



RETURNABLE SCHEDULE 1

TENDER FORM FOR TENDER NO: 19_069

A. Tenderer details

If Tenderer is a partnership or an individual, complete these details:

If an individual, full name:	
If a partnership, full names of each member of partnership:	
ABN:	
Business address:	
Contact person:	Name: Telephone number: Email: Facsimile:

If Tenderer is incorporated, complete these details:

Complete company name (i.e. include whether 'Limited' or 'Proprietary Limited'):	Stanthorpe and Granite Belt Chamber of Commerce Inc.
Is company a trustee?	NO
If company is a trustee, full name of trust is:	
ACN:	
ABN:	22 309 934 187
Names of all company directors:	Mr. Bill James – President: Scott Bradburn – V.Pres: Dany Tjan – Treasurer: Amanda Harrold - Secretary
Names of all company secretaries:	Ms. Amanda Harrold
Name of ultimate parent company:	



Names of all shareholders:	
Address of registered office::	PO Box 23 Stanthorpe 4380
Address of principal place of business:	PO Box 23 Stanthorpe 4380
Address of business nearest to Dalby:	NOT APPLICABLE – Dalby is in the Western Downs Regional Council. ESD is in Southern Downs Regional Council.
Contact person:	Name: Amanda Harrold Telephone number: +61 432 467 966 Email: secretary@stanthorpecoc.com.au Facsimile:

B. Tenderer’s declarations and warranties

The signatory below makes the following declarations, and gives the following warranties, for and on behalf of the Tenderer to Council:

1. The Tenderer has examined all of the Tender Documents, including, without limitation, the following Addenda issued during the Procurement Process:
 - (a) Addendum no. [INSERT];
 - (b) Addendum no. [INSERT];
 - (c) [etc.]

Initialed on behalf of Tenderer: _____

2. The Tenderer offers for the Transfer of the Approvals in accordance with the Tender Documents and its Tender, for the Transfer Cost under the Agreement, the sum of:

Tender Price in numbers: AUD\$ 8000 (GST exclusive)

Tender Price in words: Eight Thousand Australian dollars (GST exclusive) (**Tender Price**).

Initialed on behalf of Tenderer: _____

3. The Tenderer warrants:
 - (a) that its Tender is a genuine attempt for the award of the Agreement;
 - (b) that all of the contents of its Tender are accurate;
 - (c) that the Tenderer has read, understood and complied with its obligations under the Tender Documents, including its obligations under clause 7.2 of the Conditions of Tendering;
 - (d) that it has understood clause 3.3 of the Conditions of Tendering, communicated that clause to its Personnel, and that the Tenderer and its Personnel have taken all appropriate precautions with regards to all Tender Documents, in particular with regards to any Information for Convenience, when preparing the Tender and determining the Tender Price;



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- (e) that the Tenderer, and all Personnel the Tenderer proposes to engage in relation to the Agreement, have the experience, expertise, management systems and resources necessary to safely carry out and supply the goods, services and works in accordance with the Tender Documents, except to the extent that the Statement of Departures expressly states that they do not;
 - (f) as at the date of submission of the Tender, the Tenderer and its Personnel hold all necessary licenses, accreditations and qualifications which are required to be held in order to comply with the Tender Documents and in accordance with all applicable Laws, except to the extent that the Statement of Departures expressly states that they do not;
 - (g) if the Tender is accepted, all goods, services and works carried out or supplied under the Agreement will comply with all requirements of the Agreement and all applicable Laws, except to the extent that the Statement of Departures expressly states that any of them will not;
 - (h) that it is not Insolvent and has sufficient financial resources to carry out the Transfer in accordance with the Tender Documents;
 - (i) that it has sufficient financial resources to fulfil all obligations under the Transfer, subject to any modifications to those obligations that are expressly set out in its Statement of Departures;
 - (j) that it is not subject to any current or impending legal action of any kind which could impact on the financial viability of the Tenderer or its ability to carry out the Transfer in accordance with the Tender Documents; and
 - (k) that it has, or that it will have before entering into the Agreement, all insurance cover required by the Tender Documents, except to the extent that its Tender expressly states that it both does not have, and does not intend to procure, any given insurance cover.

Initialed on behalf of Tenderer: _____

Signature: _____ Name: _____

Date: _____ Position: _____

Who warrants that s/he is duly authorised to sign for, and enter into contracts on behalf of, the Tenderer.



Annexure to Tender for Tender no. 19_069

The Tenderer acknowledges that the Returnable Schedules and additional information identified below are mandatory for its Tender to be Conforming. The Tenderer has included with this Tender Form the following of those documents:

Name of Returnable Schedule/document that is required to be provided	Tenderer has included?
Returnable Schedule 1	YES
Returnable Schedule 2	YES
Returnable Schedule 3	YES
Trading and Profit and Loss statement of Tenderer for the last three years that was prepared less than six months before the Tender Closing Time that has been prepared or audited by an independent accountant who holds a current practising certificate from a recognised national accounting body	NO
Balance Sheet of Tenderer for the last three years that was prepared less than six months before the Tender Closing Time that has been prepared or audited by an independent accountant who holds a current practising certificate from a recognised national accounting body	YES
Statement of Cash Flows of Tenderer for the last three years that was prepared less than six months before the Tender Closing Time that has been prepared or audited by an independent accountant who holds a current practising certificate from a recognised national accounting body	YES
Aged listings of trade debtors and creditors of Tenderer that were prepared less than one month before the Tender Closing Time that have been prepared or audited by an [independent] accountant who holds a current practising certificate from a recognised national accounting body	NO
Price Schedule	YES
Statement of Experience and Capabilities	YES
Resources	YES
Management Systems	YES
Risk Management Plan	YES
Conflict of Interest forms	NO
Statement of Approach	YES
Local Industry Participation Plan	YES

Signature: _____ Name: _____

Date: _____ Position: _____

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Returnable Schedule 2
Project Approvals Agreement

Part A – Agreement items to be completed

Agreement item	Detail to be inserted into the Agreement
17.3	Stanthorpe and Granite Belt Chamber of Commerce PO Box 23 Stanthorpe QLD 4380 secretary@stanthorpecoc.com.au
Schedule 1	Ms. Amanda Harrold, Secretary

Part B – Statement of Departures

The Statement of Departures must be in the following format:

Clause or requirement number and name of Agreement	Nature of and reason for non-compliance	Requested amendment or alteration
Confidential Information	The Chamber of Commerce is a community not-for-profit organisation that relies upon the goodwill of the community for its ongoing existence. It has a policy of openness and transparency. The Chamber seeks to maintain this approach. All actions of the Chamber are open to public scrutiny to ensure transparency and accountability.	Re-wording of the definition of Confidential information to reflect community expectations of transparency, accountability and practice as they apply to the Chamber of Commerce.
Process Fee	The amount of 50% of the Transfer Cost is excessive and given the amount of money already contributed by individuals, governments and community organisations it does not reflect the true cost of the administrative effort required to affect the transfer of the documents. Given that this amount is non-refundable it is unconscionable to expect any community organisation to put at risk additional community funds with no guarantee of success	Suggest 10% process fee is appropriate.
3.1 (b) Conditions precedent	It is inappropriate for a process fee to be fully non-refundable given the amount currently required under the agreement (50%). Similarly it is inappropriate for the Transferee to agree to this clause where an act or omission by the Council leads to the non-completion of the transfer	Remove and acknowledge a repayment. The process fee could be kept in trust until completion.



3.3 Limit on co-operation	There is no definition of ‘public interest’ as it applies to this particular issue. The Emu Swamp Dam project has significant interest by the community of Stanthorpe. The interests of the Council are not defined. Stanthorpe is part of the Southern Downs Regional Council area. The fact that the SDRC have included this project in their Strategic Plan is indicative of the interest held and that the progress of the ESD is in the public interest.	Perhaps this clause needs to address or re-iterate that the Council will co-operate with the transferee and will act in the best interests of the Emu Swamp Dam Project.
4.1(b)(ii) Consent to transfer Approvals	It is inappropriate to limit the communication of the transferees with relevant government agencies given that the SGBCC has been funded to complete a detailed business case into the project by both the State and Australian Governments. Similarly it is inappropriate for the Council to seek to control any contact by the necessity to provide prior written consent. The existing approvals that are subject to this agreement have only been extended until 2 April 2019. Communication with the relevant government agencies is needed to determine the nature of works required to be demonstrated so that the project is able to gain subsequent approvals past 2 April 2019. The timing, circumstances and administration of the transfer process are designed to provide as little time as possible for the transferee to demonstrate progress toward project completion.	Delete
4.1(d)	It is inappropriate for a clause such as this to be inserted into an agreement that relates to a vital piece of region infrastructure. It is appropriate for each party to have a remedy if the other party fails to act in accordance with the agreement. The nature and scope of this agreement is one sided and severely limits the transferees right to natural justice and remedies under law. Similarly, the wording of this agreement in totality expresses an unconscionable use of power with one party having the ability use the threat of legal action and contract law against a community not for profit organisation.	Delete or provide a remedy to the transferee that addresses the legal and positional power imbalance between the local council and a community based not for profit organisation.



4.2 Best endeavours	The definition and actions ascribed to council it to be the abiter of public interest without there being any definition of public interest. As already described there is a different view of public interest as it applies to the community in Warwick and the community of Stanthorpe and the Granite Belt.	This section should be re-written in plain English to highlight what the SDRC 'will do' as an elected representative body as opposed to what it will not do. This and other sections of the document are not examples of the local government being a model litigant, if indeed that were to become necessary.
4.3 (b)(iii) Transfer of Approvals	The approvals associated with this tender are the result of a number of documents, reports, studies and findings. It is inappropriate to transfer the approvals without the documentation that provided the basis for the approvals.	Transferee is granted the right to utilise any and all reports, tests, or material included or referenced in the Approval or that was used in the application for said approvals.
4.6 Media	This clause is not practicable as the transferee is currently funded to develop a detailed business case in relation to the Emu Swamp Dam project. The transferee is a community based not for profit organisation who prides itself in transparency and accountability. Funds used to purchase the approvals have come from the public, within the SDRC LGA. It is inappropriate for the council to attempt to silence a local not for profit organisation or require such an organisation to seek prior written permission from the council about its activities.	Remove.
7.1 Confidentiality	The definition of confidential information as previously discussed should meet community expectations and not be used to hide the activities of an elected representative body. The Chamber of Commerce does not consider any transaction between the SDRC and the Chamber of Commerce to be commercial in-confidence nor require the need for confidentiality. Confidentiality should only apply where the information is of a personal nature.	Re-word
7.3 Additional Obligations	The definition of Confidential Information as used by the Chamber of Commerce and recommended for use in this document does not require this section.	Remove



10.3 Limit of Council Liability	This section should be re-written to reflect an appropriate level of liability and should be limited to the amount held in trust for the Process Fee	Re-word
10.4 Transferee indemnifies the Council	It is inappropriate for SDRC to seek indemnity for its lawyers' fees and expenses on a breach or suspected breach. The attempted one-sided nature of this agreement places an unfair burden on the not for profit community group that is the Chamber of Commerce.	Parties to be responsible for their own costs, lawyers' fees and expenses on any breach or suspected breach.
11(c) Key Personnel	It is inappropriate for the transferee to obtain the councils consent in writing for any replacement personnel. Members of the Chamber of Commerce are volunteers and the organisation is a not for profit. This clause fetters the ability of the Chamber to recruit suitable, willing volunteers. This places the Council in a position of being able to dictate to a local community organisation who can perform voluntary functions. It is heavy handed and dictatorial.	Remove or re-word (c)
12(b)(ii) and (iii)	It is the communities expectation that Council exercise and perform its executive and statutory duties. Failure by the Council to act accordingly would potentially put it in breach of the Local Government Act. It is inappropriate for the transferee to unfetter the Council from acting in an appropriate and timely manner.	Re-word or remove.
17.3 Address for Notices	This has not been supplied by Council. Using 'Council' as the name for the address of notices is insufficient. A name of a real person needs to be supplied.	Supply name of individual and position.

- a) Each Tenderer, whether it provides a Conforming Tender, Alternative Tender or a Non-Conforming Tender, must, if applicable, provide a completed Statement of Departures with the Tender. The Statement of Departures must be in the format and completed in accordance with the instructions specified in Part B.
- b) To the extent the Statement of Departures is not completed or does not indicate clauses or conditions of the Tender Documents that the Tenderer does not accept or will not be able to fully comply with, the Tenderer will be deemed to have fully accepted all those clauses and conditions of the Agreement.

Signature: _____ Name: _____

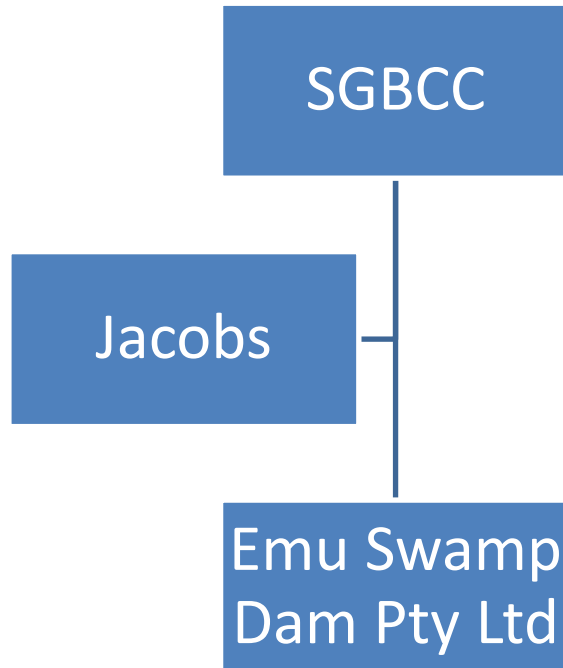
Date: _____ Position: _____

Who warrants that s/he is duly authorised to sign for, and enter into contracts on behalf of, the Tenderer.



Returnable Schedule 3

Organisational Chart



Signature: _____ Name: _____

Date: _____ Position: _____

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