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| User guidanceThis document is part of the **GC21 (Edition 2)** standard form. Please refer to buy.nsw website at <https://buy.nsw.gov.au/categories/construction> to locate all documents referenced throughout this text. Guidance is based on Microsoft 365 Word.1. Guide notes

This standard form contains drafting guidance in hidden text, i.e.:**GUIDE NOTES,** Guide Note examples1. Viewing guide notes

If the guide notes are not visible, click on the Home/ **Show/Hide** button Paragraph Show / Hide button in WordIf this does not work:* Go to **File/** **Options** menu;
* Select the **Display** tab;
* Tick the **Hidden Text** check box and click the **OK** button.

This process can also be used to hide guide notes in a finished document.1. Insertion points

Each ‘»’ shows where input is required. Click onto each ‘»’ and overtype.**(new) For inserting Contract Title and Contract Number*** On the **File/ Info** menu select ‘**show all properties’**;
* Overwrite the ‘***title*’ property** ‘*Contract Name’* with the new contract title/ name;
* Overwrite the ‘***subject*’ property** ‘*Contract No*.’ with the new contract number.

This will insert the entered Contract name and number in the following locations:* footer for each page;
1. When drafting is completed

1. Remove all guide notes manually or by the following steps:**•** On the Home/ **Editing** menu click **Replace**, then (if required) **•** Click the **More** button;**•** Click the **Format** button, click on **Font**;**•** Tick the **Hidden** check box, untick other boxes and click the **OK** button;**•** Click the **Special** button, click on **Any Character**; then**•** Click the **Replace All** button.Note that the option ‘Print hidden text’ has not been checked in File/ Options/ Display.1. After drafting is completed and the ‘hidden text’ guide notes are hidden or removed

Update the Table of Contents and number of pages automatically when printing by ensuring that File/ Options/ Display/ Printing options – ‘Update Fields before printing’ box is checked. Alternatively, update before printing by:1. Table of Contents
* Right click anywhere in the Table of Contents;
* Select ‘Update Field’;
* Select ‘Update entire table’; and
* Click the OK button.

Note, for larger files, track changes, if on, should be off during this update.1. Number of pages
* Right click the number in ‘*THERE ARE 29 PAGES IN THIS SECTION’* above the first clause 1’;
* Select ‘Update Field’; then
* Insert the number of pages in the ‘Title Page’ document.
1. Finally, delete this User guidance, along with the following Page Break.
 |

2 Preliminaries

the Table of Contents must be updated after drafting is completed and after the removal of guidenotes. refer to the above user guidance for procedure

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2 Preliminaries

check the contract name and contract number have been included in The Footer.

the no of pages below is a field and should be updated after *completion* and removal of hidden text.

THERE ARE 29 PAGES IN THIS SECTION

In Preliminaries, all subsections, clauses and text are mandatory unless otherwise stated or Agency policy requires an alternative requirement.

The » symbol has been used to indicate where input is required.

Where required, include appropriate additional clauses to suit contract requirements.

## General

### Application

For the avoidance of doubt, all actions and obligations specified in this document are the responsibility of the Contractor unless stated otherwise. Refer to clause 7.2 of the General Conditions of Contract for the relationship between this document and other Contract Documents.

### Electronic communications

The parties agree and consent that notices and communications may be by electronic communication in accordance with the *Electronic Transactions Act 2000* (NSW).

### Use of Qualified Designers, engineers and specialists

for reference, REGISTration UNDER THE DESIGN AND BUILDING PRACTITIONERS ACT 2020 (NSW) (DBP ACT) applies to those practitioners working on:

* class 2 (residential apartment) buildings; and
* new class 3 and 9c buildings where building work is scheduled to start after 3 July 2023.

Transitional arrangements apply for class 3 and 9c buildings until 31 December 2023.

Class 3 BUILDINGS include boarding houses, guest houses, hostels and some ‘care-type’ facilities not requiring personal care.

Class 9C BUILDINGS are residential care buildings that may contain residents who have various care level needs.

the dbp act also requires that “design compliance declarations” (complying with BCA) must be issued in respect of the designs for the building work before the building work can be commenced. Clause 19A of the DBP Regulations allows for regulated designs and design compliance declarations to be submitted on an “incremental” basis.

note that legal advice indicates that design compliance declarations may not satisfy the certification requirements under s 6.28(2) of the EP&A Act.

For more information on obligations under the dBP Act Refer to the referenced website below. https://www.fairtrading.nsw.gov.au/news-and-updates/notices/changes-coming-class-3-and-9c-buildings-2023

use option 1 where the principal requires the contractor to comply with the DBP act and regulations, even though the works may not be in respect of a class 2, 3 or 9c building (or a building with a class 2, 3 or 9c part).

Note that while this requirement should improve confidence in the design of the works it will impose significant additional obligations and restrictions on the contractor.

otherwise delete option 1.

CERTAIN FUNCTIONS UNDER THE EP&A regulation MUST BE UNDERTAKEN BY AN ’ACCREDITED PRACTITIONER (FIRE SAFETY)’ OR A REGISTERED CERTIFIER.

Use persons professionally qualified and experienced in the relevant disciplines when completing the design of the Works. Use persons registered under the *Design and Building Practitioners Act 2020* (NSW*)* (DBP Act) where required by law.

Obtain and provide the design compliance declarations under the DBP Act for work under the contract to which the DBP Act applies. Note that for Crown building work, design compliance declarations may be submitted on an incremental basis.

For more information on obligations under the DBP Act refer to:

<https://www.fairtrading.nsw.gov.au/trades-and-businesses/construction-and-trade-essentials/DBP-regulated-buildings>

and

<https://www.fairtrading.nsw.gov.au/news-and-updates/notices/changes-coming-class-3-and-9c-buildings-2023>.

Option 1

In this clause ‘Building Work’ means each part of the Works that comprises ‘building work’ as that term is defined in section 6.1 of the *Environmental Planning and Assessment Act 1979* (NSW), regardless of whether the relevant sections of the EP&A Act apply to that part of the Works.

Notwithstanding that compliance with the DBP Act may not be required by law, comply with (and ensure that all Subcontractors, Consultants and Suppliers comply with) the DBP Act and the *Design and Building Practitioners Regulation 2021* (NSW) (DBP Regulations), including all declaration and lodgement requirements, as if:

* Building Work comprised a class of building under the National Construction Code to which the DBP Act and the DBP Regulations applied; and
* the requirements under the DBP Act and the DBP Regulations for lodgement of documentation were requirements to submit the relevant documentation to the Principal under this Contract.

Accordingly, all designers, engineers and specialists carrying out design work for the Works must be registered under the DBP Act.

End of Option 1

Use only accredited practitioners (fire safety) for functions related to fire systems as specified in the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).

The use of such persons will not relieve the Contractor of liability for the fitness of the Works for the purposes required by the Contract.

### Use of Qualified Tradespersons

Use qualified tradespersons to carry out the Works. The use of such persons will not relieve the Contractor of liability for the fitness of the Works for the purposes required by the Contract.

### Licences, consents and approvals

The Principal has obtained the licences, approvals and consents for the Site and the Works as listed in Contract Information item 14. Refer to General Conditions of Contract clause 12 - **Statutory Requirements** for Contractor responsibilities.

### Development consent

Delete this clause and the above heading if the Development Consent is available and included in the Tender Documents.

Include this clause in the Tender Documents when the Contractor is required to lodge a Development Application.

#### Requirement

Prepare and lodge on behalf of the Principal a Development Application for the Works. The Contractor is responsible for all lodgement fees and other costs associated with the Development Application.

#### Consent Authority Conditions

In making enquiries for the purpose of preparing the Development Application, no agreement as to consent conditions must be made with the Consent Authority. Upon receipt of Consent Authority’s conditions, provide a copy to the Principal immediately. Do not proceed to implement the conditions without a written instruction from the Principal.

### Certification of compliance with building and fire regulations

This clause relates to building work under the Environmental Planning and Assessment Act 1979 (NSW) (EP&A Act).

DELETE THIS CLAUSE AND THE ABOVE HEADING IF:

* the contract works are not related to building works (including structures);
* otherwise, compliance with any of the relevant EPA&A legislation is not required or beneficial.

If this clause is deleted also delete preliminaries Schedule – schedule for application of comprehensive Certification of compliance with building and fire regulations.

section 6.28(2) of the EP&A Act states that:

* *‘Crown building work cannot be commenced unless the Crown building work is certified by or on behalf the Crown to comply with the Building Code of Australia’* (BCA)

recent Legal advice is:

* **the Crown includes public authorities, including universities and TAFEs but excludes councils (LGAs etc)**
* **BCA compliance certification provided by a Contractor satisfies the requirement that it is obtained ‘by or on behalf of the Crown’.**
* **As the definition of a building incudes a part of a building, then the Crown can seek certification on an incremental basis, i.e for parts/ stages of the building.**
* **although not essential, a Principal Certifier (PC) can be used to provide the required BCA compliance certificates, or other reliable endorsements. an option is for the Contractor to contract with the PC initially engaged by the principal (for certification of its DESIGNS) AS a preferred subcontractor.**
* certificates referred to in Part 6 of Ep&A Act, including construction certificates (CC), occupation certificates (OC) and other compliance certificates are not required for crown building work.

2 options are provided for use where CERTIFICATION BY A PC IN ACCORDANCE WITH THE EP&A ACT IS REQUIRED OR IS considered beneficial.

USE EITHER OPTION 1 OR OPTION 2 AND DELETE THE OPTION THAT DOES NOT APPLY. modify the option selected to suit.

If option 1 is used, also delete preliminaries Schedule – schedule for application of comprehensive Certification of compliance with building and fire regulations.

note that:

* the use of a PC does not reduce the need for ADDITIONAL SURVEILLANCE AND/ OR AUDITING.
* the preliminaries schedule provides additional information on the certification process.

Option 1

* + use option 1 for a contract where certification is only required for compliance with the BCA. this option includes selected requirements. additional requirements and conditions from the text of option 2 may be useful.
	+ Option 1 includes additional options 1A & 1B. Delete the OPTION that does not apply:
		- USE OPTION 1A WHERE THE CONTRACTOR MUST APPOINT (AND PAY FOR) the PC. THIS OPTION HAS THE RISK OF CONTRACTOR INFLUENCE OVER THE PC and the PC objecting to certifications of the principal’s design.
		- USE OPTION 1b WHERE THE CONTRACTOR can only use a preferred subcontractor as the PC.

Note where the principal wishes to appoint the pC without contractor involvement, use option 2b.

Option 2

* + use option 2 for a contract where either:
		- the building work is not ‘crown building work’; or
		- an increased level of certification and control would be beneficial due to risks in the PROJECT.

This option provides for compliance with the EPA&A Act as if the Building Work constituted a residential apartment building.

* + refer to preliminaries Schedule – ‘schedule for application of comprehensive Certification of compliance with building and fire regulations’ for option 2.

OPTION 1

Option 1A

Appoint a Principal Certifier to carry out the functions specified in this clause -**Certification of compliance with building and fire regulations**.

The Principal Certifier must be registered under the *Building and Development Certifiers Act 2018* *(*NSW*)* in respect of the functions required to be performed by a Principal Certifier under Part 6 of the EP&A Act and have no actual or potential conflicts of interest in performing the role. Advise the Principal of the name and qualifications of the Principal Certifier within 14 days of the Date of Contract.

end of Option 1A

Option 1b

note if option 1B is selected insert details in Contract Information item 31 and Preliminaries clause – Preferred Subcontractors.

The provision of Principal Certifier services is work which is to be subcontracted from a list of *Preferred Subcontractors*. The list may contain only a single *Preferred Subcontractor*. Clause 29. 3 of the General Conditions of Contract applies. The *Preferred Subcontractor(s)* are listed in Contract Information item 31. Contact details are provided in Preliminaries clause – **Preferred Subcontractors**.

end of Option 1b

The Principal Certifier is to obtain the s 6.28(2) certifications for compliance with the Building Code of Australia (BCA) for work under the contract which is Crown building work within the meaning of the *Environmental Planning and Assessment Act 1979* (NSW).

The Principal Certifier is to:

* allow for certifications of compliance of parts of the building work with the purpose of allowing construction work to be carried out progressively;
* accept, in good faith, compliance declarations and certifications provided by the Principal;
* obtain, where required, compliance declarations and certifications from the Principal’s and Contractor’s consultants;
* obtain the applicable fire safety certificates;
* arrange for other building and compliance certifications where specified; and
* carry out its own inspections at critical stages and as it considers appropriate and identify any non-compliances and report accordingly.

Provide certificates obtained from the Principal Certifier in accordance with the *Environmental Planning and Assessment Act 1979* (NSW) and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (*NSW*)*.stating that each relevant part of the Works fully comply with all applicable building and fire regulation *Statutory Requirements.*

Additionally provide other building certifications and compliances where specified.

end of Option 1

OPTION 2

Preliminaries schedule - **Schedule for application of comprehensive certification of compliance with building and fire regulations** applies to the Contract.

End of Option 2

End of clause - Certification of compliance with building and fire regulations

### Contractor performance reporting

During the course of the Contract, the Contractor’s performance may be monitored and assessed in accordance with *Performance management* in the construction section of the buy.nsw website at<https://buy.nsw.gov.au/categories/construction>

### Exchange of information between government agencies

The Contractor authorises the Principal and its employees and agents to make information concerning the Contractor and its performance available to other government agencies and local government authorities, which may take such information into account in considering whether to offer the Contractor future opportunities for work.

The Principal regards the provision of information about the Contractor to any government agency or local government authority as privileged under the *Defamation Act 2005* (NSW). The Contractor agrees that it will have no entitlement to make any *claim* against the Principal in respect of any matter arising out of the provision or receipt of such information.

## Documents

### Contractor’s tender concept design

Delete this clause and the above heading unless:

* **The contract requires the contractor to design and construct (D&C) the works based on its concept design; and**
* **Conditions of Tendering clause - Tender concept design applies.**

Refer to general conditions of Contract clause 39 *- design by contractor and contractor’s documents.*

In preparing the *Contractor’s Documents,* do not alter the concept design (including associated details) tendered by the Contractor and accepted by the Principal (the Tender Concept Design) without the Principal’s agreement.

End of clause - Contractor’s Tender Concept Design.

### Inclusions in Contractor’s documents

Describe the Contractor’s documents to be provided by the Contractor.

the documents listed should align with the extent of design by the Contractor. Contract Information item 38 - *Scope of Design activities* provides an opportunity for the principal to indicate the extent of design by the Contractor.

the examples (A) or (B) below can be used for a building project where the Principal has only provided developed sketch plans and the Contractor is required to provide all the design construction documents.

where the principal has provided more detailed drawings, the description should relate to the *completion* of the principal’s design. refer to general conditions of Contract clause 39.1 *- design responsibilities.*

E.G.\_A: ‘The *Contractor’s documents* must include provision of all construction documentation for the Works. Construction documentation includes but is not limited to: the production of the construction drawings; the verification of the developed sketch plans; the coordination of the design including the structure and the services; and a specification.’

OR

E.G.\_B: ‘The *Contractor’s documents* must include the following:

* **Cover sheet with:**

**project title information; a location plan; and a list of all drawings including any sub-consultant drawings.**

* **Site plan. at 1:500 scale showing:**

**all survey information, north point, contours (existing and proposed), existing features; services point-of-entry, site entries; roads, paths and paving, play area(s), Contractor’s area(s), demountable building locations, new building(s) locations with set-out dimensioning and key and/or legend relating to this information.**

* **Site works at 1:200 scale showing:**

**all buildings in outline with finished floor levels of ground floor plans, north point, contours, surrounding levels to buildings; site drainage treatment (falls and direction); locations and dimension of paths, paving, roads, bus lay-bys, garbage pads, meter boxes, planter beds, and a legend relating to this information.**

* **Elevations at 1:100 scale showing:**

**all building elevations, reduced levels, section references, detail cross-references for windows, doors, gates, screens and louvres and the like; *materials* identification; direction of cladding and any legend relating to this information.**

* **Floor plans at 1:100 scale showing:**

**all building elements normally shown on plan; rooms numbered and named, dimensions, section references, detail cross-references; windows, doors, gates, screens and louvres (cross-referenced to schedules if not shown on elevations); all fixtures and fittings including heaters (cross-referenced to schedules); *materials* identification and legend relating to this information.**

* **Sections at 1:100 scale showing:**

**all building elements normally shown on section; section titles, room names; applicable heights above finished floor level, datum heights; detail cross-references; *materials* identification; direction of ribbing and a legend relating to this information.**

* **Reflected ceiling plans at 1:100 scale showing:**

**all building elements normally shown on ceiling plans; rooms numbered and named; detail cross-references; *materials* identification; lighting; air-conditioning grilles; sprinkler heads; smoke detectors; direction of ribbing and a legend relating to this information.**

* **Roof plan at 1:200 scale showing:**

**all buildings and walkways identified; roof material (s) with cappings, flashings, barges boards, ridges, valleys etc, roof falls; gutters; downpipes; vents; lights and a legend relating to this information.**

* **Details at appropriate scale(s) including:**

**construction, footings, thresholds, stair, links and ramps, toilets, canteen, gates and screens, door and window, fixtures, furniture and any miscellaneous items.**

* **Layouts at scale(s) to suit, cross-referenced to applicable details, for:**

**toilets, canteen, covered ways and special elements/spaces (where applicable).**

* **Door and window schedule at 1:50 scale, for all door and window types, showing:**

**opening swing/type/direction; material(s) glazing areas/types; overall dimensions and dimensions of panels; divisions, elements (stiles and rails), chair rails and observation panels; security and any special features.**

**Note: this drawing(s) must be cross-referenced to plans and/or elevations and cross-matched to the furniture and blinds schedules.**

* **Furniture layout at 1:100 scale showing:**

**all rooms numbered (to match floor plans); door swings, all fixtures, fittings and heater locations matching the floor plans; and all loose furniture keyed with code abbreviations cross-matched to the furniture schedule.**

* **Finishes schedule listing:**

**all internal and external materials for all buildings**

* **Hardware schedule listing:**

**all internal and external hardware including door and window hardware and fire extinguishers**

* **Furniture schedule listing:**

**all internal and external furniture and including Principal supplied furniture and fittings.**

* **Colour schedule listing:**

**all internal and external colours, by name, by manufacturer, by finish and including details of primers and undercoats.**

* **Structural and civil engineering drawings at suitable scales:**

**prepared to the drafting standards of the Standards Association of Australia.**

**Note: Final working drawings are to be suitable for production of work-as-executed drawings, microfilming and readable at A2 size.**

* **Electrical services documentation and drawings, at suitable scales, including:**
	+ **Final design calculations including maximum demand, fault level, voltage drop, and lighting level;**
	+ **Symbols list;**
	+ **Site plan (minimum scale 1:500) and reticulation schedule;**
	+ **Single line diagrams for main switchboard, distribution boards and control systems;**
	+ **Light and fan layouts including circuitry for all buildings;**
	+ **Power and communication layouts for each building including circuitry;**
	+ **Communication (Telephones, A/V, MATV, PA, etc.), computer network provision and security layouts including circuitry;**
	+ **Miscellaneous details such as control block diagrams, fixing details, control panel layouts, room sections showing mounting heights etc (as appropriate); and**
	+ **Electronic security layouts for each building.**
* **Hydraulic services drawings that effectively present:**
	+ **Major pipe runs indicating control valves, meters and access pits and connection to existing services;**
	+ **Reticulation indicating materials, pipe sizes, control valves, fixtures and taps;**
	+ **Hydraulic axonometric diagrammatic drawings;**
	+ **Construction details of pits, inspection openings, valves etc; and**
	+ **a schedule of fixtures and fittings with brand names, model numbers etc**
* **Landscape design documentation and drawings, at suitable scales, including:**
	+ **landscape site plans at scale 1:500;**
	+ **landscape plans detailing of the main build areas at 1:200 scale; and**
	+ **construction and planting details at 1:20 or 1:10 scale.**

**Note: The construction landscape drawings must fully detail the existing and proposed contours at 0.5m intervals; surfaces and their edge treatments; position, number, species and container size of plantings; areas to be turfed, mulched and /or planted; drainage and irrigation systems including hose cock locations; and existing significant trees with canopy size.**

* **Specification (in NATSPEC format) with:**
* **a table of contents for each trade section and/or item of work.’**

The *Contractor’s Documents* must include, without limitation:

»

### Work as executed drawings

Ensure that the ‘technical’ sections of the specification include details of the information that is required to be shown on work as executed drawings.

Refer to NATSPEC Services standard template, General Requirements, Section 5 - Completion clause 5.2 - Record Drawings, for examples.

Progressively produce work as executed drawings. Submit work as executed drawings for covered services within 14 days of being covered. Submit work as executed drawings showing other work which has been completed within 28 days after completion of that work. Endorse each drawing certifying accuracy and correctness.

Include details of the required format, e.g. the appropriate electronic format, and/or ‘on standard sized sheets using minimum 110 gm/sq. metre tracing paper or equivalent plastic based material’.

Submit the drawings »

Any CAD files submitted must be in DGN, DWG, or DXF format. The Contractor must ensure that any CAD files submitted will correctly display and print in Microstation.

### Operation and maintenance manuals

Delete this clause and the above heading unless operation and maintenance manuals are required for the completed works.

Ensure that the ‘technical’ sections of the specification list the building elements, assemblies, equipment, service installations and systems to be covered in the manuals and include details of the information required.

#### General

Produce operation and maintenance manuals written in clear, concise English covering the various building elements, assemblies, equipment, service installations and systems incorporated into the Works. Comply with this Clause - **Operation and Maintenance Manuals** and any detailed requirements contained in the Technical Specification.

#### Contents

Include the following documents and information:

* **Table of Contents**: A table of contents for each volume.
* **Directory**: Names, addresses, telephone, email and facsimile numbers of the Contractor and relevant subcontractors, suppliers and consultants. Include emergency contact details.
* **Certificates**: Certificates from relevant authorities, copies of manufacturers’ warranties and product certificates.
* **Drawings and Technical Data**.
* **Equipment Descriptions**.
* **Operation and Maintenance Procedures**: Operating instructions, including technical maintenance information; preventive and corrective maintenance procedures and manufacturers’ technical literature.
* **Maintenance Records**: Records of any maintenance completed by the Contractor.
	+ - 1. Format – Hard Copy

Bind each copy of the manuals in A4 size, 4 ring binders, no more than 75 mm thick, with durable, commercial quality, hard plastic covers. Limit the filling of binders to 85% of capacity. Index each binder and mark the spine and cover with relevant building elements. Divide and subtitle each section. Number all pages. Include manufacturers’ printed data and associated diagrams.

* + - 1. Format – Electronic Copy

Provide the specified documentation in PDF or equivalent electronic file format.

* + - 1. Submission

use either Option 1 or Option 2 and delete the option that does not apply.

use option 1 where the works are not divided into milestones.

use option 2 if there are milestones.

Option 1

Not less than 7 days before *Completion* of the Worksis reached, submit 3 hard copies and 1 electronic copy of the operation and maintenance manuals.

Option 2

Insert the relevant milestone number

Not less than 7 days before *Completion* of *Milestone* » is reached, submit 3 hard copies and 1 electronic copy of the operation and maintenance manuals.

end of option 2

As a condition of achieving *Completion*, operation and maintenance manuals that comply with the specification must be submitted.

### Restricted documents

Delete this clause and the above heading unless security of documents is required.

Document security is mandatory for all works that involve security e.g.: Correctional institutions, electronic security installations and the like.

Ensure that all relevant documents are marked “restricted”.

All documents marked “Restricted”, and any other documents the Principal notifies as “Restricted” are classified maximum security documents. No copies are to be made or retained by the Contractor, subcontractors, suppliers, agents or anyone else other than for the Contract.

All originals and copies of restricted classification documents are to be returned to the Principal on *Completion* of the relevant *Milestone* or the Works, as applicable.

End of clause - Restricted documents.

Note: If this clause is deleted also delete Conditions of Tendering clause - Security of Documents.

### NATSPEC subscription

If any of the *Contractor’s Documents* are based on NATSPEC, provide to the Principal proof of the Contractor’s current NATSPEC subscription.

### Contract Program Progress Report

Submit by the 5th *Business Day* of the month, a progress report comparing the current *Contract Program* provided in accordance with clause 22.3.1 of the General Conditions of Contract - **Contract Program** with the *Contract Program* provided for the previous month. Include the following in the report:

* + reasons for any change in the *Scheduled Progress* of significant activities and any proposed steps to make good any shortfall in *Scheduled Progress*;
	+ reasons for any divergence in activity logic or sequencing in the Contract Program, including where the *Contract Program* has been updated due a change in scheduling;
	+ any changes in the critical path and the reasons for those changes; and
	+ any critical path activities which are being delayed or at risk of being delayed due to an act of the Principal.

INCLUDE THE FOLLOWING PARAGRAPHS WHERE THE CONTRACT VALUE EXCEEDS $10 MILLION, OTHERWISE DELETE.

Additionally, include in the Progress Report:

* + a schedule showing for each *Milestone* or where there are no *Milestones*, the whole of the Works, the anticipated date for *Completion* compared with the current agreed *Contractual Completion Date*;
	+ reasons if the updated *Contract Program* is predicting *Completion* will be achieved ahead of *Scheduled Progress*, that is, ahead of the agreed *Contractual Completion Date*; and
	+ a register of *Claims* for extensions of time submitted under clause 50 of the General Conditions of Contract – **Changes to Contractual Completion Dates** and complying with clause 68.3 of General Conditions of Contract – **Contractor’s Claims** including their reason, submission date and current status of approval or assessment by the Principal or Valuer with respect to the relevant clauses in the General Conditions of Contract.

End OF PARAGRAPHS

#### Software

Submit all *Contract Programs* as electronic documents. The software used must be the latest version of MS Project or as otherwise agreed with the Principal.

## Contracting

### Application of Schedule of Rates

Delete this clause and the above heading when the contract does not include a *Schedule of Rates* (Tender schedule 3).

As noted in Tender schedule 3, A *Schedule of Rates* is used where VALUATIONS of the work will be based primarily on tendered rates and where the tender IS FOR a *schedule of rates* contract rather than a lump sum contract.

to manage the principal’s risk, This clause must be used to define, for each HIGH-RISK ITEM, (including any item that may be DIFFICULT to clearly define or assess) to be paid for under the *Schedule of Rates*:

* the scope of work covered by the item;
* how the work will be measured for payment; and
* any conditions required to be met for payment to be made under the item.

Refer to General Conditions of Contract clause 55 - **The Contract Price**.

As defined in General Conditions of Contract, a *Rate Item* is an item of work for which payment will be calculated by multiplying the measured quantity of work, carried out in accordance with the Contract, by the rate accepted for that work

Conditions apply to payment for items in the Tender Schedules - **Schedule of Rates.** Items are referenced by their Item No.

Item 1 of Tender Schedules - **Schedule of Rates** will be paid progressively, in proportion to the work under the *Schedule of Rates* completed.

Include details of the basis of payment for SELECTED ITEMS in the Schedule of Rates, e.g.:

Item 2.A

* Scope: Excavation in all types of material. Refer to clause X of Technical Specification Y.

Measurement for Payment: Payment for excavation will be based on the specified minimum trench dimensions for pipeworks and specified foundation or footing dimensions for structures as stated in Technical Section Specification Clause ».

* Applicable Conditions: Payment will only be made for excavation beyond the specified dimensions if additional excavation is instructed by the Principal;

Item 2.B

* Scope: documentation, submission, implementation, maintenance and updating of specified management plans. Refer to Preliminaries for required Management Plans.
* Measurement for Payment:
* The lump sum amount tendered for Item # will be paid for the documentation, submission, implementation, maintenance and updating of specified management plans.
* 75% of the tendered lump sum will be paid upon submission of satisfactory plans, and
* 25% will be paid after the Contractor has demonstrated that the plans are being satisfactorily implemented, which will be no earlier than 12 weeks after the Date of Contract.
* Applicable Conditions: ‘satisfactory’ plans means plans that fully comply with relevant Contract conditions.

Item 2.C

* Scope: excavation, stockpiling, loading, transporting and disposing of General Solids Special Waste (Asbestos).
* Measurement for Payment: payment will be based on the number of tonnes of material validated by tip dockets from an EPA licensed landfill disposal site.
* Applicable Conditions:
* payment under this item only applies where:
* the nature of the waste has been confirmed by a waste classification certificate provided by an independent environmental Consultant;
* the Contractor is entitled to an adjustment to the *Contract Price* under Preliminaries clause - Hazardous Substances discovered unexpectedly on Site; and
* the Contractor has given notice to the Principal before commencing the relevant work and the Principal instructs that payment will be made under this item,
* the tendered rate will be deemed to include all costs, including overheads and profit, associated with dealing with the scoped work, except for the engagement and use of any required consultants and the costs of any related suspension.

**it is recommended that details for each SoR item be shown under the headings used in the above examples.**

Item 2.1

* **Scope**: »
* **Measurement for Payment**: »
* **Applicable Conditions**: »

»

End of clause - Application of Schedule of Rates.

### Application of Tendered Rates

Delete this clause and the above heading unless the Contract includes a Schedule of Prices – Lump Sum and that Schedule includes *Rate Items* (in Table 2).

tendered Rates (for RAT*E items)* are differentiated from a ‘*schedule of rates*’ because they are used where the tender IS FOR a lump sum contract. they are useful where the quantity of specific items of work may vary. e.g. the depth of piling in foundations or the removal of contaminated material,

to manage the principal’s risk, This clause must be used to define, for each HIGH-RISK ITEM (including any item that may be DIFFICULT to clearly define or ASSESS) TO be paid for at a tendered rate:

* the scope of work covered by the item;
* how the work will be measured for payment; and
* any conditions required to be met for payment to be made under the item.

note that rate items in a LUMP sum contract are more likely to include high risk items. where feasible it is recommended all *rate items* be dealt with as high-risk.

Include details of the basis of payment for selected *Rate items* shown in the Schedule of Prices – Lump Sum, e.g.:

Item 3.X

* Scope: the removal and disposal of unsuitable material and the supply, placement and compaction of gravel, including trimming to the required lines and levels.
* Measurement for Payment: payment will be based on the specified area of the floor slab and the difference between the design level of the underside of the slab and the average surface level after removal of the unsuitable material (verified by independent field survey arranged by the Contractor).
* Applicable Conditions:
* Payment under this item only applies where:
* the nature of the unsuitable material has been confirmed by an independent geotechnical consultant;
* the Contractor is entitled to an adjustment to the *Contract Price* under General Conditions of Contract (GCC) clause 37 – *Site Conditions*; and
* the Contractor has given notice to the Principal before commencing the relevant work and the Principal instructs that payment will be made under this item for the replacement of unsuitable material under the floor slab with approved gravel fill,
* the tendered rate will be deemed to include all costs, including overheads and profit, associated with dealing with the scoped work, except for the engagement and use of any required consultants.
* the tendered rate only applies up to a total quantity of 300% of the quantity shown.

**the ABOVE example can also be used for the removal of contaminated material where Clause 7 of the GCC applies.**

**An alternative wording to ‘all costs, including overheads and profit’, in the conditions in the above example is: ‘excavation, stockpiling, loading, transporting and disposing of the material, all associated overheads and profit’.**

**the conditions in example item 3.X above provides control by the principal in the use of the item and limits the obligation to pay the tendered rate.**

As defined in General Conditions of Contract, a *Rate Item* is an item of work for which payment will be calculated by multiplying the measured quantity of work, carried out in accordance with the Contract, by the rate accepted for that work

Conditions apply to payment for *Rate Items* in the Tender Schedules - **Schedule of Prices -Lump Sum.** *Rate**Items* are referenced by their Item No.

Item 3.»

* **Scope**: »
* **Measurement for Payment**: »
* **Applicable Conditions**: »

»

End of clause - Application of Tendered Rates.

### Payment claims for lump sum items

Delete this clause and the above heading if not apPlicable. include the clause if contract payments will be processed through the NSW Public Works Management System.

A claim for payment of any proportion of a lump sum, including any lump sum in a *Schedule of Rates* or *Schedule of Prices*, must be expressed as a percentage.

End of clause – *Payment claims* for lump sum items.

### Currency fluctuation

Delete this clause and the above heading unless the value of imported goods exceeds:

* $1.0 million; or
* 50% of the estimated *contract price*.

#### Requirement

If a price was tendered in a foreign currency for an item, then the amount payable by the Principal for the item will be in Australian currency calculated by applying the spot selling rate for the purchase of the foreign currency at the Westpac Bank at the close of business on the 14th day after the Date of Contract or if the day is a Bank Holiday in New South Wales, the following trading day.

End of clause - Currency Fluctuation.

Note: If this clause is deleted also delete Conditions of Tendering clause - Foreign Currency Adjustment.

### Customs Duty

Delete this clause and the above heading unless the estimated value of imported goods exceeds:

* $1.0 million; or
* 50% of the estimated *contract price*.

#### Requirement

If the Contract includes a completed Tender Schedules - **Schedule for Adjustment of Customs Tariffs**; and

* an item in the Schedule is imported into Australia after the 14th day prior to the date on which tenders closed; and
* upon importation, the customs duty tariff rate on the item (other than dumping duty) is greater or less than the tariff rate on the 14th day prior to the date on which tenders closed,

then the actual extra cost or saving resulting solely from the change in the tariff rate will be paid or allowed by one party to the other as the case may require. Provide, on request, proof of the amount paid as customs duty and the date of payment.

End of clause - Customs Duty.

Note: If this clause is deleted also delete:

* Conditions of Tendering clause Adjustments for Customs Tariffs, and
* Tender Schedule - Schedule for Adjustment of Customs Tariffs.

### Preferred Subcontractors

Delete this clause and the above heading if General Conditions of Contract - Contract Information item 31 *Preferred Subcontractors* is “Not applicable”.

The Contract includes the following work which is to be subcontracted from the following list of *Preferred Subcontractors*. Refer to General Conditions of Contract clause 29 - **Engaging Subcontractors**.

When *Preferred Subcontractors* are to be included list the preferred subcontract work and the *preferred subcontractors*, together with their addresses and telephone numbers.

note this list should duplicate the list provided in contract Information item 31 of the general conditions and provide additional contact information.

**WHERE FEASIBLE, THERE SHOULD ALWAYS BE MORE THAN 1 *PREFERRED SUBCONTRACTOR* LISTED FOR EACH CLASS OF WORK. THIS REDUCES the PRINCIPAL’s RISK ON SUBCONTRACTOR PERFORMANCE.**

When more than one preferred subcontract work category (class of work) is included ensure that the *preferred subcontractors* are clearly identified for each category.

|  |  |
| --- | --- |
| **Preferred Subcontract ‘Class of Work’** | **Preferred Subcontractors** |
| » | »» |
| » | »» |

End of clause - *Preferred Subcontractors*.

Note: If this clause is deleted also delete Conditions of Tendering clause - *Preferred Subcontractors*.

### Priced Builder’s Bill Of Quantities

Delete this clause and the above heading except for specific projects for which the responsible agency directs that it must be included.

note that a ‘Bill of quantities’ (BoQ) has fixed quantities for accurate pricing while a ‘*schedule of rates*’ uses estimated quantities and tendered rates. inaccurate quantities in a BOQ can result in *variation claims*.

Lodge with the Principal a priced Builder’s Bill of Quantities.

Separately identify, quantify and price within the Builder’s Bill of Quantities the Preliminaries and all Technical Sections of the Specification. The prices and rates as extended must, on addition, equal the Lump Sum.

Prices in the Builder’s Bill of Quantities do not form part of the Contract. Their purpose is to assist in making valuations of works carried out but the Principal is not bound to use them.

End of clause - Priced Builder’s Bill of Quantities.

## Administration

### Quality management requirements

#### Quality Management System

Maintain the Contractor’s Quality Management System. Obtain evidence from proposed subcontractors and certify that subcontractors’ quality management systems meet the requirements of the Contractor’s Quality Management System.

#### Quality Management Plan

Develop and implement a Quality Management Plan that complies with the current NSW Government Quality Management Guidelines for Construction *(Quality management guidelines - construction procurement) (QM Guidelines).* The *QM Guidelines* are available on the Buy.nsw website at <https://buy.nsw.gov.au/categories/construction>

Submit the Quality Management Plan to the Principal within the time stated in Contract Information item 15C together with *Appendix C -Quality Management Plan Assessment Checklist* from the *QM Guidelines*, completed by the Contractor, with cross-referencing of the AS/NZS ISO 9001:2016 clause numbers to the Contractor’s Quality Management Plan.

Completion of the checklist provides a valuable check of the Contractor’s Quality Management Plan.

The Quality Management Plan must cover the relevant elements of the Contractor’s Quality Management System and include an index of the Contractor’s quality procedures and proposed Inspection and Test Plans and associated checklists.

Include a schedule of internal audits for the Contract. Submit a copy of each audit report within 14 days of the date of audit.

#### Design Plan

Prior to commencing design work, prepare and implement a Design Plan complying with the *QM Guidelines,* covering each phase of *Design* and addressing the key activities.

#### Construction standards and conformance

Refer to Preliminaries clause - Standards for the application of Australian and International Standards.

#### Certification of compliance with steel and steel work standards

refer to PBD-2016-03 for obligations of Government agencies for construction materials and processes

include the following paragraphs where steel products form a significant or critical part of the works and independent certification of Compliance with steel and steel work standards is considered necessary to manage the risks arising from non-conforming or non-compliant material, products or processes.

otherwise Delete the paragraphs and the above heading

The following requirements apply where the work under the Contract includes steel material, products or a process listed in Preliminaries clause – **Standards - Compliance with construction standards.** Note that processing includes fabrication and modification.

Provide assurance and verification of compliance of the materials, products or processes used in the Works with the relevant nominated standards by 3rd party independent certification.

Ensure that certifications provide evidence that:

* steel materials or products are sourced from a steel manufacturer that has been certified as producing compliant steel;
* steel materials or products delivered to site and/ or used in processing or construction can be traced and verified as sourced from the certified manufacturer;
* steel processing (including fabrication) is carried out in compliance with the applicable standards; and
* all necessary procedures and documentation are in place to ensure product traceability from steel mill through to processing and construction.

Include the required compliance points in applicable Inspection and Test Plans, including relevant Subcontractor plans.

the required certifications should be progressively submitted.

use Option 1 where ITPs are checked and used regularly to manage QUALITY performance.

use option 2 where evidence of compliance is required at intermediate compliance points.

modify the options as required

delete the option that does not apply.

OPTION 1

Unless otherwise specified, submit the required certifications with the completed applicable Inspection & Test Plans.

end of OPTION 1

OPTION 2

Unless otherwise specified, progressively submit the required certifications as follows:

* steel reinforcing materials, steel prestressing materials and steel product that does not require off-site processing – on delivery to site and prior to incorporation into the Works,
* steel materials and products requiring processing or fabrication – on delivery to fabricator or processing plant and prior to fabrication or processing,
* fabricated steelwork – on delivery to site and prior to incorporation into the Works,
* erected steelwork – on incorporation into the Works and prior to the submission of a subsequent payment claim.

end of OPTION 2

The Australasian Certification Authority for Reinforcing and Structural Steel (ACRS) and the Steelwork Compliance Australia (SCA) are recognised independent compliance assurance organisations acceptable to the Principal to provide 3rd party certifications. These organisations can also assist with schemes to assure and verify product compliance.

Where another organisation is used for 3rd party certifications, provide details to the Principal for review prior to engagement.

End of paragraphs - Certification of compliance with steel and steel work standards

#### Managing work quality

Prepare and implement Inspection and Test Plans, complying with the *QM Guidelines,* incorporating the Hold and Witness points specified in the Contract.

Submit copies of Inspection and Test Plans and checklists not less than 7 days before commencing the work to which they apply. Also submit certification that the relevant quality management plans and Inspection and Test Plans of subcontractors and Consultants meet the requirements of the *QM Guidelines.* Do not start any work before the relevant documentation is submitted.

Give at least 24 hours notice prior to reaching a Hold or Witness point.

Do not proceed beyond a Hold point without endorsement by the Principal.

The Principal, at its discretion, may inspect the work at a Witness point, but work may proceed without endorsement.

Endorsement by the Principal at a Hold or Witness point does not release the Contractor from its obligations to achieve the specified requirements of the Contract.

The Principal. at its discretion, may undertake surveillance (monitoring) of any or all work associated with the Contract.

#### Conformance records

Submit copies of *Conformance Records* as specified, including:

INCLUDE RELEVANT *CONFORMANCE RECORDS* IN THE TABLE BELOW, E.G.:

* APPROVALS OF REGULATORY AUTHORITIES;
* CONTRACTOR’S CERTIFICATION OF QUALITY CONFORMITY AND PERFORMANCE;
* *TEST* RESULTS OBTAINED FROM TESTING LABORATORIES;
* QUALITY OR *TEST* RECORDS OBTAINED FROM MANUFACTURERS AND SUPPLIERS;
* REGISTER OF PRODUCT AND SERVICE CONFORMITY RECORDS;
* STRUCTURAL COMPLIANCE CERTIFICATES;
* OPERATION AND MAINTENANCE MANUALS;
* COMMISSIONING PROCEDURES.

Modify the table by inserting rows as required.

|  |  |
| --- | --- |
| **Conformance Records** | **Time when records are required** |
| Management reports including WHS and environmental monthly reports | No later than the fifth (5th) *Business Day* of each month, or as otherwise specified. |
| Waste Management Progress Report | No later than the fifth (5th) Business Day of every second month |
| Completed Inspection & Test Plans and associated checklists  | With each *Payment Claim*.Quality records for work completed over multiple payment periods must be submitted progressively. |
| Work as Executed drawings | As per Preliminaries clause - **Work as executed drawings** |
| Operation and Maintenance manuals | As per Preliminaries clause - **Operation and Maintenance manuals**  |
| Product and service Conformance Records | Not less than 7 days before *Completion* of the Works is reached. |
| Certification of steel material, products and processes  | As per Preliminaries clause -**Quality management requirements - Certification of compliance with steel and steel work standards** |
| » | » |

#### Failure to Comply

If the Contractor fails to comply with the requirements of this clause – **Quality Management**, the Principal may implement such inspections and tests as the Principal determines and the cost incurred by the Principal will be a debt due from the Contractor. Alternatively, the Principal may make deductions from payments due to the Contractor for work not carried out.

### Aboriginal participation

**DELETE THIS CLAUSE AND THE ABOVE HEADING where an aboriginal participation plan is not required for the contract.**

**refer to conditions of tendering clause – Aboriginal Participation for details of the policy.**

**Agencies must include minimum requirements for Aboriginal participation in all contracts valued at GREATER than $7.5 million as per the definition of ‘Aboriginal Participation Requirement’ below.**

**Insert the app contract value determined by the responsible agency in contract information item 15f. this may be done after the close of tenders.**

**agencies are responsible for payment of any ‘unmet percentage’, as applied to the APP Contract Value, to the Aboriginal Participation Fund in accordance with the Aboriginal Procurement Policy**

* + - 1. Definitions
1. The following definitions apply to Contract requirements dealing with Aboriginal participation.

**Aboriginal Business** means a business that has at least 50 per cent Aboriginal or Torres Strait Islander ownership and that is recognised as such by Supply Nation, the NSW Indigenous Chamber of Commerce, the Office of the Registrar of Indigenous Corporations (ORIC) or a similar acceptable indigenous business verification organisation.

1. **Aboriginal Employee** means an employee of the Contractor or Subcontractor, who is a person of Aboriginal or Torres Strait Islander descent as verified by the Contractor in accordance with guidance provided under the Aboriginal Procurement Policy. Refer to the website referenced below..

**Aboriginal Participation Requirement** means the mandatory minimum requirement for Aboriginal participation in the Contract as determined by:

* at least 1.5% of the specified APP Contract Value is subcontracted to Aboriginal Businesses;
* at least 1.5% of the full time equivalent (FTE) Australian based workforce deployed on the Contact are Aboriginal Employees, on average, over the duration of the Contract, excluding Milestones that do not include design or construction;
* at least 1.5% of the specified APP Contract Value is applied to the cost of education, training or capability building for Aboriginal Employees or Aboriginal Businesses directly contributing to the Contract; or
* any combination of the above, such that the combined percentages add up to at least 1.5%.

Note that the 1.5% figure expresses mathematically the extent of Aboriginal Participation required by combining financial and non-financial factors.

1. **Aboriginal Procurement Policy** means the NSW government’s “Aboriginal Procurement Policy” and published at <https://buy.nsw.gov.au/policy-library/policies/aboriginal-procurement-policy>.

**Actual Aboriginal Participation** means the percentage of actual Aboriginal participation in the Contract, as determined by combining:

* the percentage of the APP Contract Value that is subcontracted to Aboriginal Businesses;
* the percentage of the full time equivalent Australian based workforce deployed on the Contract who are Aboriginal Employees, on average over the period of the Contract, excluding Milestones that do not include design or construction; and
* the percentage of the APP Contract Value that is applied to the cost of education, training or capability building for Aboriginal Employees or Aboriginal Businesses directly contributing to the Contract.

**APP Contract Value** is the *Contract Price* less exclusions accepted or determined by the Principal.

**Unmet Percentage** is the difference between the Aboriginal Participation Requirement and the Actual Aboriginal Participation in the Contract.

* + - 1. Application of requirements

The APP Contract Value for Aboriginal Participation in this Contract is the amount listed in Contract Information item 15F.

Provide an Aboriginal Participation Plan (APP) setting out how the Aboriginal Participation Requirement for the Contract will be achieved within the time stated in Contract Information item 15F.

The APP is to be developed from the Tendered Aboriginal Participation Plan (TAPP) that sets out how the Tenderer plans to meet the Aboriginal Participation Requirement.

Comply with and implement the APP to meet the Aboriginal Participation Requirement.

* + - 1. Reporting

Provide an Aboriginal Participation Report within 5 *Business Days* after 31 March, 30 June, 30 September and 31 December, during the Contract period, or as otherwise instructed.

The report must detail how the Contractor’s APP is being implemented and quantify, with appropriate calculations, the Actual Aboriginal Participation being achieved to date. The report is to include verifiable evidence to support the Actual Aboriginal Participation reported.

Submit a final Aboriginal Participation report at the time listed in Contract Information item 15F.

The report must detail how the Contractor’s APP has been implemented and quantify the Actual Aboriginal Participation for the Contract. It is to include verifiable evidence to support the Actual Aboriginal Participation reported. Where the Actual Aboriginal Participation by the Contractor is less than the Aboriginal Participation Requirement, the report is to include a calculation of the Unmet Percentage.

All reports must be in a format acceptable to the Principal and utilize the DCS Reporting Portal, where applicable. Access to the portal will be provided by the Principal. Contact the Principal for access at least 10 Business Days before the first report is due.

The submission of an acceptable final Aboriginal Participation Report is a condition of *Completion*.

Additionally, provide any information or other assistance, as reasonably requested, to enable the Principal to meet its obligations under the Aboriginal Procurement Policy.

* + - 1. Implementation assessment

Audits and/ or reviews may be carried out by, or on behalf of, the Principal of the Contractor’s actual Aboriginal participation in accordance with General Conditions of Contract clause 15 - **Compliance with NSW Government Requirements**,

Where an Unmet Percentage has been assessed by the Principal, the Contractor will be liable to pay the Principal an amount equal to the Unmet Percentage multiplied by the APP Contract Value. The amount so calculated will be a debt due from the Contractor and General Conditions of Contract clause 63 – **Set-off** will apply.

The obligations of the Contractor under this clause survive termination of this Contract.

### Skills, training and diversity in construction

NSW Procurement Board Direction PBD 2023 -01 - Skills, training and diversity in construction refers.

include this clause and the above heading:

* for all contracts with an estimated value greater than $10M; or
* for contracts valued at up to $10M where the responsible agency requires the contractor to commit to supporting skills development in the contract.

it is suggested that the contractor utilize the reporting template refrenced in the clause for its quartely reporting, where practical.

Refer to the applicable requirements in the NSW Government Construction Guidelines: Skills and training on the website: <https://buy.nsw.gov.au/categories/construction>. In particular, see the *Training management guidelines* located in the Infrastructure Skills Legacy Program in the above Construction Guideline,

Implement the commitments made in the accepted tender in Tender Schedules - **Schedule of skills, training and diversity in construction**.

From the Date of Contract until *Completion*, at intervals of no greater than three months, submit to the Principal details of:

* the number of apprentices employed on work under the Contract and their percentage of the trades workforce;
* the number of women in trade roles; and
* the number of women in non-traditional roles (refer to the Training Management Guidelines for guidance)

and demonstrate that the Contractor is meeting (or will meet by *Completion* of the Works) its commitments to skills development.

Unless otherwise instructed, utilize *Attachment A - Reporting template - Infrastructure Skills Legacy Program* where available in the above referenced *Training management guidelines* for reporting.

Include the following paragraph where option st option 1 has been included in tender SCHEDULES - Schedule of skills, training and diversity in construction

otherwise delete the paragraph.

Additionally, include in the above reports, a report on the Contractor's compliance with the commitments made in the table: *Infrastructure Skills Legacy Program Targets,* included inthe accepted tender in Tender Schedules - **Schedule of skills, training and diversity in construction**. The report should demonstrate that the Contractor is meeting (or will meet at Completion) its commitments to skills development under the Infrastructure Skills Legacy Program (ISLP). As a minimum provide the following for each of the target categories:

* the number of persons employed on work under the Contract;
* their percentage of the project or trades workforce, as applicable; and
* the number of days (full-time equivalent days) the persons were employed on work under the Contract during the reporting period;

End of paragraph – additional reporting.

End of clause – Skills, training and diversity in construction

Note: If this clause is deleted:

* Delete conditions of tendering clause – Skills training and diversity in construction;
* Delete Tender Schedules – Schedule of Skills training and diversity in construction; and

### Protection of children and other vulnerable people

consult with the client and occupiers of the facility.

Delete this clause and the above heading unless children or other vulnerable people are cared for on the Contract site e.g.: projects located on existing schools sites.

note that activities that require a ‘working with children check clearance’ have been clarified in the Child Protection (Working with Children) Amendment (Statutory Review) Act 2018. they do not include construction related activities.

#### Code of behaviour

Ensure that all persons working on the Site, including but not limited to the Contractor’s employees and managers, consultants, subcontractors and suppliers (Contractor Employees) understand and comply with the requirements shown below:

* Obtain permission to enter a school or facility before commencing work and only enter approved areas. The Contractor’s representative or where a Subcontractor is working without the supervision of the Contractor, the Subcontractor’s representative must report their presence to the person in charge of the school or facility on arrival each day and record, in the Site Visit Log, the details of all Contractor’s or Subcontractor’s employees working at that Site that day.
* Avoid talking with, touching or interacting with any children or residents or other users of the school or facility except where the work requires it or in an emergency or safety situation.
* Use only approved toilets and other facilities, unless the person in charge of the school or facility gives written authority to use alternative arrangements.
* Ensure that work areas are not able to be used or accessed by children, or residents or other users of the school or facility while work is in progress. Erect clear signs and barricades (where appropriate) to prevent any inadvertent or unauthorised access.
* Ensure that appropriate privacy is maintained when working on toilets and similar facilities. Verify that toilets and similar facilities are not occupied or in use by children, residents or other users before entering to perform work, and that work does not continue when use of the facilities is required. Where practicable male employees should perform work on male facilities and female employees on female facilities.
* Wear clothing that is tidy and in good condition, including a shirt and shorts, trousers or a skirt at all times.
* Report any concerns about children’s behaviour or child abuse to the person in charge of the school or facility.
* Wear or carry an identity card at all times when on the Site.

Include the following paragraph where there is a high risk of persons working on the Site interacting with children or students. note the declaration must address 29 disqualifying offences. otherwise delete the paragraph.

Ensure that all persons working in areas considered high risk or as otherwise identified complete a written declaration that they have not been convicted and are not awaiting trial for a *Disqualifying Offence* as defined in Schedule 2 of the *Child Protection (Working with Children) Act 2012* (NSW)*.* Keep copies of the declarations with site induction records.

end of paragraph

end of clause - Protection of Children and Other Vulnerable People.

### Audit and review

Make available, on request, all records, including those of or relating to subcontractors or suppliers, relevant to compliance with requirements of the Contract, for the purposes of audit, review or surveillance. Provide all reasonable assistance during the audits or reviews including attendance by the Contractor.

Promptly implement effective corrective action on matters disclosed by audit or review.

## Site

### Order of work

Delete this clause and the above heading unless it is necessary to:

* direct the Contractor to perform the Works in a particular order; or
* complete stages or parts of the work in a particular sequence or at stated times.

This clause is not required where the order of work is controlled by Milestones.

The Works are to be completed in the following order:

»

### Site access and limitations

Describe site access conditions including details of any restrictions to the movements or activities of the Contractor, such as:

* safe access for occupants of the Site;
* easements;
* weight or height limits;
* covenants and restrictions arising from actions of adjoining owners;
* environmental protection; or
* noise restrictions, etc.
* **restrictions required to comply with Preliminaries clause - Protection of children and other vulnerable people**

Refer to any relevant drawings.

Identify and clearly state who is to provide and maintain access to the site if not accessible from a public road.

Identify and clearly state what is to be done in relation to site access after the works have been completed.

Site access conditions applying to the work under the Contract are:

»

### Occupied premises

Delete this clause and the above heading unless any part of the Site will remain occupied during the Contract.

#### Occupancy by Principal

The Principal or persons authorised by the Principal will continue in possession and occupancy of:

Describe any part of the Site, including buildings (or parts of buildings), that the client will continue to occupy.

»

#### Principal’s Access

Provide safe access, for the Principal and authorised persons notified to the Contractor by the Principal, to parts of the Site which continue to be occupied.

#### Contractor’s Responsibility

Mandatory when the client is to remain in occupation of part of a building or the site.

Take responsibility for the suitability of all workers and subcontractors on Site, set reasonable standards of conduct, investigate complaints about their behaviour and take appropriate action including removal of persons from Site if so warranted.

#### Specific requirements

Include details when unrestricted access by the Contractor is not desirable.

consult with the client, building management and the proposed *Principal’s Authorised Person* to establish security and access requirements.

Consider matters such as:

* Compliance with existing security systems, e.g. wearing of id tags in hospitals;
* Requiring the Contractor to implement a security system;
* requiring all workers and visitors to report to the client’s representative, e.g. the School Principal (e.g. for rectification of *Defects* after *completion*);
* restricted hours;
* areas where access is restricted to certain times, with adequate notice and/ or in accordance with a program (E.G. access to Hospital wards and floors)
* out of bounds areas, e.g. student change rooms and toilets.

»

End of clause - Occupied Premises.

### Existing services

#### Preventing Unplanned Contact with Live Services

Take responsibility for locating existing services, including underground essential services, and isolating them where necessary to prevent unplanned contact with live services. In doing so, comply with the NSW Government *Code of Practice Construction Work* available on the Safework NSW website.

#### Locating Existing Services

Before starting construction work:

* appoint a Site manager or Contractor’s representative to be responsible for locating and preventing unplanned contact with existing services; and
* verify the precise locations of all underground and other existing services at the Site, and in areas adjacent to the Site that may be affected by the work under the Contract.

To locate existing services, a combination of different methods should be used, including:

* obtain advice from Dial Before You Dig and the owners of the services (do not rely on WAE or as-built drawings)
* engage a services locator;
* examine the Site and surrounding areas for indications of services; and
* where any service is underground, use pot-holing (or equivalent non-destructive techniques) to locate the service (ensure all holes are promptly backfilled to reduce safety risks).

Mark prominently on the Site the locations of all existing services. Document the locations of services on a site plan and provide a copy of the plan to each Subcontractor before the Subcontractor starts work on the Site.

Provide written confirmation to the Principal that these actions have been completed before starting construction work.

#### Isolation of Existing Services

Before undertaking any work involving cutting into, penetrating, or otherwise breaking into building fabric (floor, walls or ceiling), ensure the services are isolated in the relevant work area.

Wherever reasonably practical and with the prior agreement of the Principal, isolate electrical and gas services for the whole building where work is being carried out, before starting work on existing building services.

Notify the Principal and the appropriate persons within the facility of any proposed disruption of services in sufficient time to enable affected personnel to be informed and any changes to operations to be made. Consult with the Principal prior to issuing the notification.

Include in the notification:

* details of the service to be disrupted;
* the date and time that the disruption will commence;
* the estimated duration of the disruption and when the service will resume operation;
* the possible impact of the disruption (e.g. loss of power, loss of gas); and
* any other relevant information.

On completion of the work and the resumption of the services, check all penetrations for live or damaged services and give the following to the Principal:

* a clearance certificate that affected utilities and equipment (e.g. heaters, boilers) have been tested and are functioning appropriately; and
* the name and phone number of a responsible person, appointed by the Contractor, who can be contacted if problems are experienced with any of the affected utilities or equipment.

#### Interference with Existing Services

Deal with existing services (such as drains, watercourses, public utilities, telecommunications and other services) obstructing the Works or damaged in the course of the Contract as follows:

* if the service is to be continued: repair, divert or relocate as required;
* if the service is to be abandoned: cut and seal or disconnect and make safe as required;
* record all changes made to the services on drawings, with sufficient detail to allow changes to be identified.

#### Cost and Delay

Where an existing service obstructs the Works and requires diversion or relocation, bear all resulting costs and delays except to the extent that there is an entitlement to an adjustment of the *Contract Price* or payment for a *Variation* in accordance with General Conditions of Contract clause - **Site Conditions**.

Where an existing service is damaged by the Contractor for any reason whatsoever, bear all costs and any delays for repairing or disconnecting the service.

#### Notification

Notify the Principal immediately upon discovering any damaged services or services that obstruct the Works and are not shown in the *Principal’s Documents*. Refer to the definition of *Principal’s Documents* with regard to services included in documents prepared by the Principal.

### Protection of Survey Marks

#### Preventing unplanned disturbance of Survey Marks

Take responsibility for locating, protecting and replacing Survey Marks. Survey Marks include Permanent Survey Marks and Cadastral (Boundary & Reference) Marks.

#### Locating and protecting Survey Marks

Before starting construction work:

* appoint a Site manager or Contractor’s representative to be responsible for locating, documenting, protecting and replacing Survey Marks;
* verify the precise locations of all Survey Marks likely to be affected by carrying out work under the Contract, including in areas outside the Site, by:
* referring to publications by the NSW Department of Consumer Services (DCS) - Spatial Services, particularly the information sheet *Protecting Survey Marks* available in *Information sheets* under the Publications tab at: <https://www.spatial.nsw.gov.au/>;
* complying with subsections 1 and 3 of the section *How to protect survey marks – before Works commence* in the above Information sheet;
* utilizing the services of a Registered Surveyor where Survey Marks, including Cadastral Marks, are not readily identified or are likely to be disturbed during searches.
* document the locations of Service Marks (if any) on the site plan showing existing services that is provided to subcontractors. Extend the plan, as required, to show Survey Marks outside the Site that may be affected by work under the Contract; and
* provide written confirmation to the Principal that this action has been completed before starting construction work.

#### Disturbing or removing Survey Marks

#### Where Survey Marks are required to be removed, disturbed or replaced, engage a Registered Surveyor to manage the process in compliance with Surveyor-General’s Directions, Direction No. 11, *Preservation of Survey Infrastructure* available under the Surveying tab at: <https://www.spatial.nsw.gov.au/>

#### Notification

#### Notify the Principal immediately upon discovering any unauthorised removal, disturbance or destruction of Survey Marks. Utilize the services of a Registered Surveyor to notify the Surveyor General and receive advice, as required, on further action(s) regarding the replacement or re-establishment of the affected Survey Marks.

### Work health and safety management

WHS Accreditation Option 1

Delete unless CONTRACT information item 16 applies~~.~~

#### Commonwealth WHS Accreditation

Refer to General Conditions of Contract clause – **Commonwealth WHS Accreditation**

End WHS Accreditation Option 1

#### Design

There are obligations under section 22 of the WHS Act, for persons who design plant, substances and Structures. Consult with the Principal to identify any risks to health and safety arising from the design.

Ensure, in carrying out the designthat, so far as is reasonably practicable, the *Works* and *Temporary Work*, including all structures and plant, are designed to be without risks to anyone who constructs, uses, maintains, or demolishes the *Works* and *Temporary Work*.

When undertaking design, carry out any calculations, analysis, testing or examination that may be necessary to eliminate or minimise risks. Provide current relevant information on any risks arising from the design to anyone who constructs the *Works* and *Temporary Work.*

Include the following paragraphs where the Contractor is required to design the whole of the Works or to develop a design provided by the Principal for the Works or specified components including elements identified in Contract Information item 38A.1 or 38A.2.

Provide a Safe Design Report for design carried out for the *Works* and *Temporary Work*, particularly the design of any structures and plant. Record any hazards not eliminated in the design that may impose a risk to those constructing, using, maintaining or demolishing the *Works* and *Temporary Work.*

Provide an updated copy of the Safe Design Report to the Principal at *Completion* or at the date the Works commence being occupied or taken over, whichever is earlier.

End of paragraphs – Safe Design Report.

#### WHS Management Plan

Develop and implement a WHS Management Plan that covers the work under the Contract and complies with the NSW Government *Work Health and Safety Management Guidelines for Construction 6th Edition (WHSM Guidelines).*

Submit the WHS Management Plan to the Principal within the time stated in Contract Information item 15A, together with checklists (1-12) of *Appendix D – Sample WHSMP Audit Report* from the *WHSM Guidelines,* completed and signed by the Contractor. As a minimum the completed checklists should include page and section references for the relevant listed procedures and activities. Completion of the checklist provides a valuable check of the Contractor’s WHS Management Plan.

Include WHS risks identified in the Project risk register. refer also to Appendix C of safework *Code of Practice Construction Work* for examples of high risk construction work.

Ensure the following risks are covered in the WHS Management Plan:

* »

This list of risks is not exhaustive and must not be relied upon by the Contractor. Undertake a detailed analysis of all work health and safety risks involved with work under the Contract.

Include a program indicating the timetable and resources allocated for *Inspection, testing and servicing* and *Internal review* (*WHSM Guidelines*, refer to appendix D checklist for elements 7 and 11).

Nominate the resources allocated for *Incident management and corrective action* (*WHSM Guidelines*, refer to appendix D checklist for element 8).

Consult with all occupiers of the Site to coordinate the Contractor’s emergency and evacuation plan with their emergency and evacuation plans.

#### WHS Management Monthly Report

No later than the fifth (5th) *Business Day* of each month, submit a WHS Management Monthly Report, detailing *Inspection, testing and servicing* activities, *Internal reviews* and *Incident management and corrective action*, as evidence of the implementation of the WHS Management Plan during the previous month.

As a minimum, the WHS Management Monthly Report must include the following information:

**Contract Details**

|  |  |
| --- | --- |
| * Contract name
 | * signature and date
 |
| * Contractor
 | * period covered
 |
| * Contractor’s representative
 |  |

**Implementation of *Inspection, testing and servicing* procedures**

Summary of WHS inspections and tests carried out for:

|  |  |
| --- | --- |
| * plant and equipment
 | * work Site access and exits
 |
| * incoming products
 | * personal protective equipment (PPE)
 |
| * compliance with and completeness of Risk Assessments, Safe Work Method Statements and Site Safety Rules
 |

**Implementation of *Incident management and corrective action* procedures**

Details of:

|  |
| --- |
| * WHS incidents or WHS issues, including non-compliance with WHS processes and procedures and near misses
 |
| * implementation of incident management
 | * implementation of corrective action
 |
| * WHS statistics for the Contract including:
 |

|  |  |  |
| --- | --- | --- |
|  | **This Month** | **Total Cumulative** |
| Number of Lost Time Injuries |  |  |
| Number of Hours Worked |  |  |
| Number of Hours Lost Due to Injury |  |  |
| Lost Time Injury Frequency Rate LTIFR |  |  |
| Number of WHS Management Audits |  |  |
| Number of WHS Inspections |  |  |

**Implementation of *Internal Reviews***

Details of internal reviews, including audits and inspections, undertaken to verify that on-site WHS processes and practices conform with the WHS Management Plan including:

* System element(s) and activities audited and/or reviewed
* Non-conformance(s), improvement(s) identified and corrective action(s) taken
* Details of auditors and reviewers and dates and durations of audits and reviews
* Copies of third party audit reports and details of the Contractor’s responses to the reports.

#### Incident Reports

Ensure compliance with the notification and other requirements of the *Work Health and Safety Act 2011* (NSW) sections 35-39 for any notifiable incident, including immediate notification to SafeWork NSW.

Notify the Principal of any notifiable incident and any incident requiring medical treatment or involving lost time as soon as possible after the incident.

Provide a written report to the Principal within twenty-four hours after the incident, giving details of the incident and evidence that requirements of the *Work Health and Safety Act 2011* (NSW)have been met.

When requested, provide to the Principal an incident investigation report, including identification of the root cause of the incident and corrective actions taken, in the form directed.

#### Prohibition, Improvement, Non-disturbance and Penalty Notices

Immediately notify the Principal of any Prohibition, Improvement, Non-disturbance or Penalty Notice issued by SafeWork NSW for any work under the Contract. Provide the Principal with a copy of the Notice and written details of the corrective action taken by the Contractor and/or the applicable Subcontractor to rectify the breach and to prevent recurrence.

#### Electrical work

In compliance with clauses 154-156 of the *Work Health and Safety Regulation 2017* (NSW), ensure that electrical work is not carried out on electrical equipment while the equipment is energised, except when, in accordance with clauses 157–162 of the *Work Health and Safety Regulation 2017* (NSW), it is necessary in the interests of health and safety that the electrical work be carried out on the equipment while the equipment is energised.

At the completion of electrical work, provide a *Certificate of Compliance – Electrical Work* (CCEW) signed by a licensed electrician, setting out details of the installation work that has been carried out and confirming that the work complies with AS/NZS 3000 and is suitable for its intended use. The provision of the CCEW is a condition of achieving *Completion* of the relevant *Milestone* or the Works, as applicable.

Formwork

Comply with the relevant *Statutory Requirements*, standards, codes and guidelines in respect of the design, construction and use of formwork, including but not limited to:

* AS 3610-1995 *Formwork for Concrete;* and
* SafeWork NSW *Formwork Code of Practice.*

Ensure that, for both horizontal and vertical formwork, before a concrete pour where:

* the formwork surface is 3 metres or more above the lowest surrounding ground; or
* the area of the formwork surface is 16 square metres or greater,

an independent structural engineer, inspects and certifies that the formwork meets design specifications and complies with AS 3610–1995 *Formwork for Concrete*. The scope of any certification work must be documented to show what has been inspected and certified.

‘Structural engineer’ means a person qualified for member grade of the Australian Institution of Engineers having not less than 4 years professional engineering experience in the design of structures and formwork.

The engineer must not have a conflict of interest as defined in section 29 of the *Building and Development Certifiers Act 2018*.

Include the inspection and certification as actions in Safe Work Method Statements for the erection and use of formwork and as Hold points in the Contractor’s and subcontractors’ Inspection and Test Plans.

Submit formwork certification before commencing the use of the formwork. Do not use the formwork before this certification is submitted.

End of clause – WORK Health and Safety management.

### Hazardous substances discovered unexpectedly on the Site

#### Definition

‘**Hazardous substances’** are substances, whether solid, liquid or gas, that may cause harm to a person’s health. They include chemicals listed in the Hazardous Chemical Information System (HCIS) documentation published by Safe Work Australia, restricted substances referenced in the *NSW Work, Health and Safety Regulation (2017)* and substances designated by their manufacturer or other authorities as hazardous.

Asbestos, material containing asbestos, polychlorinated biphenyl (PCB) and lead based paints are hazardous substances. For the purposes of this clause, these substances are referred to as ‘Nominated Hazardous Substances’.

Other substances in certain situations are also considered hazardous and therefore require controlled handling in accordance with *Statutory Requirements*. Examples are glues, solvents, cleaning agents, paints, water treatment chemicals and materials containing silica.

#### Response to unexpected discovery

The requirements of this clause apply when a Nominated Hazardous Substance whose presence is not identified in the *Contract Documents* is discovered unexpectedly on the Site. General Conditions of Contract clause – **Site Conditions** does not apply.

Note that information ‘identified in the *contract documents*’ should be included in one of the documents listed in clause 7.1 of General Conditions of Contract clause – The Contract.

If any Nominated Hazardous Substance is discovered unexpectedly on the Site, suspend all work that may result in exposure to the substance and notify the Principal immediately of the type of substance and its location. The suspension will be deemed to be a suspension by the Principal under General Conditions of Contract clause – **Principal’s suspension** to the extent that it was required to prevent such exposure.

With the initial notification, or otherwise within 1 *Business Day* of discovery, submit details, to the extent available, including:

* the additional work and resources the Contractor estimates will be necessary to deal with the Nominated Hazardous Substance so that work and subsequent use of the Works may proceed safely and without risk to health;
* the Contractor’s estimate of the cost of the measures necessary to deal with the Nominated Hazardous Substance;
* the Contractor’s estimate of the anticipated effect on *Contractual Completion Dates*; and
* other details reasonably required by the Principal.

In planning and carrying out any work dealing with the Nominated Hazardous Substance, the Contractor must take all reasonable steps to:

* carry out the work concurrently with other work wherever possible; and
* otherwise minimise the effects of the work on the *Contractual Completion Date(s)*.

#### Control and decontamination

When notified that a Nominated Hazardous Substance has been discovered unexpectedly on the Site, the Principal may:

* suspend the whole or any part of the work, in accordance with General Conditions of Contract clause - **Principal’s suspension**, until the substance is isolated or removed; or
* instruct the Contractor to take responsibility for the control of the Nominated Hazardous Substance and decontamination of the Site, and treat any necessary additional work as a *Variation*.

Where required, under the Contract or following an instruction from the Principal, to take responsibility for the control of hazardous substances and decontamination of the Site, handle, use, isolate, remove and dispose of such substances in accordance with *Statutory Requirements.*

The Environment Protection Authority or Waste Service NSW may advise suitable disposal sites.

#### Working Hours

Delete this sub-clause and the above sub-heading unless special client requirements apply, e.g. on occupied school sites.

When required to decontaminate occupied Sites containing hazardous substances, all such decontamination must be carried out outside normal hours of occupation unless otherwise approved in writing by the Principal. Normal hours of occupation are:

Insert the days and hours agreed with the owner or occupier of the site.

»

End of sub-clause - Working Hours.

### Asbestos removal

#### Requirement

Comply with the relevant *Statutory Requirements*, standards, codes and guidelines in respect of any asbestos removal work, including but not limited to:

* SafeWork NSW requirements
* SafeWork NSW Code of Practice *How to manage and control asbestos in the workplace*
* SafeWork NSW Code of Practice *How to safely remove asbestos*
* SafeWork NSW *Managing Asbestos in or on Soil*
* *NSW Work, Health and Safety Regulation (2017)*

Comply with the requirements of any Asbestos Management Plan that applies to the Site or the building where removal is taking place.

#### Notification and Permit

Not less than 7 days prior to starting any asbestos removal work, notify the Principal of the intention to carry out that work. Provide a copy of the asbestos removal contractor’s licence and a copy of any permit required for the work.

#### Monitoring

For all friable asbestos removal and for non-friable asbestos removal in occupied areas, provide air monitoring by an independent, licensed asbestos assessor:

* on each day during asbestos removal, immediately before asbestos removal work starts; and
* on completion of each area where removal has been undertaken.

#### Clearance Certificate

Submit to the Principal a clearance certificate from an independent licensed asbestos assessor at the completion of the asbestos removal work.

### Principal’s site office

Delete this clause and sub-clauses and the above heading when the Contractor is not required to supply a site office(s) for the Principal’s use.

#### General Requirements

Provide an office for the use of the Principal and nominees, in a position agreed with the Principal. Make the office ready for occupation before any major Site activities start. If during the progress of the Works it becomes necessary to move the office, do so without charge and with the minimum of inconvenience. Service, clean and maintain the office for the duration of the Works. Provide safe access to the office at all times. Remove the office prior to *Completion*, following the Principal’s agreement.

#### Site Office Accommodation

include requirements, details and drawings showing the location and construction of the Principal’s Site office.

»

A pre-fabricated modular building system may be substituted subject to the approval of the Principal. In this event the dimensions and standards shown and specified are the minimum required.

End of clause - Principal’s Site Office.

### Temporary services provided by the Principal

Delete this clause and the above heading unless the Principal is providing temporary services.

Include details of any temporary services that the Principal will provide.

Identify who will pay for the consumables; e.g.: the electricity and/or water used.

Consult with the Client.

»

End of clause - Temporary services provided by the Principal.

### Signboard

Delete this clause and the above heading unless a signboard is required.

Consult with the client.

Include details of signboard requirements.

»

End of clause - Signboard.

## Environmental protection

### Environmental management

#### Environmental Management Plan

Develop and implement an Environmental Management Plan that complies with the current NSW Government *Environmental Management Guidelines (Construction procurement) (Edition 4) (EM Guidelines)*. The *EM Guidelines* are available on the Buy.nsw website at: <https://buy.nsw.gov.au/categories/construction>.

Include environmental risks identified in the Project risk register and any identified opportunities to reduce or avoid adverse environmental impacts, or insert the words “nil mandatory”.

The Environmental Management Plan must address the following risks:

* »

This list of risks is not exhaustive and must not be relied upon by the Contractor. Undertake a detailed analysis of all environmental risks under the Contract.

Submit the Environmental Management Plan to the Principal within the time stated in Contract Information item 15D, together with *Appendix B – Environmental Management Plan Review Checklist* from the *EM Guidelines,* completed and signed by the Contractor.

Completion of the checklist provides a valuable check of the Contractor’s Environmental Management Plan.

#### Environmental Management Monthly Report

delete this subclause and the above heading if em option 1 of conditions of tendering clause – environmental management has been deleted.

No later than the fifth (5th) *Business Day* of each month submit an Environmental Management Monthly Report, signed by the Contractor’s representative and including the information specified below, as evidence of implementation of the Environmental Management Plan.

**Contract Details**:

|  |  |
| --- | --- |
| * Contract name
 | * signature and date
 |
| * Contractor
 | * period covered
 |
| * Contractor’s Representative
 |

**Implementation of environmental management - details of:**

|  |  |
| --- | --- |
| * environmental risks and opportunities
 | * significant environmental impacts
 |
| * environmental objectives, targets and measures of performance (where practical)
 |
| * management actions, including environmental controls, training, inspections and testing
 |

**Implementation of *incident management*, including *emergency response*** - details of:

|  |
| --- |
| * environmental incidents or emergencies
 |
| * non-compliance with environmental procedures and near misses
 |
| * implementation of incident and emergency response management
 |
| * implementation of corrective action.
 |

**Implementation of reviews** - details of internal reviews, audits and inspections undertaken to verify that on-Site environmental processes and practices conform with the Environmental Management Plan, including:

* monitoring, measurement, evaluation and review of activities;
* the consequences of non-conformances;
* investigation, analysis, evaluation and follow-up verification; and
* corrective and preventive action taken.

End of subclause – environmental management monthly report.

#### Incident reports

Ensure compliance with the notification and other requirements of the *Protection of the Environment Operations Act 1997* (NSW) (POEO Act).

Immediately notify the Principal of any pollution incident that may cause material harm to the environment, providing evidence that notification requirements of the POEO Act have been met, where applicable.

Report immediately the details of any waste removed from the Site and not disposed of at a lawful facility.

When requested, provide an incident investigation report, including identification of the cause of the incident and corrective actions taken, in the form directed.

### Ecologically sustainable development

#### Requirement

Apply strategies to maximise the achievement of ecologically sustainable development in the design, construction and operation of the Works, including reducing pollutants, greenhouse gas emissions and demand on non-renewable resources such as energy sources and water.

Delete ESD Option 1 if the contract involves little or no opportunity for enhancing building environmental performance.

ESD Option 1

Incorporate applicable strategies and objectives in the Environmental Management Plan.

End of ESD Option 1

#### Restricted timbers

Do not use the following timbers or their products for work under the Contract:

* rainforest timbers, unless certification is provided that they are plantation grown;
* timber from Australian high conservation forests.

### Waste management

#### Requirement

Implement waste minimisation and management measures, including:

* recycling and diverting from landfill surplus soil, rock, and other excavated or demolition materials, wherever practical;
* separately collecting and streaming quantities of waste concrete, bricks, blocks, timber, metals, plasterboard, paper and packaging, glass and plastics, and offering them for recycling where practical.

Ensure that no waste from the Site is conveyed to or deposited at any place that cannot lawfully be used as a waste facility for that waste.

#### Monitoring

Monitor and record the volumes of waste and the methods and locations of disposal.

Submit a progress report no later than the fifth (5th) *Business Day* of every second month and a summary report before *Completion* of the Works, addressing the checklist factors/ questions in tables 1 to 5 in Section 3 *Management of waste on construction and demolition projects* of the EPA ‘*Construction and demolition waste’* toolkit available at:

<https://www.epa.nsw.gov.au/your-environment/waste/industrial-waste/construction-demolition>

Note that the provision of the waste management summary report is a condition of achieving *Completion.*

Submit, with the progress and summary report, the waste disposal certificates and/or company certification confirming appropriate, lawful disposal of waste.

### Pest control

Do not use any chemical pesticides or termicides for new construction work. Use preventive treatment by physical means to minimise the risk of pest infestations.

Chemical treatments may be used in existing buildings only as a last resort for the eradication of pest and termite infestations. Chemical pesticides used for this purpose must be registered by the Australian Pesticides and Veterinary Medicines Authority and applied by a Pest Control Operator licensed by SafeWork NSW or the NSW Environment Protection Authority.

Pest preventive methods must comply with AS 3660.1-2014 *Termite management – New building work* (except for references to chemical soil barriers), as well as supplementary standards for existing buildings.

## Materials and workmanship

### Standards

Where the Contract requires compliance with a standard or code, unless otherwise specified, that standard or code will be the one current at the closing date for tenders, except for the National Construction Code, which will be the one current at *Completion*.

Where the Contract refers to an Australian Standard it does not preclude the adoption of a relevant international standard.

#### Compliance with construction standards

Unless otherwise specified, comply with the relevant standards for building products, construction materials and construction or manufacturing processes. This includes, but is not limited to, the standards specified below which apply where the work under the Contract includes the listed material, product or process:

|  |  |
| --- | --- |
| **Material, Product or Process** | **Standard** |

|  |  |
| --- | --- |
| Cold formed structural steel hollow sections | AS/NZS 1163: 2006  |
| Hot rolled steel flat products | AS/NZS 1594:2002  |
| Structural steel - Hot rolled plates, floor plates and slabs | AS/NZS 3678:  |
| Structural steel – Hot rolled bars and sections | AS/NZS 3679.1:  |
| Structural steel – Welded I sections | AS/NZS 3679.2:  |
| Steel reinforcing materials | AS/NZS 4671:  |
| Steel prestressing materials | AS/NZS 4672: |
| Structural steelwork - fabrication and erection | AS/NZS 5131  |

Refer to Preliminaries clause - **Quality management requirements** for requirements to assure compliance.

### Cleaning up

Make good the Site and surroundings and ensure:

* all visible external and internal surfaces, including fittings, fixtures and equipment, are free of marks, dirt, dust, vermin;
* unwanted materials, temporary works and debris are removed; and
* unless otherwise agreed, the Contractor’s plant, equipment and temporary construction facilities are removed,

prior to Completion.

### Samples

Match any approved samples throughout the Works. Do not commence work that requires approval of samples until the samples have been approved. Keep approved samples in good condition on the Site until *Completion*.

Delete the following paragraph when:

* Preliminaries schedule - Schedule of Samples for Approval is deleted; or
* samples are included in other sections of the specification.

Samples required for approval are listed in Preliminaries schedule - **Schedule of Samples for Approval**.

End of Paragraph.

Note: If this paragraph is deleted also delete Preliminaries schedule - Schedule of Samples for Approval.

### Testing

#### Independent Testing Authority

Ensure that any testing required to be by an independent authority is carried out by an authority registered with the National Association of Testing Authorities Australia (NATA) to perform the specified testing.

### Proprietary items

This clause does not modify government policy restricting use of proprietary items in technical specifications.

rather than identifying a proprietary item, it is preferable to specify the technical, performance and quality characteristics of the required item.

include OPTION 1 WHERE Mandatory proprietary items are required.

List the proprietary items which are mandatory and in respect of which alternatives will not be acceptable (e.g. if there is a requirement to match or interface with existing equipment or installations).

Consider relevant government policies (including clause 17 of procurement (enforceable procurement provisions (EPP)) direction 2019 prior to completing this table. The EPP applies to contracts GREATER than $9m (ex GST).

ensure that a record is made with reasons for requiring the mandatory proprietary item. Where appropriate, include the reason (e.g. to match existing pumps) in the table for option 1.

If there are no mandatory proprietary items, delete option 1.

**OPTION 1**

#### Mandatory proprietary items

The following items are mandatory proprietary items and alternatives may not be offered for these items (without limiting any right of the Principal):

|  |  |
| --- | --- |
| **Item** | **Description & Specification Reference** |

|  |  |
| --- | --- |
|  |  |
|  |  |
|  |  |
|  |  |

#### Other proprietary items

The requirements detailed below apply to proprietary items other than proprietary items identified as mandatory proprietary items.

end of OPTION 1

Identification by the Principal of a proprietary item does not necessarily imply exclusive preference for that item but indicates the required properties of the item. ‘Item’ includes *Materials.*

Notwithstanding the above, except for alternatives accepted prior to the *Date of Contract*, the Contractor will be deemed to have allowed for the proprietary items as identified in the *Contract Documents*. The use of alternatives, including ‘other approved’ items, is subject to consideration in accordance with this clause. No *Claim* will arise out of the Principal’s consideration of, or rejection of, an offer to use an alternative item.

An alternative may be offered to a proprietary item. Apply in writing for approval to use the alternative. Provide details, including sufficient technical information, to describe how, if at all, the alternative differs from the proprietary item and how it would affect other parts of the Works, including performance and operation.

The Principal must consider the Contractor’s offer but is not bound to accept it. The Principal may reject the Contractor’s offer if it considers, in its absolute discretion, that the offer does not provide the same standard of quality as the identified proprietary item or is not suitable for the intended purpose of the identified proprietary item.

Except to the extent that the approval, if any, of the Principal includes a contrary provision, the approval is deemed to include the conditions that:

* use of the alternative must not directly or indirectly result in any increase in the cost to the Principal of the Works;
* the Contractor must indemnify the Principal against any increase in costs;
* use of the alternative must not directly or indirectly cause any delay to the Works and if it does, the Contractor will compensate the Principal for any loss which the delay causes.

### Items supplied by the Principal

Use this clause and above heading if the client or Principal is to supply items to be incorporated into the works

#### Generally

List the items to be supplied and the relevant dates for delivery and storage in Preliminaries schedule - Schedule of Principal Supplied Items or, if list is short, in this clause, and amend the clause wording accordingly.

note that a disproportionate no. of *claims* have arisen due to principals failing to deliver principal supplied items and principal arranged certificates/ approvals by specified times.

The items in the Preliminaries schedule - **Schedule of Principal Supplied Items** will be supplied free to the Contractor for incorporation into the Works.

Take delivery, unload and inspect the items for *Defects*. Notify the Principal if the items are defective or unsuitable for the proposed use. Provide storage suitable to maintain the condition of the items until incorporated into the Works. Record the storage location on the delivery documents and submit copies of the delivery documents to the Principal. Notify the Principal if items are not delivered 5 *Business Days* before they are due to be incorporated into the Works or if items are lost from storage. Return unused items to the Principal.

#### Responsibility

If, in the opinion of the Principal, any damage to items supplied was due to *Defects* existing at the time of receipt, but not discoverable upon reasonable inspection, the Contractor will not be held responsible for such damage. Refer also to General Conditions of Contract clause 50 - **Changes to Contractual Completion Dates** with respect to the Contractor’s obligation to avoid delay.

End of clause - Items supplied by the Principal.

Note: If this clause is deleted also delete Preliminaries schedule - Schedule of Principal Supplied Items.

### Plant and equipment details

Delete this clause and the above heading unless plant and equipment of a unique nature is to be supplied under the contract.

#### Requirement

Submit the following details of Plant and Equipment listed prior to ordering:

Describe the details sought.

* »

End of clause - Plant and Equipment Details.

## Schedules to Preliminaries

Delete the following headings and schedules and the above heading unless either of the following schedules is included:

* Schedule of Samples for Approval; or
* Schedule of Principal Supplied Items.

### Schedule of Samples for Approval

Delete this schedule and the above heading when the last paragraph of Preliminaries clause - Samples has been deleted.

#### Requirement

Samples are required for the following items:

Include a list of items for which samples are required.

Alternatively, indicate items for which samples are required in the (technical) sections of the specification.

Note: Natspec provides for items to be listed in (technical) sections.

* »

End of schedule - Schedule of Samples for Approval.

### Schedule of Principal Supplied Items

Delete this schedule and the above heading when Preliminaries clause - Items Supplied by the Principal has been deleted.

#### Supply by Principal

The following items will be supplied by the Principal: 8.4 Certification of compliance with building and fire regulations

Include a list of relevant items, delivery dates and storage details.

Include the estimated value in determining the required value of works insurance.

* »

End of schedule - Schedule of Principal Supplied Items.

### Schedule for application of comprehensive certification of compliance with building and fire regulations

Delete this schedule and the above heading when option 2 of Preliminaries clause - Certification of compliance with building and fire regulations has been deleted.

this schedule is used with option 2 of the above clause.

this schedule includes additional options 2A & 2B. Delete the OPTION that does not apply:

* + - USE OPTION 2A WHERE THE PRINCIPAL, OR ITS AGENT, APPOINTS A PC. THIS OPTION PROVIDES GREATER CONTROL & MANAGEMENT OF THE PC. However, the option has coordination risks where significant design is carried out by the contractor. it may also make the principal responsible for any consequent delays.
		- USE OPTION 2B WHERE THE CONTRACTOR MUST APPOINT (AND PAY FOR) THE PC. THIS OPTION HAS THE RISK OF CONTRACTOR INFLUENCE OVER THE PC.

where the principal requires the contractor to only use a preferred subcontractor as the principal certifier, incorporate option 1b from the above Preliminaries clause and amend The text of option 2b to suit.

The following guidance has information for understanding the certification process.

certification

Certifiers have statutory obligations and functions under the Building and Development Certifiers Act 2018, the EP&A Act and other legislation.

The functions of registered certifiers include:

* the issue of construction certificates (CC) and occupation certificates (OC) following assessment and consideration of compliance requirements and certification.
* the inspection of building work at specific stages to determine consistency with approved plans, and compliance with legislative requirements and conditions of consent; and
* taking action to address non-compliant work and, if needed, reporting it to the appropriate authority.

A practice standard for registered certifiers (with a focus on residential construction) has been published by fair trading:

[*https://www.fairtrading.nsw.gov.au/\_\_data/assets/pdf\_file/0009/902349/Practice\_standard\_for\_registered\_certifiers\_0920.pdf*](https://www.fairtrading.nsw.gov.au/__data/assets/pdf_file/0009/902349/Practice_standard_for_registered_certifiers_0920.pdf)

principal CERTIFIER (PC)

Under the EP&A Act (s6.6), building work is only permitted to be carried out under a development consent once a principal certifier (PC) has been appointed for that work. The EP&A Act prevents the contractor from appointing the PC without the approval of the CLIENT (or principal).

Government agencies carrying out building work (Crown building work) are not required, under the ep&a Act, to comply with the requirements to appoint a PC or obtain a CC or OC, provided that the building work is certified to comply with the Building Code of Australia.

However, where agency policy requires, and otherwise for QUALITY AND COMPLIANCE PURPOSES for building projects:

* a PC should be appointed prior to commencing construction;
* the requirements for an OC should be satisfied where the building is to be occupied; and
* THE SCOPE OF THE PC’S ENGAGEMENT should REQUIRE THE PC TO:
* MANAGE AND COORDINATE ALL CERTIFICATION AND DECLARATION FUNCTIONS AS WELL AS CARRY OUT INSPECTIONS. THIS INCLUDES CERTIFICATION FUNCTIONS RELATED TO FIRE SAFETY SYSTEMS AND FIRE SAFETY CERTIFICATES; and
* ENSURE THE CONTRACTOR HAS SATISFIED the requirements for a CC TO BE ISSUED.

Application

This Schedule applies to the Contract if it is so referenced in Preliminaries clause - **Certification of compliance with building and fire regulations.**

Definitions

The following definitions apply in this Schedule.

The terms: ‘**building work**’, ‘**Certifier**’, ‘**Compliance Certificate**’, ‘**Construction Certificate**’, ‘**Crown building work’**, ‘**Occupation Certificate’**, and ‘**Principal Certifier**’ have the meanings given to these terms (without capitalisation, as applicable) under sections 6.1 and 6.4 of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act).

‘**Development Consent**’ means development consent granted under Part 4 of the EP&A Act

**PC** means the Certifier appointed in accordance with this clause to perform the role and functions of a Principal Certifier in respect of the Building Work (as if the appointment of a Principal Certifier had been required for the Building Work under Part 6 of the EP&A Act).

The following terms apply regardless of whether the relevant sections of the EP&A Act apply to that part of the Works or the work in connection with the Contract:

* ‘**Building Work**’ means each part of the Works or work in connection with the Contract that comprises ‘building work’;
* ‘**CC**’ means a certificate equivalent to, and having the same effect and content as, a Construction Certificate; and
* ‘**OC**’ means a certificate equivalent to, and having the same effect and content as, an Occupation Certificate. Where a Development Consent does not apply, the certificate is to satisfy the requirements of an Occupation Certificate that would be issued if the relevant statutory approvals, certificates and mitigation measures applying for the purposes of Part 5 of the EP&A Act were a Development Consent. The certificate must:

(a) certify that the Works fully comply with all applicable building and fire regulation requirements pursuant to any *Statutory Requirements*; and

(b) address such other matters as are required to be addressed in a Compliance Certificate under the EP&A Act.

**Option 2A**

The Principal will appoint a Certifier to perform the role and functions of a Principal Certifier in respect of the Building Work and will notify the Contractor of the name of that Certifier once the Certifier has been so appointed.

End of Option 2A

Option 2b

Within 14 days after the Date of Contract, notify the Principal of the proposed Certifier (PC) who will perform the role and functions of a Principal Certifier in respect of any Building Work in the Contract. The notification is to include:

* the name, experience and qualifications of the nominated Certifier;
* certification signed by the nominated Certifier confirming that, if so appointed, the Certifier, and any other person who may carry out certification functions in respect of the Building Work on the Certifier’s behalf, will have no actual or potential conflicts of interest in performing the role and functions of a Principal Certifier in respect of the Building Work under this Contract; and
* the proposed terms of engagement (without pricing) that are to be entered into between the Contractor and the Certifier for the appointment of the Certifier in accordance with this clause.

If the Principal objects to the nominated Certifier, the Contractor must propose another Certifier.

The nominated Certifier must:

* be independent of the Contractor;
* have no current contractual or business relationship with the Contractor, and have had no contractual or business relationship with the Contractor in the three years prior to the date of notification, that may result in an actual or potential conflict of interest in performing the role and functions of a Principal Certifier;
* be registered under the *Building and Development Certifiers Act 2018* in respect of the functions required to be performed by a Principal Certifier under Part 6 of the EP&A Act; and
* be engaged on terms of engagement consistent with this clause, those disclosed in the relevant notification and the requirements of the Contract.

Take responsibility for the payment of all fees, charges and costs associated with the appointment of the PC and its staff and the carrying out of any of their respective functions in relation to the Building Work.

Notwithstanding that the Building Work may not constitute or include a residential apartment building, the Contractor must ensure that the PC carries out certification work for the Building Work in accordance with the Practice Standard for Registered Certifiers as if the Building Work did constitute or include a residential apartment building. The Practice Standard available at;

<https://www.fairtrading.nsw.gov.au/__data/assets/pdf_file/0014/1112108/Certifier-Practice-Standard-Vol-1-new-apartment-buildings.pdf>

Ensure that the following are satisfied~~,~~ without limiting the requirement that the PC assess and determine what inspections are required for the Building Work:

* unless otherwise instructed by the Principal, inspections must be carriedout by the PC at least monthly (or as more frequently required by the PC), with prior notice given by the PC to the Principal and the Contractor;
* critical stage inspections are Hold points under the Contract. Ensure that these inspections are carried out by the PC. Include the following (where part of the Works or work under the Contract):

Amend appropriate ‘critical stage’ inspections as required (see part 4.5 of the Practice Standard)

* + building set-out;
	+ fire protection at service penetrations;
	+ waterproofing membrane installation;
	+ stormwater drainage connections; and
	+ building completion;

Add changes/ additions in the scope of the PC’s role and functions if required. otherwise delete the dot point.

* »
	+ where an inspection identifies a non-compliance or *Defect*:
		- the PC must advise the Principal and Contractor promptly and within 1 day of the inspection;
		- any ‘written direction notice’ (a WDN under the above referenced Practice Standard) directing specified action to remedy the non-compliance requires the concurrence of the Principal prior to issue and would be issued on behalf of the Principal unless urgent action is required to avoid death, injury or damage; and
		- *Defects* are dealt with in accordance with General Conditions of Contract clause 45 - **Defects**.

and

* within 3 *Business Days* following each inspection, the PC issues a record of the inspection to the Principal and includes a status report on the certification actions and a progressive listing of evidence requested from the Contractor, the date the evidence was due and the date it was supplied.

End of Option 2b

Even if a Construction Certificate and/ or an Occupation Certificate are not required for the Building Work, ensure that (unless otherwise instructed by the Principal or where doing so would prevent the Contractor from complying with a specific requirement of the Contract):

* prior to the commencement of any Building Work, everything that would be necessary to enable the PC to issue a CC in respect of the Building Work including the satisfaction of any building and fire regulation requirements is carried out;
* the Building Work is not commenced until the PC has issued a CC in respect of the Building Work, as if a Construction Certificate was required for the Building Work under the EP&A Act;
* the Building Work is not commenced until such other preconditions for the commencement of the Building Work have been satisfied; and
* as a condition of achieving *Completion* of the relevant *Milestone* or the Works, as applicable:
	+ everything that would be necessary to enable the PC to issue an OC in respect of the Building Work including the satisfaction of any applicable building and fire regulation requirements, is carried out; and
	+ the PC issues an OC in respect of the Building Work.

With particular reference to General Conditions of Contract clause 12 – **Statutory Requirements** and clause 15.4 of the General Conditions of Contract – **Compliance with NSW Government Requirements**:

* cooperate with the PC in planning for and carrying out its functions;
* promptly arrange for and provide all necessary certificates, reports, compliance declarations, compliance certificates, documents and other evidence reasonably requested by the PC;
* identify and notify the Principal of any design changes required for compliance with the National Construction Code; and
* where any item provided by the Contractor to the PC is incomplete or deficient, rectify the deficiency within 3 *Business Days* of being notified, unless otherwise agreed by the Principal*.*

End of Schedule – schedule for application of comprehensive certification of compliance with building and fire regulations

**END OF SECTION – PRELIMINARIES**