

Construction Webinar Series:



Deep Dive into Civil &
Construction Contracts

Wednesday 22 January 2025

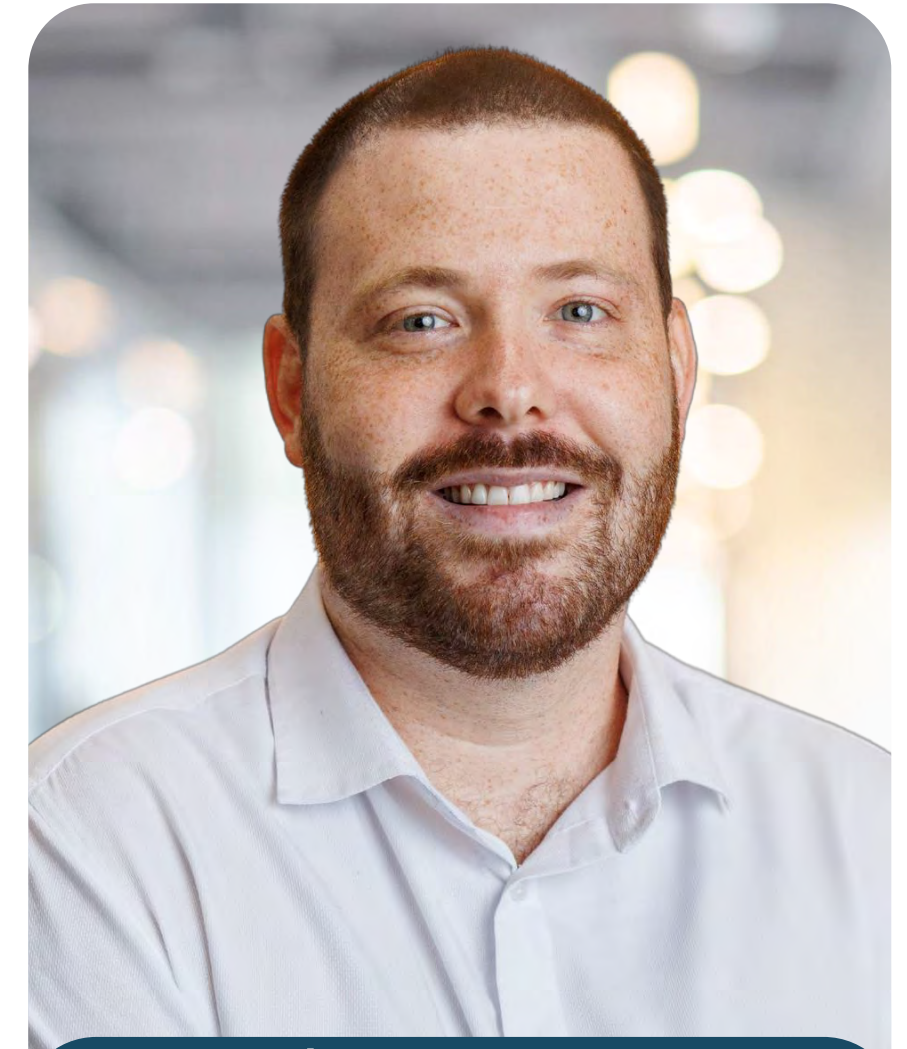
MEET OUR TEAM



Emma Peters
Head of
Engagement



Debbie Spann
Category Manager



Joshua Brown
General Counsel &
Compliance Manager

Acknowledgement of Country

In the spirit of reconciliation, Local Buy acknowledges the Traditional Custodians of the land, respecting the lands and waters that give us life; into which the songlines, stories, ancestors, and dreaming's of Aboriginal and Torres Strait Islander peoples are woven.

We pay respect to all First Nations people and Elders past, present, and emerging.



Who is Local Buy?



Local Buy is a wholly owned subsidiary of the Local Government Association of Queensland (LGAQ).

Created in 2001 to assist councils streamline procurement.

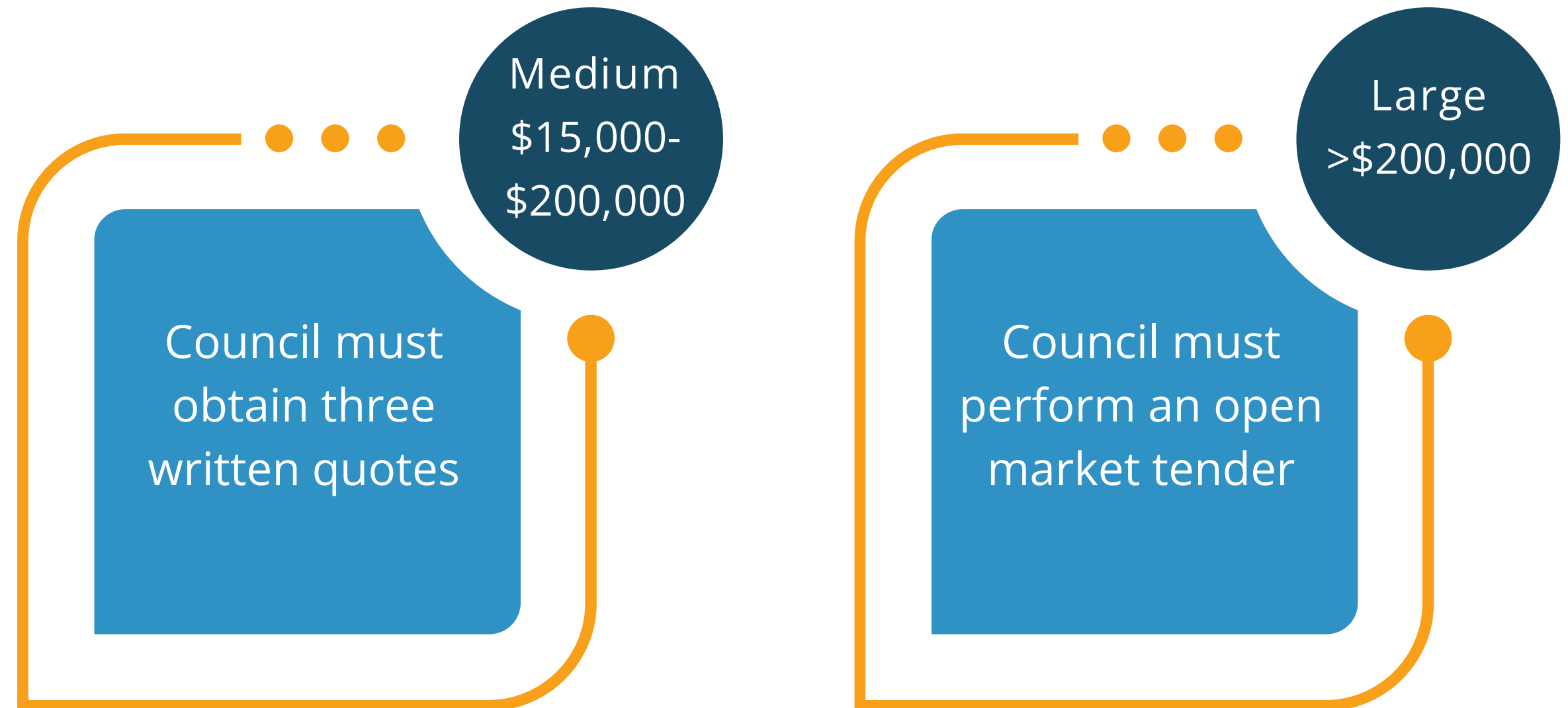
A profit-for-purpose organisation we return all profits to LGAQ who use these funds to provide member services to Queensland Councils.



Queensland Default Procurement Rules



Thresholds are accumulative, for the life of a contract or a Financial Year with a Supplier for similar goods or services.



Local Government Regulation 2012
Part 3 - Default Contracting Procedures

Tendering is a long and arduous process for both buyers and suppliers!

- ➔ Preparation of Tender Documentation & Contracts.
- ➔ Open for at least 21 days (Local Government).
- ➔ All Tenders must be evaluated, and many responses may be received.
- ➔ A risk that the preferred tenderer may be from outside the council area.
- ➔ The cost of tendering is around \$20,000 per tender for Local Government and \$5,000 for suppliers to respond.

Tendering



Why use Local Buy?

Local Buy simplifies Local Government Procurement.

Councils can procure through a Local Buy Arrangement to directly request quotes from our suppliers, rather than going to tender themselves through our exception in the Regulations.

Significantly reduces time and resources in complying with legislation through our exemption under the Local Government Regulations 2012.

Local Buy has formed 54 Pre-qualified Supplier Arrangements, tailored to Local Government needs.

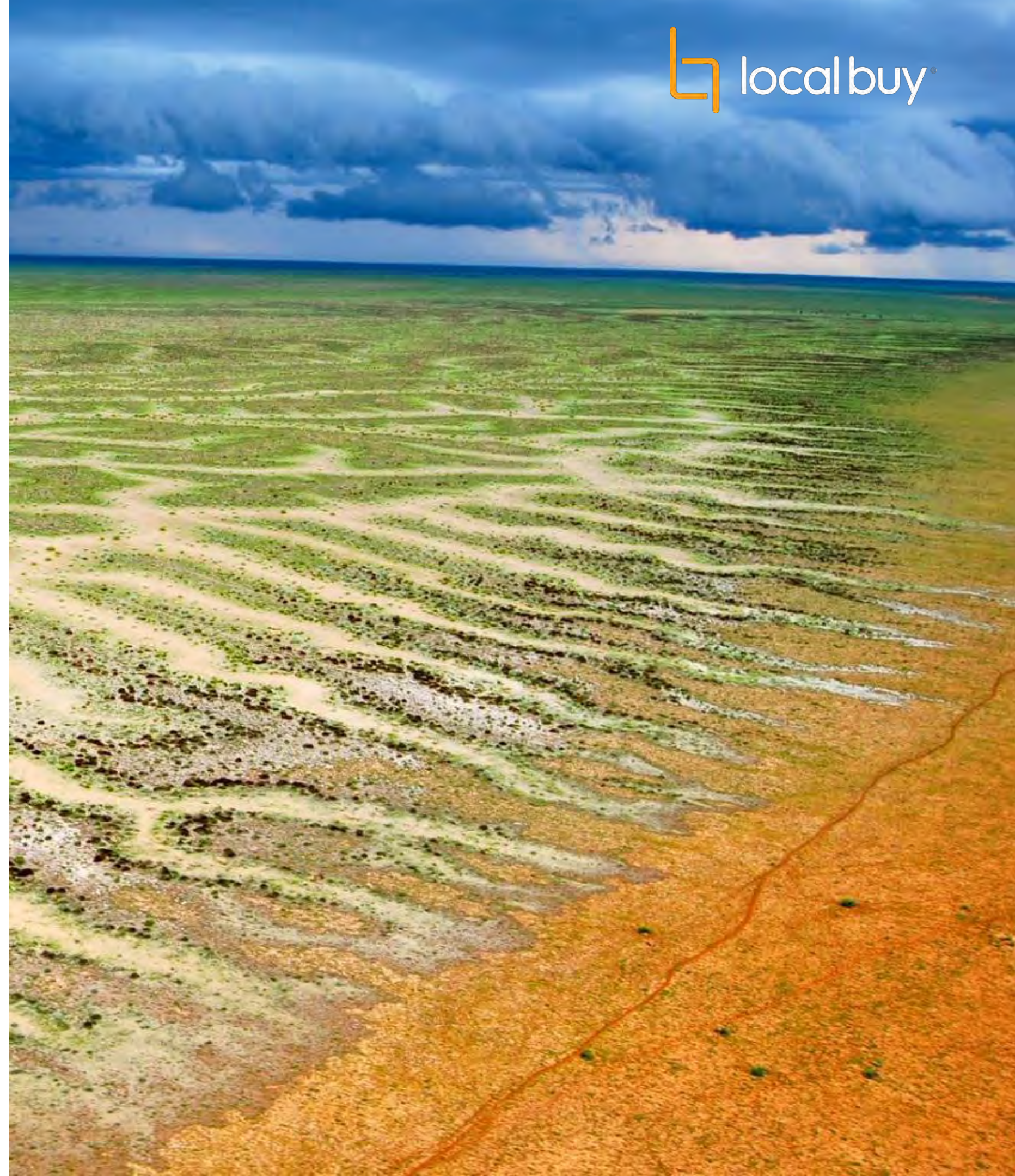
Local Buy Arrangements have pre-agreed terms and conditions for each arrangement, which form the contract between the council and the supplier.



Why use Local Buy (Non-Local Government)

Which includes State Government, Federal Government, Not-for-Profit Entities, Charities, Educational Establishments and Government Owned Corporations.

- Best Practice
- Governance
- Probity
- Ease of Access to robustly pre-qualified suppliers
- Insurances, licenses, qualifications, and quality management provided
- Rate Cards for some arrangements
- Negates the need to perform tenders



Local Buy Arrangements

Local Buy allows councils to engage with suppliers over the Procurement Thresholds without performing Tenders or Requests for Quotes within Queensland, Northern Territory, and Tasmania.

This is why \$950M per year is procured through Local Buy Arrangements.

WHOLE OF PROJECT SOLUTIONS



LB280 Asset Management Services - ie: whole of life reporting, condition assessments, digital modelling, Operation and Maintenance Manuals, feasibility studies

LB312 Engineering & Environmental Consulting Services - ie: RP Engineering Civil, Electrical, Geotechnical, Mechanical, Structural, Water supply and Sewerage. Environmental management, modelling, Erosion, contaminated land, flora and fauna, acoustics

LB311 Legal Services - ie: Construction contract development, Contractual matters, Planning and environmental and cultural Heritage advice, Property Law

LB335 Planning, Surveying, Design & Architectural Services - ie: Development Approvals, Material Change of Use, Expert witness, Regional and Rural, Infrastructure / transport, EV, Circular Economy, Industrial, interior, public architecture, renewables, Surveying, cadastral, drone and mapping.

LB279 Project Management Services (Civil Infrastructure) - Programme Management, Budgeting, Forecasting, Scheduling, Risk Profiling, Critical Project Success measures, whole project delivery.

Building and Construction contracts including Design and Construct:

LB329 Building & Construction - Commercial Construction & Fit Out (inc Asbestos & Demo)

LB331 Building & Construction - Residential

LB313 General Civil Construction & Maintenance Services

LB314 Water, Sewerage & Marine Infrastructure Construction & Maintenance

LB303 Sport and Recreation Facilities & Equipment

LB304 Public Facilities, Parks and Amenities

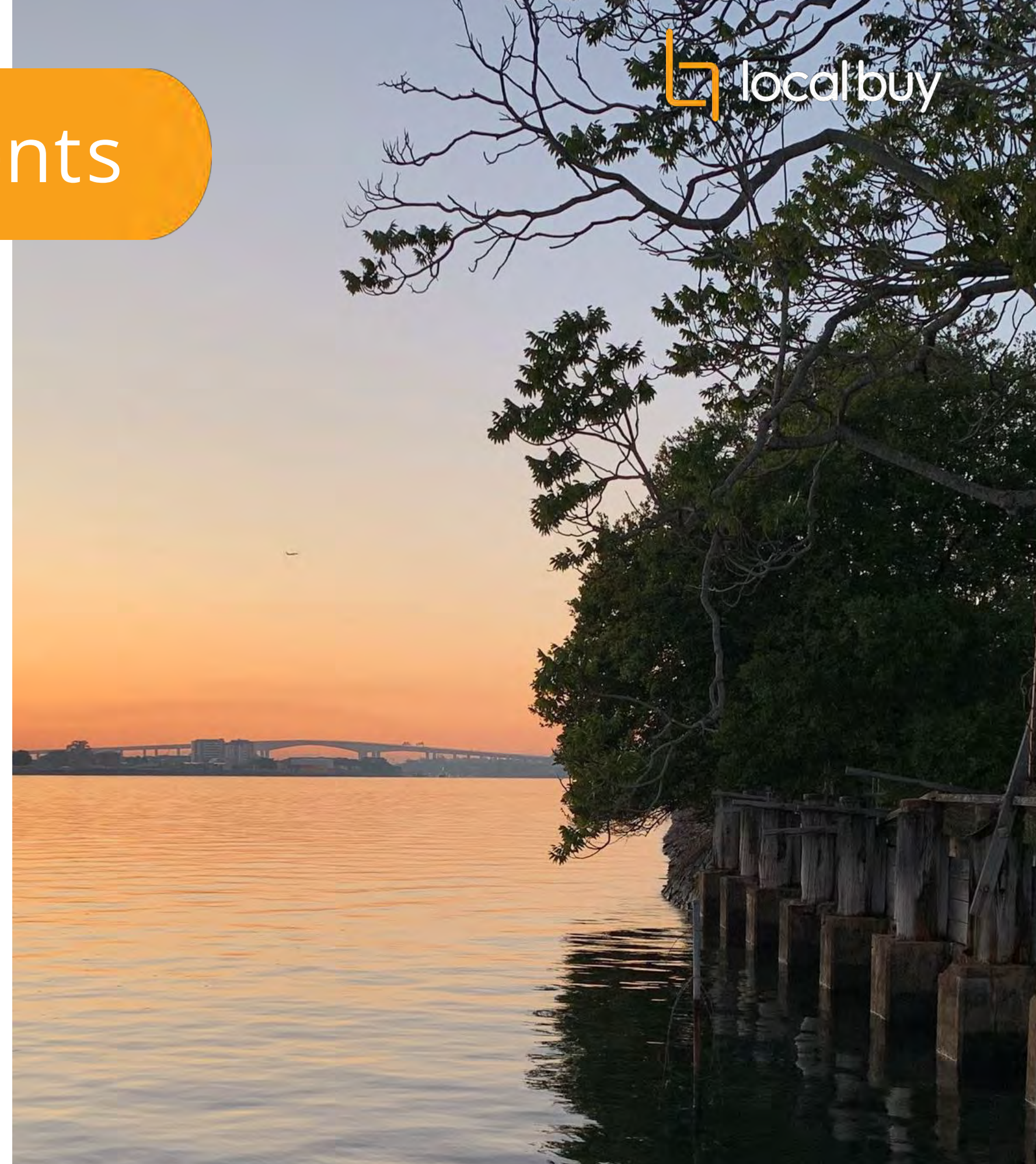
LB305 Landscape, Gardening and Aboricultural Services

New Infrastructure Arrangements

The new Local Buy Infrastructure Arrangements:

- ✓ LB329 – Building & Construction – Commercial Construction & Fit Out (inc: Asbestos and Demolition)
- ✓ LB331 – Building & Construction – Residential
- ✓ LB313 – Road and General Civil Construction *
- ✓ LB314 – Water, Sewerage & Stormwater Infrastructure *

* LB313 & LB314 replaced the old BUS270 Road, Water, Sewerage and Civil Works which expired 30 June 2024



Contract Documents

Construction Contract Template:

Local Buy bespoke contracts:

- Minor Works
- Medium Works
- Major Works



 **NORTON ROSE FULBRIGHT**



Ren Niemann
Partner
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Tom Grogan
Associate
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Contract Documents 101

Ren Niemann
Partner



Tom Grogan
Associate



Agenda

Time	Agenda	
10:00 am – 10:15 am	<i>Introductions and session overview</i>	
10:15 am – 10:50 am	Contract Documents 101	<ol style="list-style-type: none">1. Overview of Local Buy's new construction suite.2. Understanding the fundamentals of the new agreements.3. When to use each agreement:<ol style="list-style-type: none">1. Contract Selection Matrix.4. Outline of the steps to completing each agreement:<ol style="list-style-type: none">1. Steps for each agreement.2. Practical tips for ensuring compliance and accuracy.
10:50 am – 11:00 am	<i>General wrap up/ recap and questions</i>	

Overview of Local Buy's new construction suite

Overview of the new construction suite

		QLD			NT		
		Major	Medium	Minor	Major	Medium	Minor
LB313	Road & General Civil Infrastructure	✓			✓		
LB314	Water, Sewerage & Stormwater Products	✓			✓		
LB329	Building & Construction – Commercial Construction & Fit Out (inc: Asbestos, Demo)	✓					✗
LB331	Building & Construction – Residential	✓					✗

Overview of the new construction suite

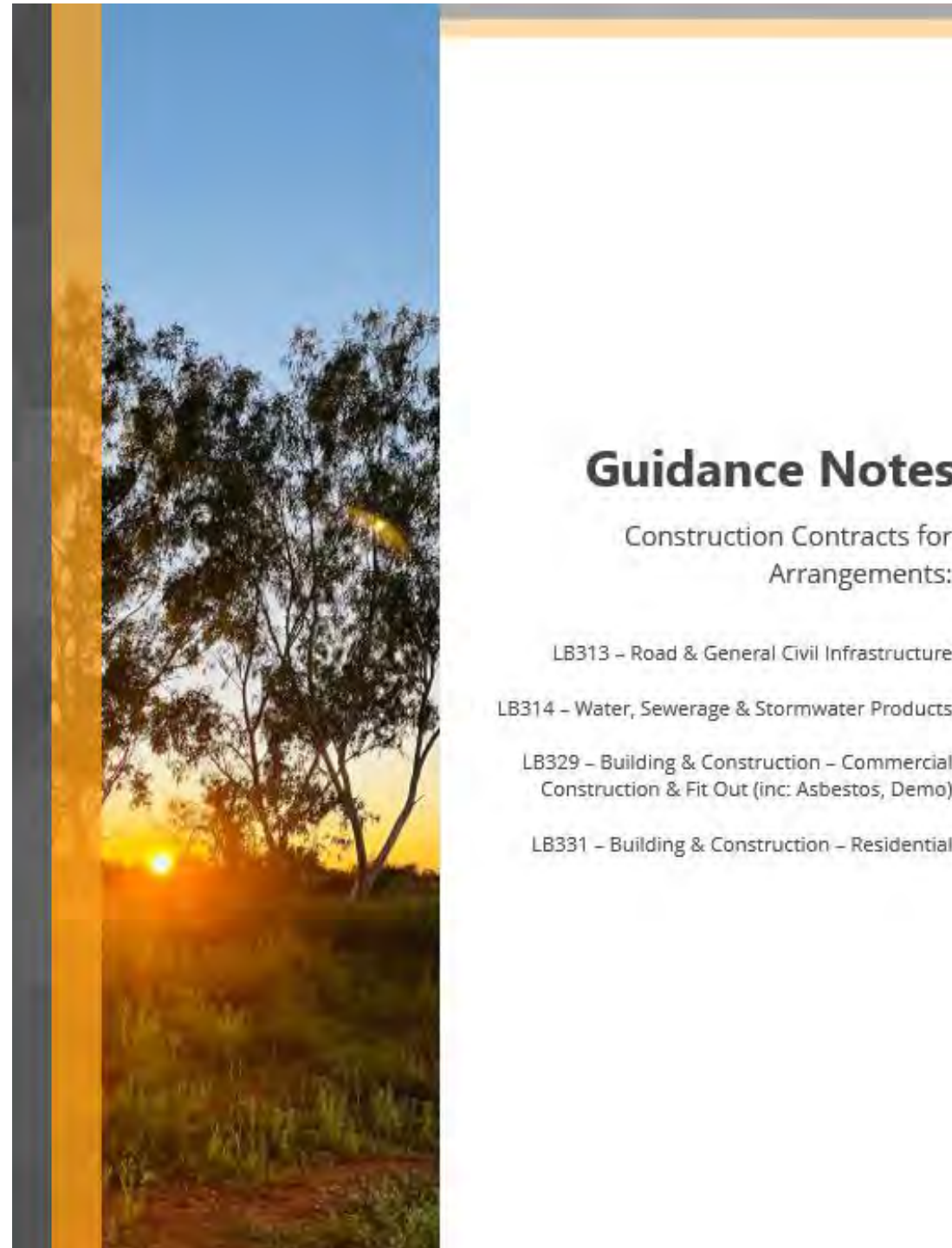
LB313 – Road & General Civil Construction: Encompassing a broad range of services, the LB313 Arrangement can be utilised for all road, bridge and general civil construction and maintenance requirements. Whilst roadwork is the primary focus, landfill and marine/river works are also included.

LB314 – Water, Sewerage, Stormwater Infrastructure: Incorporates six broad service categories, allowing buyers to utilise the LB314 Arrangement for all water, sewerage and stormwater infrastructure construction and maintenance requirements.

LB329 – Building & Construction – Commercial: Includes general construction (construct only / design and construct) for commercial buildings, fit outs and associated works. It also caters for all office and building fit out requirements, Visual Interactive Infographic Platforms and demolition and asbestos removal.

LB331 – Building & Construction – Residential: The LB331 Building & Construction Residential Arrangement provides for the Building and Construction – Residential Housing, modular transportable prefabricated dwellings, apartment developments, building refurbishment and non-habitable building structures.

Overview of the new construction suite



Guidance Notes

Construction Contracts for Arrangements:

LB313 – Road & General Civil Infrastructure

LB314 – Water, Sewerage & Stormwater Products

LB329 – Building & Construction – Commercial Construction & Fit Out (inc: Asbestos, Demo)

LB331 – Building & Construction – Residential

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Understanding the fundamentals
of the new agreements.

Understanding the fundamentals of new agreements

Why has Local Buy developed the templates?

- Better align with user needs
- Take account of market considerations
- Consistency in approach to procurement, preparation and administration
- Allow users to focus on project specific issues for each procurement
- Comply with relevant legislative requirements

Understanding the fundamentals of new agreements

- ❑ Bespoke templates
 - ❑ Minor – simple procurements (low risk)
 - ❑ Medium – medium risk procurements
 - ❑ Major – substantive procurements
- ❑ Cover different contracting models:
 - ❑ Construct-only
 - ❑ Design and construct (using optional design clause)
- ❑ Cover different types of work:
 - ❑ commercial construction work (including dealing with asbestos and demolition)
 - ❑ residential building work
 - ❑ some maintenance work during the DLP

Understanding the fundamentals of new agreements

- ❑ Templates have been drafted:
 - ❑ with 'look and feel' across all documents substantially the same
 - ❑ using plain English
 - ❑ with easy to understand headings and sub-headings
 - ❑ with updated clauses dealing with relevant legislation (noting that it doesn't address all laws in detail)
 - ❑ with optional clauses to 'call-in' and 'precedent bank' to consider
- ❑ Remember these are templates
 - ❑ need to be careful in using and amending from project to project
 - ❑ consider the Guidance Notes each time
 - ❑ seek specialist advice

Overview of the new construction suite

Structure

The contracts all follow a similar structure, with the annexure's changing depending on the particular contract.

Contract Structure			QUEENSLAND												NORTHERN TERRITORY					
			LB313 <i>Road & General Civil Infrastructure</i>			LB314 <i>Water, Sewerage & Stormwater Products</i>			LB329 <i>Building & Construction – Commercial Construction & Fit Out</i>			LB331 <i>Building & Construction – Residential</i>			LB313 <i>Road & General Civil Infrastructure</i>			LB314 <i>Water, Sewerage & Stormwater Products</i>		
			Major	Medium	Minor	Major	Medium	Minor	Major	Medium	Minor	Major	Medium	Minor	Major	Medium	Minor	Major	Medium	Minor
1	1	Formal Instrument of Agreement	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2	2	Contract Conditions	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3	Annexure A	Documentation Particulars	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4	Annexure B	Special Conditions	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5	Annexure C	Optional Clauses	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
23	Annexure X	Unconditional Undertaking	Y	Y		Y	Y		Y	Y		Y	Y		Y	Y		Y	Y	
24	Annexure X	Technical Requirements	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
25	Annexure X	Design Requirements	Y	Y		Y	Y		Y	Y		Y	Y		Y	Y		Y	Y	
26	Annexure X	Principal Supplied Information	Y	Y		Y	Y		Y	Y		Y	Y		Y	Y		Y	Y	
27	Annexure X	Subcontractor Deed of Novation	Y	Y		Y	Y		Y	Y		Y	Y		Y	Y		Y	Y	
28	Annexure X	Subcontractor Side Deed	Y			Y			Y			Y	Y		Y			Y		
29	Annexure X	Deed of Warranty	Y			Y			Y			Y			Y			Y		
30	Annexure X	Consultant Certificate	Y	Y		Y	Y		Y	Y		Y	Y		Y	Y		Y	Y	
31	Annexure X	Statutory Declaration – Payment Claim	Y	Y		Y	Y		Y	Y		Y	Y		Y	Y		Y	Y	
32	Annexure X	Statutory Declaration – Final Payment Claim	Y	Y		Y	Y		Y	Y		Y	Y		Y	Y		Y	Y	
33	Annexure X	Statutory Declaration – Subcontractor	Y	Y		Y	Y		Y	Y		Y	Y		Y	Y		Y	Y	
34	Annexure X	Commencement Notice										Y	Y	Y						
35	Annexure X	Contract Sum			Y			Y			Y			Y			Y			Y
36	Appendix A	Methodology and Resourcing Documents	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
37	Appendix B	Construction Management Plan	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Understanding the fundamentals of new agreements

Annexures

Annexure Title	Contract type	When to complete
Formal Instrument of Agreement	Major, Medium and Minor Works	Complete for each project
Contract Conditions	Major, Medium and Minor Works	Complete for each project
Annexure - Document Particulars	Major, Medium and Minor Works	Complete for each project
Annexure - Optional Clauses	Major, Medium and Minor Works	Project by project basis.
Annexure - Unconditional Undertaking	Major and Medium Works	Template annexure. Does not need to be amended for a project
Annexure - Technical Requirements	Major, Medium and Minor Works	Complete for each project
Annexure - Design Requirements	Major and Medium Works	Complete for each project
Annexure - Principal Supplied Information	Major and Medium Works	Project by project basis.
Annexure - Subcontractor Deed of Novation	Major and Medium Works	Template annexure. Does not need to be amended for a project
Annexure - Subcontractor Side Deed	Major Works	Template annexure. Does not need to be amended for a project
Annexure - Deed of Warranty	Major Works	Template annexure. Does not need to be amended for a project
Annexure - Consultant Certificate	Major and Medium Works	Template annexure. Does not need to be amended for a project
Annexure - Statutory Declaration – Payment Claim	Major and Medium Works	Template annexure. Does not need to be amended for a project
Annexure - Statutory Declaration – Final Payment Claim	Major and Medium Works	Template annexure. Does not need to be amended for a project
Annexure - Statutory Declaration – Subcontractor	Major and Medium Works	Template annexure. Does not need to be amended for a project
Annexure - Commencement Notice	Major, Medium and Minor Works	Template annexure. Does not need to be amended for a project
Annexure - Contract Sum	Minor Works	Complete for each project
Appendix - Methodology and Resourcing Documents	Major, Medium and Minor Works	Project by project basis.
Appendix - Construction Management Plan	Major, Medium and Minor Works	Project by project basis.

Understanding the fundamentals of new agreements

Optional Clauses

Optional clause	Major	Medium	Minor
NGERS	Included as an optional clause	Included as an optional clause	Not included as an optional clause
Design Obligations	Included as an optional clause	Included as an optional clause	The clause can be stated to apply in Annexure A
Rise and Fall	Included as an optional clause	Included as an optional clause	Not included as an optional clause
Obligations to Benefit Site Owner	Included as an optional clause	Included as an optional clause	Not included as an optional clause
Asbestos	Included as an optional clause	Included as an optional clause	Not included as an optional clause
Project Trust Accounts	Included in the contract by default	Included in the contract by default	Included as an optional clause (except for in the NT Minor Works Contracts)
Trustee Limitation of Liability	Included as an optional clause	Included as an optional clause	Not included as an optional clause
Superintendent's Representative	Included as an optional clause	Included as an optional clause	Not included as an optional clause
Project Control Group	Included as an optional clause	Not included as an optional clause	Not included as an optional clause
Bill of Quantities	Included as an optional clause	Included as an optional clause	Not included as an optional clause
Separate Contractors	Included in the contract by default	Included as an optional clause	Not included as an optional clause
Performance Guarantee	Included in the contract by default	Included as an optional clause	Not included as an optional clause
Direct Payment of Workers and Subcontractors by Principal	Included in the contract by default	Included as an optional clause	Not included as an optional clause
Maintenance Obligations	Included in the contract by default (except for LB329 where it is not included as a default clause or an optional clause)	Included as an optional clause (except for LB329 where it is not included as a default clause or an optional clause)	Included as an optional clause (except for LB329 where it is not included as a default clause or an optional clause)
Buildability Issues	Included in the optional design clause by default	Included as an optional clause in the optional design clause	Not included as an optional clause
Commissioning	Included in the contract by default	Included as an optional clause	Not included as an optional clause

Understanding the fundamentals of new agreements

Precedent Bank

The precedent bank includes the following clauses:

- Consequential Loss
- Limitation of Liability
- Rise and Fall

When to use each agreement.

When to use each agreement

Guidance Notes available for users

- covers all templates
- guidance as to how to select which contract to use
- outline of each template
- optional clauses
- precedent bank clauses
- completion check-list

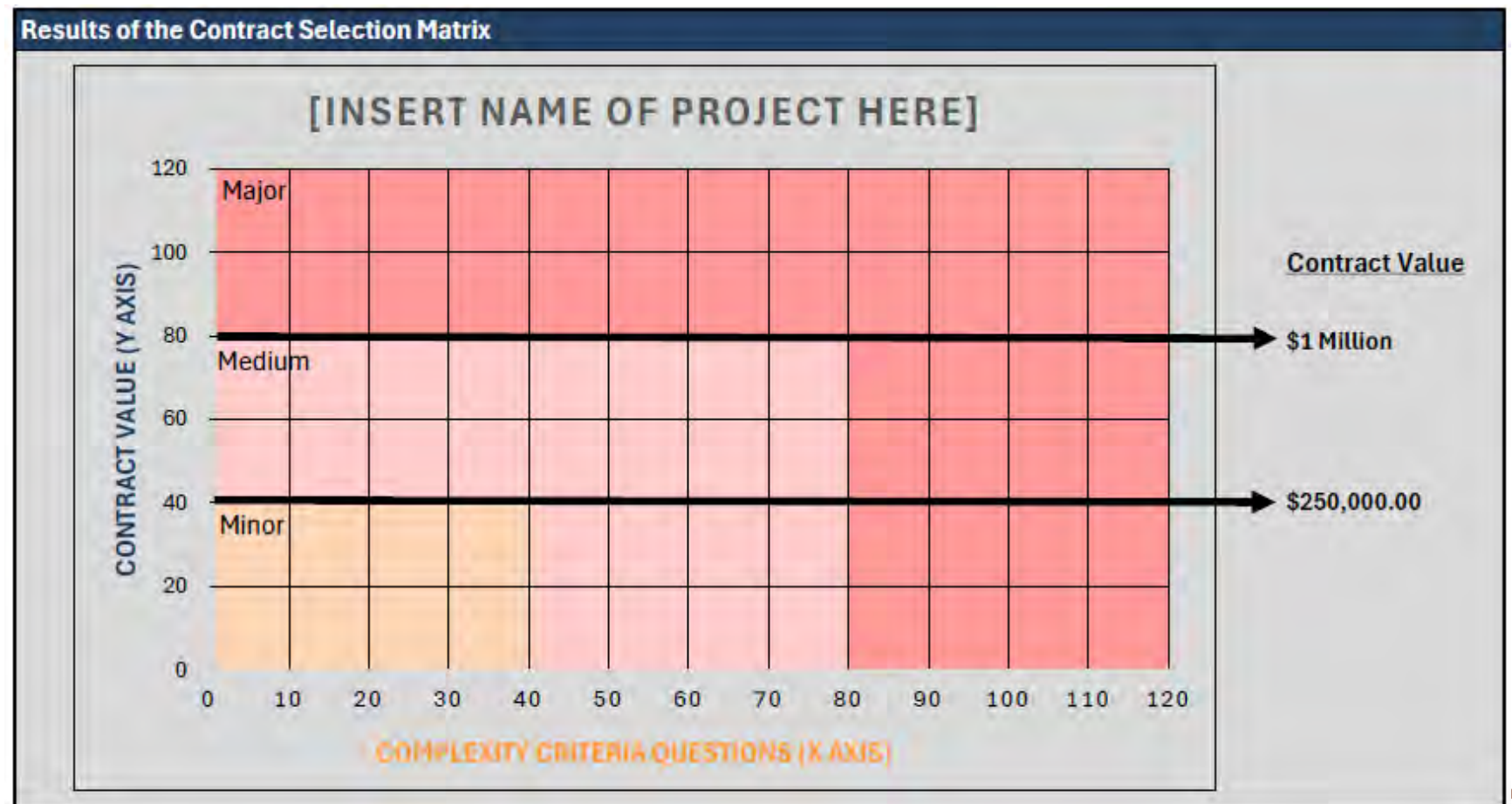
Construction Selection Matrix

The contracts are tailored to meet the needs of projects across the entire risk and value spectrum, from straightforward, low-risk works to large-scale, high-risk, multi-million-dollar projects.

Contract Selection Matrix			
Version: v1 Sept 2024			
This Contract Selection Matrix will assist you in determining which type of contract to use for your project.			
Enter the Project Name here:		[Insert Name of Project Here]	
Question	Answer	Score	Comments
Complexity Criteria questions (X axis)		#N/A	
Q1. Remoteness - Is the project to be done in a remote location?		#N/A	
Q2. Does this project have long lead times for supplier of items?		#N/A	
Q3. Are there materials that are supplied by the Principal?		#N/A	
Q4. Is there Level 1 Supervision (ie.AS3798)?		#N/A	
Q5. Are there nominated Suppliers and Sub-Contractors?		#N/A	
Q6. Is Design part of this Contract?		#N/A	
Q7. Does this project have piling involved?		#N/A	
Q8. Are there significant earthworks / inground works or underground works included in this contract?		#N/A	
Q9. Are there any environmentally sensitive works or an environmentally sensitive site?		#N/A	
Q10. Are there any Demolition work involved on this site?		#N/A	
Contract Value questions (Y axis)		0	
Is the value up to \$250,000?	No	0	
Is the value between \$250,000 and \$1 Million?	No	0	
Is the value over \$1 Million?	No	0	

Each contract (LB313, LB314, LB329 and LB331) includes Major Works, Medium Works, and Minor Works Contracts. Selecting the right contract is vital to the success of any construction project, as it must align with the project's size, complexity, risk profile, and specific requirements.

A copy of the contract selection matrix can be found against each of the contracts in VendorPanel or contact Local Buy directly for a copy.



Outline of the steps to completing
each agreement.

Guidance Notes – checklist for completion

Step 1 – Filling in the blanks

- Formal Instrument of Agreement
- Contract
 - Annexure A – Document Particulars
 - Annexure B – Special Conditions
 - Annexure E – Technical Requirements
 - Annexure F – Design Requirements
 - Annexure G – Principal Supplied Information

Step 2 – Final Checks

- Entity details
- Remove drafting notes
- ASIC searches
- QBCC searches
- Insolvency
- Litigation search history

Step 3 - Execution

- Determine execution procedure
 - Wet ink, electronic signing, counterparts.
- Determine method of execution (s 127, Authorised Representative, Power of Attorney).
- Order of execution – FIA, QBCC Acknowledgment.
- Share fully executed contract with Contractor.

Common pitfalls to avoid

- ❑ Just using the last version of the contract prepared
- ❑ Not fully understanding the templates
 - ❑ read the contract (and read it again)
 - ❑ don't take the 'bottom drawer' approach to administration
- ❑ Not properly identifying risks and planning how to deal with
- ❑ Failing to properly consider amendments thoroughly before agreeing
 - ❑ seek specialist advice on matters outside your knowledge

Practical tips for ensuring consistency and accuracy

- ❑ Use the Guidance Notes
- ❑ Special conditions
 - ❑ be careful in their use
 - ❑ draft using same language style and approach
 - ❑ avoid just 'dumping' in the tender documents – now use the 'Methodology and Resourcing Documents' and 'Pricing Reference Documents' provisions
- ❑ Technical documents
 - ❑ check alignment between these documents and the templates
- ❑ Double-check completion (have separate person 'check')



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Q&A ASK AWAY

If you have any questions regarding Local Buy or how you can take advantage of its benefits, feel free to ask our friendly team now.

Alternatively, you can contact our team at any time.



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 www.localbuy.net.au

Upcoming Events

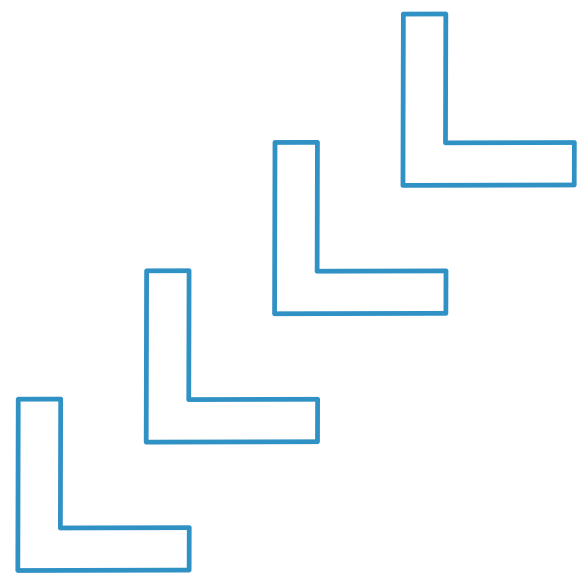


We invite you to check out our events page and explore all the exciting events we have arranged.

- *Local Buy Training & VendorPanel Demonstration*
- *Construction Series - Three more engaging webinars*
- *Prospective Local Buy Supplier Information Sessions*
- *FNQ Procurement Summit (Cairns in March)*



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