

Preliminaries (MW21-LG version)

Table of Contents

1	General	1
1.1	Application	1
1.2	Special Contract Conditions	1
1.3	Electronic communications.....	1
1.4	Use of Qualified Designers, engineers and specialists.....	1
1.5	Use of Qualified Tradespersons.....	1
1.6	Licences, consents and approvals	1
1.7	Long service levy.....	2
1.8	Contractor performance reporting.....	2
1.9	Exchange of information between government agencies.....	2
1.10	Media releases and enquiries	2
2	Documents.....	2
2.1	Work as executed drawings	2
2.2	NATSPEC subscription	2
2.3	Contract Program.....	2
3	Contracting	3
3.1	Goods and Services Tax.....	3
3.2	Passing of Property and Risk	3
4	Administration.....	4
4.1	Quality management	4
4.2	Subcontract Requirements	5
4.3	Additional Security and Obligations for Trustees.....	6
4.4	Audit and review.....	6
4.5	Contractor Representatives (authorised persons).....	6
4.6	Dealing with Modern Slavery	7
5	Site.....	7
5.1	Site access and limitations	7
5.2	Other Site Activities.....	7
5.3	Occupied premises.....	7
5.4	Working Hours and Working Days	7
5.5	Existing services and Survey Marks	8
5.6	Work health and safety management.....	9
5.7	Hazardous substances discovered unexpectedly on the Site	13
5.8	Asbestos removal.....	14
5.9	Traffic Management	15
6	Environmental protection.....	15
6.1	Environmental management	15
6.2	Waste management	15
7	Materials and workmanship.....	16
7.1	Work Method.....	16
7.2	Cleaning up	16
7.3	Testing	16
7.4	Proprietary items.....	16
7.5	Guarantees	16
7.6	Items supplied by the Principal.....	17
8	Schedules to Preliminaries	18
8.1	Schedule of Special Contract Conditions.....	18
8.2	Schedule of of Principal Supplied Items.....	18
8.3	Schedule of Personal Property Securities	20
8.4	Schedule of Dealing with Modern Slavery	20
8.5	Schedule for Environmental Management Plan.....	29

Preliminaries

[THERE ARE 34 PAGES IN THIS SECTION](#)

1 General

1.1 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 2.1 of the General Conditions of Contract for the relationship between this document and other Contract Documents.

1.2 Special Contract Conditions

Refer to Preliminaries - **Schedule of Special Contract Conditions** for specific additional conditions included by the Principal.

1.3 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).

1.4 Use of Qualified Designers, engineers and specialists

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

The DBP Act currently includes specific requirements for class 2, 3 & 9c buildings.

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>.

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.

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, in accordance with the above referenced legislation and by this clause, will not relieve the Contractor of liability for the fitness of the Works for the purposes required by the Contract.

1.5 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.

1.6 Licences, consents and approvals

Obtain all licences, authorisations, certifications, approvals and consents necessary to carry out the work in connection with the Contract, apart from those that can only be obtained by the Principal.

Pay all necessary fees and charges necessary to carry out the work in connection with the Contract.

1.7 Long service levy

The Principal will pay the Building and Construction Industry Long Service Levy for this Contract.

1.8 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>

1.9 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.

1.10 Media releases and enquiries

Obtain the Principal's prior written consent to:

- any press release or promotional advertisement it wishes to make or place concerning the Contract, the Principal or the Works; and
- the release for publication in any media of any information concerning the Contract, the Principal or the Works.

Refer any media enquiries concerning the Contract, the Principal or the Works to the Principal. Do not respond to any media enquiry without the Principal's prior written consent and ensure that all Consultants, Subcontractors and Suppliers comply with this clause.

The Principal may give or refuse its consent, in its absolute discretion.

2 Documents

2.1 Work as executed drawings

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.

Not less than 5 Business Days before Completion is expected to be reached, submit all work as executed drawings in PDF or acceptable CAD electronic format. Ensure that any CAD files submitted will correctly display and print in Microstation Version 10 and AutoCAD 2022. Where required by the Principal, also submit 1 hard copy of all work as executed drawings, on standard sized sheets,

2.2 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.

2.3 Contract Program

Not less than 5 Business Days before starting the Works, provide a detailed program for carrying out the work under the contract, including all documentation and construction activities.

The program must show the logical relationship between activities and events and the sequence of activities which constitute the current critical path.

Submit an updated program monthly, at regular meetings and within 5 Business Days after a request from the Principal. The updated program must incorporate any changes required to achieve Completion in accordance with the Contract.

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.

3 Contracting

3.1 Goods and Services Tax

GST Law has the meaning in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth). Words or expressions used in this Clause – **Goods and Services Tax** which are defined in GST Law have that defined meaning unless otherwise provided.

Unless otherwise expressly stated in the Contract all prices, rates or other sums payable in accordance with the Contract include an amount for GST.

This clause has particular relevance to Clause 13 of the General Conditions of Contract.

Take responsibility for the issue of a tax invoice in respect of any taxable supply the Contractor makes to the Principal and the issue of an adjustment note for any adjustment event. Taxable supply includes construction work which is subject to GST.

Do not issue a tax invoice in respect of any taxable supply the Contractor makes to the Principal, other than under this clause.

Following the submission of a payment claim and the provision of a payment schedule, issue a tax invoice. The tax invoice must:

- be issued within 2 Business Days after the provision by the Principal of the relevant Payment Schedule;
- be for the scheduled amount identified in the Payment Schedule; and
- show the scheduled amount excluding GST, the GST component and the total Scheduled Amount including the GST component.

In circumstances where the Principal is not required to issue a Payment Schedule, including where the amount of a payment claim has been agreed, issue the relevant tax invoice within 2 Business Days of being requested by the Principal.

Each party must be registered for GST and must notify the other party if it ceases to be registered for GST.

Give to the Principal a tax invoice for an excluded supply at or before the time the Contractor invoices the Principal for that supply. Unless otherwise specified, the Principal will issue a tax invoice for each taxable supply it makes to the Contractor.

3.2 Passing of Property and Risk

Property (ownership) for items, including materials, plant, equipment and other goods and things, that are to be incorporated into the Works passes to the Principal when they are so incorporated.

Unless otherwise specified, items, including materials and things, that are not to be incorporated into the Works (e.g. loose furniture), become the property of the Principal when unloaded on the Site as required by the Contract.

Unless otherwise notified by the Contractor, the Principal considers that the property for these items passes to the Principal free of any encumbrance.

Claim, as appropriate, for the items so transferred in a payment claim under clause 13 of the General Conditions of Contract.

The risk for items, including materials, plant, equipment and other goods and things (incorporated or otherwise) remains with the Contractor until the Completion of the Works in accordance with clauses 4.1 and 4.2 of the General Conditions of Contract.

Personal Property Securities

The Personal Property Securities Act (Cwlth), (PPSA) allows the Principal to register and protect its interests over affected personal property. Refer to Schedule to Preliminaries – **Schedule of Personal Property Securities** which applies to the Contract.

4 Administration

4.1 Quality management

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>

Managing work quality

Prepare and implement Inspection and Test Plans (ITPs), complying with the *QM Guidelines*, for work under the Contract.

A separate ITP with associated checklists is required for each construction activity, i.e. an element of work or work carried out as a trade.

Incorporate the Hold and Witness points specified in the Contract and listed below:

ITP Activity	Inspection Point	Hold or Witness Point
As specified elsewhere in the Contract	As specified	As specified

Not less than 7 Days before starting the work to which they apply, submit the following documents:

- copies of proposed ITPs and checklists; and
- certification that the relevant quality management plans and ITPs 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 authorisation.

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:

Conformance Records	Time when records are required
• Contractor's Certification of Quality Conformity and Performance	At completion
• Quality and Test Records obtained from manufacturers and suppliers	At completion
• Management reports including WHS and environmental monthly reports	No later than the fifth (5th) <i>Business Day</i> of each month, or as otherwise specified.
• Waste Management Progress Report	No later than the fifth (5th) <i>Business Day</i> of every second month
• Completed ITPs and checklists, all test results and other quality records.	With each payment claim. Progressively submit checklists, test results and other quality records related to ITPs that are completed over a number of payment periods.
• 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 <i>Completion</i> of the Works is reached.

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.

4.2 Subcontract Requirements

General

In this Clause – **Subcontract Requirements**, “subcontract” includes an agreement for the supply of goods or services (including professional services and plant hire) and “subcontractor” includes a supplier of such goods or services.

Ensure that each subcontract, valued at \$25,000 or more, that is entered into by the Contractor or any subcontractor in respect of the work under the Contract, includes the provisions contained in this Clause.

Options as to Form of Security

Each subcontract that:

- requires the subcontractor to provide a cash security to its principal; or
- allows the subcontractor’s principal to deduct retention moneys from any payment, will allow the subcontractor the option at any time to provide unconditional undertakings in lieu of cash security or retention moneys.

Trust for Cash Security and Retention Moneys

Each subcontract must include the following provisions:

- when a party receives or retains security, that security is to be held in trust by the security holder who must promptly deposit the money into a trust account;
- the moneys are to be held in trust until they are paid to the party entitled to receive them and the security holder is to maintain proper records to account for such moneys; and
- any interest earned by the trust account will be owned by the security holder.

When requested by the Principal, provide evidence that the required amount is held in trust for any subcontract. If the Contractor fails to do so, the Principal may withhold an equivalent amount from payment due to the Contractor.

Compliance with this subclause is not required if the security holder has a policy of insurance, equivalent to the HIA Security of Payment Bond, protecting subcontract payments due to the other party.

Payments

Each subcontract will include an obligation, which takes precedence over any inconsistent provision of the subcontract, for the subcontractor’s principal to pay, no more than 20 Business Days after receiving a payment claim from the subcontractor, 100% of the value of work, goods or services provided by the subcontractor less only retention moneys paid into trust.

Compliance with this subclause will not prevent the Contractor from paying a subcontractor an amount in excess of that claimed from the Principal or paying before the time stipulated in this subclause.

Alternative Dispute Resolution

Each subcontract must include provisions incorporating the dispute resolution procedures outlined in the Contract.

Documents to be provided to Subcontractors

Each subcontract is to include the requirement for subcontractors to be provided with a copy of this Clause and clauses relating to proof of payment of subcontractors, times for payment claims and payment and alternative dispute resolution.

Register of Subcontracts

Maintain a register of all subcontracts which have a value of \$25,000 or more, showing brief details of the subcontract work and the name, address and telephone number of the subcontractor. If requested, give the Principal a copy of the register and an unpriced copy of any subcontract agreement.

4.3 Additional Security and Obligations for Trustees

If the Contractor is a trustee:

- before starting the Works, give the Principal an unconditional undertaking as security for any amount previously agreed in writing by the parties.
The unconditional undertaking must be in the form detailed in General Conditions of Contract - Schedule 1 – **Unconditional Undertaking** and from a financial institution acceptable to the Principal.
- the security will be retained by the Principal against the due and proper performance of the Contract. Unless the Principal has made or intends to make a demand against the unconditional undertaking, the Principal will return the unconditional undertaking within 10 Business Days after Completion of the whole of the Works is reached or as otherwise agreed by the Principal.
- Do not prevent the Principal from making any demand against the unconditional undertaking or prevent the provider of an unconditional undertaking from complying with the unconditional undertaking or any demand by the Principal, but the Contractor may seek damages if the Principal makes such a demand in breach of the Contract.
- ensure that for the duration of the Contract, the total value of trust beneficiaries' loans to the trustee is always greater than the total value of trust beneficiaries' loans from the company.

4.4 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 and notify the Principal when the corrective action has been completed.

4.5 Contractor Representatives (authorised persons)

Ensure that, at all times, there is a person appointed to act as the *Contractor's Authorised Person* who can:

- act, in its dealing with the Principal's appointed *Authorised Person*, with the Contractor's full authority in all matters relating to the Contract;
- be responsible for ensuring the Contractor's obligations under the Contract are met;
- administer the Contract on a day-to-day basis on behalf of the Contractor; and
- receive correspondence, instructions and notifications from the Principal and issue correspondence and notifications to the Principal on behalf of the Contractor.

Within 5 Business Days after the Date of Contract, provide the name and contact details, including e-mail address and mobile phone number of the *Contractor's Authorised Person* Promptly notify the Principal of any change in those details.

In addition, within 20 Business Days after the Date of Contract, provide the name and contact details of a *Contractor's Senior Executive* who will act with the Contractor's authority in dealings with the Principal's appointed Senior Executive under General Conditions of Contract Clause – **Disputes** and as otherwise required. For effective

contract management, the *Contractor's Authorised Person* and the *Contractor's Senior Executive* are to be different persons.

4.6 Dealing with Modern Slavery

Comply with the requirements of Schedules to Preliminaries – **Schedule of Dealing with Modern Slavery** which requires the Contractor to take Reasonable Steps to identify and manage the risks of Modern Slavery occurring in its operations and supply chains. For more information, refer:

<https://dcj.nsw.gov.au/legal-and-justice/our-commissioners/anti-slavery-commissioner/due-diligence-and-reporting>.

5 Site

5.1 Site access and limitations

Access to the site will be via Casuarina Drive. The solar farm will be secured by a man-proof security fence and all access to the site must be compliant with conditions of the Development Application.

The Contractor shall nominate a person who will be responsible for on-site supervision and who will be available on site during the construction works and shall coordinate access for all labour, contractors, suppliers as necessary.

The contractor shall maintain a record of site access and departure (date and time).

Access to privately owned land to be obtained and authorised under relevant rules and regulations.

5.2 Other Site Activities

Other site activities which may affect this site are:

- The Casuarina Drive property is an operational sewerage treatment plant.

Other contracts which may affect this site are:

- Eugowra STP Solar Farm Construction (Low Voltage and DC Array)

5.3 Occupied premises

Occupancy by Principal

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

- Sewerage Treatment Plant precinct

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

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.

5.4 Working Hours and Working Days

Unless the Contract provides otherwise, the Site is available to the Contractor to carry out the Works between 7am and 5pm, Monday to Friday, inclusive, but excluding public holidays.

The Principal may approve additional working hours or working days, subject to conditions which may include, but are not limited to:

- restrictions on the performance of work requiring surveillance; and
- a requirement that the Contractor meet the costs of surveillance, by or on behalf of the Principal, of work performed during any approved additional working hours and days.

5.5 Existing services and Survey Marks

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 *Construction Work Code of Practice*.

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 Existing Services and Survey Marks

Before starting construction work:

- appoint a site manager to be responsible for locating and preventing unplanned contact with existing services and Survey Marks; and
- verify the precise locations of all underground and other existing services and Survey Marks at the Site, and in areas adjacent to the Site that may be affected by the work under the Contract.

To locate existing services:

- obtain information from Before You Dig Australia (BYDA) and from the owners of the services (do not rely on WAE or as-built drawings). The website link for BYDA is <https://www.infrastructure.gov.au/departments/media/publications/before-you-dig>;
- 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.

To locate existing Survey Marks:

- refer to the information sheet *Protecting Survey Marks* available in *Information sheets* under the Publications tab at: <https://www.spatial.nsw.gov.au>; and
- comply with subsections 1 and 3 of the section *How to protect survey marks – before Works commence* in the above Information sheet.

Mark prominently on the Site the locations of all existing services and Survey Marks. Document the locations of services and Survey Marks 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 approval 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. Wherever possible, 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 service, 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 work under the Contract, as follows:

- if the service is to be continued: repair, divert or relocate as required; or
- 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.

Removing or replacing Survey Marks

Where Survey Marks are required to be removed 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/>

Cost and delay

Where an existing service or Survey Mark obstructs the Works and requires diversion or relocation, take responsibility for all resulting costs and delays, except to the extent that the Contractor is entitled 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; or
 - an existing Survey Mark is removed, disturbed or destroyed, without authorisation,
- take responsibility for all costs and any delays for repairing or disconnecting the service and/ or replacing the Survey Mark.

Notification

Notify the Principal immediately upon discovering:

- any damaged services or services that obstruct the Works and are not shown in the Contract Documents; or
- any unauthorised removal, disturbance or destruction of Survey Marks.

5.6 Work health and safety management

Specification and Statutory Requirements

Comply with all statutory requirements including, but not limited to, the *Work Health and Safety Act 2011* (NSW) (*WHS Act*), the *Work Health and Safety Regulation 2017* (NSW) (*WHS Regulation*) and the NSW Government Work Health Safety management guidelines for construction 6th Edition (*WHS management guidelines*). The *WHS management guidelines* are available on the buy.nsw website at <https://buy.nsw.gov.au/categories/construction>

In the event of any inconsistency, comply with the statutory provisions.

Engagement as principal contractor

Take responsibility for the work under the Contract at all times until Completion. The Contractor is engaged as principal contractor for the work, in accordance with clause 293

of the *WHS Regulation*, and authorised to exercise such control of the workplace as is necessary to discharge the duties of principal contractor under the *WHS Regulation*.

WHS Management Plan

Develop and implement a WHS Management Plan that covers the work under the Contract and complies with the *WHS management guidelines* and *WHS Regulation 2017*. Also submit 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.

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

- **Bushfire risk**
- **Operating of heavy vehicle and lifting equipment**

This list of risks is not exhaustive and must not be relied upon by the Contractor. The Contractor must undertake its own identification and detailed analysis of all work, health and safety risks involved with work under the Contract.

Additionally, consult with all occupiers of the Site to coordinate the Contractor's emergency and evacuation plan with their emergency and evacuation plans.

Site Safety Rules

Develop site safety rules that are equal to or better than the following minimum set of site safety rules. Include them in the WHS Management Plan and ensure implementation. Notwithstanding the development of site safety rules, the rules listed below form part of the Contract. Refer to and incorporate applicable WHS codes of practice from: <https://www.safework.nsw.gov.au/resource-library/list-of-all-codes-of-practice>

Site safety rules must make it a condition of entry to the applicable worksite that all employees and visitors comply with their provisions, including:

- **Construction WHS Induction** - all persons must display evidence of completing WHS Induction training before being inducted to start work on the Site.
- **Site Induction** - all persons working on the Site must attend a site induction before entering it. Visitors may enter a worksite if, either, they first attend a site induction, or if they are accompanied by a person who has attended a site induction. Each day, all persons must sign in and out on the site register.
- **Safe Work Method Statements** - Safe Work Method Statements must be prepared and used for all high risk construction work activities.
- **Toolbox Talks** – weekly or more regular discussions must be held with workers to consult on site safety matters.
- **Safety Helmets, Safety Footwear and Safety Vests** - safety helmets and steel-capped safety footwear must be worn by all supervisors, employees, and visitors in the construction areas at all times. The footwear must comply with AS 2210. Safety vests must be worn when moving plant is present or work is undertaken near traffic.
- **Personal Protective Equipment (PPE)** - PPE, such as safety eye protection, hearing protection, safety gloves and masks and the like, must be worn when welding, drilling and with all other tasks with similar risks.
- **Accidents and Incidents** - accidents, incidents and injuries must be reported immediately to the Contractor's and applicable subcontractor's site representative.
- **Alcohol and Drugs** - the consumption of, or being under the influence of, alcohol and illegal drugs on the Site is prohibited.
- **Amenities** - access to clean toilets, meal facilities and cool, clean drinking water must be provided for all persons.
- **Electrical** - all electrical work and electrical plant must comply with AS/NZS 3012:2010 *Electrical Installations – Construction and demolition sites*.
- **Emergency and Evacuation Plan** - arrangements must be included in the Site Induction and clearly identified. Consult with any occupier of the Site to coordinate

the principal contractor's emergency and evacuation plan with the emergency and evacuation plan of the occupier of the Site.

- **Excavations** - barricading and signage for all excavations must be provided, with excavations 1.5 metres or more deep also to be benched, battered or shored unless a geotechnical report has been provided which determines this support is not required.
- **Fire Prevention** - fire prevention must be used by all persons on the Site. An appropriate fire extinguisher must be on hand for all welding sets and oxy acetylene work.
- **First Aid** - all persons requiring first aid treatment must contact the first aid officer who will administer the treatment and record the injury in a Register of Injuries, including the person's name and the nature of the injury.
- **Hazardous Substances** - chemicals and hazardous substances must be used and stored in compliance with their current Safety Data Sheets (SDS) with details recorded in the Register of Hazardous Substances.
- **Housekeeping** - work areas must be kept clean and tidy, with rubbish and other safety hazards cleaned up promptly. All protruding nails must be promptly removed from stored or discarded timber.
- **Leads and Power Tools** - all leads, power tools and electrical equipment must be inspected and tagged by a qualified person prior to their use and then at three monthly intervals or as otherwise required under AS/NZS 3012:2019.
- **Mobile Plant** - ensure plant is registered with SafeWork NSW when required and operators are appropriately qualified. Plant must be fitted with working hazard lights/ reversing lights and beepers. Refer to relevant SafeWork NSW Codes of Practice.
- **Overhead Power Lines** – comply with the relevant SafeWork NSW Codes of Practice for work near overhead power lines..
- **Site Security and Public Access** - security measures, including perimeter fencing, must be used to prevent unauthorised access to construction areas and ensure safe access and passage for all those on and adjacent to the Site.
- **Underground Services** - refer to Preliminaries clause - **Existing Services and Survey Marks**.
- **Working at Heights** - working at heights must be in accordance with SafeWork NSW requirements and guidance, including certification of scaffolding.

Relevant Codes and Guides can be accessed from the SafeWork NSW website.

WHS Management Monthly Report

No later than the 5th Business Day of each month, submit a WHS Management Monthly Report, signed by the Contractor's representative, including the information listed below, as evidence of the implementation of the WHS Management Plan during the previous month.

Contract Details

- | | |
|-------------------------------|----------------------|
| • Contract name | • signature and date |
| • Contractor | • period covered |
| • Contractor's representative | |

Implementation of Risk management (inspection, testing and servicing procedures)

Summary of WHS inspections and tests carried out for:

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

Management of Subcontractors and Consultants

- a list of subcontractors and consultants currently engaged in work under the Contract valued at \$25,000 or more; and
- confirmation for each listed subcontractor and consultant that it is complying with relevant WHS requirements.

Implementation of WHS training

- updated copy of Induction Register and details of WHS training carried out.

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,
- the resources allocated for *Incident management and corrective action*
- 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 Safe Work Method Statements

- updated copy of the register of Safe Work Method Statements; and
- confirmation that the principal contractor has ensured that all Safe Work Method Statements comply with the WHS Regulation and that their implementation is being monitored.

Incident Reports

Ensure compliance with the notification and other requirements of the *WHS Act* Sections 35-39 for any notifiable incident, including immediate notification of SafeWork NSW.

Notify the Principal of any notifiable incident and any incident requiring medical treatment or involving lost time as soon as reasonably practicable 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 *WHS Act* 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 *WHS Regulation*, ensure that electrical work is not carried out on electrical equipment while the equipment is energised, except when, in accordance with clauses 157–163 of the *WHS Regulation*, 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 vertical and horizontal 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 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 post-qualification 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 for registered certifiers.

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.

5.7 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.

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 – **Suspension** to the extent that it was required to prevent such exposure. The Contractor may make a claim for entitlements due under clause 10 of General Conditions of Contract Clause – **Suspension**.

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 the above referenced General Conditions of Contract clause dealing with 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 (*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.

5.8 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.

5.9 Traffic Management

Prepare and submit a site-specific Traffic Management Plan(s) to Council's Traffic and Transport Department (or other organisations where applicable) for review.

Traffic control plans are to be designed, selected, and implemented in accordance with the requirements of Australian Standard AS1742.3-2019 Manual of uniform traffic control devices – Traffic control for works on roads, and the SafeWork NSW Traffic Control at Work Sites Manual.

Traffic control and the selection or design of traffic guidance scheme (TGS) will only be undertaken by persons who are qualified, authorised and accredited by SafeWork NSW.

6 Environmental protection

6.1 Environmental management

Requirement

Comply with the current NSW Government *current NSW Government Environmental Management Guidelines (Construction procurement) (Edition 4) (EM Guidelines)*, available on buy.nsw web site at <https://buy.nsw.gov.au/categories/construction>

Environmental Management Plan

Develop and implement an Environmental Management Plan (EMP) that complies with the *EM guidelines*.

The Contractor may elect to complete Schedules to Preliminaries – **Schedule for Environmental Management Plan**, adding objectives and actions as required to suit the risks/hazards associated with the work under the Contract, and implement the completed version as the EMP.

Submit the EMP no later than 5 Business Days before construction work starts. Do not start construction work before a complying EMP has been submitted.

The EMP must address the following risks:

- None are identified for mandatory attention

This list is not exhaustive and must not be relied upon. The Contractor must undertake its own identification and detailed analysis of all environmental risks involved with work under the Contract.

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.

6.2 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.

7 Materials and workmanship

7.1 Work Method

If the Contract prescribes a particular work method or the Principal directs that a particular work method must be used to the exclusion of other work methods, then using that work method is a requirement of the Contract.

Otherwise, the Contractor is free to use any work method and is responsible for its suitability.

7.2 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.

7.3 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.

7.4 Proprietary items

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.

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 any 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 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.

7.5 Guarantees

Obtain, and ensure that the Principal will have the benefit of, all warranties or guarantees specified in the Contract or offered by suppliers, including warranties or guarantees that are offered to, or obtained by, subcontractors of the Contractor.

7.6 Items supplied by the Principal

Generally

The items in the Schedules to Preliminaries - **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 12 – **Delay to Completion** with respect to the Contractor's obligation to minimize any delay.

Schedules to Preliminaries

8.1 Schedule of Special Contract Conditions

Council Policies

This Contract is subject to the following Council Policies:

- Model Code of Conduct for Local Councils in NSW (Department of Local Government);
- Procurement Policy;
- Work Health Safety (WHS) Management Statement;
- Statement of Business Ethics.

For clarity, if there is an inconsistency between the requirements of the above policy documents and the Contract, the Contract will take precedence to the extent of any inconsistency. Where the Contractor becomes aware of such an inconsistency it should notify the Principal immediately.

Copies of these policies and procedures can be found at Council's website:

www.cabonne.nsw.gov.au/home

Responsibilities of the Contractor

As a public authority, Council owes obligations to the general public and its ratepayers. Deal with the community in a helpful and positive manner so as to avoid and minimise inconvenience and community complaints and cooperate with Council in managing and resolving any complaints.

In addition to the responsibilities outlined elsewhere in the Contract Documents, take responsibility for:

- advising the Principal immediately of any complaints received relating to the provision of the Works under the Contract;
- advising the Principal immediately of any matters that may require attention, are unsafe or place Council in a position that may lead to potential liability;
- responding to reasonable requests from the Principal. These requests may require the Contractor to deal directly with residents/members of public in order to ensure their concerns are addressed; and
- briefing Council's legal representative where requested;

8.2 Schedule of of Principal Supplied Items

Supply by Principal

The following items will be supplied by the Principal:

Component	Make\Model	QTY
- Private switching and protection	Noja Power GMK15-16-2310 <ul style="list-style-type: none"> • OSM15 Recloser and RC-10 • Earth Switch • 3x Metering VT's, 11kV/sqrt(3) / 110V/sqrt(3), 0.5M • 6x Metering CT's, 200/5A, 0.5S, 5VA 	1
- SCADA controlled overhead recloser (RC20) to become an Essential Energy asset.	OSM15-RC20 Essential Energy Build	1

Central inverter\transformer	Sungrow SG3400MV	1
BESS and all associated integration pieces	Sungrow Power Titan ST2752UX Liquid cooled containerised battery units	2

8.3 Schedule of Personal Property Securities

Refer to Preliminaries Clause – **Passing of Property and Risk**

The Personal Property Securities Act (Cth), (PPSA) regulates personal property security interests. Personal property is all property other than land, fixtures (materials plant, equipment and other goods incorporated into the Works) and rights (e.g. water rights). The PPSA allows the Principal to register and protect its interests over affected personal property. It has application to unfixed materials that have an encumbrance (mortgage, charge, lien, title retention, trust, power or other security interest) and in termination.

1. In these clauses:

PPS Act means The *Personal Property Securities Act 2009* (Cth).

PPS Law The PPS law comprises:

- .1 the Personal Property Securities Act 2009 (Cth) (PPS Act);
- .2 any regulations made at any time under the PPS Act; and
- .3 any relevant amendment made to other legislation as a consequence of the PPS Act and regulations made under the PPS Act.

Security Interest means a security interest for the purposes of the PPS Law.

2. The Contractor acknowledges and agrees that if this Contract and the transactions contemplated by it, operate as, or give rise to, a Security Interest, the Contractor must do anything (including amending this Contract or any other document, executing any new terms and conditions or any other document, obtaining consents, getting documents completed and signed and supplying information) that the Principal considers necessary under or as a result of the *PPS Law* for the purposes of:

1. ensuring that the Security Interest is enforceable, perfected or otherwise effective and has the highest priority possible under *PPS Law*;
2. enabling the Principal to apply for any registration, or give any notification, in connection with the Security Interest, including the registration of a financing statement or financing change statement; or
3. enabling the Principal to exercise rights in connection with the Security Interest and this Contract.

3. The Contractor acknowledges that the Principal may register one or more financing statement(s) on the Personal Property Securities Register established under s147 the PPS Act.

4. The Contractor:

1. waives its rights under sections 95, 118, 121(4), 125, 130, 132, 135, 142 and 143 of the PPS Act;
2. agrees that the application of Part 4.3 (other than sections 123, 124, 126, 128, 129(1), 133, 134(1) and 136) of the PPS Act is contracted out of if that Part would otherwise have applied by virtue of section 116(2) of the PPS Act; and
3. waives its right to receive notice of a verification statement under section 157 of the PPS Act.

8.4 Schedule of Dealing with Modern Slavery

Refer to Preliminaries Clause – **Dealing with Modern Slavery**

Definitions and interpretations

.1 The following definitions are in addition to the definitions in clause 1 of the General Conditions of Contract and apply to the Contract.

Unless otherwise specified, clause references apply to clauses in this Schedule.

Core Obligations	means those obligations set out in clause Error! Reference source not found.
Engaged Entity of a party	means any direct Contractors, subcontractors, consultants and contractors engaged by that party (or that party's directors, officers and employees) in connection with this Contract. For the avoidance of doubt, 'Engaged Entities' includes independent contractors (whether an individual or body corporate), secondees (seconded persons), consultants and any other workers (however described) who may be engaged for the purposes of this Contract but are not employed by the relevant party.
Substantial Breach	has the meaning given in clause Error! Reference source not found. or clause 13, as applicable.
Modern Slavery	(a) means any conduct that constitutes or would constitute any offence listed in Schedule 2 of the <i>Modern Slavery Act 2018</i> (NSW), including an offence of attempting or incitement to commit such an offence (see list of offences in Attachment A to this Schedule); (b) includes any conduct that constitutes or would constitute an offence under any of the Modern Slavery Laws as amended from time to time, including an offence of attempting or incitement to commit such an offence; and (c) includes conduct engaged in elsewhere than in New South Wales that, if it occurred in New South Wales, would constitute a modern slavery offence under paragraphs (a) or (b).
Modern Slavery Laws	means (as amended from time to time): (a) the <i>Modern Slavery Act 2018</i> (Cth); (b) the <i>Modern Slavery Act 2018</i> (NSW); (c) Divisions 270 and 271 of the Commonwealth Criminal Code; (d) section 176(1A) of the <i>Public Works and Procurement Act 1912</i> (NSW); (e) section 438ZE of the <i>Local Government Act 1993</i> (NSW); and (f) any other laws, regulations, codes and international conventions aimed at combatting modern slavery, forced labour or human trafficking, from time to time in force in or ratified by Australia and, where relevant, in or by other jurisdictions in which the parties operate.
Reasonable Steps	means those steps that are reasonable in the circumstances to prevent, identify, mitigate and remedy modern slavery. In assessing whether steps are reasonable, the parties should refer to the NSW Anti-slavery Commissioner's Guidance on Reasonable Steps (GRS) and related information and resources published by the Anti-slavery Commissioner and available from the following DCJ site: https://dcj.nsw.gov.au/legal-and-justice/our-commissioners/anti-slavery-commissioner/due-diligence-and-reporting
Related Body Corporate	has the meaning given to that term in the <i>Corporations Act 2001</i> (Cth).
Related Entity	means, in respect of a party, a Related Body Corporate of such party.

Remediation Plan	has the meaning given to it in clause Error! Reference source not found. or clause 14, as applicable.
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Core obligations

- .2 Each party must:
- .1 not engage in Modern Slavery; and
 - .2 take Reasonable Steps to ensure that:
 - .1 it, its directors, officers, employees, Related Entities and Engaged Entities comply with Modern Slavery Laws as applicable;
 - .2 its Engaged Entities include provisions equivalent to the Core Obligations (including this sub-clause) in their contracts with their contractors; and
 - .3 its Engaged Entities provide their respective directors, officers, employees and Contractors with at least the minimum level of wages and other entitlements required by law.

Price

- .3 Each party acknowledges and agrees that the Contract Price supports each party to comply with its Core Obligations.

Systems and policies

- .4 Each party agrees that it will establish, implement, and maintain for the term of this Contract, appropriate systems and policies as required to meet its Core Obligations.

Implementation

- .5 Without limiting the Core Obligations and clause 4, and to the extent permitted by law, the Contractor agrees that it will promptly notify the Principal with adequate particulars of the Modern Slavery and the actions taken, or being taken, to remedy the Modern Slavery if the Contractor becomes aware of:
- .1 any actual or reasonably suspected Modern Slavery engaged in; or
 - .2 any notices, investigations, proceedings or claims arising in any jurisdiction (i.e. in any court) in relation to any actual or reasonably suspected breach of Modern Slavery Laws, by the Contractor, the Contractor's directors, officers, employees, Related Entities, or by any of its Engaged Entities, whether or not the Modern Slavery occurs or is suspected to occur in the performance of the Contract.

Assistance

- .6 Without limiting the Core Obligations, clause 4 and clause 5, each party must provide, and use reasonable endeavours to ensure its directors, officers, employees, Related Entities and Engaged Entities provide, all reasonable assistance to the other party to enable the other party to comply with its obligations under this clause 6 and under applicable Modern Slavery Laws.

Disclosure

- .7 The Contractor represents and warrants to, and for the benefit of, the Principal that, from the Date of Contract and on a continuing basis for the duration of this Contract, the Contractor has disclosed, in accordance with clause 5:
- .1 to the extent the Contractor is aware, any:
 - .1 actual or reasonably suspected Modern Slavery engaged in; and
 - .2 notices, investigations, proceedings or claims arising in any jurisdiction in relation to any actual or reasonably suspected breach of Modern Slavery Laws, by the Contractor, the Contractor's directors, officers, employees, or Related Entities, or by any of the Contractor's Engaged Entities while performing any contract with the Contractor, whether or not the Modern Slavery arises in the performance of the Contract; and

- .2 all actions taken to remedy said Modern Slavery or breach of Modern Slavery Laws.

Substantial Breach and termination

- .8 Without limiting the parties' rights under this Contract, the parties agree that:
- .1 a breach of either party's obligations under clauses 2 or 5 will be taken to be a Substantial Breach of this Contract; and
 - .2 before exercising any termination rights that may arise as a result of this Substantial Breach, a party will consult with relevant stakeholders on whether Modern Slavery may arise from such termination and the reasonable steps to prevent or mitigate such risk of Modern Slavery.

Remediation Plan

- .9 The parties agree that:
- .1 where one party forms the view that there is a Substantial Breach that is reasonably capable of being remedied, then the parties will develop a remediation plan to take reasonable steps to remedy the breach in accordance with this Contract (the Remediation Plan);
 - .2 each party will take reasonable efforts proportionate to their contribution to the Substantial Breach to implement this Remediation Plan; and
 - .3 where a Remediation Plan is implemented in accordance with this clause 9, neither party will exercise any termination rights that may arise as a result of the Substantial Break

Definitions (additional)

- .10 The following definitions apply.

Grievance Mechanism	means a process for handling a complaint or grievance about Modern Slavery that is consistent with the criteria set out in Principle 31 of the 2011 United Nations Guiding Principles on Business and Human Rights.
Management Plan	means a plan to take reasonable steps to manage risks of Modern Slavery in the Contractor's operations and supply chains (including in the operations and supply chains of Contractor's Engaged Entities).
RBA Code	means the Responsible Business Alliance Code of Conduct version 7.0 (2021), or as revised from time to time.
RBA Definition of Fees	means the 'Definition of Fees' published by the Responsible Business Alliance, as revised from time to time.
Recruitment Fee	means any fee, expense or similar financial obligation paid or incurred in the recruitment process by a worker or jobseeker in order for a worker or jobseeker to secure or retain employment or placement, regardless of the manner, timing or location of its imposition or collection. It includes the recruitment and service fees and related costs set out in sections IV.3 and IV.4 of the RBA Definition of Fees.
Remediation Steps	has the meaning given to it in clause 14.
Terminable Substantial Breach	has the meaning given to it in clause 13.

Implementation *(alternate clause which replaces clause 5)*

- .11 The parties agree that:

- .1 **[Management Plan]** the Contractor will prepare a draft Management Plan dealing with the steps, processes etc. it will undertake with respect to points 12.1.1 to 12.1.4 below as soon as reasonably practicable (and, in any event, within 15 Business Days of the Date of Contract). The Principal will add the steps etc. it will undertake in compliance with this clause to the draft Management Plan. The parties will then work cooperatively to complete the Management Plan as soon as reasonably practicable (and, in any event, within 30 Business Days of the Date of Contract). The Management Plan must outline, at a minimum:
 - .1 the steps each party will take to identify and assess Modern Slavery risks in its operations and supply chain on an ongoing basis;
 - .2 the processes each party has in place to address any identified Modern Slavery risks;
 - .3 the content and timing of any training relating to Modern Slavery; and
 - .4 any Grievance Mechanism or other remediation process each party has instituted in relation to Modern Slavery.
- .2 **[Notification]** to the extent permitted by law, each party will notify the other party immediately with adequate particulars of the Modern Slavery and the actions taken, or being taken, to remedy the Modern Slavery if the party becomes aware of any actual or reasonably suspected Modern Slavery engaged in, or any notices, investigations, proceedings or claims arising in any jurisdiction in relation to any actual or reasonably suspected breach of Modern Slavery Laws:
 - .1 by the party, the party's directors, officers, employees, or Related Entities; or
 - .2 by any Engaged Entity involved in the performance of the Contract, whether or not the Modern Slavery occurs or is suspected to occur in the performance of the Contract.
- .3 **[Common Preventive measures]** Each party must:
 - .1 provide training necessary to meet obligations of Modern Slavery risk identification, management and remediation under the Contract to its relevant directors, officers and employees;
 - .2 take reasonable steps to progressively implement the Migrant Worker Standard contained in **Error! Reference source not found.**, of the NSW Anti-slavery Commissioner's Guidance on Reasonable Steps;
 - .3 ensure that no Recruitment Fees or related costs are charged to, or otherwise borne by, any worker engaged by the party, including its Engaged Entities where such Engaged Entities are individuals;
 - .4 not destroy or exclusively possess (without informed consent), whether permanently or otherwise, the travel or identity documents of its directors, officers, employees or Engaged Entities (where such Engaged Entities are individuals); and
 - .5 ensure that workers involved in performance of the Contract who are provided accommodation are provided with ready access to clean toilet facilities, potable water and sanitary food preparation, storage, and eating facilities. Worker dormitories provided by the party, its Engaged Entities or by a labour agent on their behalf are to be maintained to be clean and safe. Such workers are to be provided with appropriate emergency egress, hot water for bathing and showering, adequate lighting and heat and ventilation, individually secured accommodations for storing personal and valuable items, and reasonable personal space along with reasonable entry and exit privileges.
- .4 **[Contractor's Preventive Measures]** The Contractor agrees that it will:
 - .1 ensure access to an effective Grievance Mechanism for any worker in its operations;

- .2 to the extent permitted by law, notify the Principal of any Modern Slavery related grievances submitted through the Grievance Mechanisms that the Contractor or the Contractor's Engaged Entities have in place and provide, at least once every six (6) months for the duration of the Contract, reports regarding the operation of the Contractor's internal Grievance Mechanism with sufficient detail to demonstrate that it is operational and accessible to impacted stakeholders (including persons potentially or actually adversely impacted by the Contractor's activities); and
- .3 provide the Principal with such access, information and documentation as the Principal (or its nominee) reasonably requires to enable the Principal (or its nominee) to:
 - .1 verify that the Contractor, and the Contractor's directors, officers and employees, comply with this Contract;
 - .2 undertake due diligence on the Principal's supply chains with respect to this Contract;
 - .3 comply with the Principal's reporting obligations under any Modern Slavery Laws; and
 - .4 cooperate and comply fully with any audit required by law.

Substantial Breach and termination (*alternate clause which replaces clause 8*)

.12 Without limiting the parties' rights under this Contract, including recourse to other remedies:

- .1 the parties agree that a breach of:
 - .1 either party's obligations under clause 2 (Core Obligations), **Error! Reference source not found.** (Systems and policies), **Error! Reference source not found.** (Assistance), 7 (Disclosure), 12 (Implementation) or 14 (Remediation Plan); or
 - .2 the Contractor's obligations under clause 2 (Core Obligations), 4 (Systems and policies), 6 (Assistance), 7 (Disclosure), 12 (Implementation) or 14 (Remediation Plan), which the Principal reasonably suspects to have occurred, and which the Contractor has not, within a commercially reasonable timeframe, confirmed to the Principal's satisfaction is not in fact a breach, will be taken to be a **Substantial Breach** of this Contract.
- .2 Where a Substantial Breach (other than a breach of clause 14 (Remediation Plan)) is, in the non-breaching party's reasonable assessment, capable of being remedied and the non-breaching party has notified the breaching party of the same, the non-breaching party must afford the breaching party an opportunity to provide a Remediation Plan in accordance with clause 14 and remedy the Substantial Breach within 28 days or such other timeframe as agreed by the parties.
- .3 Where a Substantial Breach is a breach of the Contractor's obligations under clause 14 (Remediation Plan) or is otherwise a Substantial Breach by the Contractor that is, in the Principal's reasonable assessment, incapable of being remedied, and the Principal has notified the party of the same, such Substantial Breach will constitute a **Terminable Substantial Breach**.
- .4 Prior to exercising, and in deciding whether to exercise, any of its termination rights under this clause, the non-breaching party must:
 - .1 assess, including through consultation with relevant stakeholders, whether termination would increase the risk of Modern Slavery occurring (whether or not linked to the non-breaching party); and
 - .2 take reasonable steps to prevent or mitigate such Modern Slavery.

- .5 Provided that its obligations under clause 13.4 have been fulfilled and the Principal has notified the Contractor that a Terminable Substantial Breach has occurred, the Principal may terminate the Contract for *Contractor's Default* in accordance with clause 73 of the General Conditions of Contract.

Remediation Plan (*alternate clause which replaces clause 9*)

.13 The parties agree that:

- .1 This clause applies if:
 - .1 a party forms the view that there is a Substantial Breach, as defined in clause 13 (Substantial Breach and Termination); and
 - .2 the Substantial Breach is, in the non-breaching party's reasonable assessment, reasonably capable of being remedied.
- .2 If this clause applies, the non-breaching party must notify the other party of the following matters:
 - .1 that the non-breaching party has formed the view that there is a Substantial Breach and the reasons for that view;
 - .2 reasonable details of the Substantial Breach;
 - .3 that the non-breaching party has formed the view that the Substantial Breach is capable of being remedied; and
 - .4 that the breaching party must prepare and implement a Remediation Plan in accordance with this clause 14.
- .3 Upon receiving notice under clause 14, the breaching party must prepare, and submit to the non-breaching party within 21 days, or such other timeframe as agreed by the parties, a **Remediation Plan** that includes:
 - .1 the steps that the breaching party proposes to take (the **Remediation Steps**) to remedy the Substantial Breach;
 - .2 a timeline for the completion of the Remediation Steps, to be agreed between the parties;
 - .3 an explanation as to how the Remediation Steps will remedy the Substantial Breach; and
 - .4 quantitative and/or qualitative indicators for determining when the Remediation Steps are completed.
- .4 The breaching party must make all reasonable efforts to implement the Remediation Plan within the timeframe agreed between the parties and must provide to the non-breaching party reasonable evidence of the Remediation Plan's implementation.
- .5 The non-breaching party must provide reasonable assistance to the breaching party in preparing and implementing the Remediation Plan, on request, and the non-breaching party acknowledges and agrees that it will provide assistance in the preparation and implementation of the Remediation Plan that is at least proportionate to the non-breaching party's contribution to the relevant Substantial Breach, which may include in-kind contributions, capacity-building and reasonable technical or financial assistance.
- .6 A failure by the breaching party to prepare, or properly implement, a Remediation Plan is a Terminable Substantial Breach of this Contract for the purposes of clause 13 (Substantial Breach and Termination) and triggers the non-breaching party's termination rights unless the breaching party can demonstrate, to the non-breaching party's reasonable satisfaction, that:
 - .1 despite the breaching party's best efforts, the Remediation Plan cannot be implemented; and

.2 to the extent possible, the initial Substantial Breach, the subject of the Remediation Plan, is not ongoing.

ATTACHMENT A to SCHEDULE - DEALING with MODERN SLAVERY

Schedule 2 of the Modern Slavery Act 2018 (NSW) lists the following provisions and offences:

An offence against the following sections of the <u>Crimes Act 1900</u>—	
Section	Description of offence
80D	Causing sexual servitude
80E	Conduct of business involving sexual servitude
91G (1) and (2)	Children not to be used for production of child abuse material
91G (3)	Aggravated offence of using children for production of child abuse material
91H	Production, dissemination or possession of child abuse material
91HAA	Administering a digital platform used to deal with child abuse material
93AA–93AC	Slavery and slavery-like offences
An offence against the following section of the <u>Human Tissue Act 1983</u>—	
Section	Description of offence
32, but only in relation to tissue that is an organ	Trading in tissue prohibited
An offence against any of the following sections of the Commonwealth Criminal Code—	
Section	Description of offence
270.3	Slavery offences
270.5	Servitude offences
270.6A	Forced labour offences
270.7	Deceptive recruiting for labour or services
270.7B	Forced marriage offences
270.7C	Offence of debt bondage
270.8	Slavery-like offences—aggravated offences
271.2	Offence of trafficking in persons
271.3	Trafficking in persons—aggravated offence
271.4	Offence of trafficking in children
271.5	Offence of domestic trafficking in persons
271.6	Domestic trafficking in persons—aggravated offence
271.7	Offence of domestic trafficking in children
271.7B	Offence of organ trafficking—entry into and exit from Australia
271.7C	Organ trafficking—aggravated offence
271.7D	Offence of domestic organ trafficking

271.7E	Domestic organ trafficking—aggravated offence
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8.5 Schedule for Environmental Management Plan

Refer to Preliminaries Clause – **Environmental Management** if the Contractor elects to adopt this Plan as a template for the site-specific Environmental Management Plan (EMP). Complete the EMP by inserting contract-related requirements as appropriate, or 'NA' where a particular item is not applicable.

Contract Name:	Eugowra STP Solar Farm High Voltage Construction	Contract No.: 1850638		
ENVIRONMENTAL OBJECTIVES	ACTION TO BE TAKEN	WHEN ACTION WILL BE TAKEN	PERSON RESPONSIBLE	ACTION COMPLETED
1. CONSERVATION OF PLANTS & WILDLIFE				
1.1 Protect flora and fauna	Protect existing trees and plants at and around the Site from damage unless approved by the Principal			
	Do not remove trees and plants without approval from the Principal			
	Control weeds on the Site			
	Protect birds, fish and animals at and around the Site from harm			
	Do not remove birds, fish and animals from the Site without the written agreement of the Principal			
	Do not bring birds, fish, animals and plants onto the Site without written agreement from the Principal			
	Minimise the use of pesticides and herbicides for minimal impact on the environment			
1.2 Control movement of pedestrians, materials, vehicles and plant to minimise damage to the environment	Use only designated routes for access to the Site			
	Use designated site roads and access routes for all movements on and adjacent to the Site			
	Locate compounds, and park all vehicles and plant, in designated areas on the Site			
2. CONSERVATION OF RESOURCES				
2.1 Design for energy efficiency	Adopt energy efficiency, environmental enhancement and waste minimisation as design criteria			
	Use low energy usage construction, fittings and appliances (including heating/cooling and lighting)			

2. PRELIMINARIES

Contract Name:	Eugowra STP Solar Farm High Voltage Construction	Contract No.: 1850638		
ENVIRONMENTAL OBJECTIVES	ACTION TO BE TAKEN	WHEN ACTION WILL BE TAKEN	PERSON RESPONSIBLE	ACTION COMPLETED
2.2 Select materials to minimise: <ul style="list-style-type: none"> – resource use and waste – ozone depleting effects – detrimental effects on air, water, and land quality 2.3 Conserve heritage items and other physical attributes of the Site	Incorporate conservation of resources obligations into subcontracts			
	Reuse all topsoil on the Site and minimise the use of imported topsoil			
	Mulch and chip cleared vegetation as appropriate			
	Maximise use of materials that are recyclable or from a sustainable source			
	Use timber from sustainable managed sources only			
	Implement a strategy to reduce the quantity of waste, including minimising and recycling packaging			
	Use low water demand fittings & appliances (dual flush toilets, water conserving shower roses & taps)			
	Minimise the use of solvents, glues, paints and other materials which release odours or vapour			
	Comply with statutory requirements for conservation of heritage items			
	Manage the conservation of physical attributes of the Site, including (LIST THE ATTRIBUTES): 1.			
3. POLLUTION CONTROL				
3.1 Control discharges and emissions from vehicles and plant to minimise damage to the environment	Do not use vehicles, plant or equipment that produce excessive emissions			
	Monitor emissions from vehicles and plant			
	Do not bring vehicles or plant and equipment with hydraulic fluid, fuel or oil leaks to the Site			
	Wash down vehicles, plant and equipment only in controlled areas acceptable to the Principal			
	Prevent and clean up any spills from transport vehicles			

2. PRELIMINARIES

Contract Name:	Eugowra STP Solar Farm High Voltage Construction	Contract No.: 1850638		
ENVIRONMENTAL OBJECTIVES	ACTION TO BE TAKEN	WHEN ACTION WILL BE TAKEN	PERSON RESPONSIBLE	ACTION COMPLETED
3.2 Prevent pollution of stormwater and adverse effects on land and vegetation by control of cleaning activities and discharges	Use only water based, non-toxic paints and use only water to clear point brushes and rollers			
	Control all run-off from cleaning activities			
	Discharge only non-toxic cleaning products generally			
3.3 Control soil erosion	Identify the existing drainage paths on the Site and protect them against siltation			
	Protect vulnerable and exposed surfaces and stockpiles against scouring			
	Install the following sediment control devices before starting construction (LIST THE DEVICES): 1.			
	Monitor and manage the effectiveness of sediment control devices			
	Remove sediment control devices when no longer required			
3.4 Prevent release of soil contamination to the environment	Establish, before starting work on the Site, in consultation with the Principal, if contaminated soil is present at the Site			
	If contaminated soil is present, manage the work to prevent release to the environment			
3.5 Manage refrigerants and other dangerous goods to meet statutory requirements	Ensure the procedures used for the charging and disposal of refrigerants and use of dangerous goods meet statutory obligations			
	Use appropriately trained employees			
	Obtain the licences required			
	Document dangerous goods identification, disposal and management, and retain the documentation			

2. PRELIMINARIES

Contract Name:	Eugowra STP Solar Farm High Voltage Construction	Contract No.: 1850638		
ENVIRONMENTAL OBJECTIVES	ACTION TO BE TAKEN	WHEN ACTION WILL BE TAKEN	PERSON RESPONSIBLE	ACTION COMPLETED
3.6 Minimise noise and vibration impacts on neighbours, occupants and users of any facility	Comply with noise limits and conditions prescribed by the EPA, Office of Environment and Heritage and Council (as applicable)			
	Use equipment in good repair and condition			
	Use noise suppression equipment (e.g. silencers on compressors) and acoustic barriers as required			
	Do not expose workers, neighbours or visitors to excessive noise, and cooperate and coordinate with operators of any neighbouring facility			
	Do not expose people or property to excessive vibrations			
3.7 Comply with Trade Waste Licence conditions applicable to the facility	Implement procedures to avoid breaches of the Trade Waste Licence conditions (may apply to discharges from cooling water systems, condenser water systems, heating water systems, cooking facilities, engine discharges, water treated with chemicals or where large sediment loads exist)			
3.8 Minimise air pollution from dust and emissions	Minimise areas of exposed earth and stockpiles			
	Cover and secure materials in open transport			
	Use water sprays and/or other means to control dust			
	Keep emissions within statutory or other required limits			
	Minimise fire risks, and prevent and control fires			
3.9 Dispose of waste in accordance with statutory requirements	Implement appropriate disposal procedures for all waste items, including using lawful places for disposal, recording and reporting on the method and location of disposal and any non-conformances			

2. PRELIMINARIES

Contract Name:	Eugowra STP Solar Farm High Voltage Construction	Contract No.: 1850638		
ENVIRONMENTAL OBJECTIVES	ACTION TO BE TAKEN	WHEN ACTION WILL BE TAKEN	PERSON RESPONSIBLE	ACTION COMPLETED
	EITHER Provide valid disposal certificates for each applicable item OR Provide company certification of appropriate disposal of the following (LIST THE ITEMS):			
	1. Packaging materials 2. Replaced or redundant materials 3. Chemicals 4. Oils and greases from machinery, cooking and other processes 5. Paints and solvents, including those used to clean equipment, tools and brushes 6. Cleaning materials and rags 7. Materials unsuitable for re-use, including hazardous materials such as asbestos			
3.10 Minimise damage to the environment from emergencies	Document emergency procedures to manage all reasonably foreseeable harm, including spills and other environmental emergencies			
	Ensure emergency procedures are followed			
	Obtain the agreement of the Principal to procedures for handling oil, chemicals and other dangerous goods before placing them on the Site, including secure storage arrangements			
	Reinstate and clean damaged areas and features, including work areas			
	Reinstate damaged eco-systems and features to their previous condition			
	Identify key contacts: (LIST NAMES and ROLES)			
	1.			

2. PRELIMINARIES

Contract Name:	Eugowra STP Solar Farm High Voltage Construction	Contract No.: 1850638		
ENVIRONMENTAL OBJECTIVES	ACTION TO BE TAKEN	WHEN ACTION WILL BE TAKEN	PERSON RESPONSIBLE	ACTION COMPLETED
3.11 Comply with environmental requirements and rectify breaches	Inspect the Site daily to ensure appropriate environmental controls are in place and operating effectively, and that all environmental management requirements are being met			
	Cooperate with environmental audits by others			
	Rectify any environmental breaches identified within the time specified in an audit or by the Principal			
4. RECORDS AND REPORTING				
4.1 Provide sufficient documentation to demonstrate appropriate environmental management, including:	Prepare, submit and update the Environmental Management Plan			
	Maintain and submit records of environmental training			
	Report on implementation of the Environmental Management Plan			
	Submit applicable waste disposal certificates and/or company certification of appropriate disposal			
	Submit to the Principal copies of correspondence with regulators, including incident reports and notification of non-compliances or fines			
	Submit documentation evidencing that the causes of non-compliances have been corrected			
	Keep records for inspection securely filed using an effective document retrieval system			
4.2 Report environmental incidents	Immediately report all environmental incidents to the Principal			
	Immediately report environmental incidents as otherwise required			

END OF SECTION – PRELIMINARIES