

As the scope of this project requires the expertise of multiple experienced consultants, it is required that the following information in regard to the sub-consultants be provided:

- The role of the sub-consultant in the project, demonstrated experience and similar projects undertaken
- The qualifications and experience of the staff including anticipated hours of work with costing.

#### Timing and Deliverables

Task	Deliverable/output	Timeframe	Councillor briefing
Inception meeting	Meeting Minutes (by Council)	Early November	

Background Review Councillor Workshop Council Staff workshop Agencies Consultation	Rural issues paper	9 December 2019	
Rural Issues Paper > Policy directions	Policy Directions Paper	21 February 2020	
Steering committee to review policy directions paper	Steering committee comments report by Council	6 March 2020	
Consultant presents the draft strategy to Council	Draft Rural Lands Strategy	3 August 2020	Yes
Steering Committee reviews strategy	Comments paper to consultant	24 August 2020	
Consultant to submit revised document	Revised Draft Rural Lands Strategy	14 September	Yes
Strategic Planner to review document	Comments to Consultant	21 September	
Consultant to present final draft strategy to Council	Final Draft Rural Lands Strategy	28 September 2020	Yes
Council to prepare report to Council meeting for exhibition		30 September 2020 (Extraordinary)	
Council exhibits the Draft Rural Lands strategy		2 October 2020 – 30 October 2020	
Council reviews submissions and sends the amendments to the consultant	Submissions Review Paper	16 November 2020	
Consultant to amend strategy	Amended Strategy	4 weeks to review	
Consultant submits final strategy	Final Strategy	11 December 2020	
Council meeting to adopt strategy - used to inform the Comprehensive LEP		16 December 2020	Yes 14 December 2020

- All meetings are to be held at the Council Administration building at Dungog
- There will be a minimum of 4 meetings held through the duration of the strategy development. It is intended that at a minimum, the inception meeting will be face to face.

### **Format of deliverables**

All reports and documentation must be fully referenced, well presented, written in plain English and utilise an A4 format. All documentation and mapping is to be provided in hard copy and digital form. Digital copies of documentation are to be provided in both Word and PDF format with consideration given to the file size and the reproduction of documents in black and white. Hard Copies are to be in colour and presented to Council by the agreed time.

Two unbound copies of all reports and documents are to be delivered to Council upon completion within the agreed timeframe. Council will review all draft final reports and documents and request amendments or further clarification of material or recommendations

### **Risks**

The consultant is to adhere to Council's WHS policies when undertaking work for this project. Council is to be notified immediately of any risk that will impact upon the time, cost or quality of the project.

There should also be assurance there are no conflicts of interest from the consultant and sub consultants in carrying out this work.

### **5.2 Payment Schedule and timing**

The consultant is required to provide, in response to the brief, a detailed work program based on the key tasks and milestones identified in the project brief.

Council will need to be notified and advised in detail of any proposed variation to the project scope that results in an additional cost. Any proposed variations will need to be accepted by Council in writing prior to the variation being actioned.

The payment schedule is based on the deliverables and milestones identified in the project brief wherein expectations and demonstrated progress requirements are detailed.

The Value of Financial Offer is the proposed total cost to complete the project (as an upper limiting fee) comprising:

- the lump sum Tender price;
- a breakdown of costs by task and team member, including details of the hours to be worked (and hourly rates) for each team member; and their position title;
- a percentage breakdown of costs to achieve each milestone; and
- Description of the proponents approach to ensuring that the services represent value for money.

### **Payment Milestone Table (subject to change in light of final Deed of Agreement with DPIE)**

<b>Instalment Number</b>	<b>Hold point</b>	<b>Milestones</b>	<b>Milestone Payment Due</b>
1		Inception Meeting	10%
2		Rural Issues Paper	20%

4	Review by Steering Committee	Policy Directions paper	25%
5	Review by Steering Committee	Draft of Rural Lands Strategy for community consultation	20%
6		Mapping – including draft LEP maps	10%
7		Final Strategy accepted	15%

## TENDER CONDITIONS

---

### **5.3 Insurance Requirements**

The consultant is to provide details of:

- Professional Indemnity insurance up to \$20 million
- Public Liability insurance up to \$20 million
- Certificates of Currency for all insurances and an insurance broker provided list of exclusions
- Workers Compensation cover

### **5.4 Work Health & Safety Management System**

The tenderer should supply information regarding the corporate WHS and details if accredited.

The tenderer must clearly identify health and safety responsibilities for all levels of staff.

### **5.5 Code of Practice and Code of Tendering**

All Tenderers must comply with the Dungog Shire Council *Code of Practice* and the *NSW* (the “Codes”). Lodgement of a Tender will be evidence of the Tenderer’s agreement to comply with the Codes for the duration of the Tender period and any Tender that may be accepted.

If any Tenderer fails to comply with the Codes, its failure may be taken into account by the Council when considering this or any subsequent Tender and may result in this or any subsequent Tender being passed over.

## **5.6 Tender Documents (Project Brief)**

### ***Discrepancies in Tender Documents***

Should a Tenderer find any discrepancy or error in or omission from any of the Tender Documents, it should notify the Council in writing as soon as possible.

### ***No Obligation to Notify Discrepancy***

The Council is under no obligation to notify Tenderers of any discrepancy or error in or omission from the Tender Documents discovered by or notified to the Council before or after the Closing Date.

### ***Right to Amend Tender Documents***

The Council may amend the Tender Documents (including by extending the date or time for closing of the Tender) at any time before the Closing Date by written addendum issued in identical form to each Tenderer. Any addendum issued will become part of the Tender Documents.

### ***Addenda***

No explanation, elaboration of, or amendment to the Tender Documents will be effective unless it is in the form of a written addendum issued by the Council.

### ***Non-complying Tenders***

Tenders not complying with the requirements of the Tender, or which offer conditions varying from those set out in these Tender Documents, or Tenders which are incomplete or not correctly submitted, will be regarded as non-compliant and the Council may exclude them from consideration in its absolute discretion.

## **5.7 Confidentiality of Tender Documents**

### ***Non-disclosure***

A Tenderer must not disclose Tender Documents to any person who is not an employee, supplier or sub-contractor of the Tenderer involved in preparation of the Tender unless it has obtained the Council's prior written consent.

### ***No Copying or Giving Away***

A Tenderer must not provide any part or any copy of any part of the Tender Documents or their Tender to any person unless:

- it is provided for the purpose of preparing a Tender, and
- the person has agreed not to allow any part or copy so provided to be seen by any other person.

## ***Reservation of Rights***

The Council reserves all copyright and other rights of the nature of industrial and intellectual property in any and or all of the Tender Documents and no permission, licence or authority is granted by the Council to any person to use any of the Tender Documents for any purpose other than lodgement of a Tender in accordance with the Tender Documents.

### **5.8 *Process Matters***

Council reserves the right to:

- Terminate the evaluation process for whatever reason without recourse from the proponent
- Negotiate, or not negotiate, with any proponent.

### **5.9 *Tender to Constitute Offer***

#### ***Irrevocable Offer***

Any Tender lodged will constitute an irrevocable offer by the Tenderer to the Council. The Tenderer agrees that the contents of its Tender (subject to any post-Tender alterations agreed in writing by the Council) will form a binding description of the offer by the Tenderer.

#### ***No Revocation, Withdrawal or Variation***

Except with the prior written consent of the Council, a Tenderer must not withdraw or revoke its Tender before 10.00 am on the Validity Date but may withdraw its Tender by written notice to the Council after that time provided the Tender has not been accepted by the Council in the meantime.

#### ***Compensation***

The Council may seek compensation for the withdrawal of a Tender prior to 10.00 am on the Validity Date. Compensation will be the cost involved in the evaluation of the Tender until the date of notification of withdrawal and any subsequent evaluation of other Tenders caused by the withdrawal.

#### ***Exclusion of Variation, etc.***

No purported variation, alteration or amendment to or of the Tender Documents by a Tenderer shall bind the Council, provided always that the Council may in its absolute discretion accepts any form of Tender.

### **5.10 *Acceptance of Tender***

#### ***Time off Acceptance and Manner***

A Tender shall not be deemed to be accepted unless and until the Council serves on the Tenderer a Notice of Acceptance and the Council's completed Conditions of Engagement duly executed by the Council.

## ***Service***

The Notice of Acceptance, together with the executed Council's Conditions of Engagement, may be delivered to the address for service of the Successful Tenderer nominated in its Tender, or sent by prepaid post to such address.

## ***Date of Service***

The date of service of the Notice of Acceptance will be:

- where the Notice of Acceptance is served personally on the Successful Tenderer or left at the address for service of the Tenderer specified in its Tender, the date upon which the Notice of Acceptance is handed to the Tenderer or left at the address for service of such Tenderer, as the case may be; or
- where the Notice of Acceptance is sent by prepaid post to the Successful Tenderer, the date of posting of the Notice of Acceptance.

## ***Parties Bound***

Upon acceptance of a Tender by the Council (by service of a Notice of Acceptance, and whether as originally submitted or as varied following negotiations after submission of the Tender), the Successful Tenderer is bound by the Council's completed Conditions of Engagement.

### ***5.11 Rights of Council***

#### ***Right To Cancel/Evoke Request for Tender***

The Council reserves the right at any time, whether before or after the Closing Date, to cancel or revoke its invitation to Tender and in that event no prospective Tenderer or Tenderer has any right to claim or demand against the Council.

#### ***Separate Tenders***

The Council reserves the right to accept a separate Tender or separate Tenders for any one or more separable parts of the services the subject of the invitation to Tender. The Council may also accept all or any part of a Tender subject to satisfaction of stipulated conditions to which the Tenderer may be asked to agree.

#### ***Right to Negotiate***

The Council reserves the right to negotiate with Tenderers after the Closing Date. The Council may negotiate with Tenderers to vary their Tenders on any grounds relevant to the Council obtaining the best commercial and technical result from the Request for Tender. The Council may withdraw from such negotiations at any time and commence negotiations with any other Tenderer without any obligation to invite proposals, Tenders, offers or submissions from any other Tenderer in respect of the terms which are the subject of such negotiation or variation.

### ***Request for Further Information***

The Council may request any Tenderer to supply further information if the particulars supplied by the Tenderer in the Tender are insufficient to enable the Council to evaluate the Tender to its satisfaction. Tenderers must supply any further information requested by Council Sole within 2 days or as otherwise agreed with the Council's nominated contact officer after receipt of a written request for that information. The Council may also request the Tenderer to attend an interview. Any information supplied by the Tenderer in response to a request for further information or at an interview will, if so required by the Council, be deemed to form part of the Tenderer's Tender.

### ***Right to Alter Terms and Conditions***

Without limiting the Conditions of Tendering, after the Closing Date the Council may alter or accept alterations to any of the terms and conditions of a Deed to be entered into by the Council with a Tenderer at any time, without, in its absolute discretion, notice to any other Tenderer.

### ***Intellectual Property***

All reports and documents will become the property of Dungog Shire Council, which at its discretion and expense, may reproduce further copies without restriction or additional payments of any kind to the consultant. Dungog Shire Council will hold the copyright to all intellectual property that the consultant provides in fulfilling this Brief.

## ***5.11 Unsuccessful Tenderers***

### ***No Redress***

Any person lodging a Tender which is unsuccessful is not entitled to any redress against the Council. Any decision by the Council in relation to the Invitation to Tender will be final and (subject to legal rights which cannot be excluded, released or modified) no unsuccessful Tenderer has any redress against the Council as a result of the Council exercising any or all of its rights in relation to the invitation to Tender.

### ***No Obligation to Give Reasons***

The Council is not obliged or required to give any reasons to any unsuccessful Tenderer or to disclose any matter in relation to the Successful Tenderer.

### ***Tenderer's Costs***

The Council is not responsible for and will not pay for costs, expenses or losses which may be incurred by any Tenderer (whether successful or otherwise) in the preparation of a Tender or negotiations arising in relation to a Tender.

## ***5.12 Performance Reporting***

1. Please note that the Council conducts performance reporting on project contractor engagements. A confidential performance report will be prepared at the conclusion of the contract and when finalised, you will be given feedback on our assessment and provided with an opportunity to comment on the assessment.

2. The Contractor authorises the Council to make information concerning the Contractor available to other local councils. Such information may include, but is not limited to, any information provided by the Contractor to the Council and any information relating to the Contractor's performance under the contract.
3. The Contractor releases and indemnifies the Council and from any claim in respect of any matter arising out of such communications. Without limitation of the above, the Contractor releases the Council and the State of New South Wales from any claim it may otherwise have for any loss to the Contractor arising out of the Contractor's performance under the contract by the Council, the communication of information relating to such assessment to any agency, or the use of such information by the recipient.

### **5.13 Project Administration**

The following Council staff member will be the contact for this project:

Em Tischner  
Dungog Shire Council Strategic Planner  
T: 4995 7777  
E: [emilyt@dungog.nsw.gov.au](mailto:emilyt@dungog.nsw.gov.au)

Submissions for tender may be made by either of the following methods:

Mail:

Email:

Relevant dates for this invitation to tender are:

Closing Date for Tenders:	<b>Monday 21 October, 2019</b>
Closing Time of Tenders:	<b>5 pm</b>
Validity Period of Tenders:	<b>120 days after the closing date</b>