

ROADS AND MARITIME SERVICES (RMS)

CONTRACT DOCUMENT C92

REQUEST FOR TENDER

REVISION REGISTER

Ed/Rev Number	Clause Number	Description of Revision	Authorised By	Date
Ed 1/Rev 0		First issue	GM, IC	12.03.10
Ed 1/Rev 1	1.7 1.8 1.9 2.4(c) 2.4(c) 2.4(c) 2.5 3.2(a) 4.10 4.13(g)(iv) 4.14(c), (d) and (e) Appendix 2	Contractor Performance Reporting added. Sharing of Information Between Government Agencies added. RMS Statement of Business Ethics added. Vol I Experience and performance deleted. Vol III item (xi) and Vol IV item (xii) added. Vol V Statement of imported content deleted. Evaluation of Project Verifiers clarified. Executive summary deleted. National Code requirements added. Time for submissions reduced from 10 days to 5 Business Days. Provision for GIPA Act added. Declaration of Compliance with National Code added.	GM, IC	15.06.10
Ed 1/Rev 2	4.2(h)	Paragraph (h) deleted. Subsequent paragraphs renumbered	GM, IC	01.09.10
Ed 1/Rev 3	Whole document 3.2(c)(ii)C 3.2(c)(ii)F.2. 3.2(c)(ii)G. 3.2(c)(ii) 3.2(c)(ii) 3.2(f)(ii)D	Cross-referencing corrected “B5” changed to “B10” Deleted “substantially” Deleted “...and subject to the outcomes of the meetings on the Project Deed contemplated by clause 4.13(d) of this Request for Tender” Item H deleted (as it was a repetition of Item 3.2(c)(i)C.) New Item F. inserted (steel fabrication prequalification requirements). Subsequent Items re-numbered Item 13 deleted	GM, IC	15.09.10

Ed/Rev Number	Clause Number	Description of Revision	Authorised By	Date
Ed 1/Rev 3 (cont'd)	4.2(b)(ii) 4.13(d), 1 st Sentence 4.21(a)(xviii) A.(10) 4.21(a)(xix)	Deleted "Subject to the outcomes of the meetings on the Project Deed contemplated by clause 4.13(d) of this Request for Tender" Added words "any other" in front of word "issues". Word "Deed" deleted. Deleted "Draft Interface Deed". Added "[insert project specific documents]" Definition of Tenderer corrected		
Ed 1/Rev 4	2.3(a) 2.4(c) Table 2 2.5(a) 2.5(c) 3.2(a) 3.2(c)(iv) 3.2(d) 3.2(e)(x)B.	Clause re-written to remove NPV adjustment related to the Project Contract Sum and the conformance adjustments. Paragraphs (ii) and (iii) combined; paragraph (iv) (ie "RMS overhead costs") deleted. Subsequent paragraphs re-numbered. Tender Details Required for Volume II changed from "Aesthetics" to "Urban Design". Sub-clause (a) broken down into two sub-clauses ie (a) and (b). Subsequent sub-clauses re-numbered. Added words "When preparing the Project Verifiers' submissions, the Tenderer needs to include a project specific content. Inclusion of a generic stuff should be limited." to the new sub-clause (a). Deleted words "The evaluation of the two entities nominated in each Tender will be carried out independently to the evaluation of the balance of each Tender" from the new sub-clause (b). Added words "The scores allocated to the chosen Project Verifier entity will be used when scoring the Tenderer's Tender." to the new sub-clause (c) Volume II changed from "Aesthetics" to "Urban Design". Added paragraph "The Tenderer is required to provide to RMS the Proof Engineer's details within [insert number] weeks of being issued with RFT documentation, so that the RMS can provide early comment if it is not satisfied with the proposed Proof Engineer. RMS reserves the right to reject the Proof Engineer's nomination." Volume II changed from "Aesthetics" to "Urban Design". Deleted words "within each cost centre"	GM, IC	24.11.10

Ed/Rev Number	Clause Number	Description of Revision	Authorised By	Date
Ed 1/Rev 5	All	Word “assessment” replaced with word “evaluation”	GM, IC	20.07.11
	2.2(b)	Reference to clause 2.5 added		
	2.3(a)	Clause re-written - PV adjustment is now only applicable to the whole-of-life costs. Labour and plant Variations rates are no longer requested in Schedule 3		
	2.3(c)	Clause deleted; subsequent clauses re-numbered		
	2.4 Table 1	Words “ <i>methodology for the delivery</i> ” and “ <i>manage</i> ” added to Criterion 1		
	2.4 Table 1	Word “ <i>resources</i> ” added to Criterion 5		
	2.4 Table 2	Words “Experience and Performance of Tenderer” added to Volume I/Item (iii)		
	2.4 Table 2	Words “ <i>Criteria (i) & (iii) to (vi) in clause 2.5(b)</i> ” added to Volume I/Item (v)		
	2.4 Table 2	Item “(vii) Proof Engineer” added to Volume I		
	2.4 Table 2	Item “(iii) Retaining wall structures” added to Volume II		
	2.4 Table 2	Words “Landform and Slope Stabilisation” added to Volume II/Item (iv)		
	2.4 Table 2	Item (v)/Volume II changed from “Urban and landscape design” to “Landscape design”		
	2.4 Table 2	Words “during the Contractor’s Work” added to Volume III/Item (viii)		
	2.4 Table 2	Words “ <i>Criterion (ii) in clause 2.5(b)</i> ” added to Volume IV/Item (ii)D.11		
	2.5(a)	Clause (a) re-drafted		
	2.5(c)	Words in Clause (c) deleted and replaced with “The selection of the Project Verifier does not form part of the Tender selection process”		
	2.5(d)	Sentence “The chosen Project Verifier’s Fee including the Contractor’s margin and contingency will be included in the Design Contract Sum and the Construction Contract Sum as appropriate.” added		
	3.1(a)(vi)	Words “any option, including” added to first sentence		

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Ed 1/Rev 5 (Cont.)	3.2(c)(ii)	Prequalification categories updated to reflect the National Prequalification Scheme		
	3.2(c)(iii)	Words “Experience and Performance of Tenderer” added		
	3.2(c)(iii)B.	Words “of its and its Participants” added		
	3.2(c)(iv)B	Deleted (Proof Engineer). Subsequent Items re-numbered		
	3.2(c)	Item (vii) added (Proof Engineer requirements)		
	3.2(d)	Item (iii) “Retaining Wall Structures” added . Subsequent Items re-numbered.		
	3.2.(d)(v)	Words “Urban and” deleted		
	3.2(d)(v)B.	Words “and typical cross sections” added		
	3.2(d)(v)D.	Sentence “The Tenderer must divide the Project Works into sections to match the extents of cost centres [<i>insert number</i>] to [<i>insert number</i>] inclusive and provide a completed planting and seeding schedules for each section” added		
	3.2.(e)(v)	Item”I” added (Groundwater management strategy)		
	3.2(e)(vii)A.	Words “design input parameters” added		
	3.2(e)(viii)A.	Words “and detailed layouts” deleted		
	3.2(e)(ix)C.	Words “avoiding damage” added		
	3.2(e)(x)B.	Item 7 “Drainage Construction” added. Subsequent Items re-numbered.		
	3.2(f)(ii)D.2.	New dot point added (“identify project specific opportunities for emission reduction, resource conservation and other sustainability initiatives.”)		
	3.2(g)(vi)A-D	Clause rewritten to reflect changes in Clauses 2.3 and 2.5		
	4.2(a)	Sentence “The Tenderer must submit a Tender which conforms to the Tender Conditions and the Project Deed” added		
	4.11(d)	Words “information within the knowledge, possession or control of RMS, other government departments or agencies or their respective officers, employees, consultants, contractors or agents” added		
	4.13	Clause re-written – significant changes related to positive guidance meetings/workshops		

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Ed 1/Rev 5 (Cont.)	Appendix 1/Clause 1d(i) Appendix 1/Clause 1g(iv)B	Deleted words “(and for that purpose, any information, data or document which is provided (including verbally or visually) by RMS at, or following from, any pre-tender or tender briefing will constitute 'Information Documents')” Words “sections 52 and 53 (respectively) of the Trade Practices Act 1974” replaced with “in the <i>Competition and Consumer Act 2010 (Cth)</i> ”		
Ed1/Rev 6	3.2(c)(ii)F 3.2(g)(vi)A.1 3.2(g)(vi)C.1	Steel fabrication prequalification category updated to “S” Deleted words “Contractor’s hourly rates for variations” Added requirements related to positions listed in the “Contractor’s Hourly Rates” table (included in Schedule 2)	GM, IC	12.08.11
Ed 1/Rev 7	Various 1.6 1.7 1.10 and 1.11 2 3.2(a)	“RTA” replaced with “RMS”; “Roads and Traffic Authority of New South Wales” Replaced with “Roads and Maritime Services”; RTA’s ABN number replaced with RMS ABN number. “Probity Auditor” replaced with “Probity Adviser”. Paragraph (b) added Added words “including for the purposes of clause 1.8 below”. New clauses Clause re-written. Previous clauses 2.2, 2.3 and 2.4 combined into one clause (now clause 2.2). Evaluation of Project Verifier changed so that the outcome of the PV’s non-price evaluation forms part of the Tender evaluation process. New Table 3 inserted (Evaluation Criteria for PV); subsequent tables re-numbered. PV’s and ER’s fees are no longer considered in Tenderer’s comparative price evaluation. Tender evaluation criteria modified (previous criteria 2 and 4 combined into one criterion). Added clause to evaluate DAB Members (now clause 2.4) New Volume VII added (PV, ER and DAB Nominees). Subsequent Volumes re-numbered	GM, IC	11.07.12

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Ed 1/Rev 7 (Cont)	3.2(c)(ii)G	Deleted words related to RMS objective to maintain competitive industry and to spread benefits of the project		
	3.2(c)(iii)B	Added words “of the Tenderer and its Participants including their personnel” after words “and performance”		
	3.2(c)(iv)	Words “in the following subcontractors” replaced with “of the following Subcontractors including their personnel” in the first paragraph		
	3.2(c)(v) & 3.2(c)(vi)	Moved to new clause 3.2(i). Subsequent clauses re-numbered		
	3.2(c)(v)A	Added words “and require the Tenderer to nominate an alternative Proof Engineer and provide the information required above in this clause”		
	3.2(d)(vii)	New (introductory) paragraph inserted		
	3.2(e)(iii)A	Added words “and the strategy to allow for future carriageway widening”		
	3.2(e)(x)	New paragraph inserted (last paragraph)		
	3.2(f)	Requirements related to Project Verifier moved to new clause 3.2(i) and to Schedule 12 of the Project Deed. New paragraph inserted under Item 10 (Industrial Relations Strategy).		
	3.2(g)(vi)A	Re-written – PV’s and ER’s fees to be excluded from the Design and Construction Payment Schedules. Requirements re PV’s and ER’s Payment Schedules moved to new Clause 3.2(i)		
	3.2(h)(iii)C.3	Added words “proposed to be used in performing the Contractor's Work” after words “of construction equipment”		
	3.2(i)	New clause (PV, ER and DAB Nominees); subsequent clauses re-numbered		
	3.2(j)	Inserted new clauses (iii) and (iv); subsequent clauses re-numbered		
	4.11(c)(ii)	Added words “whether it is contained or stated in the Information Documents or made, drawn or undertaken by the Tenderer”		
4.13(i)(v)	Added words “including identifying any issues which they consider commercial-in-confidence and advising names and companies of attendees”			
4.21	Added definitions of “DAB”, “DAB Agreement”, “Principal”, “RMS” and “RTA”			

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Ed 1/Rev 7 (Cont)	4.21	Words “or where the Tenderer is constituted by a single legal entity, means the Tenderer” added to definition of “Participant”		
	4.21	Words “and includes the conditions in the Pre-tender Conditions in relation to the period prior to the issue of this Request for Tender” added to definition of “Tender Conditions”		
	Appendix 2	Tender Form modified to reflect the requirement to exclude PV’s and ER’s Fees from the Design and Construction Payment Schedules.		
	Appendix 2	Annexure to Tender Form/ Declaration of Compliance – reference to latest revision of the Australian Government Implementation Guidelines included (May 2012)		
Ed 1/Rev 8	1.10(d)	Split in two items; item (ii) added	GM, IC	12.12.12
	2.2.2(a)(ii)	Words “delay rates” deleted		
	2.2.2(b)(ii)	Clause changed to exclude construction period from the Present Value evaluation		
	2.2.2(c)	Clause deleted		
	2.2.3(c)/ Table 2	Volume IV/Delivery Strategy – item (viii) deleted (i.e. “Initial Traffic Management and Safety Plan”) Volume V/Project Costs – words “and Delay Rates” deleted from item (iii). Item (iv) deleted (i.e. “Whole-of-Life costs”)		
	3.2(a)	Words “unless otherwise stated in clauses 3.2(c) to 3.2(j) of this Request for Tender” added to the second last paragraph. New paragraph inserted to describe “To be submitted on request” part of Tender submission.		
	3.2(c)(i), 3.2(c)(ii), 3.2(c)(iii)B & 3.2(c)(iv)	Note for Tenderers included to emphasise requirement to provide only the details that are different from the details provided by Tenderers in the ROI		
	3.2(c)(ii)G& H	Words “[<i>Tenderer is to acknowledge and agree in its Tender</i>]” inserted		
	3.2(c)(iv)	“Seed Collection Subcontractor” and Testing Entity” subcontractor deleted.		
	3.2(d)(ii)A	Words “each bridge” changed to “each different bridge type”		
	3.2(d)(ii)B	Words “each bridge” changed to “each bridge type”		
	3.2(d)(ii)C	New clause		

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Ed 1/Rev 8 (Cont)	3.2(d)(iv)	Clauses “B” & “C” deleted; subsequent clause re-numbered. Words “design of the” inserted in front of “application” in ex-clause “D” (now clause “B”)		
	3.2(d)(v)A	Words “Colour plan showing” replaced with “Information defining”; words “at 1:4000” deleted		
	3.2(d)(v)E & F	Clauses deleted; subsequent clause re-numbered		
	3.2(d)(v)E (ex G)	Content deleted and replaced with “Landscape management requirements for rest areas and feature planting (if included)”		
	3.2(d)(vi)A	Modified to specify it only for a non-standard or feature lighting		
	3.2(d)(vi)B	New clause		
	3.2(d)(vii)A	Words “1:4000 plan showing” replaced with “Information defining locations and extents of”; word “treatments” deleted		
	3.2(d)(vii)C	Words “noise mounds and headlight screens” replaced with “from road user viewpoint”		
	3.2(e)(i)A	Words “(Plan scale 1:2000)” added		
	3.2(e)(i)B	Clause deleted; subsequent clauses re-numbered		
	3.2(e)(i)C	“spacing of 20m” changed to “spacing of 25m”; words (natural scale 1:500) added		
	3.2(e)(i)J	Clause deleted		
	3.2(e)(ii)A	Words “transverse and longitudinal drainage” and “catch drains” inserted		
	3.2(e)(ii)B	Clause changed to specify submission of maintenance diaries only for unusual/uncommon drainage system components		
	3.2(e)(iii)B	Clause deleted		
	3.2(e)(iv)B & E	Clause deleted; subsequent clauses re-numbered		
	3.2(e)(iv)E	Clause changed to specify submission of maintenance diaries only “for pavements across expansive subgrades, mines subsidence, soft soils and floodplains”		
	3.2(e)(v)H	Clause deleted and replaced with three new clauses, numbered as H, I & J		
	3.2(e)(v)K (ex I)	Words “if required or likely to be required by the project EIS” added		
	3.2(e)(vii)E	Clause deleted; subsequent clauses re-numbered		

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Ed 1/Rev 8 (Cont)	3.2(e)(viii)A	Words “including design of all temporary roadworks and Local Roads” deleted		
	3.2(e)(x)B	Words referred to in Schedule 3 to the Project Deed” deleted		
	3.2(f)	Re-written to simplify requirements related to the Initial Management Plans		
	3.2(g)(vi)C	Words “and Delay Rates” deleted		
	3.2(g)(vi)C.1 & 2	Clauses deleted		
	3.2(g)(vi)D	Clause deleted		
	3.2(h)	Introductory section re-written to match relevant content given in ROI. Financial details are to be submitted on request		
	3.2(h)(iii)B	Subclauses (1) and (2) deleted (cash inflow and outflow from current and anticipated projects)		
	3.2(i)(i)C	Second paragraph slightly modified to make it clear that the Initial PV Management Plan needs to address the methodology to be applied to achieve minimum requirements in Schedule 12F to the Project Deed, as opposed to addressing requirements of Schedule 12F in the Initial PV Plan.		
	3.2(i)(i)D & E	Reference added to items in table in clause 1.1 of the Tender Form		
	3.2(i)(ii)A	Four dot points added, to specify requirements for ER		
	3.2(i)(ii)	Clause (B) deleted; subsequent clauses re-numbered		
	3.2(i)(ii)C & D	Reference added to items in table in clause 1.1 of the Tender Form		
	3.2(i)(ii)E	New clause		
	3.2(i)(iii)D	Sub-clauses 1 and 2 added to further clarify submission details for DAB nominees’ fees		
	3.2	“Schedule 1 to Clause 3: Environmental Management Issues” and “Schedule 2 to Clause 3: Design Management Requirements” inserted at the end of Clause 3.2		
4.2(d)	Submission requirements changed – now only one hard copy and one electronic copy (pdf format)			
Appendix 2	Items included in table in clause 1.1 of the Tender Form, for DAB nominees fees			

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Ed 1/Rev 9	1.4	Clause re-formatted (split into four sub-clauses). Details re RMS Flood and Noise Data added.	GM, IC	24.07.13
	1.6(b)	New clause		
	1.10(c)	Words “having regard to the criteria in Schedule 39 to the Project Deed. The nomination of the third member is subject to the approval by RMS and the Contractor” included at the end of the clause		
	2.2.3(c)/ Table 2	Volume IV/Delivery Strategy – “Initial Project Training Management Plan” replaced with “Enterprise Training Management Plan”. ‘Initial Project WHS Management Plan’ deleted. WHS Management” included as a new Item, to be provided only (i.e. not to be evaluated under tender evaluation criteria)		
	3.2(f)(ii)	Re-written, to simplify submission requirements		
	3.2(f)(iii)	New clause		
	3.2(g)(iv)	New clause		
	3.2(h)(i)	Content deleted and replaced with new financial requirements		
	3.2(i)(iii)D	Existing content of sub-clauses 1 and 2 deleted and replaced with new content, to reflect changes made in Appendix 3 to Schedule 38.		
	4.7(d)(xiii)	Words “National Code and Implementation Guidelines” deleted and replaced with “Building Code”		
	4.10	Content deleted and replaced with new requirements related to NSW Government Code of Practice for Procurement and Implementation Guidelines		
	4.11	New clause - new requirements related to Building Code 2013. Subsequent clauses re-numbered and cross-referencing corrected		
	4.12	Title changed from “Geotechnical Data” to “RMS Data”. Clause split in two sub-clauses. Cross-referencing corrected		
	4.22(a)(xxii) A.7	New Item (i.e. Appendix 3); subsequent Items re-numbered		
Appendix 1	Deed of Disclaimer modified to reflect changes re RMS Data. Schedule B re-named to RMS Geotechnical Data; new set of data included in Schedule B (i.e. “Window Data”). Schedules C (RMS Flood Data) and D (RMS Noise Data) added			

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Ed 1/Rev 9 (Cont.)	Appendix 2 Appendix 2 Appendix 2 Appendix 3	Table in Clause 1.1 of the Tender Form modified to reflect the changes made in Appendix 3 to Schedule 38 (re DAB) Annexure to Tender Form/ Declaration of Compliance – Content deleted and replaced with new requirements related to Building Code 2013. Also, Annexure was numbered as Annexure 2 New Annexure added to the Tender Form as Annexure 1 – Schedule of Compliance with NSW Code and NSW Guidelines New Appendix – Information for Initial Project Plans		
Ed 1/Rev 10	2.2.2(a)(iii) 2.2.3(c)/ Table 2 3.2(a) 3.2(e)(i) 3.2(f)(ii)8 3.2(f)(ii)9 3.2(g)(vii)A. 3 3.2(j)(viii) 4.2(d) 4.2(e) 4.10(d) 4.12	Reference to “RMS Economic Analysis Manual” replaced with “Principles and Guidelines for Economic Appraisal of Transport Investment and Initiatives”. “present value (PV)” changed to “net present value (NPV)” Volume IV/Delivery Strategy – “Industrial Relations Strategy” replaced with “Initial Workplace Relations Management Plan”. “WHS Management” replaced with “Initial Project WHS Management Plan “ (to be evaluated under tender Criterion 1) New paragraph inserted at the end of clause (a). Introductory paragraph - concept geometric design is no longer required as hard copy file “Industrial Relations Strategy” replaced with “Initial Workplace Relations Management Plan”. Submission requirements specified “WHS Management” replaced with “Initial Project WHS Management Plan“. Submission requirements specified New paragraph New paragraph Tender submission requirements changed New clause; subsequent clauses renumbered Requirements related to Workplace Relations Management Plan and WHS Management Plan deleted (now included in 3.2(f)(ii)) Clause re-written to remove separation of geotechnical and flood/noise data into sub-clauses	GM, IC	15.04.14

Ed/Rev Number	Clause Number	Description of Revision	Authorised By	Date
Ed 1/Rev 10 (Cont)	4.14(d)	New paragraph inserted re indicative meeting dates		
Ed 1/Rev 11	Various 3.2(h)	References to various NSW Government Guidelines updated New sentence inserted at the end of the introductory paragraph, to foreshadow that RMS may require financial assessments to be undertaken of the Contractor, during the course of the contract.	GM, CPS	11/08/14
Ed 1/Rev 12	Whole document 3.2(f)(ii)9. 4.20(ii) Appendix 3/Table 7	“Minister for Employment and Workplace Relations” changed to “Minister for Employment”. “Planning and Infrastructure Minister” changed to “Planning Minister” Submission requirements changed for Initial Project WHS Management Plan “National Privacy Principle 13” changed to “Australian Privacy Principle 5” New table	GM, CPS	09/01/15
Ed 1/Rev 13	2.2.3(b) 2.2.3(c) 3.2(c)(vi) 3.2(f)(ii)7.	New evaluation criterion (Criterion 5) inserted in Table 1 Table 2 - New item (item (vi)) inserted under Volume I. Item (vii) under Volume IV modified by adding “Apprenticeship Targets” New clause (Referees) Amended to include new requirements re apprenticeship targets and monthly reporting	GM,CPS	29/01/15
Ed 1/Rev 14	3.2(f)(ii)10	Modified to reflect requirements of the new NSW Government Policy on Aboriginal Participation in Construction	GM,CPS	31/03/15
Ed 1/Rev 15	3.2(c)(vi)	Referees Level changed where Contractor has worked with Government	GM,CPS	05/05/15
Ed 1/Rev 16	4.11 4.11.1(a) 4.11.2(a)	Split in two parts, to separate Building Code 2013 clauses from Australian Government WHS Accreditation Scheme New paragraph, to emphasise that Building Code 2013 only applies to projects fully or partially funded by the Commonwealth New paragraph, to emphasise that the requirements of the Australian Government WHS Accreditation Scheme only applies to projects fully or partially funded by the Commonwealth	GM,CPS	03/06/15

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Ed 1/Rev 16 (Cont)	4.11.2(d) Annexure 2 to Tender Form	New paragraph - Reference to “Regulation 24(h) of the Fair Work (Building Industry – Accreditation Scheme) Regulations 2005” inserted Reference to “Regulation 24(h) of the Fair Work (Building Industry – Accreditation Scheme) Regulations 2005” inserted		
Ed 1/Rev 17	2.2.3(c)/ Table 2 3.2(f)(ii)10 4.2(d) Appendix 3/Table 8	New item (item (x)) inserted under Volume IV (Initial Chain of Responsibility (CoR) Management Plan) New item - Initial Chain of Responsibility (CoR) Management Plan. Subsequent items re-numbered New line inserted in Table under Volume IV - Initial CoR Management Plan New table	GM,CPS	22/09/15
Ed 1/Rev 18	2.2.3/Table 2/Volume (IV)(vii);& 3.2(f)(ii)7 2.2.3/Table 1&2 and 3.2(c)(vi) 2.2.3/Table 2/Volume (IV)(xi) & 3.2(f)(ii)11 3.2(f)(ii)10 4.10 4.10.2 4.10.3 4.2(d)(ii)C & 4.11.1(h)(ii) Appendix 3/Table 8 Appendix 3/Table 9	Inserted requirements re “ <i>Skills and Training in the Construction Industry</i> ” Deleted requirements re Referees. Evaluation to be done at ROI stage only Inserted requirements re mandatory implementation of the NSW Government <i>Policy on Aboriginal Participation in Construction</i> Word “National” deleted from reference to “Heavy Vehicle National Law”, to reflect changes made in ROI Clause renamed to “Compliance with NSW Government Policies and Guidelines” and split into three sub-clauses; existing clause 4.10 re-numbered to 4.10.1 New clause – NSW Government Procurement Guide <i>Skills and Training in the Construction Industry</i> New clause – NSW Government <i>Policy on Aboriginal Participation in Construction</i> Inserted requirement re FWBC letter of compliance Minor modification to reflect changes made in ROI New Table – Schedule of Skills Development and Training	GM, Commercial	20/06/16

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Ed 1/Rev 19	2.2.3(c)/ Table 2; 3.2(f)(ii); 4.2(d); 4.11.1; 4.11.2; 4.22; Annexures 2A & 2B to Tender Form 4.10.1; Annexure 1 to Tender Form 4.10.2(c)	Updated as a result of the enactment of the <i>Building and Construction Industry (Improving Productivity) Act 2016</i> (Cth) and <i>the Code for the Tendering and Performance of Building Work 2016</i> Minor edits Amended reporting requirements	GM, Commercial Services	11/07/17
Ed 1/Rev 20	Annexure 2B to Tender Form	Minor change re regulation 26(1)(f) requirement	Director, Commercial Services	16/08/17
Ed 1/Rev 21	4.11.1(c)(iv), 4.11.1(e)(i)(a) , and Annexure 2A 6(a)(i), 6(b)(ii), 8(b) and Attachment A Item A1.3	Revised to reflect the introduction of the Work Health and Safety Regulation 2017, replacing the 2011 Regulation	Director Commercial Services	29/09/17

Request for Tender

Design and Construction of

IMPORTANT NOTE

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1. PROJECT ISSUES

1.1 GENERAL

- (a) RMS seeks Tenders from the short listed applicants to design and construct the Project Works, Landscaping Maintenance and Temporary Works.
- (b) Tenderers must not rely upon the contents of clause 1 (Project Issues) of this Request for Tender and must refer to the detailed documents.
- (c) The primary obligation of the Contractor is to design and construct the Project Works and Temporary Works and perform the Landscaping Maintenance in accordance with the Project Deed including its schedules and exhibits.

1.2 APPROVALS

- (a) The Project Works have been the subject of environmental impact studies and Approvals. Approvals obtained to date are contained in the Environmental Documents. The Environmental Documents are included as an Exhibit to the Project Deed and Appendix 4 to the Scope of Works and Technical Criteria.
- (b) Unless otherwise directed by RMS, the successful Tenderer must obtain all Approvals (except those Approvals specified in Schedule 41 to the Project Deed), including environmental Approvals, and any Approvals associated with its methodology and any design required to undertake the Contractor's Work. The successful Tenderer will be required to meet all conditions attached to all Approvals, including all RMS obligations identified in the Environmental Documents, unless specifically stated otherwise in Schedule 28 to the Project Deed.

1.3 INFORMATION DOCUMENTS AND DEED OF DISCLAIMER

- (a) Each Participant in the Tenderer has executed a Deed of Disclaimer in the form which appears in Appendix 1 to this Request for Tender and RMS has, in accordance with the terms of that Deed of Disclaimer, provided Tenderers with the Information Documents referred to in Schedule A to the Deed of Disclaimer.
- (b) RMS may at any time and from time to time issue for the information only of Tenderers further Information Documents.

1.4 SITE CONDITIONS

1.4.1 Investigations and data

1.4.1.1 Site Conditions

- (a) RMS has caused to have undertaken field geotechnical and contamination investigations in the area of and adjacent to, the Construction Site. Outputs of these investigations are included or identified in some of the Environmental Assessment Documents (including its associated Appendices) and some of the Information Documents.
- (b) Tenderers are advised that geotechnical and contamination assessment assumptions and interpretations made in the Environmental Assessment and associated Appendices and in the Information Documents are entirely for the purposes of assessing environmental impacts, developing the Environmental Assessment documents and to assess the options for the Project and must not be relied upon by Tenderers for the purposes of preparing their Tenders, except as acknowledged by RMS in clause 10.2(f) of the Project Deed. Tenderers must make their own assessment of the geotechnical and contamination conditions to be found in the area of and adjacent to the Construction Site. Information concerning the geotechnical and contamination conditions, whether contained in an Information Document or not, is for Tenderers' information

only. In this Request for Tender, the meaning of the phrase *'for Tenderers' information only'* will be taken to include the matters referred to in clause 1.4.2(a) of this Request for Tender below.

- (c) Pursuant to clause *[insert relevant Pre-tender Conditions Clause No, if they were issued to Tenderers]* of the Pre-tender Conditions:
- (i) Tenderers were offered the opportunity to request RMS to conduct further geotechnical investigations and testing in the area of and adjacent to the Construction Site for the purpose of further investigating the geotechnical conditions in the area of and adjacent to the Construction Site;
 - (ii) RMS has at its cost arranged to hire the required testing plant and equipment to facilitate some or all of the further investigations and testing requested by Tenderers, and RMS is endeavouring to program and carry out any such further investigation and testing; and
 - (iii) the results of any such further investigation and testing undertaken at the request of a Tenderer will be issued to Tenderers as Information Documents if and when RMS obtains any such results.
- (d) The Tenderer must, before *[insert date, if relevant]*, advise RMS Representative of details (description, purpose and location) of any further geotechnical investigations it would like RMS to carry out. Based on requests received from all Tenderers, RMS will then decide what, if any, further geotechnical investigations will be undertaken by RMS. RMS is not obliged to carry out any further geotechnical investigations. Information about any such further geotechnical investigations undertaken by RMS will be issued as Information Documents and the conditions referred to under clause 1.4.2(a) of this Request for Tender apply equally to any such information.
- (e) Where a request for further geotechnical investigations is received from a Tenderer under clause 1.4.1(d) which RMS does not undertake or propose to undertake, or if the Tenderer otherwise requires further geotechnical or other information, the Tenderer must (at its cost):
- (i) make its own arrangements in relation to and obtain all access to the Construction Site and any other land and properties (including private land and RMS land) necessary for it to undertake its own investigations; and
 - (ii) contact all relevant Authorities connected with the Construction Site and any other land and properties (including private land and RMS land) to obtain any consents necessary for the Tenderer to undertake its own investigations, and any additional information the Tenderer wishes to obtain for the purposes of preparing the Tenderer's Tender.

1.4.1.2 Noise and Flood Data

- (a) RMS has caused to have undertaken flood and noise modelling in some areas of and adjacent to the Construction Site. Outputs of this flood modelling are variously included in models titled;
- (i) *[insert details]*; and
 - (ii) *[insert details]*
- (b) Outputs of the noise modelling will also be issued as Information Documents.
- (c) Tenderers are advised that flood and noise assessment assumptions and interpretations made in the Information Documents are for the purpose of RMS developing the Project and must not be relied upon by Tenderers for the purposes of preparing their Tenders, except as acknowledged by RMS in clause 10.2(f) of the Project Deed and required by sections *[insert references to relevant clauses]* of the Scope of Works and Technical Criteria in relation to the use of the flood models. Tenderers must otherwise make their own assessment of the flood and noise conditions to be found in the area of and adjacent to the Construction Site.

1.4.1.3 Operations of the Deed of Disclaimer or the Pre-tender Conditions

- (a) Nothing in this clause 1.4 limits the operations of the Deed of Disclaimer or the Pre-tender

Conditions.

1.4.2 Warranties and Representations

- (a) RMS makes no warranty or representation, and does not assume any duty of care to Tenderers, that any information made available by RMS is accurate, adequate, suitable or complete, or representative of the actual conditions to be found, except to the extent acknowledged by the RMS under clause 4.12(b) of this Request for Tender and as otherwise specified in the Project Deed. RMS accepts no responsibility and shall not be liable for interpretations placed by the Tenderer on information, data and documents, whether contained in an Information Document or not. The Tender must be based on the Tenderer's own investigations and determinations. The Tenderer must not rely on such information, data and documents except to the extent acknowledged by the RMS under clause 4.12(b) of this Request for Tender. Tenderers' attention is specifically directed to clauses 4.12 and 4.13 of this Request for Tender, clause 1.10 of the Tender Form of this Request for Tender and clause 10 of the Project Deed.

1.5 STATUS OF EXISTING DESIGN

- (a) For its own planning purposes RMS has prepared a preliminary concept designs for the roadworks and bridgeworks. RMS does not warrant, guarantee, represent or assume any duty of care to Tenderers that the designs;
- (i) are accurate, adequate, suitable or complete;
 - (ii) are the most effective design solution; or
 - (iii) meet the requirements of the Project Deed.
- (b) The preliminary concept design is included as an Information Document. RMS may continue to undertake investigation and design for the purpose of comparative evaluation of Tenders and for finalisation of the Project Deed.
- (c) The Tenderer must accept responsibility for the design upon which its Tender is based. The design must comply with the requirements of the Project Deed.

1.6 PROJECT DEED

- (a) The Project Deed, including the Scope of Works and Technical Criteria, stipulates RMS' requirements for the Contractor's Work and the design, construction and landscape maintenance risks which are to be borne by the Contractor. The Tenderer must refer to the Project Deed for the detail of those requirements, and will be deemed to have taken those requirements into account in lodging its Tender.
- (b) Schedule 2, Design Payment Schedule and Schedule 3, Construction Payment Schedule, Cost Centre 9 include Provisional Sum Work as part of the Services Works. Tenderers are required to identify and detail all impacts arising from Services on the Tenderer's concept design as required by clause 3.2(e)(ix) and only which are covered by the Provisional Sum Work.
- (c) Where the successful Tenderer is a joint venture, RMS will require relevant amendments to the Project Deed and Schedules.

1.7 CONTRACTOR PERFORMANCE REPORTING

During the course of the Project Deed, the Contractor's performance will be monitored, including for the purposes of clause 1.8 below.

1.8 SHARING OF INFORMATION BETWEEN GOVERNMENT AGENCIES

- (a) NSW Government agencies, Local Government authorities and members of Austroads Incorporated make available to each other information relating to projects including information relating to a tenderer's / contractor's performance (for example, substantiated reports of unsatisfactory performance) or financial information.
- (b) This information may be taken into account by agencies and authorities in considering whether to offer the Tenderer opportunities for work (including for example the assessment of suitability for registration, prequalification, selective tender lists or the award of a contract).

1.9 RMS STATEMENT OF BUSINESS ETHICS

Parties to the Project Deed must comply with the RMS Statement of Business Ethics. The statement is available from the following internet address:

http://www.rta.nsw.gov.au/doingbusinesswithus/downloads/rta_businessethics_dl1.html

1.10 DISPUTE AVOIDANCE BOARD

- (a) RMS has adopted a dispute avoidance procedure, including a three member Dispute Avoidance Board (DAB), designed to avoid disputes where possible, and otherwise to provide an efficient mechanism for quick and efficient resolution of disputes. Members of the DAB are required to act impartially, not as an advocate for either party. Members will maintain an ongoing involvement with the Project through participation in Management Review Group meetings. It is anticipated that this will assist with early intervention to prevent formal disputes from arising under the Project Deed. If a dispute cannot be prevented, the DAB will decide it in accordance with clause 20 of the Project Deed and the DAB Agreement.
- (b) It is intended that the DAB Agreement will be signed between RMS, the successful Tenderer and the three DAB members on or before the date of execution of the Project Deed. A copy of the proposed DAB Agreement appears as Schedule 38 to the Project Deed. Tenderers are referred to clauses 2.9 to 2.11, clause 3.5 and clause 20 of the Project Deed and Schedules 38 and 39 of the Project Deed for further details of the role and functioning of the DAB.
- (c) The Tenderer is required to nominate in its Tender two suitable persons as candidates for appointment as a DAB member, having regard to the criteria in Schedule 39 to the Project Deed. RMS retains the right to object, on reasonable grounds, to the successful Tenderer's nominees. Once a successful Tenderer has been selected, RMS will decide which one of the Tenderer's nominees will be appointed to the DAB and RMS will nominate a second member. The nominee of each party will confer to nominate the third member, having regard to the criteria in Schedule 39 to the Project Deed. The nomination of the third member is subject to the approval by RMS and the Contractor.
- (d) The Tenderer is to note that:
 - (i) the DAB costs are to be shared equally by RMS and the Contractor in accordance with clause 6 of the DAB Agreement; and
 - (ii) the DAB costs do not form part of the Project Contract Sum.

1.11 TENDERER'S OFFER

RMS intends to capture elements of the Recommended Tenderer's offer in the executed Project Deed, including its Schedules. Where elements are captured, this will represent the minimum requirements that the Contractor will need to meet in relation to the elements captured in order to comply with the requirements of the Project Deed. The decision to capture elements of the Recommended Tenderer's offer rests solely with RMS and RMS has total discretion over which elements to capture.

2. TENDER EVALUATION PROCESS

2.1 PROBITY ADVISER

- (a) The selection process will be carried out having regard to the NSW Government Code of Practice for Procurement dated 18 January 2005.
- (b) A Probity Adviser will monitor the fairness and transparency of the selection process to provide assurance of a fair and equitable treatment of the Tenderers.
- (c) The Probity Adviser is *[insert Probity Adviser's name]* of *[insert Probity Adviser's company name]*. In respect of probity issues, Tenderers may contact *[insert Probity Adviser's name]* as follows:

Phone: *[insert phone No]*

Mobile: *[insert mobile phone No]*

Email: *[insert email address]*

Facsimile: *[insert facsimile No]*

2.2 EVALUATION FOR RECOMMENDED TENDERER

2.2.1 OVERVIEW OF EVALUATION PROCESS

- (a) The Recommended Tenderer will be selected on the basis of the Tender offering the best value for money, including:
 - (i) the greatest level of certainty of delivery of the objectives and requirements detailed in this Request for Tender;
 - (ii) adjusted comparative prices; and
 - (iii) any other factor relevant to the determination of the best value for money Tender.

All relevant information in the Tenders will be taken into account by RMS in making its evaluation of the Tender which represents the best value for money.

- (b) Tenderers must satisfy the mandatory criteria specified in clause 3.2(c)(ii) of this Request for Tender, as well as the other requirements in clause 2.3 and clause 4.2 of this Request for Tender for conforming Tenders.
- (c) RMS favours tenders which demonstrate a greater level of certainty of delivery of RMS' objectives and its requirements as contained in the Project Deed.
- (d) Evaluation of the Tenders will be the responsibility of an Evaluation Team appointed by RMS. Team members may include advisers from the government and private sectors.
- (e) The Evaluation Team will:
 - (iv) evaluate the Tenders in accordance with the evaluation criteria and satisfaction of the requirements in this Request for Tender;
 - (ii) recommend whether or not to proceed with design and construct delivery; and
 - (iii) if appropriate, recommend a Tenderer to RMS.
- (f) The outcome of the non-price evaluation of the nominated Project Verifiers will form part of the Tender evaluation process, subject to RMS' rights under clause 2.3(e) of this Request for Tender.
- (g) The outcome of the comparative price evaluation of the nominated Project Verifiers will only be relevant to the selection of the Project Verifier and will not be considered in the comparative price evaluation of the Tenders under clause 2.2.2.

- (h) The outcome of the evaluation for each of the Tenderer's nominees for appointment as a DAB member will not form part of the Tender evaluation process, subject to RMS' rights under clause 2.4(b) of this Request for Tender.

2.2.2 COMPARATIVE PRICE EVALUATION

- (a) The process for the selection of the Tender will include an evaluation of the comparative prices of the Tenders adjusted to recognise the impact of non-priced criteria. The comparative prices will be determined on the basis of the Project Contract Sum excluding:
- (i) the Project Verifier's fees for the Project Verifier's design verification services;
 - (ii) the Project Verifier's fees for the Project Verifier's construction verification services;
 - (iii) the Environmental Representative's fees for the Environmental Representative's design phase services; and
 - (iv) the Environmental Representative's fees for the Environmental Representative's construction phase services,
- adjusted to recognise and reflect:
- (i) conformity of the Tenders with the requirements of this Request for Tender and the Project Deed;
 - (ii) differences in risks associated with the Tenders, including technical risks, commercial risks, financial risks and any other risk characteristics particular to the Tenders;
 - (iii) the net present value (**NPV**) of the whole-of-life costs associated with the Tenders, including user costs and maintenance and operating costs being offered in the Tenders. The determination will be made in accordance with the Principles and Guidelines for Economic Appraisal of Transport Investment and Initiatives; and
 - (iv) any other issues that need to be considered to ensure the fairness of comparisons between the Tenders.
- (b) The NPV evaluation will be based on:
- (i) a nominal discount rate of 7% p.a.; and
 - (ii) a term consisting of a period commencing from the Date for Construction Completion plus a period of 480 months.

2.2.3 NON-PRICE EVALUATION

- (a) Non-price evaluation of tenders will be undertaken on the basis of the information provided in response to clause 3.2 of this Request for Tender against the evaluation criteria.
- (b) The evaluation criteria are listed (without stipulating any order of precedence) in Table 1 below. Criteria weightings will remain confidential to the Evaluation Team.

Table 1: Tender Evaluation Criteria

Criterion No.	Tender Evaluation Criteria
1	<i>Effective methodology for the delivery of the Contractor's Work and the Project Verifier's services to recognise, manage and resolve issues and to minimise project risks including satisfaction of community expectations and environmental and safety requirements.</i>
2	<i>Appropriate design proposals (excluding those for the urban and landscaping design) that comply with the requirements of the Project</i>

Criterion No.	Tender Evaluation Criteria
	<i>Deed including an effective approach to ensuring durability, performance, reliability and consideration of maintenance and operation issues.</i>
3	<i>Satisfaction of urban design and landscaping design requirements.</i>
4	<i>Appropriate on site and off site financial, human and physical resources, organisation and experience, including for the Project Verifier's services.</i>
5	<i>[insert project specific evaluation criterion if required]</i>

- (c) The information submitted in Tenders will be used to determine the non-price performance against the evaluation criteria. The information contributing to performance in each criterion is shown in Table 2 below.

Table 2: Application of Tender Information to Evaluation Criteria

Tender Information		Applicable Tender Evaluation Criteria
Volume	Tender Details Required	
I	Commercial Issues	
	(i) Entity Details	To be provided
	(ii) Mandatory Criteria	Mandatory
	(iii) Structure, Experience and Performance of Tenderer	4
	(iv) Subcontractors	4
	(v) Proof Engineer	4
II	Urban Design	
	(i) General	3
	(ii) Bridges	3
	(iii) Retaining wall structures	3
	(iv) Earthworks, Landform and Slope Stabilisation	3
	(v) Landscape design	3
	(vi) Road furniture	3
(vii) Noise Barriers and Headlight Screens	3	

Tender Information		Applicable Tender Evaluation Criteria
Volume	Tender Details Required	
III	Technical Details	
	(i) Geometric design	2
	(ii) Drainage design	2
	(iii) Structural design	2
	(iv) Pavement design	2
	(v) Geotechnical design	2
	(vi) Contractor's Specifications	2
	(vii) Environmental design	2
	(viii) Traffic and staging arrangements during the Contractor's Work	1
	(ix) Services	1
	(x) Program	1
(xi) Asset Items and Sub-items specified design lives	2	
IV	Delivery Strategy	
	(i) Initial Project Management Plan	1
	(ii) Initial Environmental Management Plan	1
	(iii) Initial Design Plan	1
	(iv) Initial Construction Plan	1
	(v) Initial Community Involvement Plan	1
	(vi) Initial Earthworks Plan	1
	(vii) Training and Apprenticeship	1
	(viii) Workplace Relations Management Plan (State)	To be provided
(ix) Workplace Relations Management Plan (Commonwealth)	To be provided	

Tender Information		Applicable Tender Evaluation Criteria
Volume	Tender Details Required	
	(x) Initial Work Health and Safety Management Plan (xi) Initial Chain of Responsibility (CoR) Management Plan (xii) Capacity to meet obligations under the NSW Government <i>Policy on Aboriginal Participation in Construction</i>	1 1 1
V	Project Cost (i) Payment schedules (ii) Cash flow (iii) Variations	<i>Evaluated under Comparative Price Evaluation (excluding Project Verifier's and Environmental Representative's fees).</i>
VI	Financial & Resource Capacity (i) Financial details (ii) Holding entity (iii) Available resources	4 4 4
VII	Project Verifier, Environmental Representative and DAB Nominee (i) Project Verifier (ii) Environmental Representative (iii) Dispute Avoidance Board Nominee	<i>1 & 4, together with the criteria identified in clause 2.3 below</i> 4 Acceptable to RMS
VIII	Options (i) Descriptions (ii) Changes to conforming tender (iii) Changes to the Project Verifier's Payment Schedules (iv) Changes to the Environmental	<i>Evaluated under criteria No's 1 to 4 as applicable.</i>

Tender Information		Applicable Tender Evaluation Criteria
Volume	Tender Details Required	
	Representative's Payment Schedules (v) Environmental impacts (vi) Program details (vii) Changes to Project Deed	

2.3 EVALUATION OF PROJECT VERIFIER

- (a) The Tenderer must nominate in its Tender two alternative entities for the provision of the Project Verifier's services that the Tenderer considers are suitable and capable of performing the Project Verifier's services. When preparing the Project Verifiers' submissions, the Tenderer must ensure it includes content which is directly relevant and specific to the Project and which clearly assists in demonstrating the relative merits and direct benefits of the Tender. Inclusion of generic material should be minimised.
- (b) For each Tender the entities nominated for the provision of the Project Verifier's services will be evaluated and ranked on the basis of merit against the comparative price evaluation at clause 2.3(c) of this Request for Tender and the non-price evaluation at clause 2.3(d) of this Request for Tender.
- (c) The comparative prices will be determined on the basis of the Project Verifier's fees.
- (d) The non-price evaluation will be undertaken on the basis of the information provided in response to clause 3.2(i)(i) A. to C. of this Request for Tender against the evaluation criteria in Table 3 below.

Table 3: Project Verifier Evaluation Criteria

Criterion No.	Project Verifier Evaluation Criteria
1	<i>Effective methodology for the delivery of the Project Verifier's services to recognise, manage and resolve issues and to minimise project risks including satisfaction of community expectations and environmental and safety requirements including:</i> <ul style="list-style-type: none"> • <i>the methodology and quality of the Initial Verification and Monitoring Plan.</i>
2	<i>Appropriate on site and off site financial, human and physical resources, organisation and experience for the Project Verifier's services including:</i> <ul style="list-style-type: none"> • <i>the appropriateness of the technical skills and experience of the proposed personnel;</i> • <i>the past performance by the entity on similar projects;</i> • <i>demonstrated capability, management systems and skills for the delivery of project verification services on this project; and</i> • <i>the entity having sufficient financial capacity to provide the project verification services on this project.</i>

- (e) If RMS determines that one or both of the nominated Project Verifiers is not suitable or capable of performing the Project Verifier's services, including not demonstrating that the personnel proposed to undertake the Project Verifier services have sufficient technical skills, qualifications, experience and competence, RMS may reject the nominated Project Verifiers and require the Tenderer to nominate alternative Project Verifiers and to provide all of the details required by clause 3.2(i)(i).
- (f) Once the nominated Project Verifier entities have been evaluated, RMS will, in its absolute discretion, select which one of the nominated entities is used for the purposes of the non-price evaluation of the Tenderer's Tender.

2.4 EVALUATION OF DISPUTE AVOIDANCE BOARD NOMINEES

- (a) The Tenderer must nominate in its Tender two alternative persons who it considers suitable as its nominees for appointment as a DAB member, including providing all of the details required by clause 3.2(i)(iii) of this Request for Tender.
- (b) If RMS determines that one or both of the candidates nominated by the Tenderer for appointment as a DAB member is not suitable, including not demonstrating that the persons proposed have sufficient or appropriate technical skills, qualifications, experience and competence, or do not otherwise satisfy the criteria in Schedule 39 of the Project Deed, RMS may reject the nominees and require the Tenderer to nominate alternative persons and to provide all of the details required by clause 3.2(i)(iii) of the Request for Tender.
- (c) A non-price evaluation will be undertaken on the basis of the information provided in response to clause 3.2(i)(iii) against the criteria for DAB members in Schedule 39 to the Project Deed.
- (d) A comparative price evaluation will be undertaken on the basis of the fees and disbursements proposed for each of the Tenderers' nominees for appointment as a DAB member.
- (e) RMS will select the preferred DAB member, in its absolute discretion, using the evaluations undertaken under clauses 2.4(c) and 2.4(d).
- (f) Once a Recommended Tenderer has been selected, RMS will advise the Recommended Tenderer of the nominated DAB member chosen by RMS to be engaged as a DAB member under a Dispute Avoidance Agreement.

3. TENDER SUBMISSION REQUIREMENTS

3.1 TENDER OPTIONS

(a) Objectives, conforming Tender and options

- (i) A principal objective of this Request for Tender is to achieve the best value for money outcome. The Tenderer must, in accordance with clause 4.2 of this Request for Tender, submit a Tender which conforms to the Tender Conditions and the Project Deed.
- (ii) Subject to the terms in the Tender Conditions of this Request for Tender, RMS also encourages innovation. A Tenderer may submit options in addition to its conforming Tender. Subject to clause 4.5(b) and clause 4.7 of this Request for Tender the Tenderer must provide a conforming Tender, including price, before an option will be considered. Options may include concept details and design, completion date and the approach to whole-of-life costs. The change(s) associated with any option and the effects of any change upon the conforming Tender must be clearly and separately identified. Options must be individually detailed in Volume VIII of the Tender. For each option, the Tenderer must provide all the information outlined in clause 3.2(j) of this Request for Tender.
- (iii) RMS will evaluate each option in accordance with this Request for Tender
- (iv) Without limiting any clause in this Request for Tender, RMS may, in its absolute discretion, proceed with the conforming Tender, or with any option submitted, or decide not to proceed with any Tender.
- (v) The option in clause 3.1(b) of this Request for Tender is a mandatory option and the Tenderer must provide the required details in respect of this option.

The Tenderer must, as part of its Tender, submit the details required by clause 3.2(j) of this Request for Tender in respect of the mandatory option referred to in clause 3.1(b) below.

- (vi) Even if RMS does not decide to adopt any option, including the mandatory option as part of the Project Works, Temporary Works and Landscaping Maintenance, RMS may require the Contractor to keep open its offer in respect of each option after execution of the Project Deed. This will be achieved by including provisions in the Project Deed allowing RMS to implement the option by way of a Pre-Agreed Variation. In these circumstances, the Project Deed, Design Contract Sum, Construction Contract Sum, design details, Project Plans and programs/Date for Construction Completion would, to the extent relevant, be amended having regard to the pricing particulars which the Tenderer is required to submit pursuant to clause 3.2(j) of this Request for Tender.

(b) Mandatory Options

[insert details related to mandatory options]

(c) Completion Time

The Project Deed provides for a Date for Construction Completion of *[insert date]*. The Tenderer may submit options nominating other Dates for Construction Completion.

3.2 DETAILS REQUIRED

(a) Format and Information

The Tenderer must provide detailed information presented in separate volumes as follows:

Volume I	Commercial Issues
Volume II	Urban Design
Volume III	Technical Details
Volume IV	Delivery Strategies
Volume V	Project Cost
Volume VI	Financial and Resource Capacity
Volume VII	Project Verifier, Environmental Representative and DAB Nominees
Volume VIII	Options

The Tender must be complete and not be supplemented by cross references to information previously supplied to RMS. Any relevant information, which might already have been supplied to RMS during the registration of interest phase, should be resubmitted to RMS as part of the Tender, unless otherwise stated in clauses 3.2(c) to 3.2(j) of this Request for Tender.

Information marked as “**To be submitted on request**” does not need to be included in the Tender delivered to RMS by the Closing Date and Time. RMS may request the Tenderer to submit that information after the Closing Date and Time. If requested, the information must be submitted by the time specified by RMS, which shall be no less than two weeks.

The Recommended Tenderer will be required to submit to RMS all information marked as “**To be submitted on request**” before the Project Deed is executed, excluding the information (if any) requested by RMS during the evaluation of Tenders.

(b) Tender Details Required

The Tenderer must include, as part of its Tender, details relative to the tender evaluation criteria identified in clause 2.2 of this Request for Tender and in the format specified. The Tenderer must provide in its Tender the details set out in clauses 3.2(c) to 3.2(j) (inclusive) of this Request for Tender. Details provided by the successful Tenderer, subject to final agreement by RMS and compliance with the Project Deed, may be included in part or in full in the Project Deed.

(c) Volume I: Commercial Issues

- (i) Entity Details [*If details have not changed since the ROI Stage, the Tenderer is to include in its Tender a statement confirming that the details provided in the ROI are still current. Details that are different from or additional to the details provided by the Tenderer in the ROI must be provided in the Tender.*]

The Tenderer must provide:

- A. the ACN and ABN of each of the Participants;
 - B. details of the relationships between the Participants; and
 - C. an undertaking from a parent company or ultimate holding company (both as defined in Section 9 of the *Corporations Act 2001 (Cth)*) of each Participant in the Tenderer to enter into the Deed of Guarantee and Indemnity as stipulated in clause 8.2 of the Project Deed. Each Participant’s parent company or ultimate holding company providing the undertaking must be acceptable to RMS.
- (ii) Mandatory Criteria [*If details outlined in A. to F. have not changed since the ROI Stage, the Tenderer is to include in its Tender a statement confirming that the details provided in the ROI are still current. Details that are different from or additional to the details provided by the Tenderer in the ROI must be provided in the Tender*]

The Tenderer must:

- A. include and nominate in its Tender at least one construction firm included on both RMS' F150 PLUS (Financial) and R5 (Roadworks) Register of Prequalified Contractors.
 - B. acknowledge and agree in its Tender that construction of the roadworks must be by construction firms nominated in its Tender which are prequalified to RMS' R5 (Roadworks) Register of Prequalified Contractors.
 - C. acknowledge and agree in its Tender that construction of all bridgeworks must be by construction firms nominated in its Tender which are prequalified to RMS' B3 (Bridgeworks) Register of Prequalified Contractors.
 - D. acknowledge and agree in its Tender that construction of the pavement must be by construction firms which are prequalified to RMS' K2 (Concrete paving) or RMS' A2 (Asphalt paving) Register of Prequalified Contractors, whichever is required for the main carriageways of the Works.
 - E. acknowledge and agree in its Tender that pretensioned concrete work must be by construction firms which are prequalified to RMS' C2 (Pretensioned Concrete - Complex) Register of Prequalified Contractors.
 - F. acknowledge and agree in its Tender that steel fabrication work must be by construction firms which are prequalified to RMS' S (Steel Fabrication – Complex) Register of Prequalified Contractors.
 - G. where the Tenderer is a joint venture, acknowledge and agree in its Tender that, in the event that it is selected as the Recommended Tenderer, the Participants are prepared to execute the binding agreement between the Participants that is in the form submitted by the Tenderer pursuant to the ROI Invitation, subject to RMS written consent to any changes that RMS determines (in its sole discretion) are material. [*Tenderer is to acknowledge and agree in its Tender*]
 - H. acknowledge and agree in its Tender that, in the event that it is selected as the Recommended Tenderer, it is prepared to execute the Project Deed to undertake the design and construction of the Project, subject to clause 4.2(b)(ii) of this Request for Tender in the form of the Project Deed in Attachment 1 of this Request for Tender. [*Tenderer is to acknowledge and agree in its Tender*]
- (iii) Structure, Experience and Performance of Tenderer
- A. The Tenderer must demonstrate its and its Participants' organisation structure for the delivery of the Contractor's Work.
 - B. The Tenderer must demonstrate the relevant experience and performance of the Tenderer and its Participants including their personnel and provide CVs of all of its and its Participants significant personnel who will be engaged on the Project, including all the Contractor's personnel identified in Schedule 19 of the Project Deed. [*If details outlined in B. have not changed since the ROI Stage, the Tenderer is to include in its Tender a statement confirming that the details provided in the ROI are still current. Details that are different from or additional to the details provided by the Tenderer in the ROI must be provided in the Tender.*]
- (iv) Subcontractors (Project Deed clause 2.8(c))
- The Tenderer must demonstrate the relevant experience and performance of the following Subcontractors including their personnel and provide CVs of all significant personnel who will be engaged on the Project: [*If details outlined in A. to C. below have not changed since the ROI Stage, the Tenderer is to include in its Tender a statement confirming that the details provided in the ROI are still current. Details that are different from or additional to the details provided by the Tenderer in the ROI must be provided in the Tender. Details outlined in D. to F. must be provided in the Tender.*]

- A. Design consultant(s) including structural designers, road designers, bridge designers and environmental designers;
 - B. Roadworks construction entity;
 - C. Bridgeworks construction entity
 - D. Geotechnical consultant;
 - E. Urban and landscape design consultant;
 - F. Noise mitigation design consultant.
- (v) Proof Engineer (Project Deed Schedule 47)
- A. The Tenderer is required to provide the Proof Engineer's details with the Tender, including experience and qualifications to demonstrate conformance with the requirements specified for the Proof Engineer in the Project Deed Schedule 47. RMS reserves the right to reject the Proof Engineer nominated in the Tenderer's Tender and require the Tenderer to nominate an alternative Proof Engineer and provide the information required above in this clause.

(d) Volume II: Urban Design

The Tender must provide:

- (i) General (Scope of Works and Technical Criteria (SWTC) Appendix 31)
 - A. Brief local and regional contextual analysis of the road corridor in terms of built, natural and community constraints and opportunities;
 - B. Statement of urban design objectives for the Project Works and Landscaping Maintenance and the principles to achieve those objectives with accompanying colour strategy plan at 1:20000 scale; and
 - C. Urban design concept plan at 1:4000 scale drawn on an aerial photographic base.
- (ii) Bridges (SWTC Appendix 31)
 - A. Elevation of each different bridge type at 1:500 scale;
 - B. Cross sectional-elevation through the centre of each bridge type illustrating the overhang of the superstructure over substructure and the shape of the piers; and
 - C. 3D visualisation of feature bridge(s) named in SWTC.
- (iii) Retaining Wall Structures (SWTC Appendix 31)
 - A. Information on the urban design aspects of the retaining wall structures for the Project.
- (iv) Earthworks, Landform and Slope Stabilisation (SWTC Appendix 31)
 - A. Dimensioned and annotated cross sections illustrating significant cuttings and embankments; and
 - B. Drawings showing the design of the application of shotcrete for rock seam stabilisation, if required. **(To be submitted on request)**
- (v) Landscape Design (SWTC Appendix 31)
 - A. Information defining areas of the Project Works to be topsoiled and application rates for topsoiling; **(To be submitted on request)**
 - B. Colour plans and typical cross sections of the Project Works illustrating existing vegetation, planting areas and seeding only areas at 1:4000 scale, highlighting any overlap in planting and seeding areas. Plant species must be specified;
 - C. Strategy and principles to maximise the retention of existing vegetation and methodology to protect the existing vegetation;

- D. Completed planting schedule (Table 4) and seeding schedule (Table 5). The Tenderer must divide the Project Works into sections to match the extents of cost centres *[insert number]* to *[insert number]* inclusive of the Construction Payment Schedule and provide a completed planting and seeding schedules for each section; **(To be submitted on request)**
- E. Landscape management requirements for rest areas and feature planting (if included). **(To be submitted on request)**
- (vi) Road Furniture (SWTC Appendix 31) **(To be submitted on request)**
 - A. Drawings or images to define non-standard or feature lighting and lighting fixtures (if provided); and
 - B. Drawings or images to define seating, lighting, information signage, shelters and toilet facilities as part of rest areas (if included).
- (vii) Noise Barriers and Headlight Screens (SWTC Appendix 31)

Plans and information on the urban design aspects of the noise barriers, mounds and headlight screens for the Project, including:

 - A. Information defining locations and extent of all noise barriers and headlight screens for the Project Works;
 - B. Dimensioned and annotated cross sections through noise walls, noise mounds and headlight screens demonstrating commitment to urban design requirements. Cross sections should extend to include both noise receptors and noise emitters;
 - C. Three dimensional sketches of noise walls from road user viewpoint; and **(To be submitted on request)**
 - D. Elevations at 1:50 scale illustrating road users' views and residents' views of noise walls, noise mounds and headlight screens on a level grade and on a slope. **(To be submitted on request)**

Table 4: Planting Schedule

Landscape Areas	Species (Tenderer to list all species for each landscape area)	Total Numbers (Tenderer to identify the total numbers of plants for each species)	Spacing (Tenderer to identify the spacing of the plants measured as plants/m2)	Sizes (Tenderer to identify the sizes of the plants either as viro tube, gro tube or advanced trees)	Fertiliser (Tenderer to identify the type and rate of fertiliser or tablets/ plant and weight of the tablets)	Mulching (Tenderer to identify the types, depths and areas of mulching)	Staking & Guards (Tenderer to identify the use of stakes and guards)
1. Low shrub planting in medians for screening headlight glare							
2. Planting at noise walls							
3. Low riparian plants							
4. Specific planting at underpasses							
5. Planting at intersections							
6. All other areas							
TOTAL							

Table 5: Seeding Schedule

Landscape Areas	Species (Tenderer to list all species for each landscape area)	Application rates of seed (Tenderer to identify the application rates of the seeds measured as kg/Ha)	Application rates of fertiliser (Tenderer to identify the application rates of fertiliser measured in kg/Ha)	Area to be hydroseeded (Tenderer to identify the areas to be hydroseeded, measured in m2)	Area to be hydromulched (Tenderer to identify the areas to be hydromulched measured in m2)	Area to be straw mulched (Tenderer to identify the areas to be strawmulched, measured in m2)	Area of other seeding treatment (Tenderer to identify the types and areas of other seeding treatments, measured in m2)
TOTAL							

(e) **Volume III: Technical Details**

The Tender must provide:

(i) Geometric Design (SWTC Appendices 2 and 30)

Concept geometric design in electronic form as an MX database file (model.fil) or a genio file which can be used as input data in MX using MX Major Option Genio, including:

- A. Horizontal and vertical design including control and control grading (Plan scale 1:2000);
- B. Ramp control and control grading;
- C. Cross sections for each component, and running cross sections at a maximum spacing of 25 m (natural scale 1:500);
- D. Overpass and underpass superstructure depths and clearances;
- E. Interchanges and intersection layouts and grades including lengths of acceleration and deceleration lanes;
- F. Local Road layouts and grades;
- G. Pedestrian / pedal cyclist path layout plans including connectivity to existing networks;
- H. Details on how any future additional widened median lanes, carriageways, bridges and structures have been accommodated within the concept geometric design and structural design; and
- I. Temporary roadworks and access provisions including intersection layouts.

(ii) Drainage Design (SWTC Appendix 30)

- A. Concept drainage design including transverse and longitudinal drainage, runoff collection basins, water quality control devices, catch drains and open channels;
- B. Maintenance diaries for unusual/uncommon drainage system components, which must include details on the performance requirements of the various drainage assets, asset items and asset sub-items and associated maintenance treatments and timing of the treatments; and
- C. The name of the drainage design software program that will be used to develop its drainage design.

(iii) Structural Design (SWTC Appendix 30)

- A. Concept designs for each structure proposed, including bridges, overpasses, underpasses, reinforced soil walls, reinforced soil slopes and abutment batter treatments and the strategy to allow for future carriageway widening.

(iv) Pavement Design (SWTC Appendix 12)

- A. RMS has nominated [*insert number*] pavement types in the Scope of Works and Technical Criteria for the Main Carriageways, ramps and Connections. The Tenderer must select one or more of these pavement types and provide detailed designs, inputs and calculations for all pavement types offered;
- B. Location and extent of all pavement types offered;
- C. Completed pavement configuration proformas (layer thicknesses shown on the proformas must be the required construction thickness including the construction thickness allowances required by section 12.5 of Appendix 12 of the Scope of Works and Technical Criteria); and
- D. Completed pavement maintenance diaries, where relevant, for pavements across

expansive subgrades, mines subsidence, soft soils and floodplains and [*include other project specific requirements for maintenance diaries*], which must include details on the performance requirements of the various pavement assets, asset items and asset sub-items and associated maintenance treatments and timing of the treatments.

- (v) Geotechnical Design (SWTC Appendices 11, 30 and 42)
- A. Geotechnical model;
 - B. A schedule of cut batter design solutions and treatments, including a schedule of cuts, estimated cut areas and areas of the various cut batter protection and retaining systems proposed;
 - C. A schedule of foundation treatments;
 - D. A schedule of blasting activities and areas;
 - E. A schedule of embankment construction strategies and stabilisation treatments, including details on the geotechnical design of all reinforced soil walls and reinforced soil slopes;
 - F. Maintenance diaries for all cut batters higher than 6 metres and/or steeper than 2:1 and for all fill batters steeper than 2:1. The maintenance diaries for the batters must include details on the performance requirements of the various batter assets, asset items and asset sub-items and associated maintenance treatments and timing of the treatments; **(To be submitted on request)**
 - G. A schedule of predicted total residual settlement and predicted differential settlements;
 - H. A tabulated estimate of quantities of the following materials from each of the cuttings: earth fill, rock (rock fill, drainage blanket, gabion, armour rock, bridging material), granular soils (select material, RSW backfill, verge, bridging material), and pavement materials. (SWTC Appendix 42); **(To be submitted on request)**
 - I. A tabulated estimate of quantities of the above materials required for construction, identifying materials to be won from site, imported, spoiled on-site and spoiled off site (SWTC Appendix 42); **(To be submitted on request)**
 - J. Location and quantities of acid sulphate soil and acid sulphate rock to be excavated; **(To be submitted on request)** and
 - K. Groundwater management strategy if required or likely to be required by the project EIS.
- (vi) Contractor's Specifications (SWTC Appendix 32)
- A. Specifications, where the Tenderer's specifications are different to RMS specifications, in a form that clearly identifies the differences from RMS specifications.
- (vii) Environmental Design (SWTC Appendix 30)
- Concept environmental design of all environmental mitigation infrastructure and measures, including:
- A. Permanent erosion, sediment, water pollution and water quality controls and measures, including details on water quality control devices and sediment basin locations, capacities, design input parameters, types and controls on release;
 - B. Waterway structures, including protection methods for culvert and bridge construction, and fauna provisions, including fish provisions and fauna and fish friendly scour protection in waterways;

- C. Concept design, including details of design and construction solutions, of the mitigation measures adjacent to environmentally sensitive areas and glider crossing trees;
 - D. Concept design and calculations of construction and operational noise mitigation measures, including noise walls and mounds, noise attenuation works, at-residence operational noise mitigation measures at each noise affected residence, road surfaces and road design provisions to shield noise and demonstrating compliance with the Environmental Documents and the noise contour lines identified in Appendix 9 of the Scope of Works and Technical Criteria; and
 - E. Details on consultation that the Tenderer has had with relevant Authorities, including Environment Protection Authority and Department of Primary Industries (Fisheries Conservation and Aquaculture).
- (viii) Traffic and Staging Arrangements during the Contractor's Work (SWTC Appendix 33)
- A. Temporary roadworks and traffic and staging arrangements during the performance of the Contractor's Work, access arrangements to and from areas of the Construction Site from the existing highway and Temporary Works that are being used by existing highway traffic;
 - B. Each traffic management stage, including details on geometric design, intersection layouts and capacities, pavements, temporary connections, impacts on existing overtaking lanes and Local Road closures;
 - C. Timing of traffic management staging activities and strategies to be implemented during peak traffic flow periods; and
 - D. Information on geometric designs, posted speeds and pavements.
- (ix) Services (SWTC Appendix 30)
- A. Services Works strategy;
 - B. Considerations and actions in relation to Services adjusted by others before and during the Contractor's Work; and
 - C. Overall coordination and interaction with construction staging arrangements and methodology for protecting existing Services, avoiding damage and minimising disruptions.
- (x) Program (Project Deed Exhibit C)
- A. A program for investigation, design and construction (including procurement) demonstrating precedence of activities, critical path, float and contingencies and key milestones (consistent with the initial Construction Plan and in sufficient detail for the evaluation of the Tenderer's initial Design Plan and initial Construction Plan).
 - B. The program must include the durations, timing, sequence and staging of works. The program must include:
 1. Investigation;
 2. Design development;
 3. Design review, verification and Approvals;
 4. Traffic arrangements including staging;
 5. Construction of key items of infrastructure;
 6. Earthworks construction, including clearing activities;
 7. Drainage construction
 8. Materials and product supply, including pre-cast concrete items;

9. Pavement construction;
10. Construction of noise mitigation measures;
11. Bridge and retaining wall structure construction;
12. Staged commencement of operation of Local Road Works proposed by the Tenderer;
13. Local Road closures;
14. Regeneration, reinstatement and early landscape works;
15. Construction of Local Road Works, Service Works and Property Works
16. Provisional Sum Work; and
17. A program narrative that clearly states the basis of the schedule, calendars used, and assumptions made in the program.

For the purposes only of the programs to be included in their Tenders pursuant to this clause 3.2(e)(x), Tenderers' programs should be based on an anticipated execution of the Project Deed on *[insert date]*.

- (xi) Asset Item and Sub-Item Specified Design Lives (SWTC Appendix 29)
 - A. A schedule (SWTC Appendix 29) of Asset Items and Asset Sub-Items and parts thereof for which the design life varies from the specified design life for the Asset Element of which they form a part.

(f) Volume IV: Delivery Strategy

- (i) The Tenderer must demonstrate its project delivery strategy in the form of initial Project Plans and other plans and undertakings. The initial Project Plans, plans and undertakings must mutually address all of RMS' requirements in respect of the Contractor's Work as required in sub-clause (ii) below.

Information provided by the Tenderer in the initial Project Plans and other plans and undertakings should be to a sufficient level of detail to demonstrate the Tenderer's integrated strategy to deal with key Project issues.

- (ii) The Tenderer must provide the initial Project Plans, Project Plans and undertakings detailed in points 1-12 below. The Project specific requirements for the initial Project Plans in points 1 to 6, 10 and 11 below are as detailed in Appendix 3.

Information provided in response to Appendix 3 must not exceed the nominated page limit identified in Appendix 3, using a minimum font size of Arial 10 and A4 paper size except in tables, where a font size of Arial 9 may be used.

1. **Initial Project Management Plan** (SWTC Appendix 35)

The Tenderer must provide the information identified in Appendix 3, Table 1 of this RFT.

2. **Initial Environmental Management Plan** (SWTC Appendix 36)

The Tenderer must provide the information identified in Appendix 3, Table 2 of this RFT.

3. **Initial Design Plan;** (SWTC Appendix 37)

The Tenderer must provide the information identified in Appendix 3, Table 3 of this RFT.

4. **Initial Construction Plan;** (SWTC Appendix 38)

The Tenderer must provide the information identified in Appendix 3, Table 4 of

this RFT.

5. **Initial Community Involvement Plan;** (SWTC Appendix 40)

The Tenderer must provide the information identified in Appendix 3, Table 5 of this RFT.

6. **Initial Earthworks Plan;** (SWTC Appendix 42)

The Tenderer must provide the information identified in Appendix 3, Table 6 of this RFT.

7. **Training and Apprenticeship;**

The Tenderer must demonstrate its commitment and capacity to plan and manage training in accordance with the NSW Government Procurement Guideline *Skills and Training in the Construction Industry*.

The Tenderer must provide the skills and training development details identified in Appendix 3, Table 9 of this RFT, (i.e. "Schedule of Skills Development and Training").

8. **Workplace Relations Management Plan (State);** (SWTC Appendix 45)

The Tenderer must provide the information identified in section 6.1, Obligations in Expressions of Interest or tender response, of the New South Wales Government's Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction.

9. **Workplace Relations Management Plan (Commonwealth);** (SWTC Appendix 44)

The Tenderer must provide the information identified in Part 6 of the Building Code.

10. **Initial Work Health and Safety Management Plan;** (SWTC Appendix 41)

The Tenderer must provide the information identified in Appendix 3, Table 7 of this RFT.

11. **Initial Chain of Responsibility (CoR) Management Plan;** (SWTC Appendix 39)

The Tenderer must provide the information identified in Appendix 3, Table 8 of this RFT.

If successful, the Contractor will be required to provide a monthly report on how the Contractor is meeting compliance with the chain of responsibility provisions of the Heavy Vehicle Law.

12. **Aboriginal Participation**

The Tenderer must demonstrate its commitment and capacity to plan and facilitate Aboriginal participation in employment, training and development of Aboriginal enterprises in accordance with the NSW Government *Policy on Aboriginal Participation in Construction*.

The Tenderer must provide in its Tender:

a) evidence of its ability to meet the obligations under the Policy on the Contract;

b) details of its Aboriginal participation in construction performance outcomes on other RMS or NSW Government contracts;

c) an undertaking that, in the event that it becomes the Contractor, it is prepared to provide an Aboriginal Participation Plan and the Aboriginal Participation Reports, which must comply with the Policy; and

- d) proposed exclusions for determining the TPS (as defined in clause 4.10.3(c) of this RFT).
- (iii) The Tenderer must identify the elements of the design (design lots) that the Tenderer proposes to be covered by item 25A of Schedule 1 of the Project Deed.
- (g) Volume V: Project Cost (Excluding Project Verifier and Environmental Representative)**
- (i) The Contractor's Work is to be divided into a number of Cost Centres allocated to the following schedules to the Project Deed:
- A. Design Payment Schedule; and
- B. Construction Payment Schedule.
- (ii) Each of these Cost Centres represents a major item or series of interrelated items associated with the Contractor's Work.
- (iii) The Cost Centres are subdivided into a series of Milestones. Payment for the Contractor's Work will be made against progressive achievement of each Milestone in accordance with clause 18 of the Project Deed.
- (iv) Any Service Work not included in Schedule 2, Milestone 5 or Schedule 3, Cost Centre 9 as Provisional Sum Works must be allowed for elsewhere in either the Design Payment Schedule or the Construction Payment Schedule.
- (v) In respect of the Contractor's Work the Cost Centres and Milestones currently included in the Project Deed are based upon RMS' assumptions as to methods of construction and program for the Project Works, Landscaping Maintenance and Temporary Works. The Tenderer must break down the milestones in the Design Payment Schedule to reflect the Tenderer's proposed method for development of the Design Documentation and to provide payment information for the design elements within the milestone.
- (vi) In the event that the proposed methods of construction or program differ significantly from the assumptions inherent in the content of Cost Centres, the selection and description of Milestones and/or the periods for the achievement of Milestones, the Tenderer may propose alternative descriptions of the Cost Centres and Milestones, and/or alternative periods for their achievement (except for the Milestones that identify the noise attenuation works). The Tenderer must include with its Tender an explanation of, and the reasons for, any such changes. The principles to be followed must reflect the approach taken in the payment schedules as listed below.
- (vii) The precise description of the work to be achieved in the Cost Centres and Milestones must be submitted with the Tender having regard to the Tenderer's proposed methods and programs for performing the Contractor's Work and be in sufficient detail to accurately determine and check the quantum of progressive payments claimed under the provisions of clause 18.2 of the Project Deed. The Tenderer must submit the following details:
- A. Payment Schedules
- Design Payment Schedule including payment constraint information, excluding the amounts for:
 - Project Verifier's design verification services including Project Verifier's fees and Contractor's margin and contingency – (Schedule 2, Milestone *[insert number]* to the Project Deed); and
 - Environmental Representative's design phase services including Environmental Representative's fees and Contractor's margin and contingency – (Schedule 2, Milestone *[insert number]* to the Project Deed).
 - Construction Payment Schedule including a comprehensive breakdown and details on the noise attenuation works, excluding the amounts for:

- Project Verifier's construction verification services including Project Verifier's fees and Contractor's margin and contingency – (Schedule 3, Cost Centre 1, Milestone *[insert number]* to the Project Deed); and
 - Environmental Representative's construction phase services including Environmental Representative's fees and Contractor's margin and contingency – (Schedule 3, Cost Centre 1, Milestone *[insert number]* to the Project Deed).
3. Further to clause 4.2(d) of this Request for Tender, the electronic copy of the Tender must include the Design Payment Schedule and the Construction Payment Schedule identified in clause 3.2(g)(vii)A.1 and 2 in both portable document format (pdf) and native Microsoft Excel (xls) formats.

B. Cash Flow

1. Projected cash flow for the design and construction of the Project Works, Landscaping Maintenance (and any Temporary Works), consistent with the Contract Program and the amounts in each Milestone in the Design Payment Schedule and the Construction Payment Schedule (Schedules 2 and 3 to the Project Deed).

C. Variations

1. Schedule of hourly rates for design Variations (Schedule 2 to the Project Deed).

If the positions in the Tenderer's design organisation are different from those specified in the Contractor's Hourly Rates table (Schedule 2 to the Project Deed), the Tenderer may leave some positions blank or change them to the appropriate Tenderer's positions.

The Tenderer is required to cross reference the categories of positions which the Tenderer includes in this table, with the CVs submitted under clauses 3.2(c)(iii) and (iv).

(h) Volume VI: Financial and Resource Capacity

The Tenderer, including each Participant, must have sufficient financial capacity, liquidity and resource availability, in the opinion of RMS, to satisfactorily undertake the Project.

The Tenderer and each Participant must acknowledge and agree in the Tender to provide all information that may be requested by RMS, including the information outlined in clauses 3.2(h)(i) and 3.2(h)(ii), to be used in assessing the financial capability of the Tenderer's and each Participant's ability to design and construct the Project and the Parent Company's capability. Where the Tenderer or Participant is a trustee, the financial information will be required for both the trust and the trustee.

In addition, RMS may require financial assessments to be undertaken of the Contractor, during the course of the contract.

(i) Financial Details (**To be submitted on request**)

A. Financial statements for the past three financial years.

1. Financial statement should preferably be prepared in accordance with Australian Accounting Standards. Financial statement should contain a Balance Sheet, Profit and Loss Statement, summary and detailed), Statement of Cash Flows, Notes to the Accounts, Compilation Report (if externally prepared), Director's / Trustee Report (if prepared), and Auditor's Report (if required to be audited).

2. Most recent half-yearly or management accounts (preferably no more than 6 months old)
 3. Forecast Balance Sheet and Profit & Loss to the end of the current financial year.
 4. Forecast Cash Flow Statements to the end of the current financial year.
- B. Contracting entity
1. The Tenderer must ensure that the financial information provided relates to the contracting entity itself.
- C. Business details
1. Brief description of business and company history.
- D. Ownership and structure
1. Details of directors and executive managers including their background and experience and contingency plans for risk management.
 2. An organisational chart showing internal management structure and key positions.
- E. Wider corporate tree
1. Diagram of corporate relationships and listing of related parties.
 2. Listing of all related party loans.
- F. Key customers
1. For 20 largest clients, prepare information including client name, number of jobs completed in last 12 months and percentage of total revenue in last 12 months.
- G. Working capital management
1. Ageing analysis of all trade debtors and trade creditors i.e. 1-30 days, 31-60 days, 61-90 days, over 90 days.
 2. Individual ageing debtor analysis of top 50 trade debtors by total amount owed.
 3. Individual ageing creditor analysis of top 50 trade creditors by total amount owing.
- H. Supplier concentration
1. Listing of critical suppliers and value of spend in past 12 months.
- I. Projects
1. Listing of current tender's submitted and potential value.
 2. A list of all contract works and services currently being undertaken by the Tenderer for a client including details of RMS or client for each contract, the contract value, the percentage completed and payments received to date.
 3. Summary of forecast revenue in the current financial year end based on work remaining from secured work.
- J. Claims
1. Summary of any significant claims against the Tenderer or by the Tenderer that could affect financial capacity
- K. Regulatory environment

1. List of major regulatory requirements governing the operation of the business.
- L. Financing facilities
1. Listing of all banking facilities such as overdraft, loan facilities and bank guarantee facilities including facility limit, amount drawn and amount remaining. Details of any refinancing required and covenants that exist between the company and financial organisations.
 2. A recent letter from a bank or financier confirming the banking facility details is required.
- M. Trade survey information
1. Nomination of at least 10 suppliers and 10 subcontractors with fax and email contact details for assessors to conduct trade surveys.
- N. Cash flow forecasts
1. Tenderers must submit a detailed monthly cash flow forecast for the 12 months from the last financial year end to the current financial year end together with information regarding assumptions relating to the forecasts, or other relevant information requested by the financial assessor. and
- O. RMS may, at its sole discretion, request the Tenderer to provide further financial information prior to or after the Closing Date and Time.
- (ii) **Holding Entity (To be submitted on request)**
- A. Where the Tenderer entity, its shareholder or other relevant party is a company, joint venture, trust or other form of interposed entity, trace the relevant beneficial interests to its holding entity and provide the above information for that holding entity.

(iii) **Available Resources**

The Tenderer must submit a schedule containing sufficient information to enable full and proper evaluation of the Tenderer's resource availability.

The following must be provided:

- A. List of all Australian contracts currently in progress, or awarded or at preferred or recommended tenderer stage, detailing the principal for each contract, the contract value, percentage completed and payments received to date and the expected completion date.
- B. A detailed schedule, on a project-by-project basis, of all tenders in which the Tenderer is presently participating.
- C. Tenderers must also provide:
 1. the current role of personnel nominated for the Contractor's Work and their nominated role in the Contractor's Work;
 2. the date at which these personnel become allocated to Contractor's Work;
 3. the current location of key items of construction equipment proposed to be used in performing the Contractor's Work; and
 4. the latest date by which that equipment is proposed to be delivered to the Construction Site.

(i) **Volume VII: Project Verifier, Environmental Representative and DAB Nominees**

(i) **Project Verifier**

- A. Project Verifier (Project Deed Schedule 12)

1. The Tenderer must nominate in its Tender two entities that the Tenderer considers suitable and capable of performing the Project Verifier's services and that are available to be engaged as the Project Verifier for the duration of the period for provision of the Project Verifier's services.
 2. The Tenderer must provide, for each of the entities, details on:
 - the technical skills and experience of the personnel and support personnel nominated to provide the project verification services;
 - past performance of the nominated entities in providing project verification services on similar projects;
 - the capability, management systems and skills for the delivery of project verification services on this project; and
 - the financial capacity to provide the project verification services on this project.
- B. The Tenderer must provide written confirmation from the Tenderer and the two nominated Project Verifiers that the Tenderer and the nominated Project Verifiers accept the terms of the Deed of Appointment of Project Verifier in Schedule 12 of the Project Deed, including the scope of the Project Verifier's Services in the form of Schedule 12B of the Deed of Appointment of Project Verifier and are prepared to execute the Deed of Appointment of Project Verifier.
- C. The Tenderer must provide an **Initial Verification and Monitoring Plan** (Deed of Appointment of Project Verifier, Schedule 12D) from each nominated Project Verifier.
- The Initial Verification and Monitoring Plan must address the methodology to be applied to the provision of the Project Verifier's services, to achieve the Minimum Requirements identified in the Deed of Appointment of Project Verifier. The nominated personnel and subcontractors must be identified, including the Project Verifier's environmental and landscaping design and surveillance personnel that are to be engaged on and off the Construction Site.
- D. The Tenderer must provide a Project Verifier's Payment Schedule including all information required in clauses 4, 6 and 8 of the Schedule - (Schedule 12C to the Deed of Appointment of Project Verifier) for each nominated Project Verifier. The Project Verifier's fees must be the same as the amounts identified in Items 3.1(a), 3.2(a), 4.1(a) and 4.2(a) of the table in clause 1.1 of the Tender Form.
- E. For each nominated Project Verifier the Tenderer must provide amounts to represent the Contractor's margin and contingency to be applied to the Project Verifier's fees (which must be the same as the amounts identified in Items 3.1(b), 3.2(b), 4.1(b) and 4.2(b) of the table in clause 1.1 of the Tender Form).
- F. Once a Recommended Tenderer has been selected and subject to RMS' rights under clause 2.3(e) of the Request for Tender, RMS will advise that Recommended Tender of the nominated Project Verifier entity chosen by RMS to be engaged as the Project Verifier under the Deed of Appointment of Project Verifier. The chosen Project Verifier's fees including the Contractor's margin and contingency will be included in the Design Contract Sum and the Construction Contract Sum as appropriate.

(ii) Environmental Representative (Project Deed Schedule 30)

- A. The Tenderer must nominate in its Tender not less than three persons available to be engaged as the Environmental Representative (ER) for the duration of the period for provision of the services to be provided by the ER, including details on the:

- Qualifications, experience and expertise of the three persons nominated for the ER, including demonstration of their compliance with the qualification and experience criteria specified for Environmental Auditors in AS/NZS ISO 19011:2003 Guidelines for Quality and/or Environmental Management Systems Auditing;
 - Estimated time (hours) anticipated for the ER to undertake the ER's services;
 - Timing of the ER's services; and
 - Structured processes and reporting protocols for the performance of the ER's services.
- B. The Tenderer must provide written confirmation from the Tenderer and the three nominated ERs that the Tenderer and the nominated ERs accept the terms of the Deed of Appointment of ER in Schedule 30 of the Project Deed, including the scope of the ER services in the form of Schedule 30B of the Deed of Appointment of ER and are prepared to execute the Deed of Appointment of ER.
- C. The Tenderer must provide an ER's Payment Schedule including all information required in clauses 4, 6 and 8 of the Schedule - (Schedule 30C to the Deed of Appointment of ER). This Payment Schedule must cover the costs of any of the three persons nominated in Volume VII (ii)A. as available to be engaged as the ER and will apply regardless of which ER RMS choose to be engaged. The ER's fees must be the same as the amounts identified in Items 5.1(a) and 5.2(a) of the table in clause 1.1 of the Tender Form.
- D. The Tenderer must provide the Contractor's margin and contingency to be applied to the ER's fees (which must be the same as the amounts identified in Items 5.1(b) and 5.2(b) of the table in clause 1.1 of the Tender Form). The Contractor's margin and contingency must include any allowance for risk that the Tenderer considers necessary in relation to the selection of the ER by RMS, including any risk related to the performance of the ER. This margin will apply regardless of which ER RMS choose to be engaged.
- E. If RMS determines that none of the nominated ERs is suitable or capable of performing the ER's services, including not demonstrating that the personnel proposed to undertake the ER's services have sufficient technical skills, qualifications, experience and competence, RMS may reject the nominated ERs and require the Tenderer to nominate alternative ERs and to provide all of the details required by clause 3.2(i)(ii)A. to 3.2(i)(ii)D.
- F. Once a Recommended Tenderer has been selected RMS will, in its absolute discretion and subject to RMS' rights under clause 3.2(i)(ii)E of the Request for Tender, choose one of the ERs nominated by the Recommended Tenderer and advise the Recommended Tender which nominated ER entity is to be engaged as the ER under the Deed of Appointment of ER. The chosen ER's fees including the Contractor's margin and contingency will be included in the Design Contract Sum and the Construction Contract Sum as appropriate.

(iii) Dispute Avoidance Board

- A. Nominations for DAB member (Project Deed Schedules 38 and 39)
1. The Tenderer must nominate in its Tender two persons that the Tenderer considers suitable as its nominees for appointment as a DAB member and who are available to be appointed for the duration of the period of engagement contemplated for the DAB (in this clause **'Tenderer's nominees'**).
 2. The Tenderer must provide, for each of the Tenderer's nominees, details on:

- the technical skills and experience of the person relevant to the criteria in Schedule 39 of the Project Deed;
 - any matters which may be construed as a conflict of interest in respect of a prospective Member, or Member, under the criteria in Schedule 39 of the Project Deed.
- B. The Tenderer must provide a disclosure statement for each of the Tenderer's nominees, signed by the relevant nominee and setting out details on the matters specified in part 2 of Schedule 39 of the Project Deed.
- C. The Tenderer must provide written confirmation from the Tenderer and each of the Tenderer's nominees that the Tenderer and the Tenderer's nominees accept the terms of the DAB Agreement in Schedule 38 of the Project Deed and are prepared to execute the DAB Agreement.
- D. The Tenderer must provide a Schedule of Fees and Disbursements for each of the Tenderer's nominees that would be included in Appendix 3 of the DAB Agreement in respect of the selected nominee.
1. The Fees for each of the Tenderer's nominees are to be:
 - a. a fixed Monthly Retainer fee, including initial review of contract documentation, routine review of Project minutes and reports, preparation for DAB meetings and internal communications between DAB members (which must be the same as the amounts identified in Items 6.1 and 7.1 of the table in clause 1.1 of the Tender Form);
 - b. based on a Daily Fee for routine DAB meetings at nominal frequency of 2 or 3 monthly intervals, including travel time (which must be the same as the amounts identified in Items 6.2 and 7.2 of the table in clause 1.1 of the Tender Form); and
 - c. based on an hourly rate for all other services including advisory opinions, determinations relating to actual disputes and other activities not covered by the Monthly Retainer and Daily Fee (which must be the same as the amounts identified in Items 6.3 and 7.3 of the table in clause 1.1 of the Tender Form).
 2. The rates in 1a, 1b and 1c above are to include all costs, disbursements and expenses, excluding:
 - escalation provision (which is an annual adjustment from the anniversary of date of the DAB Agreement)
 - travel and accommodation outside of Sydney; and
 - any third party costs contemplated under clause 6(b)(i)(B) of the DAB Agreement (including any booking fee, room hire and transcript costs),
 which are to be paid as specified in Appendix 3 of the DAB Agreement.

(j) Volume VIII: Options

The Tenderer must in respect of any options (including mandatory options required under clause 3.1(b)):

- (i) provide a detailed schedule with descriptions of each and any option offered for RMS' consideration;
- (ii) provide a schedule setting out changes to the conforming Tender, including payment schedules, design details sufficient to define the option and any changes to the Project Plans and programs applicable to each option offered;
- (iii) provide separately changes to the conforming Tender in relation to the Project Verifier's

- Payment Schedule for each nominated Project Verifier as required by clause 3.2(i)(i)D;
- (iv) provide separately changes to the conforming Tender required by the Environmental Representative in relation to the Environmental Representative's Payment Schedule as required by clause 3.2(i)(ii)D;
 - (v) provide details of any environmental impacts that vary from or are inconsistent with the requirements and impacts identified in the Environmental Documents and whether any changes may be required to the Approvals obtained by RMS;
 - (vi) provide details of any changes to the Program for each option offered;
 - (vii) provide precise change(s) proposed to the wording of the Project Deed, including the Project Deed schedules, exhibits and payment schedules (including those in the Deed of Appointment of Environmental Representative and Deed of Appointment of Project Verifier) for each option offered; and
 - (viii) Further to clause 4.2(d) of this Request for Tender, the electronic copy of the Tender must include modified Design Payment Schedule and the Construction Payment Schedule as identified in clause 3.2(j)(ii) in both portable document format (pdf) and native Microsoft Excel (xls) formats.

4. TENDER CONDITIONS

4.1 GENERAL

- (a) The Tenderer must submit a Tender which conforms to the Tender Conditions and the Project Deed. The Tenderer is invited to submit a Tender for the Contractor's Work on the terms of the Tender Documents. The Contractor's Work will be performed in accordance with the Project Deed.
- (b) RMS attaches importance to options that may offer better value for money. If the Tenderer wishes to submit an option, it must do so in accordance with clause 3.1 of this Request for Tender.
- (c) Any enquiries which the Tenderer has must be directed in writing to RMS Representative.

4.2 CONFORMING TENDER REQUIREMENTS

- (a) To submit a conforming tender, the Tenderer must submit a Tender in accordance with the requirements of this clause 4.2.
- (b) The Tender must be:
 - (i) submitted in the format required by this Request for Tender and include the Tender Form accompanied by:
 - A. a statutory declaration included in Appendix 2 of this Request for Tender duly completed by an authorised representative of each Participant in the Tenderer; and
 - B. the details required by clause 3.2 of this Request for Tender and in respect of Volume 1: Commercial Issues, details for each Participant in the Tenderer; and
 - (ii) in compliance with these Tender Conditions and the Project Deed. The only changes to the Project Deed that will be contemplated in respect of the conforming Tender will be the insertion of the name of the Tenderer entity, the inclusion of the completed Project Deed schedules and the inclusion of information submitted by the Recommended Tenderer which RMS (in its absolute discretion) believes captures the features of its Tender.
- (c) The Tender must be endorsed to confirm that the Tenderer has allowed in its Tender for the requirements contained in all addenda issued to Tenderers, each addendum to be identified by its number and date of issue.
- (d) The Tenderer must submit:
 - (i) one (1) electronic copy of the Tenderer's Tender; and
 - (ii) one (1) printed copy of the following:
 - A. the Tender Form required by clause 4.2(b);
 - B. Annexure 1 to the Tender Form – Schedule of Compliance with NSW Guidelines;
 - C. Annexure 2A to the Tender Form – Declaration of Compliance with Building Code;
 - D. Annexure 2B to the Tender Form – Confirmation of WHS Accreditation Status; and
 - E. the Statutory Declaration required by clause 4.2(b)(i)A.

In the event of any discrepancies between the printed and electronic copies of documents required by this clause 4.2(d), the printed copy will prevail.

NOTE TO DOCUMENTER (Delete this boxed text after customising the text and the table below):

Paragraphs (iii) to (xviii) and the table below this Guide Note are provided as an example only.

They need to be modified for each project to suit the project specific needs.

RMS Project Manager needs to consider the project specific requirements for handling the tender submissions, including the requirements for arranging the Tender content by Tenderers (and separation of financial details), receiving, copying, printing (if any) and distributing (parts of) Tenders to relevant Tender Evaluation Team members, as well as the requirements to secure Tenders during the evaluation process.

The most efficient and flexible method should be established for each project, while still maintaining an appropriate level of security (particularly for parts of tenders that contain financial and confidential commercial details).

These requirements need to be considered before the RFT is issued, so that the relevant submission requirements are included in the RFT.

If portable drives are specified as media for submission of the electronic copy of tenders, an advice from RMS IT must be obtained as to how to go about it (i.e. password protection or encryption or combination of both), so that compatibility with RMS IT infrastructure is achieved and that the tender submissions can be read and copied as required by the evaluation process. Relevant submission requirements are to be included in the RFT, as advised by RMS IT.

The electronic copy must comply with the following requirements:

- (iii) the electronic copy must be on the CD-R, DVD+R or portable drives (like USB memory sticks or other types of portable drives); [SEE GUIDE NOTES ABOVE, LAST PARAGRAPH]
- (iv) files must not include macros, applets or executable code or files;
- (v) if files are compressed, they must not be self-extracting (*.exe) zip files;
- (vi) file names must include the Tenderer's name (or abbreviated name, if the Tenderer's full name is too long);
- (vii) file names must have an extension and not have invalid characters or file names/loading path names too long for the system;
- (viii) documents must be in MS Word or pdf format (other than spreadsheets which may be in MS Excel format) unless otherwise required by the RFT;
- (ix) A3 pages must not be interspersed with A4 pages within a file; A3 pages must be provided as Attachments/Appendices, at the end of any A4 file;
- (x) cover pages, dividers, tabs and spines (where used) must be provided as separate files and must not contain pictures;

- (xi) the files in the electronic copy must be consolidated into logical groupings of documents in separate pdfs, MS Word or Excel documents; individual drawings must not be presented in separate pdfs;
- (xii) maximum file size is 50MB, other than drawing files, which may be a maximum of 100MB;
- (xiii) a disc or portable drive can contain multiple Volumes of Tender information;
- (xiv) each disc or portable drive must have a contents sheet named “Table of Contents”; the contents sheet must include electronic file names;
- (xv) each disc or portable drive must have a label to identify the data it contains; the label must also show the Tenderer’s name and the Project name;
- (xvi) where more than one disc or portable drive is required for a particular Volume of information, each disc’s or portable drive’s label must identify a portion of data provided on it (e.g. Volume III: Part 1, Volume III: Part 2, etc.)
- (xvii) Volume V (Project Costs), Volume VII (PV, ER and DAB), Volume VIII (Options) and all other files containing costs information are to be provided on a separate disc or portable drive;
- (xviii) the arrangement of the Tender content into discs or portable drives must be organised in the folder structure to match the format specified in clause 3.2 for each Volume of information unless shown otherwise in the table below;

Volume	Folder	Subfolder
Volume I		
Volume II	Reports	
	Drawings	
	3D Visualisations	
Volume III	Geometric Design	Electronic Files
		Drawings (excluding cross sections) (pdf)
		Cross Sections (pdf)
		Reports
	Drainage Design	Electronic Files
		Drawings (pdf)
		Reports
	Structural Design	Electronic Files
		Drawings (pdf)
		Reports
	Pavement Design	Electronic Files
		Drawings (pdf)
		Reports
	Geotechnical Design	Electronic Files
		Reports

Volume	Folder	Subfolder
	Contractor's Specifications	
	Environmental Design	Electronic Files
		Drawings (pdf)
		Reports
	Traffic and Staging	Electronic Files
		Drawings (pdf)
		Reports
	Services	Drawings (pdf)
		Reports
	Program	
Asset Item and Sub-Items		
Volume IV	Initial PMP	
	Initial EMP	
	Initial Design Plan	
	Initial Construction Plan	
	Initial Community Involvement Plan	
	Initial Earthworks Plan	
	Training and Apprenticeship	
	WRMP (State)	
	WRMP (Commonwealth)	
	Initial WHSMP	
	Initial CoR Management Plan	
	Aboriginal Participation	
	Elements of Design covered by Item 25A of Schedule 1	
Volume V	Design Payment Schedule	Electronic Files
		(pdf) files
	Construction Payment Schedule	Electronic Files
		(pdf) files
	Cash Flow	
Variations		
Volume VI		
Volume VII	Project Verifier	PV I
		PV II
	ER	ER I
		ER II
		ER III

Volume	Folder	Subfolder
	DAB	DAB I
		DAB II
Volume VIII	Option (...)	Electronic Files
		Drawings (pdf)
		Reports

- (e) The Tenderer must ensure that the electronic files as submitted can be read electronically; corrupted files may make the Tender non-conforming.
- (f) The common seal of each Participant in the Tenderer is to be affixed to the Tender Form, in the manner prescribed by the relevant Participant's constitution or alternatively, must be signed for and on behalf of each Participant in the Tenderer by a person or persons having full authority to bind the Tenderer for the purposes of the Contractor's Work.
- (g) Each Participant in the Tenderer is to provide the address of its registered office and its ACN or ABN.
- (h) Each Participant in the Tenderer is to include details, as applicable, of the relevant Participant about:
- (i) any trading or business name, if different from its registered name; and
 - (ii) related bodies corporate within the meaning of the Corporations Act 2001 (Cth).
- (i) The Tenderer must include the name, fax and telephone number of a company contact and an address, not a post box, for service of notices for the purposes of this Request for Tender and any subsequent contract arising from this Request for Tender.
- (j) Unless otherwise specified, measurements must be expressed in Australian legal units of measurements and all prices stated in the Tender are to be stated in Australian dollars.
- (k) Tenders are to be:
- (i) enclosed in a sealed package not larger than 400mm x 270mm x 190mm, and:
 1. endorsed with the words "[insert Project Name], Design & Construct and Landscaping Maintenance";
 2. marked "**Tender Box/Strictly Private and Confidential**"; and
 - (ii) delivered by the Closing Date and Time (as specified in clause 4.22(a)(viii)) to:

Ground Level
20-44 Ennis Road
MILSONS POINT NSW 2061
- (l) In the event that the Tenderer's Tender does not fit into one sealed package of the dimensions specified in paragraph (k) above, the Tenderer can submit multiple packages each not exceeding the specified dimensions. Each package must be additionally identified with "Volume 1", "Volume 2", etc., as relevant. Submission of Tenders by e-mail, facsimile, post or other similar means will not be accepted.
- (m) Tenders are to remain valid for a period of 180 days from the Closing Date and Time. The Tenderer may not withdraw its Tender during this period.

4.3 LATE TENDERS

- (a) A Tender lodged after the Closing Date and Time is a late Tender.

- (b) A late Tender will be excluded from consideration unless RMS otherwise determines, in its absolute discretion and without having any obligation to do so, that it is appropriate for a late Tender to be considered.

4.4 TENDERER TO INFORM ITSELF

- (a) The Tenderer must:
 - (i) examine the Tender Documents, the Construction Site and its surroundings, and any other information made available in writing by RMS, or any other person on RMS behalf, to the Tenderer for the purpose of tendering;
 - (ii) examine all information relevant to the risks, contingencies and other circumstances having an effect on its Tender and which is obtainable by the making of reasonable enquiries;
 - (iii) at its own cost and expense (except where RMS at its expense carries out any further testing under clause 1.4 of this Request for Tender), satisfy itself as to all matters and things relevant to these Tender Conditions and the Information Documents from its own investigations, evaluations, interpretations and sources;
 - (iv) satisfy itself as to the correctness and sufficiency of its Tender and that its price covers the costs of complying with all the obligations of the Tender Documents and of all matters and things necessary for the due and proper performance and completion of the Contractor's Work and the Contractor's obligations under the Project Deed;
 - (v) inform itself of all matters relevant to the employment of labour at the Construction Site and all industrial matters relevant to the Construction Site, the Contractor's Work and the Contractor's obligations under the Project Deed;
 - (vi) itself secure access to any part of the Construction Site it requires to carry out its own investigation and testing for design purposes or otherwise; and
 - (vii) take such professional advice as is appropriate for a project of this type.

4.5 NON-CONFORMING TENDERS

- (a) Any Tender will be regarded as non-conforming and may be rejected if it:
 - (i) does not conform with, or is not lodged in accordance with, the requirements of clause 4.2 of this Request for Tender; or
 - (ii) contains alterations or erasures or sets out prices or otherwise any contents which are not clearly and legibly stated.
- (b) RMS may however, in its absolute discretion and without having any obligation to do so, take into account and accept any non-conforming Tender.

4.6 PRE-REQUISITES TO ACCEPTANCE

- (a) Subject to clause 4.6(b) of this Request for Tender, no Tenderer will be permitted to alter its Tender after it has been submitted.
- (b) Notwithstanding any other requirements of the Tender Documents, RMS may require the Tenderer to submit additional information, add further offers, rectify a non-conformity or make a formal presentation for the purpose of explaining Tender details to allow further consideration of its Tender before any Tender is accepted.
- (c) If the Tenderer fails to submit any of the information required by the date and time stipulated by RMS, the Tender may be treated as non-conforming.

- (d) Without limiting this clause 4.6, RMS may require that the Tenderer submit similar information to that required to be furnished by the Tenderer by the Tender Conditions in respect of any of the Subcontractors to whom it proposes to subcontract any part of the Contractor's Work.

4.7 ACCEPTANCE OF TENDERS

- (a) This Request for Tender is not an offer by RMS. It is merely a Request for Tenderers to submit an offer to RMS on the terms of the Tender Documents. RMS is not bound or required to accept the lowest price or any Tender, whether conforming or not.
- (b) RMS may, in its absolute discretion, choose whether or not to select any Tenderer as the Recommended Tenderer. If RMS selects a Recommended Tenderer, RMS must notify each Tenderer in writing of its decision.
- (c) Without limiting clause 4.7(a) of this Request for Tender, RMS or the State may, in their absolute discretion, at any time elect:
 - (i) not to proceed with the tender process or the Project, or any part of the Project; or
 - (ii) to proceed with the Project, or any part of the Project, in any way, whether or not contemplated by the Tender Documents.
- (d) RMS reserves the right in its absolute discretion (without any obligation to do so) and without limiting any other right which it may have whether under this Request for Tender or otherwise, to do any one or more of the following at any time without giving reasons:
 - (i) reject or refuse to consider or evaluate any Tender or all Tenders;
 - (ii) amend this Request for Tender;
 - (iii) withdraw this Request for Tender;
 - (iv) terminate the tender process;
 - (v) advertise for new Tenders;
 - (vi) terminate further participation in the process by any Tenderer;
 - (vii) require additional information or further offers from any Tenderer;
 - (viii) alter or vary any process or procedure regarding the consideration or the evaluation of any Tender or all Tenders;
 - (ix) waive any irregularities in the tender process or in any Tender;
 - (x) vary funding for the Project;
 - (xi) extend or change the Closing Date and Time;
 - (xii) accept a substitution of, withdrawal of, or addition to any of the parties comprising a Tenderer; or
 - (xiii) reject any Tender lodged by any Tenderer who has breached the NSW Code referred to in clause 4.10.1(a) of this Request for Tender or the Building Code referred to in clause 4.11(a) of this request for Tender, or engaged in any collusive tendering, anti-competitive conduct or any similar conduct with any other Tenderer or Participant or any other person in relation to the preparation or lodgement of their Tender.
- (e) By submitting a Tender the Tenderer acknowledges that:
 - (i) subject only to:
 - A. the obligations expressly referred to as being created by the submission of a Tender and the obligation under clause 4.2(m) of this Request for Tender on the Tenderer to ensure that its Tender remains valid for the period referred to in that clause;

B. the terms of the Deed of Disclaimer; and

C. the terms of the Tender Form,

the submission of a Tender does not create a contract or legal or other relationship between the Tenderer and RMS or impose any other obligations at law upon RMS or the State or any of their respective officers, employees, advisers, contractors or agents, whether as a result of the tender process or otherwise in respect of the Tender or the evaluation of the Tender by RMS;

(ii) a Tender will not be deemed to be accepted unless and until the Project Deed is executed by RMS;

(iii) RMS will not be under any obligation to act in any particular manner or refrain from acting in any particular manner in evaluating a Tender; and

(iv) despite any other provision in the Tender Documents, a Tenderer has no right to appeal, object to or make a claim against RMS in respect of:

A. the selection of a Tenderer as a Recommended Tenderer;

B. any other decision, determination, evaluation or analysis by RMS as part of the evaluation processes; or

C. anything else arising from its Tender, this Request for Tender, Tender Documents or anything related to them or the tender process,

and the Tenderer waives all rights to do so.

(f) The Project Deed will come into force on the date that it is executed by RMS.

(g) Without limiting any other part of this clause 4.7, by submitting a Tender each Tenderer acknowledges and agrees that neither RMS nor the State will be liable upon any claim by any Tenderer whether in tort, contract, equity, at law, under statute or otherwise, arising out of, or in any way in connection with:

(i) RMS or the State exercising, or failing to exercise, any of their rights under this clause 4;

(ii) anything that RMS does or fails to do as part of the tender process, including in the evaluation of Tenders;

(iii) any of the matters or things relevant to the Project in respect of which the Tenderer must satisfy itself under the Tender Documents, including the Tender Conditions; or

(iv) any loss, damage or cost from any aspect of this Request for Tender or processes, activities or circumstances associated with or related to this Request for Tender, including the preparation of a Tender or the exercise by RMS of any discretion, or the evaluation by RMS of any Tender.

(h) Except as expressly stated in the Tender Conditions, RMS has no obligations or liabilities to any Tenderer or Participant in respect of this Request for Tender or the Tender evaluation process and to the maximum extent permitted by law, any obligations and liabilities which may otherwise be implied or imposed on RMS under contract, in tort including negligence, in equity, at law, by statute or otherwise are excluded.

4.8 COSTS OF TENDERING

(a) No payment will be made by RMS to the Tenderer for any costs, losses or expenses incurred by the Tenderer in preparing its Tender or in respect of any discussions, negotiations, enquiries or site inspections or any work undertaken by the Tenderer. This clause applies whether or not RMS accepts a Tender or rejects all Tenders.

4.9 MATTERS AFFECTING THE TENDER PRICE

- (a) Tendered prices are to include all costs of complying with the Tender Documents and associated with carrying out all matters and doing all things necessary for the due and proper performance and completion of the Contractor's Work.

4.10 COMPLIANCE WITH NSW GOVERNMENT POLICIES AND GUIDELINES

4.10.1 NSW Government Code of Practice for Procurement and Implementation Guidelines

Terminology

- (a) The *New South Wales Government's Code of Practice for Procurement (NSW Code)* and the *New South Wales Government's Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction (NSW Guidelines)* apply to this Project.
- (b) Terms used in this clause 4.10.1 have the same meaning as is attributed to them in the NSW Guidelines.

Primary obligation

- (c) By submitting a Tender to undertake the Contractor's Work, the Tenderer acknowledges and agrees that it:
- (i) is aware that the *NSW Code* and *NSW Guidelines* apply to the Project;
 - (ii) is taken to have read and understood the *NSW Code* and *NSW Guidelines* and the obligations they impose;
 - (iii) will comply with the *NSW Code* and *NSW Guidelines* on this Project, which includes giving access to authorised personnel to inspect any work, material, or machinery, inspect and copy any record relevant to the Project, and interview any person;
 - (iv) will agree, if successful in this tender process, to contractual terms that give effect to the *NSW Code* and *NSW Guidelines* and mechanisms to ensure their compliance and enforcement; and
 - (v) will comply with, and ensure all of its related entities (as defined in the *NSW Guidelines*) comply with, the *NSW Code* and *NSW Guidelines* in respect of any of their building and construction work (including any subsequent privately funded work), on and from the date of submitting a Tender.

Cost, efficiency, productivity and workplace safety

- (d) The Tenderer agrees that it must include in its Tender
- (i) a Workplace Relations Management Plan (State), where clause 3.2(f)(ii)8 of this Request for Tender specifies that such a Plan is required, and any other documents and information necessary to meet the requirements of section 6.1 of the *NSW Guidelines*;
 - (ii) a Work Health and Safety Management Plan or Site Specific Safety Management Plan (as required in clause 3.2(f)(ii)10 of this Request for Tender) and any other documents and information necessary to meet the requirements of section 9 of the *NSW Guidelines*; and

- (iii) the Schedule of Compliance with NSW Guidelines which is set out in Annexure 1 to the Tender Form at Appendix 2, properly executed by or on behalf of the Tenderer.
- (e) The Tenderer acknowledges that, by submitting a Tender, it agrees to RMS and the NSW Government Construction Compliance Unit (CCU) taking any steps to investigate claims, statements and assertions made by the Tenderer in any of the documents referred to above in clause 4.10.1(d) before any contract is awarded. The Tenderer acknowledges and agrees to co-operate with RMS and the CCU in respect of the investigation of compliance with the *NSW Code* and *NSW Guidelines* and further agrees that compliance is a mandatory requirement of the procurement process. The Tenderer will allow authorised personnel to:
 - (i) access premises and sites controlled by the Tenderer or its related entities;
 - (ii) inspect and copy relevant records and documents;
 - (iii) inspect any work, material, machinery, appliance article or facility; and
 - (iv) interview any person,

as is necessary to investigate the claims, statements and assertions made by the Tenderer in the Tender or to demonstrate the Tenderer's current or, where relevant, past compliance with the *NSW Code* and *NSW Guidelines* during the procurement process.

Disclosure of information

- (f) Notwithstanding any other provision of the Tender Documents, the Tenderer agrees and consents to the disclosure of information concerning the Tenderer's, and the Tenderer's related entities', compliance with the *NSW Code* and *NSW Guidelines*, including the disclosure of details of past and present compliance with the *NSW Code* and *NSW Guidelines* as varied from time to time, including whether or not sanctions have been imposed on the Tenderer or any of its related entities by the Commonwealth or any State or government agency. This consent is given to the State of New South Wales, including its agencies (including RMS), Ministers and the CCU (and its authorised personnel) for purposes including monitoring and investigating compliance and ensuring, facilitating and promoting compliance with the *NSW Code* and *NSW Guidelines*.

Subcontractors etc

- (g) Where the Tenderer proposes to subcontract the Contractor's Work or an element of the Contractor's Work, the Tenderer agrees that it will ensure through contract that each subcontractor or consultant agrees to:
 - (i) the contractual promises in clauses 4.10.1(c) and 4.10.1(f) in respect of the relevant subcontractor or consultant;
 - (ii) comply with the applicable plans and policies on the Project referred to in clause 4.10.1(d); and
 - (iii) where a subcontractor or consultant is nominated in the Tender, that the nominated party co-operates with authorised personnel during the procurement process for the purposes outlined in clause 4.10.1(e).

4.10.2 NSW Government Procurement Guideline *Skills and Training in the Construction Industry*

- (a) The Tenderer's attention is drawn to the requirements of the NSW Government Procurement Guideline *Skills and Training in the Construction Industry*. The Guideline is attached to NSW

Procurement Board Direction PBD 2016-02 - Construction apprenticeships, which is available for download from: <http://arp.nsw.gov.au/pbd-2016-02-construction-apprenticeships>

- (b) If successful, the Contractor will be required to meet the commitments made in the accepted Tender.
- (c) If successful, the Contractor will be required to provide quarterly reports to RMS (at the end of March, June, September and December), giving details of the apprentices and trainees engaged in the carrying out of the Contractor's Work and demonstrating that the Contractor is meeting (or will meet at Completion) the commitments made in the Deed.

4.10.3 NSW Government Policy on Aboriginal Participation in Construction

- (a) The Tenderer's attention is drawn to the requirements of the NSW Government *Policy on Aboriginal Participation in Construction* (1 May 2015 or any later update). The Policy is available at: <https://www.procurepoint.nsw.gov.au/policy-and-reform/nsw-procurement-reform/construction/policy-framework-construction>.

NOTE TO DOCUMENTER (delete this text box after customising the model RFT document):

The NSW Procurement Board may vary the minimum targeted project spend at any time. The latest version of the Aboriginal Participation Policy as well as any directions issued by the NSW Procurement Board in relation to these targets must be checked at the time of preparing the RFT documents, to ensure that the RFT reflects the current targets. These details can be obtained from the website provided in clause above.

- (b) If successful, the Contractor will be required to comply with [insert Category] requirements of the Policy. The mandatory Targeted Project Spend (TPS) for the [insert project Name] project is 1.5% of the design and construct Contract award value (excl GST) less allowable exclusions, in line with the Policy goals.
- (c) RMS will determine the TPS before the Deed is executed and the TPS will be included in the executed Deed. The TPS will remain fixed for the Contract period, except where RMS and the Contractor agree to re-set it (e.g. where legitimate exclusions were overlooked at tender time).
- (d) If successful, the Contractor will be required to provide to RMS and the NSW Procurement Board the Aboriginal Participation Plan and the Aboriginal Participation Reports, at the times specified in the Deed and in the format prescribed by the NSW Procurement Board. Templates are available at:

<https://www.procurepoint.nsw.gov.au/aboriginal-participation-construction-information-contractors>

4.11 BUILDING CODE AND AUSTRALIAN GOVERNMENT WORK HEALTH AND SAFETY ACCREDITATION SCHEME

4.11.1 Building Code

- (a) This clause 4.11.1 only applies if the Contractor's Work will be partially or fully funded by the Commonwealth, as identified in Item 20 of Schedule 1.
- (b) The Tenderer agrees that it must include in its Tender:

- (i) a signed “Declaration of Compliance with Building Code” in the form of Annexure 2A to the Tender Form, at Appendix 2 to this Request for Tender;
- (ii) the further information outlined in Attachment A to the Declaration of Compliance; and
- (iii) a Workplace Relations Management Plan (Commonwealth), where Item 20 of Schedule 1 to the Project Deed specifies that such a Plan is required, for approval by the ABCC in accordance with Part 6 of the Building Code,

to demonstrate the Tenderer's compliance with the Building Code.

- (c) To be eligible to tender for the Contractor's Work the subject of this Request for Tender, Tenderers must, on and from the date on which the Tenderers submit their Tenders in response to this Request for Tender, at all times meet the following eligibility requirements:
 - (i) neither the Tenderer nor any of the Tenderer's Related Entities may be subject to an Exclusion Sanction;
 - (ii) the Tenderer and each of the Tenderer's Related Entities must comply with the Building Code when performing:
 - a. the Contractor's Work the subject of this Request for Tender (if the Tenderer is the successful tenderer); and
 - b. all other Building Work (including privately funded projects) on and from the date on which the Tenderer submits their response to this Request for Tender (even if the Tenderer is not the successful tenderer);
 - (iii) the Tenderer must be eligible to perform Commonwealth Funded Building Work;
 - (iv) subject to the exceptions set out in subsection 26(5) of the Building Code, the Tenderer must not have had an adverse decision, direction or order made by a court or tribunal for a breach of the BCIIIP Act, a Designated Building Law, work health and safety law (including, but not limited to, the *Work Health and Safety Act 2011* (NSW) and the Work Health and Safety Regulation 2017 (NSW)) or competition and consumer law (including, but not limited to, the *Competition and Consumer Act 2010* (Cth)) and failed to comply with the decision, direction or order;
 - (v) the Tenderer must, if it is the successful tenderer, undertake to only use products in relation to the Contractor's Work the subject of this Request for Tender that, at a minimum, comply with the relevant Australian standards published by, or on behalf of, Standards Australia Limited (ABN 85 087 326 690); and
 - (vi) the Tenderer must demonstrate a positive commitment to the provision of appropriate training and skill development for their workforce.
- (d) Where Item 20 of Schedule 1 to the Project Deed specifies that a Workplace Relations Management Plan (Commonwealth) is required (because the Commonwealth funding above the minimum thresholds specified in Schedule 2 of the Building Code has been received for the Project), it is a precondition to RMS entering into a contract with the Tenderer to perform the Contractor's Work the subject of this Request for Tender that the ABCC has approved the Tenderer's Workplace Relations Management Plan (Commonwealth).
- (e) It is a precondition to RMS entering into a contract with the Tenderer to perform the Contractor's Work the subject of this Request for Tender that:

- (i) the Tenderer confirms whether, within the three years preceding the date of this Request for Tender, the Tenderer has:
 - a. had an adverse decision, direction or order made by a court or tribunal for a breach of a Designated Building Law, work health and safety law (including, but not limited to, the *Work Health and Safety Act 2011* (NSW) and the Work Health and Safety Regulation 2017 (NSW)) or the *Migration Act 1958* (Cth); or
 - b. been required to pay any amounts under an adjudication certificate (provided in accordance with a law relating to the security of payments (including, but not limited to, the *Building and Construction Industry Security of Payment Act 1999* (NSW)), that are due to persons in respect of Building Work); or
 - c. owed any unsatisfied judgement debts (including by any Related Entity) to a Building Contractor or a Building Industry Participant; and
 - (ii) the Tenderer must at no time be excluded from performing Building Work funded by a state or territory government (unless approval to engage the Tenderer has been obtained from the ABC Commissioner).
- (f) In addition to a Workplace Relations Management Plan (Commonwealth) referred to in clause 4.11.1(d), the Tenderer is required to include in its Tender the following information, which may be used by RMS in determining whether to award the Contractor's Work the subject of this Request for Tender to the Tenderer:
- (i) the extent to which domestically sourced and manufactured building materials will be used to undertake the Building Work;
 - (ii) the Tenderer's assessment of the whole-of-life costs of the project to which the Building Work relates;
 - (iii) the impact on jobs of the project to which the Building Work relates; and
 - (iv) whether the project to which the Building Work relates will contribute to skills growth.

4.11.2 Australian Government Work Health and Safety Accreditation Scheme

- (a) This clause 4.11.2 only applies if Item 20A of Schedule 1 to the Project Deed specifies that the Contractor is required to maintain accreditation under the Australian Government Work Health and Safety Accreditation Scheme.
- (b) All Participants of the successful Tenderer that will carry out 'building work' (as defined in the BCIIIP Act) for the Project must be accredited under the Australian Government Work Health and Safety Accreditation Scheme (the **Scheme**) established by section 43 of the BCIIIP Act when entering into contracts for 'building work' (as defined in the BCIIIP Act) and maintain accreditation under the Scheme while the 'building work' (as defined in the BCIIIP Act) is being carried out.
- (c) A successful Tenderer must comply with all conditions of the Scheme accreditation.
- (d) Each Participant in the Tenderer that will carry out 'building work' (as defined in the BCIIIP Act) for the Project must provide a signed "Confirmation of WHS Accreditation Status" which is set out in Annexure 2B to the Tender Form included in this Request for Tender, with details of any accreditation status as relevant for each Participant, including the expiry date of accreditation, or evidence that accreditation is being sought under the Scheme.

- (e) The Tenderer's attention is drawn to Section 26(1)(f) of the *Fair Work (Building Industry – Accreditation Scheme) Regulation 2016* (Cth), which outlines provisions applying to joint ventures that include accredited and unaccredited members.

4.12 RMS DATA

- (a) RMS has arranged for others to undertake geotechnical investigations, testing and modelling in the area of and adjacent to the Construction Site. Documents in relation to the geotechnical investigations, testing and flood and noise modelling and RMS' current investigation, testing and modelling program have been or are to be provided to the Tenderers, subject to the Deed of Disclaimer, as Information Documents.
- (b) The Tenderer must satisfy itself as to, and make its own assessment of, the geotechnical and other conditions in the area of and adjacent to the Construction Site and elsewhere, except that subject to clause 4.12(c) of this Request for Tender, RMS acknowledges that the Tenderer, if it enters into the Project Deed, may rely on the RMS Data (within the meaning of that term in the Project Deed) but only for the purposes of claiming:
- (i) Variations under and in accordance with the Project Deed; and
- (ii) extensions of time, if any, under and in accordance with the Project Deed, arising from a Variation (if any) under and in accordance with the Project Deed.
- (c) The Tenderer acknowledges that:
- (i) the Tenderer cannot rely on the RMS Data on the basis referred to in clause 4.12(b) of this Request for Tender to the extent that:
- A. the Tenderer's review, tests, enquiries, investigations and advice indicates; or
- B. a prudent and competent contractor in the position of the Tenderer, who had examined:
- 1) all information made available in writing by RMS or anyone on behalf of RMS to the Tenderer for the purpose of tendering and up to the date of the Project Deed;
- 2) all information relevant to the risks, contingencies and other circumstances having an effect on the Tenderer's tender and obtainable by the making of reasonable enquiries; and
- 3) the Construction Site, the Environment and their surroundings (within the meaning of those terms in the Project Deed),
- would have known or determined, that the RMS Data was not correct; and
- (ii) the acknowledgement of RMS under clause 4.12(b) of this Request for Tender does not extend to any interpretation, extrapolation, conclusion, assumption, projection or analysis of the RMS Data whether it is contained or stated in the Information Documents or made, drawn or undertaken by the Tenderer.
- (d) Without limiting the Deed of Disclaimer, all information within the knowledge, possession or control of RMS, other government departments or agencies or their respective officers, employees, consultants, contractors or agents concerning the geotechnical conditions, whether available in an Information Document or not, is not to be relied upon except to the extent acknowledged by the RMS under clause 4.12(b) of this Request for Tender.

- (e) RMS does not adopt and makes no warranty or representation, and does not assume any duty of care to the Tenderer that any information referred to in clause 4.12(d) of this Request for Tender is accurate, adequate, suitable or complete, or representative of the actual conditions to be found.

4.13 INFORMATION DOCUMENTS

- (a) With respect to the Information Documents, by submitting a Tender, Tenderers acknowledge that:
 - (i) Information Documents referred to in Schedule A to the Deed of Disclaimer, have been provided separately and have been made available for the information only of the Tenderer as set out in clause 1.3 and clause 1.4 of this Request for Tender;
 - (ii) other Information Documents may be issued to the Tenderer by RMS from time to time prior to and after the Closing Date and Time for the information only of the Tenderer;
 - (iii) the Information Documents do not form part of the Tender Documents and will not form part of any eventual contract for the Contractor's Work; and
 - (iv) in addition to the matters set out in the Deed of Disclaimer, where any information, data or document is referred to and incorporated by reference in an Information Document, Tenderers are not to rely upon any summary of the information, data or document which appears in the Information Document.
- (b) Before the Tender Documents or any Information Documents were made available to the Tenderer, each Participant in the Tenderer executed the Deed of Disclaimer and returned it to RMS Representative.
- (c) By submitting a Tender, the Tenderer acknowledges that there may be other information or documents within the knowledge, possession or control of RMS, other government departments or agencies or their respective officers, employees, consultants, contractors or agents, which are relevant to the Project, this Request for Tender or the preparation or lodging of the Tenderer's Tender, which have not been provided to the Tenderer or to which reference has not been made. Despite whatever information is provided to the Tenderer by, or withheld from the Tenderer by, or obtained by the Tenderer from, any federal, state or local government department or agency (including RMS) or their respective officers, employees, consultants, contractors or agents or others, the Tenderer must rely only upon its own investigations, evaluations, enquiries, interpretations and sources and its own assessments of the Project and as to all matters and things relevant to the Tenderer's Tender.
- (d) RMS makes no warranty or representation, and does not assume any duty of care to the Tenderer, that the information, data and documents in the Tender Documents and the Information Documents are accurate, adequate, suitable or complete and RMS accepts no responsibility and shall not be liable for interpretations placed by the Tenderer on the information, data and documents, whether contained in an Information Document or not. The Tenderer must submit its Tender based on its own investigations and determinations and must not rely on the information, data and documents contained in those documents except to the extent acknowledged by the RMS under clause 4.12(b) of this Request for Tender.

4.14 MEETINGS

- (a) RMS may convene meetings/workshops prior to the Closing Date and Time for the information only of Tenderers in accordance with this clause 4.14.

- (b) A meeting with all Tenderers will be held on *[insert date]* . Tenderers will be advised of the location and time by RMS Representative. Any questions and matters for discussion or clarification should be submitted to RMS Representative in writing before that meeting.
- (c) An inspection of the Construction Site will be held on *[insert date]* . Details of the inspection will be advised by RMS Representative.
- (d) Meetings / workshops will be held individually with each of the Tenderers to provide positive guidance to the Tenderers in relation to scope, technical, construction and design issues arising from this Request for Tender on the following dates:
 - (i) *[insert date]*
 - (ii) *[insert date]*

The dates of the meetings and the number of meetings are indicative only. The actual dates and the number of positive guidance meetings will respond to the issues that arise and the needs of the Tenderers.

The purpose of these meetings/workshops will be to:

- (i) avoid unproductive work being carried out by the Tenderers;
 - (ii) provide guidance from RMS in relation to the acceptability of alternatives that the Tenderers are considering; and
 - (iii) reduce the likelihood of the Tenderers submitting unacceptable solutions in their Tenders.
- (e) Tenderers will be advised of locations and times for these meetings/workshops by RMS Representative. Tenderers will be required to submit details on any matters for discussion and questions to RMS Representative in writing at least 3 Business Days before the meetings/workshops.
 - (f) In relation to the process for meetings / workshops under clause 4.14(d), the Tenderer:
 - (i) acknowledges that:
 - A. the Project is of critical strategic importance to RMS;
 - B. it is essential that RMS only engage the Recommended Tenderer under the Project Deed once it has satisfied itself as to value for money and appropriateness of the Recommended Tenderer;
 - C. the workshops will be conducted in accordance with the following procedure:
 - (1) RMS will separately meet with representatives of each Tenderer and the protocol for each meeting/workshop will be provided by RMS Representative prior to conducting the workshop;
 - (2) RMS may (in its absolute discretion) choose to identify aspects of any proposed Tender that are deficient. However, RMS will not be obliged to identify issues or otherwise conduct meetings/workshops in the same way, to the same extent or as to the same subject matter with each Tenderer; and
 - (3) RMS' silence or comment in respect of any aspect of a Tenderer's proposed submission or any other issue raised in a meeting/workshop will not constitute endorsement or approval of any aspect of a Tender;

- D. there will be no procedural or substantive limitation upon the manner in which RMS may conduct the process; and
 - E. any participation by a Tenderer in a meeting/workshop is because it considers that this represents a valuable commercial opportunity for the Tenderer; and
- (ii) acknowledges that RMS is proceeding with the process in reliance upon the acknowledgements set out above and the other terms of the Tender Conditions.
- (g) Each Tenderer must acknowledge in writing its agreement to the conditions for the process identified in clauses 4.14(d) and 4.14(f) prior to its participation in the process.
- (h) RMS Representative may from time to time prior to the Closing Date and Time convene meetings with all or individual Tenderers to discuss issues arising from the Tender Documents.
- (i) In respect of any meetings or workshops convened with all or individual Tenderers, excluding any meetings or workshops convened under clause 4.14(d), the following conditions will apply to such meetings:
- (i) the Probity Adviser will attend;
 - (ii) unless otherwise advised by RMS, a maximum of 6 representatives from the Tenderer may attend each meeting;
 - (iii) minutes of the meetings will be taken and confirmed by the Tenderer, RMS Representative and the Probity Adviser;
 - (iv) no meeting will be permitted to continue outside of its allotted time in the schedule;
 - (v) the Tenderer must, not less than 5 Business Days prior to the meeting, provide RMS Representative with written submissions in relation to matters which it wishes to discuss at the meeting including identifying any issues which they consider commercial-in-confidence and advising names and companies of attendees;
 - (vi) RMS is under no obligation to discuss any matter with the Tenderer at a meeting, including any matter for which notice has been given under clause 4.14(g)(v);
 - (vii) RMS may, in its absolute discretion, inform all other Tenderers of any matter discussed at any meeting including the substance of that discussion; and
 - (viii) any information provided by RMS in the course of any meeting will be confirmed by RMS in writing, subject to such conditions and limitations as RMS may require.
- (j) Without limiting any other provision of the Tender Documents, nothing which occurs during a meeting/workshop under this clause 4.14 or as a part of the process for such a meeting/workshop (including the issue of any minutes of such a meeting):
- (i) may be relied upon by the Tenderer; or
 - (ii) without limiting clause 4.14(j)(i), be construed as a direction, instruction or notice by RMS to do or not do anything.

4.15 CONFIDENTIALITY AND PUBLIC ACCESS TO INFORMATION

- (a) The Tenderer must keep confidential and not:
- (i) disclose to any person; or
 - (ii) copy, use or otherwise deal with for any purpose,
- any information regarding this Request for Tender or the Project, any particulars concerning the Contractor's Work or its Tender or any other information with which it has been provided by

RMS or any other person on behalf of RMS except to the extent:

- (iii) the Tenderer is specifically so authorised in writing by RMS;
 - (iv) the information is disclosed to and used by persons (who are also bound to keep the information confidential) engaged in the preparation of the Tenderer's Tender or in the Contractor's Work;
 - (v) the information is already in the public domain, otherwise than because of a breach by the Tenderer of these confidentiality obligations; or
 - (vi) the information is required to be disclosed by law, and in such case the Tenderer must provide RMS with written notice of the legal basis for the disclosure.
- (b) RMS may issue, or may have issued, a form of deed of confidentiality and disclaimer, and require that each Participant in the Tenderer submit a duly completed and executed deed in that form, in which case, compliance with those requirements will be mandatory.
- (c) Tenderers should note that documents relating to the Project may be disclosed to the public if requested by Parliament or under the *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**). Subject to certain exemptions the GIPA Act gives members of the public the right to be given access to documents held by public sector bodies, including RMS. These access rights are limited by exceptions and exemptions necessary for the protection of the public interest, the ability of the government to function effectively, and private and business affairs of persons or organisations in respect of which information is collected and held by the public sector bodies.
- (d) A person who makes an application under section 9 of the GIPA Act has a legally enforceable right to access that information unless there is an overriding public interest against disclosure. The GIPA Act provides that there may be public interest considerations against disclosure if such disclosure could reasonably be expected, among other things, to:
- (i) reveal commercial-in-confidence provisions (as that term is defined in clause 1 of Schedule 4 to the GIPA Act) of the proposed Project Deed which forms part of the Tender Documents;
 - (ii) diminish the competitive commercial value of any information contained in the Tender; or
 - (iii) prejudice any Tenderer's legitimate business, commercial, professional or financial interests.

To assist RMS in determining whether, in the circumstances of any particular request for all or part of the Tender, there is an overriding public interest against disclosure, Tenderers are invited to identify information contained within their Tender which they consider the disclosure of which might have one of the effects stated above (or which they consider may otherwise give rise to a public interest consideration against disclosure in accordance with the GIPA Act).

Identifying information in the manner stated above will not necessarily prevent disclosure in accordance with the GIPA Act and any decision to grant access to information will be determined by the requirements of the GIPA Act. RMS will consult with the Tenderer in accordance with the GIPA Act prior to making a decision. If RMS determines to disclose the information, the Tenderer will be entitled to pursue rights of review in accordance with GIPA Act. If RMS does not determine to disclose the information, the applicant will have rights of review and Tenderers will not be entitled to make any claim in respect of the decision or proceedings.

- (e) In addition and as a separate obligation, RMS is required in accordance with Division 5 of Part 3 of the GIPA Act to keep a register of government contracts and to include on that register certain information, as specified in Division 5 of Part 3 of the GIPA Act. To allow RMS to comply, the

Tenderer must submit particulars of any related body corporate (within the meaning of the Corporations Act 2001 (Cth) in respect of the Tenderer, or any other private sector entity in which the Tenderer has an interest, that would be involved in carrying out any of the Contractor's obligations under the Project Deed or will receive a benefit under the Project Deed. Division 5 of Part 3 of the GIPA Act does not require RMS to include information concerning a contract in its register of government contracts if that information, among other things, contains the commercial-in-confidence provisions of a contract or where there is an overriding public interest against disclosure (including for the reasons set out in clause 4.15(d)(i)-(iii) in this Request for Tender).

4.16 GST

- (a) Tenderers should provide all prices on a GST exclusive basis.
- (b) The Tenderer is to include an allowance in its Tender for all taxes, duties, levies, imposts and charges which may be payable in respect of the Project Works, Landscaping Maintenance and Temporary Works, including (without limitation) any customs duty and primage applicable to imported materials, plant and equipment required for the Project Works, Landscaping Maintenance or Temporary Works.
- (c) If applicable, the Tenderer must submit with its Tender a statement setting out the amount of any customs duty in respect of any item required for the Project Works, Landscaping Maintenance and Temporary Works which has been included in the tender price.

4.17 PROBITY DEEDS

- (a) RMS has entered into a number of "Probity Deeds" with different entities in order to ensure the probity and competitiveness of its tender processes.
- (b) If RMS and the Tenderer (or any holding company of a Participant in the Tenderer) have entered into such a Probity Deed (which Probity Deed may also include as parties certain of the related bodies corporate of the Tenderer) in respect of tenders called by RMS for its projects:
 - (i) the Probity Deed will apply in respect of this project;
 - (ii) the Tenderer must:
 - A. comply with any obligations imposed on it by the Probity Deed; and
 - B. procure that any of its related bodies corporate who are parties to the Probity Deed comply with the obligations imposed on them by the Probity Deed; and
 - (iii) a breach of the Probity Deed (whether by the Tenderer or by a related body corporate of the Tenderer who is a party to the Probity Deed) will constitute a breach of a material requirement of the Tender Documents for the purposes of clause 4.18 of this Request for Tender.
- (c) For the purposes of this clause 4.17 the terms "holding company" and "related body corporate" have the same meaning as in the Corporations Act 2001 (Cth).

4.18 EXCLUSION OF TENDERER FOR BREACH

- (a) If a Tenderer breaches a material requirement of the Tender Documents RMS may, in its absolute and unfettered discretion, exclude that Tenderer from any further involvement in the selection process for the Project by written notice to that Tenderer.

- (b) RMS' rights under clause 4.18(a) of this Request for Tender are without prejudice to any other rights or remedies which RMS may have in connection with the breach.
- (c) To the extent permitted by law, Tenderers will have no Claim against RMS arising out of RMS' exercise, or failure to exercise, its rights under this clause 4.18.

4.19 CHANGES TO PARTICIPANTS IN A TENDERER

- (a) Tenderers must notify RMS in writing as soon as the Tenderer becomes aware of, or where relevant of any change to, any of the following entities or individuals occurring before the Closing Date and Time, or after the Closing Date and Time during the Tender evaluation period:
 - (i) any entity that proposes to take a direct equity interest in the Tenderer or a Participant if the Tenderer is or will become the Contractor;
 - (ii) the ultimate parent entity of any entity that proposes to take a direct equity interest of the type mentioned in the paragraph above;
 - (iii) any other entity that is likely to be in a position to exercise control or influence (direct or indirect) over the future management and operation of the Tenderer or a Participant;
 - (iv) any director, secretary or chief executive of any entity falling within the above paragraphs and any proposed new director, secretary or chief executive officer; and
 - (v) any key Project resources identified by the Tenderer as providing a core capability to the Tenderer.
- (b) If RMS, in its absolute discretion, determines that a change referred to in clause 4.19(a) of this Request for Tender is material, it reserves the right to re-evaluate the Tender or to eliminate the Tenderer from further participation in this Request for Tender.

4.20 PRIVACY ACT COMPLIANCE

- (a) In relation to any personal information (as defined in the *Privacy Act 1988* (Cth) (**Privacy Act**) provided by the Tenderer or a Participant in connection with the Tenderer's Tender, by submitting a Tender, the Tenderer and Participant warrant to RMS that:
 - (i) the Tenderer or Participant, as the case may be, has obtained the consent of each individual about which any sensitive information (as defined in the Privacy Act) is provided; and
 - (ii) the Tenderer or Participant has ensured or will ensure, within the time required by the Privacy Act, that each individual about whom any personal information (as defined in the Privacy Act) is provided has received a written statement setting out, or is otherwise made aware of, all of the matters required by Australian Privacy Principle 5:
 - A. in relation to disclosure of the personal information to RMS or any of its officers, employees, agents or advisers requiring the information for the purposes set out in the following paragraph; and
 - B. disclosing that the persons referred to in the previous paragraph will use the personal information for the purposes of evaluating the Tenderer's Tender.
- (b) Each of the Tenderers and Participants agrees to comply with the provisions of the Privacy Act in relation to any personal information provided to them by RMS or by any of its officers, employees, agents or advisers.

4.21 ERRORS AND AMENDMENTS

- (a) If the Tenderer finds any discrepancy, error or omission in the Tender Documents or has any question or wishes to make any enquiry (**Enquiry**) concerning the Tender Documents, it is to notify RMS Representative in writing a minimum of 7 days prior to the Closing Date and Time. Answers to any such written Enquiries may be given by RMS in the form of addenda and issued to all Tenderers under clause 4.21(b) of this Request for Tender or issued to all Tenderers as Information Documents. If a Tenderer believes that an Enquiry is confidential, it may identify the Enquiry as confidential in its notice to RMS Representative. A determination will be made by RMS acting reasonably (and, where appropriate, after obtaining advice), whether or not it is appropriate to treat the Enquiry as confidential. If RMS determines that the Enquiry is not appropriately confidential it will notify the Tenderer of this determination and the Tenderer may withdraw the Enquiry within 2 days of such notification. Otherwise, answers to that Enquiry may be given by RMS in the form of addenda and issued to all Tenderers under clause 4.21(b) of this Request for Tender or issued to all Tenderers as Information Documents. If RMS determines that the Enquiry is appropriately confidential, the answer to the Enquiry, if any, will not be issued by RMS to the other Tenderers. The fact that an Enquiry is confidential or determined by RMS to be confidential, or is otherwise withdrawn by a Tenderer, does not limit or otherwise affect RMS' rights under this Request for Tender. The decision of the RMS as to confidentiality may be made by RMS in its absolute discretion.
- (b) RMS may amend the Tender Documents at any time prior to the Closing Date and Time, including to vary the evaluation process or RMS' requirements for the contractual structure proposed for the carrying out of the Project. Any amendment to the Tender Documents will be issued in the form of addenda and will be issued to all Tenderers before the Closing Date and Time. No explanation or interpretation of the Tender Documents may be relied upon by the Tenderer as an amendment to the Tender Documents unless given in the form of addenda. Such addenda will become part of the Tender Documents.

4.22 DEFINITIONS AND INTERPRETATION

- (a) In these Tender Conditions and in the Tender Documents (except to the extent that meanings given to defined terms in the Project Deed prevail under that document):
- (i) "ABC Commissioner" means the Australian Building and Construction Commissioner referred to in subsection 15(1) of the BCIIIP Act;
 - (ii) "ABCC" means the body referred to in section 29 of the BCIIIP Act;
 - (iii) "BCIIP Act" means the *Building and Construction Industry (Improving Productivity) Act 2016* (Cth);
 - (iv) "Building Code" means the Building Code issued under subsection 34(1) of the BCIIIP Act, being the document titled 'Code for the Tendering and Performance of Building Work 2016', which is available at www.legislation.gov.au
 - (v) "Building Contractor" has the same meaning as in the BCIIIP Act;
 - (vi) "Building Industry Participant" has the same meaning as in the BCIIIP Act;
 - (vii) "Building Work" has the same meaning as in subsection 3(4) of the Building Code;
 - (viii) "Closing Date and Time" means [*insert date*], between 10:30am and 11:00am;
 - (ix) "Commonwealth Funded Building Work" means Building Work in items 1-8 of Schedule 1 of the Building Code;
 - (x) "Construction Site" has the meaning given to that term in the Project Deed;
 - (xi) "DAB" means the Dispute Avoidance Board contemplated in clause 1.11 of this Request for Tender;

- (xii) "DAB Agreement" means the Dispute Avoidance Board Agreement in the form of Schedule 38 to the Project Deed;
- (xiii) "Deed of Disclaimer" means the document in the form included at Appendix 1 of this Request for Tender (which was included as *[insert Schedule No 1, if the Pre-tender Conditions were issued to Tenderers]* to the Pre-tender Conditions) executed by each Participant in the Tenderer;
- (xiv) "Designated Building Law" has the same meaning as in the BCIP Act;
- (xv) "Evaluation Team" means the persons and organisations engaged by RMS to participate in the evaluation of Tenders;
- (xvi) "Exclusion Sanction" has the same meaning as in subsection 3(3) of the Building Code;
- (xvii) "Information Document" has the meaning given to that term in the Deed of Disclaimer;
- (xviii) "NSW Code" means the New South Wales Government's Code of Practice for Procurement;
- (xix) "NSW Guidelines" means the New South Wales Government's Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction. Copies of the Implementation Guidelines are available at http://www.industrialrelations.nsw.gov.au/biz_res/oirwww/pdfs/Construction_Guidelines_June_2013.pdf
- (xx) "Participant" means an entity which is a partner or joint participant in the Tenderer, or where the Tenderer is constituted by a single legal entity, means the Tenderer;
- (xxi) "Pre-tender Conditions" means the document titled "Design and Construction of *[insert Project Name]*, Pre-Tender Conditions", including attachments however described;
- (xxii) "Principal" means Roads and Maritime Services (RMS)
- (xxiii) "Probity Adviser" means the person engaged by RMS as an independent observer of the Tender evaluation process.
- (xxiv) "Project" means the design and construction of *[insert Project Name]* and provision of landscaping services;
- (xxv) "Project Deed" means any contract with RMS with respect to the Project, or if any Tenderer fails to execute such a contract, means the form of contract (including schedules and exhibits) which is attached in anticipation of that purpose as Attachments 1, 2 and 3 of this Request for Tender;
- (xxvi) "Recommended Tenderer" means the Tenderer recommended by the Evaluation Team;
- (xxvii) "Related Entity" has the same meaning as in subsection 3(2) of the Building Code;
- (xxviii) "RMS" means the Roads and Maritime Services;
- (xxix) "RMS Representative" means:
 - [insert RMS Representative name]*
 - Senior Project Manager
 - Roads and Maritime Services
 - Address: *[insert address of RMS Office]*
 - Facsimile: *[insert facsimile No]*
 - Email: *[insert RMS Representative's email address]*
- (xxx) "ROI Invitation" means the document titled "*[insert Project Name]*, Invitation to Submit a Registration of Interest", including attachments however described;
- (xxxi) "RTA" or "Roads and Traffic Authority" means the Principal, and a reference to any

“RTA” document (including an RTA Specification, Test Method or other document) is a reference to the equivalent document published by the Principal (or its predecessor, the RTA), regardless of whether it is titled “RTA” or “Roads and Maritime Services” or “RMS” (in this respect, the parties acknowledge that the Principal is progressively updating its documents from “RTA” to “[RMS]” and that this is likely to be ongoing during the currency of the Contract).”

- (xxxii) "Tender" means the documents required by the Tender Documents to be duly completed and executed by or on behalf of the Tenderer and received by RMS in accordance with this Request for Tender;
- (xxxiii) "Tender Conditions" means these conditions of tender in clause 4 of this Request for Tender and includes the conditions in the Pre-tender Conditions in relation to the period prior to the issue of this Request for Tender;
- (xxxiv) “Tender Form” means the tender form in Appendix 2 of this Request for Tender;
- (xxxv) "Tender Documents" means:
- A. this Request for Tender, including:
 - (1) clause 1 (Project Issues);
 - (2) clause 2 (Tender Evaluation Process);
 - (3) clause 3 (Tender Submission Requirements);
 - (4) clause 4 (Tender Conditions);
 - (5) Appendix 1: Deed of Disclaimer;
 - (6) Appendix 2: Tender Form and Statutory Declaration;
 - (7) Appendix 3: Information for Initial Project Plans
 - (8) Attachment 1: Project Deed and Project Deed Schedules;
 - (9) Attachment 2: Project Deed Exhibit A – Scope of Works and Technical Criteria;
 - (10) Attachment 3: Project Deed Exhibit B – Site Access Schedule; and
 - (11) Attachment 4: *[insert project specific documents]*.
 - B. Addenda issued under clause 4.21(b) of this Request for Tender;
- (xxxvi) "Tenderer" means each of the following entities:
- A. *[insert names, ABN and/or ACN numbers and addresses of all Tenderers]*
 - B.
- (xxxvii) “Workplace Relations Management Plan (Commonwealth)” has the meaning given to 'WRMP' in subsection 3(1) of the Building Code;
- (xxxviii) “Workplace Relations Management Plan (State)” means the Workplace Relations Management Plan contemplated by the NSW Guidelines;
- (xxxix) any reference to a clause is a reference to a clause in this Request for Tender unless the context otherwise requires;
- (xl) any reference to one of the documents described in the definition of the Tender Documents is a reference to the document so titled which is included in, or attached to, these Tender Documents, unless the document is subsequently amended by or issued as an Addendum;
- (xli) all words and expressions will (unless otherwise defined in this clause 4.22(a) or unless the context otherwise requires) have the meanings assigned to them in the Project Deed;
- (xlii) headings are for convenience only and do not affect interpretation; and unless the context

- indicates a contrary intention;
- (xliii) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
 - (xliv) a reference to:
 - A. a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
 - B. a person includes an individual, the estate of an individual, a corporation, a Government, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust; and
 - C. a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
 - (xlv) "**includes**" in any form of part of speech is not a word of limitation; and
 - (xlvi) a reference to "\$" or "**dollar**" is to Australian currency.
- (b) Where a term is used in this Request for Tender to refer to a Tenderer or to more than one person or Participant in a Tenderer:
- (i) an obligation of those persons or entities (including of each Participant) is joint and several;
 - (ii) a right of those persons or entities is held by each of them severally; and
 - (iii) any other reference to that person or entity or term is a reference to each of those persons or entities separately.

APPENDIX 1

DEED OF DISCLAIMER

DEED OF DISCLAIMER

This Deed Poll is made by **(Tenderer)** in favour of Roads and Maritime Services (**RMS**) in respect of the tender for the design and construction of the *[insert Project Name]* (**Project**).

1. In consideration of RMS inviting the Tenderer to participate in Pre-Tender Processes for the Project in accordance with the Pre-Tender Conditions which have been provided to it by RMS under cover of letter dated *[insert date]* ("**Conditions**") and submit a Tender for the Project (**Tender**) in accordance with the Request for Tender which is to be provided to it by RMS ("**Tender Documents**"), subject to clause 2 of this deed of Disclaimer, the Tenderer:
 - (a) warrants that it will not rely upon the Tender Documents or Information Documents as being proper, adequate, suitable and/or complete for the purposes of enabling it to perform the design and construction obligations which the Tenderer will be required to perform if it enters into any contract with RMS with respect to the Project (**Project Deed**);
 - (b) warrants that it will make its own independent evaluation of the Tender Documents' and Information Documents' adequacy, accuracy, suitability and completeness for the purposes of enabling the Tenderer to perform the obligations which the Tenderer will be required to perform if it enters into the Project Deed, and it will base the price which it bids as part of its tender upon its own independent evaluations;
 - (c) acknowledges that no representation or warranty (express or implied) has been or is made by RMS (or by anyone on its behalf) to the Tenderer that the Scope of Works and Technical Criteria and any other specifications or drawings included in the Tender Documents will represent a completed or suitable design or that they will be suitable for design and construction purposes;
 - (d) acknowledges that:
 - (i) RMS will provide it with the Information Documents (and for that purpose, any information, opinion, data or document which is provided (including verbally or visually) by RMS at, or following from, any pre-tender or tender briefing, or as part of the Pre-Tender Processes will constitute 'Information Documents');
 - (ii) the Information Documents:
 - A. will be provided by RMS for the information only of the Tenderer; and
 - B. do not form part of the Tender Documents and will not form part of any contract with respect to the Project;
 - (iii) RMS does not owe any duty of care to the Tenderer with respect to the Information Documents;
 - (iv) to the extent that RMS is not the author or source of any of the Information Documents it merely passes those documents on to the Tenderer and does not adopt those documents;
 - (v) RMS:
 - A. is not responsible for; and
 - B. makes no representation or warranty in respect of,

the contents of the Information Documents including the accuracy, adequacy, suitability or completeness of any reports, data, test results, samples, reports or geotechnical investigations, opinions, recommendations, findings or other information

contained in the Information Documents;

- (vi) where any information or document is referred to and incorporated by reference in an Information Document, the Tenderer should not rely upon any summary of the information or document which appears in the Information Document;
 - (vii) no representation or warranty (express or implied) has been made by RMS (or by anyone on its behalf) to the Tenderer that the Information Documents are accurate, adequate, suitable or complete for any purpose connected with the Project including the preparation of its tender and the performance of any obligations which the Tenderer will be required to perform if it enters into the Project Deed; and
 - (viii) it will have the opportunity during the tender period and subsequently to undertake for itself and to request others to make further enquiries and investigations relating to the subject matter of the Information Documents and for this purpose must have regard to the acknowledgments, warranties and releases in this Deed Poll in undertaking its own enquiries and investigations and in requesting further enquiries and investigations;
- (e) warrants that:
- (i) it will prepare its tender and (if its tender is successful) enter into the Project Deed based on its own investigations, interpretations, deductions, information and determinations including (without limitation) its own independent evaluation of the accuracy, adequacy, suitability and completeness of the Information Documents for the purposes of the Project including the preparation of its tender and the performance of any obligations which the Tenderer will be required to perform if it enters into the Project Deed; and
 - (ii) it will not in any way rely upon:
 - A. the Information Documents; or
 - B. the accuracy, adequacy, suitability or completeness of the Information Documents,for any purpose in connection with the Project, including for the purposes of preparing its tender or entering into the Project Deed;
- (f) acknowledges and agrees that:
- (i) RMS will be providing the Information Documents to the Tenderer in reliance upon the acknowledgements and warranties contained in this Deed Poll;
 - (ii) if RMS accepts its tender, RMS will be accepting its tender and entering into the Project Deed in reliance upon the acknowledgments and warranties contained in this Deed Poll; and
 - (iii) RMS will not be liable to the Tenderer upon any Claim (to the extent permitted by law) arising out of or any way in connection with:
 - A. the provision of, or the purported reliance upon, or use of, the Information Documents by the Tenderer or any other person associated with the tender to whom the Information Documents are disclosed by the Tenderer; or
 - B. a failure by RMS to provide any information to the Tenderer;
- (g) irrevocably releases and indemnifies RMS from and against:
- (i) any Claim against RMS by, or liability of RMS to, any person; or

- (ii) (without being limited by clause 1(g)(i)) any costs, losses or damages suffered or incurred by RMS,

arising out of or in connection with:

- (iii) the provision of, or the purported reliance upon, or use of, the Information Documents by the Tenderer or any other person to whom the Information Documents are disclosed by the Tenderer; or

- (iv) the Information Documents:

- A. being relied upon; or

- B. otherwise being used in the preparation of any information or document, including any information or document which is "misleading or deceptive" or "false and misleading" (within the meaning of those terms in the *Competition and Consumer Act 2010 (Cth)*, or any equivalent provisions of State or Territory Legislation),

by the Tenderer or any other person to whom the Information Documents are disclosed by the Tenderer; and

- (h) irrevocably releases and indemnifies RMS from and against any Claim arising out of or in connection with any breach by the Tenderer of this Deed Poll: and

- (i) accepts and agrees to be bound by the Conditions.

2. The Contractor may rely on RMS Data, but only for the purposes of Claiming variations and extensions of time, if otherwise allowable in accordance with, and under, the Project Deed.

3. In consideration of RMS agreeing to provide the Tenderer with the Tender Documents and the Information Documents (in this clause 3 jointly called "**Confidential Documents**"), the Tenderer:

- (a) acknowledges and agrees that the Confidential Documents are:

- (i) owned by RMS; and

- (ii) confidential and secret; and

- (b) warrants that it will not:

- (i) copy or otherwise reproduce in any form or medium the contents of the Confidential Documents (or any part of them) or otherwise cause, permit or allow the Confidential Documents (or any part of them) to be copied or reproduced in any form or medium;

- (ii) disclose the contents of the Confidential Documents (or any part of them) or otherwise cause, permit or allow the Confidential Documents (or any part of them) to be disclosed; or

- (iii) use the contents of the Confidential Documents (or any part of them) or otherwise cause, permit or allow the Confidential Documents (or any part of them) to be used;

other than:

- (iv) for the purpose of its Tender; or

- (v) where the Tenderer enters into a Project Deed, as permitted by that Project Deed; or

- (vi) as required by law or as otherwise permitted by RMS.

Nothing in this clause 3 will in any way limit clause 1 of this Deed Poll.

4. In this Deed Poll,

"Claim" includes (without limitation) any claim, action, demand or proceeding:

- (a) under, arising out of, or in connection with the Project Deed;
- (b) arising out of, or in connection with, any task, thing or relationship connected with the Project; or
- (c) otherwise at law or in equity including (without limitation):
 - (i) by statute;
 - (ii) in tort for negligence or otherwise, including (without limitation) negligent misrepresentation; or
 - (iii) for restitution including (without limitation) restitution based on unjust enrichment.

The term "Claim" does not include a claim made against RMS by any third party, other than a third party to whom the Tenderer disclosed the Information Documents, arising from a breach by RMS of an obligation which RMS owes to that third party in relation to the Information Documents.

"Information Document" means any information, data or document which is:

- (a) referred to in Schedule A and issued by, or on behalf of, RMS to the Tenderer as a hard copy document or as an electronic file;
- (b) issued or made available by, or on behalf of, RMS to the Tenderer in connection with the Conditions (including any Pre-Tender Processes), Request for Tender, the Tender Documents or the Project and which at the time of issue (or being made available) is expressly classified or stated to be an "Information Document";
- (c) issued or made available by, or on behalf of, RMS to the Tenderer in connection with the Conditions (including any Pre-Tender Processes), Request for Tender or the Project, but which is not intended to form part of the Request for Tender or the Tender Documents (regardless of whether or not it is expressly classified or stated to be an "Information Document"), including any information, opinion, data or document which is provided (including verbally or visually) by RMS at, or following from, any of the Pre-Tender Processes or pre-tender or tender briefing; or
- (d) referred to or incorporated by reference in an Information Document, whether issued or made available:
 - (e) before or after the date of this Deed Poll;
 - (f) before or after the Closing Date and Time for Tenders; or
 - (g) before or after the date of execution of the Project Deed, other than any document which RMS is obliged by the terms of the Project Deed to provide to the Tenderer.

"Pre-Tender Processes" has the meaning given to that term in the Conditions.

"RMS Data" means the RMS Geotechnical Data, RMS Noise Data and RMS Flood Data.

"RMS Flood Data" means raw factual data:

- (a) only within the categories confirmed in Schedule C to be raw factual data; and

- (b) which is contained in Information Documents that are identified in writing by RMS as flood data for the purposes of this definition.

"RMS Geotechnical Data" means raw factual data:

- (a) only within the categories confirmed in Schedule B to be raw factual data; and
- (b) which is contained in Information Documents that are identified in writing by the RMS as geotechnical reports for the purposes of this definition.

"RMS Noise Data" means raw factual data:

- (a) only within the categories confirmed in Schedule D to be raw factual data; and
- (b) which is contained in Information Documents that are identified in writing by RMS as noise data for the purposes of this definition.

5. If the Tenderer is more than one person, each person making up the Tenderer is jointly and severally bound by the terms of this Deed Poll.
6. This Deed Poll cannot be revoked or otherwise modified without the prior written consent of RMS.
7. This document operates as a Deed Poll and is enforceable against the Tenderer in accordance with its terms by RMS, despite RMS not being a party to this Deed Poll.
8. This Deed Poll is governed by the laws of New South Wales.

Schedule A – Information Documents

The following documents:

Information Document Number	Title / Description of Information Document
1	
2	
3	
4	
5	
6	
7	
8	
9	

Schedule B – RMS Geotechnical Data

Categories constituting raw factual data are laboratory test results and the data identified in the table below:

Raw factual data
Boreholes
Date of Drilling (start and end)
Location (Easting/Northing)
Elevation (RL)
Depth (total)
Diameter
Pocket Penetrometer Tests (<i>depth and reading</i>)
SPT (<i>Depth and reading</i>)
Vane Shear Tests (<i>Depth and reading</i>)
Point Load Testing
Sample depths
Core Photographs
Backhoe Test Pits
Date of Excavation
Location (Easting/Northing)
Elevation (RL)
Depth (total)
DCP (<i>blow count and depth</i>)
Pocket Penetrometer Tests (<i>depth and reading</i>)
Sample depths
Test Pit Photos
Window Sampling
Date of Sampling
Location (Easting/Northing)
Elevation (RL)
Depth (total)
DCP (<i>blow count & depth</i>)
Pocket Penetrometer Tests (<i>depth & reading</i>)
Sample depths
Sample Photos
Hand Augers

Raw factual data
Date of Excavation
Location (Easting/Northing)
Elevation (RL)
Depth (total)
Auger Diameter
DCP (<i>blow count and depth</i>)
Sample depths
Test Pit Photos
Excavator Test Pits
Date of Excavation
Location (Easting/Northing)
Elevation (RL)
Depth (total)
Pocket Penetrometer Tests (<i>depth and reading</i>)
Hand Vane Shear Tests (<i>depth and reading</i>)
Sample depths
Test Pit Photos
Seismic
Date
Location (Easting/Northing)
Elevation (RL)
Geophone Spacing
Shot Spacing
Total Line Length
Raw data
RAAX Imaging
Date
BH Number
Location (Easting/Northing)
Elevation (RL)
Images

Raw factual data
CPT's
Date
Location (Easting/Northing)
Elevation (RL)
Depth
Results (qc, fs, Rf, u2)
Pavement Test Pits
Date of Excavation
Location (Easting/Northing)
Depth (total)
Auger Diameter
DCP (<i>blow count and depth</i>)
Sample depths
Test Pit Photos
Deflectograph
Date of Deflectograph Measurements
Roadloc Chainages
Length Analysed
Results

Schedule C – RMS Flood Data

Raw factual data
Hydrologic model
Hydraulic model

Schedule D – RMS Noise Data

Raw factual data
Noise logger results
Dates
Times
Date time
Noise levels
Weather information
Traffic data

Date day of

Executed as a deed poll

**Executed by [insert name and ACN or ABN of
Tenderer] by or in the presence of:**

Signature of Director

Signature of Secretary/other Director

Name of Director in full

Name of Secretary/other Director in full

APPENDIX 2

**TENDER FORM
AND
STATUTORY DECLARATION**

DESIGN AND CONSTRUCTION OF [insert Project Name]

TENDER FORM

To: Roads and Maritime Services

By: (Name of Tenderer and each Participant including,
if a corporation, its ACN)
(Registered Address of Tenderer)

1. THE OFFER

1.1 We,

.....
.....

(In block letters)

the undersigned, tender to perform the Contractor's Work in accordance with the Tender Documents (including, without limitation, the Project Deed) for:

Item	Description	Amount
1	Design Contract Sum (excluding Project Verifier's design verification services and Environmental Representative's design phase services)	\$.....(excluding GST)
2	Construction Contract Sum (excluding Project Verifier's construction verification services and Environmental Representative's construction phase services)	\$.....(excluding GST)
3	Project Verifier 1 – [insert Name of Project Verifier 1]	
3.1	Project Verifier's design verification services:	
3.1(a)	Project Verifier's fees	\$.....(excluding GST)
3.1(b)	Contractor's margin and contingency	\$.....(excluding GST)
3.2	Project Verifier's construction verification services:	
3.2(a)	Project Verifier's fees	\$.....(excluding GST)
3.2(b)	Contractor's margin and contingency	\$.....(excluding GST)
4	Project Verifier 2 - [insert Name of Project Verifier 2]	
4.1	Project Verifier's design verification services:	
4.1(a)	Project Verifier's fees	\$.....(excluding GST)
4.1(b)	Contractor's margin and contingency	\$.....(excluding GST)
4.2	Project Verifier's construction verification services:	
4.2(a)	Project Verifier's fees	\$.....(excluding GST)
4.2(b)	Contractor's margin and contingency	\$.....(excluding GST)
5	Environmental Representative	
5.1	Environmental Representative's design phase services:	
5.1(a)	Environmental Representative's fees	\$.....(excluding GST)

Item	Description	Amount
5.1(b)	Contractor's margin and contingency	\$.....(excluding GST)
5.2	Environmental Representative's construction phase services:	
5.2(a)	Environmental Representative's fees	\$.....(excluding GST)
5.2(b)	Contractor's margin and contingency	\$.....(excluding GST)
6	DAB Nominee 1 - [insert name]	
6.1	DAB Nominee 1's fixed monthly retainer fee -	\$.....(excluding GST)
6.2	DAB Nominee 1's daily fee	\$.....(excluding GST)
6.3	DAB Nominee 1's hourly rate	\$.....(excluding GST)
7	DAB Nominee 2 - [insert name]	
7.1	DAB Nominee 2's fixed monthly retainer fee -	\$.....(excluding GST)
7.2	DAB Nominee 2's daily fee	\$.....(excluding GST)
7.3	DAB Nominee 2's hourly rate	\$.....(excluding GST)

Notes:

- (a) Item 1 in the table above is derived from the information provided in response to clause 3.2(g)(vi)A.1. of this RFT;
- (b) Item 2 in the table above is derived from the information provided in response to clause 3.2(g)(vi)A.2. of this RFT;
- (c) Items 3 and 4 in the table above are derived from the information provided in response to clauses 3.2(i)(i)D. and E. of this RFT;
- (d) Item 5 in the table above is derived from the information provided in response to clauses 3.2(i)(ii)C. and D. of this RFT, and
- (e) Items 6 and 7 in the table above is derived from the information provided in response to clause 3.2(i)(iii)D. of this RFT.

1.2 We undertake, if this Tender is accepted, to forthwith commence the Contractor's Work and to perform it in accordance with the Tender Documents (including, without limitation, the Project Deed).

1.3 In consideration of RMS promising to pay us \$1.00 we agree to be bound by this Tender (including the Tender Conditions) for a period of 180 days from the Closing Date and Time (or such longer period as we agree to in writing) and that this Tender may be accepted by RMS at any time before the expiration of that period.

1.4 This Tender will not be deemed to have been accepted unless and until the Project Deed is executed by RMS.

1.5 We:

- (a) understand that RMS is not bound to accept the lowest or any Tender RMS may receive;
- (b) acknowledge and agree that by submitting our Tender for the Contractor's Work that:
 - (i) subject only to:
 - A. the terms of the Deed of Disclaimer; and
 - B. the terms of this Tender Form (including the obligation under clause 1.3 above),

no contract has been created between us and RMS nor any other obligations at law imposed upon RMS whether as a result of the tender process or otherwise in respect of our Tender or the consideration or evaluation of our Tender by RMS; and

(ii) RMS will not be under any obligation to act in any particular manner or refrain from acting in any particular manner in considering and evaluating our Tender; and

(c) agree that RMS will not be liable upon, and hereby release RMS from, any Claim (as defined in the Deed of Disclaimer, the form of which is in Appendix 1 of this Request for Tender) arising out of or in connection with anything that RMS does or fails to do as part of the tender process, including in the consideration or evaluation of Tenders.

1.6 We warrant that in preparing our Tender for the Contractor's Work we did not communicate (verbally, indirectly or otherwise) or have any arrangement or arrive at any understanding with any of the other Tenderers or with any employee of an association of which we or any of the other Tenderers are a member concerning the Contractor's Work or any aspect of the Contractor's Work and without limitation further warrant that:

(a) we did not engage in:

(i) any discussion or correspondence with such persons concerning the amount of our Tender;

(ii) any collusive tendering with any of the other Tenderers; or

(iii) any conduct or enter into any contract or have any arrangement or arrive at any understanding with any of the other Tenderers, which in any way was or could have the effect of reducing the competitiveness of the tender process for the Contractor's Work;

(b) we are not aware of any other Tenderer's tender price;

(c) except as disclosed in a statutory declaration lodged with the Tender, we have not entered into a contract, arrangement or understanding with anyone in connection with this Tender to the effect that a successful Tenderer will pay money to or confer a benefit upon an unsuccessful Tenderer or a trade or industry association (above the published standard fee); and

(d) our price does not include an allowance on account of a contract, arrangement or understanding of the kind referred to in paragraphs (a) or (c).

1.7 We agree that money or the monetary value of a benefit received by us from another Tenderer in connection with this Tender belongs in equity to RMS and is immediately payable to RMS.

1.8 We will immediately notify RMS if we receive or are offered money or another benefit from another tenderer in connection with this Tender.

1.9 We:

(a) warrant that we have not relied upon the Tender Documents as being accurate, adequate, suitable or complete for the purposes of enabling us to complete the design, construction and landscaping maintenance obligations under the Project Deed;

(b) warrant that we have made our own independent evaluation of the Tender Documents' accuracy, adequacy, suitability and completeness for the purposes of enabling us (should our Tender be successful) to discharge our obligations under

the Project Deed, and we have based our price upon our own independent evaluation; and

- (c) acknowledge that no representation or warranty (express or implied) has been or is made by RMS or anyone on its behalf to us that the Scope of Works and Technical Criteria or any other specifications or drawings included in the Tender Documents represent a complete design of the Project Works or that they are suitable for any purposes.

1.10 We:

- (a) acknowledge that the Information Documents are provided to us by RMS for our information only;
- (b) acknowledge that any information, data or document referred to or incorporated by reference in an Information Document is itself deemed to be an Information Document;
- (c) warrant that we have not in any way relied upon:
 - (i) the Information Documents or any information, data or document which is deemed to be an Information Document by clause 1.10(b) of this Tender Form;
 - (ii) the accuracy, adequacy, suitability or completeness of the Information Documents or any information, data or document which is deemed to be an Information Document by clause 1.10(b) of this Tender Form; or
 - (iii) any summary which appears in an Information Document of any information, data or document which is deemed by clause 1.10(b) of this Tender Form to be an Information Document,

for the purposes of preparing our Tender or entering into any contract with RMS with respect to the Contractor's Work and

- (d) acknowledge and agree that:
 - (i) RMS (or anyone on its behalf) does not warrant, guarantee, assume any responsibility or duty of care for, or make any representation about the accuracy, adequacy, suitability or completeness of the Information Documents or any information or document which is deemed by clause 1.10(b) of this Tender Form to be an Information Document, and nor has it (nor anyone on its behalf) done any of these things;
 - (ii) neither the Information Documents nor any information or document which is deemed by clause 1.10(b) of this Tender Form to be an Information Document will form part of any contract with RMS with respect to the Contractor's Work; and
 - (iii) except to the extent contemplated under clause 2 of the Deed of Disclaimer, insofar as is permitted by law, RMS will not be liable upon any Claim (as defined in the Deed of Disclaimer, the form of which is in Appendix 1 of this Request for Tender) by us arising out of or in any way in connection with the Information Documents or any information or document which is deemed by clause 1.10(b) of this Tender Form to be an Information Document.

1.11 We:

- (a) warrant that we have prepared our Tender and will enter into any contract with RMS with respect to the Contractor's Work based on our own investigations, interpretations, deductions, information and determinations; and

(b) acknowledge that RMS will be entering into any contract with us with respect to the Contractor's Work in reliance upon the acknowledgments and warranties made by us in this Tender Form.

1.12 We acknowledge that each party constituting the Tenderer is bound jointly and severally by this Tender.

1.13 Definitions in the Request for Tender for the *[insert Project Name and Contract Number]* apply in this Tender Form.

2. SHARING OF INFORMATION BETWEEN GOVERNMENT AGENCIES

2.1 The Tenderer authorises RMS to make information about the Tenderer's performance and claims record (both past, present and future) available to other NSW Government agencies or departments.

2.2 The Tenderer releases RMS and all other agents of the Crown in right of the State of New South Wales from claims and actions which the Tenderer or a person claiming on the Tenderer's behalf may otherwise be entitled to make in connection with the sharing of the information.

3. ADDENDA TO TENDER DOCUMENTS

We acknowledge receipt of the following Addenda, the terms of which have been allowed for and are incorporated in the Offer:

Number ____ Dated ____	Number ____ Dated ____
Number ____ Dated ____	Number ____ Dated ____
Number ____ Dated ____	Number ____ Dated ____
Number ____ Dated ____	Number ____ Dated ____
Number ____ Dated ____	Number ____ Dated ____
Number ____ Dated ____	Number ____ Dated ____
Number ____ Dated ____	Number ____ Dated ____
Number ____ Dated ____	Number ____ Dated ____
Number ____ Dated ____	Number ____ Dated ____
Number ____ Dated ____	Number ____ Dated ____
Number ____ Dated ____	Number ____ Dated ____

4. PROJECT DEED

We will execute 2 copies of the Project Deed which is part of the Tender Documents when required by RMS.

5. ADDRESS OF TENDERER

Address or Registered Office of Tenderer

Address for service of notices (NOT P.O. BOX)
.....

Telephone Number: Fax Number:

Tenderer's Bank:
(Name) (Branch)

If a firm, the names and addresses of the individual members are:

If a company, the related bodies corporate are:.....

DATED this _____ day of _____ 20____

SIGNED by [_____]
for and on behalf of the first Participant
in the Tenderer in the presence of:

Witness:

Occupation:

I [*NAME OF SIGNATORY*] warrant that I hold the position of [_____] in the Tenderer and am duly authorised to sign this Tender for and on behalf of the Tenderer:

.....

OR

Executed by [*insert name*] (ABN [*insert ABN*])
by or in the presence of:

Signature of Director

Signature of Secretary/other Director

Name of Director in full

Name of Secretary/other Director in full

SIGNED by [_____]
for and on behalf of the second Participant
in the Tenderer in the presence of:

Witness:

Occupation:

I [*NAME OF SIGNATORY*] warrant that I hold the position of [_____] in the Tenderer and am duly authorised to sign this Tender for and on behalf of the Tenderer:

.....

OR

Executed by [insert name] (ABN [insert ABN])
by or in the presence of:

Signature of Director

Name of Director in full

Signature of Secretary/other Director

Name of Secretary/other Director in full

Annexure 1 - Schedule of Compliance with NSW Guidelines

This “Schedule of Compliance” must be completed by each Participant in the Tenderer and lodged with the Tender. Any Tender in which this Schedule is not completed may be regarded as non-conforming.

Refer to clause 4.10.1 – NSW Government Code of Practice for Procurement and Implementation Guidelines.

SCHEDULE OF COMPLIANCE WITH NSW GOVERNMENT’S IMPLEMENTATION GUIDELINES TO THE NSW GOVERNMENT CODE OF PRACTICE FOR PROCUREMENT

Tender: *[insert Tender reference]*

Tenderer: *[insert full legal name of the Tenderer/Participant, including ABN and ACN where applicable]*

Tenderer's authorised representative: *[insert full name and title of natural person completing this Compliance Schedule on behalf of the Tenderer/Participant]*

Primary acknowledgements and undertakings

1. By completing this Compliance Schedule and submitting a Tender, the Tenderer:
 - a. acknowledges that the *NSW Government's Code of Practice for Procurement (NSW Code)* and the *NSW Government's Implementation Guidelines to the NSW Code of Practice for Procurement: Building and Construction (NSW Guidelines)* apply to this Project;
 - b. undertakes that it, and its related entities, comply with the *NSW Code* and *NSW Guidelines* on this Project and any privately and publicly funded building and construction work to which the *NSW Guidelines* apply, on and from the date of submitting this Tender (if not already required to comply on such privately and publicly funded projects);
 - c. confirms that it and its related entities have complied with:
 - i. the *NSW Code* and *NSW Guidelines* on all its other projects to which the *NSW Guidelines* apply or have applied; and
 - ii. all applicable legislation, court and tribunal orders, directions and decisions, and industrial instruments;
 - d. confirms that neither it, nor any of its related entities, are subject to a sanction or other circumstances that would preclude the Tenderer from submitting a Tender, or, if successful, being awarded a contract.

Sanctions for non-compliance

2. The NSW Treasury, through the Construction Compliance Unit (CCU), has responsibility for

enforcing and ensuring compliance with the *NSW Code* and *NSW Guidelines*.

3. The Tenderer acknowledges that where it or a related entity fails to comply with the *NSW Code* or *NSW Guidelines*, a sanction may be imposed on the Tenderer or its related entity or both. The sanctions that can be imposed include, but are not limited to, one or more of the following:
 - a. a formal warning that a further breach will lead to severe sanctions;
 - b. referral of a complaint to the relevant industry organisation for assessment against its own professional code of conduct and appropriate action;
 - c. reduction in tendering opportunities at either agency or government-wide level, for example, by exclusion of the breaching party from tendering for government work above a certain value or for a specified period;
 - d. reporting the breach to an appropriate statutory body; and
 - e. publicising the breach and identity of the party.

Disclosure of information

4. The Tenderer agrees and gives its consent (or reaffirms its consent), and confirms that its related entities agree and give their consent (or reaffirm their consent), to the disclosure of information concerning the Tenderer's or the related entity's compliance with the *NSW Code* and *NSW Guidelines*, including disclosure of past conduct relating to the *NSW Code* and *NSW Guidelines*, and whether or not sanctions have been imposed on a Tenderer or its related entities.
5. The Tenderer confirms that it has obtained, or will obtain, the consent of each subcontractor or consultant it proposes to use on the Project, to the disclosure of information concerning the subcontractor's and consultant's compliance with the *NSW Code* and *NSW Guidelines*, including disclosure of details of past conduct relating to the *NSW Code* and *NSW Guidelines* and whether or not sanctions have been imposed on the subcontractor or consultant or its related entities.
6. The consent by the Tenderer, its related entities and any proposed or subsequent subcontractors or consultants is given to the State of New South Wales, its agencies (including RMS), Ministers and the CCU (and its authorised personnel) for purposes including:
 - a. the exercise of their statutory authority or portfolio responsibilities;
 - b. investigating and checking claims and assertions made by the Tenderer in any documents provided as part of the Tender (including, but not limited to, any Workplace Relations Management Plan (State) or Health and Safety Management Plans);
 - c. monitoring, investigating and enforcing the *NSW Code* and *NSW Guidelines*; and
 - d. ensuring, facilitating and promoting compliance with the *NSW Code* and *NSW Guidelines*.
7. The Tenderer acknowledges that this consent is not limited to this Tender or this Project, as parties are expected to comply with the *NSW Code* and *NSW Guidelines* on future projects for which they apply.

Positive obligations

8. Without limiting the obligations and requirements in the *NSW Code* and *NSW Guidelines*, the Tenderer acknowledges and undertakes to comply with its positive obligations under the *NSW Code* and *NSW Guidelines*, including to:

- a. comply with the Workplace Relations Management Plan (State) and Work Health and Safety Management Plan;
 - b. allow NSW Government authorised personnel to:
 - i. access the Project site and other premises;
 - ii. monitor and investigate compliance with the *NSW Code* and *NSW Guidelines*;
 - iii. inspect any work, material, machinery, appliance, article or facility;
 - iv. inspect and copy any record relevant to the Project; and
 - v. interview any person,
 as is necessary to demonstrate compliance with the *NSW Code* and *NSW Guidelines*;
 - c. notify the CCU (or nominee) and RMS of any alleged breaches of the *NSW Code* and *NSW Guidelines*, and of voluntary remedial action taken, within 24 hours of becoming aware of the alleged breach;
 - d. (for principal contractors only) report any grievance or dispute relating to workplace relations or work health and safety matters that may impact on project costs, related contracts or timelines to the CCU (or nominee) and RMS within 24 hours of becoming aware of the grievance or dispute, and provide regular updates on the grievance or dispute;
 - e. report any threatened or actual industrial action that may impact the Project, costs of the Project, related contracts or timelines to the CCU (or nominee) and RMS within 24 hours and provide regular updates about the steps being taken to resolve the threatened or actual industrial action;
 - f. take all steps reasonably available to prevent or resolve industrial action which adversely affects, or has the potential to adversely affect, the delivery of the Project or other related contracts on time and within budget; and
 - g. take all reasonably available steps to prevent or bring to an end unprotected industrial action occurring on or affecting the Project, including by pursuing legal action where possible. Any such legal action must be conducted (and where appropriate, concluded) in a manner consistent with the guiding principles and objectives of the *NSW Guidelines*, namely supporting outcomes of compliance with the law, productivity in delivering the Project on time and within budget, maintaining a high standard of safety, and protecting freedom of association.
9. Without limiting the obligations and requirements of the *NSW Code* and *NSW Guidelines*, the Tenderer acknowledges its obligation to ensure, through contract, that subcontractors and consultants similarly undertake, or allow for, each of these applicable positive obligations.

Privately funded work

10. The Tenderer acknowledges and agrees that in respect of its privately funded building and construction work to which the *NSW Guidelines* apply, it and its related entities will:
 - a. comply with the *NSW Code* and *NSW Guidelines*;
 - b. maintain adequate records of compliance with the *NSW Code* and *NSW Guidelines* (including by contractors);

- c. allow NSW Government authorised personnel to :
 - i. access the site and other premises;
 - ii. monitor and investigate compliance with the *NSW Code* and *NSW Guidelines*;
 - iii. inspect any work, material, machinery, appliance, article or facility;
 - iv. inspect and copy any record relevant to the project; and
 - v. interview any person,

as is necessary to demonstrate compliance with the *NSW Code* and *NSW Guidelines*; and
- d. ensure contractors and consultants similarly undertake, or allow for, each of these obligations.

Declaration by Tenderer's authorised representative

11. By signing this declaration on behalf of the Tenderer, the authorised representative declares that they have full authority to execute it and has obtained any necessary consents and approvals to do so.

Signed for the Tenderer/Participant by:

Name (in block letters): (Authorised Officer)

In the Office Bearer capacity of:

Date:

Annexure 2A to the Tender Form - Declaration of Compliance with Building Code

This “Declaration of Compliance” must be completed by each Participant in the Tenderer that is or will be a “building contractor” or a “building industry participant” (as defined in section 5 of the BCIP Act) and lodged with the Tender. Any Tender in which this Declaration is not completed may be regarded as non-conforming.

Refer to clause 4.11.1

DECLARATION OF COMPLIANCE WITH THE CODE FOR THE TENDERING AND PERFORMANCE OF BUILDING WORK 2016

Tender: *[insert Tender reference]*

Tenderer: *[insert full legal name of the Tenderer/Participant, including ABN and ACN where applicable]*

Tenderer's authorised representative: *[insert full name and title of natural person completing this Declaration of Compliance on behalf of the Tenderer/Participant]*

1. In this Declaration of Compliance:

ABCC	means the body referred to in section 29 of the BCIP Act.
ABC Commissioner	means the Australian Building and Construction Commissioner referred to in subsection 15(1) of the BCIP Act.
BCIP Act	means the <i>Building and Construction Industry (Improving Productivity) Act 2016</i> (Cth).
Building Code	means the Building Code issued under subsection 34(1) of the BCIP Act, being the document titled ' <i>Code for the Tendering and Performance of Building Work 2016</i> ', which is available at www.legislation.gov.au .
Building Contractor	has the same meaning as in the BCIP Act.
Building Industry Participant	has the same meaning as in the BCIP Act.
Building Work	has the same meaning as in subsection 3(4) of the Building Code.
Commonwealth Funded Building Work	means Building Work in items 1-8 of Schedule 1 of the Building Code.
Contractor's Work	means the Commonwealth Funded Building Work that is the subject of this Request for Tender.
Designated Building Law	has the same meaning as in the BCIP Act.
Exclusion Sanction	has the same meaning as in subsection 3(3) of the Building Code.
Related Entity	has the same meaning as in subsection 3(2) of the Building Code.

**Workplace Relations
Management Plan
(Commonwealth)**

has the meaning given to 'WRMP' in subsection 3(1) of the Building Code.

2. The Tenderer confirms that it has complied with the Building Code in preparing its tender.
3. Should it be the successful Tenderer, the Tenderer acknowledges that it and its Related Entities must comply with the Building Code in relation to all Building Work described in Schedule 1 of the Building Code on or after the date that the Building Code commenced, being 2 December 2016, and, should it be the successful Tenderer, in relation to the Contractor's Work.
4. The Tenderer undertakes to ensure that it and its subcontractors that it subcontracts any of the Contractor's Work to, should it be the successful Tenderer, comply with the Building Code.
5. The Tenderer acknowledges the powers and functions of the ABC Commissioner and the ABCC under the BCIIIP Act and the Building Code and undertakes to ensure that it and its subcontractors will comply with any requests made by the ABCC and the ABC Commissioner within those powers and functions, including but not limited to requests for entry under section 72 of the BCIIIP Act, requests to interview any person under section 74 of the BCIIIP Act, requests to produce records or documents under sections 74 and 77 of the of the BCIIIP Act and requests for information concerning matters relating to the Building Code under subsection 7(c) of the Building Code.
6. The Tenderer declares that where it proposes to subcontract any of the Contractor's Work, should it be the successful Tenderer, it will:
 - a. require each subcontractor to whom it proposes to subcontract any of the Contractor's Work to confirm, prior to entering into the subcontract and every six months during the term of the relevant subcontract, that it has not, within the preceding three year period:
 - i. had an adverse decision, direction or order made by a court or tribunal for a breach of a Designated Building Law, work health and safety law (including, but not limited to, the *Work Health and Safety Act 2011* (NSW) and the Work Health and Safety Regulation 2017 (NSW)) or the *Migration Act 1958* (Cth); or
 - ii. been required to pay any amounts under an adjudication certificate (provided in accordance with a law relating to the security of payments (including, but not limited to, the *Building and Construction Industry Security of Payment Act 1999* (NSW)) that are due to persons in respect of Building Work) or owed any unsatisfied judgement debts (including by any Related Entity) to a Building Contractor or Building Industry Participant;
 - b. not enter into a subcontract with a subcontractor who:
 - i. is subject to an Exclusion Sanction or is excluded from performing Building Work funded by a state or territory government (unless prior approval to engage that subcontractor is obtained from the ABC Commissioner); and
 - ii. in the three years prior to the date on which the Tenderer submits their response to this Request for Tender, has had an adverse decision, direction or order made by a court or tribunal for a breach of the BCIIIP Act, a Designated Building Law, work health and safety law (including, but not limited to, the *Work Health and Safety Act 2011* (NSW) and the Work Health and Safety Regulation 2017 (NSW)) or competition and consumer law (including, but not limited to, the *Competition and Consumer Act 2010* (Cth)) and failed to comply with the decision, direction or order;

- c. only enter into a subcontract:
 - i. pursuant to which the subcontractor undertakes to:
 - A. comply with the Building Code in performing the Contractor's Work;
 - B. comply with the version of the Tenderer's Workplace Relations Management Plan (Commonwealth) approved by the ABCC for the performance of the Contractor's Work; and
 - C. only use products in relation to the Contractor's Work that comply with the relevant Australian standards published by, or on behalf of, Standards Australia Limited (ABN 85 087 326 690);
 - ii. where the subcontractor has submitted a declaration of compliance, including the further information outlined in Attachment A to the declaration of compliance, in substantively the same form as the model declaration of compliance applicable to contractors and subcontractors in relation to the Building Code issued by the ABCC from time to time; and
 - iii. where the subcontract with the subcontractor contains clauses in substantively the same form as the model contract clauses applicable to contractors and subcontractors in relation to the Building Code issued by the ABCC from time to time.

7. The Tenderer declares that it has provided in its Tender:

- a. a Workplace Relations Management Plan (Commonwealth), where Item 20 of Schedule 1 to the Project Deed specifies that such a Plan is required, for approval by the ABCC in accordance with Part 6 of the Building Code; and
- b. all of the further information required by Attachment A to this Declaration of Compliance.

8. The Tenderer declares that:

- a. it is not subject to an Exclusion Sanction;
- b. it has not had an adverse decision, direction or order made by a court or tribunal for a breach of the BCIP Act, a Designated Building Law, work health and safety law (including, but not limited to, the *Work Health and Safety Act 2011* (NSW) and the Work Health and Safety Regulation 2017 (NSW)) or competition and consumer law (including, but not limited to, the *Competition and Consumer Act 2010* (Cth)) and failed to comply with the decision, direction or order;
- c. it will only use products in relation to the Contractor's Work that comply with the relevant Australian standards published by, or on behalf of, Standards Australia Limited (ABN 85 087 326 690), should it be the successful Tenderer.

Signed for the Tenderer/Participant by:

Name (in block letters): (Authorised Officer)

In the Office Bearer capacity of:

Date:

**ATTACHMENT A – INFORMATION REGARDING
COMPLIANCE WITH THE CODE FOR THE TENDERING
AND PERFORMANCE OF BUILDING WORK 2016**

Tenderers must provide the following information as part of their Declaration of Compliance. This information can either be set out in this table or in an annexure to this Attachment and the Declaration of Compliance.

Where the Tenderer comprises of more than one Participant, each Participant that is or will be a “building contractor” or a “building industry participant” (as defined in section 5 of the BCIP Act) must provide all details requested in part A1 below, with its Declaration of Compliance.

Where the Tenderer comprises of only one Participant or the Tenderer is an incorporated joint venture, the Tenderer must provide all details requested in part A1 below, with its Declaration of Compliance.

Details requested in part A2 below (as well as the Workplace Relations Management Plan (Commonwealth)) are not required to be provided by each Participant but are required to be prepared and submitted on behalf of the Tenderer, as project specific information.

PART A1 OF THE ATTACHMENT A		
Item	Requirement	Compliance
A1.1	Is the Participant/Tenderer excluded from performing Building Work funded by a state or territory government? If so, the Commonwealth reserves the right to exclude the Tenderer from further consideration.	Yes/No
		Details:
A1.2	Does the Participant/Tenderer positively commit to the provision of appropriate training and skills development for their workforce, and, if so, what evidence can the Participant/Tenderer supply in relation to this (for example, evidence of its compliance with any state or territory government building training policies and evidence of its support in the delivery of nationally endorsed building and construction competencies)?	Yes/No
		Details:

PART A1 OF THE ATTACHMENT A		
Item	Requirement	Compliance
A1.3	Has the Participant/Tenderer within the preceding 3 years had an adverse decision, direction or order of a court or tribunal made against it for a breach of a Designated Building Law, work health and safety law (including, but not limited to, the <i>Work Health and Safety Act 2011</i> (NSW) and the <i>Work Health and Safety Regulation 2017</i> (NSW)) or the <i>Migration Act 1958</i> (Cth)?	Yes / No Details:
A1.4	Has the Participant/Tenderer or its Related Entities within the preceding 3 years been required to pay any amount under an adjudication certificate (provided in accordance with a law relating to the security of payments (including, but not limited to, the <i>Building and Construction Industry Security of Payment Act 1999</i> (NSW)) that are due to persons in respect of Building Work) to a Building Contractor or Building Industry Participant?	Yes / No Details:
A1.5	Has the Participant/Tenderer or its Related Entities within the preceding 3 years owed any unsatisfied judgement debts to a Building Contractor or Building Industry Participant?	Yes / No

PART A2 OF THE ATTACHMENT A		
Item	Requirement	Compliance
A2.1	How many current apprentice and trainee employees are engaged or intended to be engaged by the Tenderer to undertake the Contractor's Work?	Details:
A2.2	How many and what classes of persons that hold visas under the <i>Migration Act 1958</i> (Cth) are engaged or intended to be engaged by the Tenderer to undertake the Contractor's Work?	Details:
A2.3	To what extent does the Tenderer intend to use domestically sourced and manufactured building materials to undertake the Contractor's Work?	Details:
A2.4	What is the Tenderer's assessment of the whole-of-life costs of the project to which the Contractor's Work relates?	Details:
A2.5	What does the Tenderer consider the impact on jobs will be of the project to which the Contractor's Work relates?	Details:
A2.6	Does the Tenderer consider that the project to which the Contractor's Work relates will contribute to skills growth?	Yes/No

Annexure 2B to the Tender Form – Confirmation of WHS Accreditation Status

This “Confirmation of WHS Accreditation Status” must be completed by each Participant in the Tenderer that will carry out ‘building work’ (as defined in the BCIIP Act) for the Project and lodged with the Tender. Any Tender in which this Confirmation is not completed may be regarded as non-conforming.

Refer to clause 4.11.2

**CONFIRMATION OF ACCREDITATION STATUS UNDER THE AUSTRALIAN
GOVERNMENT WORK HEALTH AND SAFETY ACCREDITATION SCHEME**

Tender: *[insert Tender reference]*

Tenderer: *[insert full legal name of the Tenderer/Participant, including ABN and ACN where applicable]*

Tenderer's authorised representative: *[insert full name and title of natural person completing this Confirmation on behalf of the Tenderer/Participant]*

Insert details of accreditation status under the Australian Government Work Health and Safety Accreditation Scheme (the **Scheme**), including the expiry date of accreditation, or provide evidence that accreditation is being sought under the Scheme.

Regulation 26(1)(f) of the *Fair Work (Building Industry – Accreditation Scheme) Regulations 2016* (Cth) outlines provisions applying to joint venture arrangements that include accredited and unaccredited members. Where the Tenderer is a joint venture that includes an unaccredited member, the joint venture must provide evidence that the project specific exemption has been obtained or is being sought under regulation 26(1)(f).

Signed for the Tenderer/Participant by:

Name (in block letters): (Authorised Officer)

In the Office Bearer capacity of:

Date:

DESIGN AND CONSTRUCTION OF
[insert Project Name]

STATUTORY DECLARATION

I, *[insert name]* of *[insert address]*
do solemnly and sincerely declare and affirm in respect of the tender for **(Tender)** or
any contract arising from the Tender, that:

1. I hold the position of and am duly authorised by
(Tenderer) to make this declaration on its behalf.
2. *To the best of my knowledge, neither the Tenderer nor any of its employees or agents have
entered into a contract, arrangement or understanding to pay moneys to a trade association,
apart from the normal amount (annual subscription, turnover or contract fee) imposed by that
trade association.

*The Tenderer has agreed to pay a special fee to a trade association of \$ if it is
successful in the Tender.
3. To the best of my knowledge, neither the Tenderer nor any of its employees or agents had
knowledge of the price of another tenderer prior to submitting the Tender.
4. To the best of my knowledge, neither the Tenderer nor any of its employees or agents has
disclosed the Tenderer's tender price to a rival tenderer.
5. The Tenderer submitted the Tender in good faith and has not deliberately set its tender price
above the level of rival tenderers.
6. As at the date of this declaration, the Tenderer intends to do the work the subject of the
Tender.
7. To the best of my knowledge, neither the Tenderer nor any of its employees or agents has
entered into a contract, arrangement or understanding having the result that the Tenderer or
another person will pay money to an unsuccessful tenderer if the Tenderer is successful in the
Tender (other than for work or services done or materials supplied under a bona fide contract).

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the
provisions of the Oaths Act, 1900.

Subscribed and declared at*[city or town]* on *[date]*
before me:

.....
Justice of the Peace/Solicitor Declarant

* *Delete whichever is inapplicable*

APPENDIX 3

INFORMATION FOR INITIAL PROJECT PLANS & TRAINING AND APPRENTICESHIP

TABLE 1: PROJECT MANAGEMENT ISSUES

Issue No	Project Management Issues 10 Page Limit
1	Outline the management team structures, nominated management and supervisory personnel, duty or position statements that clearly detail both accountability and responsibility for leading and achieving outcomes in service and product quality, WHS, environmental management, traffic management and community, the minimum skill levels of each position, the lines of communication and the performance milestones for the management team for each of the design and construction phases of the Contractor's Work
2	Outline the processes to identify and manage work to be sub-contracted, including quality, safety, environmental and communication aspects of the Contractor's Work
3	Outline the processes to ensure integration of the Contractor's personnel with designers and sub-contractors, and RMS personnel
4	Outline how independent project verification and proof engineering will be provided
5	Outline the methods of dealing with Services and any associated Authorities
6	Outline the strategies for obtaining all necessary Approvals

TABLE 2: ENVIRONMENTAL MANAGEMENT ISSUES

Issue No.	Environmental Management Issues 30 Page Limit
1	Determination of the location of ancillary sites and stockpile sites and processes to be undertaken to allow for efficient approval of these ancillary sites. Proposed processes if unforeseen or additional ancillary sites are required during construction to enable sites to be approved.
2	Management of erosion and sediment control (ESC): <ul style="list-style-type: none"> • identification of any high risk erosion and sediment areas and what controls would be needed; • what ESC training would be implemented and how; • specific site measures for avoiding and managing mud tracking onto public roads; and • consultation process with relevant agencies with regard to erosion and sediment control measures and how issues raised by the agencies will be addressed and communicated.
3	Approach to construction work within/above waterways including details on: <ul style="list-style-type: none"> • processes to identify, consider, assess and address the risks and impacts of the design and construction of the Temporary Works in the sensitive catchments, including environmental, construction activity, health and safety risks
4	Proposed measures and controls to ensure native fauna are protected during clearing and during the full extent of construction works.

Issue No.	Environmental Management Issues 30 Page Limit
5	For native vegetation clearing: <ul style="list-style-type: none"> • proposed control measures, systems and responsibilities to ensure compliance with clearing limits; and • management of threatened flora species.
6	Any proposed measures and systems in relation to potential extraction, usage, storage and treatment of ground waters.
7	Approach to: <ul style="list-style-type: none"> • creating a positive environmental culture on the project and proactive attitudes and behaviours; • the management of poor performers/behaviours; • management of environmental non-conformances and learning from incidents; and • establishing relationships with other Authorities.
8	Details on environmental innovations that improved environmental outcomes on recent projects and how they will be applied to this Project.
9	Approach to selecting, managing and training subcontractors.

TABLE 3: DESIGN MANAGEMENT ISSUES

Issue No	Design Management Issues 10 Page Limit
1	Outline the Design Team Structure including reporting arrangements (and critical member) and show the integration with the RMS review team
2	Outline the management processes involved in the release and review of packages and closure of comments with the Project Verifier and RMS reviewers
3	Outline the internal design and review process to ensure all the design disciplines are integrated
4	Outline how Safety in Design (SID) and Risk will be integrated/optimised throughout the design including any site specific issues?
5	Outline how constructability input will be incorporated throughout the design life of the project?

TABLE 4: CONSTRUCTION MANAGEMENT ISSUES

Issue No	Construction Management Issues 5 Page Limit
1	Outline the processes to achieve and satisfy: <ul style="list-style-type: none"> a) durability; b) construction program; c) access to affected properties; d) details of construction methods, planned resource levels, sequencing and staging; e) safe access to and from the areas where construction activities are taking place; and f) vegetation clearing limits.
2	Outline the proposed spoil management plan detailing the excavation, spoil disposal and haulage methodology and the management measures to avoid, reduce, reuse and recycle waste, including details of proposed beneficial reuse of excavated material

TABLE 5: COMMUNITY INVOLVEMENT ISSUES

Issue No	Community Involvement Issues 5 Page Limit
1	Detail the role of the Community Relations Manager including: <ul style="list-style-type: none"> a) the hours of work and work location for the Community Relations Manager; and b) the Community Relations Manager's support staff resources, hours of work and their work location.
2	Outline the proposed strategy for dealing with businesses impacted by the upgrade
3	Outline methodology to provide best practice community engagement
4	Outline the processes proposed to deal with complaints raised by community and/or stakeholders

TABLE 6: EARTHWORKS ISSUES

Issue No	Earthworks Issues 25 Page Limit
1	Outline how the Contractor will investigate, design, construct and monitor, foundations and the earthworks formation, where the earthworks formation consists of cuttings, embankments, topsoil and spoil and any other changes to the existing surface.
2	Outline the programming and resources proposed to undertake general and local batter treatments including for features identified during construction.
3	Outline the frequency and scope of batter and bench inspection and maintenance including proposed techniques for monitoring batter performance.
4	Outline the proposed methodology to deal with the key issues associated with embankments, including: <ul style="list-style-type: none"> (i) construction techniques and resources to prepare and construct embankment foundations (ii) construction techniques and resources to construct embankments; (iii) construction techniques for work carried out in areas of acid sulphate soils; (iv) construction techniques for work carried out using potential acid sulphate rocks, including methods for testing, segregating and treating acid sulphate materials; and (v) the frequency and scope of embankment monitoring, inspection and maintenance and details of techniques used for the monitoring of embankment performance.
5	Outline the proposed methodology to deal with the key issues associated with foundations of structures, including: <ul style="list-style-type: none"> (i) the programming and resource provisions to construct foundations; (ii) the frequency and scope of foundation inspections including proposed techniques for foundation inspections; and (iii) construction techniques for constructing foundations.

TABLE 7: WHS MANAGEMENT ISSUES

Issue No	WHS Management Issues 15 Page Limit
1	Identify how the Contractor will comply with the requirements of the: <ul style="list-style-type: none"> a) WHS Laws, b) RMS D&C G22 and c) the deed
2	Outline methodology for hazard identification and risk analysis
3	Address the project specific WHS issues identified in Annexure G22/A of RMS D&C G22

TABLE 8: CHAIN OF RESPONSIBILITY MANAGEMENT ISSUES

Issue No	Chain of Responsibility Management Issues 5 Page Limit
1	Identify how the Contractor will comply with the requirements of the: a) Chain of Responsibility Provisions of the Heavy Vehicle Law, and b) the deed
2	Initial project Chain of Responsibility risk assessment, identifying project specific chain of responsibility risks and how the project delivery approach will address them during construction

TABLE 9: TRAINING AND APPRENTICESHIP

Schedule of Skills Development and Training

1. Refer to Clause 3.2(f)(ii)7, “Training and Apprenticeship”.
2. The Tenderer is to complete the tables below by inserting the Tenderer’s commitments to the engagement of apprentices and trainees to carry out the work under the Deed.
3. The Tenderer is required to nominate minimum targets for Trainees hours and commit to the targets. These targets will be evaluated against the guidelines and agreed by RMS for incorporation in the Deed.

Requirement	Minimum targets for the Contract as a whole	Tenderer’s Commitment
Apprentice hours as a percentage of hours worked by qualified trades.	» 20 % of hours worked %
Trainee hours as a percentage of hours worked by occupations with recognised traineeships	[Tenderer to insert] %

Requirement	Minimum target (as a percentage of work done by trade)	Tenderer’s Commitment
Apprentice hours as a percentage of hours worked by the following trades:	»20 % of hours worked %
• » [Tenderer to insert]	»20 % of hours worked %
• » [Tenderer to insert]		

Requirement	Minimum target (as a percentage of work done by trade	Tenderer's Commitment
Trainee hours as a percentage of hours worked by the following occupations: <ul style="list-style-type: none"> • » [Tenderer to insert] • » [Tenderer to insert] 	[Tenderer to insert] [Tenderer to insert] % %

4. Complete the table below to identify three recent contracts where apprentices and trainees were engaged, including the percentage in relation to overall contracts.

Client	Name & location of contract	Contract Price	Start Date/ Completion Date	Number of apprentices / trainees engaged	Apprentice/ trainee hours (as a percentage of total hours worked)
.....//%
.....//%
.....//%
Percentage of overall contracts where apprentices and trainees were engaged over the past twelve months				%
Overall apprentice/trainee hours as a percentage of total hours worked over the past twelve months				%

ATTACHMENT 1

PROJECT DEED AND SCHEDULES

ATTACHMENT 2

PROJECT DEED EXHIBIT A

SCOPE OF WORKS AND TECHNICAL CRITERIA

ATTACHMENT 3

PROJECT DEED EXHIBIT B

SITE ACCESS SCHEDULE