

Schedule 2 – Form of D&C Contract (clause 3.2(b)(i))

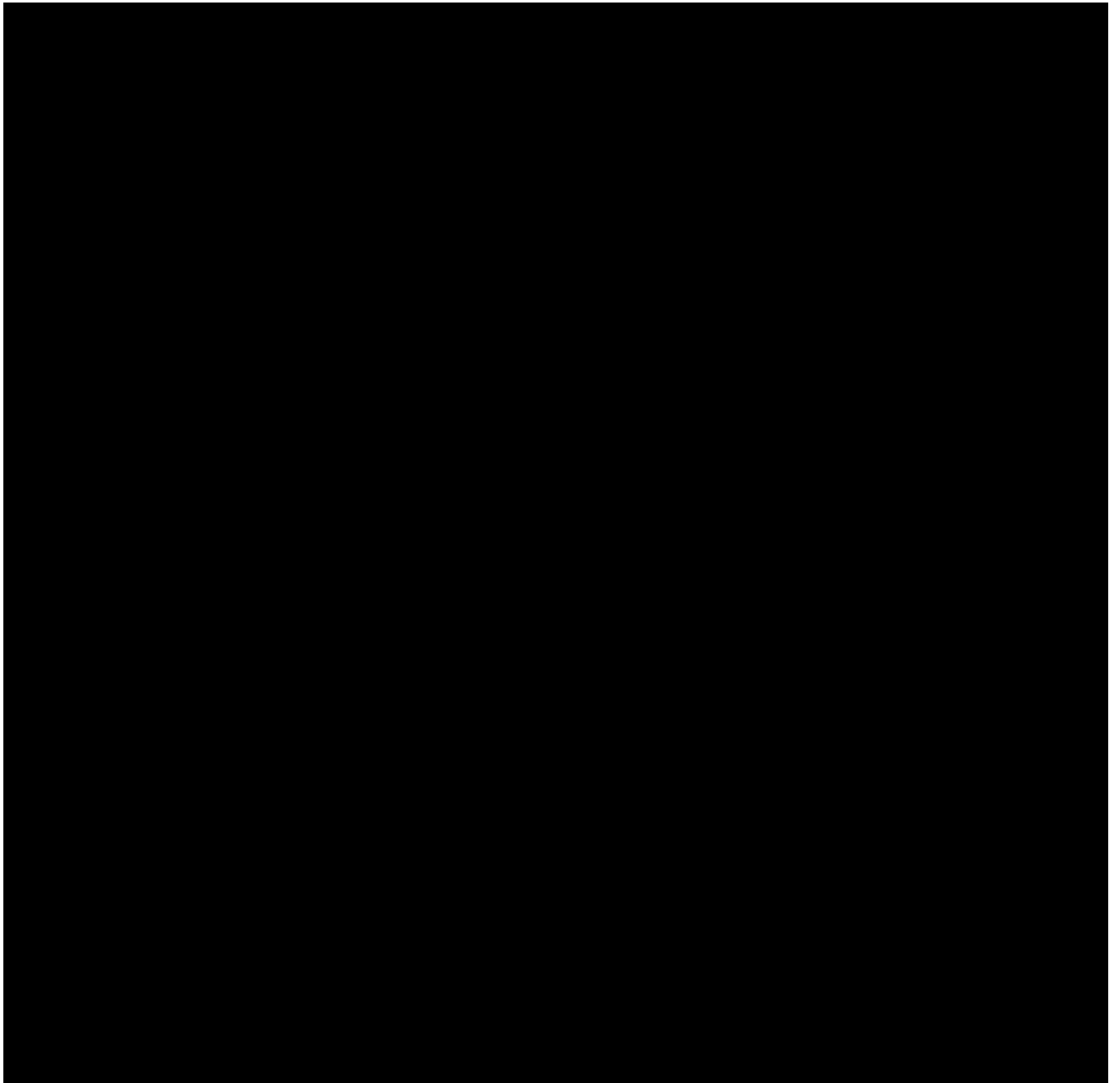
Schedule 3 – Confidentiality Deed Poll

(clause 5.1(a)(iii))

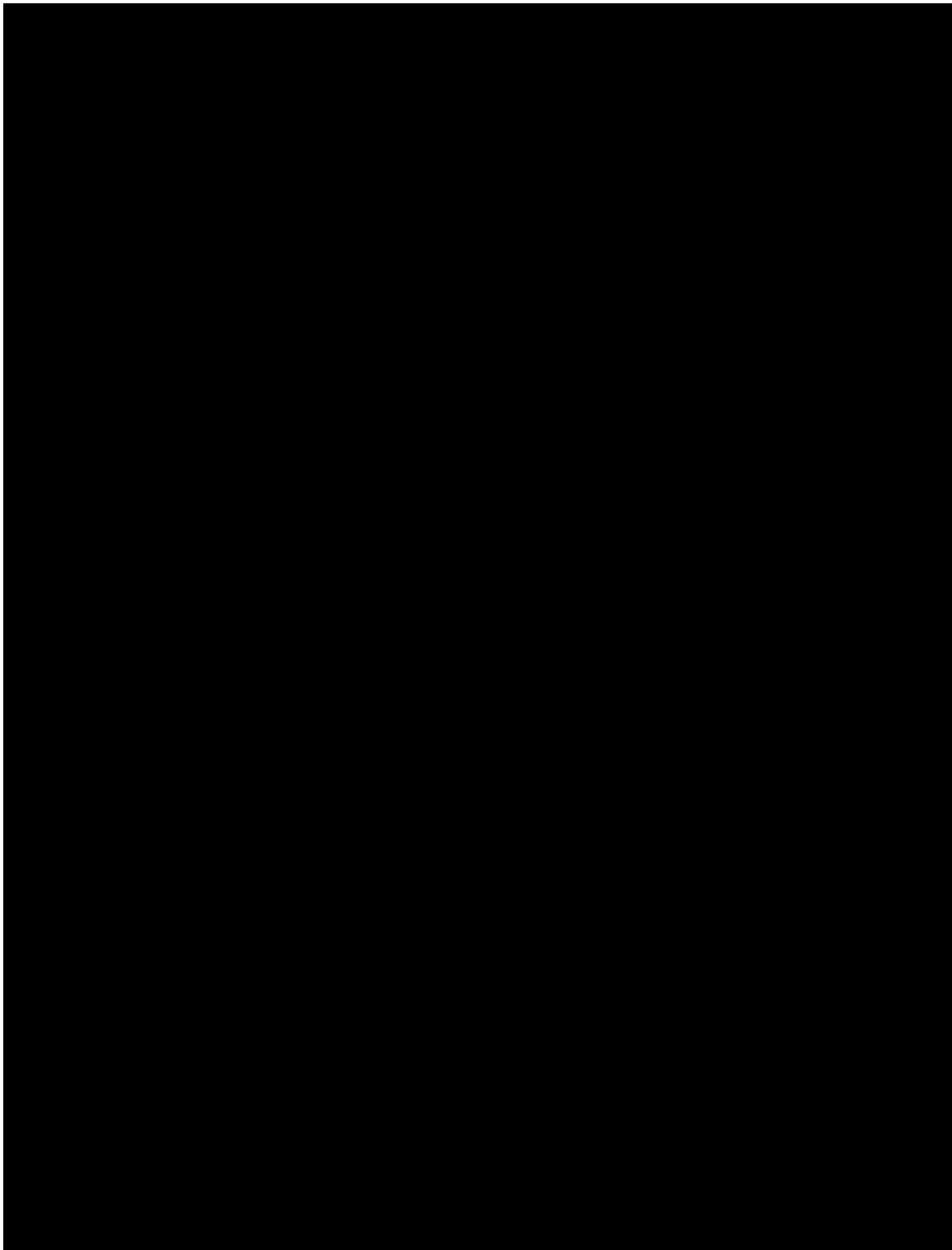
Schedule 4 – Schedule of Stages

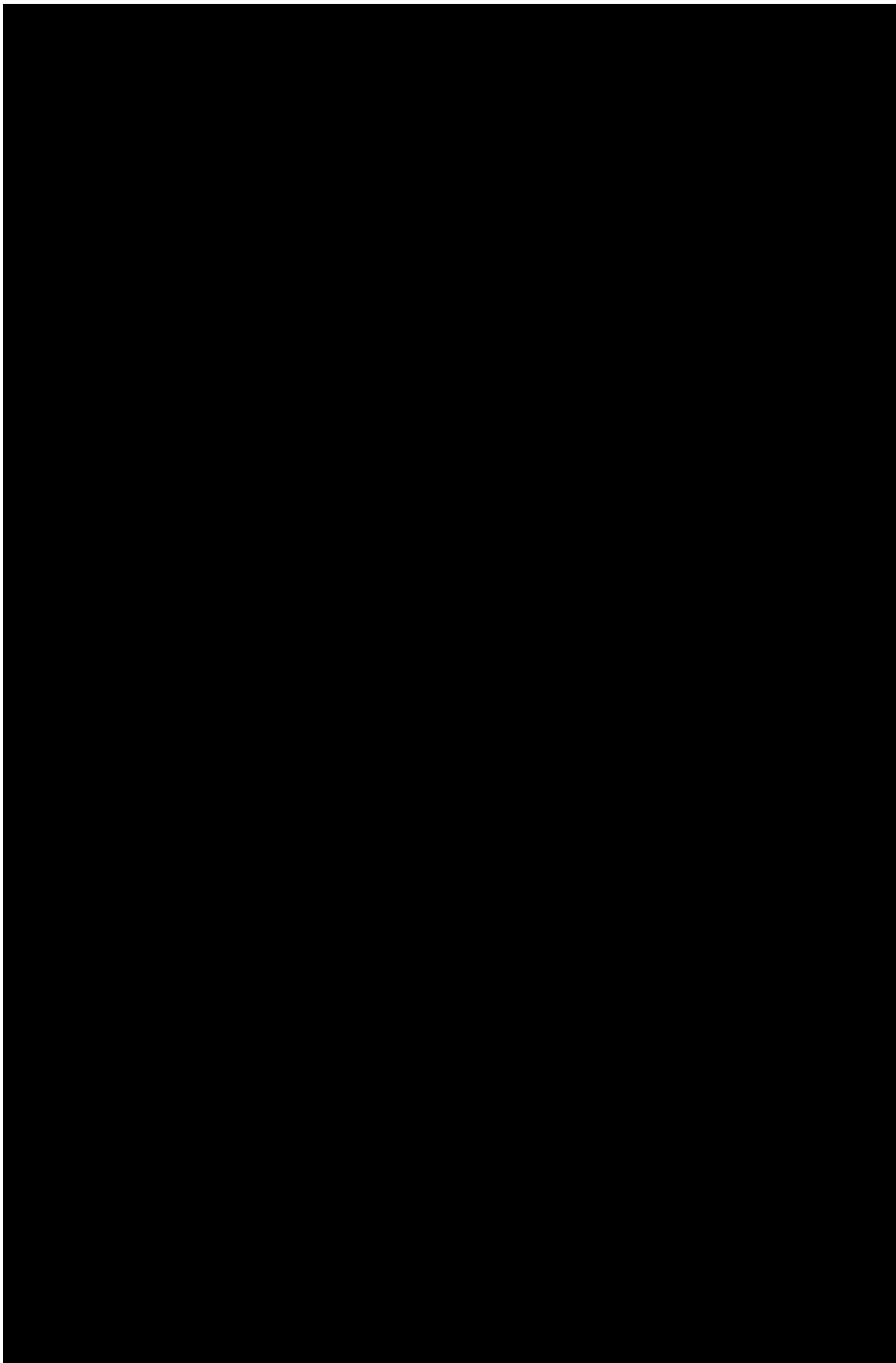
(clause 1)

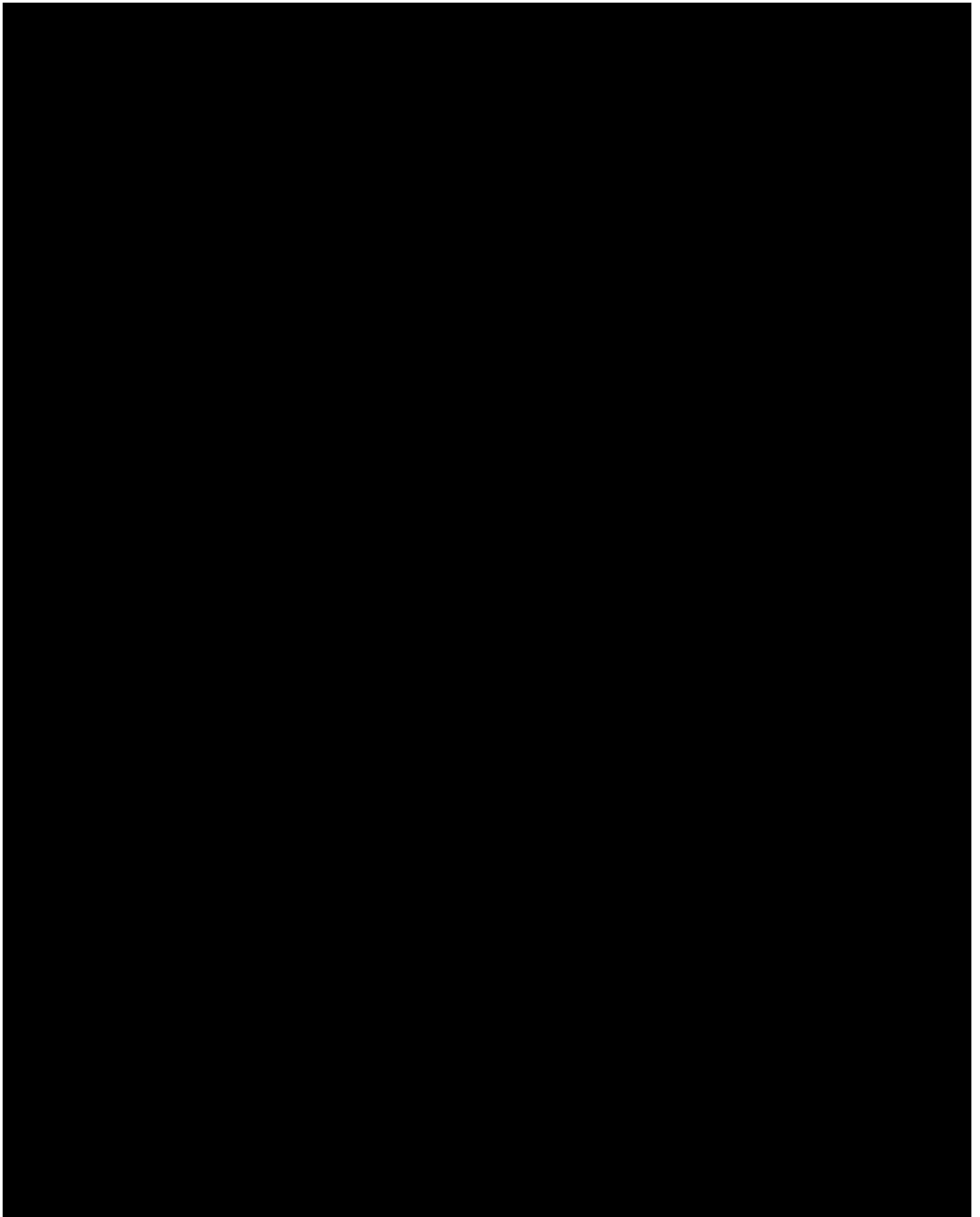
[Note: Insert Schedule 25 of the Services Agreement.]













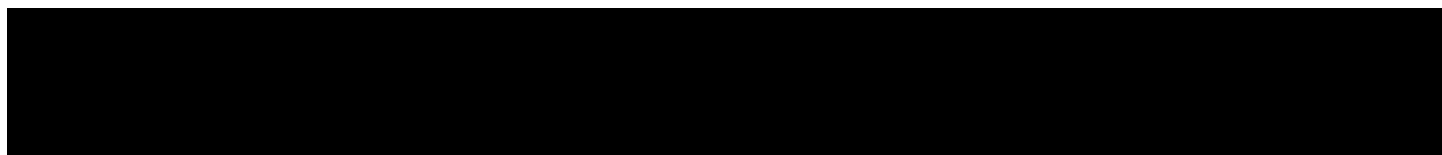
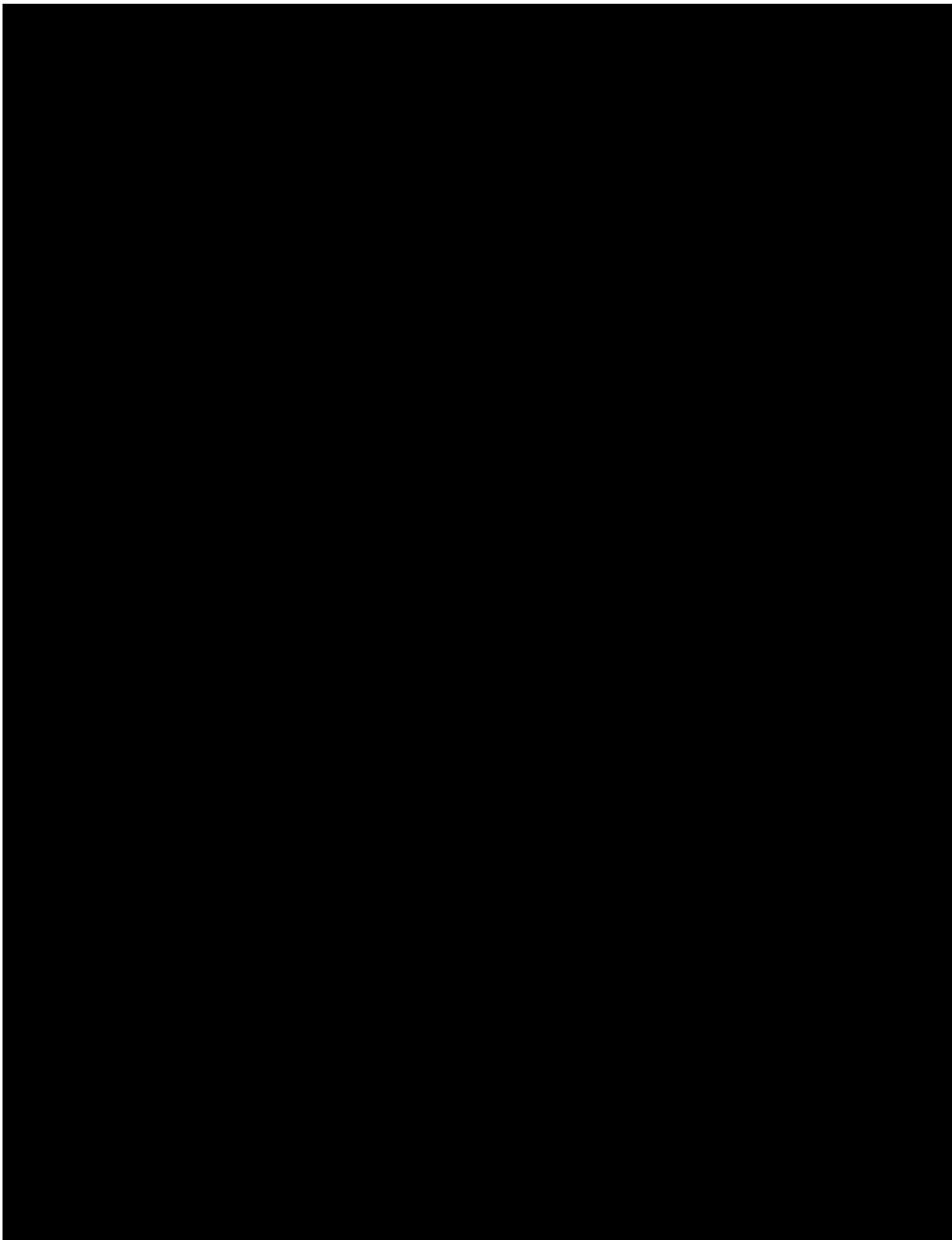
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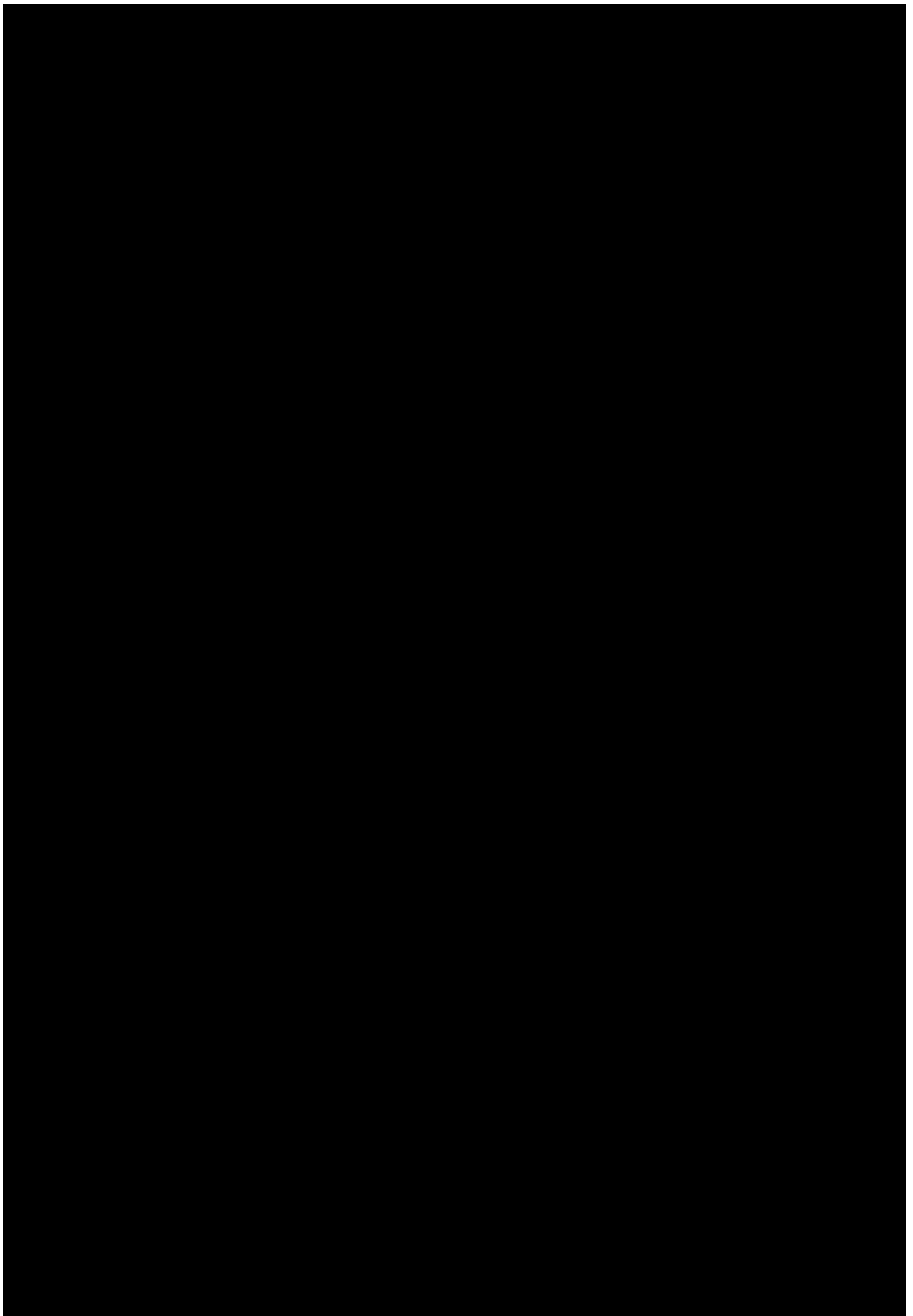
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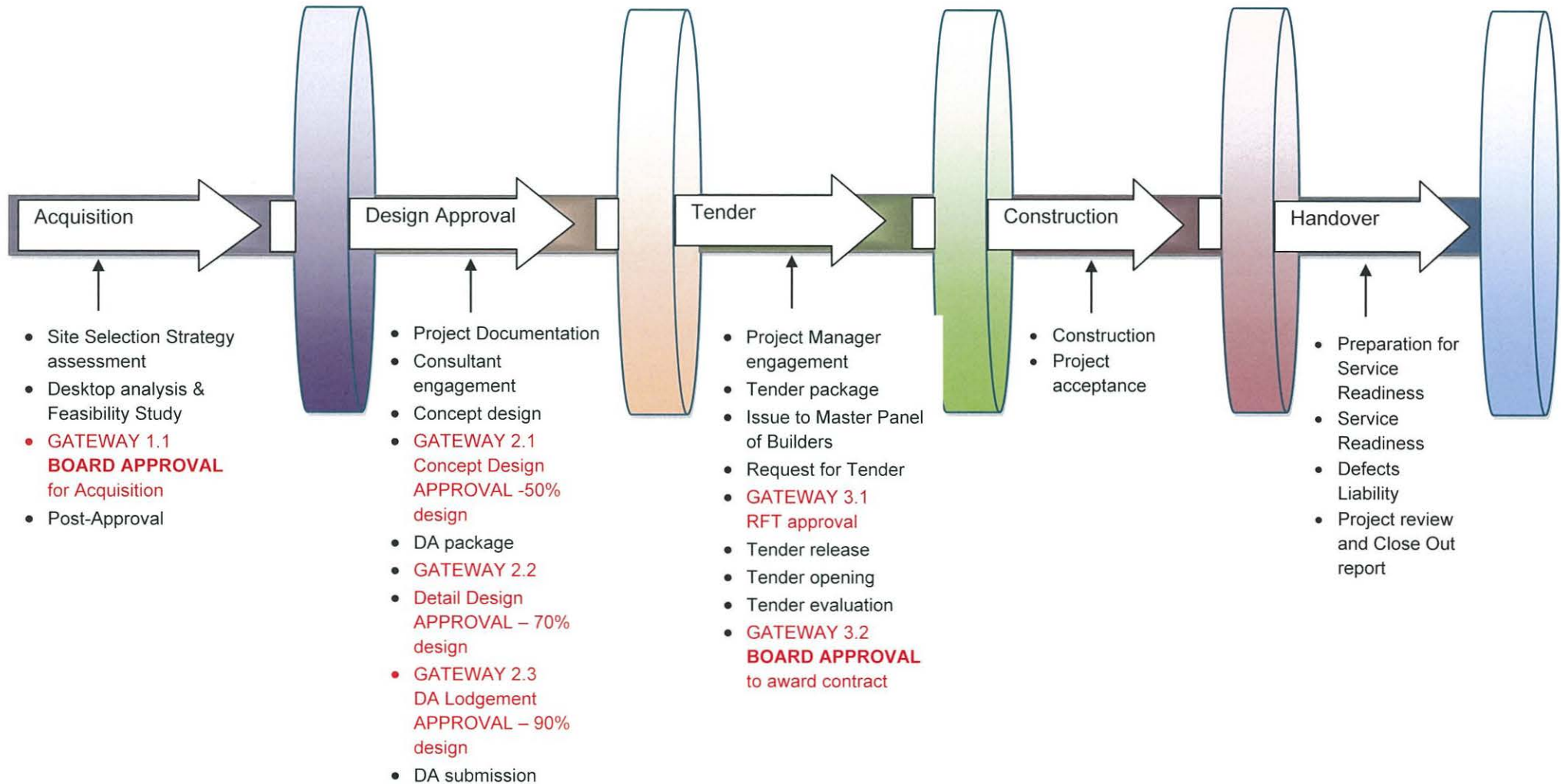
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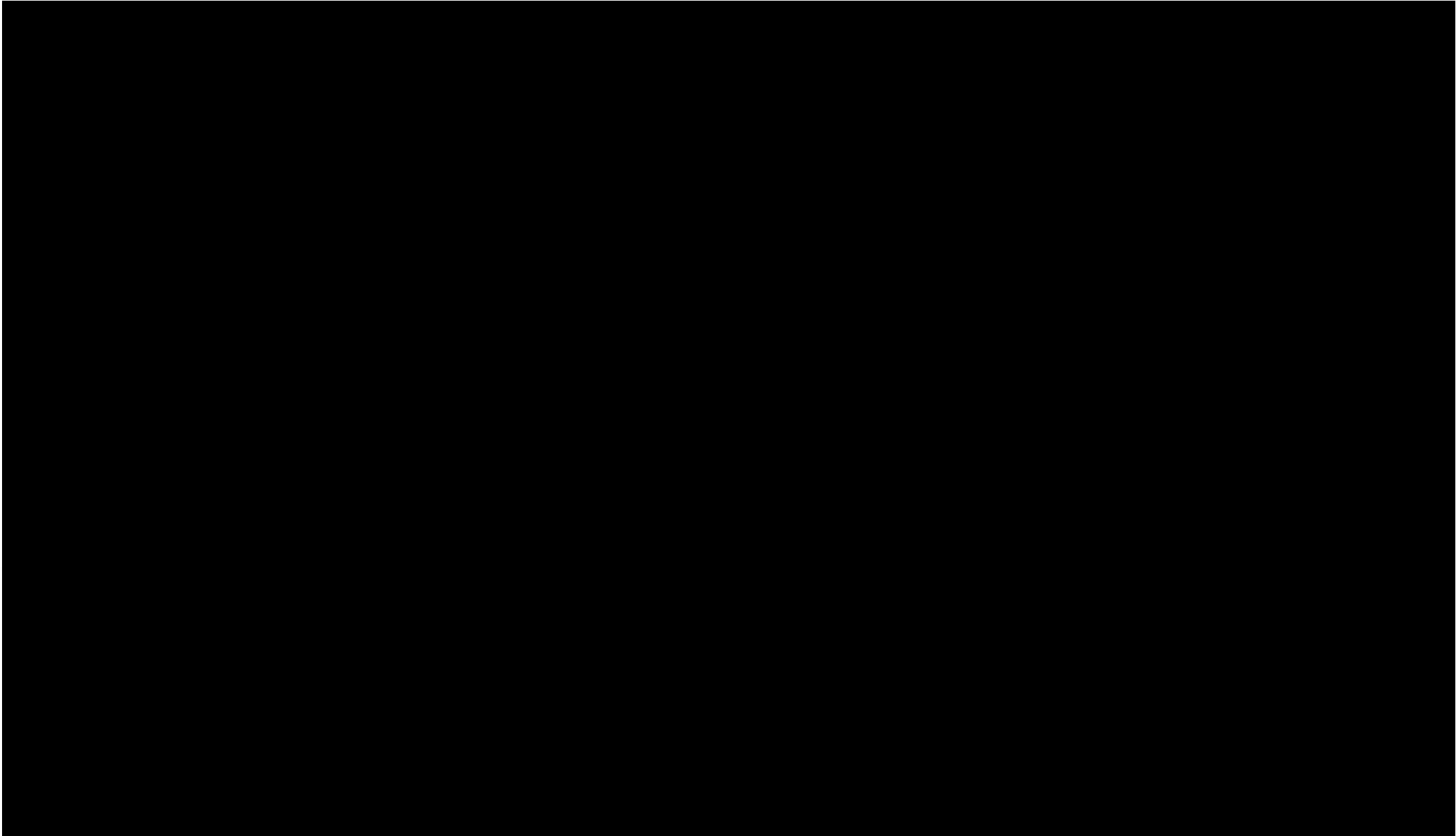
**SGCH Sustainability
SAHF Delivery Process
2016**

Asset Delivery Process: Overview

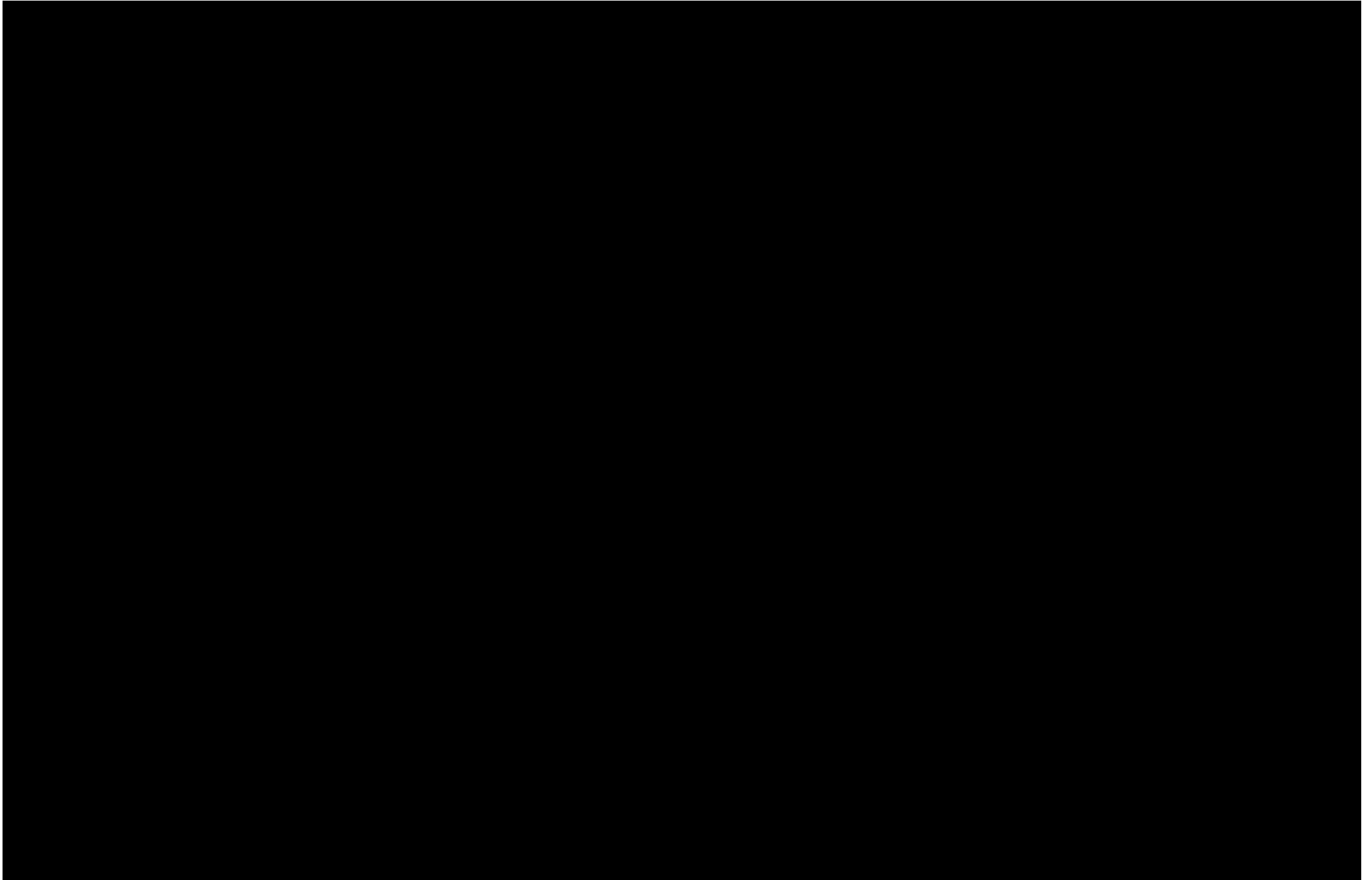


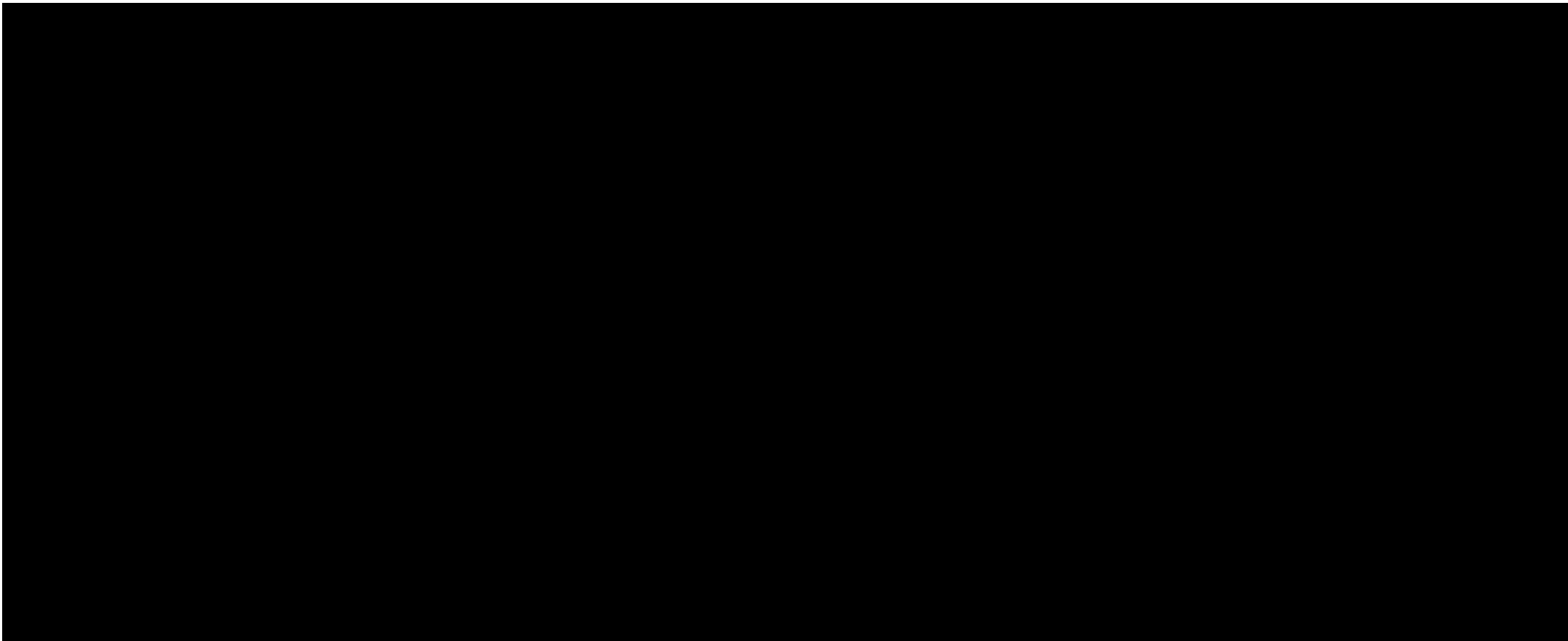
List of Abbreviations

ADM	Assistant Development Manager
COMMS	Communications Team
CSD	Customer Service Division
D&C	Development and Construction
D&C(c)	Develop and Construct (Contract)
DM	Development Manager
EMT	Executive Management Team
GM	General Manager
GM D&PS	General Manager Development & Portfolio Services
PCG	Project Control Group
PO	Probity Officer
PM	Project Manager
RFT	Request For Tender
SDM	Senior Development Manager
TEC	Tender Evaluation Committee
TOC	Tender Opening Committee
TP	Town Planner
QS	Quantity Surveyor

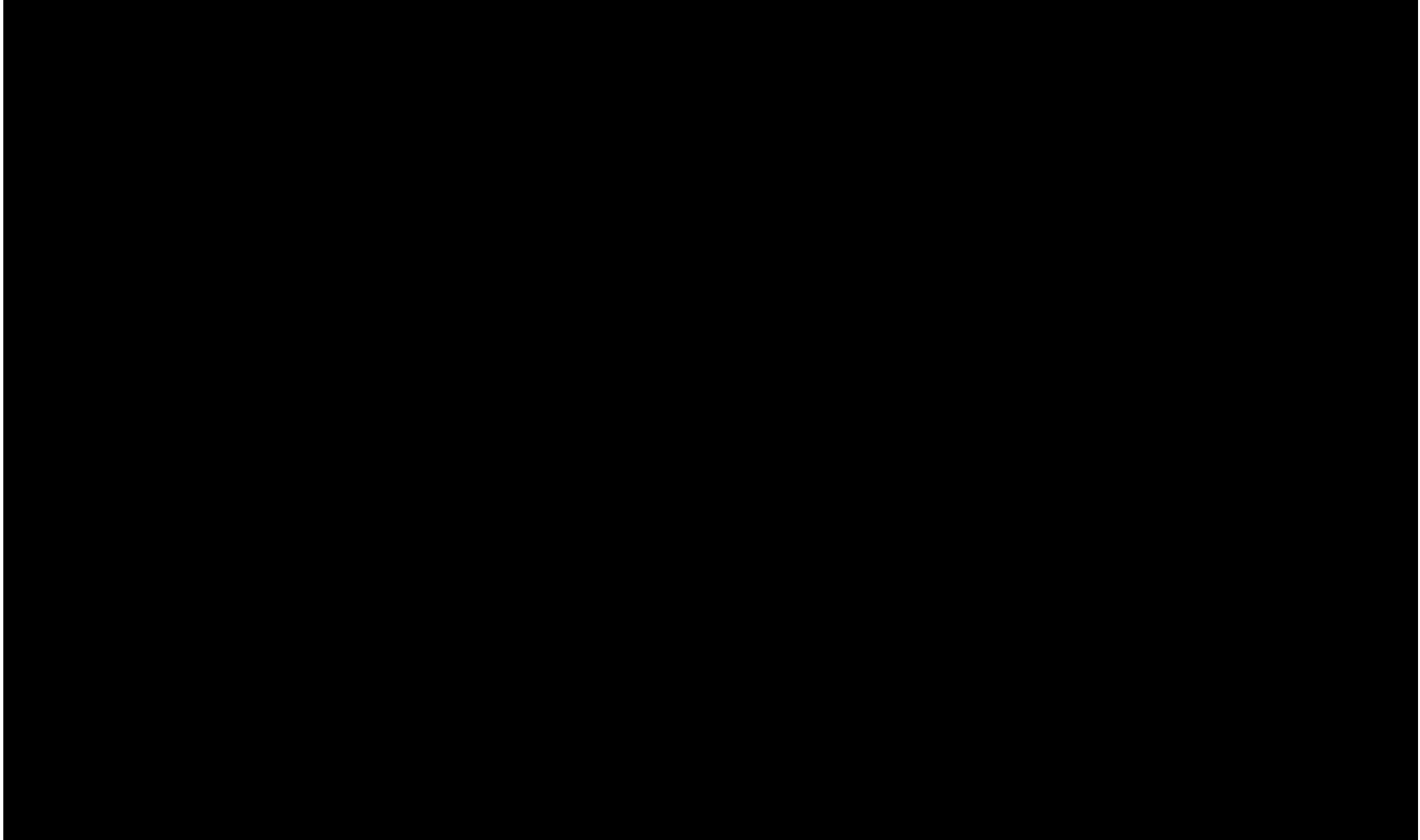


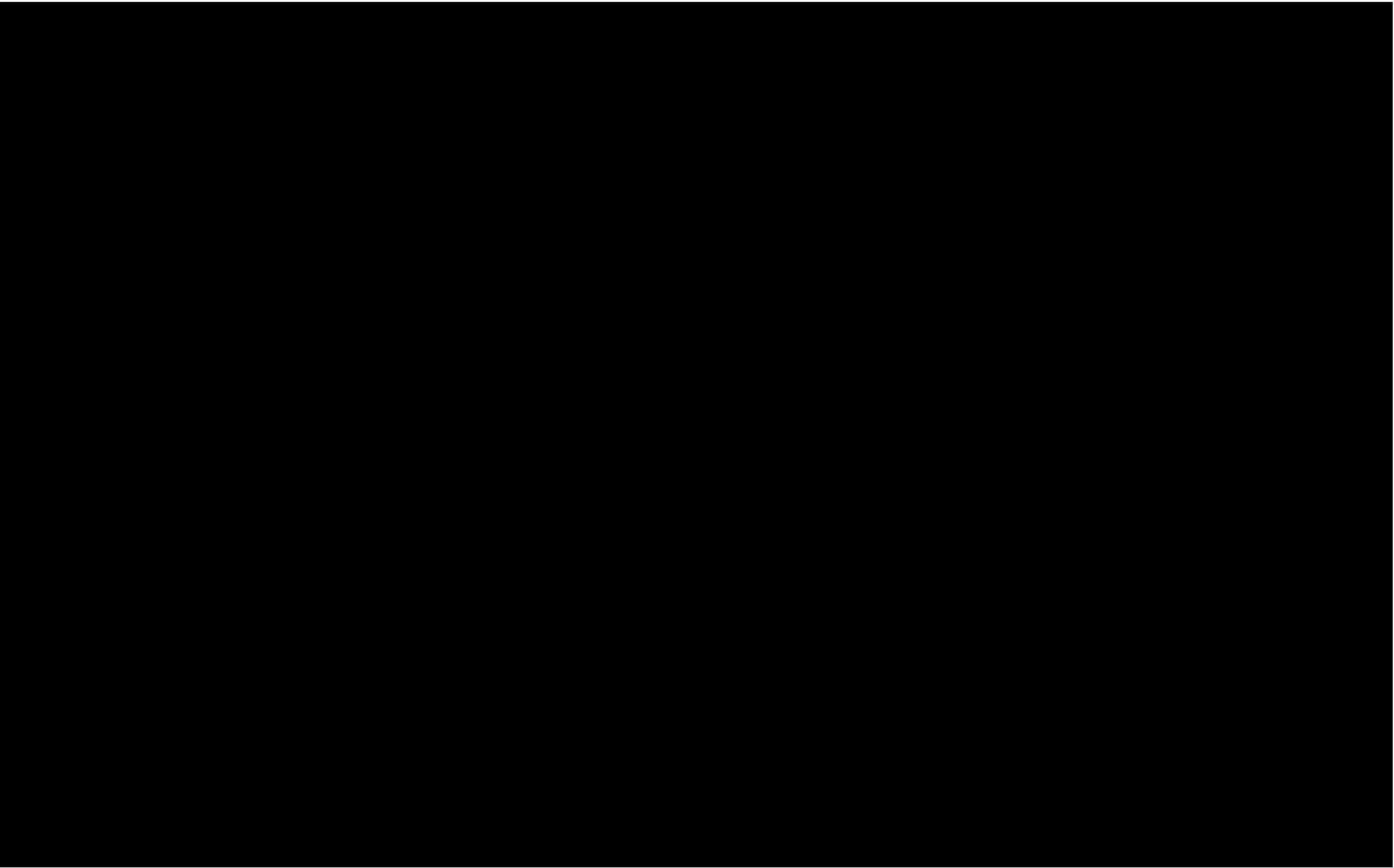
2. Design Approval Stage



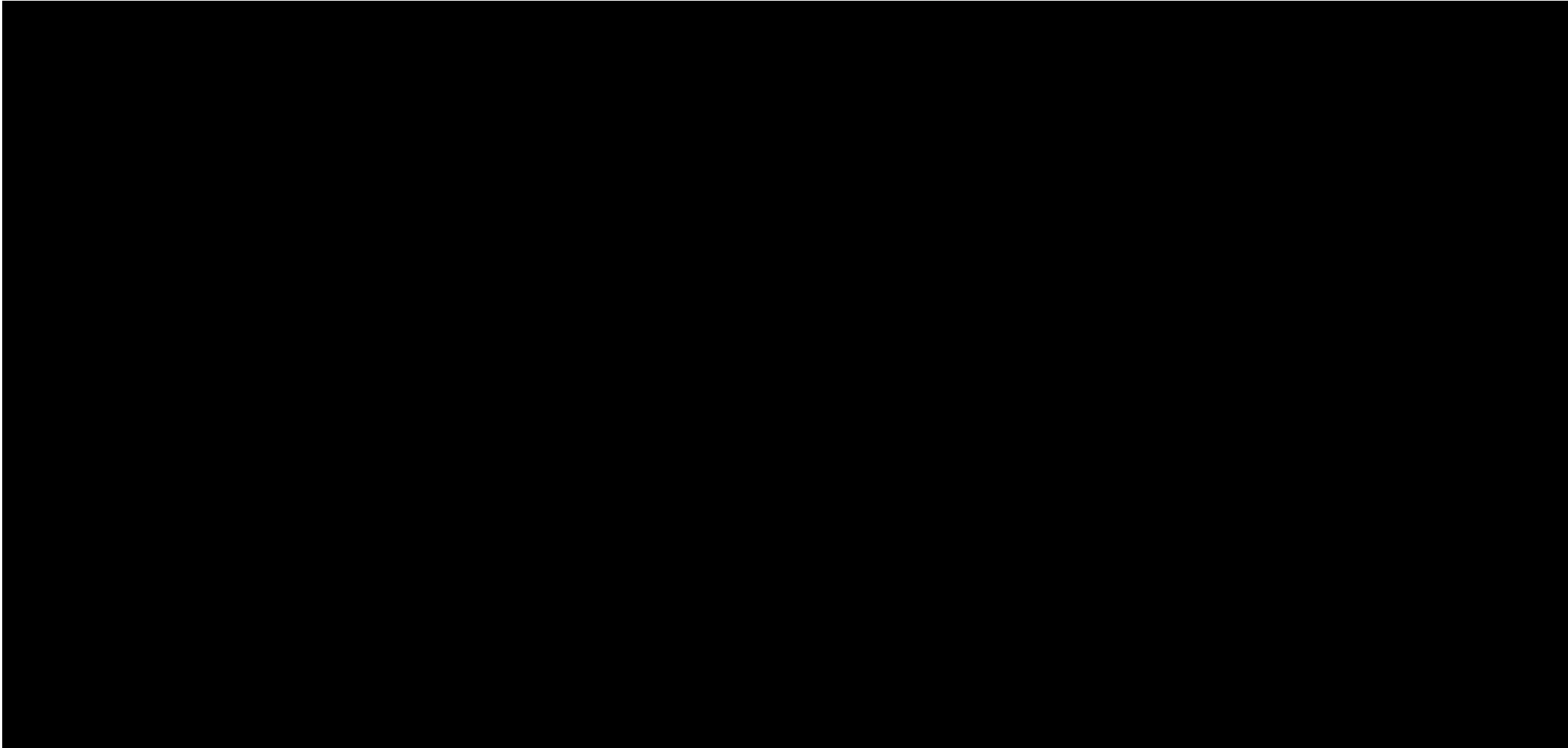


3. Tender Stage

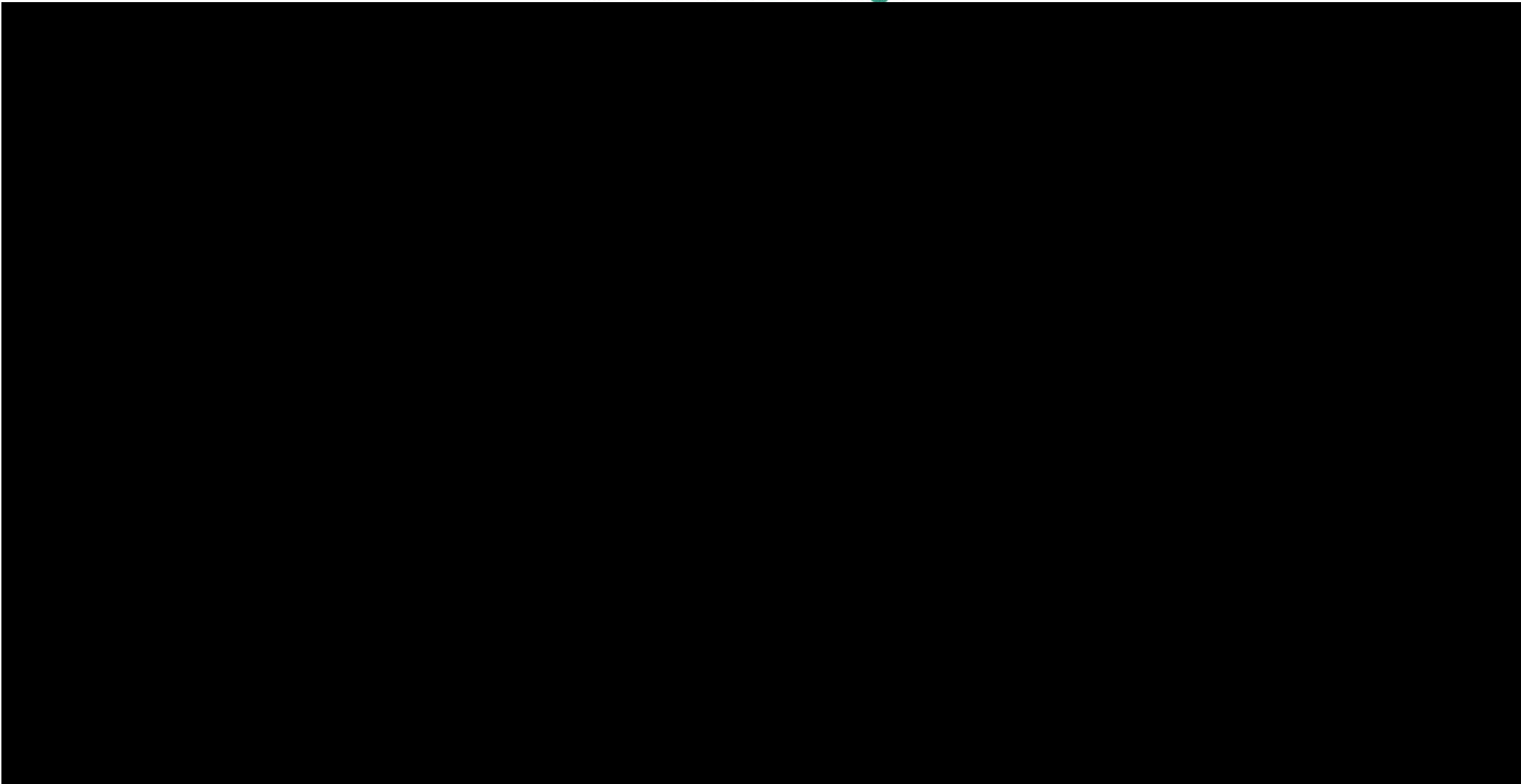


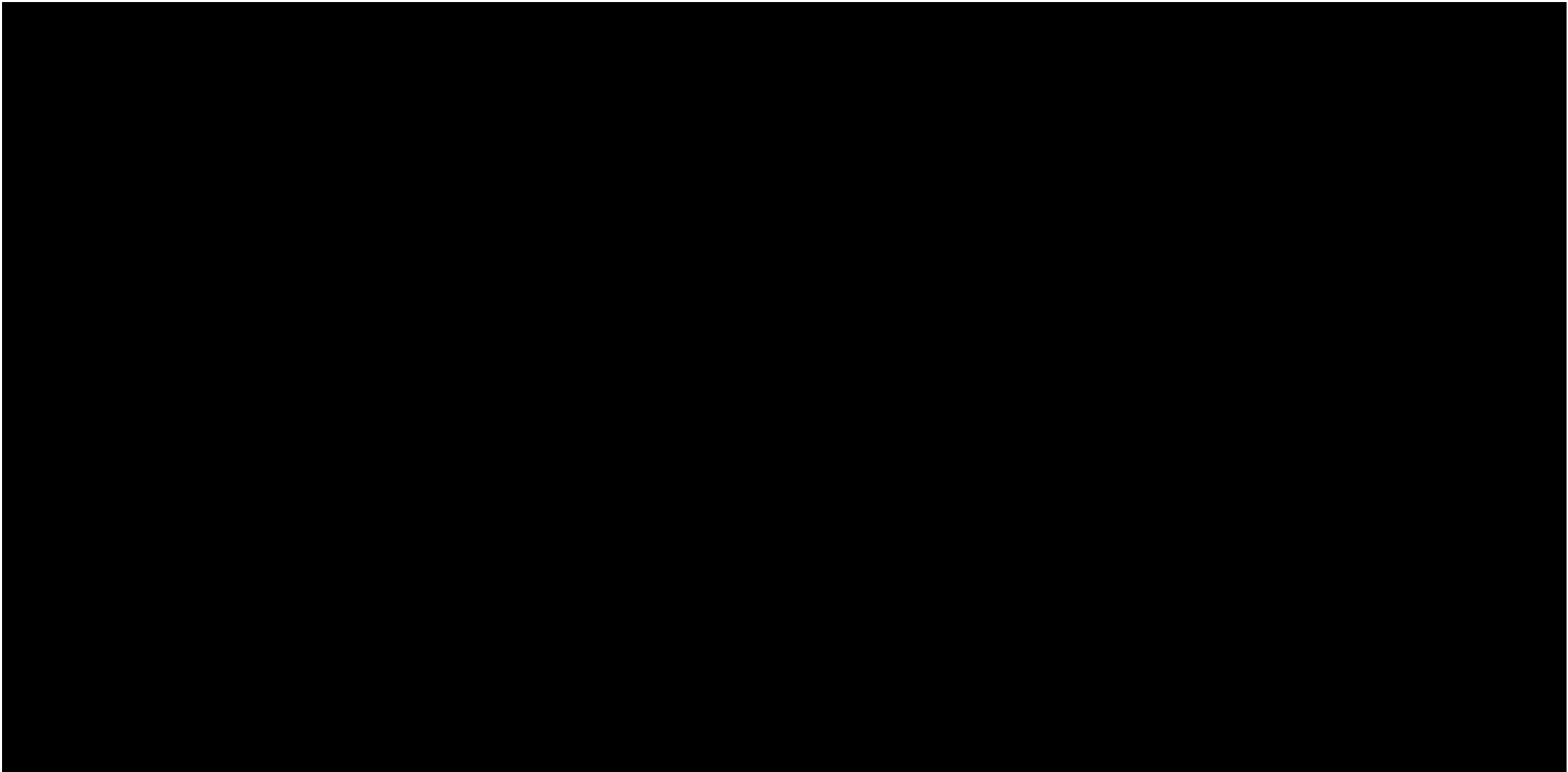


4. Construction Stage



5. Handover Stage





SGCH Sustainability Limited

[#Panel Member#]

Contract for [#insert#]

Formal Instrument of Agreement

Date

[Note: the Contract shall be dated upon execution – see section 7(1) of the Home Building Act]

Parties

SGCH Sustainability Limited ABN 21 606 965 799 of [####] (**Principal**)

[#Panel Member#] ACN [##] of [#####] [#Contractor Licence No: [insert]#]
(**Contractor**)

[Note: ensure that the name of the Contractor matches that shown on the contractor licence – section 7 of the Home Building Act]

Background

- A. The *Principal* has entered into an agreement titled ‘Social and Affordable Housing Fund – Services Agreement’ with *FACS*. Under the *Services Agreement*, the *Principal* has been engaged to provide certain services to *FACS* in relation to certain *Dwellings* owned by the *Principal*.
 - B. The *Principal* and the *Contractor* agree that the *Contractor* shall carry out and complete the *WUC* for the *Principal* on the terms of the *Contract*.
-

Agreed Terms

1 Performance

- (a) The *Contractor* shall carry out and complete the *WUC* in accordance with the *Contract*.
- (b) The *contract sum* is [#####] dollars (\$[####]), excluding *GST* and including the following *provisional sums*:
 - (i) \$[####] for [#description of work#].
- (c) Each of the parties shall perform the obligations imposed on it by the *Contract*.

2 Warning

The remuneration payable to the *Contractor* by the *Principal* may be adjusted pursuant to the following clauses of the General Conditions of Contract AS4902-2000 (as amended):

- (a) clause 3 for *provisional sums*;

- (b) subclause 8.1 for compliance with a direction by the *Superintendent* in relation to an inconsistency, ambiguity or discrepancy in any document prepared for the purpose of carrying out the *WUC*;
- (c) subclause 11.2 for a change in a *legislative requirement*;
- (d) subclause 14.2 for a direction by the *Superintendent* to rectify loss or damage to the *WUC* caused by an *expected risk*;
- (e) subclause 24.3 for costs incurred in relation to minerals, fossils and relics;
- (f) subclause 25.3 for *latent conditions*;
- (g) subclause 26.2 for rectifying errors in setting out where those errors were caused by incorrect data, *survey marks* or information given by the *Superintendent*;
- (h) subclause 26.3 for reinstating *survey marks* if disturbed by the *Superintendent* or other person referred to in subclause 24.2 other than the *Contractor*;
- (i) subclause 29.4 for acceptance of defective work;
- (j) clause 32 for compliance with a direction by the *Superintendent* regarding the order and time that various stages or portions of the *WUC* shall be carried out (except where that direction is pursuant to the *Contractor's* default.
- (k) subclause 33.4 for costs in relation to suspension of the *WUC*;
- (l) subclause 34.9 for additional costs arising pursuant to delay by a *compensable cause*; and
- (m) subclause 36.4 for *variations*.

The warnings and explanations of the provisions of the *Contract* which may vary the *contract sum* or the consideration payable to the *Contractor* without any adjustment to the *contract sum* are included to satisfy the requirements of the *Home Building Act*. None of the provisions of the *Contract* will be construed or interpreted by reference to those warnings and explanations.

3 Contract documents

The *Contract* comprises the following documents marked as follows:

- (a) This Formal Instrument of Agreement;
- (b) General Conditions of Contract AS4902-2000 (as amended), including Annexures Part [A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, and R];

4 Entire contract

The *Contract* constitutes the entire agreement between the parties in respect of the *WUC* and the *Contract* supersedes all previous agreements, undertakings and communications, whether written or oral, relating to the subject matter of the *Contract*.

5 Work performed prior to date of execution of Contract

The terms of the *Contract* apply to the whole of the *WUC*, whether performed before, on or after the date of the *Contract*.

6 Contra proferentum

In the interpretation of the *Contract*, no rule of contract interpretation applies to the disadvantage of one party on the basis that it put forward the *Contract* or any part of it.

Executed as a deed.

Executed by SGCH Sustainability)
Limited ABN 21 606 965 799 in)
accordance with section 127 of the)
Corporations Act 2001 (Cth):

.....
Company Secretary/Director

.....
Director

.....
Name of Company Secretary/Director
(print)

.....
Name of Director (print)

Executed by [##] ACN [##] accordance)
with section 127 of the *Corporations Act*)
2001 (Cth):)

.....
Company Secretary/Director

.....
Director

.....
Name of Company Secretary/Director
(print)

.....
Name of Director (print)

Amended from

AS 4902—2000

(Incorporating Amendment No. 1)

**Design and construction of [#]
at [insert]**

Principal: [insert]

Contractor: [insert]

Australian Standard™

General conditions of contract for design and construct

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The following are represented on Committee OB-003:

Association of Consulting Engineers Australia
Australian Chamber of Commerce and Industry
Australian Procurement and Construction Council
AUSTROADS
Construction Industry Engineering Services Group
Construction Policy Steering Committee
Electricity Supply Association of Australia
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Law Council of Australia
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National Construction Council of the Australian Industry Group
Process Engineers and Constructors Association
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AS 4902—2000
(Incorporating Amendment No. 1)

Australian Standard™

General conditions of contract for design and construct

First published as 4300-1995.

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PREFACE

This Standard was prepared by the Joint Standards Australia/Standards New Zealand Committee OB/3, General Conditions of Contract.

This Standard incorporates Amendment No. 1 (March 2005). The changes required by the Amendment are indicated in the text by a marginal bar and amendment number against the clause, note, table, figure or part thereof affected.

This Standard is the result of a consensus among Australian and New Zealand representatives on the Joint Committee to produce it as an Australian Standard.

AS 4902—2000 *General conditions of contract for design and construct*, is a part of the suite of conditions of contract based on AS 4000—1997 *General conditions of contract*.

This Standard covers the following types of project procurement methods:

- (a) design and construct;
- (b) design development and construct; and
- (c) design, novate and construct.

If the project procurement method chosen by the Principal is:

- (a) **design and construct**—the Principal would provide the Principal's project requirements, would not normally provide a detailed preliminary design and would not require novation;
- (b) **design development and construct**—the Principal would provide the Principal's project requirements, would always provide a preliminary design and accordingly would complete Annexure Part A Items 10 and 11;
- (c) **design, novate and construct**—the Principal would provide the Principal's project requirements, would always provide a preliminary design, would complete Annexure Part A Items 10 and 11 and would complete Annexure Part A Item 20 stating which subcontract (including consultant's agreement) or selected subcontract is to be novated to the Contractor.

Subclauses 8.6 and 29.2, prefixed by *, are optional, and may be omitted in the Contract, where necessary, without making consequential amendments but such omission should be clearly shown on the face of the document by striking out these subclauses or indicating clearly in clause 1 of Annexure Part E or elsewhere that they are *not to apply*. See paragraph (i) of clause 1 for the effect of stating deletions in Annexure Part E.

WARNINGS

- (1) **Users of this Australian Standard are warned that clause 15 (Damage to persons and property other than WUC) does not limit the liability of parties for special, indirect or consequential losses.**

This unlimited liability applies notwithstanding any limitations or exclusions permitted under insurance clauses 16A (Insurance of the Works), 16B (Professional indemnity insurance) and 17 (Public liability insurance).

Parties wishing to limit their liability should seek insurance and legal advice before entering a contract under this Standard.

- (2) **Principals should ensure that their specific requirements are fully and completely incorporated in the Principal's project requirements obtaining specialist advice if necessary. Where a Contractor provides a proposed design as part of its tender, the parties should consider whether that design should form part of the preliminary design.**

- (3) The risk allocation, drafting, interpretation and construction of this Standard are interrelated. Users who alter the Standard do so at their own risk and should obtain specialist advice as to whether it is suitable for a particular project.
- (4) Contractors should ensure that they satisfy the requirements of payment for unfixed plant and materials.
- (5) Legislation has come into force in some jurisdictions dealing with security of payments. Parties intending to use this Standard should seek expert advice as to their rights and obligations under such legislation.

CONTENTS

Clause	Title	Page
1	Interpretation and construction of Contract	1
2	Nature of Contract	18
3	Provisional sums	20
4	Separable portions.....	21
5	Security	21
6	Pre Contract documents and investigations	23
7	Notices	23
8	Contract documents	24
9	Assignment, novation, subcontracting and warranties.....	26
10	Intellectual property rights.....	30
11	Legislative requirements.....	32
12	Protection of people and property.....	34
13	Urgent protection	34
14	Care of work, reinstatement of damage and Environment.....	35
15	Damage to persons and property and Contractor responsibility	39
16A	Insurance of the Works	39
16B	Professional indemnity insurance	40
17A	Public liability insurance	41
17B	Motor vehicle and plant and equipment insurance	41
18	Insurance of employees	42
19	Inspection and provisions of insurance policies	42
20	Superintendent	43
21	Superintendent's Representative.....	44
22	Contractor's representative	44
23	Contractor's employees, subcontractors and Key Personnel	44
24	Site	45
25	Latent conditions.....	47
26	Setting out the Works	48
27	Cleaning up.....	48
28	Materials, labour and construction plant.....	49
29	Quality	49
30	Examination and testing.....	50
31	Working hours and days	51
32	Programming	51
32A	Acceleration	52

33	Suspension	53
34	Time and progress.....	53
35	Defects liability.....	55
36	Variations.....	57
37	Payment	59
38	Direct payment.....	63
39	Default or insolvency.....	64
40	Termination by frustration.....	68
41	Notification of claims	68
42	Dispute resolution	69
43	General	72
44	GST	74
45	Financing	74
46	Meetings and reports.....	74
47	Ongoing Operations.....	75
48	Work health and safety	75
49	Application of Contract prior to date of Contract.....	78
50	Home Building Legislation.....	79
51	Civil Liability Act.....	80
52	Personal Property Securities Act	80

ANNEXURE PART A

ANNEXURE PART B – Unconditional Undertaking

ANNEXURE PART C – Deed of Novation (Subcontractor to Contractor)

ANNEXURE PART D – Deed of Novation (Consultant)

ANNEXURE PART E – Deletions, Amendments and Additions

ANNEXURE PART F – Deed of Guarantee

ANNEXURE PART G – Development Consent

ANNEXURE PART H – Expert Determination Agreement

ANNEXURE PART I – Statutory Declaration

ANNEXURE PART J – Monthly Report Requirements

ANNEXURE PART K – Deed of Novation (New Principal)

ANNEXURE PART L – Site

ANNEXURE PART M – Subcontractor’s Side Deed

ANNEXURE PART N – Subcontractor Warranty

ANNEXURE PART O – Moral Rights Consent and Waiver Form

ANNEXURE PART P – DA Matrix

ANNEXURE PART Q – Checklist under Schedule 2 of the Home Building Regulation 2014 (NSW)

STANDARDS AUSTRALIA

Australian Standard
General conditions of contract for design and construct

1 Interpretation and construction of Contract

In the *Contract*, except where the context otherwise requires:

- Access Routes*** has the meaning in subclause 24.5(a)(iii);
- Accommodation Services Side Deed*** means the document so entitled dated on or about the date of this *Contract* between *FACS*, the *Principal* and the *Contractor*;
- Accredited Certifier*** has the meaning given to that term in the Building Professionals Act 2005 (NSW);
- Adjudication Application*** has the meaning given to that term in subclause 37.8(b)(i);
- Approval*** means any certificate, licence, consent, permit, approval or requirement required by:
- (a) any *legislative requirement* arising out of or in any way connected with *WUC*; or
 - (b) any:
 - (i) organisation; or
 - (ii) *Authority*,
 having jurisdiction in connection with the carrying out of *WUC*;
- Affordable Housing Tenant*** means a household which meets the affordable housing eligibility criteria outlined in the NSW Affordable Housing Guidelines, and has a right to occupy a *Dwelling* under a *Residential Tenancy Agreement*;
- Associate*** means, in relation to a person, any *Related Body Corporate* of that person, and any officer, agent, adviser, consultant, contractor or employee of that person or that *Related Body Corporate*;
- Australian Standard*** means any standard published by Standards Australia;
- Authority*** means any:
- (a) government having jurisdiction in connection with the carrying out of *WUC*;
 - (b) public, local or statutory authority including any *Certification Authority* having jurisdiction in connection with the carrying out of *WUC*;
 - (c) utility or telecommunications provider having jurisdiction in connection with the carrying out of *WUC*;
 - (d) any governmental, semi-governmental or local government authority, administrative or judicial body or tribunal, department, commission, public authority, agency, Minister, statutory corporation or instrumentality; or

- (e) any other person having jurisdiction over, or ownership of, any *Utilities* or *Utility Infrastructure*;

Building Code means the National Construction Code published by the Australian Building Codes Board, as in force in New South Wales on the date of the application for the relevant *Construction Certificate*;

Business Day means:

- (a) in clause 37, any day which is a business day under the *Security of Payment Act*; and
- (b) in any other provision of the *Contract*, any day which is not a Saturday, Sunday or public holiday in New South Wales;

certificate of practical completion has the meaning in subclause 34.6;

Certification Authority means any:

- (a) *Council*;
- (b) *Consent Authority*;
- (c) *Accredited Certifier*; or
- (d) *Principal Certifying Authority*;

Civil Liability Act means the Civil Liability Act 2002 (NSW);

Claim means any claim, action, demand, suit, proceeding, penalty or fine (including by way of contribution or indemnity) made:

- (a) in connection with this *Contract*, any *Relevant Infrastructure*, any *site* or the *Delivery Service Package*; or
- (b) at *Law* or for specific performance, restitution, payment of money (including damages);

Collateral has the meaning in clause 52(b)(ii);

Commonwealth Funding Conditions means:

- (a) compliance with the Building and Construction Industry (Fair and Lawful Building Sites) Code 2014 and the *Building Code*;
- (b) accreditation of the *Contractor* under the *OHS Accreditation Scheme* or, where the *Contractor* is not accredited, it has a valid exemption applying to that Entity and that Entity complies with the relevant conditions; and
- (c) any other requirements of the Commonwealth in connection with the Commonwealth funding associated with the *Delivery Service Package* required in accordance with the National Partnership Agreement on Asset Recycling dated 2 May 2014, as notified by the *Principal* to the *Contractor* to the extent applicable to the *Delivery Service Package*;

compensable cause means:

- (a) any act, default or omission of:
- (i) the *Superintendent*;
- (ii) the *Principal* or its consultants or agents; or

(iii) any other contractor(excluding any *Certification Authority*), other than any act or omission permitted under the *Contract* including a deemed *variation* or the *direction* of a *variation* or a *Design Detail Change*; or

(b) any of the causes listed in *Item 31*;

Compensable Extension means any of the following events:

Event

(a) **(breach by the Principal)**: a breach by the *Principal* of this *Contract*; and

(b) **(fraudulent act or omission)**: a fraudulent, reckless, unlawful or malicious act or omission of the *Principal* or any of its *Associates* in connection with the *Delivery Service Package*;

Confidential Information means:

(a) the terms of the *Contract* and all information, material and technology disclosed or provided in any form by any party to any other party in connection with the subject matter of the *Contract* or in any way related to the *Contract*; and

(b) in respect of the definition of *Relevant Person* and subclauses 8.5(c) and 8.5(d):

(i) this *Contract*;

(ii) information provided by:

(A) *FACS* or any of its *Associates* to the *Principal* and provided by the *Principal* to the *Contractor* or any of their *Associates*; or

(B) the *Contractor* to the *Principal* and then provided by the *Principal* or any of its *Associates* to *FACS* or any of its *Associates*,

in connection with this *Contract* or the *Delivery Service Package*, whether provided prior to or after the date of this *Contract*; and

(iii) *Personal Information* and any other information in connection with the *Delivery Service Package* which the *Principal* is required to keep confidential in complying with any *Privacy Legislation* or any other applicable *Law*;

Consent Authority has the meaning given to that term in the *EPA Act*;

Construction Certificate means a construction certificate under the *EPA Act* relating to the whole or any part of *WUC*;

construction plant means appliances and things used in the carrying out of *WUC* but not forming part of *the Works*;

Construction Project has the meaning given to that term in the *WHS Regulation*;

consultant means any person engaged by the *Contractor* to perform consultancy services in connection with *WUC* and includes any *Principal's* consultant whose prior contract is novated to the *Contractor* under subclause 9.4;

Contract means this agreement between the *Principal* and the *Contractor*;

- contract sum** means the *Initial Contract Sum* as adjusted by any additions or deductions under the *Contract*;
- Contractor** means the person bound to carry out and complete *WUC* stated in *Item 3*;
- Contractor Act or Omission** means:
- (a) a breach of this *Contract* by the *Contractor*; or
 - (b) any other act or omission of the *Contractor* or its *Associates* other than an act or omission undertaken in accordance with the *Contract* and undertaken lawfully in with the performance of the *Delivery Service Activities*;
- Contractors Debts Act** means the Contractors Debts Act 1997 (NSW);
- Contractor's design obligations** means all tasks necessary to design and specify *the Works* required by the *Contract*, including preparation of the *design documents* and, if the documents stated in *Item 10* as describing the *Principal's project requirements* include a *preliminary design*, developing the *preliminary design*;
- Corporations Act** means the Corporations Act 2001 (Cth);
- Council** has the meaning given to that term in the Local Government Act 1993 (NSW);
- DA Matrix** means the document at Annexure Part P;
- date for practical completion** means:
- (a) where *Item 7(a)* provides a date for *practical completion*, the date; or
 - (b) where *Item 7(b)* provides a period of time for *practical completion*, the last day of the period,
- but if any *EOT* is directed by the *Superintendent* or allowed in any *dispute* resolution procedure , it means the date resulting therefrom;
- date of practical completion** means:
- (a) the date evidenced in a *certificate of practical completion* as the date upon which *practical completion* was reached; or
 - (b) where another date is determined in any *dispute* resolution procedure as the date upon which *practical completion* was reached, that other date;
- deed of guarantee** means the form of guarantee at Annexure Part F;
- Default Termination Event** means the occurrence of any of the following events:
- (a) **(abandonment)**: the *Contractor* wholly or substantially abandons the *Delivery Service Package* or any material part of the *Delivery Service Activities* or is otherwise not ready, willing or able to perform its obligations under this *Contract*;
 - (b) **(Contractor fraud)**: the *Contractor* engages in fraud, collusion or dishonest conduct in performing its obligations under any *WUC*;
 - (c) **(assignment, transfer or disposal)**: the *Contractor* assigns,

transfers or otherwise disposes of any of its rights, title and interest in or under this *Contract*, the whole or any part of a *site*;

- (d) (**Sunset Date**): the *Contractor* fails to achieve *practical completion* by the *Sunset Date*;
- (e) (**Illegality Event**): an *Illegality Event* occurs;
- (f) (**Probity Investigation**): *FACS* does not give approval for the *Contractor* following a *Probity Investigation* carried out under clause 53; or
- (g) (**delay – Look Forward**): it is determined after the *date for practical completion* by the *Superintendent* that the *Contractor* will not be able to achieve practical completion by the *Sunset Date*;

defects means defects in *the Works* and includes omissions;

defects liability period has the meaning in clause 35 and includes any period under clause 35(c);

Defects Program means the program for rectification of *defects* approved by the *Superintendent* following the *defects* inspection required by paragraph (f) of the definition of *practical completion*;

Delivery Service Activities means all works, things and tasks that the *Contractor* is, or may be, required to do to comply with its obligations in connection with the *Delivery Service Documents*;

Delivery Service Documents means:

- (a) this *Contract*;
- (b) the *Accommodation Services Side Deed*;
- (c) the *Financier's Side Deed*; and
- (d) any other document the parties agree is a *Delivery Service Document*;

Delivery Service Package means:

- (a) the performance of the *Delivery Service Activities*; and
- (b) the performance of all other obligations,

in accordance with, or as contemplated by, any *Delivery Service Document*, or incidental to any *Delivery Service Documents*;

Design Detail Change means any change to the *design documents* or *WUC* considered necessary by the *Superintendent* to:

- (a) ensure that the design, construction, finishes or other aesthetic aspects of *the Works* are in accordance with the requirements of the *Contract*; or
- (b) adequately detail the nature and extent of *the Works*;

other than a change which (c) alters the internal or external lay-out of *the Works*; or

- (d) otherwise alters the overall nature and extent of *the Works*;

design documents means the drawings, specifications, manuals and other information, samples, models, patterns and the like required by the *Contract* and created (and including, where the context so requires, those to be

- created by the *Contractor*) for the construction of *the Works*;
- Development Consent** means the Determination of the Development Application No. identified at *Item 45*, a copy of which is at Annexure Part G;
- direction** includes agreement, approval, assessment, authorisation, certificate, decision, demand, determination, explanation, instruction, notice, order, permission, rejection, request or requirement;
- Director** has the meaning given to that term in the *Corporations Act*;
- Discrepancy** has the meaning in subclause 8.1;
- dispute** has the meaning in clause 42;
- Dwelling** means a room or suite of rooms occupied, used, constructed or adapted so as to be capable of being occupied or used as a separate, self-contained and lockable domicile that:
- (a) may be occupied by one or more households; and
 - (b) shall have its own cooking, bathing and toilet facilities and be accessible without passing through another *Dwelling*,
- comprising part of the *Works* and which a *Tenant* is to reside in and occupy;
- Employee Checks** means the employee checks set out in *Item 47*;
- Entitlement** means any rights, remedies, benefits, compensation, recovery or other relief;
- Entity** has the meaning given in section 64A of the *Corporations Act*, but is also deemed to include a joint venture within the meaning of Australian Accounting Standard 131 (AASB 131);
- Environment** includes all aspects of the surroundings of human beings including:
- (a) the physical characteristics of those surroundings such as the land, the waters and the atmosphere;
 - (b) the biological characteristics of those surroundings such as the animals, plants and other forms of life; and
 - (c) the aesthetic characteristics of those surroundings such as their appearance, sounds, smells, tastes and textures;
- EOT (from 'extension of time')** means extension to the *date for practical completion*;
- EPA Act** means the Environmental Planning and Assessment Act 1979 (NSW);
- excepted risk** has the meaning in subclause 14.3;
- Executive Director** means a *Director* acting in an executive capacity;
- Expert Determination Agreement** means the form of agreement at Annexure Part H;
- FACS** means Department of Family and Community Services;
- FACS Delivery Service Document** means those *Delivery Service Documents* to which *FACS* is a party;
- final certificate** has the meaning in subclause 37.4;

- final payment*** has the meaning in clause 37;
- final payment claim*** means the final payment claim referred to in subclause 37.4;
- Financier*** means any financier of the *Principal* in connection with *the Works*;
- Financier's Side Deed*** means the document so entitled dated on or about the date of this *Contract* between the *Financier*, the *Principal* and the *Contractor*;
- GIPA Act*** means the *Government Information (Public Access) Act 2009* (NSW);
- GST Law*** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- High Risk Construction Work*** has the meaning given to that term in the *WHS Regulation*;
- Holding Entity*** means each company or trust which, directly or indirectly, holds all of the issued shares or units in:
- (a) the *Contractor*, and which is not itself wholly owned by any other *Entity*; and
 - (b) any company that holds *Securities* in the *Contractor*;
- Home Building Act*** means the Home Building Act 1989 (NSW);
- Home Building Legislation*** means the *Home Building Act* and the *Home Building Regulation*;
- Home Building Regulation*** means the Home Building Regulation 2014 (NSW);
- Illegality Event*** means the *Contractor*:
- (a) ceases to hold an *Approval*; or
 - (b) breaches applicable *Legislation*,
- and the *Principal* forms the view (acting reasonably) that such failure or breach is material to the performance of the *Contractor's* obligations under this *Contract* and such failure or breach is not remedied within 30 days after the earlier:
- (c) the date on which the *Principal* notifies the *Contractor* of the failure or breach; or
 - (d) the date on which the *Contractor* becomes aware of the failure or breach;
- Indirect or Consequential Loss*** means any consequential, indirect, special or punitive loss or damage and any loss of production, business, business opportunity, use, custom, revenue, profit or anticipated profit;
- Initial Contract Sum*** means the amount stated in *Item 38*;
- Insolvency Event*** means, in relation to a body corporate:
- (a) an administrator of the body corporate being appointed under the *Corporations Act*;
 - (b) the body corporate or a subsidiary executing a deed of company arrangement otherwise than for the purpose of an amalgamation or reconstruction;
 - (c) the entry by the body corporate into a scheme of arrangement or a composition with, or assignment for the benefit of, all or any class of its creditors, or a moratorium involving any of them, otherwise than for the purpose of an amalgamation or

reconstruction;

- (d) the body corporate being insolvent within the meaning of section 95A(2) of the *Corporations Act*;
- (e) the appointment of a receiver or receiver and manager in respect of the body corporate or any part of its property;
- (f) the making of a winding up order, or the passing of, or attempted passing of, a resolution for winding up, except for the purposes of reconstruction or amalgamation;
- (g) an application being made (which is not dismissed within 10 *Business Days*) for an order, a resolution being passed or proposed, a meeting being convened or any other action being taken to cause anything described above, other than for the purposes of an amalgamation or reconstruction; or
- (h) anything analogous to or of a similar effect to anything described above under the law of any relevant jurisdiction,

and in relation to a person other than a body corporate means:

- (a) the bankruptcy of the person concerned;
- (b) the appointment of an official manager in respect of all or any part of the property of the person concerned;
- (c) the entry by the person concerned into a scheme of arrangement or a composition with, or assignment for the benefit of, all or any class of its creditors, or a moratorium involving any of them;
- (d) the person concerned being or stating that he or she is unable to pay his or her debts when they fall due;
- (e) an application being made (which is not dismissed within 10 *Business Days*) for an order, a resolution being passed or proposed, a meeting being convened or any other action being taken to cause anything described above; or
- (f) anything analogous to or of a similar effect to anything described above under the law of any relevant jurisdiction;

intellectual property right means any patent, registered design, trademark or name, copyright or other protected right;

Item means an item in Annexure Part A;

Key Personnel means those personnel listed in *Item 43* as substituted in accordance with subclause 23.2;

Landlord means St George Community Housing Limited ABN 21 606 965 799.

latent condition has the meaning in subclause 25.1;

Law means:

- (a) those principles of common law and equity established by decisions of courts; and
- (b) *Legislation*;

Legislation means all legislation, statutes, rules, regulations, by-laws, ordinances and subordinated legislation of the Commonwealth, the State of NSW or an *Authority*;

Legislative Inspection means an inspection which is required to be carried out in relation to *WUC* by a *legislative requirement*;

legislative requirement includes:

- (a) Acts, Ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth of Australia or of the jurisdiction where *WUC* or the particular part thereof is being carried out;
- (b) the *Building Code*;
- (c) to the extent not inconsistent with the *Building Code*, *Australian Standards* current as at the date of the *Contract* and the date of commencement of *WUC*, or, if they are different dates, whichever is earlier;
- (d) certificates, licences, consents, permits, approvals and requirements of:
 - (i) organisations; or
 - (ii) any *Authority*,
 having jurisdiction in connection with the carrying out of *WUC*; and
- (e) fees and charges payable in connection with the foregoing;

Liability means any debt, obligation, *Claim*, action, cost, (including legal costs, deductibles or increased premiums) expense, loss (whether direct or indirect), damage, compensation, charge or *Liability* of any kind (including fines or penalties), whether it is:

- (a) actual, prospective or contingent; or
- (b) currently ascertainable or not,

and whether under or arising out of or in any way in connection with this *Contract* or arising at *Law*;

Linked Dispute means a dispute:

- (a) to which the *Contractor* is a party;
- (b) which arises out of this *Contract*; and
- (b) which is concerned with matters which arise in respect of the respective rights or obligations of the *Principal* and *FACS* under the *Services Agreement*;

Month means a calendar month.

Nominated Person has the meaning in subclause 9.1;

- Notice** has the meaning in clause 7(a);
- Notice of Dispute** has the meaning in subclause 42.1;
- Notice of Proposed Acceleration** has the meaning in clause 32A(a);
- Occupation Certificate** means an occupation certificate issued under the *EPA Act* in respect of *the Works*;
- OHS Accreditation Scheme** means the Australian Government Building and Construction OHS Accreditation Scheme established by the *Fair Work (Building Industry) Act 2012* (Cth);
- Ongoing Operations** has the meaning in clause 47(a);
- Other Subcontract Work** has the meaning in subclause 9.3(c);
- Other Subcontractor** has the meaning in subclause 9.3(c);
- Payment Claim** means a payment claim the subject of a *Payment Withholding Request*;
- Payment Withholding Request** has the meaning given to that term in the *Security of Payment Act*;
- Percentage Amount** has the meaning in subclause 36.4(a)(ii);
- Personal Information** means any personal information, within the meaning given in the *Privacy Act 1988* (Cth), about any *Tenant*;
- Policy** means any binding rule, guideline, regulation, policy, standard, procedure, directive, circular or requirement relating to the performance of *WUC*, as may be published by the NSW Government or the Commonwealth Government from time to time;
- Practical completion** is that stage in the carrying out and completion of *WUC* when:
- (a) all:
 - (i) internal aspects of *the Works*; and
 - (ii) all external aspects of *the Works* (including balconies and courtyards) that reasonably can only be accessed from an internal aspect of *the Works*,

are completed free of any *defects* which have been identified by the *Superintendent* in a *defects* inspection;
 - (b) subject to paragraph (a) of this definition, all external aspects of *the Works* are complete except for minor *defects*:
 - (i) which do not prevent *the Works* from being reasonably capable of being used for their intended purpose;
 - (ii) which the *Superintendent* determines the *Contractor* has reasonable grounds for not promptly rectifying; and
 - (iii) the rectification of which will not prejudice the convenient use of *the Works*;
 - (c) those *tests* which are required by the *Contract* or the *Superintendent* to be carried out and passed before *the Works* reach practical completion have been carried out and passed;
 - (d) all services and equipment incorporated in *the Works* have been commissioned, tested and are fully functional;

- (e) the *Contractor* has supplied *Superintendent* with the following in a form satisfactory to:
 - (i) the *Superintendent* and the *Principal Certifying Authority*:
 - (A) if there are *separable portions*:
 - (I) for each *separable portion*, other than the last *separable portion* to reach *practical completion* (excluding the requirements of this paragraph (e)(i)(A)(I)), all documentation relating to *WUC* necessary to obtain an interim *Occupation Certificate* for the *Works* comprised in the *separable portion*; and
 - (II) for the last *separable portion* to reach *practical completion* (excluding the requirements of this paragraph (e)(i)(A)(II)), all documentation relating to *WUC* necessary to obtain a final *Occupation Certificate* for the *Works* comprised in each *separable portion*; or
 - (B) if there are not *separable portions*, all documentation relating to *WUC* necessary to obtain a final *Occupation Certificate* for the *Works*; and
 - (ii) the *Superintendent* any other *Approval* which shall be issued or given by any *Authority* as a condition precedent to the use and occupation of the *Works*;
- (f) a *defects* inspection has been carried out by the *Superintendent* and the *Contractor* and, in respect of all *defects* identified at the date of the inspection, a program for rectification of the *defects* has been approved by the *Superintendent*;
- (g) documents and other information:
 - (i) required under the *Contract*; or
 - (ii) which, in the *Superintendent's* opinion, are necessary for the proper use, operation or maintenance of the *Works*,

have been supplied to the *Superintendent* and the *Principal* in the form required by the *Contract* or, if no form is so specified, in the form required by the *Superintendent*
- (h) the *Superintendent* has received:
 - (i) the documents referred to in *Item 17*;
 - (ii) the warranties required by subclause 9.2(e);
 - (iii) the *Subcontractor's Side Deeds* required by subclause 9.2(f); and
 - (iv) the warranties and certificates required by subclause 9.6; and
 - (v) all *Tenant Handover Packs*;

- (i) the *site* is clean and tidy including:
 - (i) all floors have been cleaned and where appropriate washed and polished;
 - (ii) all carpeted and soft surfaces have been vacuumed;
 - (iii) all glass has been cleaned;
 - (iv) *temporary works* and *construction plant* have been removed; and
 - (v) *the Works* are otherwise suitable for habitation;
- (j) the *Superintendent* has been supplied with the originals of all *Approvals* issued by any *Authority* in respect of *WUC*;
- (k) all keys, electronic access mechanisms and security coding details for *the Works* have been provided to the *Superintendent*;
- (l) the *Superintendent* has been supplied with all completed and signed consent and waiver forms required to be obtained by the *Contractor* under subclause 10.3;
- (m) those areas of the *site*, excluding *the Works*, have been reinstated to the condition detailed in the dilapidation report prepared by the *Contractor* under subclause 24.5(a)(i);
- (n) any property identified in a dilapidation report prepared by the *Contractor* under subclause 24.5(a)(ii) which has been damaged arising out of or as a consequence of the *Contractor* undertaking *WUC* has been reinstated to the condition detailed in the dilapidation report prepared for that property;
- (o) the *Contractor* has provided training in the operation of *the Works* to the *Principal's* operations staff to the satisfaction of the *Superintendent*;
- (p) the *Contractor* has achieved:
 - (i) [insert any additional "Service Readiness Criteria" under Schedule 8 of the Services Agreement]; and
- (q) any other thing required by the *Contract* to be done by the *Contractor* to achieve practical completion has been done to the satisfaction of the *Superintendent*;

preliminary design means the documents stated in *Item 11*;

Prescribed Notice has the meaning in subclause 41.4;

Principal means the person stated in *Item 1*;

Principal Certifying Authority has the meaning given to that term in the *EPA Act*;

Principal Contractor has the meaning given to that term in the *WHS Regulation*;

Principal Contractor WHS Management Plan has the meaning given to the term "WHS management plan" in the *WHS Regulation*;

Principal's project requirements means the *Principal's* written requirements for *the Works* described in the documents stated in *Item 10* which:

- (a) not used;

- (b) may include the *Principal's* design, timing and cost objectives for *the Works*; and
 - (c) where stated in *Item 10*, shall include a *preliminary design*;
- Privacy Legislation** means the *Privacy Act 1988* (Cth) as amended by the *Privacy Amendment (Private Sector) Act 2000* (Cth), and any other applicable Commonwealth or NSW Government *Legislation* or guidelines relating to privacy;
- Probity Investigation** means any probity or criminal investigations to report on or check the character, integrity, experience or honesty of a person or *Entity*, including:
- (a) investigations into commercial structure, business and credit history, prior contract compliance or any criminal records or pending charges; and
 - (b) interviews of any person or research into any relevant activity that is or might reasonably be expected to be the subject of criminal or other regulatory investigation;
- program** has the meaning in clauses 32(e) and 32(f);
- progress certificate** has the meaning in subclause 37.2;
- Project Documents** means:
- (a) the *design documents*, any as-built drawings of *the Works*, any operation and maintenance manuals for *the Works* (including software codes) and any similar documents prepared by or on behalf of the *Contractor* in relation to *the Works*; and
 - (b) any part of the *preliminary design* produced under a prior contract between the *Principal* and a *Principal's* consultant novated under subclause 9.4;
- provisional sum** has the meaning in clause 3 and includes monetary sum, contingency sum and prime cost item;
- public liability policy** has the meaning in clause 17A;
- qualifying cause of delay** means:
- (a) any act, default or omission of:
 - (i) the *Superintendent*;
 - (ii) the *Principal* or its consultants, agents or authorised persons; or
 - (iii) any other contractor of the *Principal*,
 - (b) other than an act, default or omission which is permitted by the *Contract*, which prevents or impedes performance of the *Contractor's* obligations under the *Contract*; or
 - (b) any of the causes listed in *Item 28(a)*;
- Rates** means all municipal rates, water rates, sewerage rates, drainage rates and other rates payable to any *Authority* in connection with the *site* or the *Relevant Infrastructure*;
- Recipient** has the meaning in subclause 44.3(a);

Reference Date Obligations	means the <i>Contractor's</i> obligations to provide: <ul style="list-style-type: none"> (a) to the <i>Superintendent</i> the things set out in subclauses 37.1(d)(i), 37.1(d)(ii) and 37.1(d)(iii); and (b) to the <i>Principal</i> the things set out in subclauses 37.1(e)(i) and 37.1(e)(ii);
Related Body Corporate	has the meaning given in the <i>Corporations Act</i> ;
Relevant Infrastructure	in respect of a <i>site</i> , means the whole of the area inside the boundaries of the <i>site</i> , the physical works, infrastructure and grounds contained within those boundaries, and all equipment owned, leased, licensed or controlled by the <i>Principal</i> ;
Relevant Person	means: <ul style="list-style-type: none"> (a) a director or secretary of the <i>Contractor</i>; or (b) an officer, agent, employee, consultant or agent of a <i>subcontractor</i> who: <ul style="list-style-type: none"> (i) works on, or at, a <i>site</i>; or (ii) has access to <i>Personal Information</i> and any other <i>Confidential Information</i> which compromises the security of the <i>Relevant Infrastructure</i>;
Residential Tenancy Agreement	has the meaning given in section 13 of the <i>Residential Tenancies Act 2010</i> (NSW);
Responsible Entity	has the meaning given in the <i>Corporations Act</i> ;
Retained Money	has the meaning given to that term in subclause 37.8(a);
Safe Work Method Statement	has the meaning given to that term in the <i>WHS Regulation</i> ;
Securities	means shares, units, interests in a partnership, and any other interests, which would constitute 'securities' as defined under the <i>Corporations Act</i> ;
security	means: <ul style="list-style-type: none"> (a) retention moneys; (b) an unconditional undertaking without an expiry date in a form approved by the <i>Principal</i> in its absolute and sole discretion (the form in Annexure Part B is approved) from a financial institution approved by the <i>Principal</i> in its absolute and sole discretion; or (c) other form approved by the <i>Principal</i> in its absolute and sole discretion;
Security of Payment Act	means the Building and Construction Industry Security of Payment Act 1999 (NSW);
selected subcontract work	has the meaning in subclause 9.3(a);
selected subcontractor	has the meaning in subclause 9.3(a);
separable portion	means a portion of the <i>Works</i> identified as such in the <i>Contract</i> or by the <i>Superintendent</i> pursuant to clause 4;
Services Agreement	means the agreement titled 'Social and Affordable Housing Fund – Services Agreement' entered into by the <i>Principal</i> and <i>FACS</i> ;

- site** means the area identified on the plan in Annexure Part L, the land on which the *Relevant Infrastructure* is or is to be located, and any other lands and places made available to the *Contractor* by the *Principal* for the purpose of the *Contract*;
- Social Housing** means each *Dwelling* identified as being made available to the *Social Housing Tenants*;
- Social Housing Tenant** means a household which meets the social housing eligibility criteria outlined in the FACS Eligibility for Social Housing Policy, and has the right to occupy a *Dwelling* under a *Residential Tenancy Agreement*;
- Solvent** has the meaning given in the *Corporations Act*;
- Standards** means all standards, codes, specifications, policies and requirements to be complied with in accordance with, and subject to, the terms of this *Contract* including:
- (a) the standards, codes, specifications, policies and requirements set out in, or otherwise expressly referred to in, the *Specification*;
 - (b) all *Approvals* (including any conditions or requirements under them);
 - (i) all requirements and standards of *Authorities*; and
 - (ii) any other policy, guideline, standard, procedure or requirement, which applies in connection with the *Delivery Service Package*:
 - (A) which is notified to the *Contractor*;
 - (B) which is publicly available or otherwise available to the *Contractor*; or
 - (C) with which the *Contractor* is expressly required by the terms of this *Contract*, by *Law* or by direction of *Principal* to comply,
 unless the *Principal* gives notice to the *Contractor* that any *Approval*, standard, code, specification, policy or requirement does not constitute a *Standard* for the purposes of this *Contract*;
- Subcontract** means an agreement the *Contractor* enters into with a *subcontractor*, in connection with the *Delivery Service Activities*;
- subcontractor** means any contractor, other than the *Contractor*, engaged in performing *WUC* including a *consultant*, a *selected subcontractor* and an *Other Subcontractor*;
- Subcontractor's Side Deed** means the form of deed at Annexure Part M;
- Sunset Date** means [#] *Months* from the *date for practical completion*;
- Supporting Statement** has the meaning given to that term in the *Security of Payment Act*;
- Superintendent** means the person stated in *Item 5* as the *Superintendent* or other person from time to time appointed by the *Principal* to be the *Superintendent* and notified as such to the *Contractor* by the *Principal* and, so far as concerns the functions exercisable by a *Superintendent's Representative*, includes a *Superintendent's Representative*;
- Superintendent's** means a person appointed by the *Superintendent* under clause 21;

Representative

Supplier has the meaning in subclause 44.3(a);

survey mark in clause 26 means a survey peg, benchmark, reference mark, signal, alignment, level mark or any other mark for the purpose of setting out, checking or measuring *WUC*;

Tax means any present or future tax, levy, impost, duty, rate, charge, fee, deduction or withholding of any nature, imposed or levied by an Authority, the NSW Government or the Commonwealth, together with any interest, penalty, charge, fee or other amount imposed or made on, or in connection with, any of the foregoing, but excluding any *Rates*;

temporary works means *work* used in carrying out and completing *WUC*, but not forming part of *the Works*;

Tenant means any:

(a) *Social Housing Tenant*; and

(b) *Affordable Housing Tenant*;

Tenant Handover Pack is a pack which will include the following:

(a) all instructions and user manuals for any piece of equipment installed as part of *the Works*;

(b) any unfixed sections of equipment that are supplied as part of *the Works* (for example remote controls, spare cables, extra plugs/sockets etc);

(c) all specific cleaning instructions for tiles, carpets etc;

(d) any extras that have been provided for use as part of the purchase of equipment installed as part of *the Works* (for example washing powder, trial samples etc);

(e) all keys and access requirements as required by the *Principal* (for example unit keys, common areas codes, swipe cards etc);

test has the meaning in subclause 30.1 and includes examine and measure;

Utility means any utility service, including water, electricity, gas, telephone, drainage, sewerage, stormwater, communications and data services (including telephone, facsimile and internet access);

Utility Infrastructure means any part of the supply, distribution or reticulation network owned, operated or controlled by a *Utility* provider, including poles, pipes, pipeline, cables, wires, conduits, tunnels, aqueduct, electrical installation, telecommunications plant, water channel, and railway and electronic communications systems, but not including any part of the *Relevant Infrastructure*;

Utility Interruption means any one or more *Utilities* not being available for use at a *site* (at all or in the necessary quantity);

the Works means:

(a) in relation to a *separable portion*, the whole of the *work* to be carried out and completed in accordance with the *Contract* comprised in that *separable portion*; and

(b) otherwise, the whole of the *work* to be carried out and completed in accordance with the *Contract*,

including *variations* provided for by the *Contract*, which by the *Contract* is to be handed over to the *Principal*;

variation has the meaning in subclause 36.1 excluding a *Design Detail Change*;

WHS means work health and safety;

WHS Act means the Work Health and Safety Act 2011 (NSW);

WHS Laws means:

- (a) those Acts, regulations, by-laws, orders, awards, proclamations, standards and codes of the Commonwealth and the State or Territory in which the *site* is located relating to *WHS* (including the *WHS Act* and the *WHS Regulation*) with respect to *WUC*;
- (b) the requirements of any *Authority* relating to *WHS* with respect to *WUC*; and
- (c) any *directions* on safety or notices issued by any relevant *Authority* or any code of practice or compliance code appropriate or relevant to *WUC*;

WHS Management Plan means a management plan for *WHS* that satisfies the requirements of clause 309(2) of the *WHS Regulation*;

WHS Regulation means the Work Health and Safety Regulation 2011 (NSW);

work includes the provision of materials;

Workplace has the meaning given to that term in the *WHS Act*;

WUC (from 'work under the Contract') means the *work* which the *Contractor* is or may be required to carry out and complete under the *Contract* and includes *variations*, remedial *work*, *construction plant* and *temporary works*, and like words have a corresponding meaning.

In the *Contract*:

- (a) references to days mean calendar days and references to a person include an individual, firm or a body, corporate or unincorporate;
- (b) time for doing any act or thing under the *Contract* shall, if it ends on a day which is not a *Business Day*, be deemed to end on the next *Business Day*;
- (c) clause headings, subclause headings and the table of contents shall not form part of, nor be used in the interpretation of, the *Contract*;
- (d) words in the singular include the plural and words in the plural include the singular, according to the requirements of the context. Words importing a gender include every gender;
- (e) communications between the *Principal*, the *Superintendent* and the *Contractor* shall be in the English language;
- (f) measurements of physical quantities shall be in legal units of measurement of the jurisdiction in *Item 8*;
- (g) unless otherwise provided, prices are in the currency in *Item 9(a)*;
- (h) the law governing the *Contract*, its interpretation and construction, and any agreement for expert determination, is the

- law of the jurisdiction in *Item 8*;
- (i) not used;
 - (j) a reference to legislation or a legislative provision includes:
 - (i) any modification or substitution of that legislation or legislative provision; and
 - (ii) any subordinate legislation issued under that legislation or legislative provision including under that legislation or legislative provision as modified or substituted;
 - (k) a reference to a clause, subclause, paragraph, annexure or a schedule is a reference to a clause, subclause, paragraph, annexure or a schedule to or of the *Contract*;
 - (l) a reference to a person includes that person's successors and permitted assignees and permitted novatees;
 - (m) an obligation or warranty on the part of two or more persons binds them jointly and severally and an obligation or warranty in favour of two or more persons benefits them jointly and severally;
 - (n) "including" and "includes" are not words of limitation;
 - (o) a word that is derived from a defined word has a corresponding meaning; and
 - (p) a reference to a thing includes each part of that thing.

Neither the *Contract* nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

2 Nature of Contract

2.1 Performance and payment

The *Contractor* shall carry out and complete *WUC* in accordance with the *Contract* and *directions* of the *Superintendent* or the *Principal*.

Subject to the provisions of the *Contract*, the *Principal* shall pay the *contract sum* to the *Contractor*.

2.2 Contractor's warranties

Without limiting the generality of subclause 2.1, the *Contractor* warrants to the *Principal* that the *Contractor*:

- (a) at all times shall be suitably qualified and experienced, and shall exercise due skill, care and diligence in the carrying out and completion of *WUC*;
- (b) has examined any *preliminary design* included in the *Principal's project requirements* and that such *preliminary design* is suitable, appropriate and adequate for the purpose stated in the *Principal's project requirements*;
- (c) shall carry out and complete the *Contractor's design obligations* to accord with the *Principal's project requirements* and, if subclause 9.4 applies, accept the novation and retain the *Principal's* consultants for any *work* the subject of a prior contract with the *Principal*; and

- (d) subject to subclause 2.6, shall carry out and complete *WUC* in accordance with the *design documents* so that *the Works*, when completed, shall:
 - (i) be fit for the purpose stated in the *Principal's project requirements*;
 - (ii) be able to be used without risk or harm to the health or safety of people; and
 - (iii) otherwise comply with all the requirements of the *Contract*.

2.3 Warranties unaffected

The warranties in subclause 2.2 remain unaffected notwithstanding:

- (a) that design work (including the *preliminary design*) has been carried out by or on behalf of the *Principal* and included in the *Principal's project requirements*;
- (b) that the *Contractor* has entered into a novation of any prior contract between the *Principal* and a *Principal's* consultant under subclause 9.4 and thereafter has retained that consultant in connection with *WUC*;
- (c) any receipt or review of, or comment or *direction* on, the *design documents* by the *Superintendent* or the *Principal*;
- (d) any deemed *variation* or any *variation*; or
- (e) any *Design Detail Change* directed by the *Superintendent*.

2.4 Not used

2.5 Not used

2.6 Design review

- (a) The *Contractor* shall give each of the *Superintendent* and the *Principal* one hard copy and one electronic copy of the *design documents*, at the time or times required by the *program* or, if no time is stated in the *program*, within a reasonable time, allowing the *Superintendent* and the *Principal* 10 *Business Days* to review and comment on the compliance of the *design documents* with the requirements of the *Contract*.
- (b) If within the 10 *Business Days* referred to in subclause 2.6(a), the *Superintendent* or the *Principal* gives the *Contractor* a notice stating that the *design documents* do not comply with the requirements of the *Contract*, the *Contractor* shall:
 - (i) amend the *design documents* so that they comply with the requirements of the *Contract* and any comments of the *Superintendent* and the *Principal* regarding the compliance of the *design documents* with the requirements of the *Contract* at the *Contractor's* cost; and
 - (ii) promptly submit such amended *design documents* to the *Superintendent* and the *Principal*, in which case subclause 2.6(a) and this subclause 2.6(b) shall apply in relation to the amended *design documents*.
- (c) The review of or comment on any *design documents* by the *Principal* and the *Superintendent* in accordance with the *Contract* is solely to monitor the performance of the *Contractor*. The *Contractor* is fully responsible for designing the relevant part of *the Works* in accordance with the *Contract*.
- (d) The *Contractor* shall maintain a register of all *design documents* and, upon request, shall provide the *Superintendent* and the *Principal* with a copy of the register.
- (e) The *Contractor* shall not:

- (i) commence any part of the construction, manufacture, supply or installation of the relevant part of *the Works* until:
 - (A) the *design documents* relevant to that part of *the Works* have been provided to the *Superintendent* and the *Principal* in accordance with this subclause 2.6;
 - (B) the time period by which the *Superintendent* and the *Principal* may review and comment on the *design documents* has expired; and
 - (C) the *design documents* have been amended in accordance with comments made (if any) by the *Superintendent* or the *Principal* under this subclause 2.6; and
- (ii) without limiting clause 36, make any amendments to the *design documents* unless the proposed amendments have been provided to the *Superintendent* and the *Principal* in accordance with this subclause 2.6.

2.7 Design Detail Change

The *Superintendent*, before the *date of practical completion*, may direct the *Contractor* to carry out a *Design Detail Change*.

3 Provisional sums

- (a) The *Initial Contract Sum* includes the *provisional sums* listed in *Item 13(a)*.
- (b) The *Contractor* shall comply with a *direction* of the *Superintendent* to carry out the *work* or supply an item to which the *provisional sum* relates.
- (c) Subject to clause 3(d), the *Contractor* agrees that in relation to each *provisional sum*, the *Contractor* shall:
 - (i) invite at least three different tenderers to tender on the *work* or item to which the *provisional sum* relates; and
 - (ii) submit the tender prices for the *work* or item to which each *provisional sum* relates to the *Superintendent* together with a recommendation as to which tender should be accepted,
 in accordance with the construction program.
- (d) The *Superintendent* may direct the *Contractor* to adopt a different tender process to that described in clause 3(c).
- (e) The *Contractor* shall not tender any *work* or item to which a *provisional sum* relates without notifying the *Superintendent* before tendering for the *work* or item.
- (f) The *Contractor* shall have the *work* or item to which a *provisional sum* relates carried out in accordance with the tender which the *Superintendent* directs the *Contractor* to accept.
- (g) A *provisional sum* included in the *Contract* shall not itself be payable by the *Principal* but where pursuant to a *direction* the *work* or item to which the *provisional sum* relates is carried out or supplied by the *Contractor*, the *work* or item shall be priced by the *Superintendent*, and;
 - (i) in the case where the aggregate of all amounts priced by the *Superintendent* for *provisional sums* exceeds the aggregate of the *provisional sums* listed in *Item 13(a)*, then any difference (together with the margin stated in *Item 13(b)* on the difference) shall be added to the *contract sum*; and
 - (ii) in the case where the aggregate of all amounts priced by the *Superintendent* for *provisional sums* is less than the aggregate of the *provisional sums* listed in *Item 13(a)*, then any difference will be deducted from the *contract sum*.

4 Separable portions

Separable portions may be directed by the *Superintendent*, who shall clearly identify for each, the:

- (a) portion of *the Works*;
- (b) *date for practical completion*; and
- (c) respective amounts for *security*, bonus and liquidated damages.

5 Security

5.1 Provision

Security shall be provided in accordance with *Item 14*. All delivered *security*, other than retention moneys, shall be transferred in escrow.

If the *contract sum* is \$20million at the date of the *contract* or where after the date of the *contract* the *contract sum* reaches \$20million as a result of adjustments under the *contract*, Part 2 of the *Building and Construction Industry Security of Payment Regulation 2008* (Regulation) applies and the *Contractor* agrees that it will:

- (a) comply with its obligations under the Regulation and pay retention money it holds from *subcontractors* in a trust account with an approved authorised deposit-taking institution (ADI);
- (b) notify the *Principal* and NSW Fair Trading of the details of the trust account and particulars of retention money deposited; and
- (c) indemnify the *Principal* against any or all *Claims* from *subcontractors* arising from the *Contractor's* failure to comply with its obligations under the Regulation.

5.2 Recourse

Security shall be subject to recourse if:

- (a) the *Principal* has a bona fide *Claim* that the *Contractor*:
 - (i) is in default under the *Contract*; or
 - (ii) has suffered an *Insolvency Event*; or
- (b) the *Principal* exercises its right under subclause 37.6.

The *Principal* is not required to give any notice to the *Contractor* of its intention to have recourse to *security* or to convert *security* into money.

The *Contractor* acknowledges and agrees that where either (a) or (b) applies, the *Principal* is entitled to have recourse to the *security* and that it will not take any steps to prevent the *Principal* from:

- (a) taking any steps to obtain payment under the *security*;
- (b) using the *security*.

5.3 Change of security

The *Principal* may, at its absolute and sole discretion, agree to the substitution of the then current form of the *security* with another form of *security*. To the extent that another form of *security* is provided, the *Principal* shall promptly release and return the then current form of the *security*.

5.4 Reduction and release

Upon:

(a) if there are *separable portions*, the issue of the *certificate of practical completion* for the last *separable portion* to reach *practical completion*; or

(b) if there are not *separable portions*, the issue of the *certificate of practical completion*,

the *Principal's* entitlement to *security* (other than in *Item 14(e)* and subject to clause 5.2) shall be reduced by the percentage or amount in *Item 14(f)* and the reduction shall be released and returned within 10 *Business Days* to the *Contractor*.

The *Principal's* entitlement to *security* in *Item 14(e)* shall cease 10 *Business Days* after incorporation into *the Works* of the plant and materials for which that *security* was provided and such *security* shall be released and returned forthwith to the *Contractor*.

The *Principal's* entitlement otherwise to *security* shall cease 45 *Business Days* after *final certificate*.

Upon the *Principal's* entitlement to *security* ceasing, the *Principal* shall release and return forthwith the *security* to the *Contractor*.

5.5 Interest

Interest earned on retention moneys shall belong to the *Principal*.

5.6 Deed of guarantee

As a condition precedent to commencing *WUC*, the *Contractor* shall provide the *deed of guarantee* to the *Principal* duly executed and enforceable.

5.7 Additional security

(a) Where the *contract sum* exceeds the *Initial Contract Sum* by the percentage specified at *Item 14(g)* or more, the *Principal* may by notice to the *Contractor* require the *Contractor* to provide additional *security* in the same form as the *security* provided in accordance with subclause 5.1 and *Item 14* and in the amount specified in *Item 14(h)*. Such *security* shall be provided by the *Contractor* within 5 *Business Days* of the *Principal's* notice.

(b) Where the *Principal* considers, in its absolute and sole discretion, that any financial information provided by the *Contractor* under subclause 5.8(a) or any financial review carried out under subclause 5.8(b) justifies the *Principal* requiring the *Contractor* to provide additional *security*, the *Principal* may by notice to the *Contractor* require the *Contractor* to provide additional *security* in the same form as the *security* provided in accordance with subclause 5.1 in the amount the *Principal* considers appropriate. Such *security* shall be provided by the *Contractor* within 5 *Business Days* of the *Principal's* notice.

5.8 Financial information

At any time and from time to time by notice to the *Contractor*, the *Principal* may require:

(a) the *Contractor*, at the *Principal's* expense, to provide the *Principal*:

(i) within the time specified in the *Principal's* notice; or

(ii) if no time is specified in the *Principal's* notice, within 5 *Business Days* of the *Principal's* notice,

with financial information regarding the *Contractor* including a then current balance sheet and then current details of the *Contractor's* secured and unsecured creditors; and

- (b) the *Contractor* to permit the *Principal* and its financial advisers to carry out a financial review of the *Contractor* to determine the then current financial status of the *Contractor* which may include the *Contractor*, at the *Principal's* expense, being required to provide the *Principal* and its financial advisers:
- (i) within the time specified in any *Principal's* notice; or
 - (ii) if no time is specified in any such *Principal's* notice, within 5 *Business Days* of the *Principal's* notice,
- with such financial information as the *Principal* or its financial advisers deem reasonably necessary to carry out the financial review.

6 Pre Contract documents and investigations

6.1 No responsibility

Without limiting subclause 6.2:

- (a) the *Principal* does not warrant, guarantee or make any representation about the accuracy or adequacy of any information, data and documents made available to the *Contractor* by the *Principal* or anyone on behalf of the *Principal* before the date of commencement of *WUC* and which does not form part of the *Contract*; and
- (b) to the extent permitted by law, the *Principal* shall not be liable upon any *Claim* by the *Contractor* arising out of, or in any way connected with, such information, data and documents.

6.2 Non-reliance

Without limiting subclause 25.1, the *Contractor*:

- (a) warrants that it did not in any way rely upon:
 - (i) any information, data, representation, statement or document (not forming part of the *Contract*) made available to the *Contractor* by the *Principal* or anyone on behalf of the *Principal*; or
 - (ii) the accuracy or adequacy of any such information, data, representation, statement or document,
 for the purposes of entering into the *Contract*; and
- (b) warrants that it enters into the *Contract* based on its own investigations, interpretations, deductions, information and determinations.

7 Notices

- (a) A notice, demand, consent, approval, request or other communication (including a *Prescribed Notice*) ('*Notice*') to be given under the *Contract* shall be in writing unless otherwise specified in the *Contract* and shall be given to the recipient at the relevant address in the *Contract* (or the address last communicated in accordance with this clause 7 by the recipient to the person giving the *Notice*) by being:
 - (i) hand delivered;
 - (ii) sent by facsimile transmission;
 - (iii) sent by prepaid ordinary mail within Australia; or
 - (iv) sent by email transmission except for any *Notice* under clause 33, clause 39, clause 41 or clause 42.
- (b) The date of receipt of a *Notice* is:

- (i) if hand delivered, on the date of delivery but, if delivery occurs after 5:00pm New South Wales time or on a day which is not a *Business Day*, it is taken to be received on the next *Business Day*;
- (ii) if sent by facsimile transmission, on the date that the sending party's facsimile machine records that the facsimile has been successfully transmitted but, if the transmittal is recorded as after 5:00pm New South Wales time or on a day which is not a *Business Day*, it is taken to be received on the next *Business Day*;
- (iii) if sent by prepaid ordinary mail within Australia, on the date that is 3 *Business Days* after the date of posting; or
- (iv) subject to clause 7(a)(iv), if sent by email transmission, on the date that the email is sent except that:
 - (A) subject to clause 7(b)(iv)(B), if the email is sent after 5:00pm New South Wales time or on a day which is not a *Business Day*, it is taken to be received on the next *Business Day*; and
 - (B) if the sending party's electronic equipment records that the email has not been successfully delivered, the *Notice* is taken not to be received.
- (c) The *Principal*, the *Contractor* and the *Superintendent* shall each promptly notify the others of any change of notice details.
- (d) This clause 7 will survive the expiration, termination or frustration of the *Contract*.

8 Contract documents

8.1 Discrepancies

Figured shall prevail over scaled dimensions in a discrepancy. Otherwise, if either party discovers any error, omission, inconsistency, ambiguity, discrepancy or illogicality in or between any document prepared for the purpose of carrying out *WUC* or any other document forming part of the *Contract* ('*Discrepancy*'), that party shall promptly, and, if that party is the *Contractor*, before commencing the relevant *WUC*, give the *Superintendent* notice of the *Discrepancy*. The *Superintendent*, thereupon, and upon otherwise becoming aware of a *Discrepancy*, shall direct the *Contractor* as to the interpretation and construction to be followed.

The *Contractor* shall bear the cost of compliance with a *direction* under this subclause to the extent that any *Discrepancy* in the *design documents* or between the *design documents* and the *Principal's project requirements* necessitates the *direction*.

If compliance with any other *direction* under this subclause causes the *Contractor* to incur more or less cost than should reasonably have been anticipated by a competent contractor at the date of the *Contract* and the date of commencement of *WUC* or, if they are different dates, whichever is earlier the difference shall be assessed by the *Superintendent* and added to or deducted from the *contract sum*.

8.2 Principal-supplied documents

The *Principal* shall supply to the *Contractor* the documents and number and type of copies thereof, both stated in *Item 16*.

They shall:

- (a) remain the *Principal's* property and be returned to the *Principal* on demand; and
- (b) not be used, copied nor reproduced for any purpose other than *WUC*.

8.3 Contractor-supplied documents

The *Contractor* shall supply to the *Superintendent* the documents and number and type of copies thereof at the times or stages stated in *Item 17*.

Other documents required by the *Contract*, unless elsewhere stated in the *Contract*, shall be supplied not less than 10 *Business Days* before the relevant *work* is commenced and shall be in a form satisfactory to the *Superintendent*.

If the *Contractor* submits a document to the *Superintendent*, then except where the *Contract* otherwise provides:

- (a) the *Superintendent* shall not be required to check that document for errors, omissions, inconsistencies, ambiguities, discrepancies, illogicalities or compliance with the *Contract*;
- (b) notwithstanding subclause 2.1, any *Superintendent's* acknowledgment or approval shall not prejudice the *Contractor's* obligations; and
- (c) if the *Contract* requires the *Contractor* to obtain the *Superintendent's* direction about that document, the *Superintendent* shall give, within the time stated in *Item 18*, the appropriate *direction*, including reasons if the document is not suitable.

A *direction* by the *Superintendent* to vary anything in the *design documents* shall be a *variation* to *WUC* only to the extent that the *design documents*, before such *variation*, complied, or would have complied, with the *Principal's* project requirements.

Subject to subclause 10.2, copies of documents supplied by the *Contractor* shall be the *Principal's* property.

The *Contractor* agrees that the *Principal* may by notice require the *Contractor* to provide the *Principal* with any other reasonable information relating to the *Contractor's* performance of the *Contract*.

8.4 Availability

The *Contractor* shall keep available to the *Superintendent* and the *Principal*:

- (a) on *site*, one complete and up-to-date set of documents affecting *WUC* and supplied by a party or the *Superintendent*; and
- (b) at the place of manufacture or assembly of any significant part of *WUC* off *site*, an up-to-date set of the documents affecting that part.

8.5 Confidential Information

- (a) Subject to subclause 8.5(b), the *Contractor* shall maintain in confidence all *Confidential Information* and ensure that the *Confidential Information* is kept confidential.
- (b) The *Contractor* may only reveal *Confidential Information*:
 - (i) if required by law or by any stock exchange to disclose, in which case the *Contractor* shall immediately notify the *Principal* of the requirement and shall take lawful steps and permit the *Principal* to oppose or restrict the disclosure to preserve, as far as possible, the confidentiality of the *Confidential Information*;
 - (ii) if the *Confidential Information* is in or enters the public domain for reasons other than a breach of the *Contract*;
 - (iii) if the *Confidential Information* is disclosed to the *Contractor* by a third party legally entitled to disclose that information and who is not under an obligation of confidentiality to the *Principal*; or
 - (iv) to its professional advisers to obtain professional advice.

- (c) Without limiting any obligations in respect of privacy set out in the Principal's project requirements, the *Contractor* agrees to be bound by the *Privacy Legislation* with respect to any act done, or practice engaged in, by it in connection with this *Contract* or with the *Subcontract* (as the case may be), in the same way as the *Principal* would be bound by the *Privacy Legislation*, in connection with that act or practice had it been directly done or engaged in by the *Principal*.
- (d) The *Contractor* shall release, indemnify and shall keep indemnified on demand the *Principal* and its *Associates* from and against any *Claim* or *Liability* (including any *Claim* made by, or *Liability* to, *FACS* or any other third party) which the *Principal* or any of its *Associates* suffer or incur resulting from any act done or practice engaged in by the *Contractor* or any *Associate* of the *Contractor* in connection with the *Delivery Service Package*, which would, had that act or practice been done or engaged in by the *Principal*, have contravened any of the *Privacy Legislation*.
- (e) This subclause 8.5 will survive the expiration, termination or frustration of the *Contract*.

*8.6 Media

The *Contractor* shall not disclose any information concerning the project for distribution through any communications media without the *Principal's* prior written approval (which may be given or withheld, including on terms, at the *Principal's* absolute and sole discretion). The *Contractor* shall refer to the *Principal* any enquiries from any media concerning the project.

9 Assignment, novation, subcontracting and warranties

9.1 Assignment and novation to new Principal

The *Contractor* shall not assign the *Contract* or any payment or any other right, benefit or interest thereunder without the prior approval of the *Principal* (which may be given or withheld, including on terms, at the *Principal's* absolute and sole discretion).

The *Principal* may assign the *Contract* or any payment or any other right, benefit or interest thereunder without the *Contractor's* approval but the *Principal* shall notify the *Contractor* of any such assignment.

If, at any time prior to the expiry of the *defects liability period*, the *Principal* wishes to novate the *Contract* to another person nominated by the *Principal* in its absolute and sole discretion ('*Nominated Person*'), at the *direction* of the *Principal*, the *Contractor*, without being entitled to compensation, shall enter into a deed of novation with the *Principal* and the *Nominated Person* in the form set out in Annexure Part K (or such other form as the *Principal* may reasonably require).

9.2 Subcontracting generally

- (a) Subject to subclause 9.3, the *Contractor* shall not without the *Superintendent's* prior approval subcontract or allow a *subcontractor* to subcontract any *work* described in *Item 19(a)*. The *Contractor* shall maintain a register of all *subcontractors*, including contact details, and shall, upon request, provide a copy to the *Superintendent*.
- (b) With a request for approval, the *Contractor* shall give the *Superintendent* particulars of the *work* to be subcontracted and the name and address of the proposed *subcontractor*. The *Contractor* shall give the *Superintendent* other information which the *Superintendent* reasonably requests, including the proposed subcontract documents without prices.

* See Preface

- (c) Within 10 *Business Days* of the *Contractor's* request for approval, the *Superintendent* shall give the *Contractor* notice of approval or of the reasons why approval is not given.
- (d) Except to the extent otherwise approved by the *Superintendent*, the *Contractor* shall ensure that each subcontract includes:
 - (i) provision that the *subcontractor* shall not:
 - (A) assign the subcontract or any payment or any other right, benefit or interest thereunder; nor
 - (B) subcontract work under the subcontract, without the prior consent of the *Principal* (which may be given or withheld, including on terms, at the *Principal's* absolute and sole discretion) and the *Contractor*;
 - (ii) provision that the *subcontractor* shall not novate the subcontract without the *Principal's* prior consent (which may be given or withheld, including on terms, at the *Principal's* absolute and sole discretion);
 - (iii) provisions which may be reasonably necessary to enable the *Contractor* to fulfil the *Contractor's* obligations to the *Principal*;
 - (iv) in relation to those *subcontractors* listed or referred to in *Item 19(b)*, provision that the *subcontractor* shall, before commencing work under the subcontract, execute a deed in the form of the *Subcontractor's Side Deed*;
 - (v) provisions which may be reasonably necessary to enable the *Principal* and the *Contractor* to fulfil their respective obligations under the *WHS Laws* including an obligation for the *subcontractor* to provide evidence to the *Contractor* that all of the *subcontractor's* employees, agents and contractors have been properly inducted on to the *site* and for *WUC* in accordance with the *WHS Laws*;
 - (vi) a provision that excludes the operation of Part 4 of the *Civil Liability Act* in relation to all rights, obligations and liabilities of the *Contractor* and the *subcontractor* with respect to any matter to which Part 4 of that Act would apply but for the provision;
 - (vii) the provisions required by subclause 37.9(b);
 - (viii) provisions enabling the *Contractor* to comply with clause 52(c)(ii); and
 - (ix) where the *subcontractor* is a *consultant*, provision that the *subcontractor* shall effect and maintain professional indemnity insurance on the same terms as are required under *Items 24(c)*, *24(d)* and *24(e)*.
- (e) The *Contractor* shall, prior to any *subcontractor* listed in *Item 42* commencing any part of *WUC*, provide the *Superintendent* with a warranty from the *subcontractor* in a form acceptable to and in favour of the *Principal*. The form of warranty at Annexure Part N is acceptable to the *Principal*.
- (f) The *Contractor*, without being entitled to compensation, shall:
 - (i) procure the execution of a *Subcontractor's Side Deed* by a *subcontractor* listed or referred to in *Item 19(b)*; and
 - (ii) execute that *Subcontractor's Side Deed*,
 prior to that *subcontractor* commencing any part of *WUC*.
- (g) If the *Contractor* fails to execute the *Subcontractor's Side Deed* within 5 *Business Days* of the *subcontractor* commencing any part of *WUC*, the *Contractor* irrevocably appoints the *Principal* as the attorney of the *Contractor* to execute the deed on behalf of the *Contractor*.
- (h) Where the *Contractor*:
 - (i) wishes to subcontract any *work* or item other than *Other Subcontract Work*; or

(ii) subcontracts any *selected subcontract work* to a *selected subcontractor*, and subclause 9.6(a)(i) applies to the whole or any part of the relevant *work*, item or *selected subcontract work*, the *Contractor* shall, prior to subcontracting such *work*, item or *selected subcontract work*, obtain the *Principal's* approval (which may be given or withheld, including on terms, at the *Principal's* absolute and sole discretion) of the form of subcontractor's, manufacturer's or supplier's warranty or installation certificate, including by providing the form of subcontractor's, manufacturer's or supplier's warranty or installation certificate to the *Superintendent*.

9.3 Selected subcontract work and Other Subcontract Work

- (a) If the *Principal* has included in *Item 40(a)* a list of one or more *subcontractors* ('*selected subcontractors*') for particular *work* listed in *Item 40(a)* ('*selected subcontract work*'), the *Contractor* shall subcontract that *selected subcontract work* to a *selected subcontractor* and thereupon give the *Superintendent* notice of that *selected subcontractor's* name.
- (b) If no *selected subcontractor* will subcontract to carry out the *selected subcontract work*, the *Contractor* shall provide a list of potential *subcontractors* for the *work* for the approval of the *Superintendent*.
- (c) When directed by the *Principal*, the *Contractor*, without being entitled to compensation, shall promptly execute a deed of novation in the form set out in Annexure Part C (or such other form as the *Principal* may reasonably require), such deed being between the *Principal*, the *Contractor* and any *subcontractor* stated in *Item 40(b)* ('*Other Subcontractor*') for the particular *work* listed in *Item 40(b)* ('*Other Subcontract Work*'). If the *Contractor* fails to execute the deed within 5 *Business Days* of the *direction* by the *Principal*, the *Contractor* irrevocably appoints the *Principal* as the attorney of the *Contractor* to execute the deed on behalf of the *Contractor*.
- (d) The *Contractor* shall not unreasonably terminate a subcontract for *selected subcontract work* or *Other Subcontract Work* and as early as possible, the *Contractor* shall notify the *Superintendent* of the *Contractor's* intention to terminate and the reasons. If a *selected subcontractor* or *Other Subcontractor* repudiates or abandons a subcontract or it is terminated, the *Contractor* shall forthwith notify the *Superintendent* of that fact. The *Superintendent* shall promptly issue a *direction* as to the manner of completing the *selected subcontract work* or *Other Subcontract Work*. With the *Contractor's* consent (which shall not be unreasonably withheld), the *Superintendent* may direct the *Contractor* to perform *selected subcontract work* or *Other Subcontract Work*. Otherwise the *Superintendent* shall direct the *Contractor* to subcontract the *selected subcontract work* or *Other Subcontract Work* to a *subcontractor* chosen by the *Contractor* from a list of *subcontractors* to be provided by the *Principal* or the *Superintendent* to the *Contractor*.
- (e) Subclauses 9.2(d), 9.2(e), 9.2(f), 9.2(g) and 9.2(h) shall also apply to a subcontract with a replacement *subcontractor* under subclause 9.3(d).

9.3A Employee Checks

- (a) This clause applies if *Item 15* states that it applies.
- (b) The *Contractor* shall ensure that each employee or *subcontractor* engaged to provide any *Delivery Service Activities* prior to being engaged to provide the *Delivery Service Activities*, and at the frequencies specified in *Item 47*, passes the relevant *Employee Checks*.
- (c) The *Contractor* shall promptly, on request make the results of any *Employee Checks* available to the *Principal*.

- (d) The *Principal* may require the *Contractor* to deny employment to a prospective employee or *subcontractor* or discontinue employment of any person involved in the *Delivery Service Activities* if:
- (i) the *Probity Investigation* reveals information indicating that that person does not comply with the requirements of this *Contract*;
 - (ii) the employee or *subcontractor* fails an *Employee Check*; or
 - (iii) the *Principal* considers that that person is unsuitable or unqualified to provide the *Delivery Service Activities* assigned to that person.

9.4 Novation of consultant

This subclause applies only where the *Principal's project requirements* include a *preliminary design*.

When directed by the *Principal*, the *Contractor*, without being entitled to compensation, shall promptly execute a deed of novation in the form set out in Annexure Part D (or such other form as the *Principal* may reasonably require), such deed being between the *Principal*, the *Contractor* and any *consultant* stated in *Item 20* for the particular part of the *preliminary design*. If the *Contractor* fails to enter into the deed within 5 *Business Days* of the *direction* by the *Principal*, the *Contractor* irrevocably appoints the *Principal* as the attorney of the *Contractor* to execute the deed on behalf of the *Contractor*.

The *Contractor* shall not unreasonably terminate a contract with a *consultant* whose prior contract with the *Principal* is novated to the *Contractor* under this subclause 9.4. As early as possible, the *Contractor* shall notify the *Superintendent* of the *Contractor's* intention to terminate and the reasons. If such a *consultant* repudiates or abandons its contract or it is terminated, the *Contractor* shall forthwith notify the *Superintendent* of that fact. The *Superintendent* shall promptly issue a *direction* as to the manner of completing the *work* which remained to be performed under that contract. The *Superintendent* shall direct the *Contractor* to subcontract that *work* to a *consultant* chosen by the *Contractor* from a list of *consultants* to be provided by the *Principal* or the *Superintendent* to the *Contractor*.

9.5 Contractor's responsibility

Except where the *Contract* otherwise provides, the *Contractor* shall be liable to the *Principal* for the acts, defaults and omissions of *subcontractors* and employees and agents of *subcontractors* as if they were those of the *Contractor*.

Approval to subcontract shall not relieve the *Contractor* from any *Liability* or obligation under the *Contract*.

9.6 Benefit of warranties

- (a) Without limiting any other provision of the *Contract*, the *Contractor* shall ensure that:
- (i) subcontractors', manufacturers' and suppliers' warranties and installation certificates for the *work* or items listed in *Item 41*:
 - (A) for the periods set out in *Item 41*;
 - (B) for *work* or items other than *Other Subcontract Work*, in the form approved by the *Principal* in accordance with subclause 9.2(h); and
 - (C) for *Other Subcontract Work*, in the form required by the contract between the *Contractor* and the relevant *Other Subcontractor*; and
 - (ii) any other subcontractors', manufacturers' and suppliers' warranties and installation certificates relating to *the Works* which are available on reasonable commercial terms,

are:

(iii) given:

- (A) if available, severally in favour of the *Contractor* and the *Principal*;
- (B) if not available severally in favour of the *Contractor* and the *Principal*, only in favour of the *Principal*; or
- (C) if not available:
 - (I) severally in favour of the *Contractor* and the *Principal*; or
 - (II) only in favour of the *Principal*,
only in favour of the *Contractor*,

and if given:

- (iv) severally in favour of the *Contractor* and the *Principal* or if given only in favour of the *Principal*, permit the assignment of the rights of the *Principal* by the *Principal* to another person, without the warrantor's or certifier's consent;
- (v) only in favour of the *Contractor*, permit the assignment:
 - (A) of the rights of the *Contractor* by the *Contractor* to the *Principal* or to another person, without the warrantor's or certifier's consent; and
 - (B) of the rights of the *Principal* by the *Principal* to another person, without the *Contractor's*, warrantor's or certifier's consent following an assignment to the *Principal* under subclause 9.6(a)(v)(A),

and are:

(vi) given:

- (A) if available, with effect from the *date of practical completion*; or
- (B) if not available with effect from the *date of practical completion*, with effect from the date of completion of the relevant part of *WUC*; and

(vii) duly executed.

- (b) The warranties and certifications required by subclause 9.6(a) shall be provided to the *Superintendent* prior to *practical completion*.
- (c) The provision of the warranties and certifications required by this subclause 9.6 shall not derogate from any rights which the *Principal* may have against the *Contractor* in respect of the subject matter of the warranties and certifications.
- (d) If requested by the *Principal*, the *Contractor* shall, within 5 *Business Days* of receipt of the *Principal's* request, assign the rights of the *Contractor* under those subcontractors', manufacturers' and suppliers' warranties and installation certificates relating to *the Works* given only in favour of the *Contractor* specified in the request to:
 - (i) the *Principal*; or
 - (ii) a person nominated in the request.

10 Intellectual property rights

10.1 Warranties and indemnities

The *Principal* warrants that, unless otherwise provided in the *Contract*, the *Principal's project requirements*, design, materials, documents and methods of working, each specified in the

Contract or provided or directed by the *Principal* or the *Superintendent* shall not infringe any *intellectual property right*.

The *Contractor* warrants that any other design, materials, documents and methods of working, each provided by the *Contractor* or any *subcontractor*, shall not infringe any *intellectual property right*.

The *Contractor* shall indemnify the *Principal* against any cost, expense, loss, damage or other *Liability* suffered or incurred by the *Principal* arising out of or as a consequence of any breach of this subclause 10.1 by the *Contractor*.

10.2 Intellectual property rights granted to Principal

The Alternative in *Item 21* applies.

The *Contractor* shall indemnify the *Principal* against any cost, expense, loss, damage or other *Liability* suffered or incurred by the *Principal* arising out of or as a consequence of any breach of this subclause 10.2 by the *Contractor*.

Alternative 1

- (a) The *Contractor* retains the *intellectual property rights* in or in relation to the *Project Documents*.
- (b) The *Contractor* grants to the *Principal* an exclusive, worldwide, perpetual, irrevocable, transferable (in whole or in part), royalty and fee free licence to use:
 - (i) the *intellectual property rights* in or relating to the *Project Documents*; and
 - (ii) the *Project Documents*,

for any purpose relating to or in connection with *WUC*, *the Works* and the *site* including any subsequent repairs, maintenance or servicing, the supply of replacement parts and additions or alterations and the copying of the *Project Documents* for such purposes. Such licence shall be capable of being sublicensed by the *Principal*, and by any sublicensee of the *Principal*, in the *Principal's* or the sublicensee's (as applicable) absolute and sole discretion.

Alternative 2

- (a) Subject to subclause 10.2(c), the *Contractor* assigns to the *Principal* all *intellectual property rights* in or relating to the *Project Documents*. The assignment operates as an assignment of future rights to the extent that any of the *Project Documents* are not in existence at the date of commencement of *WUC*.
- (b) The *Principal* grants to the *Contractor* an irrevocable licence to use the *intellectual property rights* in or relating to the *Project Documents* and the *Project Documents* for *WUC*.
- (c) To the extent the *intellectual property rights* in or relating to the *Project Documents* are not capable of being assigned to the *Principal* because the *Contractor* does not own such *intellectual property rights*, the *Contractor* grants to the *Principal* an exclusive, worldwide, perpetual, irrevocable, transferable (in whole or in part), royalty and fee free licence to use:
 - (i) the *intellectual property rights* in or relating to the *Project Documents*; and
 - (ii) the *Project Documents*,

for any purpose relating to or in connection with *WUC*, *the Works* and the *site* including any subsequent repairs, maintenance or servicing, the supply of replacement parts and additions or alterations and the copying of the *Project Documents* for such purposes. Such licence may be sublicensed by the *Principal*, and by any sublicensee of the *Principal*, in the *Principal's* or the sublicensee's (as applicable) absolute and sole discretion.

10.3 Moral rights

The *Contractor* shall obtain from each individual who is an author of any *Project Document* (prior to that individual's commencement of creation of any part of the *Project Document*) a completed and signed consent and waiver form substantially in the form set out in Annexure Part O and provide such completed and signed consent and waiver form to the *Superintendent* prior to the individual's commencement of creation of any part of the *Project Document*.

The *Contractor* shall indemnify the *Principal* against any cost, expense, loss, damage or other *Liability* suffered or incurred by the *Principal* arising out of or as a consequence of any breach of this subclause 10.3 by the *Contractor*.

10.4 Survival

This clause 10 will survive the expiration, termination or frustration of the *Contract*.

11 Legislative requirements

11.1 Compliance

- (a) The *Contractor* shall satisfy all *legislative requirements* except those:
 - (i) in *Item 22(a)*;
 - (ii) in the *DA Matrix* that are specified to be the responsibility of the *Principal*; or
 - (iii) directed by the *Superintendent* to be satisfied by or on behalf of the *Principal*.
- (b) In relation to those *legislative requirements*:
 - (i) in *Item 22(a)*;
 - (ii) in the *DA Matrix* that are specified to be the responsibility of the *Principal*; or
 - (iii) directed by the *Superintendent* to be satisfied by or on behalf of the *Principal*,
 the *Contractor* shall provide the *Principal* with reasonable assistance requested by the *Principal*.
- (c) In relation to *legislative requirements* that are the responsibility of the *Contractor*, the *Principal* shall provide the *Contractor* with reasonable assistance to the extent that a *legislative requirement* may by law only be performed by the *Principal*.
- (d) The *Contractor*, upon finding that a *legislative requirement* is at variance with the *Contract* or the *Principal's project requirements*, shall promptly give the *Superintendent* notice thereof and comply with any *direction* by the *Superintendent* given to ensure *WUC* complies with any *legislative requirement*.

11.2 Changes

If a *legislative requirement*:

- (a) comes into effect:
 - (i) before the *date for practical completion*; and
 - (ii) after the 10th *Business Day* before:
 - (A) the date of the *Contract*; and
 - (B) the date of commencement of *WUC*,
 or, if they are different dates, whichever is earlier, but could not reasonably then have been anticipated by a competent contractor; or

- (b) was in effect before the date determined under subclause 11.2(a)(ii) and the *legislative requirement* is at variance with the *Contract*; and
- (c) necessitates a change:
 - (i) to the *Principal's project requirements*;
 - (ii) to the *Works*;
 - (iii) to so much of *WUC* as is identified in *Item 22(b)*;
 - (iv) being the provision of services by an *Authority* in connection with *WUC*; or
 - (v) in a fee or charge or payment of a new fee or charge, being a fee or charge incurred by the *Contractor* in connection with *WUC*; and
- (d) causes the *Contractor* to incur more or less cost than otherwise would have been incurred, the difference shall be assessed by the *Superintendent* and added to or deducted from the *contract sum*.

11.3 Approvals

- (a) The *Principal* has obtained the *Development Consent*.
- (b) The *Contractor* shall:
 - (i) obtain all remaining *Approvals*, except those *Approvals* that by law may only be obtained by the *Principal*, necessary to execute *WUC* including liaising with any *Authority* in relation to such *Approvals*; and
 - (ii) promptly provide copies of all such *Approvals* to the *Superintendent*.
- (c) In relation to those *Approvals* that by law may only be obtained by the *Principal*, the *Contractor* shall, to the extent such assistance is not otherwise included in *WUC*, provide the *Principal* with reasonable assistance requested by the *Principal* in relation to obtaining those *Approvals*.

11.4 Non-compliance

Subject to subclause 11.1(a), if the *Contractor* does not comply with any *legislative requirement*, and such non-compliance has not been remedied within 5 *Business Days* after the *Contractor* receives notice from the *Superintendent* that the *Principal* intends to take measures to effect compliance, the *Principal* may take measures to effect compliance and all costs incurred by the *Principal* in doing so shall be certified by the *Superintendent* as moneys due and payable from the *Contractor* to the *Principal*.

11.5 Warranties about Legislative Inspections

The *Contractor* warrants that:

- (a) it understands the *Legislative Inspections* required in relation to *WUC*;
- (b) it has made sufficient allowance in the *program* for the *Legislative Inspections* to take place; and
- (c) it shall co-ordinate *WUC* to accommodate the *Legislative Inspections*.

11.6 Performance of Legislative Inspections

- (a) When a *Legislative Inspection* is required to be performed the *Contractor* shall:
 - (i) give the *Superintendent* 5 *Business Days'* notice that such *Legislative Inspection* is required; and

- (ii) leave *WUC* which is to be the subject of the *Legislative Inspection* uncovered until that *Legislative Inspection* is completed.
- (b) If the *Contractor* fails to comply with its obligations in subclause 11.6(a), the *Contractor* shall at its own cost uncover, remove, reinstate or perform any other *works* required in order that the relevant *Legislative Inspection* may take place.
- (c) The *Contractor* indemnifies the *Principal* against any cost, expense, loss, damage or other *Liability* suffered or incurred by the *Principal* arising out of or as a consequence of a breach of this subclause 11.6 by the *Contractor*.

11.7 Documents evidencing Authority approvals

The *Contractor* shall, prior to *practical completion*, provide the *Superintendent* with the originals of all *Approvals* issued by any *Authority* in respect of *WUC*.

11.8 Long service levy

Before commencing *WUC*, the *Contractor* shall, where applicable:

- (a) pay to the Building and Construction Industry Long Service Payments Corporation or the Corporation's agent, the amount of the long service levy payable under the Building and Construction Industry Long Service Payments Act 1986 (NSW); and
- (b) provide evidence of the payment of the long service levy to the *Superintendent*.

11A Compliance with Commonwealth Funding Conditions

- (a) (**Acknowledgement**): The *Contractor* acknowledges that the Commonwealth of Australia may contribute to the funding for the performance of the *Delivery Service Package*.
- (b) (**Compliance**): Without limiting clauses 48 and 50, the *Contractor* shall comply with any *Commonwealth Funding Conditions* to the extent required for the performance of the *Delivery Service Package*.

12 Protection of people and property

Insofar as compliance with the *Contract* permits, the *Contractor* shall:

- (a) take measures necessary to protect people and property;
- (b) avoid unnecessary interference with the passage of people and vehicles; and
- (c) prevent nuisance and unreasonable noise and disturbance.

If the *Contractor* damages property, the *Contractor* shall promptly notify the *Superintendent* and the *Principal* of such damage and pay any compensation which the law requires the *Contractor* to pay and, subject to subclause 14.2, promptly rectify the damage.

If the *Contractor* fails to comply with an obligation under this clause, the *Principal*, after the *Superintendent* has given reasonable notice to the *Contractor* and in addition to the *Principal's* other rights and remedies, may have the obligation performed by others. The cost thereby incurred shall be certified by the *Superintendent* as moneys due and payable from the *Contractor* to the *Principal*.

13 Urgent protection

If urgent action is necessary to protect *WUC*, other property or people and the *Contractor* fails to take the action, in addition to any other remedies of the *Principal*, the *Superintendent* may take the necessary action. If the action was action which the *Contractor* should have taken at the *Contractor's* cost, the *Superintendent* shall certify the cost incurred as moneys due and payable from the *Contractor* to the *Principal*.

If time permits, the *Superintendent* shall give the *Contractor* prior notice of the intention to take action pursuant to this clause.

14 Care of work, reinstatement of damage and Environment

14.1 Care of WUC

Except as provided in subclause 14.3, the *Contractor* shall be responsible for care of:

- (a) the whole of *WUC* from and including the date of commencement of *WUC* to 4:00 pm on the *date of practical completion*, at which time responsibility for the care of *the Works* (except to the extent provided in paragraph (b)) shall pass to the *Principal*; and
- (b) outstanding *work* and items to be removed from the *site* by the *Contractor* after 4:00 pm on the *date of practical completion* until completion of outstanding *work* or compliance with clauses 29, 30 and 35.

Without limiting the generality of paragraph (a), the *Contractor* shall be responsible for the care of unfixed items accounted for in a *progress certificate* and the care and preservation of things entrusted to the *Contractor* by the *Principal* or brought onto the *site* by *subcontractors* for carrying out *WUC*.

14.2 Reinstatement

If loss or damage, other than that caused by an *excepted risk*, occurs to:

- (a) *WUC* during the period of the *Contractor's* care, the *Contractor* shall, at its cost, rectify such loss or damage; or
- (b) the *Principal's* property or the property of any other person arising out of or as a consequence of the carrying out of or failure to carry out *WUC*, the *Contractor* shall, at its cost, rectify such loss or damage if directed to do so by the *Superintendent*.

In the event of loss or damage being caused by any of the *excepted risks* (whether or not in combination with other risks), the *Contractor* shall to the extent directed by the *Superintendent*, rectify the loss or damage and such rectification shall be a deemed *variation*. If loss or damage is caused by a combination of *excepted risks* and other risks, the *Superintendent* in pricing the *variation* shall assess the proportional responsibility of the parties.

14.3 Excepted risks

The *excepted risks* causing loss or damage, for which the *Principal* is liable, are:

- (a) any negligent act or negligent omission of:
 - (i) the *Superintendent*;
 - (ii) the *Principal* or its consultants or agents; or
 - (iii) any other contractor of the *Principal* (excluding any *Certification Authority*);
- (b) any risk specifically excepted elsewhere in the *Contract*;
- (c) war, invasion, terrorism (but not any eligible terrorism loss under the Terrorism Insurance Act 2003 (Cth)), acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, martial law or confiscation by order of any Government or public authority;
- (d) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel not caused by the *Contractor* or any *subcontractors* or either's employees or agents; and
- (e) use or occupation of any part of *WUC* by:

- (i) the *Principal* or its consultants or agents; or
- (ii) any other contractor of the *Principal* (excluding any *Certification Authority*).

14.4 Environment

The *Contractor* shall ensure that in carrying out *WUC* it does not pollute, contaminate or otherwise damage the *Environment*, and shall immediately make good any pollution, contamination or damage to the *Environment* arising out of, or in connection with, *WUC*.

14.5 Environmental Management Plan

- (a) Prior to the commencement of the *WUC*, the *Contractor* shall submit an Environmental Management Plan (EMP) to the *Principal*. The EMP shall include:
 - (i) a statement of commitment - overall objectives of the EMP;
 - (ii) a sediment and erosion control plan for the *site* prepared by a suitably qualified person in accordance with the principles outlined in the Managing Urban Stormwater Soils and Construction' (Volume 1) dated March 2004 by Landcom NSW;
 - (iii) worksheets completed by the *Contractor* and a list of likely *Environmental* issues and impacts associated with *WUC*;
 - (iv) any *Environmental* requirements deriving from the project *Approvals* for the *WUC*;
 - (v) any additional *Environmental* requirements imposed by any *Authority* (for example, sampling and the like);
 - (vi) an *Environmental* emergency response plan and incident reporting procedures;
 - (viii) monitoring requirements including a site *Environmental* logbook comprising weekly log sheets;
 - (ix) a quality management system for the identified *Environmental* issues and impacts associated with *WUC*, including:
 - A. the *Contractor's* statement of responsibilities and duties as to *Environmental* management;
 - B. a clear indication and communication of the *Environmental* responsibilities on the *site*; and
 - C. *Environmental* awareness and training for site personnel and *subcontractors*.
- (b) All *WUC* shall be conducted in compliance with the EMP at all times.

14.6 Traffic and Pedestrian Management Plan

- (a) For the purpose of this clause 14.6 a Traffic and Pedestrian Management Plan (TMP) is a fully detailed engineering plan which includes specifications of:
 - (i) all works, line marking, signage and assessment of pedestrian and vehicle access in and around the *site* for each stage of the *WUC*;
 - (ii) all internal driveways, car parking areas, delivery areas, accesses (including installation of signage) to appropriately control vehicles entering the *site*;
 - (iii) stipulates the date that it was prepared; and
 - (iv) is signed by the nominated *Contractor's* representative.

- (b) The *Contractor* shall prepare and provide to the *Principal* a TMP before commencing any of the *WUC* on the *site* and prior to the issue of a Construction Certificate by the *Consent Authority*.
- (c) After review of the TMP the *Superintendent* may issue a *direction* that additional items be added that are otherwise missing or inaccurately detailed.
- (d) The *Contractor* shall promptly comply with any *direction* issued under paragraph (c).
- (e) The *Contractor* shall ensure that its activities do not interfere with the access to and the normal operation of:
 - (i) adjoining sites; and/or
 - (ii) any business, school or residence in the vicinity of the *site* and will provide suitable public access (temporary access for vehicles and pedestrians). This access shall be maintained in good condition at all times, and any disturbances or damage to any roads or footpaths shall be rectified immediately.
- (f) The Contractor shall ensure all traffic controllers hold a current Roads and Maritime Services Traffic Controllers Certificate.
- (g) Excavations in public access ways shall be properly protected by barricades and lights, promptly backfilled and the surface reinstated on the completion of the *work* and its testing and acceptance (if applicable), to minimise the disruption of the free movement of the public.

14.7 Vibration Management Plan

- (a) The *Contractor* shall prepare and provide to the *Principal* a Vibration Management Plan (**VMP**) before commencement of any demolition or excavation on the *site*.
- (b) A VMP shall:
 - (i) be prepared by an appropriately experienced geotechnical engineer or engineering geologist;
 - (ii) include recommendations for:
 - A. performance standards to be met during the *WUC* (in terms of acceptable ground vibration);
 - B. strategies for the management of ground vibration and monitoring requirements for vibration through the *WUC*;
- (a) After review of the VMP the *Superintendent* may issue a *direction* that additional items be added that are otherwise missing or inaccurately detailed.
- (b) The *Contractor* shall promptly comply with any *direction* issued under paragraph (c).
- (c) When conducting the *WUC* the *Contractor* shall:
 - (i) select appropriate demolition methods and equipment to minimise the effect of vibration and concussion on buildings in the vicinity of *the Works*;
 - (ii) comply with all *legislative requirements* relating to noise and its suppression.
- (d) All *construction plant* and/or equipment shall be fitted with noise suppressors, so that noise is minimised. Jackhammers and other noise generating tools used in the performance of *the Work* shall be fitted with effective silencers of a type recommended by the relevant jackhammer manufacturer. Tools and silencers shall be kept in good working condition.
- (e) Compressor sets used in the performance of *the Works* shall be fitted with effective acoustic canopies and engine exhaust silencers of a type recommended by the relevant compressor manufacturer, or purpose built machines for quiet operation. Compressor sets

and canopies shall be kept in good working condition. Access panels in acoustic canopies shall be kept closed while sets are running.

- (f) The *Superintendent* may instruct that noise generating activities be suspended at certain additional times during the course of the *WUC*.

14.8 Dust control during demolition and generally

- (a) The *Contractor* shall in the course of any demolition works adopt techniques which will minimise the release of dust into the atmosphere.
- (b) Before commencing demolition work, any existing accumulations of dust are to be collected, placed in suitable containers and removed from the *site* by the *Contractor*. Selection of appropriate collection techniques, such as vacuuming or hosing down, shall take account of the nature of the dust and the type of hazard it presents (eg., explosive, respiratory etc).
- (c) Dust which is generated during stripping or during the breaking down of any or all building fabric to removable sized pieces shall be kept damp until it is removed from the site or can be otherwise contained.

14.9 Conservation and Protection of trees

- (a) The *Contractor* shall conserve and maintain established streetscape and other canopy trees in and around the site by establishing Tree Protection Zones (TPZ) around all trees to be retained on the site in a manner consistent with the Australian Standard 4970-2009 for the Protection of Trees on Development Sites.
- (b) The TPZ shall encompass the maximum possible area around the drip line of the canopy, but shall be located at a distance of no less than 2.5 metres from the base of the trees.
- (c) An inspection of the structures associated with the TPZ shall be arranged with the *Consent Authority* or a qualified arborist to verify that the TPZ have been correctly installed prior to the commencement of *the Works*.
- (d) The *Contractor* shall ensure TPZ are maintained in good order during the *WUC* by ensuring that there is:
 - (i) no excavation, trenching or soil removal carried beyond those works indicated on approved plans, without the prior written consent of the Principal.
 - (ii) no:
 - A. storage of goods or materials;
 - B. no parking or operation of vehicles;
 - C. no dumping of refuse or stockpiling of waste; and
 - D. no chemical run-off (including concrete wash, paint wash etc.) in the TPZ.
- (e) Should an encroachment into the TPZ become necessary as *the Works* progress the *Contractor* shall arrange for the TPZ to be reviewed by a qualified arborist and obtain the written consent of the *Consent Authority* before carrying out any such works.
- (f) The *Contractor* shall ensure any pruning (and subsequent aftercare) of tree canopy and roots which are required in the course of the *WUC* are undertaken by an appropriately qualified arborist and in accordance with the Australian Standard 4970-2009 for the Protection of Trees on Development Sites.
- (g) If, in the course of the *WUC*, any tree proposed for retention suffers accidental damage to the primary root zone, trunk, crown or major branching, the *Contractor* shall ensure that the tree(s) is treated as soon as it is practicable and in any event within 48 hours by an Arborist or a qualified horticulturalist.

- (h) If repair work is attempted and fails, or is impracticable, additional vegetation removal may be undertaken only after the *Contractor* has notified the *Principal* and the *Principal* approves.
- (i) The *Contractor* shall replace any tree damaged by planting advanced to super-advanced species, characteristic of the locality, or of the same species as the tree which was the subject of the damage. Where an alternative species is proposed by the *Contractor* the selection shall be approved by the *Consent Authority*.

15 Damage to persons and property and Contractor responsibility

15.1 Indemnity by Contractor

- (a) Insofar as this subclause applies to property, it applies to property other than *WUC*.
- (b) The *Contractor* shall indemnify the *Principal* against any cost, expense, loss, damage or other *Liability* suffered or incurred by the *Principal* resulting from:
 - (i) loss of or damage to the *Principal's* property arising out of or as a consequence of the carrying out of or failure to carry out *WUC*;
 - (ii) personal injury, death, disease or illness (including mental illness) or loss of, or damage to, any other property or the *Environment* arising out of or as a consequence of the carrying out of or failure to carry out *WUC*;
 - (iii) a breach of the *Contract* by the *Contractor* other than a breach of subclause 34.1; or
 - (iv) any wilful or negligent act or wilful or negligent omission of the *Contractor*, a *subcontractor* or the employees or agents of any of them,
 but the indemnity shall be reduced proportionally to the extent that any breach of the *Contract* by the *Principal* or any negligent act or negligent omission of:
 - (v) the *Superintendent*;
 - (vi) the *Principal* or its consultants or agents; or
 - (vii) any other contractor of the *Principal* (excluding any *Certification Authority*),
 contributed to the cost, expense, loss, damage or *Liability*.
- (c) This subclause shall not apply to:
 - (i) the extent that the *Contractor's Liability* is limited by another provision of the *Contract*;
 - (ii) exclude any other right of the *Principal* to be indemnified by the *Contractor*;
 - (iii) things for the care of which the *Contractor* is responsible under subclause 14.1; and
 - (iv) *Claims* in respect of the *Principal's* right to have *WUC* carried out.

15.2 Indemnity by Principal

The *Principal* shall indemnify the *Contractor* in respect of *Claims* referred to in subclause 15.1(c)(iv).

16A Insurance of the Works

- (a) Before commencing *WUC*, the *Contractor* shall insure all the things referred to in subclause 14.1 against loss or damage resulting from any cause until the *Contractor* ceases to be responsible for their care.
- (b) Without limiting the generality of the obligation to insure, such insurance shall cover the *Contractor's Liability* under subclause 14.2(a) and things in storage off *site* and in transit to

the *site* (both within and outside of Australia for each of storage and transit) but may exclude:

- (i) the cost of making good fair wear and tear or gradual deterioration, but shall not exclude the loss or damage resulting therefrom;
 - (ii) the cost of making good faulty design, workmanship and materials, but shall not exclude the loss or damage resulting therefrom;
 - (iii) consequential loss of any kind, but shall not exclude loss of or damage to *the Works*;
 - (iv) damages for delay in completing or for the failure to complete *the Works*;
 - (v) loss or damage resulting from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel resulting from any cause; and
 - (vi) loss or damage resulting from the *excepted risks* referred to in paragraphs (b) and (c) of subclause 14.3.
- (c) The insurance cover shall be for an amount not less than the aggregate of the:
- (i) *contract sum*;
 - (ii) provision in *Item 23(b)* to provide for costs of demolition and removal of debris;
 - (iii) provision in *Item 23(c)* for *consultants' fees* and *Principal's consultants' fees*;
 - (iv) value in *Item 23(d)* of any materials or things to be supplied by the *Principal* for the purposes of *WUC*; and
 - (v) additional amount or percentage in *Item 23(e)* of the total of the items referred to in clauses 16A(c)(i) to 16A(c)(iv).
- (d) The insurance cover shall have an excess per insured event of not more than the sum in *Item 23(f)*.
- (e) Insurance shall name the *Principal* and the *Contractor* as separate insureds, shall cover the parties and all *subcontractors* for their respective rights, interests and liabilities and, except where the *Contract* otherwise provides, shall be with an insurer and in terms both approved by the *Principal* (which approvals shall not be unreasonably withheld).
- (f) The insurance shall note the interest of the *Financier*.
- (g) The insurance shall be maintained until the *Contractor* ceases to be responsible under subclause 14.1 for the care of anything.

16B Professional indemnity insurance

- (a) Before commencing *WUC*, the *Contractor* shall effect a professional indemnity insurance policy with:
- (i) cover for an amount in respect of any one *Claim* of not less than the sum stated in *Item 24(a)*; and
 - (ii) a total aggregate cover for any year of not less than the sum stated in *Item 24(a)*.
- (b) The policy shall include provisions for:
- (i) one automatic reinstatement of the sum insured;
 - (ii) an excess per *Claim* of not more than the sum stated in *Item 24(c)*; and
 - (iii) loss of documents.
- (c) The insurance shall be maintained until the *final certificate* is issued and thereafter for the period as stated in *Item 24(b)*.

- (d) The policy shall be with an insurer and on terms (including that the policy applies in relation to *WUC*) both approved by the *Principal* (which approvals shall not be unreasonably withheld).
- (e) The *Contractor* shall ensure that every *consultant*, if within a category stated in *Item 24(d)*, shall effect and maintain professional indemnity insurance with levels of cover not less than stated in *Item 24(d)* applicable to that category. The insurance cover shall have an excess per *Claim* of not more than the sum in *Item 24(c)*.
- (f) Each such *consultant's* professional indemnity insurance shall be maintained until the *final certificate* is issued and thereafter for the period as stated in *Item 24(e)*.

17A Public liability insurance

Before commencing *WUC*, the *Contractor* shall effect and maintain until the expiry of the last *defects liability period*, a *public liability policy*.

The policy shall:

- (a) be an occurrence based policy and name the *Principal* and the *Contractor* as separate insureds;
- (b) cover the:
 - (i) respective rights and interests; and
 - (ii) liabilities to third parties (including the other party),
 of the parties, the *Superintendent* and *subcontractors* from time to time;
- (c) cover the parties' respective *Liability* to each other for loss or damage to property (other than property required to be insured by clause 16A) and the death, disease or illness (including mental illness) of or injury to any person (other than *Liability* which the law requires to be covered under a workers compensation insurance policy);
- (d) note the interest of the *Financier*;
- (e) be endorsed to cover the use of any *construction plant* not covered under a comprehensive or third party motor vehicle insurance policy;
- (f) provide insurance cover for an amount in respect of any one occurrence of not less than the sum in *Item 25(b)*;
- (g) have an excess per occurrence of not more than the sum in *Item 25(c)*; and
- (h) be with an insurer and otherwise in terms both approved by the *Principal* (which approvals shall not be unreasonably withheld).

17B Motor vehicle and plant and equipment insurance

17B.1 Motor vehicle insurance

- (a) Before commencing *WUC*, the *Contractor* shall effect and maintain until the expiry of the last *defects liability period*:
 - (i) compulsory third party motor vehicle insurance as required by law;
 - (ii) motor vehicle insurance covering the *Contractor's Liability* to third parties (including the *Principal* and the *Superintendent*) arising out of the use of any motor vehicle registered or required to be registered in accordance with any law and used in connection with *WUC* for:
 - (A) injury, death, disease or illness (including mental illness); and
 - (B) loss of or damage to property.

- (b) The insurance required under clause 17B.1(a)(ii) shall:
 - (i) provide cover in respect of any one occurrence of not less than the sum in *Item 25(b)*;
 - (ii) have an excess per occurrence of not more than the sum in *Item 25(c)*; and
 - (iii) be with an insurer and otherwise in terms both approved by the *Principal* (which approvals shall not be unreasonably withheld).
- (c) The *Contractor* shall ensure that every *subcontractor* shall effect and maintain for the duration of the *subcontractor's* involvement in *WUC*:
 - (i) compulsory third party motor vehicle insurance as required by law; and
 - (ii) motor vehicle insurance covering the *subcontractor's Liability* to third parties for the matters described in subclause 17B.1(a)(ii) with cover in respect of any one occurrence of not less than the sum stated in *Item 25(b)* and with an excess per occurrence of not more than the sum in *Item 25(c)*.

17B.2 Plant and equipment insurance

Before commencing *WUC*, the *Contractor* shall effect and maintain plant and equipment insurance until the expiry of the last *defects liability period*:

- (a) covering all *construction plant* which the *Contractor* may use in connection with *WUC* either at the *site*, in storage off *site* or in transit to the *site* (both within and outside of Australia for each of storage and transit); and
- (b) for the full replacement value of the relevant *construction plant*.

17C Payment of Excesses

- (a) The excess, as quoted in the insurance policies required to be taken out by the *Contractor*, is the responsibility of, and shall be paid by, the *Contractor* on demand unless the *Claim* for which the excess applies relates to the negligent acts or omissions of the *Principal*, or employees or agents of the *Principal*.
- (b) Any excess payable but unpaid by the *Contractor* will be treated as a debt due and payable from the *Contractor* to the *Principal* or may be deducted by the *Principal* from any monies which may be payable by the *Principal* to the *Contractor* or from any *security* provided under the *contract*.

18 Insurance of employees

Before commencing *WUC*, the *Contractor* shall insure against statutory and common law *Liability* for death, disease or illness (including mental illness) of or injury to persons employed by the *Contractor*. The insurance cover shall be maintained until completion of all *WUC*.

Where permitted by law, the insurance policy or policies shall be extended to provide indemnity for the *Principal's* statutory and common law *Liability* to the *Contractor's* employees.

The *Contractor* shall ensure that all *subcontractors* have similarly insured their employees.

19 Inspection and provisions of insurance policies

19.1 Proof of insurance

Before the *Contractor* commences *WUC* and whenever requested by the *Principal*, the *Contractor* shall provide satisfactory evidence of the insurance the *Contractor* is required to effect and maintain and of the insurance to be effected and maintained by *subcontractors*.

Insurance shall not limit liabilities or obligations under other provisions of the *Contract*.

19.2 Failure to produce proof of insurance

If after being so requested, the *Contractor* fails promptly to provide satisfactory evidence of compliance with clause 16A, clause 16B, clause 17A, clause 17B or clause 18, then without prejudice to other rights or remedies, the *Principal* may insure and the cost thereof shall be certified by the *Superintendent* as moneys due and payable from the *Contractor* to the *Principal*.

19.3 Notices from or to insurer

The *Contractor* shall ensure that each insurance policy contains provisions acceptable to the *Principal* which:

- (a) requires the insurer to inform both parties, whenever the insurer gives the *Contractor* or a *subcontractor* a notice in connection with the policy;
- (b) provides that a notice of *Claim* given to the insurer by either party, the *Superintendent* or a *subcontractor* shall be accepted by the insurer as a notice of *Claim* given by both parties, the *Superintendent* and the *subcontractor*; and
- (c) requires the insurer, whenever the *Contractor* fails to maintain the policy, promptly to give notice thereof to both parties and prior to cancellation of the policy.

19.4 Notices of potential Claims

A party shall, as soon as practicable, inform the other party of any occurrence that may give rise to a *Claim* under an insurance policy required by clause 16A, clause 16B, clause 17A, clause 17B or, where the occurrence relates to *WUC*, clause 18 and shall keep the other party informed of subsequent developments concerning the *Claim*. The *Contractor* shall ensure that *subcontractors* in respect of their operations similarly inform the parties.

19.5 Not used

19.6 Cross liability and subrogation

Any insurance required to be effected in the names of the *Principal* and the *Contractor* in accordance with the *Contract* shall include:

- (a) a cross liability clause in which the insurer accepts the term 'insured' as applying to each of the persons constituting the insured (and any other person the *Contract* requires the insurance to cover for its rights, interests and liabilities) as if a separate policy of insurance had been issued to each of them; and
- (b) a waiver of subrogation clause in which the insurer agrees to waive all rights of subrogation or action against any of the persons constituting the insured (and any other person the *Contract* requires the insurance to cover for its rights, interests and liabilities),

subject always to the overall sum insured not being increased thereby.

19.7 Survival

Clauses 16A, 16B, 17A, 17B, 17C, 18 and this clause 19 will survive the expiration, termination or frustration of the *Contract*.

20 Superintendent

The *Principal* shall ensure that at all times there is a *Superintendent*, and that the *Superintendent* fulfils all aspects of the role and functions reasonably and in good faith.

Except where the *Contract* otherwise provides and notwithstanding clause 7, the *Superintendent* may give a *direction* orally but shall as soon as practicable confirm it in writing.

The *Contractor* acknowledges that the *Principal* has engaged the *Superintendent* as its project manager in relation to *WUC* in addition to its engagement as the *Superintendent*.

21 Superintendent's Representative

With the prior approval of the *Principal* (which may be given or withheld, including on terms, at the *Principal's* absolute and sole discretion), the *Superintendent* may from time to time appoint any person to exercise delegated *Superintendent's* functions, provided that:

- (a) no aspect of any function shall at any one time be the subject of delegation to more than one *Superintendent's Representative*;
- (b) delegation shall not prevent the *Superintendent* exercising any function;
- (c) the *Superintendent* forthwith gives the *Contractor* notice of respectively:
 - (i) the appointment, including the *Superintendent's Representative's* name and delegated functions; and
 - (ii) the termination of each appointment; and
- (d) if the *Contractor* makes a reasonable objection to the appointment of a *Superintendent's Representative*, the *Superintendent* shall terminate the appointment.

22 Contractor's representative

The *Contractor* shall superintend *WUC* personally or by a competent representative. Matters within a *Contractor's* representative's knowledge (including *directions* received) shall be deemed to be within the *Contractor's* knowledge.

The *Contractor* shall forthwith give the *Superintendent* notice of the representative's name and any subsequent changes.

If the *Superintendent* makes a reasonable objection to the appointment of a representative, the *Contractor* shall terminate the appointment and appoint another representative.

23 Contractor's employees, subcontractors and Key Personnel

23.1 Contractor's employees and subcontractors

- (a) The *Superintendent* may direct the *Contractor* to have removed, within a stated time including immediately, from the *site* or from any activity of *WUC*, any person employed on *WUC* who, in the *Superintendent's* opinion, is incompetent, negligent or guilty of misconduct. That person shall not thereafter be employed on the *site* or on activities connected with *WUC* without the prior approval of the *Superintendent*.
- (b) The *Contractor* shall ensure that all *WUC* is executed under the supervision of appropriately qualified and skilled personnel.
- (c) Without limiting subclause 23.1(a) or subclause 23.1(b), the *Superintendent* may at any time give the *Contractor* a *direction* in relation to any *subcontractor* to address any concern the *Superintendent* may have in relation to that *subcontractor*.

23.2 Key Personnel

- (a) In the carrying out of *WUC*, the *Contractor* shall employ the *Key Personnel* in the roles specified in *Item 43*.

- (b) The *Contractor* shall not release any of the *Key Personnel* from carrying out the role specified in *Item 43* unless the *Superintendent* approves a substitute.

24 Site

24.1 Access and possession

Provided the *Contractor* has complied with subclauses 5.1, 5.6 and 19.1, the *Principal* shall by the date stated in *Item 26(a)*, give the *Contractor* access to the *site* sufficient to enable the *Contractor* to commence and carry out the *Contractor's design obligations*.

Provided the *Contractor* has complied with subclauses 5.1, 5.6, 11.8, 19.1, 24.5, 48.6(a)(ix) and 48.6(a)(x) the *Principal* shall by the date stated in *Item 26(b)*, give the *Contractor* possession of sufficient of the *site* for commencement of *WUC* on *site*. If the *Principal* has not given the *Contractor* possession of the whole *site*, the *Principal* shall give the *Contractor* possession of such further portions of the *site* as may, from time to time, be necessary for carrying out *WUC*. Subject to subclause 39.7, delay by the *Principal* in giving possession shall not be a breach of the *Contract*.

Possession of the *site* shall confer on the *Contractor* a right to only such use and control as is necessary to enable the *Contractor* to carry out *WUC* and comply with its obligations under clause 48 and shall exclude camping, residential purposes and any purpose not connected with *WUC*, unless approved by the *Superintendent*.

24.2 Access for Principal and others

- (a) Without limiting subclause 24.2(b) and subject to subclause 24.2(c), the *Principal* and the *Principal's* employees, consultants, agents and other persons authorised by the *Principal* may at any time after reasonable notice to the *Contractor*, have access to any part of the *site* for any purpose. The *Contractor* shall permit persons engaged or authorised by the *Principal* to carry out *work* or other activities on the *site*, other than *WUC*, and shall cooperate with them, coordinate *WUC* with them and shall not hinder or otherwise delay them. The *Principal* shall give to the *Contractor* the names and roles of the persons so engaged or authorised.
- (b) Subject to subclause 24.2(c), the *Contractor* shall at all reasonable times give the *Principal*, the *Superintendent* and any *Certification Authority* access to *WUC*.
- (c) Any person identified in subclause 24.2(a) or subclause 24.2(b) who accesses the *site* or *WUC* shall comply with the *Contractor's* reasonable *directions*, procedures and policies relating to *WHS* and security for the relevant part of the *site* or *WUC*. The *Contractor* shall provide safe access to the *site* for the persons referred to in this subclause 24.2.

24.3 Minerals, fossils and relics

Valuable minerals, fossils, articles or objects of antiquity or of anthropological or archaeological interest, treasure trove, coins and articles of value found on the *site* shall as between the parties be and remain the property of the *Principal*. Immediately upon the discovery of these things the *Contractor* shall:

- (a) take precautions to prevent their loss, removal or damage; and
- (b) give the *Superintendent* written notice of the discovery.

The *Contractor* shall comply with any *direction* given by the *Superintendent* in relation to such things. All costs so incurred by the *Contractor* shall be assessed by the *Superintendent* and added to the *contract sum*.

24.4 Adjoining property

Where *WUC* requires the *Contractor* to execute *WUC* on, in or over any property adjoining or in the vicinity of the *site*, the *Contractor* shall:

- (a) obtain the appropriate permission from the owner and, where necessary, the occupier of that property;
- (b) comply with all conditions attaching to such permission; and
- (c) be responsible for:
 - (i) all matters relating to the execution of *WUC* outside the boundaries of the *site*; and
 - (ii) any cost, expense, loss, damage or other *Liability* to the extent it arises from the execution of *WUC* outside the boundaries of the *site*.

The *Contractor* shall indemnify the *Principal* against any cost, expense, loss, damage or other *Liability* suffered or incurred by the *Principal* to the extent it arises from the execution of *WUC* outside the boundaries of the *site*.

24.5 Dilapidation reports

- (a) The *Contractor* shall:
 - (i) prepare a dilapidation report of the *site* acceptable to the *Superintendent*, prior to executing any *WUC* on the *site*, and provide a copy of the report to the *Superintendent* prior to executing that *WUC*;
 - (ii) if subclause 24.4 applies, prepare a dilapidation report of that property acceptable to the *Superintendent*, prior to executing any *WUC* on that property, and provide a copy of the report to the *Superintendent* prior to executing that *WUC*;
 - (iii) prepare a dilapidation report of all access routes and roads to, adjoining or in the vicinity of the *site* ('*Access Routes*') and services adjoining or in the vicinity of the *Access Routes* acceptable to the *Superintendent* prior to executing any *WUC* on the *site* or as otherwise required by the *Superintendent* from time to time, and provide a copy of the report to the *Superintendent* prior to executing that *WUC* or as otherwise required by the *Superintendent*; and
 - (iv) ensure that any dilapidation report prepared under this subclause 24.5(a) shall be prepared by a suitably qualified and experienced person who has been approved by the *Superintendent*, acting reasonably; prior to that person commencing preparation of the dilapidation report; and
- (b) Prior to *practical completion*, the *Contractor* shall reinstate those areas of the *site*, excluding the *Works*, detailed in the dilapidation report prepared by the *Contractor* under subclause 24.5(a)(i) to the condition detailed in the report.
- (c) Prior to *practical completion*, the *Contractor* shall reinstate any property or *Access Route* identified in a dilapidation report prepared by the *Contractor* under subclause 24.5(a)(ii) or subclause 24.5(a)(iii) which has been damaged arising out of or as a consequence of the *Contractor* undertaking *WUC* to the condition detailed in the dilapidation report prepared for that property or *Access Route*.
- (d) If the *Contractor* fails to comply with any obligation in subclause 24.5(a) to subclause 24.5(c), the *Superintendent* may direct the *Contractor* to rectify the non-compliance and the time for rectification.
- (e) If:
 - (i) the *Contractor* fails to comply with a *direction* under subclause 24.5(d); and

- (ii) that failure has not been made good within 5 *Business Days* after the *Contractor* receives notice from the *Superintendent* notifying the *Contractor* of its failure to comply with the *direction* under subclause 24.5(d),

the *Principal* may have carried out by others what was required by the *direction* under subclause 24.5(d), but without prejudice to any other rights and remedies the *Principal* may have, to the extent not carried out by the *Contractor* at the time of the *Superintendent's* notice under subclause 24.5(e)(ii), and the *Superintendent* shall certify the cost incurred as moneys due and payable from the *Contractor* to the *Principal*.

24.6 Utility and telecommunication costs

The *Contractor* shall pay all costs associated with the supply of utility and telecommunication services for the carrying out of *WUC*.

25 Latent conditions

25.1 Scope

Latent conditions are physical conditions on the *site* and its near surrounds, including artificial things but excluding weather conditions or the effect of weather conditions, which differ materially from the physical conditions which should reasonably have been anticipated by a competent contractor at the date of the *Contract* and the date of commencement of *WUC* or, if they are different dates, whichever is earlier if it had inspected:

- (a) all written information made available by or on behalf of the *Principal* to the *Contractor* for the purpose of the *Contract*;
- (b) all information known to the *Contractor* or reasonably obtainable by the making of reasonable enquiries; and
- (c) the *site* and its near surrounds.

25.2 Earthworks

- (a) For the purposes of the *Contract* "Rock" is defined as:
 - (i) material which in the opinion of the *Superintendent* is so hard it cannot be removed until broken up by rippers or percussion tools.
 - (ii) material such as hard Hawkesbury Sandstone, including Ironstone Bands occurring therein, igneous rock and concrete which occurs in solid masses, but does not include Sandstone which can be crushed in the hand after excavation.
- (b) The cost of excavating Rock and/or materials of all classes encountered in excavation as part of the *WUC* is included in the *contract sum*.
- (c) Should any dispute or difference arise with regard to the proper classification of excavation, the decision of the *Superintendent* as to the classification of the material is final and binding on the *Contractor*.

25.2 Notification

The *Contractor*, upon becoming aware of a *latent condition* while carrying out *WUC*, shall promptly, and where possible before the *latent condition* is disturbed, give the *Superintendent* written notice of the general nature thereof.

25.3 Deemed variation

- (a) The effect of the *latent condition* shall be a deemed *variation*.
- (b) The deemed *variation* shall be priced having no regard to additional cost:
 - (i) incurred before the date on which the Contractor gave the notice required by subclause 25.2, or
 - (ii) that the Contractor could reasonably have avoided.

26 Setting out the Works

26.1 Setting out

The *Contractor* shall obtain the data, *survey marks* and like information necessary for the *Contractor* to set out *the Works*. Thereupon the *Contractor* shall set out *the Works* in accordance with the *Contract*.

26.2 Errors in setting out

The *Contractor* shall rectify every error in the position, level, dimensions or alignment of any *WUC* after promptly notifying the *Superintendent* and unless the *Superintendent* within 3 *Business Days* directs otherwise.

26.3 Care of survey marks

The *Contractor* shall keep in their true positions all *survey marks* supplied by the *Superintendent*.

The *Contractor* shall reinstate any *survey mark* disturbed, after promptly notifying the *Superintendent* and unless the *Superintendent* within 3 *Business Days* directs otherwise.

If the disturbance was caused by a person referred to in subclause 24.2 other than the *Contractor*, the cost incurred by the *Contractor* in reinstating the *survey mark* shall be assessed by the *Superintendent* and added to the *contract sum*.

26.4 Survey

As a condition precedent to commencing construction of *the Works*, the *Contractor* shall provide the *Superintendent* with a survey from a registered surveyor stating that *the Works* have been set out in accordance with the *Contract*.

27 Cleaning up

- (a) The *Contractor* shall keep the *site* and *WUC* clean and tidy and regularly remove rubbish and surplus material.
- (b) Prior to *practical completion*, the *Contractor* shall remove *temporary works* and *construction plant*. The *Superintendent* may extend the time to enable the *Contractor* to perform this obligation.
- (c) If the *Contractor* fails to comply with the preceding obligations in this clause, the *Superintendent* may direct the *Contractor* to rectify the non-compliance and the time for rectification.
- (d) If:
 - (i) the *Contractor* fails to comply with such a *direction*; and
 - (ii) that failure has not been made good within 5 *Business Days* after the *Contractor* receives notice from the *Superintendent* notifying the *Contractor* of its failure to comply with the *direction* under clause 27(c),

the *Principal* may have carried out by others what was required by the *direction* under clause 27(c), but without prejudice to any other rights and remedies the *Principal* may have, to the extent not carried out by the *Contractor* at the time of the *Superintendent's* notice under clause 27(d)(ii), and the *Superintendent* shall certify the cost incurred as moneys due and payable from the *Contractor* to the *Principal*.

28 Materials, labour and construction plant

Except where the *Contract* otherwise provides, the *Contractor* shall supply everything necessary for the proper performance of the *Contractor's* obligations and discharge of the *Contractor's* liabilities.

In respect of any materials, machinery or equipment to be supplied by the *Contractor* in connection with the *Contract*, the *Superintendent* may direct the *Contractor* to:

- (a) supply particulars of the mode and place of manufacture, the source of supply, the performance capacities and other related information; and
- (b) arrange reasonable inspection at such place or sources by the *Superintendent*, the *Principal* and persons authorised by the *Principal*.

The *Superintendent* may give the *Contractor* a *direction* not to remove materials or *construction plant* from the *site*. Thereafter the *Contractor* shall not remove them without the *Superintendent's* prior approval (which shall not be unreasonably withheld).

29 Quality

29.1 Quality of material and work

Unless otherwise provided, the *Contractor* shall use suitable new materials and proper and tradesmanlike workmanship.

*29.2 Quality assurance

The *Contractor* shall:

- (a) plan, establish and maintain an appropriate quality system;
- (b) ensure that each *subcontractor* plans, establishes and maintains an appropriate quality system; and
- (c) ensure that the *Superintendent* has access to the quality system of the *Contractor* and *subcontractors* so as to enable monitoring and quality auditing.

Any such quality system shall be used only as an aid to achieving compliance with the *Contract* and to document such compliance. Such system shall not discharge the *Contractor's* other obligations under the *Contract*.

29.3 Defective work

- (a) If the *Superintendent* becomes aware of *work* done (including material provided) by the *Contractor* which does not comply with the *Contract*, the *Superintendent* shall as soon as practicable give the *Contractor* written notice thereof.
- (b) If the *work* the subject of the notice given by the *Superintendent* under subclause 29.3(a) has not been rectified within 5 *Business Days* after the *Contractor* receives notice from the *Superintendent* under subclause 29.3(a), the *Superintendent* may direct the *Contractor* to do any one or more of the following (including times for commencement and completion):

* See Preface

- (i) remove the material from the *site*;
 - (ii) demolish the *work*;
 - (iii) redesign, reconstruct, replace or correct the *work*; and
 - (iv) not deliver it to the *site*.
- (c) Without limiting clause 35, if:
- (i) the *Contractor* fails to comply with such a *direction* under subclause 29.3(b); and
 - (ii) that failure has not been made good within 5 *Business Days* after the *Contractor* receives notice from the *Superintendent* notifying the *Contractor* of its failure to comply with the *direction* under subclause 29.3(b),

the *Principal* may have carried out by others what was required by the *direction* under subclause 29.3(b), but without prejudice to any other rights and remedies the *Principal* may have, to the extent not carried out by the *Contractor* at the time of the *Superintendent's* notice under subclause 29.3(c)(ii), and the *Superintendent* shall certify the cost incurred as moneys due from the *Contractor* to the *Principal*.

29.4 Acceptance of defective work

Instead of a *direction* pursuant to subclause 29.3, the *Superintendent* may direct the *Contractor* that the *Principal* elects to accept the subject *work*, whereupon there shall be a deemed *variation*.

29.5 Timing

The *Superintendent* may give a *direction* pursuant to this clause at any time before the expiry of the last *defects liability period*.

30 Examination and testing

30.1 Tests

- (a) The *Contractor* shall carry out all *tests* necessary to ensure that *the Works* comply with the requirements of the *Contract*.
- (b) At any time before the expiry of the last *defects liability period*, the *Superintendent* may direct that any *WUC* be tested. The *Contractor* shall give such assistance and samples and make accessible such parts of *WUC* as may be directed by the *Superintendent*.

30.2 Covering up

The *Superintendent* may direct that any part of *WUC* shall not be covered up or made inaccessible without the *Superintendent's* prior *direction*.

30.3 Who conducts if Superintendent directs

Where the *Superintendent* directs that *WUC* be tested, *tests* shall be conducted by the *Superintendent* or a person (which may include the *Contractor*) nominated by the *Superintendent*.

30.4 Notice

The *Superintendent* or the *Contractor* (whichever is to conduct the *test*) shall give reasonable written notice to the other of the date, time and place of the *test*. If the other does not attend, the *test* may nevertheless proceed.

30.5 Delay

Without prejudice to any other right, if the *Contractor* or the *Superintendent* delays in conducting a *test*, the other, after giving reasonable written notice of intention to do so, may conduct the *test*.

30.6 Completion and results

On completion of the *tests*, the *Contractor* shall make good *WUC* so that it fully complies with the *Contract*.

Results of *tests* shall be promptly made available by each party to the other and to the *Superintendent*.

30.7 Costs

Costs in connection with testing pursuant to:

- (a) subclause 30.1(a) shall be borne by the *Contractor*; and
- (b) subclause 30.1(b) shall be borne by the *Principal* except where the *Contract* otherwise provides or the *test* is consequent upon, or reveals a failure of the *Contractor* to comply with the *Contract*.

Where the *Principal* has incurred costs for which the *Contractor* is responsible under this subclause 30.7, those costs shall be certified by the *Superintendent* as moneys due and payable from the *Contractor* to the *Principal*.

31 Working hours and days

Subject to subclause 11.1(a), the *Contractor* shall carry out *WUC* during the hours and the days permitted by the *Development Consent*.

32 Programming

- (a) The *Superintendent* shall give to the *Contractor* the information, materials, documents and instructions by the times or within the periods both stated in *Item 27*.
- (b) The *Contractor* shall give the *Superintendent* reasonable advance notice of when the *Contractor* needs other information, materials, documents or instructions from the *Superintendent* or the *Principal*.
- (c) The *Principal* and the *Superintendent* shall not be obliged to give any information, materials, documents or instructions earlier than the *Principal* or the *Superintendent*, as the case may be, should reasonably have anticipated at the date of commencement of *WUC*.
- (d) The *Superintendent* may direct in what order and at what time the various stages or portions of *WUC* shall be carried out. If the *Contractor* can reasonably comply with the *direction*, the *Contractor* shall promptly notify the *Superintendent* of the costs (if any, including time-related costs) the *Contractor* may incur as a result of the *direction*. The *Contractor* shall comply with the *Superintendent's direction*, provided that where the *Contractor* has notified the *Superintendent* that costs may be incurred, the *Superintendent* has approved the incurring of those costs. If the *Contractor* cannot reasonably comply, the *Contractor* shall promptly give the *Superintendent* notice of the reasons.
- (e) A *program* is a written statement showing the dates by which, or the times within which, the various stages or portions of *WUC* are to be carried out or completed including a critical path functionality for elements comprised in *WUC*. It shall be deemed a *Contract* document.
- (f) The *Contractor* shall give the *Superintendent* a *program* within the time and in the form directed prior to commencing *WUC* and at such other times as may be directed by the *Superintendent*.

- (g) The *Contractor* shall not, without reasonable cause, depart from a *program*.
- (h) If compliance with any *direction* under clause 32(d), except those pursuant to the *Contractor's* default, causes the *Contractor* to incur more or less cost than otherwise would have been incurred had the *Contractor* not been given the *direction*, the difference shall be assessed by the *Superintendent* and added to or deducted from the *contract sum*.

32A Acceleration

- (a) The *Superintendent* may at any time give the *Contractor* a *Notice of Proposed Acceleration* for the *Contractor* to accelerate the carrying out of *WUC*. The *Notice of Proposed Acceleration* shall propose that the *date for practical completion* shall be a date no earlier than the original *date for practical completion*.
- (b) The *Contractor* shall, within 5 *Business Days* (or such further period agreed with the *Superintendent*) of receiving a *Notice of Proposed Acceleration*, notify the *Superintendent* whether the *Contractor* can comply with the *Notice of Proposed Acceleration*, together with details of:
 - (i) whether and to what extent the acceleration is achievable;
 - (ii) the effect on the *program*;
 - (iii) all costs (including time related costs, if any) of complying with the *Notice of Proposed Acceleration* and how that cost has been determined, including any quotations or supporting documentation;
 - (iv) the delay costs (either paid or payable) the *Contractor* will not be entitled to under subclause 34.9 if a *direction* is given to accelerate;
 - (v) any changes in labour, plant, activities or hours of work required to comply with the *Notice of Proposed Acceleration*; and
 - (vi) any other matters requested by the *Superintendent* in the *Notice of Proposed Acceleration*.
- (c) The *Superintendent* shall, as soon as practicable after receiving the *Contractor's* notification, assess the information provided by the *Contractor* and may give a *direction* to the *Contractor* to accelerate the carrying out of *WUC*. A *direction* given under this clause 32A(c) shall be taken to be a *direction* under clause 32 provided that:
 - (i) such *direction* may allow the *Superintendent* to change the then current *date for practical completion* to a date no earlier than the original *date for practical completion*;
 - (ii) such *direction* may allow the *Superintendent* to assess what, if any, delay costs have already been paid by the *Principal* under the *Contract* in relation to any *EOT* which has previously been directed by the *Superintendent* where that *EOT* is reduced by the *direction* and set off this amount against any acceleration costs payable by the *Principal* as a result of the *direction* under this clause 32A(c); and
 - (iii) the *Contractor* cannot *Claim* an *EOT* or any delay costs as a result of or arising out of the *direction* under this clause 32A(c).
- (d) Notwithstanding any other provision of the *Contract*, any costs payable by the *Principal* as a result of a *direction* under clause 32A(c) shall only be payable to the *Contractor* if the *Contractor* achieves *practical completion* by the *date for practical completion* directed by the *Superintendent* under clause 32A(c) (or as extended by any subsequent *EOT*) and only in accordance with clause 37 following the *date of practical completion*.
- (e) The *Principal's* right to liquidated damages in accordance with subclause 34.7 shall not be prejudiced by any *direction* under clause 32A(c).

33 Suspension

33.1 Superintendent's suspension

The *Superintendent* may direct the *Contractor* to suspend the carrying out of the whole or part of *WUC* for such time as the *Superintendent* thinks fit:

- (a) for any reason determined by the *Principal* in its absolute and sole discretion; or
- (b) if the *Superintendent* is of the opinion that it is necessary:
 - (i) because of an act, default or omission of:
 - (A) the *Superintendent*;
 - (B) the *Principal* or its consultants, agents or authorised persons;
 - (C) any other contractor of the *Principal* (excluding any *Certification Authority*); or
 - (D) the *Contractor*, a *subcontractor* or the employees or agents of any of them;
 - (ii) because of any act of any *Certification Authority*;
 - (iii) for the protection or safety of any person or property; or
 - (iv) to comply with a court order.

33.2 Contractor's suspension

To the extent permitted by law, if the *Contractor* wishes to suspend the carrying out of the whole or part of *WUC*, otherwise than pursuant to subclause 39.9, the *Contractor* shall obtain the *Superintendent's* prior written approval. The *Superintendent* may approve the suspension and may impose conditions of approval.

33.3 Recommencement

To the extent permitted by law, as soon as the *Superintendent* becomes aware that the reason for any suspension no longer exists, the *Superintendent* shall direct the *Contractor* to recommence suspended *WUC* as soon as reasonably practicable.

The *Contractor* may recommence *WUC* suspended pursuant to subclause 33.2 or subclause 39.9 at any time after reasonable notice to the *Superintendent*.

33.4 Cost

The *Contractor* shall bear the cost of suspension pursuant to subclause 33.1(b)(i)(D) and, to the extent permitted by law, subclause 33.2. If the *Contractor* made the act of the *Certification Authority*, protection, safety or court order necessary, the *Contractor* shall bear the cost of suspension pursuant to subclause 33.1(b)(ii), subclause 33.1(b)(iii) or subclause 33.1(b)(iv). If the *Contractor* otherwise incurs more or less cost than otherwise would have been incurred, the difference shall be assessed by the *Superintendent* and added to or deducted from the *contract sum*.

34 Time and progress

34.1 Progress

The *Contractor* shall ensure that *WUC* reaches *practical completion* by the *date for practical completion*.

34.2 Notice of delay

A party becoming aware of anything which will probably cause delay to *WUC* shall:

- (a) if that party is the *Contractor*, promptly give the *Superintendent*; and
- (b) if that party is the *Principal*, promptly give the *Contractor* and the *Superintendent* notice of that cause and the estimated delay.

34.3 Claim

- (a) Subject to subclause 34.3(c) and subclause 34.4, the *Contractor* shall be entitled to such *EOT* as the *Superintendent* assesses, if:
 - (i) the *Contractor* is or will be delayed:
 - (A) prior to or on the *date for practical completion*, in reaching *practical completion* by the *date for practical completion* by a *qualifying cause of delay*; or
 - (B) after the *date for practical completion*, in reaching *practical completion* by a *qualifying cause of delay*; and
 - (ii) the *Contractor* gives the *Superintendent*, notice of commencement of the delay within 5 *Business Days* of when the *Contractor* became aware or should reasonably have become aware of the commencement of the delay;
 - (iii) following the *Contractor's* giving of a notice under subclause 34.3(a)(ii), the delay the subject of the notice under subclause 34.3(a)(ii) is continuing, the *Contractor* gives the *Superintendent* notice of the continuing delay no more than 10 *Business Days* after the date of the notice under subclause 34.3(a)(ii) and thereafter, if the delay is still continuing the *Contractor* gives the *Superintendent* notice of the continuing delay no more than 10 *Business Days* after the date of the most recent prior notice given under this subclause 34.3(a)(iii);
 - (iv) the *Contractor* gives the *Superintendent* notice of the cessation of the delay, within 5 *Business Days* of when the *Contractor* became aware or should reasonably have become aware of the cessation of the delay; and
 - (v) the *Contractor* gives the *Superintendent*, within 5 *Business Days* of when the *Contractor* became aware or should reasonably have become aware of the cessation of the delay, a *Claim* for an *EOT* comprising evidence, including by an updated construction program, of the facts of causation and of the delay to *WUC* (including extent and effect on the critical path of *WUC*) and the prevention and mitigation of delay effected by the *Contractor*.
- (b) If the *Contractor* fails to comply in any respect with subclause 34.3(a)(ii), subclause 34.3(a)(iii), subclause 34.3(a)(iv) or subclause 34.3(a)(v), the *Contractor* shall not be entitled to any *EOT* for the delay.
- (c) The *Contractor* is not entitled to an *EOT* for inclement weather occurring on any of the days set out in *Item 28(b)* that delays the *Contractor* from achieving *practical completion* by the *date for practical completion*.

34.4 Assessment

Where a delay in reaching *practical completion* arising from a *qualifying cause of delay* overlaps with a delay in reaching *practical completion* arising from a cause that is not a *qualifying cause of delay*, then, to the extent that the delays are concurrent, the *Contractor* shall not be entitled to an *EOT*.

In assessing each *EOT Claimed* by the *Contractor* under subclause 34.3, the *Superintendent* shall disregard whether the *Contractor* can accelerate, but shall have regard to what prevention and mitigation of the delay has not been effected by the *Contractor*.

34.5 Extension of time

Subject to subclauses 34.3(b) and 34.4, within 20 *Business Days* after receiving the *Contractor's Claim* for an *EOT* under subclause 34.3, the *Superintendent* shall give to the *Contractor* and the *Principal* a *direction* evidencing the *EOT* so assessed.

Notwithstanding that the *Contractor* is not entitled to or has not *Claimed* an *EOT* under subclause 34.3, the *Superintendent* may, for the benefit of the *Principal*, at any time and from time to time before issuing the *final certificate* direct an *EOT*.

34.6 Practical completion

The *Contractor* shall give the *Superintendent* at least 10 *Business Days'* notice of the date upon which the *Contractor* anticipates that *practical completion* will be reached.

When the *Contractor* is of the opinion that *practical completion* has been reached, the *Contractor* shall in writing request the *Superintendent* to issue a *certificate of practical completion*. Within 10 *Business Days* after receiving the request, the *Superintendent* shall give the *Contractor* and the *Principal* either a *certificate of practical completion* evidencing the *date of practical completion* or reasons for not doing so.

If the *Superintendent* is of the opinion that *practical completion* has been reached, the *Superintendent* may issue a *certificate of practical completion* even though no request has been made.

34.7 Liquidated damages

If *WUC* does not reach *practical completion* by the *date for practical completion*, the *Superintendent* shall certify, as due and payable from the *Contractor* to the *Principal*, liquidated damages in *Item 29* for every day after the *date for practical completion* to and including the earliest of the *date of practical completion* or termination of the *Contract* or the *Principal* taking *WUC* out of the hands of the *Contractor*.

If an *EOT* is directed after the *Contractor* has paid or the *Principal* has set off liquidated damages, the *Principal* shall forthwith repay to the *Contractor* such of those liquidated damages as represent the days the subject of the *EOT*.

34.8 Not used

34.9 Delay costs

For every day the subject of an *EOT* for a *compensable cause* (excluding an *EOT* directed under the last paragraph of subclause 34.5) and for which the *Contractor* gives the *Superintendent* a *Claim* for delay costs pursuant to subclause 41.3, delay costs up to the rate in *Item 46* that the *Contractor* has incurred or will incur due to the *compensable cause* the subject of the *EOT*, as certified by the *Superintendent* under subclause 41.6, shall be due and payable from the *Principal* to the *Contractor* under subclause 37.2.

35 Defects liability

- (a) The *defects liability period* stated in *Item 32* shall commence on the *date of practical completion* at 4:00 pm.
- (b) The *Contractor* shall carry out rectification of *defects* at times and in a manner directed by the *Superintendent*, causing as little inconvenience to the occupants or users of the *Works* as is reasonably possible.

- (c) Subject to clause 35(g), the *Contractor* shall rectify all *defects* existing at the *date of practical completion* in accordance with the *Defects Program*.
- (d) Subject to clause 35(g), during the *defects liability period*, the *Superintendent* may give the *Contractor* a *direction* to rectify a *defect* which:
 - (i) shall identify the *defect* and the date for completion of its rectification; and
 - (ii) may state a date for commencement of the rectification.
- (e) There shall be a separate *defects liability period* for each *defect* the subject of a *direction* by the *Superintendent* under clause 35(d) or subclause 29.3 during the *defects liability period* for the period in *Item 32*, commencing at 4:00 pm on the date the rectification is completed and governed by this clause.
- (f) If the rectification is not commenced or completed by the required dates, the *Principal* may have the rectification carried out by others but without prejudice to any other rights and remedies the *Principal* may have. The cost thereby incurred shall be certified by the *Superintendent* as moneys due and payable from the *Contractor* to the *Principal*.
- (g) *Defects* which:
 - (i) affect the safety or security of *WUC*, *the Works*, or people; or
 - (ii) seriously interfere with the essential functions of *WUC* or *the Works*,shall be rectified by the *Contractor* immediately after they are reported to the *Contractor* by the *Superintendent*.
- (h) During any *defects liability period*, on the giving of reasonable notice by the *Superintendent* defects inspections shall be undertaken by the *Superintendent*, the *Principal's* architect (if necessary) and the *Contractor*. Following a *defects* inspection the *Superintendent* shall issue to the *Contractor* a *defects* schedule showing the *defects* rectification status.
- (i) During any *defects liability period*:
 - (i) the *Contractor* is to make available to the *Principal* all necessary personnel on *site* to attend to all *defects* management issues arising out of any *defects*. These personnel shall be required to be at the *site* until all identified *defects* have been rectified and signed off by the *Superintendent*; and
 - (ii) the *Contractor* is to notify the *Superintendent* of the *Contractor's* emergency contact personnel and their contact details.
- (j) The *Contractor* acknowledges rectification of any *defects* in a *Dwelling* and once the *Dwelling* is occupied by a *Tenant* shall be undertaken strictly in accordance with the following criteria:
 - (i) access is to be arranged with the *Landlord*;
 - (ii) no *defects* rectification *work* can occur in a *Dwelling* before 9.00am on any day;
 - (iii) all *defects* rectification *work* is to be completed in one day by 5.00pm of that day (provided that if this is not reasonably able to occur then all *defects* rectification *work* is to be left in a clean and safe condition);
 - (iv) linen dust sheets are to be placed on all floor surfaces prior to commencement of the *defects* rectification *work*; and
 - (v) on completion of the *defects* rectification *works*, all carpets are to be vacuumed, tiled floors are to be washed and all surfaces wiped down with a damp cloth.

36 Variations

36.1 Directing variations

The *Contractor* shall not vary *WUC* except as directed in writing.

The *Superintendent*, before the *date of practical completion*, may direct the *Contractor* to vary *WUC* by any one or more of the following which is nevertheless of a character and extent contemplated by, and capable of being carried out under, the provisions of the *Contract* (including being within the warranties in subclause 2.2):

- (a) increase, decrease or omit any part;
- (b) change the character or quality;
- (c) change the levels, lines, positions or dimensions;
- (d) carry out additional *work*;
- (e) demolish or remove material or *work* no longer required by the *Principal*.

36.2 Proposed variations and proposed time and cost effect of variations

- (a) The *Superintendent* may give the *Contractor* notice of a proposed *variation*.
- (b) The *Contractor* shall within 10 *Business Days* after:
 - (i) receiving notice under subclause 36.2(a);
 - (ii) a *direction* under subclause 36.1 for which the *variation* has not been the subject of a notice under subclause 36.2(a);
 - (iii) a deemed *variation* arising, other than a deemed *variation* under subclause 25.3(a); or
 - (iv) giving notice under subclause 25.2,
 notify the *Superintendent* of:
 - (v) any *EOT* required to carry out the *work*; and
 - (vi) the trade cost (including all design, warranties and certifications costs, if any) of the *work*.
- (c) The *Superintendent* may direct the *Contractor* to give further information for the proposed *variation*, deemed *variation* or *variation* supported by measurements or other evidence of cost and the *Contractor* shall do so within 5 *Business Days* of any such *direction*.
- (d) Notwithstanding subclause 36.4, the *Superintendent* may assess that the adjustment to the *contract sum* or the *EOT* is to be that notified by the *Contractor* under subclause 36.2(b).

36.3 Variations for convenience of Contractor

If the *Contractor* requests the *Superintendent* to direct a *variation* for the convenience of the *Contractor*, the *Superintendent* may do so. The *direction* may be conditional. Unless the *direction* provides otherwise, the *Contractor* shall be entitled to neither extra time nor extra money.

36.4 Cost and time effect of variations

- (a) Subject to subclause 25.3(b), the *contract sum* shall be adjusted for a deemed *variation* or a *variation* that has been the subject of a *direction* by the *Superintendent* by:
 - (i) the trade cost of the *work* comprising the deemed *variation* or *variation* (including all design, warranties and certificates costs, if any) as assessed by the *Superintendent*; and

- (ii) the amount determined by applying the percentage specified in *Item 39* for preliminaries, profit and on-site and off-site overheads to the amount assessed under subclause 36.4(a)(i) (*'Percentage Amount'*).
- (b) Subject to subclause 36.4(d), and clause 36.6, the *Contractor* shall be entitled to such *EOT* as the *Superintendent* assesses if the *Contractor* is or will be delayed:
 - (i) prior to or on the *date for practical completion* in reaching *practical completion* by the *date for practical completion* by the deemed *variation* or *variation*; or
 - (ii) after the *date for practical completion*, in reaching *practical completion*, by the deemed *variation* or *variation*.
- (c) Within 20 *Business Days* after:
 - (i) for a deemed *variation* or a *variation* that has not been the subject of a notice under subclause 36.2(a), the *Superintendent* receiving the *Contractor's* notice under subclause 36.2(b); or
 - (ii) for a *variation* that has been the subject of a notice under subclause 36.2(a), the *Superintendent* directing the *Contractor* to vary *WUC* to which the proposed *variation* relates,

the *Superintendent* shall assess:

 - (iii) the trade cost of the *work* (including all design, warranties and certification costs, if any);
 - (iv) the *Percentage Amount*; and
 - (v) subject to subclause 36.4(d), and clause 36.6, any *EOT* if the *Contractor* is or will be delayed:
 - (A) prior to or on the *date for practical completion*, in reaching *practical completion* by the *date for practical completion* by the deemed *variation* or *variation*; or
 - (B) after the *date for practical completion*, in reaching *practical completion*, by the deemed *variation* or *variation*,

and notify the parties of the assessment.
- (d) If the *Contractor* fails to provide the notice required by subclause 36.2(b) in accordance with and within the time required by subclause 36.2(b), the *Contractor* will not be entitled to any *EOT* arising out of or in connection with the deemed *variation* or *variation* including a *variation* that has been the subject of a notice under subclause 36.2(a).
- (e) Notwithstanding that the *Contractor* is not entitled to or has not *Claimed* an *EOT* under subclause 36.2(b) for a deemed *variation* or a *variation*, the *Superintendent* may, for the benefit of the *Principal*, at any time and from time to time before issuing the *final certificate* direct an *EOT* in relation to the deemed *variation* or *variation*.

36.5 Possible variations

- (a) If a *direction* by the *Superintendent* (other than a *variation* directed under subclause 36.1 or a *direction* under subclause 8.1) in the opinion of the *Contractor* constitutes or involves a *variation*, the *Contractor* shall before commencing *work* on the subject matter of the *direction* give notice to the *Superintendent* that it considers the *direction* constitutes or involves a *variation* (such notice may be given orally but shall be confirmed in writing by the *Business Day* following the date of such notice).
- (b) Within 5 *Business Days* of the *Contractor* giving the notice required by subclause 36.5(a) (being the confirmatory written notice required by subclause 36.5(a) where the *Contractor*

has given an oral notice), the *Contractor* may submit a *Claim* to the *Superintendent*, which shall comply with the requirements of subclause 36.2(b).

- (c) Within 3 *Business Days* after receiving the *Contractor's Claim* under subclause 36.5(b), the *Superintendent* shall assess the *Claim* in accordance with subclause 36.4 and notify the parties of the assessment.
- (d) Notwithstanding any other provision of the *Contract*, if the *Contractor*:
 - (i) commences *work* on the subject matter of a *direction* referred to in subclause 36.5(a) before giving the notice to the *Superintendent* required by subclause 36.5(a); or
 - (ii) fails to submit a *Claim* to the *Superintendent* in accordance with subclause 36.5(b),
 the *Contractor* shall not be entitled to an adjustment to the *contract sum* or any *EOT* arising out of or in connection with a *direction* of the *Superintendent* referred to in subclause 36.5(a).
- (e) Notwithstanding that the *Contractor* is not entitled to or has not *Claimed* an *EOT* under subclause 36.5(b) for a *direction* of the *Superintendent* referred to in subclause 36.5(a), the *Superintendent* may, for the benefit of the *Principal*, at any time and from time to time before issuing the *final certificate* direct an *EOT* in relation to the *direction*.

36.6 Assessment of extensions of time

- (a) Where a delay in reaching *practical completion* arising from:
 - (i) a deemed *variation* or a *variation* that has been the subject of a *direction* by the *Superintendent* for which the *Contractor* is not disentitled to an *EOT* by subclause 36.4(d); or
 - (ii) a *direction* of the *Superintendent* referred to in subclause 36.5(a) for which the *Contractor* is not disentitled to an *EOT* by subclause 36.5(d),
 overlaps with a delay in reaching *practical completion* arising from a cause that is not a *qualifying cause of delay*, then, to the extent that the delays are concurrent, the *Contractor* shall not be entitled to an *EOT*.
- (b) In assessing each *EOT Claimed* by the *Contractor* under this clause 36, the *Superintendent* shall disregard whether the *Contractor* can accelerate, but shall have regard to what prevention and mitigation of the delay has not been effected by the *Contractor*.

37 Payment

37.1 Progress claims

- (a) The *Contractor* shall claim payment progressively in accordance with *Item 33(a)*.
- (b) An early progress claim shall be deemed to have been made on the date for making that claim.
- (c) Each progress claim shall be given to the *Superintendent* and shall:
 - (i) include details of:
 - (A) the amount claimed for *WUC* done;
 - (B) any amounts assessed by the *Superintendent* as additions to or deductions from the *contract sum*; and
 - (C) details of any amounts certified by the *Superintendent* as due from the *Principal* to the *Contractor*;

- (ii) be accompanied by a *Supporting Statement* that complies with the requirements of the Security of Payment Act and the Building and Construction Industry Security of Payment Regulation 2008 (NSW) regarding *Supporting Statements*; and
 - (iii) include any other information reasonably requested by the *Superintendent*;
- (d) On the dates provided for in *Item 33(b)*, the *Contractor* shall give the *Superintendent*:
- (i) a statutory declaration made on the relevant date in the form provided in Annexure Part I by an *Executive Director* of the *Contractor* who is in a position to know the facts declared;
 - (ii) satisfactory evidence that:
 - (A) the insurances which the *Contract* requires the *Contractor* to effect are being maintained;
 - (B) the *Contractor* has complied with subclause 5.1, subclause 5.6, subclause 9.2(e), subclause 9.2(f), subclause 10.3, subclause 11.8, subclause 24.5, subclause 48.6(a)(ix), subclause 48.6(a)(x) and subclause 48.7; and
 - (C) the *Contractor* has provided final as-built drawings of *the Works* and final operation and maintenance manuals for *the Works* (including software codes) within the time required by subclause 8.3; and
 - (iii) a copy of the monthly report referred to in subclause 46.5(c).
- (e) On the dates provided for in *Item 33(b)*, the *Contractor* shall give to the *Principal*:
- (i) a statutory declaration in the form provided in Annexure Part I by an *Executive Director* of the *Contractor* who is in a position to know the facts declared; and
 - (ii) the monthly report referred to in subclause 46.5(c).

37.2 Progress certificates

The *Superintendent* shall, within 10 *Business Days* after receiving such a progress claim, issue to the *Principal* and the *Contractor* a *progress certificate*:

- (a) evidencing the *Superintendent's* opinion of the moneys due from the *Principal* to the *Contractor* pursuant to the progress claim and reasons for any difference; and
- (b) evidencing the *Superintendent's* assessment of retention moneys and moneys due from the *Contractor* to the *Principal* pursuant to the *Contract*.

If the *Contractor* does not make a progress claim in accordance with *Item 33(a)*, the *Superintendent* may issue the *progress certificate*.

Subject to subclause 37.7, the *Principal* shall within 15 *Business Days* after the *Superintendent* receives the progress claim, pay to the *Contractor* the amount specified in the *progress certificate* or, if the *progress certificate* produces a negative balance, the *Contractor* shall pay that balance to the *Principal* within 5 *Business Days* of receiving the *progress certificate*.

Neither a *progress certificate* nor a payment of moneys shall be evidence that the subject *WUC* has been carried out satisfactorily. Payment other than *final payment* shall be payment on account only.

37.3 Unfixed plant and materials

The *Principal* shall not be liable to pay for unfixed plant and materials unless they are listed in *Item 34* and the *Contractor*:

- (a) provides the additional *security* in *Item 14(e)*; and
- (b) satisfies the *Superintendent* that the subject plant and materials:

- (i) have been paid for, properly stored and protected, and labelled the property of the *Principal*; and
- (ii) are insured in accordance with clause 16A.

Upon payment to the *Contractor* and the release of any additional *security* in paragraph (a), the subject plant and materials shall be the unencumbered property of the *Principal*.

37.4 Final payment claim and certificate

Within 20 *Business Days* after the expiry of the last *defects liability period*, the *Contractor* shall give the *Superintendent* a *final payment claim* endorsed 'Final Payment Claim' being a progress claim together with all other *Claims* whatsoever in connection with the subject matter of the *Contract*.

The *Superintendent* shall, by the earlier of:

- (a) 10 *Business Days* after receipt of the *final payment claim*; and
- (b) 30 *Business Days* after the expiry of the last *defects liability period*,

issue to both the *Contractor* and the *Principal* a *final certificate* evidencing the moneys finally due between the *Contractor* and the *Principal* on any account whatsoever in connection with the subject matter of the *Contract*.

Those moneys certified as due shall be paid by the *Principal* or the *Contractor*, as the case may be, within:

- (a) 15 *Business Days* after the *Superintendent* receives the *final payment claim*; or
- (b) if no *final payment claim* has been given, 25 *Business Days* after the debtor receives the *final certificate*.

The *final certificate* shall be conclusive evidence of accord and satisfaction, and in discharge of each party's obligations in connection with the subject matter of the *Contract* except for:

- (a) fraud or dishonesty relating to *WUC* or any part thereof or to any matter dealt with in the *final certificate*;
- (b) any *defect* which was not apparent at the end of the last *defects liability period*, or which would not have been disclosed upon reasonable inspection at the time of the issue of the *final certificate*;
- (c) any accidental or erroneous inclusion or exclusion of any *work* or figures in any computation or an arithmetical error in any computation;
- (d) unresolved issues the subject of any notice of *dispute* pursuant to clause 42, served before the 10th *Business Day* after the issue of the *final certificate*;
- (e) the *Contractor's* entitlement to release of *security* under subclause 5.4;
- (f) the debtor's obligation to pay the amount stated in the *final certificate*; and
- (g) the *Contractor's* obligations under clause 50.

37.5 Interest

Interest in *Item 35* shall be due and payable after the date of default in payment.

37.6 Other moneys due

The *Principal* may elect that moneys due from the *Contractor* to the *Principal* otherwise than in connection with the subject matter of the *Contract* also be due to the *Principal* pursuant to the *Contract*.

37.7 Withholding

To the extent permitted by law, without limiting any other rights of the *Principal* under the *Contract* or at law, the *Principal* may withhold payment to the *Contractor* under this clause 37:

- (a) in accordance with the following, as applicable:
 - (i) section 127(5) of the Industrial Relations Act 1996 (NSW);
 - (ii) clause 18(6) of Schedule 2 of the Payroll Tax Act 2007 (NSW);
 - (iii) section 175B(7) of the Workers Compensation Act 1987 (NSW); or
 - (iv) subclause 37.8; or
- (b) where the *Principal* terminates the *Contract* pursuant to subclause 39.4(b), in which case the *Principal* may withhold payment until there is a determination of the parties' remedies, rights and liabilities in accordance with subclause 39.10(a).

37.8 Subcontractors and Payment Withholding Requests

- (a) If a *subcontractor* serves a *Payment Withholding Request* on the *Principal* in accordance with the *Security of Payment Act*, the *Principal* shall be entitled to withhold from money due and payable to the *Contractor* under the *Contract* an amount equivalent to the whole or any part of the *Payment Claim* ('*Retained Money*').
- (b) The *Principal* shall be entitled to withhold any *Retained Money* until the first of the following occurs:
 - (i) the adjudication application for the *Payment Claim* ('*Adjudication Application*') is withdrawn;
 - (ii) the *Contractor* pays to the *subcontractor* the amount claimed to be due under the *Payment Claim*;
 - (iii) the *subcontractor* serves a notice of claim on the *Principal* for the purposes of section 6 of the *Contractors Debts Act* in respect of the *Payment Claim*; or
 - (iv) a period of 20 *Business Days* elapses after a copy of the adjudicator's determination of the *Adjudication Application* is served on the *Principal* by the *subcontractor*.
- (c) If the *Principal* is served with the *Payment Withholding Request* under clause 37.8(a), the *Principal* is not in breach of its payment obligations under the *Contract* as a result only of the retention of such money in such circumstances, and the *Contractor* waives its rights and releases the *Principal* from liability in respect of all losses or expenses of any nature suffered or incurred by the *Contractor*, and may not terminate, rescind or treat as repudiated the *Contract* arising out of or in connection with the *Principal* retaining such money in such circumstances.
- (d) If the *Principal*, in making a payment to the *Contractor* under the *Contract*, fails to comply with a *Payment Withholding Request* served on the *Principal* by a *subcontractor*, such that under the *Security of Payment Act* the *Principal* becomes jointly and severally liable with the *Contractor* in respect of the whole or any part of a debt owed by the *Contractor* to the *subcontractor*, the *Superintendent* shall certify the debt so incurred as moneys due and payable from the *Contractor* to the *Principal*. The moneys shall be certified by the *Superintendent* as so due and payable even if the amount for which the *Principal* is liable to the *subcontractor* is greater than the amount which the *Contractor* is ultimately required to pay the *subcontractor*.

37.9 Documents under Security of Payment Act

The *Contractor* shall:

- (a) on the day of issue or receipt, give the *Superintendent* a copy of any document that the *Contractor*:
 - (i) issues to the *Principal*; or
 - (ii) receives from or issues to any adjudicator or court,
 under or in connection with the *Security of Payment Act* or the *Contractors Debts Act* which is related to *WUC*, whether being performed by the *Contractor* or a *subcontractor*;
- (b) on the day of issue or receipt give the *Principal* a copy of any document that the *Contractor* receives from or issues to any adjudicator or court under or in connection with the *Security of Payment Act* or the *Contractors Debts Act* which is related to *WUC* whether being performed by the *Contractor* or a *subcontractor*; and
- (c) ensure in any contract with a *subcontractor* that:
 - (i) the *subcontractor* is obliged to provide a copy of any *Payment Withholding Request* served on the *Principal* to the *Superintendent* on the day of issue; and
 - (ii) the *subcontractor* is obliged to serve a copy of the adjudication determination to which the *Payment Withholding Request* relates on the *Principal* within 5 *Business Days* after the adjudication determination is served on the *subcontractor*.

38 Direct payment

38.1 Not used

38.2 Not used

38.3 Direct payment of employees and subcontractors

Before *final payment*, the *Principal*, if not aware of a relevant relation-back day (as defined in the *Corporations Act*) may pay unpaid moneys to:

- (a) employees of the *Contractor*;
 - (b) any *subcontractor*; or
 - (c) employees of any *subcontractor*,
- if:
- (d) permitted or required by law;
 - (e) a court order exists in favour of the employee or *subcontractor*;
 - (f) requested by the *Contractor*;
 - (g) the *Superintendent* determines that the employee or *subcontractor* remains unpaid after the due date for payment; or
 - (h) the *Principal* considers, in its absolute and sole discretion, that any financial information provided by the *Contractor* under subclause 5.8 justifies the payment.

Such payment and a payment made to an employee or a *subcontractor* in compliance with a *legislative requirement* shall be deemed to be part-satisfaction of the *Principal's* obligation to pay pursuant to subclause 37.2 or subclause 37.4, as the case may be, irrespective of whether, in the case of a payment to a *subcontractor*, the amount paid by the *Principal* to the *subcontractor* is greater than the amount which the *Contractor* is ultimately required to pay the *subcontractor*.

The *Contractor* acknowledges that the *Principal* has the right to contact employees of the *Contractor*, any *subcontractor* and employees of any *subcontractor* to determine whether any such employee or *subcontractor* remains unpaid after the due date for payment.

38.4 Subcontractors and suspension under Security of Payment Act

Where a *subcontractor* has made a payment claim on the *Contractor* under the *Security of Payment Act*:

- (a) if that payment claim has become subject to adjudication under, or court proceedings relating to, the *Security of Payment Act*, the *Contractor* shall without delay give the *Superintendent* and the *Principal* a copy of any notice that the *Contractor* receives from, or issues to, the *subcontractor*, the adjudicator or court; and
- (b) if the *Principal* becomes aware that the *subcontractor* is entitled to suspend *work* under the *Security of Payment Act* in relation to that payment claim, the *Principal* may (at its absolute and sole discretion) pay the *subcontractor* in respect of *work* forming part of *WUC*, and any amount paid by the *Principal* shall be deemed to be part-satisfaction of the *Principal's* obligation to pay pursuant to subclause 37.2 or subclause 37.4, as the case may be, irrespective of whether the amount paid by the *Principal* to the *subcontractor* is greater than the amount which the *Contractor* is ultimately required to pay the *subcontractor*.

39 Default or insolvency

39.1 Preservation of other rights

If a party breaches (including repudiates) the *Contract*, nothing in this clause shall prejudice the right of the other party to recover damages or exercise any other right or remedy.

39.2 Contractor's default

If the *Contractor* commits a substantial breach of the *Contract*, the *Principal* may, by hand or by registered post, give the *Contractor* a written notice to show cause.

Substantial breaches include, but are not limited to:

- (a) failing to:
 - (i) perform properly the *Contractor's design obligations*;
 - (ii) provide *security*;
 - (iii) provide evidence of insurance;
 - (iv) comply with a *direction* of the *Superintendent* pursuant to subclause 29.3 or clause 35;
 - (v) use the materials or standards of *work* required by the *Contract*;
 - (vi) comply with any *legislative requirement*; or
 - (vii) comply with any requirement of clause 48;
- (b) wrongful suspension of *work*;
- (c) substantial departure from a *program* without reasonable cause or the *Superintendent's* approval;
- (d) where there is no *program*, failing to proceed with due expedition and without delay;
- (e) knowingly providing documentary evidence containing an untrue statement.
- (f) knowingly providing a report under subclause 48.5 containing an untrue statement;
- (g) releasing any *Key Personnel* from carrying out the role specified in *Item 43* in breach of subclause 23.2;

- (h) the *Principal* having exercised its right under subclause 38.3(g) to make a direct payment to an employee or *subcontractor*;
- (i) a material change in the financial position of the *Contractor* from the financial position of the *Contractor* at the date of the *Contract*, as evidenced by the *Principal* exercising its right under subclause 5.8 and as determined by the *Principal* in its absolute and sole discretion; and
- (j) a *Default Termination Event* occurring.

39.3 Principal's notice to show cause

A notice under subclause 39.2 shall state:

- (a) that it is a notice under clause 39 of the *Contract*;
- (b) the alleged substantial breach;
- (c) that the *Contractor* is required to show cause in writing why the *Principal* should not exercise a right referred to in subclause 39.4;
- (d) the date and time by which the *Contractor* shall show cause (which shall not be less than 5 *Business Days* after the notice is received by the *Contractor*); and
- (e) the place at which cause shall be shown.

39.4 Principal's rights

If the *Contractor* fails to show reasonable cause by the stated date and time, the *Principal* may by written notice to the *Contractor*:

- (a) take out of the *Contractor's* hands the whole or part of the *work* remaining to be completed and suspend payment until it becomes due and payable pursuant to subclause 39.6; or
- (b) terminate the *Contract*.

39.5 Completion of work

- (a) The *Principal* may complete *work* taken out of the *Contractor's* hands under subclause 39.4(a).

- (b) If the *Principal*:

- (i) takes *work* out of the *Contractor's* hands under subclause 39.4(a); or
- (ii) terminates the *Contract* under subclause 39.4(b),

the *Principal* may:

- (iii) use materials, equipment and other things intended for *WUC* which are located on-site or off-site; and

- (iv) without payment of compensation to the *Contractor*:

- (A) take possession of, and use, such of the *construction plant, temporary works* and other things on-site or off-site as were used by the *Contractor* or any *subcontractors*;

- (B) contract with such of the *subcontractors*; and

- (C) take possession of, and use, such of the *Project Documents*,

as are reasonably required by the *Principal* to facilitate completion of the *work* taken out or the use, operation or maintenance of the *Works*.

- (c) If the *Principal* takes possession of *construction plant*, *Project Documents* or other things in accordance with its rights under subclause 39.5(b), the *Principal* shall reasonably maintain them and, subject to subclause 39.6, on completion of the *work* taken out or remaining to be completed at the date of termination, as applicable, shall return such of them as are surplus.
- (d) The *Superintendent* shall keep records of the cost of completing the *work* taken out under subclause 39.4(a).
- (e) This subclause 39.5 will survive the expiration, termination or frustration of the *Contract*.

39.6 Payment for completion of work

- (a) When *work* taken out of the *Contractor's* hands under subclause 39.4(a) has been completed, the *Superintendent* shall assess the cost thereby incurred and shall certify the difference between that cost (showing the calculations therefor) and the amount which would otherwise have been paid to the *Contractor* if the *work* had been completed by the *Contractor*. If the amount certified constitutes more than would have been paid to the *Contractor*, that amount shall be due and payable from the *Contractor* to the *Principal*.
- (b) If the *Contractor* is indebted to the *Principal* arising out of or as a consequence of the *Principal*:
 - (i) taking *work* out of the *Contractor's* hands under subclause 39.4(a); or
 - (ii) terminating the *Contract* under subclause 39.4(b),
 the *Principal* may retain *construction plant* or other things taken under subclause 39.5(b) until the debt is satisfied. If after reasonable notice, the *Contractor* fails to pay the debt, the *Principal* may sell the *construction plant* or other things and apply the proceeds to the satisfaction of the debt and the costs of sale. Any excess shall be paid to the *Contractor*.
- (c) This subclause 39.6 will survive the expiration, termination or frustration of the *Contract*.

39.7 Principal's default

If the *Principal* commits a substantial breach of the *Contract*, the *Contractor* may, by hand or by registered post, give the *Principal* a written notice to show cause.

Substantial breaches include:

- (a) failing to:
 - (i) not used;
 - (ii) not used;
 - (iii) rectify inadequate *Contractor's* access to the *site* if that failure continues for longer than the time stated in *Item 36(a)*;
 - (iv) rectify inadequate *Contractor's* possession of the *site* if that failure continues for longer than the time stated in *Item 36(b)*; or
 - (v) make a payment due and payable pursuant to the *Contract*; and
- (b) the *Superintendent* not giving a *certificate of practical completion* or reasons as referred to in subclause 34.6.

39.8 Contractor's notice to show cause

A notice given under subclause 39.7 shall state:

- (a) that it is a notice under clause 39 of the *Contract*;
- (b) the alleged substantial breach;

- (c) that the *Principal* is required to show cause why the *Contractor* should not exercise a right referred to in subclause 39.9;
- (d) the date and time by which the *Principal* shall show cause (which shall not be less than 5 *Business Days* after the notice is received by the *Principal*); and
- (e) the place at which cause shall be shown.

39.9 Contractor's rights

If the *Principal* fails to show reasonable cause by the stated date and time, the *Contractor* may, by written notice to the *Principal*, suspend the whole or any part of *WUC*.

The *Contractor* shall remove the suspension if the *Principal* remedies the breach.

The *Contractor* may, by written notice to the *Principal*, terminate the *Contract*, if within 28 days of the date of suspension under this subclause the *Principal* fails:

- (a) to remedy the breach; or
- (b) if the breach is not capable of remedy, to make other arrangements to the reasonable satisfaction of the *Contractor*.

Costs incurred by the *Contractor* by reason of the suspension shall be assessed by the *Superintendent* and added to the *contract sum*.

39.10 Termination

- (a) If the *Contract* is terminated pursuant to subclause 39.4(b) or subclause 39.9, the parties' remedies, rights and liabilities shall be the same as they would have been under the law governing the *Contract* if the party receiving the notice of termination had repudiated the *Contract* and the other party elected to treat the *Contract* as at an end and recover damages.
- (b) If the *Contract* is terminated, there shall be only one reference date for the purposes of the *Security of Payment Act* after the date of termination, which shall be the date upon which the *Contractor* would have been entitled to make the next progress claim under subclause 37.1 if the *Contract* had not been terminated.
- (c) If the *Principal* has terminated the *Contract*, the *Principal* may also, without payment of compensation, take possession of the *Project Documents*.
- (d) If the *Principal* has terminated the *Contract*, the *Contractor* shall provide the *Principal* with any *subcontractors'*, manufacturers' and suppliers' warranties and installation certificates relating to the *Works* that are in existence at the date of termination.
- (e) This subclause 39.10 will survive the expiration, termination or frustration of the *Contract*.

39.11 Insolvency

If an *Insolvency Event* occurs in respect of a party then, where the other party is:

- (a) the *Principal*, the *Principal* may, without giving a notice to show cause, exercise any right under subclause 39.4; or
- (b) the *Contractor*, the *Contractor* may, without giving a notice to show cause, exercise the right under subclause 39.9.

The rights and remedies given by this subclause are additional to any other rights and remedies. They may be exercised notwithstanding that there has been no breach of contract.

40 Termination by frustration

If the *Contract* is frustrated:

- (a) the *Superintendent* shall issue a *progress certificate* for *WUC* carried out to the date of frustration, evidencing the amount which would have been payable had the *Contract* not been frustrated and had the *Contractor* been entitled to and made a progress claim on the date of frustration;
- (b) the *Principal* shall pay the *Contractor*:
 - (i) the amount due to the *Contractor* evidenced by all unpaid certificates;
 - (ii) the cost of materials and equipment reasonably ordered by the *Contractor* for *WUC* and which the *Contractor* is liable to accept, but only if they will become the *Principal's* property upon payment; and
 - (iii) the costs reasonably incurred:
 - (A) removing *temporary works* and *construction plant*;
 - (B) not used; and
 - (C) not used; and
- (c) subject to any right to have recourse to *security* under subclause 5.2, the *Principal* shall promptly release and return all *security* provided by the *Contractor*.

40A Termination for convenience

- (a) Notwithstanding any other provision of the *Contract*, the *Principal* may:
 - (i) at any time, in the *Principal's* absolute and sole discretion, terminate the *Contract* by giving notice to the *Contractor*; and
 - (ii) subsequently either itself or by any third party complete the uncompleted part of *WUC*.
- (b) If the *Contract* is terminated pursuant to subclause 40A(a)(i):
 - (i) the parties' remedies, rights and liabilities shall be the same as under clause 40; and
 - (ii) the *Contractor* shall have no right or entitlement to *Claim* any other costs, expenses, losses or damages (including *Indirect or Consequential Loss*) arising out of, or in any way connected with such termination.

40B Termination due to Services Agreement termination

- (a) If the *Services Agreement* is terminated by *FACS* in relation to the *Delivery Service Package* and such termination is caused by the *Contractor*, the *Principal* may in its absolute discretion, terminate this *Contract*.
- (b) If the *Services Agreement* is terminated in accordance with clause 40B(a), the *Contractor* shall indemnify the *Principal* against any cost, expense, loss, damage or other *Liability* suffered or incurred by the *Principal* to the extent it arises from such termination.

41 Notification of Claims

41.1 Not used

41.2 Not used

41.3 Notices of other Claims

Except for *Claims* for an *EOT*, a *variation* or a deemed *variation* (but excluding a deemed *variation* under subclause 14.2) and *Claims* under clause 37, the *Contractor* shall give the *Superintendent* the notice required by subclause 41.4 if it wishes to make a *Claim* in respect of a monetary entitlement of the *Contractor* under the *Contract* which the *Contract* provides for the determination of the entitlement to be undertaken by the *Superintendent*.

41.4 Prescribed Notice

The notice (a '*Prescribed Notice*') referred to in subclause 41.3 is a *Claim* within 10 *Business Days* of the first occurrence of the *direction* or other thing upon which the *Claim* is based, expressly specifying:

- (a) the *direction* or other thing upon which the *Claim* is based;
- (b) detailed particulars concerning the *direction* or other thing upon which the *Claim* is based;
- (c) the provision of the *Contract* on which the *Claim* is based;
- (d) the facts relied upon in support of the *Claim* in sufficient detail to permit verification; and
- (e) details of the amount *Claimed* and how it has been calculated.

41.5 Failure to give Prescribed Notice

Notwithstanding any other provision of the *Contract*, failure by the *Contractor* to give a *Prescribed Notice*:

- (a) in the form required by; or
- (b) by the time specified in,

subclause 41.4 shall disentitle the *Contractor* from making the relevant *Claim*.

41.6 Superintendent's decision

Within 20 *Business Days* of receipt of:

- (a) the *Prescribed Notice*; or
- (b) a *Claim* by the *Principal* in respect of an entitlement of the *Principal* under the *Contract* which is to be determined by the *Superintendent*,

the *Superintendent* shall assess the *Claim* and notify the parties of the assessment.

Unless a party within a further 20 *Business Days* of such notification gives a *Notice of Dispute* under subclause 42.1(a) which includes such assessment, the *Superintendent* shall certify the amount of any assessment as moneys due. Any moneys due from the *Principal* to the *Contractor* shall be moneys due and payable under subclause 37.2.

42 Dispute resolution

42.1 Notice of dispute

- (a) If a difference or dispute (together called a '*dispute*') between the parties arises in connection with the subject matter of the *Contract*, including a *dispute* concerning:

- (i) an act, default or omission of the *Superintendent*; or
- (ii) a *Claim*:
 - (A) in tort;
 - (B) under statute;
 - (C) for restitution based on unjust enrichment or quantum meruit; or
 - (D) for rectification or frustration,
 or like *Claim* available under the law governing the *Contract*,

then either party may give the other and the *Superintendent* a notice of *dispute* ('*Notice of Dispute*').

- (b) The *Notice of Dispute* shall:
 - (i) adequately identify and provide details of the *dispute*; and
 - (ii) specify a senior representative of that party who has authority to settle the *dispute*.

42.2 Not used

42.3 Not used

42.4 Senior representative resolution

- (a) Within 3 *Business Days* of receiving a *Notice of Dispute*, the other party shall give notice of the senior representative it allocates to the *dispute* to the party giving the *Notice of Dispute*.
- (b) Within 10 *Business Days* of receipt of the *Notice of Dispute*, the parties' senior representatives shall meet and attempt to resolve the *dispute* at that meeting.
- (c) All aspects of the meeting except the fact of occurrence shall be confidential and without prejudice to the parties' rights.

42.5 Expert determination

If, or to the extent that, the *dispute* is not resolved by the senior representatives within the 10 *Business Days* of receipt of the *Notice of Dispute* (or within any further period agreed in writing by the senior representatives), either party may submit the *dispute* to expert determination in accordance with the version of the Expert Determination Rules of The Institute of Arbitrators & Mediators Australia in force at the date of the submission.

42.6 The expert

- (a) The parties shall, if subclause 42.5 applies, agree on the expert within 5 *Business Days* of the *dispute* having been submitted to expert determination. The parties shall use their best endeavours to choose an expert with skills most appropriate to the *dispute*, having regard to the nature of the *dispute*. For example, where the *dispute* relates to:
 - (i) a *direction* of the *Superintendent* regarding a standard of construction, the expert will have experience relevant to that type of construction; and
 - (ii) the interpretation of the *Contract*, the expert will be legally trained.
- (b) Where:
 - (i) the parties fail to agree on the expert within the time specified in subclause 42.6(a); or
 - (ii) the expert to which the parties have agreed:
 - (A) is unavailable;

- (B) declines to act;
- (C) does not respond within 5 *Business Days* to a request by one or both parties for advice as to whether he or she is able to conduct the determination; or
- (D) does not make a determination within the time specified in the *Expert Determination Agreement*,

then either party may apply to the Chair (for the time being) of the New South Wales Chapter of The Institute of Arbitrators & Mediators Australia, or his or her nominee, to select an appropriate expert.

- (c) The expert shall act as an expert and not as an arbitrator.

42.7 Agreement with expert

- (a) The parties and the expert selected pursuant to subclause 42.6, shall enter into the *Expert Determination Agreement* (or such other agreement as the parties and expert may agree) for the resolution of the *dispute*.
- (b) In addition the expert shall:
 - (i) disclose to the parties any interest it has in the outcome of the determination; and
 - (ii) not communicate with one party to the determination without the knowledge of the other.

42.8 Determination of expert

The determination of the expert shall be in writing and, subject to subclause 42.9, shall be given effect to by the parties.

42.9 Litigation

- (a) The determination of the expert shall be final and binding on the parties except:
 - (i) in the case of fraud or manifest error of fact or law; or
 - (ii) where:
 - (A) the monetary amount *Claimed* by a party or determined by the expert is more than the amount specified in *Item 44*; or
 - (B) the determination concerns a matter other than a monetary amount, and a party commences court proceedings within 60 *Business Days* of the expert's determination.
- (b) If subclause 42.9(a)(ii) applies, the expert's determination shall be final and binding upon the parties until:
 - (i) the court proceedings are dismissed or discontinued; or
 - (ii) judgment is entered in the court proceedings.
- (c) If subclause 42.9(a)(ii) applies and the court proceedings are dismissed or discontinued, the expert's determination shall be final and binding upon the parties after the dismissal or discontinuance.

42.10 Condition precedent

Subject to subclause 42.11 and without limiting subclause 42.9, it is a condition precedent to a party being entitled to commence court proceedings that the procedures referred to in subclauses 42.1 to 42.9 first be complied with.

42.11 Summary relief

Nothing in this clause 42 shall prejudice the right of a party to institute proceedings to enforce payment due under the *Contract* or to seek injunctive or urgent declaratory relief.

42.12 Survival

This clause 42 will survive the expiration, termination or frustration of the *Contract*.

42.13 Linked disputes

- (a) The parties acknowledge and agree that:
- (i) disputes between *FACS* and the *Principal* under the *Services Agreement* relating to *Linked Disputes* shall be conclusively resolved under and in accordance with the *Services Agreement*;
 - (ii) subject to clause 42.13(a)(i), to the extent a dispute is a *Linked Dispute*, the *Linked Dispute* will not be progressed while the dispute under the *Services Agreement* is in progress, and the running of time under, the parties' obligations to comply with clauses 42.1 – 42.9 of this *Contract* will be suspended; and
 - (iii) subject to clause 42.13(c) and the *Principal's* compliance with this clause 42.13, the *Contractor* and the *Principal* are bound by the resolution of the dispute under the *Services Agreement* to the extent of the *Linked Dispute*.
- (b) Where the *Principal* receives a *Notice of Dispute* under this *Contract* and the *Principal* considers that the dispute is a *Linked Dispute*, the *Principal* shall by notice in writing notify the *Contractor* of the *Linked Dispute*, including identifying the *Services Agreement* and *FACS*.
- (c) Where the *Principal* receives a *Notice of Dispute* which is a *Linked Dispute*, the *Principal* shall diligently and expeditiously pursue such *Entitlements* as may be claimable in relation to the related claim under the *Services Agreement* (including by passing to the *FACS* submissions to the extent required by the *Contractor* and employing the dispute resolution procedures in the *Services Agreement*), and promptly notify the *Contractor* upon, and provide details in relation to, the resolution of the related dispute under the *Services Agreement*.
- (d) If the *Principal* gives written notice to the *Contractor* of a *Linked Dispute* in accordance with clause 42.13(b), the *Contractor* shall except to the extent that the *Principal* fails to comply with clause 42.13(c), promptly pay to the *Principal* any reasonable third party costs incurred by the *Principal* (including adverse cost orders, awards and judgments but not including management or administration costs incurred in the ordinary course of the *Principal's* business) in submitting and pursuing the related dispute under the *Services Agreement* in accordance with this clause 42.13(d) to the extent to which the related dispute under the *Services Agreement* is a *Linked Dispute* or is the subject of a notice in writing notifying the *Contractor* of the *Linked Dispute*.

43 General

43.1 Waiver

A right created by the *Contract* cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same or of any other right of that party.

43.2 Entire agreement

The *Contract* constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties whether orally or in writing.

43.3 Further assurances

Each party shall promptly execute all documents and do everything necessary or desirable to give full effect to the arrangements contained in the *Contract*.

43.4 Severance

If any provision of the *Contract* or part of any provision of the *Contract* is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the provision (or where possible, the offending part) is to be severed from the *Contract* without affecting the enforceability, validity or legality of the remaining provisions (or parts of those provisions) which will continue in full force and effect.

43.5 Preservation of existing rights

The expiration, termination or frustration of the *Contract* does not affect any right that has accrued to a party before the expiration, termination or frustration date.

43.6 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the expiration, termination or frustration of the *Contract* for any reason will not merge on the occurrence of that event but will remain in full force and effect.

43.7 Counterparts

The *Contract* may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

43.8 Indemnities

- (a) Each indemnity contained in the *Contract* constitutes a separate and independent obligation of the party giving the indemnity from its other obligations under the *Contract*.
- (b) Any amount payable by the *Contractor* under any indemnity contained in the *Contract* is payable on demand being made by the *Principal*.
- (c) Any indemnity contained in the *Contract* survives the expiration, termination or frustration of the *Contract*.

43.9 Amounts due

Where no time is stated in the *Contract* for payment of an amount due from the *Contractor* to the *Principal*, that amount is payable on demand being made by the *Principal*. This subclause 43.9 does not apply to any amount that is due and payable, which is payable without demand being made by the *Principal*.

43.10 Set off

The *Principal* may deduct from moneys due from the *Principal* to the *Contractor* under the *Contract* or in connection with the subject matter of the *Contract* any money due from the *Contractor* to the *Principal* under the *Contract* including any money due under subclause 37.6.

43.11 Court jurisdiction

The parties submit to the non-exclusive jurisdiction of the courts of the jurisdiction in *Item 8* and any courts competent to hear appeals from those courts.

44 GST

44.1 Definitions

Words and phrases used in the *Contract* that are defined in the *GST Law* have the meaning given in that legislation where used in the *Contract*.

44.2 Consideration is GST-exclusive

Unless otherwise specified, all amounts payable under the *Contract* are exclusive of GST and shall be calculated without regard to GST.

44.3 GST payable on taxable supply

- (a) If a supply made under the *Contract* is a taxable supply, the recipient of that taxable supply ('*Recipient*') shall, in addition to any other consideration, pay to the party making the taxable supply ('*Supplier*') the amount of GST in respect of the supply.
- (b) The *Recipient* shall only be required to pay an amount of GST to the *Supplier* if and when the *Supplier* provides a valid tax invoice to the *Recipient* in respect of the taxable supply.
- (c) If there is an adjustment to a taxable supply made under the *Contract* then the *Supplier* shall provide an adjustment note to the *Recipient*.
- (d) The amount of a party's entitlement under the *Contract* to recovery or compensation for any of its costs, expenses, losses, damages or other liabilities is reduced by the input tax credits to which that party is entitled in respect of those costs, expenses, losses, damages or liabilities.

45 Financing

- (a) The *Contractor* acknowledges that the *Principal* is obtaining funding for *the Works* from the *Financier* and the *Contractor* agrees to do all things reasonably required by the *Principal* to assist the *Principal* in relation to such funding for *the Works*.
- (b) The *Contractor* agrees that, if requested by the *Principal*, the *Contractor*, without being entitled to compensation, shall enter into a side deed with the *Financier* and the *Principal* in a form reasonably required by the *Financier* (and approved by the *Principal* acting reasonably) at a time reasonably required by the *Principal*.
- (c) The *Contractor* shall cooperate with the *Financier* and supply the *Financier* with information which the *Financier* may, from time to time, reasonably request.

46 Meetings and reports

46.1 Calling of site meetings

The *Superintendent* may call a *site* meeting at any time.

46.2 Contractor's obligations

The *Contractor* shall, as requested by the *Superintendent*:

- (a) attend *site* meetings; and
- (b) ensure attendance of relevant *subcontractors* at appropriate *site* meetings.

46.3 Site meeting matters

Site meetings will be a forum for the discussion of any matters relevant to WUC.

46.4 Minutes of site meetings

If requested by the *Superintendent*, within 2 *Business Days* after each *site meeting* (or earlier if required by the *Superintendent*), the *Contractor* shall provide the *Superintendent* with written minutes of the meeting in the form required by the *Superintendent*.

46.5 Monthly meetings and reports

- (a) The *Contractor* shall meet with the *Principal*, the *Superintendent* and such other persons as advised by the *Superintendent* on a monthly basis and as otherwise required by the *Principal* or the *Superintendent*.
- (b) At each meeting, the following may be discussed:
 - (i) the progress of *WUC* as against the *program*;
 - (ii) any likely causes of delay in achieving *practical completion*;
 - (iii) the matters set out in Annexure Part J; and
 - (iv) any other matter required to be discussed by the *Principal*, the *Superintendent* or the *Contractor*.
- (c) At least one *Business Day* prior to each meeting, the *Contractor* shall provide the *Principal* and the *Superintendent* with an agenda and a report on the matters specified in subclause 46.5(b) and subclause 48.5.
- (d) Within 2 *Business Days* after each meeting, the *Contractor* shall provide the *Principal* and the *Superintendent* with minutes of the meeting in the form required by the *Superintendent*.

47 Ongoing Operations

- (a) The *Contractor* acknowledges that activities in buildings and areas forming part of the *site*, adjoining the *site* or in the vicinity of the *site* will continue during the carrying out of *WUC* (*'Ongoing Operations'*). The *Contractor* agrees that, during the carrying out of *WUC*, the *Contractor* shall ensure that the persons carrying out the *Ongoing Operations* continue to have quiet enjoyment of their premises and the *Contractor* shall:
 - (i) not interfere with or otherwise affect the *Ongoing Operations*;
 - (ii) maintain continuous and safe access to the *Ongoing Operations* for any person; and
 - (iii) comply with any *direction* of the *Superintendent* in this regard.
- (b) The *Contractor* shall indemnify the *Principal* against any cost, expense, loss, damage or other *Liability* suffered or incurred by the *Principal* to the extent it arises from a breach by the *Contractor* of this clause 47.

48 Work health and safety

48.1 Compliance with WHS Laws

- (a) At all times during the undertaking of *WUC* the *Contractor* shall identify and exercise all necessary precautions and take all reasonably practicable steps to ensure the health and safety of all persons on the *site* or who may be affected by *WUC*.
- (b) The *Contractor*:
 - (i) shall comply and shall ensure that it and the *subcontractors* and either's employees and agents comply with the *WHS Laws*;

- (ii) warrants that it is familiar with and has the capability, appropriate resources and processes to comply with the *WHS Laws*;
- (iii) shall develop and implement *WHS* processes and programs, including a *subcontractor* management system, to identify and manage *WHS* requirements; and
- (iv) shall ensure that any person engaged to provide any part of *WUC* who is required by any *legislative requirement* to have an *Approval* in order to perform that part of *WUC* has obtained the *Approval* prior to the commencement of that part of *WUC*.

48.2 Control and management of risks

- (a) The *Principal* and the *Contractor* acknowledge and agree that the *Contractor* has control of:
 - (i) the manner in which *WUC* is performed; and
 - (ii) all matters arising out of or as a consequence of the carrying out of or failure to carry out *WUC* that give rise or may give rise to risks to the health or safety of any person.
- (b) The *Contractor* shall, prior to the performance of any part of *WUC*:
 - (i) undertake an assessment of the *WHS* risks associated with the performance of *WUC* and identify and take all reasonably practicable steps to implement appropriate *WHS* risk control measures to eliminate or, if that is not reasonably practicable, to minimise, all such *WHS* risks; and
 - (ii) as required by the *Superintendent*, provide the *Principal* with details of the *WHS* risk assessment undertaken and evidence of implementation of appropriate *WHS* risk control measures required under subclause 48.2(b)(i).

48.3 Appointment of Contractor as Principal Contractor

Without limiting the *Contractor's* obligations under any other provision of the *Contract*:

- (a) the *Principal*:
 - (i) engages the *Contractor* as the *Principal Contractor* for the *Construction Project*; and
 - (ii) authorises the *Contractor* to have management and control of the *Workplace* and to discharge the duties of a *Principal Contractor*; and
- (b) the *Contractor* accepts the engagement as *Principal Contractor* and agrees to discharge the duties of a *Principal Contractor*.

48.4 Consultation, cooperation and coordination

The *Contractor* shall so far as is reasonably practicable consult, cooperate and coordinate *WUC* with:

- (a) any person identified in subclause 24.2(a) or subclause 24.2(b) who accesses the *site* or *WUC*; or
 - (b) any person who has control of access to or from the *site* or *WUC*,
- so as to:
- (c) achieve effective coordination of activities to ensure optimal health and safety risk management; and
 - (d) enable:
 - (i) the *Principal*, the *Contractor* and any person identified in subclause 24.2(a) or subclause 24.2(b); and
 - (ii) any person who has control of access to or from the *site* or *WUC*,

to comply with their respective obligations under all relevant *WHS Laws*.

48.5 Contractor's reporting obligations

- (a) The *Contractor* shall on the date required under subclause 46.5(c), submit to the *Principal* a report setting out all *WHS* issues relating to *WUC* in relation to the previous month. The report shall include the following:
- (i) information regarding any workplace safety incidents or near-misses including:
 - (A) details of the date, time and nature of the incidents or near-misses; and
 - (B) any action taken by the *Contractor* or any other person to eliminate or reduce risks to health and safety arising from the incidents or near-misses; and
 - (ii) certification to the *Principal* that:
 - (A) the *Contractor* has complied with its obligations as the *Principal Contractor* and, if not, details of the extent to which it has not done so;
 - (B) the *Contractor* has complied with the requirements of the *WHS Laws* applicable to it as a contractor and, if not, details of the extent to which it has not done so; and
 - (C) each of the *Contractor's* employees and *subcontractors* have complied with the requirements of the *WHS Laws* applicable to the employee or the *subcontractor*.
- (b) The *Principal* may require the *Contractor* to include additional information in the report required under subclause 48.5(a).

48.6 Notification and provision of information

- (a) Subject to subclause 48.6(c), the *Contractor* shall:
- (i) immediately orally notify the *Superintendent* and the *Principal* of any incident, lost time incident or injury which occurs during the undertaking of *WUC*;
 - (ii) within 2 *Business Days* of any incident, lost time incident or injury referred to in subclause 48.6(a)(i), provide a report to the *Principal* (with a copy to the *Superintendent*) giving complete details of the incident, lost time incident, injury or damage, including the results of investigations into its cause and any recommendations or strategies for prevention of a recurrence;
 - (iii) immediately notify the *Superintendent* of any act, fact or circumstance associated with the activities of the *Contractor* or any other person that might affect the ability of the *Contractor* to perform any part of *WUC* in a manner that is safe and without risks to the health or safety of any person;
 - (iv) prior to the commencement of *WUC*, provide the *Superintendent* with a copy of any *Approval* that any person engaged to provide any part of *WUC* is required by any *legislative requirement* to have in order to perform that part of *WUC*;
 - (v) maintain and prepare such necessary records, documents and information concerning the health, safety and welfare of persons arising out of or as a consequence of the carrying out of or failure to carry out *WUC*;
 - (vi) as the *Superintendent* may require, provide a report to the *Principal* (with a copy to the *Superintendent*) concerning:
 - (A) the health, safety and welfare of persons arising out of or as a consequence of the carrying out of or failure to carry out *WUC*; and
 - (B) the *Contractor's* compliance or non-compliance with its *WHS* obligations under the *Contract*;

- (vii) at all reasonable times provide the *Principal* with access to such records, documents and information as may be necessary to establish the *Contractor's* compliance or non-compliance with its *WHS* obligations under the *Contract*;
- (viii) as the *Superintendent* may require, provide the *Principal* with audits of the *Contractor's* *WHS* management system and the *Contractor's*:
 - (A) *Principal Contractor* *WHS* Management Plan;
 - (B) *WHS* Management Plan; and
 - (C) *Safe Work Method Statement*,
 as applicable;
- (ix) if the *Contractor*:
 - (A) is appointed the *Principal Contractor*, before the *Contractor* commences *WUC*, provide the *Superintendent* and the *Principal* with a copy of the *Contractor's* *Principal Contractor* *WHS* Management Plan; or
 - (B) is not appointed the *Principal Contractor*, before the *Contractor* commences *WUC*, provide the *Principal* with a *WHS* Management Plan relating to *WUC* (with a copy to be provided to the *Superintendent*); and
- (x) if *WUC* includes the carrying out of *High Risk Construction Work*, before the *Contractor* commences the *High Risk Construction Work*, provide the *Superintendent* and the *Principal* with a copy of the *Contractor's* *Safe Work Method Statement*.
- (b) Subject to subclause 48.6(c), if the *Contractor* is required by any legislative requirement to give any notice of any event specified in subclause 48.6(a)(i) to an appropriate *Authority*, the *Contractor* shall at the same time or as soon practicable thereafter give a copy of the notice to the *Superintendent* and the *Principal*.
- (c) Any review or inspection by the *Principal* or the *Superintendent* of any information provided by the *Contractor* under subclause 48.6(a) or subclause 48.6(b) shall not constitute the verification or acceptance by the *Principal* or the *Superintendent* of the adequacy of the information, which remains the sole responsibility of the *Contractor*.

48.7 Design report

If the *Contractor*, for the purposes of clause 295 of the *WHS Regulation*, is the designer of a structure or any part of a structure that is to be constructed, the *Contractor* shall provide the *Principal*, within such time as required by the *Principal*, with the report required by clause 295 of the *WHS Regulation*.

If the *Contractor*, for the purposes of clause 295 of the *WHS Regulation*, has commissioned the design of a structure or any part of a structure that is to be constructed, the *Contractor* shall provide the *Principal* with a copy of the report required by clause 295 of the *WHS Regulation* within 5 *Business Days* of receipt of the report.

49 Application of Contract prior to date of Contract

Any act or omission of:

- (a) the *Principal* or its consultants, agents or authorised persons;
- (b) any other contractor of the *Principal*;
- (c) the *Superintendent*; or
- (d) the *Contractor*, a *subcontractor* or the employees or agents of any of them,

prior to the date of the *Contract* that relates to the *Contract* is deemed to have been performed or not performed, as applicable, under or in relation to, as applicable, the *Contract*.

The rights and obligations of the parties under the *Contract* apply from the date of the *Contract* and the date of commencement of *WUC* or, if they are different dates, whichever is earlier.

50 Home Building Legislation

- (a) The provisions of this clause 50 apply to the extent that *WUC* is residential building work.
- (b) The *Contractor* warrants that:
 - (i) the work will be done with due care and skill and in accordance with the plans and specifications set out in the contract;
 - (ii) all materials supplied by the *Contractor* will be good and suitable for the purpose for which they are used and that, unless otherwise stated in the contract, those materials will be new;
 - (iii) the work will be done in accordance with and will comply with the *Home Building Act* or any other law;
 - (iv) the work will be done with due diligence and within the time stipulated in the contract, or if no time is stipulated, within a reasonable time;
 - (v) if the work consists of the construction of a dwelling, the making of alterations or additions to a dwelling or the repairing, renovation, decoration or protective treatment of a dwelling, the work will result, to the extent of the work conducted, in a dwelling that is reasonably fit for occupation as a dwelling; and
 - (vi) the work and all materials used in doing the work will be reasonably fit for the specified purpose or result, if the *Principal* expressly makes it known to the *Contractor*, the particular purpose for which the work is required or the result that the *Principal* desires the work to achieve, so as to show that the *Principal* relies on the *Contractor's* skill and judgment.
- (c) All work done under this contract will comply with:
 - (i) the Building Code of Australia (to the extent required under the Environmental Planning and Assessment Act 1979, including any regulation or other instrument made under that Act);
 - (ii) all other relevant codes, standards and specifications that the work is required to comply with under any law; and
 - (iii) the conditions of any relevant development consent or complying development certificate.
- (d) Despite clause 50(c), this contract may limit the *Liability* of the *Contractor* for a failure to comply with clause 50(c) if the failure relates solely to:
 - (i) a design or specification prepared by or on behalf of the *Principal* (but not by or on behalf of the *Contractor*); or
 - (ii) a design or specification required by the *Principal*, if the *Contractor* has advised the *Principal* in writing that the design or specification contravenes clause 50(c).
- (e) For the purposes of:
 - (i) clause 50(a), clause 50(b) and clause 50(g), 'residential building work' has the meaning given to that term in the *Home Building Legislation*; and
 - (ii) clause 50(b) 'dwelling' has the meaning given to that term in the *Home Building Legislation*.

- (f) The *Contractor* acknowledges and agrees that clauses 50(b), 50(c) and 50(d):
 - (i) are required by the *Home Building Legislation*; and
 - (ii) do not derogate from the other provisions of the *Contract*.
- (g) For the purposes of the *Home Building Legislation*, the completion of residential building work occurs on the *date of practical completion*.

50A Indemnity for breach of statutory warranties

The *Contractor* indemnifies the *Principal* against any *Claim*, loss, expense or damage of any nature, including financial loss and legal costs and expenses on an indemnity basis, suffered or incurred by the *Principal* arising out of or in connection with a breach of any of the warranties set out in clause 50 by the *Contractor* (or its subcontractors or consultants), but the indemnity shall be reduced proportionally to the extent that a negligent act or omission of the *Principal* or breach by the *Principal* may have contributed to the *Claim*, loss, expense or damage.

50B Contractor's licence

The *Contractor* warrants that it has, and will hold, a valid licence when performing the *WUC* as required under the *Home Building Act*.

50C Termination

- (a) The parties acknowledge that the *Contract* may be terminated in the circumstances provided by general law, however this does not prevent the parties agreeing to additional circumstances in which the *Contract* may be terminated.
- (b) The statement at clause 50C(a) above is included to satisfy the requirements of the *Home Building Act*. None of the provisions of the *Contract* will be construed or interpreted by reference to that statement.

50D Checklist

The checklist set out at Annexure Part Q is included as required by regulation 8 of the *Home Building Regulation*, but does not form part of the *Contract*.

51 Civil Liability Act

The operation of Part 4 of the *Civil Liability Act* is excluded in relation to all rights, obligations and liabilities of the parties with respect to any matter to which Part 4 of that Act would apply but for this clause 51.

52 Personal Property Securities Act

- (a) In this clause:
 - (i) '*Financing Statement*' has the meaning given to it in the *PPSA*;
 - (ii) '*Financing Change Statement*' has the meaning given to it in the *PPSA*;
 - (iii) '*PPS Register*' means the Personal Property Securities Register established under section 147 of the *PPSA*;
 - (iv) '*PPSA*' means the Personal Property Securities Act 2009 (Cth);
 - (v) '*Security Agreement*' has the meaning given to it in the *PPSA*;
 - (vi) '*Security Interest*' has the meaning given to it in the *PPSA*; and
 - (vii) '*Verification Statement*' has the meaning given to it in the *PPSA*.

- (b) The *Contractor* acknowledges and agrees that:
- (i) the *Contract* constitutes a *Security Agreement*; and
 - (ii) subclause 39.5 creates a *Security Interest* of the *Principal* in:
 - (A) all materials, equipment and other things intended for *WUC* which are located on-site or off-site;
 - (B) all *construction plant, temporary works* and other things on-site or off-site as are used by the *Contractor* or any *subcontractors*; and
 - (C) all *Project Documents*, ('*Collateral*').
- (c) The *Contractor*:
- (i) consents to the *Principal* registering the *Principal's Security Interest* in the *Collateral*; and
 - (ii) shall ensure that each *subcontractor* consents to the *Principal* registering the *Principal's Security Interest* in the *Collateral*.
- (d) The *Contractor* undertakes to:
- (i) promptly sign any further documents and provide any further information (such information to be complete, accurate and up-to date in all respects) which the *Principal* may reasonably require to:
 - (A) register a *Financing Statement* or *Financing Change Statement* on the *PPS Register* in relation to a *Security Interest* in the *Collateral*;
 - (B) register any other document on the *PPS Register* which is necessary to perfect the *Principal's Security Interest* in the *Collateral*; or
 - (C) correct a defect in any document referred to in clause 52(d)(i)(A) or clause 52(d)(i)(B);
 - (ii) not register, or permit to be registered by any third party including a *subcontractor*, a *Financing Statement* or a *Financing Change Statement* in respect of the *Collateral* without the prior consent of the *Principal*; and
 - (iii) keep full and complete records of the *Collateral*.
- (e) The *Principal* and the *Contractor* agree that, subject to the terms of the *Contract* and to the extent permitted by law, the following provisions of the *PPSA* do not apply to the *Contract*:
- (i) section 95;
 - (ii) section 121(4);
 - (iii) section 125;
 - (iv) section 129;
 - (v) section 130;
 - (vi) section 132(3)(d);
 - (vii) section 132(4);
 - (viii) section 135;
 - (ix) section 142; and
 - (x) section 143.

- (f) Unless otherwise agreed to by the *Principal*, the *Contractor* waives its right to receive a *Verification Statement* in accordance with section 157 of the *PPSA*.

53 Probity Investigation

- (a) **(Requirement for Probity Investigation):** *The Contractor* agrees that *FACS*, or the *Principal* (if required by *FACS*) may at any time, conduct a *Probity Investigation* in respect of the *Contractor*.
- (b) **(Consents required for Probity Investigation):** The *Contractor* shall cooperate with the *Principal* or *FACS* (as the case may be) and provide all consents necessary to enable the *Principal* or *FACS* to conduct any *Probity Investigation*.

Annexure to the Australian Standard
General Conditions of Contract for
Design and Construct

Part A

This Annexure is to be attached to the General Conditions of Contract and shall be read as part of the *Contract*.

<i>Item</i>		
1	<i>Principal</i> (clause 1)	St George Community Housing Limited ACN 133 729 503..... ABN 32 565 549 842.....
2	<i>Principal's address</i>	Level 5, 38 Humphreys Lane, Hurstville NSW 2220..... Phone (02) 9585 1499 Fax (02) 9585 1564..... Email: [# - insert]
3	<i>Contractor</i> (clause 1)	[# - insert] ACN [# - insert] ABN [# - insert].....
4	<i>Contractor's address</i>	[# - insert] Phone [# - insert] Fax [# - insert] Email: [# - insert]
5	<i>Superintendent</i> (clause 1)	[# - insert] ACN [# - insert] ABN [# - insert].....
6	<i>Superintendent's address</i>	[# - insert] Phone [# - insert] Fax [# - insert] Email: [# - insert]

- † 7 (a) *Date for practical completion*
(clause 1)
- OR
- (b) *Period of time for practical completion*
(clause 1)

- 8 Governing law New South Wales.....
(clause 1(h)) If nothing stated, that of the jurisdiction where the *site* is located

- 9 (a) *Currency* Australian dollars.....
(clause 1(g)) If nothing stated, that of the jurisdiction where the *site* is located
- (b) *Not used*
- (c) *Not used*

- 10 The *Principal's project requirements* are described in the following documents (clause 1)
 - 1 *Preliminary design* (if included in *Item 11*)
 - 2
 - 3
 - 4.....
 - 5.....

- 11 *Preliminary design* (clause 1)
 - (a) *A preliminary design* is included in the *Principal's project requirements*.
 - (b) The *preliminary design* documents are:
 - 1 Those documents identified in Appendix A of the Request for Tender (RFT)
 - 2
 - 3
 - 4.....
 - 5

- 12 Not used

† If applicable, delete and instead complete equivalent *Item* in the *separable portions* section of the Annexure Part A

13	(a) <i>Provisional sums</i> (clause 3)	Not applicable
	(b) Percentage for margin on <i>provisional sums</i> (clause 3(g))	10%
†	14 <i>Contractor's security</i>	
	(a) Form (clause 5)	Two unconditional undertakings, each without an expiry date, in a form approved by the <i>Principal</i> in its absolute and sole discretion (the form in Annexure Part B is approved) from a financial institution approved by the <i>Principal</i> in its absolute and sole discretion each for 2.5% of the <i>Initial Contract Sum</i>
	(b) Amount or maximum percentage of <i>Initial Contract Sum</i> (clause 5)	5.0% of the <i>Initial Contract Sum</i> If nothing stated, 5% of the <i>contract sum</i>
	(c) If retention moneys, percentage of each <i>progress certificate</i> (clause 5 and subclause 37.2)	Not applicable If nothing stated, 10%, until the limit in <i>Item 14(b)</i>
	(d) Time for provision (except for retention moneys) (clause 5)	Prior to commencement of <i>WUC</i>
	(e) Additional <i>security</i> for unfixed plant and materials (subclauses 5.4 and 37.3)	Not applicable\$.....
	(f) <i>Contractor's security</i> is reduced by (subclause 5.4)	50% of amount held If nothing stated, 50% of amount held
	(g) <i>Initial Contract Sum</i> percentage amount (subclause 5.7)	Not applicable
	(h) Additional <i>security</i> amount (subclause 5.7)	Not applicable
†	15 Application of subclause 9.3A	Subclause 9.3A [will / will not] apply. If nothing stated, subclause 9.3A will apply.

† If applicable, delete and instead complete equivalent *Item* in the *separable portions* section of the Annexure Part A
† If applicable, delete and instead complete equivalent *Item* in the *separable portions* section of the Annexure Part A

16	<i>Principal</i> -supplied documents (subclause 8.2)	Document	No. and type of copies
		1 <i>Principal's project requirements</i>	1.....
		2
		3
		4
		5.....
17	Documents, numbers of copies, and the times or stages at which they are to be supplied by the <i>Contractor</i> (subclause 8.3)	Document	No. and type of copies
		1 Final as-built drawings of <i>the Works</i>	2 x A1 plus electronic version
		2 Final operation and maintenance manuals for <i>the Works</i> (including software codes)	1
		3 Final Plan of Consolidation	2 x A3 plus electronic version
		4 Final Strata Sub-division Plan in registrable form	2 x A3 plus electronic version
18	Time for <i>Superintendent's</i> <i>direction</i> about documents (subclause 8.3)	10 <i>Business Days</i> If nothing stated, 10 <i>Business Days</i>	
19	Subcontracting (subclause 9.2)	Not applicable	
	(a) Subcontract <i>work</i> requiring approval (subclause 9.2(a))	Per subclause 9.2 (a)	

	(b) <i>Subcontractors to execute Subcontractor's Side Deed</i> (subclauses 9.2(d)(iv) and 9.2(e)(i))	Per subclause 9.2 (d)(iv) and 9.2 (e) (i)	
20	Novation (subclause 9.4)	<i>Consultant</i>	Particular part of the preliminary design
		Not applicable	
21	<i>Intellectual property rights granted to the Principal, the Alternative applying</i> (subclause 10.2)	Alternative 2 If nothing stated, Alternative 1 applies	
22	<i>Legislative requirements</i> (a) Those excepted (subclause 11.1)	[# - Set out any legislative requirements, other than those set out in DA Matrix, which are to be complied with by the Principal.].....	
	(b) Identified WUC (subclause 11.2(c)(iii))	None.....	
23	Insurance of the Works (clause 16A)		
	(a) Not used		
	(b) Provision for demolition and removal of debris	[# - insert]\$..... OR% of the contract sum	

- (c) Provision for *consultants'* fees and *Principal's* consultants' fees **[# - insert]**
\$.....
 OR
% of the *contract sum*
- (d) Value of materials or things to be supplied by the *Principal* **[# - insert]**
\$.....
- (e) Additional amount or percentage **[# - insert]**
\$.....
 OR
% of the total of clause 16A(c)(i) to clause 16A(c)(iv)
- (f) Maximum excess **[# - insert]**

24 Professional indemnity insurance (clause 16B and subclause 9.2(e))

- (a) Level of cover of *Contractor's* professional indemnity insurance shall be not less than
\$.....
 If nothing stated, \$5 000 000
- (b) Period for which *Contractor's* professional indemnity insurance shall be maintained after issue of the *final certificate* 7 years
 If nothing stated, 6 years
- (c) Maximum excess **[# - insert]**.....
- (d) Categories of *consultants* and levels of cover of *consultants'* professional indemnity insurance

	Category	Levels of cover
.....		\$.....
.....		\$.....
.....		\$.....
.....		\$.....
		If nothing stated, \$1 000 000
- (e) Period for which each *consultant's* professional indemnity insurance shall be maintained after issue of the *final certificate* 7 years
 If nothing stated, 6 years

- 25 Public liability, motor vehicle and plant and equipment insurance (clauses 17A and 17B)
 - (a) Not used
 - (b) Amount per occurrence shall be not less than
 [# - insert] \$.....
 If nothing stated, \$20 000 000
 - (c) Maximum excess [# - insert].....

- 26 (a) Date for giving access (subclause 24.1) [# - insert]
- (b) Date for giving possession (subclause 24.1) [# - insert]

- 27 The information, materials, documents or instructions and the times by, or periods within which they are to be given to the Contractor (clause 32)

Documents or instructions	Times/Periods
1.....
2.....
3.....
4.....
5.....

28 (a) *Qualifying causes of delay*
Causes of delay for which
EOTs may be granted
(clause 1 and subclause
34.3)

- (a) Subject to subclause 34.3(c), inclement weather occurring prior to the *date for practical completion*
.....
.....
.....
- (b) **(Compensable Extension Event):** a *Compensable Extension Event*;
- (c) **(Principal Act or Omission):** any act or omission of:
 - (i) the *Principal*; or
 - (ii) any *Associate* of the *Principal*,
 in connection with the *Delivery Service Package*, other than any act or omission which is authorised or permitted under a *Delivery Service Document, Standard or Law*;
- (d) **(Force Majeure Event):** a *Force Majeure Event*; and
- (e) **(Additional Requirements):** any additional requirements imposed by an *Authority* and made known to the *Principal* by that *Authority* after the *Principal* has obtained *Development Consent* in respect of a *site*.

(b) Number of days of inclement weather for which there is no *EOT* entitlement

The first [#] days of inclement weather occurring prior to the *date for practical completion*

† 29 Liquidated damages, rate (subclause 34.7) [# - insert]
.....per day \$..... per day

† 30 Bonus for early *practical completion* (subclause 34.8)
(a) Rate
.....per day \$..... per day

† If applicable, delete and instead complete equivalent *Item* in the *separable portion* section of the Annexure Part A

(b) Limit
.....\$.....

OR

.....% of contract sum
If nothing stated, there is no waiver

† 31 Other *compensable causes* **[# - consider whether any additional *compensable causes*
(clause 1 and subclause 34.9) should only apply before the *date for practical completion.*]**.....
.....
.....

32 *Defects liability period* **[# - insert]**
(clause 35) If nothing stated, 12 months

33 Progress claims
(subclause 37.1(a))
(a) Times for progress claims **[# - insert]**..... day of each month for *WUC*
done to the **[# - insert]**.....day of that month provided that a
progress claim can only be made up to and including the month in
which the *date of practical completion* occurs unless the *date of*
practical completion occurs after the **[# - insert]**...day of the month
in which case a progress claim can be made on the **[# -**
insert]....day of the month following the *date of practical*
completion

OR

(b) Stages of *WUC* for progress claims
.....
.....
.....
.....
.....
.....

34 Unfixed plant and materials for **[# - insert]**
which payment claims may be
made
(subclause 37.3)

35	Interest rate on overdue payments (subclause 37.5)	The prescribed rate under the uniform rules, each as referred to in section 101 of the Civil Procedure Act 2005 (NSW), applicable at the date of default.....	
36	(a) Time for <i>Principal</i> to rectify inadequate access (subclause 39.7(a)(iii))	[# - insert]..... <i>Business Days</i> If nothing stated, 10 <i>Business Days</i>	
	(b) Time for <i>Principal</i> to rectify inadequate possession (subclause 39.7(a)(iv))	[# - insert]..... <i>Business Days</i> If nothing stated, 10 <i>Business Days</i>	
37	Not used		
38	<i>Initial Contract Sum</i> (clause 1)	\$[# - insert] (exclusive of GST).....	
39	Percentage amount for preliminaries, profit and on-site and off-site overheads for variations (subclause 36.4(a)(ii))	[# - insert]%.....	
40	<i>Selected subcontractors</i> and <i>Other Subcontractors</i> (subclause 9.3)		
	(a) <i>Selected subcontractors</i> for specified work (subclause 9.3(a))	<i>Subcontractor</i>	<i>Work</i>
	(b) Novation of <i>Other Subcontractors</i> (subclause 9.3(c))	<i>Subcontractor</i>	<i>Work</i>
41	Manufacturers' and suppliers' warranties and installation certifications (subclause 9.6(a))	<i>Work</i> or item	Period of warranty or certification
42	<i>Subcontractor</i> warranties (subclause 9.2(e))	<i>Subcontractor</i>	

43	<i>Key Personnel</i> (subclause 23.2)	Person	Role
44	Expert determination limit (subclause 42.9(a)(ii)(A))	[\$500,000]	
45	Determination of Development Application No. (clause 1)	[# - insert relevant number]	
46	Delay costs (subclause 34.9)	As assessed by the <i>Superintendent</i> up to a maximum of \$[# - insert] per day	

47 Employee Checks

Employee Check	The <i>Contractor's</i> employees and <i>subcontractors</i> to whom it applies	Frequency of update
A 'national police check' conducted through the NSW Police.	Those who are reasonably likely to have access to Tenants or Household Members, whether supervised or unsupervised, and are not exempt.	<ul style="list-style-type: none"> • During the <i>defects liability period</i>
A 'working with children check' conducted through the NSW Office of the Children's Guardian in accordance with the <i>Child Protection (Working with Children) Act 2012</i> (NSW).	Those who are conducting child-related work and are not exempt under Part 4, regulation 20 of the <i>Child Protection (Working with Children) Regulation 2013</i> (NSW).	<ul style="list-style-type: none"> • During the <i>defects liability period</i>

Part A Separable Portions

- This section should be completed only if the *Contract* provides for *separable portions*.
- Complete separate pages for each *separable portion*, which should be numbered appropriately. Any balance of *the Works* should also be a *separable portion*.

	<i>Separable portion</i> (clause 1)	No.
	Description of <i>separable portion</i> (clause 1)
<p><i>Item</i></p>		
7	(a) <i>Date for practical completion</i> (clause 1)
	OR	
	(b) <i>Period of time for practical completion</i> (clause 1)
14	<i>Contractor's security</i>	
	(a) Form (clause 5)	
	(b) Amount or maximum percentage value of this <i>separable portion</i> (clause 5) If nothing stated, 5% of value of this <i>separable portion</i>
	(c) If retention moneys, percentage of each <i>progress certificate</i> applicable to this <i>separable portion</i> (clause 5 and subclause 37.2)%, until the limit in <i>Item 14(b)</i> If nothing stated, 10%, until the limit in <i>Item 14(b)</i>
	(d) Time for provision (except for retention moneys) (clause 5)	
	(e) Additional <i>security</i> for unfixed plant and materials (subclauses 5.4 and 37.3) \$
	(f) Not used	
15	Not used	

29 Liquidated damages, rate
(subclause 34.7)per day \$.....per day

30 Bonus for early *practical completion*
(subclause 34.8)

(a) Rate
.....per day \$.....per day

(b) Limit
.....\$.....

OR

.....% of value of this *separable portion*
If nothing stated, there is no waiver

31 Other *compensable causes* [# - consider whether any additional *compensable causes*
(clause 1 and subclause 34.9) should only apply before the *date for practical completion.*]
.....
.....

Annexure to the Australian Standard
General Conditions of Contract for
Design and Construct

Part B

Approved form of unconditional undertaking

(clause 1 – security)

At the request of

ACNABN.....(the *Contractor*) and in consideration of

ACNABN.....(the *Principal*) accepting this undertaking

in respect of the contract for.....

ACNABN.....(the *Financial Institution*) unconditionally undertakes to pay on demand any sum or sums which may from time to time be demanded by the *Principal* to a maximum aggregate sum of

.....(\$.....)

The undertaking is to continue until notification has been received from the *Principal* that the sum is no longer required by the *Principal* or until this undertaking is returned to the *Financial Institution* or until payment to the *Principal* by the *Financial Institution* of the whole of the sum or such part as the *Principal* may require.

Should the *Financial Institution* be notified in writing, purporting to be signed for and on behalf of the *Principal* that the *Principal* desires

payment to be made of the whole or any part or parts of the sum, it is unconditionally agreed that the *Financial Institution* will make the payment or payments to the *Principal* forthwith without reference to the *Contractor* and notwithstanding any notice given by the *Contractor* not to pay same.

Provided always that the *Financial Institution* may at any time without being required so to do pay to the *Principal* the sum of

.....(\$.....)

less any amount or amounts it may previously have paid under this undertaking or such lesser sum as may be required and specified by the *Principal* and thereupon the liability of the *Financial Institution* hereunder shall immediately cease.

Dated at this day of 20.....

**DEED OF NOVATION
SUBCONTRACTOR TO CONTRACTOR**

DEED OF NOVATION
CONSULTANT

Deletions, amendments and additions

1 The following clauses have been deleted from AS 4902—2000

As identified in this Annexure Part E.....

[This will be a comparison of the amended General Conditions against the standard AS4902 General Conditions].....

.....
.....
.....
.....
.....
.....
.....
.....

2 The following clauses have been amended and differ from the corresponding clauses in AS 4902—2000

As identified in this Annexure Part E.....

[This will be a comparison of the amended General Conditions against the standard AS4902 General Conditions].....

.....
.....
.....
.....
.....
.....
.....
.....

3 The following clauses have been added to AS 4902—2000

As identified in this Annexure Part E.....

[This will be a comparison of the amended General Conditions against the standard AS4902 General Conditions].....

.....
.....
.....
.....
.....
.....
.....
.....

**ANNEXURE PART F
DEED OF GUARANTEE**

**ANNEXURE PART G
DEVELOPMENT CONSENT**

ANNEXURE PART H

EXPERT DETERMINATION AGREEMENT

1 Background

- (a) By contract made on [date] (**Contract**) the Principal engaged the Contractor for the design and construction of the Works.
- (b) The Principal and the Contractor have agreed that, subject to the provisions of clause 42 of the Contract and this Agreement, disputes will be submitted to expert determination in accordance with the version of The Institute of Arbitrators & Mediators Australia Expert Determination Rules in force at the date of the submission.

2 Request to Determine and Acceptance

- (a) The Principal and the Contractor hereby request [expert name] (**Expert**) to determine the dispute outlined in the Notice of Dispute dated [date] annexed to this Agreement by issuing a written determination.
- (b) By signing this Agreement, the Expert agrees to comply with such request in accordance with the terms of this Agreement.

3 Written Submissions

- (a) Within 10 Business Days of the Expert's acceptance to act as expert in accordance with this Agreement, the party giving the Notice of Dispute (**Notifying Party**) shall provide a written submission on the dispute in support of the Notifying Party's contention to both the other party (**Other Party**) and the Expert.
- (b) Within 10 Business Days of the Other Party receiving the information specified in clause 3(a), the Other Party or its nominee shall provide a written response to the written submission of the Notifying Party to both the Notifying Party and the Expert.
- (c) If the Expert decides that further information or documents are required for the determination of the dispute, the Expert may:
 - (i) require further written submissions or documents from either or both the Principal and the Contractor; and
 - (ii) call a meeting between the parties and the Expert in accordance with clause 4 below.

4 Meeting

- (a) If the Expert considers it appropriate, the Expert may arrange a meeting with the parties to discuss the dispute at a venue and time convenient for the parties.
- (b) If such a meeting is arranged, the following will apply:
 - (i) at least 10 Business Days prior to the meeting, the Expert will inform the parties of the matters to be addressed at the meeting;
 - (ii) the parties will appear before the Expert at the meeting to make representations as to the matters the subject of the meeting;
 - (iii) the meeting will be held in private;
 - (iv) transcripts of the meeting will be taken and be available to the Expert and the parties if required by either party;
 - (v) either party may be accompanied by legal or other representatives; and

- (vi) the parties agree to be bound by such procedural directions as may be given by the Expert both in preparation for and during the course of the meeting.

5 Determination by Expert

- (a) Unless otherwise agreed by the parties, within 15 Business Days following receipt by the Expert of the parties' submissions, or any meeting referred to in clause 4 (whichever is later), the Expert will determine the dispute and notify such determination in writing to the Principal and the Contractor.
- (b) Where the Expert's determination contains:
 - (i) a clerical mistake;
 - (ii) an error arising from an accidental slip or omission;
 - (iii) a material miscalculation of figures or mistake in the description of any person, matter or thing; or
 - (iv) a defect of form,
 the Expert will correct the determination.

6 Role of Expert

The Expert will:

- (a) act as an expert and not as an arbitrator;
- (b) proceed in any manner the Expert thinks fit without being bound to observe the rules of natural justice or the rules of evidence;
- (c) take into consideration all documents, information and other written and oral material that the parties provide in accordance with this Agreement;
- (d) conduct any investigation which the Expert considers necessary to resolve the dispute;
- (e) examine such documents, and interview such persons, as the Expert may require;
- (f) reach a decision from the Expert's knowledge and expertise and, where the Expert considers it appropriate, the Expert may consult with the Expert's own advisers and consultants including lawyers, engineers or other technical consultants and accountants to assist the Expert in the Expert's determination;
- (g) make such directions for the conduct of the determination as the Expert considers necessary; and
- (h) act with expedition with a view to issuing the determination as soon as practicable.

7 Liability of Expert

The Expert is not liable to the Principal or the Contractor for or in respect of any act or omission in the discharge or purported discharge of its functions unless such act or omission is shown to have been fraudulent or grossly negligent.

8 Costs

- (a) Each party's costs in respect of any expert determination will be paid by the parties as determined by the Expert. If the parties agree that the Expert is not to make a determination, each party will pay its own costs.
- (b) The Expert's costs (which include the cost of any advisers or consultants engaged by the Expert) will be paid by the parties as determined by the Expert. If the parties agree that the Expert is not to make a determination, each party will pay one half of the Expert's costs.

9 GST

- (a) Words used in this Agreement that are defined in the GST Law have the meaning given in that legislation where used in this Agreement.
- (b) Unless otherwise specified, all amounts payable under this Agreement are exclusive of GST and will be calculated without regard to GST.
- (c) If a supply made under this Agreement is a taxable supply, the recipient of that taxable supply (**Recipient**) will, in addition to any other consideration, pay to the party making the taxable supply (**Supplier**) the amount of GST in respect of the supply.
- (d) The Recipient will only be required to pay an amount of GST to the Supplier if and when the Supplier provides a valid tax invoice to the Recipient in respect of the taxable supply.
- (e) If there is an adjustment to a taxable supply made under this Agreement then the Supplier will provide an adjustment note to the Recipient.
- (f) The amount of a party's entitlement under this Agreement to recovery or compensation for any of its costs, expenses, losses, damages or other liabilities is reduced by the input tax credits to which that party is entitled in respect of those costs, expenses, losses, damages or liabilities.

10 Confidentiality

All proceedings and submissions relating to the determination of a dispute by the Expert in accordance with this Agreement will be kept confidential between the parties and the Expert. No information will be divulged to any other party at any time or in any circumstances except with the prior written consent of the parties or as may be required by law.

11 Governing Law

- (a) The laws applicable in New South Wales govern this Agreement.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

12 Definitions

Any term used in this Agreement which is defined in the Contract has the meaning given to that term in the Contract.

EXECUTED by the **Principal** in accordance)
with section 127 of the Corporations Act:)
)

.....
Signature of Director

.....
Signature of Director/Secretary

.....
Name of Director

.....
Name of Director/Secretary

.....
Date

EXECUTED by the **Contractor** in accordance)
with section 127 of the Corporations Act:)
)

.....
Signature of Director

.....
Signature of Director/Secretary

.....
Name of Director

.....
Name of Director/Secretary

.....
Date

EXECUTED by the **Expert** in accordance with)
section 127 of the Corporations Act:)
)

.....
Signature of Director

.....
Signature of Director/Secretary

.....
Name of Director

.....
Name of Director/Secretary

.....
Date

ANNEXURE PART I
STATUTORY DECLARATION

Statutory declaration in the matter of the agreement dated [] (**agreement**) between

[#Principal] [#ACN] of [#address] (**Principal**)

and

[#Contractor] [#ACN] of [#address] (**Contractor**)

I, [#insert], of [#insert] in the state of New South Wales, [#occupation], do solemnly and sincerely declare that:

1 I have knowledge of the relevant facts and am authorised by the Contractor to make this statutory declaration on its behalf in relation to progress claim number [#insert] submitted by the Contractor on [#insert].

2 All amounts payable to subcontractors of the Contractor for work done in connection with WUC from the date of commencement of WUC to the date of this declaration have been paid.

3 All remuneration payable to employees of the Contractor for work done in connection with WUC from the date of commencement of WUC to the date of this declaration has been paid.

4 All 'workers compensation insurance premiums' (as that term is defined in section 175B of the Workers Compensation Act 1987 (NSW) (**Workers Compensation Act**)) payable by the Contractor in respect of WUC from the date of commencement of WUC to the date of this declaration have been paid. A copy of the certificate of currency for the insurance to which those premiums relate is attached to this declaration.

[#Certificate of currency to be attached.]

5 The Contractor [#is/is not] a 'principal contractor' (as that term is defined in section 175B of the Workers Compensation Act) in connection with WUC.

6 [The Contractor has received, in its capacity as a 'principal contractor' (as that term is defined in section 175B of the Workers Compensation Act) in connection with WUC, a written statement for the purposes of section 175B of the Workers Compensation Act from each 'subcontractor' (as that term is defined in section 175B of the Workers Compensation Act).]

[Only to be included if Contractor is a 'principal contractor'.]

7 The Contractor is registered as an employer under the Payroll Tax Act 2007 (NSW) (**Payroll Tax Act**).

8 All payroll tax payable by the Contractor in respect of wages paid or payable to the Contractor's employees for work done in connection with WUC from the date of commencement of WUC to the date of this declaration has been paid.

9 The Contractor [#is/is not] a 'principal contractor' (as that term is defined in clause 17 of Schedule 2 of the Payroll Tax Act) in connection with WUC.

10 [The Contractor has received in its capacity as a 'principal contractor' (as that term is defined in clause 17 of Schedule 2 of the Payroll Tax Act) in connection with WUC, a written statement for the purposes of clause 18 of Schedule 2 of the Payroll Tax Act from each 'subcontractor' (as that term is defined in clause 17 of Schedule 2 of the Payroll Tax Act).]

[Only to be included if Contractor is a 'principal contractor'.]

11 I am not aware of anything which would contradict the statements made in this declaration or in the written statements provided to the Contractor referred to in this declaration.

Any term used in this declaration which is defined in the agreement has the same meaning as in the agreement.

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900 (NSW).

DECLARED at)
this [] day of [] before me:)

_____)
Signature of authorised witness)

_____)
Name of authorised witness)
(block letters))

_____)
Address of authorised witness)

Justice of the Peace */ notary public */ legal practitioner)
holding a current practising certificate under the Legal)
Profession Act 2004 (NSW)*)

_____) Signature of declarant
Capacity in which authorised witness takes the statutory)
declaration)

* Delete whichever is not applicable

And as a witness, I certify the following matters concerning the person who made this declaration:

[For 1 delete whichever option is inapplicable]

- 1. #I saw the face of the person.
- 1. #I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering.‡

[For 2 delete whichever option is inapplicable]

- 2. #I have known the person for at least 12 months.
- 2. #I have confirmed the person’s identity using the following identification document:

[list identification document. Identification document relied on may be an original or certified copy§]

‡ The only “special justification” for not removing a face covering is a legitimate medical reason.
§ “Identification documents” include a drivers licence, Medicare card, credit card, citizenship certificate, birth certificate and passport.

Part D

Annexure to the
Australian Standard General Conditions of Contract
AS 4000 – 1997

ANNEXURE PART J MONTHLY REPORT REQUIREMENTS

1. Procedural / Administration issues
 - a. List of project correspondence
 - b. Current management chart

2. Key issues and resolutions report
 - a. Status of outstanding items
 - b. New items

3. Contractual / Legal issues

4. Authorities
 - a. Permits and approvals

5. Design
 - a. Status reports
 - b. Outstanding issues
 - c. New issues

6. Construction report
 - a. Progress / Program status
 - b. Matters affecting progress
 - i. Procurement
 - ii. Manufacture
 - iii. Delivery
 - iv. Construction issues
 - c. Variations
 - d. Subcontractors
 - e. Manpower statistics

- f. Plant and equipment on site
 - g. Rainfall / inclement weather records
 - h. Quality assurance issues
 - i. Industrial relations issues
 - j. Environmental issues
 - k. Insurance claims submitted and status
7. Financial reports
- a. Progress claims summary
 - b. Other claims summary
 - c. Certification and payment summary
 - d. Draw-down forecast
 - e. Retention Money in Trust from Subcontractors
8. Work health and safety report (in accordance with subclause 48.5)
9. Commissioning reports
- a. Status of commissioning / testing
 - b. Status of as-built drawings
 - c. Status of operation and maintenance manuals
10. Appendix
- a. Progress photographs
 - b. Other documents referenced from above

**ANNEXURE PART K
DEED OF NOVATION
NEW PRINCIPAL**

ANNEXURE PART L
SITE

**ANNEXURE PART M
SUBCONTRACTOR'S SIDE DEED**

[Note: To remove all reference to limitations to liability for the Contractor]

**ANNEXURE PART N
SUBCONTRACTOR WARRANTY**

**ANNEXURE PART O
MORAL RIGHTS CONSENT AND WAIVER FORM**

I [insert author’s name], in respect of the Information, ideas or concepts created by me in relation to [# - insert project details] (Material):

- 1 consent to [# - insert Principal details] (Principal) and [# - insert Contractor’s details] (Contractor), anyone authorised by the Principal or the Contractor, and the Principal’s and the Contractor’s licensees, successors, permitted assignees and novatees, doing or omitting to do anything, for any purpose, which may infringe any or all moral rights (as defined in the Copyright Act 1968 (Cth)) granted to me; and
- 2 to the extent permitted by laws outside Australia, waive to the Principal and the Contractor, anyone authorised by the Principal or the Contractor, and the Principal’s and the Contractor’s licensees, successors, permitted assignees and novatees, any or all moral rights (or rights known as “droit moral”) granted to me,

including the right to edit, change, copy, add to, take from, adapt or translate my Material, and the right not to have my Material attributed to me.

Information means any material, whether tangible or intangible, in any form, including documents, records, software, data and any other information.

SIGNED by

Signature	Date

.....
Name of signatory

WITNESSED by

Signature	Date

.....

Name of witness

ANNEXURE PART P
DA MATRIX

ANNEXURE PART Q

Checklist under Schedule 2 of the Home Building Regulation 2014 (NSW)

Checklist

- | | | | |
|----|--|------------------------------|-----------------------------|
| 1 | Have you checked that contractor holds a current contractor licence? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2 | Does the licence cover the type of work included in the contract? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3 | Is the name and number on the contractor's licence the same as on the contract? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4 | Is the work to be undertaken covered in the contract, drawings or specification? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 5 | Does the contract clearly state a contract price or contain a warning that the contract price is not known? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 6 | If the contract price may be varied, is there a warning and an explanation about how it may be varied? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 7 | Are you aware of the cooling-off provisions relating to the contract? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 8 | Is the deposit within the legal limit of 10%? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 9 | Does the contract include details of the progress payments payable under the contract? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 10 | Do you understand the procedure to make a variation to the contract? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 11 | Are you aware of who is to obtain any council or other approval for the work? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 12 | Do you understand that you are not required to pay the contractor a deposit or any progress payments until the contractor has given you a certificate of insurance under the Home Building Compensation Fund (except where the work is of a kind that does not require insurance)? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 13 | Has the contractor given you a copy of the Consumer Building Guide, which provides key information about your rights and responsibilities under NSW's home building laws and where to get more information? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 14 | Does the contract include a statement about the | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

circumstances in which the contract may be terminated?

Signatures

Do not sign the contract unless you have read and understand the clauses as well as the notes and explanations contained in the contract and this document.

If you have answered “no” to any question in the checklist, you may not be ready to sign the contract. Both the contractor and the owner should retain an identical signed copy of the contract including the drawings, specifications and other attached documents. Make sure that you initial all attached documents and any amendments or deletions to the contract.

Signed copy of contract

Under the *Home Building Act 1989* a signed copy of the contract shall be given to the owner within 5 working days after the contract is entered into.

Home Building Compensation Fund

The contractor shall provide you with a certificate of insurance under the Home Building Compensation Fund before the contractor commences work and before the contractor can request or receive any payment.

Acknowledgement of owners

I/We have been given a copy of the Consumer Building Guide and I/we have read and understand it.
I/We have completed the checklist and answered “Yes” to all items on it.

Note.

Where the owner is a company or partnership or the contract is to be signed by an authorised agent of the owner, the capacity of the person signing the contract, eg director, shall be inserted.

Signature

Name [*print*]

Capacity [*print*]

Signature

Name [*print*]

Capacity [*print*]

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SGCH Group

Procurement & Tendering Procedure

February 2016

This procedure has been prepared to provide a detailed framework for the procurement of services from Service Providers.

SGCH Group Procurement & Tendering Procedure – February 2016

Document Status	Final
Prepared by:	Matthew Ryan – Assistant Development Manager – D&C
Released by:	George Bakopoulos – General Manager – D&C
Date:	29 January 2016
Reference #	
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TABLE OF CONTENTS

1	Introduction	6
1.1	Context and Scope	6
1.2	Principals	6
1.3	The Procurement Process	7
1.4	Critical Issues	7
1.4.1	Probity & Corruption Prevention	7
1.4.2	Financial Due Diligence	7
1.4.3	Social Procurement	8
1.4.4	Building Life-Cycle and Quality – Asset Maintenance and Builder Procurement.....	8
1.4.5	Legal Considerations	8
1.4.6	Record Keeping	9
1.5	Glossary	9
2	Planning The Procurement Process	12
2.1	Initial Planning	12
2.1.1	Steps in the Initial Planning Process	12
2.2	Tender Methods	12
2.2.1	Open Tender	13
2.2.2	Multi-Stage Tendering	14
2.2.3	Selective Tendering	15
2.2.4	Limited Tendering	15
2.3	Tender Method Selection	15
2.3.1	Tender Method A	15
2.3.2	Tender Method B	16
2.3.3	Tender Method C	16
2.3.4	Tender Method D	16
3	Approach To Market	17
3.1	General	17
3.1.1	Composition of the TEC	17
3.2	Request for Tender Documentation	17
3.3	Components	18
3.4	Conditions of Tendering	18
3.5	Pre-Tender Estimates	18

SGCH Group Procurement & Tendering Procedure – February 2016

3.6	Tender Evaluation Plan	19
3.7	Electronic Tendering.....	19
3.8	Risk Management.....	19
4	Tender Process	21
4.1	Issuing the RFT	21
4.1.1	Advertisement and Invitations	21
4.1.2	Electronic Tender Notification	21
4.2	Tender Period.....	21
4.3	Enquiries and Meetings.....	22
4.3.1	Contact Person.....	22
4.3.2	Information to Tenderers	22
4.3.3	Briefing Meetings.....	22
4.4	Tender Addenda.....	22
4.5	Receipt and Tender Opening	23
5	Tender Evaluation.....	24
5.1	General Objectives	24
5.2	Evaluation Methodology	24
5.2.1	Evaluation Criteria	24
5.3	Tender Evaluation Committee	25
5.4	Technical Expert Consultant.....	25
5.5	Probity Advisor	25
5.6	Evaluation Process.....	26
5.6.1	Initial Evaluation and Assessment.....	26
5.6.2	Detailed Evaluation	26
5.7	Eligibility of Tenderers	27
5.8	Qualifications, Departures and Scope Changes.....	27
5.9	Risk Management.....	28
5.10	Clarifications and Tender Negotiation	28
5.11	Recommendation and Review.....	29
5.11.1	Tender Recommendation Report	29
5.11.2	Review & Verification	29
5.11.3	Probity Audit.....	29
5.11.4	Approval	29
6	Tender Award & Debriefing	30

SGCH Group Procurement & Tendering Procedure – February 2016

6.1	Contract Award.....	30
6.2	Unsuccessful Tenderers.....	30
6.2.1	Debriefing.....	30
6.3	Tenderer Complaints.....	30
7	Performance Review & Improvement.....	31
7.1	Lessons Learnt.....	31
7.2	Continuous Improvement.....	31
	Appendix A – Register of Procurement Documents.....	Error! Bookmark not defined.
	Appendix B – NSW Government Code of Practice for Procurement.....	Error! Bookmark not defined.
	Appendix C – Staff Code of Conduct and Ethics.....	Error! Bookmark not defined.
	Appendix D – Social Procurement Policy.....	Error! Bookmark not defined.
	Appendix E – Social Procurement Procedure.....	Error! Bookmark not defined.
	Appendix F – Request for Proposal template.....	Error! Bookmark not defined.
	Appendix G – Request for Tender template.....	Error! Bookmark not defined.
	Appendix H – Tender Evaluation Plan template.....	Error! Bookmark not defined.
	Appendix I – Notice of Information to Tenderers.....	Error! Bookmark not defined.
	Appendix J – Tender Addendum template.....	Error! Bookmark not defined.
	Appendix K – Schedule of Tenders Received template.....	Error! Bookmark not defined.
	Appendix L – Tender Evaluation template.....	Error! Bookmark not defined.
	Appendix M – Tender Evaluation Matrix template.....	Error! Bookmark not defined.
	Appendix N – Tender Form.....	Error! Bookmark not defined.
	Appendix O – Qualifications, Departures and Scope Changes Table template.....	Error! Bookmark not defined.
	Appendix P – Tender Method B,C,D Recommendation Report template.....	Error! Bookmark not defined.
	Appendix Q – Tender Evaluation Checklist.....	Error! Bookmark not defined.
	Appendix R – Letter of Award template.....	Error! Bookmark not defined.
	Appendix S – Letter of Intent template.....	Error! Bookmark not defined.
	Appendix T – Lessons Learned template.....	Error! Bookmark not defined.

1 Introduction

1.1 Context and Scope

SGCH Group (SGCH) is committed to the implementation of best practice in its procurement and Tendering activities. This procedure provides the overall policy and implementation framework for the procurement of Contracts for Service Providers for services such as Construction Contractors, Asset Maintenance, IT, and Insurance Providers. It also communicates the intention of SGCH to carry out procurement and Tendering activities generally in accordance with the NSW Government Code of Practice for Procurement – 2005 (Appendix B) and other related guidelines.

This procedure applies to the SGCH Group of companies and its subsidiaries (the “SGCH Group”)

The procedure has been prepared to:

- provide a consistent and structured approach to the planning and implementation of procurement including Tendering and associated processes, and
- confirm how procurement and Tendering activities will align with the broader corporate governance and management framework of SGCH as an organisation.

1.2 Principals

All operations and activities of SGCH are underpinned by the organisations core values:



Support A business environment that is caring and provides support and encouragement to everyone involved in managing, delivering and using our services.



Accountability Being transparent and accountable to our stakeholders for our actions and decisions, and being collectively and individually professional in the way we conduct business.



Respect For the unique contribution of our staff and partners and for clients, whatever their circumstances; willingness to listen to and gain understanding of others and to work together.



Integrity Being honest, open and appropriate in our communications with others; understanding and meeting our governance and management responsibilities.

These underpinning principles encourage decision-making that promote:

- planning to achieve best value for money – Tendering should be based on strategic planning specific to the circumstances,
- process probity in all phases of the tender process,
- the balancing of strict governance with flexibility to produce the best and most attractive solution outcome, and
- innovation by SGCH and the tender respondents.

1.3 The Procurement Process

The process of procurement can be broadly categorised into six (6) largely sequential parts commencing with planning and Tender method selection, through to tender award. The important last phase of procurement detailed in these procedures is performance monitoring and review, through which SGCH will seek to continually improve its systems and procedures towards best-practice standards.

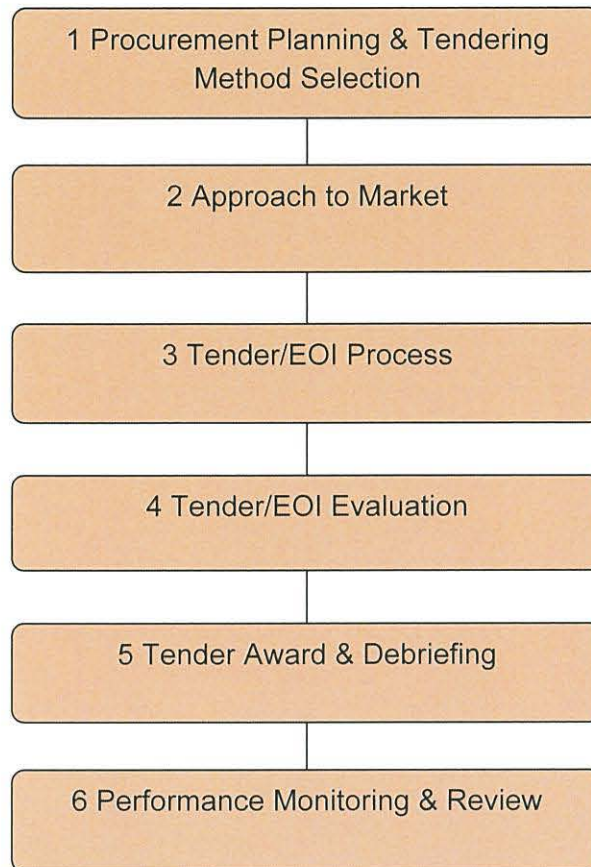


Figure 1.1 Phases in Procurement Process

1.4 Critical Issues

1.4.1 **Probity & Corruption Prevention**

SGCH has developed a Code of Conduct and Ethics (Appendix C) which is intended to outline the minimum standards of behaviour required to be observed by SGCH employees and Service Providers in business dealings generally. This code and ethical considerations provide the foundation for ensuring open, fair and transparent processes are implemented by SGCH conforming with the overarching corporate 'SARI' values.

A copy of the Code will be read, understood and signed by all members of a Tender Evaluation Committee (TEC) and potential conflicts of interest declared and managed accordingly.

1.4.2 **Financial Due Diligence**

The current and ongoing market conditions have heightened the need for the detailed assessment of the financial stability and capacity of Tenderers during the procurement and

Tendering process. This is particularly so with building Contractors given that construction generally equates to 65-80% of total development cost.

For contract amounts greater than \$200,000, financial due diligence will form a key element of the evaluation process and will involve third-party expert review and assessment of the Tenderer's company accounts, including historical performance data, Company Directors, and available forms of security. Where Parent Company guarantees are proposed, the conditions of Contract may need to be amended to ensure obligations and liabilities of the Tenderer are appropriately tied to the Parent Guarantor.

1.4.3 Social Procurement

SGCH is committed to implementing best practice social procurement policy framework and processes that comply with our legislative and regulatory obligations as a Class 1 Registered Community Housing Provider. We value the social, economic and environmental sustainability of the communities we work in and as a major procurer of goods and services we have the opportunity to make a positive impact in the communities in which we operate.

We recognise the need to continually improve our service delivery and that our procurement decisions and contractors play an important part in achieving our organisational goals. Through this policy, SGCH wants to promote suppliers and Contractors that have a demonstrated commitment to our SARI values and provide goods and services that are of the highest quality, sustainable and value for money.

SGCH has developed a Social Procurement Policy (Appendix D) and a subsequent Social Procurement Procedure (Appendix E) that will inform the implementation of social procurement opportunities as an assessment criteria in Tender evaluation and business dealings generally.

1.4.4 Building Life-Cycle and Quality – Asset Maintenance and Builder Procurement

As a medium to long term holder of property assets developed by SGCH, special consideration is required to be given to quality at all phases of the project including management planning, design, construction and maintenance. For this reason all procurement activities will include quality as a key assessment criterion and appropriately weighted to reflect the longer-term risks to SGCH.

1.4.5 Legal Considerations

Procurement and Tendering is the obvious foundation for the assignment of legal obligations and risks to each of the Contracting parties.

These guidelines recognise that:

- the issue of a Request for Tender (RFT) or Request for Expression of Interest (REOI) is an 'invitation to treat' and does not constitute an 'offer'
- the submission of a Tender or EOI amounts to an 'offer' by the Tenderer
- no binding Contract arises between the parties until the party requesting Tenders accepts a Tender

Care must be taken during post Tender discussions between SGCH and the Tenderers, to be clear on when and under what conditions a Tender is accepted, rejected or a counter-offer made. The seeking of clarifications will constitute a 'request for clarification' and

should be framed to convey this intention – the making of counter-offers by SGCH should be avoided.

In preparing these Guidelines and SGCH standard conditions of tendering, care has been taken to minimise the potential for a process Contract to arise. Where the standard conditions of tendering are proposed to be significantly amended for a specific procurement activity, legal advice is to be sought to review process Contract risk.

1.4.6 Record Keeping

It is an essential component of a transparent procurement and tendering system for accurate and comprehensive records to be retained. These records provide the means for SGCH to demonstrate its management of the Tender process in the proper manner as communicated to Tenderers.

This procedure will set out the types of records that will be collected and maintained.

1.5 Glossary (Move to Front)

"Addendum" means an Addendum issued pursuant to Conditions of Tendering of the RFT; **"Addenda"** has a corresponding meaning.

"Alternative Tenders" are those Tenders that do not fully meet the conditions of Tendering but purport to provide a better value for money solution. The alternative Tender may be a solution that is consistent with the scope of the outcome sought by the RFT but is not the defined solution anticipated. Alternative Tenders, if assessed, must be treated as a supplementary Tender and all Tenderers required to submit as a mandatory requirement a conforming as well as any alternative Tenders.

"Best and Final Offer" a process to improve the quality of the Tenders that are potentially acceptable but have some deficiencies. Short listed or preferred Tenderers are asked to revise their Tenders in specific areas, which then become their best and final offer and the basis for further evaluation.

"Closing Date and Time" the date and time given in the RFT.

"Conforming Tender" a Tender that complies with the RFT.

"Conditions of Tender" the rules governing the content and submission of Tenders and the conduct of the Tender process. Conditions of Tender provide the basic framework upon which the Tendering process is built and set out requirements for lodgement, administration, treatment of late Tenders and evaluation processes.

"Conflict of Interest" a situation occurring when an official's private interests may benefit from their involvement in a professional capacity. Conflicts of interest can arise where there is a reasonable expectation of direct or indirect benefit or loss for an individual employee with a particular personal interest that could be influenced, or appear to be influenced, in favour of that interest, in the performance of their duties. The benefit or loss may be financial or non-financial.

"Contact Officer" the person appointed by SGCH to receive, in respect of this any RFT, enquiries and requests for information from Tenderers, to respond to such enquiries and requests and to convene meetings.

"Contract" the agreement to be made between the successful Tenderer and SGCH, where the parties assign rights obligations that may be legally enforceable.

"Expression of Interest (EOI)" is the process of seeking the interest of Service Providers capable of undertaking specific Contracts to provide information on that capability or a

detailed proposal to undertake work. It is usually the first stage of a multi-stage Tender process.

"Empanelling" the selection of certain Applicants determined by an EOI for the purpose of inviting them to submit subsequent detailed competitive Tenders for projects/Contracts. **"Panel"** and **"Empanelled"** have corresponding meanings.

"Evaluation Criteria" the evaluation criteria contained in the RFT, as may be amended by Addenda.

"Fair" being unbiased, reasonable and even-handed.

"Late Tender" a Tender received after the required closing date and time.

"Pre-Tender Estimate (PTE)" an estimate of the cost, and the income generated through a proposed Contract that is prepared before the RFT documents are issued and updated as necessary before Tenders close.

"Principal" means SGCH Or any of its related entities

"Probity" is the uprightness, honesty, proper and ethical conduct and propriety in dealings. Essential in promoting probity are fairness and impartiality; use of competitive processes; consistency and fairness of processes; Tender security and confidentiality; and identification and resolution of conflicts of interest.

"Procurement" process involving all activities following the decision to acquire or dispose of goods, services, construction work, property or accommodation.

"Probity Advisor"

"Process Contract" a Contract arising in relation to the Tender process before acceptance of a Tender by SGCH.

"Project Manager" means the person coordinating the project.

"Qualifications, Departures or Scope Changes" proposals in, or in connection with a Tender which attempt to limit or change the effect of the Contract or to perform the Contract other than in accordance with the specified requirements.

"Recipient" a person or entity that has been given a copy of an RFT

"Reference Documentation" any documentation including designs, drawings, specifications and reports prepared by SGCH and issued for information purposes.

"Request for Tender (RFT)" the documentation to be prepared by SGCH for the purposes of obtaining competitive Tenders for Contracts. The RFT details the objectives sought to be achieved by SGCH in undertaking the Contract.

"Risk Management" the systematic application of management policies and procedures to the identification, analysis, assessment, treatment and controlling of uncertainty on objectives.

"SGCH" means St George Community Housing Limited and its wholly owned subsidiaries.

"Service Provider" means the Contracted organisation responsible for the provision of services to be procured as described in the RFT. This may include suppliers of goods, supplier of services, consultants and building contractors.

"Technical Specification" a detailed description in the RFT documents detailing the functional, performance, material and other specific requirements for a proposed Contract, work element or service.

"Tender" includes a price, bid, offer, quotation, proposal or expression of interest; lodged in response to an RFT or EOI.

"Tenderer" the person(s) or entity submitting a Tender.

"TEC" means the Tender Evaluation Committee, comprising person(s) appointed by SGCH to evaluate tenders. **"Tender Opening Committee"** the person(s) appointed by SGCH to open and process Tenders prior to evaluation.

"TEP" means the Tender Evaluation Plan

"Tender Period" the period between the issue date of the RFT documents and the closing date and time for Tenders.

"Value for Money" the benefits compared to the whole-of-life costs.

2 Planning The Procurement Process

2.1 Initial Planning

At an early stage in the overall project planning, an overview strategy for the procurement of the various goods and services will be developed and communicated to all stakeholders

The extent of the overview strategy will depend on the complexity and size of the project. Simple projects will not generally require overly detailed planning; whereas, by virtue of their size and value, larger projects will require a more detailed planning process.

Procurement Planning will form an essential component of the Project Initiation and Project Management Plans prepared for each project and will document considerations listed in 2.1.1 (below).

2.1.1 Steps in the Initial Planning Process

Step 1	Define the outcome: develop a clear and precise description of the outcome to determine how the product or service is to be delivered. Identify potential risks and develop mitigation strategy
Step 2	Define the required product brief
Step 3	Review market conditions: procurement planning must consider what products and services are available in the marketplace, from whom, and under what terms and conditions.
Step 4	Identify the various disciplines of Service Providers (consultants, Contractors and suppliers) required
Step 5	Consider complexities of the project/services, risk sensitivity and constraints (time, cost & quality)
Step 6	Determine a project/stage timeline and establish budget/price requirements
Step 7	Consider methods of procurement and forms of Contract
Step 8	Document the procurement plan

Figure 2.1 Steps in Planning Process

2.2 Tender Methods

There is a considerable number of Tendering methods available for use in the procurement process. For clarity and consistency these methods have been collated into three (3) main categories which, it is envisaged, will service the majority of SGCH procurement needs.

The main methods can be depicted as follows:

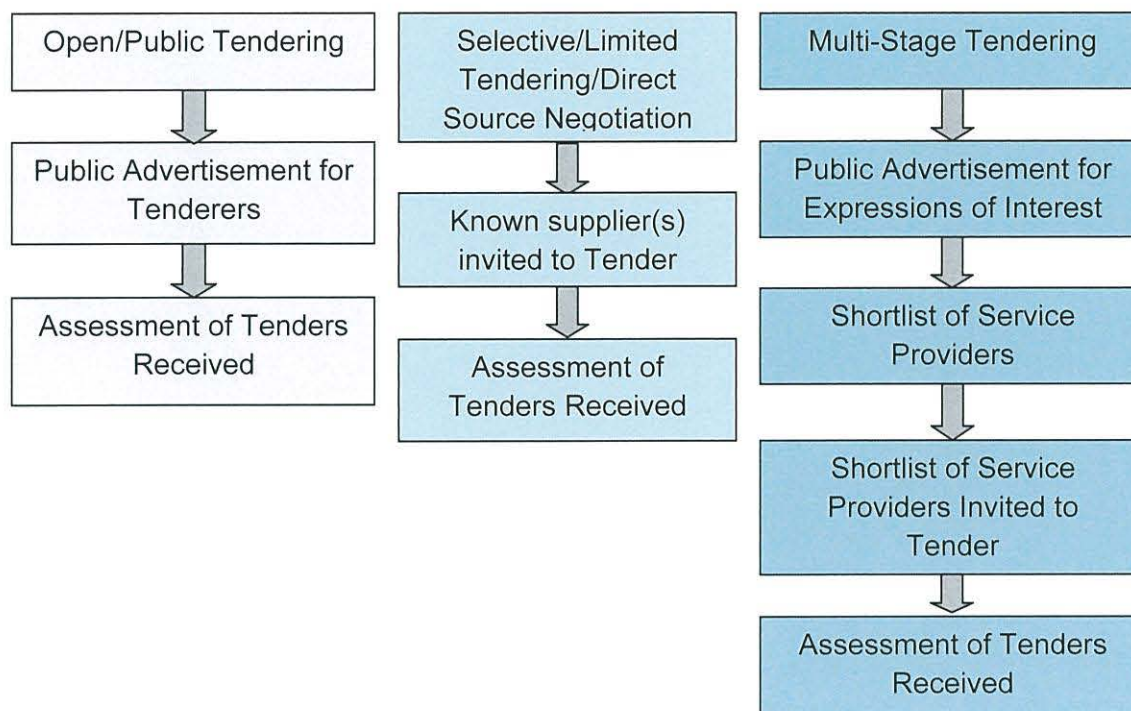


Figure 2.2 Main Tender Methods

2.2.1 Open Tender

In this form of Tendering, Tenders are called through advertisements placed in appropriate media outlets and internet sites.

With this form of Tendering, there is no restriction on who can bid. Any party wishing to do so is entitled to submit a Tender. As well as focussing on the actual Tender during the evaluation process, much care must be devoted to scrutiny of the Tendering organisation itself. Such scrutiny would include investigation of:

- Legal status of the Tendering entity;
- External corporate control of the Tendering entity;
- Financial strength and borrowing capacity;
- Insurance information;
- Ability to obtain bonds or other financial securities;
- Skills, resources and expertise.

These issues are of course important to consider in other Tendering approaches as well. They are even more important in the case of open Tenders, as in many cases the Tenderers will be completely unknown to SGCH. Tender evaluation criteria will focus on determining the relevant experience, capacity and quality of the Tenderers, and as such may require the weighting applied to non-price criteria to be equal to or greater than price criteria.

Open Tendering is often used where there is a widespread competitive market and it is felt desirable to go beyond an already pre-qualified panel.

Where open Tendering is proposed to be undertaken careful consideration will need to be given to the programming and resourcing of the Tender evaluation process to account for the potentially large number of respondents.

2.2.2 Multi-Stage Tendering

Multi-stage Tendering is a term often used to describe a process in which preliminary proposals or expressions of interest for a particular project are requested by public advertisement. These proposals are evaluated and actual Tenders then requested from a short list of the most appropriate Tenderers. Multi-stage Tendering is usually used where exposure to a wide range of proposal types is desired. In such cases, the Tender documents must be clear about the results required, while leaving open the means by which the results are to be achieved.

Multi-stage Tendering, in the true sense, is not proposed to be widely utilised by SGCH, and will only be considered for use on very large or complex Contracts which are considered to be outside of the immediate expertise of any empanelled consultants or Contractors.

Pre-Qualification

While multi-stage Tendering for individual Contracts is not proposed to be widely used by SGCH, we will use pre-qualification schemes for various Service Providers in order to realise the efficiency, quality and value-generating nature of the procurement and Tendering process. Pre-qualification also provides the advantage of allowing whole-of-market engagement for a particular service type, fostering the placement of SGCH within the wider industry.

Pre-Qualification will be achieved through the calling of Expressions of Interest by public advertisement, invitation of suitable Service Providers or other appropriate means; with assessment criteria being focused on capacity, capability and experience of respondents.

The principal reason for pre-qualifying Tenderers in this fashion is that, once the pre-qualification process has been undertaken, future Tenders for specific pieces of work can focus simply on assessing the *Tender itself*, as the assessment of the *Tenderer* (as in capacity, experience, etc) has already been carried out.

It will also focus on identifying consultants and Contractors whose corporate values most closely align with those of SGCH, providing the environment for long term relationships conducive to mutual success, innovation and strategic growth.

Naturally, this pre-qualification process must be re-done at regular intervals, both to permit new Tenderers to apply and also so that changes in the situation of previously pre-qualified bidders can be re-assessed. A useful period for the validity of a panel list would be two (2) years.

Standing Order Contracts

A further variance on the multi-stage Tendering process that will be utilised by SGCH is in the procurement of services of a minor and repetitive nature through the use of standing order agreements.

Under this form of procurement, a selective Tender process (refer 2.2.3 below) will be undertaken from a pool of Service Providers identified as suitable due to previous involvement with SGCH and direct references by other SGCH Service Providers. Tenders on a schedule of rates basis will be called for a generic scope of services, and agreements made between SGCH and a number of Service Providers subject to future project specific

orders which will be used to authorise work on a particular Contract or project (eg. Concept designs, financial due diligence, etc).

2.2.3 Selective Tendering

In this approach, Tenders are requested from a pool of pre-qualified potential Tenderers. Selective Tendering is proposed to form the basis of SGCH's procurement strategy as it is anticipated to provide the best means for achieving life-cycle quality and value for money, while also allowing for open market engagement and the fostering of strong business relationships.

2.2.4 Limited Tendering

Tender Method A (section 2.3.1 below) provides a relatively simple method of obtaining Tenders and of formalising Contract arrangements for small work items, in order both to be able to proceed rapidly with the work and to only require appropriate but economical and efficient use of SGCH resources in organising the work.

A typical project of significant size requires a number of important but relatively inexpensive items to be assembled. A high proportion of these work items will have a low financial value, often of less than \$30,000, and include items such as surveys, soils tests, title reports, etc.

Other items, either larger pieces of work of a type similar to those mentioned above or perhaps work items from a design professional, may have a somewhat higher value but still represent only a relatively small portion of overall project cost and represent a low risk.

2.3 Tender Method Selection

SGCH has identified four (4) Tender methods, based on anticipated Contract value as identified in Figure 2.3 below. These methods have been developed with the key focus of adopting efficient and suitably regulated procedures and practices for procurement that are commensurate with the commercial risk of the specific Contract. It should be noted that these methods provide a general guide, however overall methodology selection must be based on the assessment of inherent risks.

Tender Method	Contract Value Range (\$'000s)	Outline Tender Method
A	0 – 30	Generally be via Limited Tendering
B	30 – 200	Generally by Selective Tender - request minimum three (3) Tenders
C	200 – 1,000	Generally by Selective Tender - request minimum five (5) Tenders
D	1,000 plus	Generally by Selective Tender but may use Open or Multi-Stage Tendering – request minimum six (6) Tenders

Figure 2.3 SGCH Tender Method Matrix

2.3.1 Tender Method A

Proposals will be invited from a Service Provider using the Limited Tender Method described above. The proposal provided by the Tenderer will generally include a return brief which will form the basis of the agreed scope of work. Where appropriate, proposals from two (2) Tenderers may be requested to provide a means of cross checking and

verification, otherwise the value or the proposal will be assessed according to market expectations and budget.

2.3.2 Tender Method B

Tenders will be invited from Service Providers previously pre-qualified by SGCH for the type of work concerned. As a general rule Tenders will be invited from between three (3) and six (6) Tenderers depending on the anticipated value and complexity of the services required.

When using this Tendering method, a primary selection criterion in choosing Service Providers to invite will be the current work load or Contract commitments of the Service Providers, the previous performance of each respective Service Provider and the geographic location of the project (if applicable).

This Tender method may be used for work with an anticipated Contract value between \$30,000-\$200,000; however it may also be used for work of lesser anticipated value where considered appropriate due to the complexity of the services required or the inherent risk level.

2.3.3 Tender Method C

Tender Method C includes similar procedural requirements to Method B, with the exception that Tenders will be invited from a minimum of five (5) Tenderers.

The selection criteria for choosing Tenderers, in addition to the criteria for Tender Method B, will also include analysis of the up-to-date financial capacity and greater assessment of risk criterion.

2.3.4 Tender Method D

Tender Method D will generally be conducted on a similar basis to Tender Method C; however Tenders may also be called using multi-stage or open Tender methods.

When Tenderers are invited from pre-qualified Service Providers, the criterion for selection will focus on up-to-date financial capacity and any other risk factors identified as being particularly relevant to that Contract.

Given the more significant value of Contracts in this financial value range, the Tender evaluation, probity review and approvals requirements are commensurately increased and will include Tender process review by an external Probity Advisor (refer to Section 5.5).

3 Approach To Market

3.1 General

When preparing to approach the marketplace, there are three (3) main documents that should be prepared:

- a procurement plan (which will generally be included in the Project Management Plan);
- the Request for Tender (RFT) documents; and
- a Tender Evaluation Plan (TEP).

3.1.1 **Composition of the TEC**

The Tender Evaluation Committee (TEC) should be formed prior to an approach being made to the market as the TEC will provide input into:

- the substance of the RFT documents including the specifications, Contract and other key documents; and
- the criteria, assessment methodology and processes proposed to inform the Tender Evaluation Plan (TEP),

The composition of the TEC will be determined by the Project Manager with input and advice from their Manager (as appropriate). The resourcing and technical requirements of the TEC will be considered during the Initial Planning phase to minimise conflicts in resource availability and to ensure the appropriate level of suitable expertise is included within the committee. The TEC should not include a direct manager of any of the TEC members.

Requirements for technical expert and probity advisor inclusion on a TEC are prescribed in section 5.4 and 5.5 below.

3.2 Request for Tender Documentation

The purpose of RFT documents is to provide a clear and as full description of SGCH's requirements for the Contract as possible. The scope of work and conditions of Contract must be communicated in an unambiguous and appropriately detailed way to avoid uncertainty that may result in difficulty in evaluating Tenders, Contract claims, project delays and disputes.

Where the scope of work is not able to be clearly defined or in instances where the understanding of the scope is considered a key assessment criterion, a less detailed scope will be included in the RFT and a reverse brief requested from Tenderers.

Template RFT documents have been prepared by SGCH and will generally take two (2) forms:

- Request for Proposal (Appendix F) – for use for Tendering Method A (refer to section 2.3.1 above)
- Request for Tender (Appendix G) – for use for Tendering Methods B, C and D (refer to section 2.3.2 to 2.3.4 above)

3.3 Components

The template RFT documents noted above provide the base document from which Contract specific Tender documents will be prepared. As a general rule a complete RFT will be made up of the following discrete components:

- A brief statement of the background to SGCH (this will not be required for selective RFT as the Tenderers will know SGCH),
- A brief statement of the background to the project/Contract,
- A detailed scope of work including deliverables, required programme and other key requirements,
- Conditions of Tendering,
- Conditions of Contract (including a track-changed version where a standard form Contract has been amended),
- A technical specification and/or project brief including where required the Principal's Project Requirements and other design requirements guidelines as appropriate,
- Drawings or other documents.

All RFT documents must be reviewed by the TEC and Manager prior to release to ensure all components have been adequately addressed.

3.4 Conditions of Tendering

The template RFT document detailed in section 3.2 includes SGCH standard conditions of tendering. These conditions will be reviewed and amended as required to suit the specific requirements of the services being procured.

The RFT must clearly state on what basis non-conforming or alternative Tenders will be accepted. As a general rule the RFT will require that each Tenderer must submit a conforming Tender, but may also submit alternatives if they elect to do so.

3.5 Pre-Tender Estimates

During the initial planning phase of a project or procurement, the Project Manager will prepare a cost plan for the overall project, broken down into detailed work activities for each Service Provider or other resource that will be required to undertake the project.

For consultant and other procurement during the planning and design phases of a project, this cost plan will form the benchmark against which individual Tender evaluations will be made. Standard due diligence practice for larger or more complex projects will require that the initial cost plan is prepared in consultation with an external Consultant (eg. Quantity Surveyor) or other expert to ensure accuracy and appropriateness.

Prior to the release of RFTs for construction Contracts or other larger Contracts, a detailed cost estimate by an expert Quantity Surveyor or other expert will be commissioned by SGCH. This detailed estimate will:

- validate the project cost plan and confirm the budget is within available funding limits, and
- be used to assess value for money and as a comparative tool to evaluate tendered amounts.

3.6 Tender Evaluation Plan

The TEP for a specific procurement activity will be prepared by the Project Manager in consultation with their Manager and will detail the assessment guidelines and procedures that are most appropriate to the Contract.

A TEP is also a useful internal planning and control document for the management and conduct of Tender assessment. **It is not released to Tenderers.**

The TEP sets out responsibilities in the Tender assessment process, a timetable for the assessment and details of the methodology and processes that will be followed when evaluating Tenders. Ideally the TEP should be developed at the same time as the RFT documentation to ensure the guidelines for assessment are consistent with the assessment criterion specified in the RFT documentation. In the event the TEP has not been finalised prior to the issue of the RFT, it must be finalised and endorsed by the TEC members prior to Tenders being opened.

The TEP is a critical document in verifying probity of the Tender process and should not be changed or deviated from during the Tender evaluation process without prior approval of the General Manager. Any changes to the TEP must be accurately documented and the reasons for the change substantiated in detail.

The Tender Evaluation Plan template (Appendix H) will form the base document from which project specific TEPs will be prepared.

3.7 Electronic Tendering

The use of an electronic Tendering system provides SGCH with the tool to maximise the efficiency of the procurement process by streamlining the administration of the Tender process and to manage probity risks such as the accurate distribution of information to Tenderers including Addenda.

SGCH is partnering with Cordell's Tenders Online and has established a company portal customised to SGCH requirements. Access to the portal is available via www.Tendersonline.com.au/sgch

Electronic tendering will be utilised for Tender Methods C and D.

3.8 Risk Management

The preparation of the RFT and proposed Contract documentation provides SGCH with the means of assigning the risks inherent in that phase of the project between SGCH and the Tenderer.

Strategies for managing risk that will be prepared at the commencement of a project and documented in the Project Management Plan (PMP) will be reviewed by the Project Manager during RFT preparation so that the assignment of commercial risks can be appropriately documented. As a general principle risk should be assigned to the party best placed to manage that risk.

The Project Manager will also give consideration to the likely impact of risk allocation on the anticipated Tender sum and whether any anticipated cost increase is commensurate with the likelihood and severity of the risk being assigned.

Tenderer insolvency is a key risk that needs to be reviewed and managed during the Tender evaluation process, particularly in relation to building Contractor procurement. The risk of insolvency and financial capacity of a Tenderer will be assessed using the following techniques:

SGCH Group Procurement & Tendering Procedure – February 2016

- detailed financial due diligence will be undertaken by a suitably qualified and experienced external consultant engaged by SGCH – this due diligence will include analysis of revenue and profitability, working capital, trade debtors, gearing and other key financial indicators; and
- Inform the financier of the intended select panel of builders and seek feedback.

4 Tender Process

4.1 Issuing the RFT

RFT documents should not be issued unless there is a firm commitment and capacity to proceed with the Contract. Approval to proceed with procurement will require the verification of the availability of funding for the Contract.

As noted in section 3.3, all RFT documents are to be reviewed by the TEC and Senior Manager prior to release.

4.1.1 Advertisement and Invitations

Advertisement of Tender opportunities will not be a regular requirement for SGCH on the basis that the vast majority of procurement activities will be undertaken on a selective Tender basis following the establishment of consultant and Contractor panels.

As a courtesy to Tenderers and to assist their planning of Tender responses, a minimum of one (1) month notice should be provided to the proposed list of Tenderers prior to the release of the RFT. This is particularly relevant to procurement of Building Contractors and larger procurement activities.

4.1.2 Electronic Tender Notification

When electronic Tendering is used, the list of Tenderers will be selected during the Tender document upload process. TendersOnline will then generate an automatic email invitation to each Tenderer advising that the Tender documents are available for download.

4.2 Tender Period

The Tender period will be determined giving due regard to the complexity of the Contract and the extent of work required to be undertaken by Tenderers to prepare their submissions. As a general rule the following Tender periods will apply to each respective Tender method:

Tender Method	Tender Period
'A'	Five (5) business days
'B'	Three (3) to four (4) weeks
'C'	Three (3) to four (4) weeks
'D'	Four (4) to Six (6) weeks

Figure 4.1 Tender Periods

The key consideration in determining the Tender period is to allow the Tenderer sufficient time to consider design and other risk issues so that effective competition is encouraged. This is particularly relevant to procurement of building Contractors on a design and construct basis.

4.3 Enquiries and Meetings

4.3.1 Contact Person

The RFT document will nominate a single contact person (Contact Officer) who will be responsible for administering the Tender process and co-ordinating responses to enquiries issued by Tenderers during the Tender period.

Where required the Contact Officer will seek input from the Probity Advisor and other consultants and experts involved in preparing components of the RFT in order to properly respond to inquiries.

4.3.2 Information to Tenderers

Information or advice required to be given to clarify the contents of the RFT or to address an ambiguity must be communicated in writing to all Tenderers in a consistent manner.

In certain circumstances a Tender may issue a request for information that is of a confidential nature. In these circumstances the Contact Officer will need to determine whether or not the information is confidential and if a competitive advantage would be lost by the Tenderer if the response was to be communicated to all Tenderers. The Contact Officer will seek advice from the Probity Advisor or Senior Manager (as appropriate) if required to address these issues.

The Notice of Information to Tenderers template (Appendix I) will be used for issuing information to Tenderers.

4.3.3 Briefing Meetings

Pre-Tender meetings will generally be utilised where procurement is being conducted in relation to renovation or reDevelopment Contracts where it is important for the Tenderers to be made aware of site conditions that may not be easily or adequately described in the RFT. For efficiency of time Tender briefings should only be held where it is critical to the Tender process. Where briefing meetings are held attendance should generally be mandatory for all prospective Tenderers and a signed register of attendance prepared.

Tender briefing meetings must be carefully planned and managed to ensure that the information provided is consistent with the RFT. Detailed records of issues discussed should be made and where appropriate distributed to Tenderers.

4.4 Tender Addenda

A Tender Addendum is a document that amends the contents or requirements of the RFT, the distinction must be drawn between information to Tenderers which addresses a perceived ambiguity or clarifies the RFT and a Tender Addendum.

Tender Addenda must be issued using the Tenders Online portal to ensure a date and time stamped record is obtained of when each Tenderer has accessed a Tender Addendum. In instances where electronic Tendering is not being utilised the Project Manager must ensure records of communication of Addenda are maintained and that Tenderers confirm receipt.

When a Tender Addendum is issued, consideration may need to be given to whether the Tender period should be extended so that adequate time is provided for Tenderers to properly consider the contents of the Addendum and its effect on their Tender. As a general rule Tender Addenda should not be issued within three (3) days of the date for close of Tenders without the Tender period being extended.

The Tender form accompanying the RFT and returnable by the Tenderer must have a designated space for Tenderers to acknowledge receipt and incorporation of all Tender Addenda issued during the Tender period.

The Tender Addendum template (Appendix J) will be used for issuing Tender Addenda.

4.5 Receipt and Tender Opening

There will be an opening committee established to open and register all Tenders received. The committee will comprise individuals authorised by the Project Manager.

All Tender documents will be opened by the opening committee, date stamped with the date and time of opening and initialled at all pages indicating a Tender price or rate, by all members of the committee and entered into a register utilising the Schedule of Tenders Received template (Appendix K). The register will record the entity name, ABN, Tender price and any other pertinent information for each Tendered submission. Once all the Tenders have been entered into the register, the register will be ruled off and signed by each member of the opening committee as being complete.

The opening committee, depending upon the nature of the Tender, may also note:

- construction completion program milestone dates, and/or
- a break up of Tender sum, where staged delivery is requested.

5 Tender Evaluation

5.1 General Objectives

The principle objective of any Tender evaluation process is to identify the Tender(s) offering the best value for money in a process that achieves probity and fairness. Tender evaluation processes must comply with the following principles:

Accountability & Transparency	The process will be open, clear, defensible and adequately documented
Fairness	The process provides equal opportunities to all Tenderers
Impartiality	The process treats all Tenderers the same way and without bias
Objectivity	Decisions based on subjective judgement and opinion are minimized
Repeatability	Repeated evaluation of the same Tender against the same criteria by the same evaluation committee will yield the same decisions
Reproducibility	Evaluation of the same Tender against the same criteria by a different evaluation committee will yield the same decisions
Reasonableness	Decisions are based on the information reasonably known by the evaluation committee and are supported by rational and logical argument
Thoroughness	Decisions are based on competent and comprehensive analysis of all relevant information.

Figure 5.1 Tender Evaluation Principles

5.2 Evaluation Methodology

5.2.1 Evaluation Criteria

The Weighting Criteria will be determined by the TEC and will be applied, prior to the opening of Tenders. A Weighting Criteria example can be seen below.

Tender Criteria		Weighting %	Min Allowable Score (if any)
C.1	Tender price	60	
C.2	Social procurement and impact assessment	5	
C.3	Capability, extent and experience of proposed project team	15	7
C.4	Extent of experience in projects of similar nature, size and complexity	5	6
C.5	Externally Accredited QA Management System	Y/N	-
C.6	Proposed works methodology and programme	15	5
Totals:		100	18

Figure 5.2 Tender Assessment Criteria Weightings

5.3 Tender Evaluation Committee

A TEC will be utilised for Tender Methods B, C and D and will be formed in accordance with section 3.1.1 above. The composition of the TEC will not be disclosed to the Recipients or respondents (as applicable). The TEC may include persons from SGCH and/or external advisors.

The TEC will:

- Assess conformance of Tenders, evaluate Tenders in accordance with the evaluation criteria and carry out analysis of the information submitted in accordance with the endorsed Tender Evaluation Plan; and
- If appropriate, recommend a preferred Tenderer and seek approval to award the Contract in accordance with SGCH delegation and governance policies and procedures.

5.4 Technical Expert Consultant

The TEC formed for the evaluation of Tenders with an estimated Contract value of \$1,000,000 or more (Tender Method D) will include a suitably experienced and qualified external technical expert consultant.

The Technical Expert will be selected from a list of suitable consultants and will provide services including but not limited to:

- review and input into the contents of the RFT;
- lead the TEC in evaluation of the technical aspects of Tender submissions and compliance with Project requirements; and
- lead the TEC in evaluation of Contractual aspects of Tender submissions and how qualifications or departures from the proposed Contract are best addressed

5.5 Probity Advisor

An external Probity Advisor will be included on the TEC formed for the evaluation of Tenders with an estimated Contract value of \$10 million or more.

The Probity Advisor role in the evaluation process will include, but no be limited to, the following:

- ensuring that the procedures adopted for the receipt of Tenders and the evaluation process are fair and equitable, and that the probity of the Tender process is independently validated;
- monitoring and reporting to the appropriate SGCH Board that evaluation processes and procedures have been followed and that the outcome is capable of being independently validated;
- providing assurance to interested Tenderers that appropriate processes were fully adhered to and that no Tenderer was given an unfair advantage or unfairly discriminated against;
- providing guidance to the TEC as to how unforeseen probity issues arising during the Tender process could be resolved;
- attending all meetings with Tenderers;

- reviewing communication between the TEC and Tenderers during the period between submission of Tenders and final recommendations;
- addressing any issues raised that relate to the probity of the process;
- attending debriefing meetings with unsuccessful Tenderers where applicable; and
- preparing a report for the appropriate SGCH Board outlining the any probity issues that arose during the process, and the actions taken to close out those issues (if any).

Concerns regarding the conduct or probity of the Tender process should be promptly brought to the attention of the Chief Executive Officer who will manage the required remedial action.

5.6 Evaluation Process

Tender evaluation for Tender Method A will be undertaken by the Project Manager and evaluated giving regard to the quality of the return brief and the conformance of the Tendered price with the pre-Tender estimate and/or budget.

5.6.1 Initial Evaluation and Assessment

All Tenders received (for Tender Methods B, C & D) will be initially examined by the TEC to:

- confirm the legal status of each Tenderer;
- decide whether a late Tender should be considered further;
- identify non-conformances with the RFT requirements which can be rectified by the Tenderer by providing omitted information or clarification;
- identify non-conformances with the RFT requirements which are substantial or incapable of rectification and therefore determine whether the Tender should be overlooked; and
- identify any indications of errors or discrepancies in the RFT documents or in the Tenders which may need to be taken into account during the evaluation and any subsequent Contract.

In circumstances where an open Tender methodology has been used, the initial evaluation and assessment can be used to determine a short-list of Tenderers. This will include conducting a preliminary price analysis. The criteria on which this initial analysis is to be made must be detailed in the TEP and the reasons for passing over any Tender recorded and included in the Tender Recommendation Report.

Where a Tenderer submits a conforming and a non-conforming or alternative Tender, the non-conforming or alternative Tender, if determined by the TEC to be assessed, must be assessed and reported as a separate Tender (ie Tender X Conforming and Tender X Alternate).

5.6.2 Detailed Evaluation

The TEC members will individually evaluate each Tender submission on a non-price and price basis. Non-price criteria and the respective pros and cons of each Tenderer's submission scored in accordance with Figure 5.3 below. Tender price will be evaluated for conformance with the RFT and the extent of qualifications and departures. Each TEC member's individual scores will be recorded using the Tender Evaluation template (Appendix L) document.

The consensus scoring of Tenders will be determined by the TEC members and documented in the Tender Evaluation Matrix template (Appendix M) adapted to suit the specific criteria and weightings determined by the TEC. A consensus will be determined by agreement between the TEC, not by averaging their individual scores.

POINTS	DESCRIPTION
9 to 10	Exceptional response: Exceeds or readily satisfies all requirements, exhibits all desirable strengths, and displays minimal risks, weaknesses or omissions.
7 to 8	Good to superior response: Satisfies all requirements, but displays some minor risks, weaknesses or omissions that would be acceptable as offered.
5 to 6	Adequate response: Minimally compliant with requirements, and/or displays some risks, weaknesses or omissions that are possible to correct and make acceptable.
3 to 4	Poor to deficient response: Does not satisfy all requirements, and/or displays risks, weaknesses or omissions that would be difficult to correct and make acceptable.
0 to 2	Unacceptable response: Unresponsive to requirements and/or demonstrably deficient in terms of risks, weaknesses and omissions.

Figure 5.3 Non-price scoring matrix

The weighted scores for each Tender will be used to identify the preferred Tenderer, or in some instances the preferred Tenderers. Where required or appropriate the TEC may seek clarification from the preferred Tenderer(s) to address qualifications and departures from the RFT requirements. Clarification may be undertaken through an interview with each Tenderer or via written submissions.

The TEC may also determine additional due diligence required in order to assess commercial risks including obtaining third-party financial assessments, and undertaking reference and license checks for each Tenderer.

5.7 Eligibility of Tenderers

Care must be taken to ensure that a Tender has been authorised by a person purporting to be authorised to do so. The Tender Form (Appendix N) template will be used to capture the Tenderer's legal entity details and the person authorising the Tender on behalf of the Tenderer.

5.8 Qualifications, Departures and Scope Changes

Qualifications, non-conformities and departures included in a Tender should be considered for their effect on all Tenders to assess whether an error or omission in the RFT may need to be resolved.

The qualifications, departures and scope changes included in a Tender will be assigned a loaded weighting by the TEC during the Tender Evaluation phase to determine a like-for-like assessment of the merits of each Tender. The Qualifications, Departures and Scope Changes Table template (Appendix O) will be used for this purpose.

Wherever possible, Tenderers should be requested to remove all qualifications, departures and scope changes unless it is deemed appropriate or acceptable to retain them by the TEC.

5.9 Risk Management

Tenderer insolvency is a key risk that needs to be reviewed and managed during the Tender evaluation process:

- where the variance between the lowest and next lowest Tender is 5% and the lowest Tender is 10% or more below the pre-Tender estimate, the TEC is to undertake a detailed assessment of each Tender to identify reasons for the variance and to determine any commercial risks of accepting the lowest Tender. Where considered appropriate the TEC will also seek advice from the project Quantity Surveyor or other expert to further assess variances and associated risks.

5.10 Clarifications and Tender Negotiation

As far as possible all clarifications and Tender negotiations should be undertaken via written communication in order to provide the best record of information passing between the Tenderer and SGCH.

When seeking clarifications, the TEC will apply the following practices:

- the confidential and commercial sensitive information contained in a Tender must be respected and not divulged to any other Tenderer;
- the status of any Tenderer will not be disclosed or implied;
- changes to the Tendered price or rates should not be accepted unless they are made specifically in response to the removal of a qualification or departure requested in the clarification

Where it is determined that meetings are to be held the following practices must be applied:

- a minimum of two (2) members of the TEC must be in attendance;
- a detailed agenda of issues to be discussed is to be prepared and circulated to all attendees in a reasonable time prior to the meeting;
- the purpose of the meeting is to be clearly disclosed at the start of the meeting;
- a detailed record of issues discussed is to be prepared, and actions identified for which the Tenderer must provide written confirmation within an agreed timeframe;
- any changes to the Tender price resulting from the withdrawal or modification of a Tenderer's qualifications or departures, and any minor change to the scope of work must be fully justified and detailed in the Tender Recommendation Report.

At all times the meeting attendees must ensure that discussions are framed so as not to provide a commercial advantage to any one Tenderer and that probity and fairness are maintained.

5.11 Recommendation and Review

5.11.1 Tender Recommendation Report

A tender recommendation report records the processes adopted and basis upon which the recommendation of the preferred Tenderer is made. The report must include a suitably detailed account of the evaluation, all risk management strategies and due diligence undertaken, and what basis the Tender recommendation provides value for money to SGCH.

For procurement utilising Tender Method B, C or D, the TEC Chairperson will lead the preparation of a suitably detailed and comprehensive report using Tender B,C,D Recommendation Report template (Appendix P). The report must be signed by all members of the TEC either in support or dissent of the recommendation prior to submission for review or approval.

The TEC Chairperson will be responsible for completing the Tender Evaluation Checklist (Appendix Q) at the completion of the evaluation process and will attach a copy of the completed checklist to the recommendation report. Where a Probity Advisor is engaged on the TEC, the completion of the Tender Evaluation Checklist will be by the Advisor.

5.11.2 Review & Verification

All procurement will be subject to review and verification prior to submission for ultimate approval. The review and verification requirements for each Tender method are summarised in section 5.11.4 below.

The principal role of the Tender review and verification is to verify the probity and fairness of the Tender process and to ensure the TEC has appropriately considered all risk issues in evaluating the Tenders and that value for money is being achieved for SGCH.

5.11.3 Probity Audit

For procurement utilising Tender Method D, a review and audit will be undertaken by a Probity Advisor to review the tender recommendation Report and the process undertaken by the TEC. Tender audits will be undertaken by a suitably experienced and qualified external consultant engaged by SGCH and suggestions for amendment of the report may be made or will otherwise verify and sign the report noting concurrence with the recommendation. . In order to preserve the integrity of the audit process, the methodology and scope of the audit for a specific Contract will be prepared by the Advisor giving regard to the complexity and size of the Contract and the perceived level of probity risk.

The Probity Advisor's Report will be submitted with the Tender Evaluation Report for endorsement of the recommendation and ultimate approval to Contract.

5.11.4 Approval

Approval of all procurement undertaken by SGCH will conform to the corporate governance procedures detailed in the *SGCH Financial Delegations – December 2015*, which defines strict levels of financial delegation.

6 Tender Award & Debriefing

6.1 Contract Award

Following approval in accordance with section 5.12 above, the Project Manager or TEC Representative(as the case may be) will prepare and issue a letter of award/intent to the successful Tenderer advising them of the outcome of the Tender process, and the form and timing for execution of the formal instrument of agreement between the parties. The Tenderer will be required to acknowledge receipt of the letter of award/intent either by return letter or by signing and returning a copy of the letter of intent issued.

For Tender Method A, the Letter of Award template (Appendix R) will be utilised and will provide the instrument of agreement.

For Tender Method B, C and D the Letter of Intent template (Appendix S) will be used and the form of Contract and formal instrument of agreement will be prepared to suit the specific nature of the procurement and will be subject to external legal review as required.

6.2 Unsuccessful Tenderers

As soon as practicable following the approval of the Tender recommendation, the Project Manager or TEC Representative(as the case may be) will prepare a written notice to all unsuccessful Tenderers, thanking them for their Tender and advising that they have not been successful on this occasion. Where appropriate the notice should also provide brief feedback as to why each respective Tenderer was not successful. These comments should be carefully phrased and should not disclose commercial-in-confidence issues such as Tender pricing, but may provide guidance on the general competitiveness or otherwise of the respective Tender in comparison to market expectations and SGCH budget.

Advice on the content of letters to unsuccessful Tenderers will be sought from the Probity Advisor as required.

6.2.1 Debriefing

When requested by a Tenderer, a debriefing meeting may be held to provide further feedback and explanation of why a Tender was not successful. Any debriefing meeting will be attended by the Project Manager or TEC Representative and the Probity Advisor. Debriefing meetings may also be attended by either of the Senior Development Manager, other Senior Manager or General Manager as required. A detailed record of attendees and items of discussion will be prepared.

6.3 Tender Complaints

Tender complaints will be directed in writing to:

CONFIDENTIAL
Chief Executive Officer,
St George Community Housing
PO Box 348,
Hurstville BC NSW 1481

Any formal complaint will be acknowledged in writing. Complaints will be investigated as directed by the Chief Executive Officer. The outcome of the investigation will be advised to the Complainant in writing.

7 Performance Review & Improvement

SGCH is committed to continually improving its procurement and Tendering procedures to achieve greater efficiency and to achieve industry best practice standards. In order to achieve this aim these guidelines and the associated systems, procedures and forms will be reviewed on a minimum of an annual basis by members of SGCH.

7.1 Lessons Learnt

At the completion of procurement activities for each project or of a major individual Contract, the Project Manager or TEC Representative (as the case may be) will conduct a review of the procurement and Tendering processes undertaken and ensure that lessons learnt are disseminated and any proposals for process improvement communicated to the Senior Development Manager – Development & Portfolio Services

All lessons learnt are to be recorded on the Lessons Learnt template (Appendix T).

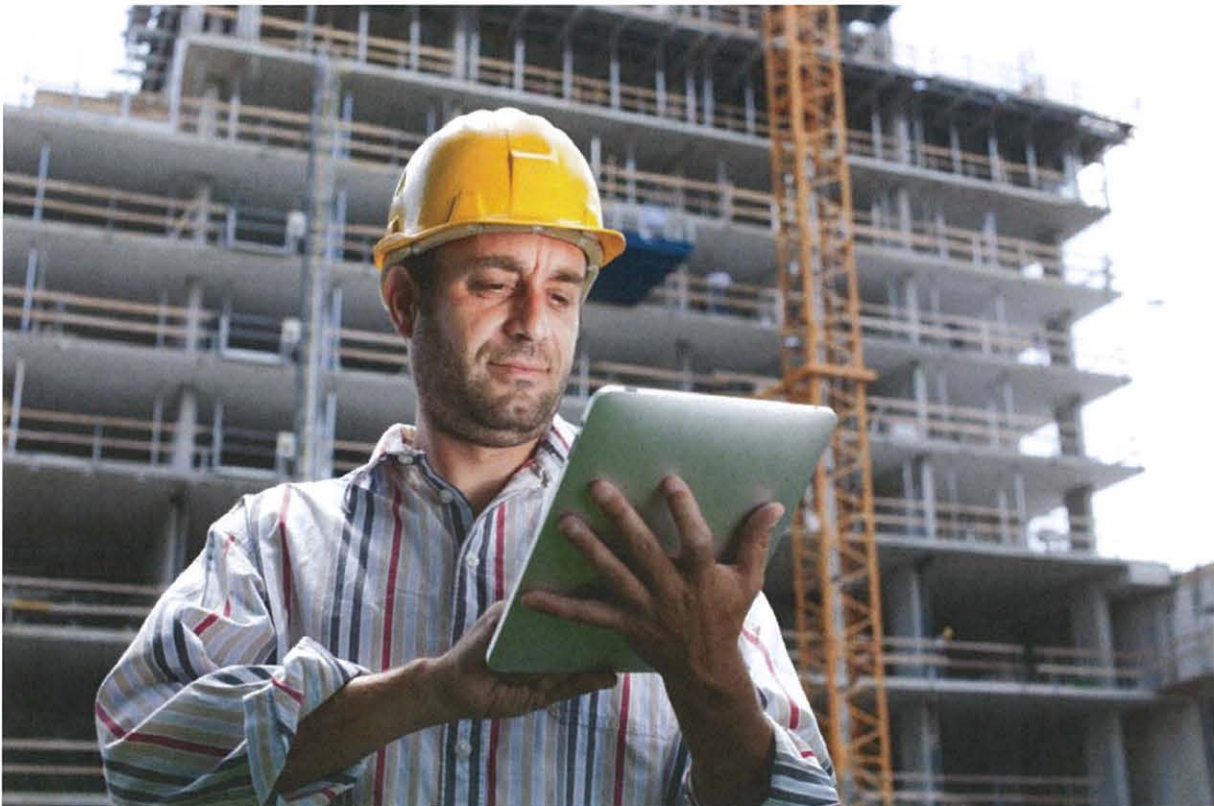
7.2 Continuous Improvement

SGCH is committed to continually reviewing and improving its systems and procedures in order to maximise performance and achieve best-practice standards.

The Procurement and Tendering Procedure and all related documents, forms and templates will be reviewed by the Senior Development Manager on a bi-annual basis, and the outcome of audits and all lessons learnt used to form the basis for documenting revisions and improvements.

Development & Construction

Design Requirements



August 2016



Contents

Development & Construction	1
Design Requirements	1
Contents	2
Purpose	4
Type of Assets	4
Design Objectives	4
Site Yield	6
Site Planning	6
Connection	8
Personal Territory	8
Crime Prevention	9
Planting and soft landscaping	9
Car parking	12
Building Style	13
Contextual Respect	13
Individual Visibility	14
Scaleable	14
Edge Definition	14
Delight	14
Dwelling Sizes	15
Acoustic Separation	15
Construction Methods	16
“Buildability”	16
Durability of Construction	16
Operational Access	16
Cost Effective Design Solutions	17
Designing out Maintenance	17
Environmental Sustainability	19
Climate Zones	19
Adaptable Housing	23

Data Sheets	23
Furniture Arrangements	23
Car Parking & Driveways	25
Grounds and Landscaping	25
External – Private Open Space Including Balconies	26
Common Elements – Building and Dwelling Interiors	27
Entries and Lobbies	32
Living Room	32
Kitchen and Dining Room	34
Main Bedroom	35
Other Bedrooms	36
Bathroom, Bath With LDY & Visitable WC	36
Laundry (Separate from Bathroom)	38
Separate WC	38

Purpose

This document sets out the design requirements for the provision of new affordable housing by St George Community Housing Limited (SGCH) and is based on the following five key Design Objectives which:

1. Engender a sense of home and community
2. Accommodates a broad range of need
3. Be efficiently planned, buildable and maintainable
4. Promotes comfort and security
5. Be environmentally, socially and economically sustainable

The design requirements apply to all new affordable housing projects undertaken by St George Community Housing. It also serves as guidance for development sites sourced from the commercial residential sector with pre approved designs.

On a project, the Design Requirements provide direction to the design team, to a level of detail suitable for the preparation of sketch designs and development applications.

The design requirements provide minimum standards for St George Community Housing new dwelling construction.

The design requirements are to be used in conjunction with:

1. **Australian Standards**
2. **Legislative Requirements**
3. **Building Code of Australia**

Where a conflict occurs between the design requirements and any Standard, Legislative requirement or Code, the more onerous provision shall apply and must be confirmed by the Principal or his representative.

Additional requirements may also apply for adaptable dwellings (AS4299).

Type of Assets

Housing types proposed under this program range from cottages, townhouses and duplexes, to multiunit housing in low, medium and high-rise buildings. The asset mix can also encompass more complex asset types such as mixed tenure or mixed use developments. The program will also investigate dual key concepts providing greater mix flexibility as well as industrial conversion programs.

Design Objectives

The five key design objectives are detailed as follows:

- a. Engenders a sense of home and community

A house provides more than shelter. The ability of tenants to identify positively with their housing and to feel comfortable are important objectives for SGCH.

b. Accommodates a broad range of need

Over a household's lifetime there are many changes to individual needs and relationships. The number and age of occupants will change and there may be household members who are temporarily or permanently impaired as a result of accident, illness or recuperation.

The dwelling therefore should allow for a range of life stages and disabilities without the need for major modifications or tenant relocation. This means providing housing that has a degree of flexibility, which meets the needs of people of different ages and mobility over time, and avoids barriers that may discriminate against residents or visitors.

c. Be efficient planned, buildable and maintainable

There is an overarching requirement to ensure efficient use of SGCH resources to best meet program needs.

When the costs of life cycle maintenance, disability modifications and relocations are taken into account, it is more cost effective to build to a higher standard than the usual industry practice. On the other hand, the need for affordable housing is very great and St George Community Housing has an obligation to provide as many well designed dwellings as resources will allow.

This means finding a balance between quantity and quality by designing buildings that provide the foundation of viable, healthy communities, provide for core tenant needs and meet community standards in a cost-effective manner. This is underpinned by recognizing the benefits of flexibility in allocations and for existing tenants to age in place.

d. Promotes comfort and security

Good design for living is about physical comfort. Comfort requires an empathetic response to design. What would it be like to live in this dwelling? A home needs to be both a secure refuge from the world, and connected to it. See Site Planning section for further details.

e. Be environmentally, socially and economically sustainable

Environmental sustainability is protecting the health, diversity and productivity of the environment for the benefit of current and future generations. Social sustainability means equitably meeting housing demand in a manner that promotes individual and community needs.

Environmental sustainability is also about how design standards can target energy efficiency measures that reduce the cost of energy for tenants now and into the future.

Financial economic sustainability means protecting and improving the value of the asset base to ensure that in future decades there is scope to continue to renew and improve. Refer to Environmental Sustainability section.

Site Yield

In terms of the long-term sustainability of the affordable housing asset portfolio, efficient use of land is essential. Under developing any redevelopment site is to be avoided. New housing should be built to maximise the use of the site allowing for

- a. site restrictions, such as setbacks, easements or tree preservation, and the landscaping, deep soil and private open space provisions in planning controls;
- b. amenity objectives for privacy, solar access, cross ventilation and security in planning controls and these Design Requirements;
- c. Parking provisions in these Design Requirements; and
- d. Future separate title or strata title.

Site Planning

An efficient site layout that meets the Design Objectives is the foundation of well-designed affordable housing. The site planning principles and requirements set out here are those that are particular to affordable housing. In addition, all developments will also be assessed against the following:

- Developments up to two storeys assessed under the Affordable Rental Housing SEPP (ARHSEPP) and will need to comply with applicable parts of the relevant Local Environmental Plans (LEPs) and Development Control Plans (DCPs).
- Residential flats of three storeys or more will be assessed under current SEPP 65, the 'Residential Flat Design Code' (RFDC), Apartment Design Guide, ARHSEPP and applicable parts of the relevant LEPs and DCPs.

All developments should be compatible with neighbouring developments and the desired future character of the area. Therefore, it is appropriate that standards in LEPs and DCPs be complied with, except where the plans do not address specific characteristics of affordable housing. Any variation to Council standards is required to be justified in the environmental impact assessment for that project, for instance with the parking provisions of this document.

Avoid any large buildings or large clusters of housing which may, over time, come to be identified as 'public housing'. When designing a large development, a good approach is to master plan the site then divide it into separate buildings or clusters. Each would feature their own identities and separate entries, having as few units as is reasonable using each entry and associated stairwell and lift.



01.50. A building envelope is not a building. It defines a generous three-dimensional space within which quality residential design can occur.

Source: RFDC

'Large' may be more than 20 but is also context dependent. This approach reduces stigma, allows for more sensitive allocation and reduces the likelihood of tenants feeling intimidated when they use common areas.

- Design so that these buildings or clusters of dwellings are each on a separate lot, or can easily be subdivided.
- Design multi-unit developments so that each unit can be easily strata-titled and tradeable, taking care that each unit has its own connection to services which is separately metered.
- Design services so that future strata titling can occur with common lines located under common areas and individual connections for each villa or townhouse. In multi-storey developments, provide service ducts where access to service risers is via common areas.
- Enclose as much open space as possible using landscape elements or low and high fences to attach it to individual dwellings. Many tenants are encouraged to garden, which is a healthy occupation that improves the overall appearance of the area and reduces maintenance costs.
- The fronts of dwellings should either face the fronts of other dwellings or the street, and the rear of dwellings should face each other or side or rear fences.

- Work out finished floor and ground levels with care to provide for overland flow paths and an accessible travel path, avoiding wet walls, large retaining walls and ramps that require handrails as these can create an institutional appearance.
- Provide easy access to garbage bays, clotheslines, letterboxes, car park and street, in accordance with AS1428.1 (as required).

Use of lifts is desirable to maximise accessibility and allow for ageing in place. Minimum one lift is to be provided for development of 3 or more stories and where there is a minimum of 6 dwellings per floor. Depending on the overall number of dwellings constructed, a second lift should be provided.

Connection

Preferably, all dwelling entries address either a street frontage or a common open space internal to the development where there is passing activity.

These spaces should be designed with care to prevent one dwelling overlooking another but to promote dwellings overlooking common open spaces:

- the layout of these internal open spaces needs to create a sense of place within the development; and
- it should be easy and logical for a visitor to find the dwelling they are looking for.

Personal Territory

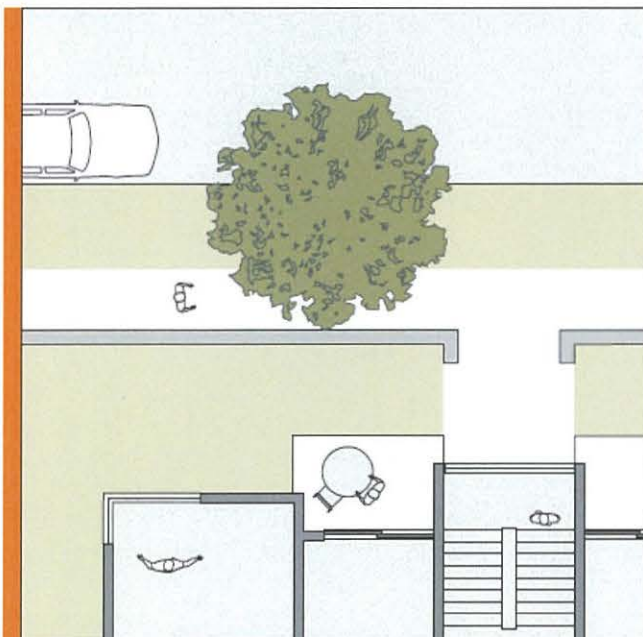
Some tenants may have challenging behaviours which can sometimes cause their neighbours to feel insecure, resulting in the need for tenants to request to be relocated. Therefore it helps to design housing that reduces the opportunities for conflict. Elements of the conventional cottage can be used to do this in other housing forms as well as to improve amenity and to provide opportunities for tenants to individualise their homes.

- Provide a high level of visual and acoustic privacy.
- Ground floor units (including those in medium and high rise) to have direct access (where possible) to their front doors from street or common open space, not via a lobby. It is important to continue the street rhythm and in the process generate individual addresses for tenants within much larger developments.
- Provide a semi-private outdoor space between ground floor front doors and the common space, preferably including garden beds, sitting area and low fence and gate. Wherever possible the fencing should be located in structured landscape zones
- Private outdoor living space to the rear of ground floor units is to be enclosed by landscape elements or a 1800mm high fence.
- Provide opportunities for tenants to individualise fronts of units: e.g. provision of garden, balcony or other detail at front doors
- Where possible, provide all dwellings with individual clothes lines, on balconies or in rear yards. Cloth lines on balconies shall be screened from public view. The design requirements indicate the extent of clothes lines to be provided for each unit type

Crime Prevention

A development can be designed in such a way as to reduce the opportunity for crime and enhance the feeling of safety for users and residents.

- Locate a habitable living area (living area, kitchen, dining or bedrooms) overlooking street or common open space.
- Ensure all entries; be they directly into a dwelling or to a shared foyer are clearly visible from 'active' common spaces.
- Ensure unit numbering is clear for all visitors entering the site.
- Light levels: install high-mounted, vandal-resistant fixtures that deflect light downwards. Note that bollard lighting does not illuminate peoples' faces. Ensure that high mounted lights do not pose glare issues to adjacent dwelling windows. Multiple fittings preferred to single fittings to give consistent lighting levels. Maximise daylight penetration to common spaces.



02.37. Windows, balconies and front doors address the street, provide surveillance and make both the street and the apartment building more secure during the day and at night.

Source: RFDC

- Landscaping: trees and low-lying shrubs are not to interfere with sight lines or provide opportunities for concealment or entrapment, particularly along pathways and close to entrances.
- Access routes: pathways should be direct and well lit. Direct pedestrians to one well-lit pathway.
- Boundary definition: use open fencing and low level plants to separate semi private open space from public and common areas. Ensure places of concealment or entrapment are not created.
- Do not have cross site vehicular or pedestrian routes. If they are needed, ensure there are no direct sight lines that would encourage non-residents to use these paths.

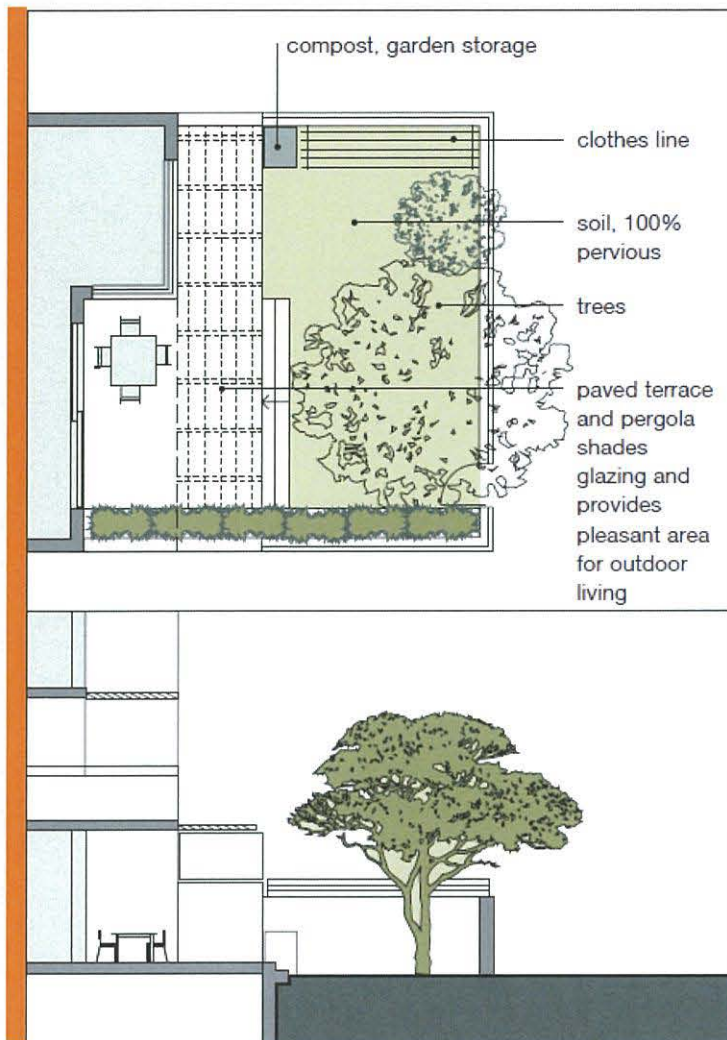
Planting and soft landscaping

Use planting to help create a domestic setting, to provide shade, screening, wind protection and privacy, and to differentiate site spaces.

Typically,

- Locate garden beds within private fencing as far as possible to encourage tenants to tend beds, and to reduce maintenance.

- Minimise lawn areas, especially for adaptable housing or attached dwellings where mowing may be problematic. The design of the landscaping will depend on the position of the individual dwelling on the site. Dwellings located at the four corners of the site will have larger ground areas for landscaping. In this instance larger areas of lawn may be appropriate.
- Planting beds referred min 1000mm wide, with paths into wider beds to allow for access and maintenance.
- Use trees and shrubs to emphasise entries. For multi-unit dwellings, integrate planting with entry pavilions.
- Maintain visibility of front doors from site entry points (avoid obstructing eye-level surveillance).
- Consider the provision of a secured community garden, with some raised beds.
- Plant trees, preferably in garden beds or holes in paving; if in lawn, provide min 1000mm dia mulch around tree. Provide tree planting to shade any car parking but avoid obstructing eye-level view.
- Be aware of planting restrictions around utility services.
- Consider planting native grasses in verges, and for multi-unit development consider massed planting in front of the fence line, with Council agreement.
- The private open space allocated to individual dwellings should provide useful areas for recreation. The dimensions of the private open space should facilitate family gatherings and allow for secure controlled environments for children's play.
- Keep garden bed min 300mm away from building walls (moisture and termite inspection).
- Deep mulch garden beds.
- Separate garden beds from lawns with edging material.
- Turf to be shade and drought tolerant.
- Gradient for usable flat outdoor area to be max 1:20, and min 1:100 to avoid ponding. Max gradient for mowing is 1:8
- Consideration should be made for the clothes line, harvested water storage tank and the tank associated with the solar HWS.
- Individual dwelling's watering system to be via hose cock using rainwater with the individual unit's mains back up supply.
- Common area watering system to be by lockable hose cocks using water from rainwater tanks with common area potable water mains back up.



03.24. Well landscaped private courtyards extend the liveable space of the apartment and provide a variety of paved and soft landscaped areas. Utility functions, such as clothes drying, are also provided.

Source: RFDC

- Plant Selection - Use species that are predominately indigenous to the local area, are drought tolerant, low maintenance, aid passive solar design, provide food where insect pests or maintenance are not a problem, do not have invasive root systems or drop branches, leaves, fruit or flowers that may cause harm or become slippery if near driveways and paths, are not toxic or provide allergic reactions, are scented or bird attracting. Consideration should also be given to the size of the plant when fully matured.
- Buildings and car parks are not to encroach on the drip line of existing or proposed fully grown trees.
- Changes of ground level under drip line of existing trees to be minimal.

Car parking

For many tenants, their car is their most valuable possession. For this reason, secure off-street parking is important to many tenants.

Provide car parking in accordance with ARHSEPP provisions. If ARHSEPP car parking provisions are not applicable, consider LEP/ DCP parking requirements. Where less parking than that prescribed by LEP/ DCP may be justified, negotiate with the consent authority. If registered car share scheme vehicle is available in the near vicinity- consideration may be given to providing less car spaces within the development.

The level of car parking provision in any affordable or social housing development should be guided by the location of the development, proximity to services and access to public transport and as a minimum be in accordance with SGCH car parking requirements- identified below as a maximum requirement.

Car Parking	
Dwelling Type	
1 bed	1 per dwelling
2 bed	1 per dwelling
3+ bed	2 per dwelling
Visitor Parking	1 per 5 dwelling
Bicycle parking	1 per dwelling

TABLE 1: Maximum Car Parking Requirements

Design for both normal and disabled parking. Other considerations include:

- Provide off-street parking as close as possible to dwellings, with good passive surveillance and minimum, but adequate, maneuvering space.
- Aim for a minimum of 20% disabled parking spaces for residents in line with SGCH's adaptable housing requirements.
- Restrict the use of underground and covered parking in multi-unit developments to high-value sites or to sites with potentially high yield (usually 3 storeys and above). In the case where underground car parking is necessary to retain development potential. In the case where underground parking is necessary, design the column grid to minimise the size of any transfer slab by aligning major walls and beams where possible. Ensure forward entry and exit from any underground car park.
- Avoid large car parking areas. Keep common area parking to a small scale and use paving materials and detailing to emphasise it is a shared pedestrian area. Consider garages for street facing dwellings, for 3+ bedroom dwellings where the garage parking could add value to future sale or privatization opportunities.



Figure 1 Garage presentation to the street



Figure 2 Garage/Carport design add valuable living areas for families

Building Style

Contextual Respect

Design involves the consideration of many issues and it is the challenge of the design process to resolve these creatively. Housing design can foster a sense of community through respecting the fundamentals that have created the prevailing urban pattern, rather than through imitation of style or visual references. Many sought after urban areas will have buildings of many different styles but united by other commonalities.

Other design requirement considerations:

- We seek buildings that blend in by virtue of their fundamental structure, the pattern of light and shade, setbacks and orientation, but at the same time offer a range of visual personalities.
- Where these patterns are in a process of change, have regard to the emerging patterns.
- Avoid an institutional appearance in the use of signage, ramps, letterboxes etc.
- That provide a sense of ownership and pride in the tenants



Individual Visibility

Sense of familiarity and identity is enhanced if the dwelling can be individually recognised.

Consider the following:

- Introducing variation between units where possible using building articulation, roof elements or other architectural elements.
- Designing larger sites as a series of smaller developments with fewer units sharing each block, common area and entry.

Scaleable

Human scale is important. It sets the measure for judging if a building is imposing or inviting, overbearing or exhilarating. For example, the roof over the entry or details on upper floor balconies can be used to provide smaller scaled reference points within a larger building bulk.

Edge Definition

Many fine planning ideas have come to grief over poor definition of edges between public, private and common. Edges or boundaries (fences etc) need to be well defined, visible with controlled movement between areas to avoid an institutional appearance.

Delight

There is no reason why good design cannot offer delight, even inspiration to the residents and the broader community. A consideration of details near where people come close to the building (entry, kitchen and bathroom) with little surprises here and there can lend character to a building far more than an over-stated facade might.

Decoration, far from being the scourge of good design, should be incorporated and acknowledged as a key element in promoting a domestic feel for a home.

Dwelling Sizes

Dwelling sizes have been standardised to allow sufficient but not excessive space for tenant's normal needs with and without universal design standards. These take account of furniture, circulation and storage. The site specific brief will dictate bedroom mix and access requirements. The following maximum floor areas apply to all new affordable housing supply for SGCH.

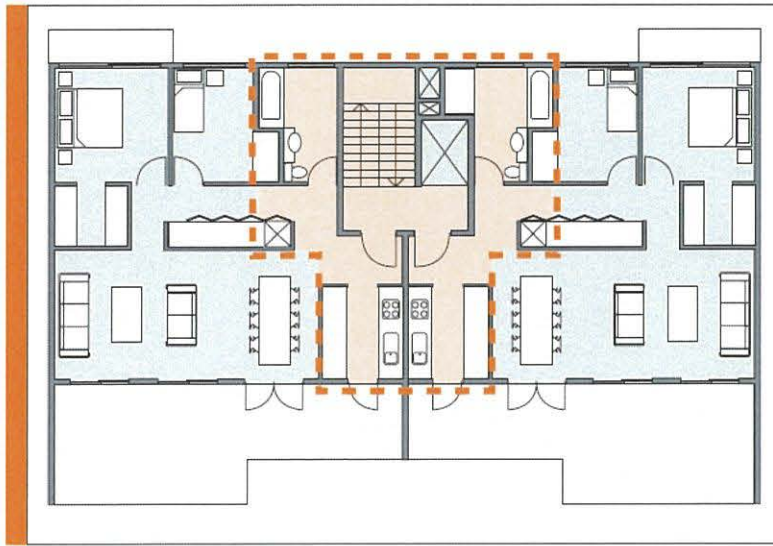
Dwelling Sizes	
Bedroom category	Floor area (sqm) NLA
Studio	35
1 Bed	50
2 Bed	70
3 Bed	95
4 Bed	110

Note: Areas exclude adaptable housing requirements

If a discrepancy exists regarding DCP/ LEP dwelling sizes and the above table, consultants should seek clarification from the Principal.

Acoustic Separation

Acoustic Privacy is a measure of sound insulation between apartments and between internal and external spaces. Where possible, separate noisy areas from quieter spaces and ensure the requirements of the BCA in terms of levels of acoustic separation are achieved and that the insulation of service risers is considered when determining the size for risers.



03.33. This typical apartment floor plan locates living spaces away from noise sources, such as the lift and stairs. Quiet bedrooms are also located separate from main living areas.

SOURCE: RFDC

Construction Methods

SGCH has an interest in assisting and guiding the industry towards better value, more robust and affordable housing products that provide greater comfort to occupants without any associated high running or environmental costs.

Life Cycle analysis has shown that investment in more robust/durable products will reduce future maintenance expenditure. This benefits both the tenant and SGCH.

Also as part of the current WH&S legislation, a 'Safety in Design' analysis is required as part of all consultant's' scopes to ensure safety throughout the building's life cycle.

"Buildability"

Any design has to be realised within the capabilities of human beings to construct it, maintain it and disassemble it safely.

Durability of Construction

Context may impact these decisions, for example, is it near a marine environment, or a heavy industrial area? Are there temperature extremes? Is there heavy rainfall, excessive heat? Is the soil stable? Is the material easily maintained?

Operational Access

Consider the ease of access for future maintenance. Allow for full access to all parts of the building, including ceilings, sub floor and roof.

Particular attention needs to be focused on replacement of items, usually fixtures such as water heaters and light bulbs but also including other building items such as photovoltaic

cells. Therefore layout and access should design with allowance for access and safe working area. Items known to need regular replacement should not be dependent on solutions such as scaffolding.

Cost Effective Design Solutions

- Take care with site levels to avoid unnecessary cut and fill and associated retaining walls.
- Avoid unnecessary articulation of walls: this is not an acceptable way to bring dwelling sizes within maximum.
- Avoid complex details, especially where they create risk of water penetration.
- Wherever possible, design windows, doors, kitchens and all other components to sizes and styles readily available 'off the shelf'.
- Non-standard components are acceptable where they individualise a dwelling but must be used judiciously and economically.
- Consider the sequencing of trades in combining different materials and finishes to promote efficient on-site building times. Design individually metered services for each dwelling. Ensure that the development is constructed so that it can be strata titled in the future.

Designing out Maintenance

Life cycle costs of maintenance expenditure have shown that increased capital outlay during construction on certain items can reduce overall costs in the long term. Therefore, the following items are required to be considered and implemented into the works:

Wall Construction

- Full masonry walls either cement rendered or with direct stick plasterboard finish suited to application or wall studs at 600mm centres finished with plasterboard.
- Wall insulation and any vapour barrier membrane should be securely fixed in place in accordance with the manufacturer's instructions to meet the requirements of the BCA.
- Where cavity insulation is required, the installation is to be undertaken by accredited installers as per manufacturer's instructions and the cavity must be kept clear.
- Use of low maintenance external finishes is strongly desired. Face brick and pre refinished steel fascia, gutters and downpipes are preferred with minimal use of rendered / painted external surfaces.
- The detailing of cavity flashings at openings requires monitoring. The cavity flashing adjacent to openings is to extend past the opening and be integrated into the window flashing system in accordance with AS 3700-1988:Masonry in buildings (known as the SAA Masonry Code)

Floor Construction

- Dwellings other than townhouses to be on one level. The slab shall be set down in all wet areas to ensure a level floor finish between the wet and adjacent habitable area. Balconies for apartment should also have a slab setdown or double rebate detail to allow minimal change between internal and external finish floor levels.

- Provide concrete ground and first floor except for townhouses.

Mechanical Exhaust

- In order to alleviate the need for access panels to service or inspect fire dampers installed in vertical ducts it is essential to duct kitchen and bathroom exhausts horizontally to the external walls.

Roof construction

- Roof framing not to bear on internal dividing walls, e.g. use roof truss framing, for future internal wall changes.
- Provide ceiling and sub-floor hatches allowing access to all parts of roof space and sub floor.
- Use sky tubes not roof lights or skylights to illuminate internal bathrooms or hallways
- Box gutters are not permitted
- Gutter guards or self cleaning gutters are to be provided where a roof area is within a 4 metre radius of any tree.
- Roof gardens and /or rooftop on-site detention are to be avoided

Windows

- All external window and sliding door suites to be out of commercial aluminium profiles satin etched anodised or powdercoated with timber reveals.
- Sliding windows are preferred over other window systems
- Ground level windows: sills at maximum of 730mm AFFL is preferred, excluding the bathroom, laundry and kitchen
- The window sill to all bedroom windows is preferred at 600mm AFFL where consistent with BCA provisions
- Windows may be full height. The operable part of any window is to be located a min. 1100mm AFFL is preferred.
- Windows to be fitted with locks that allow the window to be locked in restricted openings, of 50mm to a maximum of 120mm as per Building Code of Australia.
- Provide flyscreens to all windows and external doors. The entry door(s) is to be fitted with a security fly screen door (except where the entry door is a fire door).
- Fire windows, fire shutters or wall-wetting sprinklers to windows are not permitted without the prior approval of SGCH
- The installation of the window system is to be in accordance with the manufacturer's instructions. Particular attention is to be given to the installation of horizontal and vertical flashing systems associated with the window installation.

Balconies

- Balconies over habitable spaces are not permitted without the prior approval of the Principal.

Vertical Transport

Provide lifts for well located and accessible sites with multiunit development with three or more habitable storeys.

The lift(s) shall be located in a central location where surveillance from the entry is possible.

Other considerations include:

- Lift call buttons should be uniformly located to assist persons with low vision
- The lift cars shall be fitted with fixing points for lift protection (to protect the lift car finishes during tenant relocations)
- The lift cars shall be fitted with a vandal proof surveillance system
- Consider the implications of lift breakdowns in lift provision, and tailor lift contract service agreements accordingly, or provide dual lifts
- Avoid the use of long access balconies linking vertical transport to unit entries where privacy and security can be compromised
- Use Machine-Room-Less (MRL) lifts
- The finishes to lift car and lobby to be vandal resistant and selected from the standard range of finishes maintained by the manufacturer
- The operation of the lift is to be proximity card or equivalent system.

Environmental Sustainability

Generally, all new multi residential housing designed and assessed under SEPP 65 must, in addition to meeting the BASIX requirements also achieve accreditation as a 4 star Green Star rating (by Design and As Built) to Green Building Council of Australia's requirements.

All other housing must meet BASIX and achieve 7 Stars under NatHERS requirements. Individual projects may have specific NatHERS target and consultants will be required to achieve the project target.

Passive solar and fixed systems are preferred to movable and active systems that require tenant intervention and subsequent potential misuse.

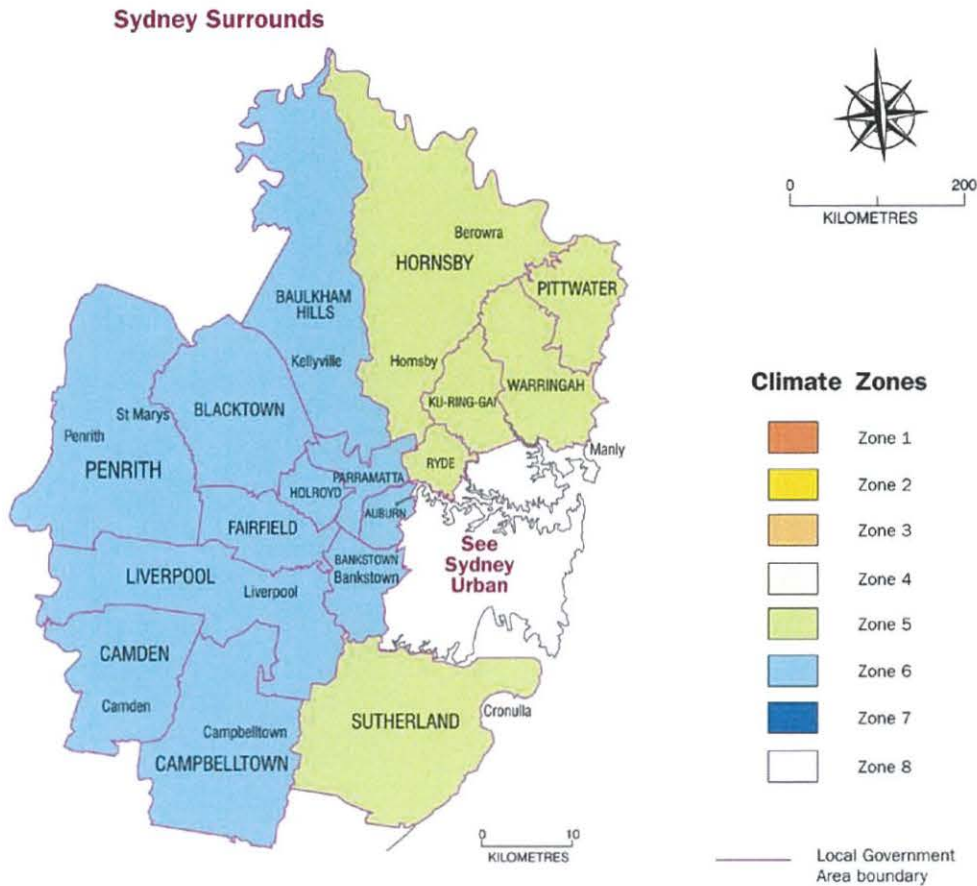
Climate Zones

Part J of the Building Code of Australia nominates energy performance criteria to be achieved. Energy efficiency measures vary from location to location depending upon the local climate. For simplicity, locations with approximately similar climates have been combined into eight climate zones. Most of the projects being delivered in the SGCH Program are located within Climate Zones 5 & 6. The table following identifies the minimum design response for each zone.

Climate Zone*	Description*	Location*	Design response (From Housing NSW)
Zone 5	Warm temperate	Coastal Sydney and Central Coast	Ceiling fan in living room.
Zone 6	Mild temperate	Western Sydney, South Coast, tablelands	Provide gas bayonet in living area against an external wall that is suitable for a future gas appliance flue

* As determined by the BCA

The maps following have been extracted from ABCB website indicating the climate zones for the Sydney metropolitan area based on the BCA 2009.




ABCB
Building Australia's Future
www.abcb.gov.au
 BCA 2009
 Developed from a map produced by the Bureau of Meteorology

Essential Requirements	
Water	4 star rated WELS tap aerators and WC. 3 star rated WELS shower heads.
	Separate mains potable water meters to each dwelling.
	Provide for rainwater harvesting. Where possible do not provide underground tanks . Prefinished steel tanks preferred. Provide a first flush device drained to stormwater system. Minimum connection requirement is to garden taps. No bladder tanks. No mains top-up tanks. Long term warranty pumps (min 2yrs).
Thermal comfort	'Bubble' type' foil sarking and insulation to roof.
	Ceilings and external walls thermal performance to meet NatHERS six star rating.
	In complying with BASIX consider Low-E glazing, but not double glazing.
	Use fixed or sliding external shading devices for window and door glazing to exclude summer sun and allow in winter sun.
	Openable windows for natural cross-ventilation. Refer safety provision on p 27.
	Draught seals around all external doors.
Energy	Water heating systems in order of precedence: 1. Split system solar hot water heater with anti-freeze and in-line gas booster (where gas and north-oriented roof space are available). 2. Split system electric boosted solar hot water heater with anti-freeze on off peak 2 (where north-oriented roof space is available but no gas). 3. Heat pump hot water system (low noise decibels) (not in unit developments). 4. Gas instantaneous (in units externally in recessed anti-theft cupboard). 5. Gas storage. Only use instantaneous electric where gas is not available and roof space precludes electric boosted solar.
	Internal lighting: bayonet type batten holders. Fluorescent fittings acceptable in kitchen, bathroom, laundry, carport.
	Timer switches to bathroom fans.
	For any single apartment building containing 8 or more units solar photovoltaic panels generating electricity fed into the grid and equal to the requirement for all external and internal common area lighting. Panels should be located on north, north-west or north-east facing roofs.
	Well ventilated refrigerator space.
Other	Low VOC (volatile organic compound) paints and vinyl for good indoor air quality. Only water based paints, even where enamel paints are otherwise specified. Also low VOC boards in kitchen bench tops, carcasses, doors and shelves, pvc edged. Inside of doors and shelves melamine finished with pvc edge strips.
	Indigenous flora requiring little irrigation and where appropriate food-generating plants.

Desirable Requirements	
Thermal comfort	Roof and façade colour—consider light colours to reflect heat.
Energy	Use of natural light and ventilation throughout.
	Internal ventilation fan in bathroom with automatic dampers or shutters and operation control such as manual on/off or interlocking to light switch.
	External lighting: movement and photoelectric detectors in appropriate areas. Do not use timers.
Other	Pervious paving to hardstand areas.
	Secure and conveniently located bicycle parking.
	Minimise on-site car parking.
	Use landscaping to assist in passive solar design.
	Locally produced, low embodied energy, renewable building materials and materials that can be recycled where possible.

Adaptable Housing

SGCH aims to deliver a minimum of 20% of all new dwelling construction as adaptable housing.

The objectives of adaptable housing are:

- a. That housing be designed and constructed in a way that satisfies the performance requirements for persons with accessible needs
- b. That housing is designed in such a way that later alterations to suite individual requirements will be achievable at minimal extra initial cost
- c. That housing be designed in such a way that it will easily adapt to suit the widest range of lifetime needs
- d. The initial design will allow for visitability through an accessible path of travel to the living room and toilet.

In designing and planning new adaptable dwellings, consideration should be given to AS4299 as it provides a reference point for best practice regarding this type of built environment.

Data Sheets

Furniture Arrangements

The table following indicates the type and size of furniture to be allowed for in each room in each dwelling type. Furniture arrangements are to be indicated on sketch plans to indicate at least one way the dwelling could be furnished.

Room Type	Beds	Furniture	Plan Dimensions (mm)	
Main bedroom	All units	Queen size double bed (mattress)	1550 x 2050 (min)	
		Wardrobe (full height)	600 x 1800 (min)	
		Writing desk/dressing table (within wheelchair circulation for Adaptable units)	600 x 1200	
		2 x bed side tables (Only 1 required in bedsit accommodation)	450 x 450	
All other bedrooms	All units	2 x single beds	900 x 2050	
		Wardrobe (full height)	600 x 1500 (min)	
		Writing desk/dressing table	600 x 1200	
		2 x bed side table	450 x 450	
Living room	Studio	1 single seat tub chair	1000 x 1000	
		Coffee table	600 diameter	
	1-2 bed unit	2 x 2 seat sofas	900 x 1800	
		Low shelf unit	450 x 1200	
	3 bed unit	1 x 2 seat sofa	900 x 1800	
		1 x 3 seat sofa	900 x 1950	
		Low shelf unit	450 x 1800	
	4 bed unit	1 x 2 seat sofa	900 x 1800	
		1 x 3 seat sofa	900 x 1950	
		2 x low shelf units	450 x 1800	
	Dining	Studio	Dining table and two chairs	900 x 900
		1 bed unit	Dining table 3-4 chairs	900 x 900
2 bed unit		Dining table 6 chairs	900 x 1200	
3 bed unit		Dining table 8 chairs	900 x 1800	
4 bed unit		Dining table 8 chairs	900 x 1800	
Kitchen	All units	See section regarding kitchen		
Additional built-in storage (min)	All units	Full Height Broom cupboard	600 x 450 deep	
	All units	Full Height Linen cupboard	600 x 600 deep	
	All units	Vanity cabinet in bathroom (with mirror above)	750w x 450d approx.	

Car Parking & Driveways

Dwelling Type		
1 bed	1 per dwelling	
2 bed	1 per dwelling	
3+ bed	2 per dwelling	
Visitor Parking	1 per 5 Dwelling	
Bicycle parking	1 per Dwelling	
Materials and Finishes	<ul style="list-style-type: none"> Broom finished concrete, light coloured and not stencilled. Oxides within the concrete mix may be used Concrete floors to car parks areas shall be sealed. Spaces to be numbered and line marked. Disabled parking motif to be painted to all appropriately dedicated spaces. 	
Lighting	<ul style="list-style-type: none"> Common area lighting is to be screened from windows and neighbouring properties, Light fixtures may be mounted on posts or buildings, must use energy saving globes, be vandal resistant and deflect light downwards. Bollard lighting and down lights are not to be used without the Principal's approval Any lighting fixtures selected for installation in car park / common areas is to be sealed to reduce the potential for spiders and pests to nest in the fixture or bug entry. The housing of the light fixture should have an IP rating between IP64-IP66. Car park lighting to be proximity sensor controlled for security and power saving 	
Underground / Basement Parking	Walls	Fair face block work to car park, painted around lobbies Note: other wall materials may be acceptable subject to approval of Principal.
	Ceilings	Off form concrete finish to soffit, columns and beams in car park and fire passages
	Car Park Security Door	Electrically operated commercial grade open grille aluminium roller shutter door
	Garbage Room	<ul style="list-style-type: none"> Sealed concrete floor with coved skirting and epoxy finish to the floor and walls up to 1000mm AFFL Water tap with floor waste (s) Walls and ceiling to be prepared, primed and painted with premium water based semi gloss paint unless an epoxy finish is required

Grounds and Landscaping

Special Notes	<ul style="list-style-type: none"> Do not provide cross site vehicular or pedestrian routes. Child safety is assisted by delineating front yards into two zones: secure fenced
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	recreational (includes path to front door and planting) and vehicle zone. <ul style="list-style-type: none"> For villas, townhouses and ground floor apartments, all external taps are to be located within the dwelling's private open space and not within any common areas. 		
Materials and Finishes	Fencing and gates	Rear and side boundary	1800mm metal zincalume fence
		Front and side boundary to cut off fence (consistent with streetscape and designed to Council requirements).	900-1000mm semitransparent, Min 900mm wide clear pedestrian gate. No 'spear points' where impaling is possible. Consider infill between masonry piers.
	Paths and ramps	Minimum 1.2 m wide for common entry paths. Width to comply with all statutory requirements.	If paths require handrails, ensure minimum 1m clear width and detailing to suit current AS1428. 1:20 ramps preferred without handrails. Minimise paving as far as practical.
		Retaining walls less than 1000mm high in full brick. Concrete block for taller walls.	Avoid retaining wall materials that require maintenance. Integral finishes acceptable.
	Paving	Broom finished concrete	Coloured, not stencilled (except for margins), slip resistant.
		If clay paving is used, it should not provide an obstacle to wheelchair access.	No stepping stones – paving to be continuous.
Services	Lighting	As per car park lighting requirements	

External – Private Open Space Including Balconies

Special Notes	<ul style="list-style-type: none"> Private drying lines for all dwellings, in private rear yard or balcony, covered where practical Balconies and paved area at ground level to be covered for weather protection to outdoor furniture, while maintaining required solar access. Where two balconies are provided, install clothes line on secondary balcony. If in a visible location clothes lines should be provided with screening, otherwise, must be below handrail height if screening is not provided. Clothes lines should not become a climable object. Clothes line length must be minimum 7m for studio / 1 bedroom dwelling, 19m for two bedroom dwelling and 37m for 3 or more bedroom dwellings.
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		<ul style="list-style-type: none"> The design of the external areas is to include for the future installation of air conditioning to the dwelling. Consideration should be given to the location, screening and acoustic management of the external compressors which will be required for the operation of the system
Material and Finishes	Balustrades	<ul style="list-style-type: none"> Minimum height to be 1100 mm above FFL No horizontal elements that allow climbing or placement of pots or planters.
Fixtures	Taps	<ul style="list-style-type: none"> Provide one garden tap to the front and to the back private open space in a convenient, safe location. Rainwater / recycled water (if available through Council mains) to be reticulated to all external taps with that dwelling's mains back up.
	Electrical	Each Balcony shall have minimum one external wall light.

Common Elements – Building and Dwelling Interiors

Entry	Threshold	The threshold is to be step free	
Ceilings	All ceilings except wet areas	Plasterboard flush set / suspended to ceilings and bulkheads. Cornice to be plasterboard shadow line plaster cornice.	Paint with premium water based flat ceiling paint.
	Wet areas only	Wet areas to have flush set/suspended FC sheet or moisture resistant plasterboard linings Ceiling / wall junction to be square set with flexible joints.	Wet area preferred ceiling height of 2400mm ceiling height max. Paint with premium water based semi gloss paint. Paint to include mould inhibitor.
Wall Construction	All walls except wet areas	Rendered masonry or 10mm (13 mm to common areas) plasterboard fixed to masonry, or stud framing. Where stud framing is used, wall studs to be at 450mm centres.	The fire rating and acoustic integrity of walls shall be maintained. Chasing in single skin masonry party walls is prohibited. Paint walls with premium wash and wear low sheen acrylic paint
	Skirting	Timber (not MDF).	Skirting to be painted with premium water based interior/exterior semi gloss enamel.
	Wet area walls -Masonry construction	Apply DPC to masonry walls in wet areas as per AS 3700:2001-Masonry Structures Wall chasing in single skin of	

		brickworks where bathrooms abut party walls is not permitted. Prior approval from the Principal is required for alternative wall construction.	
	Wet area walls -Framed construction	A DPC shall be installed to separate the timber frame from the concrete slab in accordance with AS1684.2:2010. Framed walls to be lined firstly with marine ply and then with 6mm Fibre Cement Sheeting. Prior approval from the Principal is required for alternative wall construction.	
Windows	Windows / Windows with door frames	Powder coated aluminium windows & door frames with window locks including all hardware, Series 400 Proprietary Commercial Section and fitted with fly screens	Refer to the "windows" section on page18 of this Design Requirements for window sill heights and preferences. Install window locks to sliding sashes so that the operable section(s) can be restricted. Minimum clear door opening to be 820mm or greater width to comply with any statutory requirements.
	Architraves to windows – except wet areas	67 x 18 mm (nom) timber architrave (not MDF).	Architraves to be painted with premium water based interior/exterior semi gloss enamel.
	Architraves to windows – wet areas only	Tiled sills and reveals to wet area windows	
	Window Coverings	Roller blinds to be provided as per BASIX requirements or project ESD requirements.	If no statutory requirements to provide window furnishing, allow roller blinds with blackout fabric to all areas.
Door Assembly	Frame	Steel frame with zinc coating. 3 hinges (welded hinges not permitted).	Entry Door frame width (with hinged door) to provide a minimum clear opening of 850mm (920 door leaf).
	Frame (fire rated)	Fire rated steel frame with zinc coating. 3 hinges (tagged)	Internal door frames width (with hinged door) to provide a minimum clear opening of 820mm (870 door leaf). Internal door frame width and leaf sizes vary to comply with AS1428 and

			<p>AS4299 for adaptable/ accessible dwellings.</p> <p>Satin chrome lever handles installed 1,000mm AFFL.</p> <p>Door frames to be painted with premium water based interior/exterior semi gloss enamel.</p> <p>Door frame and door leaf (corridor side) shall provide at least 30% luminance contrast to the adjacent wall as per AS1428. This includes building entry doors, garbage room doors, communal building doors, apartment entry doors and any other door as per statutory requirements.</p>
	Doors (non-fire rated)	<p>Entry and internal room doors to be a hollow core non MDF door with prefinished face ready for paint.</p> <p>Entry door to have one way security viewer mounted on centre line of door at 1440mm AFFL and provide draft excluders to all sides of door. Wet area doors to have waterproof plywood face.</p>	<p>Entry Door frame width (with hinged door) to provide a minimum clear opening of 850mm (920 door leaf).</p> <p>Internal door frames width (with hinged door) to provide a minimum clear opening of 820mm (870 door leaf). Internal door frame width and leaf sizes vary to comply with AS1428 and AS4299 for adaptable/ accessible dwellings.</p>
	Door (fire rated)	<p>Fire rated door to be a solid core non MDF door (tagged) with prefinished face ready for paint.</p> <p>Lever handles to be fire rated</p> <p>Entry door to have one way security viewer mounted on centre line of door at 1440mm AFFL and provide draft excluders to all sides of door.</p>	<p>Satin chrome lever handles installed 1,000mm AFFL.</p> <p>Doors to be painted with premium water based interior/exterior semi gloss enamel.</p> <p>Door frame and door leaf (corridor side) shall provide at least 30% luminance contrast to the adjacent wall as per AS1428. This includes building entry doors, garbage room doors, communal building doors, apartment entry doors and any other door as per statutory requirements.</p>
	Side light	Provide a glazed sidelight to entry doors that are not required to be	Applicable to duplex, townhouse and villa type

		fire rated. The side light shall be located on the latch side of the door	developments.
	Security screen door	Non fire rated sole occupancy entry doors shall be fitted with a security screen door equal to crimsafe. The interface of screen door hardware and door hardware is to be coordinated.	Doors to comply with AS requirements Provide door closer to all hinged doors
Stairs		Provide steps preferably of 300mm going and 165mm riser, with no projecting nosing.	Steps to finish and start with full steps and not to 'disappear' because of cross falls. Provide handrail to min. one side.
Lighting		Oyster lights fitting using replaceable LED bulbs preferred. LED down lights may be used in habitable areas in conjunction with ceiling fan. LED wall mounted lights preferred for balcony potentially with >3m fall. LED light fittings with a motion sensor is preferred for common and service areas. All light fittings to suit project ESD requirements.	
Internal Floor Coverings	Entry door and kitchen area	Select fully vitrified tiles. If no specific slip resistant rating is required, tile selection should allow for easy cleaning.	Slip resistant tiles to comply with any statutory requirements applicable.
	Living Dining and Bedrooms	Select wool texture loop pile carpet	
	Wet areas and Balconies	Select fully vitrified tiles.	The selected tile should have a non slip classification of R10 or "X" to the wet pendulum test. Alternative selection subject to approval from Principal.
Wardrobes All Bedrooms	Built in wardrobe 1800 x 600 (clear internal) min	Robe to be full height The doors to the robe are to be mirror sliding and fully framed. Aluminium frame to be powder coat finish. Doors construction and rollers to be equal to the STEGBAR wardrobe system. Provide 600mm wide set of drawers and adjustable shelf unit	Internal construction may be 16mm white melamine. Unsupported horizontal shelving resulting in bowing of shelves will not be accepted Robe design to be submitted for approval. Additional storage may be considered provided the minimum dimensions nominated in this document have been achieved.

		Provide 1200mm wide hanging section. Shelf above hanging rail at 1800mm AFFL Provide storage above hanging rails shelf to ceiling	
Provision	Broom cupboard (all dwellings)	Min 600mm wide x 450 deep full height with one shelf at 1200 high. Preferably near kitchen.	Alternatively can provide these in living, dining or hallway. Provide D-handles and roller catch.
	Linen cupboard -(all dwellings)	Min 600mm wide x 450 deep full height with shelving. Preferably near bedrooms	Provide D-handles and roller catch.
	Service risers	The service pipes / ducts from units above must be encased to provide acoustic and fire separation. Service risers shall not be located in robes or cupboards where the minimum spatial requirements are diminished	Paint walls with premium wash and wear low sheen acrylic paint
	Access Panels	The access panel size should have a concealed frame, be lockable and may also need to be fire rated (if required). Within the roof space provide security / fire separation between common roof space and roof space over sole occupancy units	
	Corridors	All corridors to be a minimum width of 1000mm measured between skirtings. Corridor width may vary in adaptable/ accessible dwellings to comply with AS1428 & AS4299.	
	NBN	Install fibre optic services via NBN Co's latest technology with provisions for high speed data & communications. This will allow integrated communications, better monitoring and security. NBN location and dimension as per the requirements by the service provider with preferred location to be within wardrobe of secondary bedroom.	
	Water Reticulation	Rainwater to be made available for watering of landscaped areas with preference for rainwater reticulated to supply all unit toilets. No potable water top up to communal tank allowed but individual switch in line to each unit's potable water supply in case of no rainwater available.	
	Meters	All units to be individually metered for electricity, water and gas. Electrical sub board must also be located within each unit. Where possible utilise remote service smart metering (ie by data connection).	
	Hot Water	Each unit to have an appropriately sized continuous flow hot water	

		system. Ground and first floor apartment hot water systems to be fitted with anti theft device. For houses, villas and townhouses - solar hot water system with gas booster or low noise heat pump. Communal hot water plant acceptable for apartment developments.
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Entries and Lobbies

Building Lobby	Lift Interior	Satin finish stainless steel and mirror combination, for a BCA compliant lift with ability to fit ambulance gurney. Lift car to be fitted with a vandal proof surveillance system.	Lift doors to be stainless steel satin finish. Submit lift design and details for approval prior to order.
	Entry Doors and Windows	Commercial aluminium framed clear glazed entry doors and windows (Series 400 Proprietary Commercial Section)	
		Electronic door operators, security systems etc	Provide black and white video intercom and door release mechanism for access to lobby and car park areas
	Lobby Furniture	Select vandal resistant furniture and wall finishing to ground floor lobbies	
Floor	Common area ground floor entry lobbies, stairs and landings	Recessed entry matt should be provided immediately adjacent the lobby entry doors. Select unglazed fully vitrified tiles and with non-projecting nosing for stairs.	The selected tile should have a non-slip classification of "B" according to the "wet / barefoot" ramp test and minimum "P4" according to the wet pendulum Test. Alternative selection should comply with statutory required rating if applicable and be approved by the Principal.
	Common area upper floor lobbies and corridors	Select fully vitrified tiles. If no specific slip resistant rating is required, tile selection should allow for easy cleaning.	Slip resistant tiles to comply with any statutory requirements applicable.

Living Room

Special Notes	<ul style="list-style-type: none"> • Allow for set downs in floor slab to ensure level access to private outdoor space when ceramic tiles are the intended floor finish. • Gas bayonet and external flue point to external wall of living room is required. • Bathroom and bedroom doors not to open from living areas. • The designs developed should include for an air conditioning strategy. The location of the system components should be carefully considered when planning for the
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	system. Specific consideration as to the ducting and running of condenser lines to the external compressor should be identified at the planning stage	
	<ul style="list-style-type: none"> • Video intercom system without handset is preferred. • Roller blinds to be provided as per BASIX/ project ESD requirements. 	
Minimum dimension	3.6m wide	Living room only
	Doors to balconies or yards	Provide low threshold sill
Gas	Gas bayonet	1 Against an outside wall
Livable Housing Design – Requirements		
The following livable design standards shall be incorporated into each dwelling's specification. A summary of each targeted standard is as follows		
	8 Core Principles	Design Elements
1S	A safe continuous and step free path of travel from the street entrance and or parking area to a dwelling entrance that is level.	<ul style="list-style-type: none"> • From front boundary or car parking space • Path of travel slip resistant, cross fall no more than 1:40, path slope no more than 1:14, max distance to landing 9m or 15m for ramps • Step ramp max gradient of 1:10 max length of 1900mm and minimum width of 1000mm
2S	A least one, level step free entrance into the dwelling.	<ul style="list-style-type: none"> • Min opening width of 820mm with reasonable weather shelter • Level landing at least 1200mm by 1200mm • Connects to safe continuous pathway
3S	Internal doors and corridors that facilitate comfortable and unimpeded movement between spaces.	<ul style="list-style-type: none"> • Min opening width of 820mm • Max threshold/transition tolerance of 5mm • Internal corridors/passageways min 1000mm
4S	A toilet on the ground (or entry) level that provides easy access.	<ul style="list-style-type: none"> • Min clear width of 900mm between walls if in a separate room • Min 1200 circulation space forward of pan • In bathroom pan should be in corner for grab rails
5S	A bathroom that contains a hobless (step free) shower recess.	<ul style="list-style-type: none"> • Slip resistant floors • Shower screens that can be removed later • Located in corner for grab rails
6S	Reinforced walls around the toilet, shower and bath to support the safe installation of grab rails at a later date.	<ul style="list-style-type: none"> • Walls around toilet, bath and hobless shower reinforced with extra noggings with a thickness of at least 25mm and sheeting with a thickness of at least 12mm
7S	A continuous handrail on one side of any stairway where there is a rise of more than one metre.	<ul style="list-style-type: none"> • N/A

8S	Stairways are designed to reduce the likelihood of injury and also enable future adaption.	<ul style="list-style-type: none"> N/A
12G	Light switches and power points are located at heights that are easy to reach for all home occupants	<ul style="list-style-type: none"> Light switches are located 900-1100mm above the finished floor Power points no lower than 300mm from the finished floor
13P	Home Occupants are able to easily and independently open and close doors and safely use tap hardware	<ul style="list-style-type: none"> Door hardware located 900mm to 1100mm above finished floor and feature lever or d handles All tapware should feature lever of capstan style hardware with a central sprout

Please refer to the latest version of the Livable Housing Design Guidelines for exact specification requirements. Where an inconsistency exists between the Livable Housing Design Guidelines and this specification, the Liveable Housing Design specification shall prevail.

Kitchen and Dining Room

Special Notes	<ul style="list-style-type: none"> Dining area sized for the household plus two visitors. Avoid placing kitchen close to entry Position refrigerator and pantry at kitchen entry. Avoid circulation routes running through kitchen to minimize dangers to children. Layouts to provide logical and continuous food preparation sequence. Storage to include drawers and cupboards below benches and cupboards above all benches against walls. 300mm min length of bench required both sides of a cook top. 				
No of Bedrooms	Studio & 1	2	3	4	Comments
Minimum dimension	3.6m				Dimension refers to dining rooms
Benches (600mm wide) (lineal metres) measure from the centre line of the floor cupboards	1.8	2.2	2.7	3	Excludes cook top, add 600mm for any corner cupboards. Bench tops to be of select 20mm reconstituted stone as preferred finish with laminate kickboards. Laminate or polyurethane finish to doors, drawers and exposed panels / edges with HMR melamine interior. Drawers with cutlery insert to top drawer.
Overhead cupboards (300mm deep) (lineal metres)	1.5	1.8	2.1	2.4	Excludes microwave oven cupboard & cupboard over fridge space. Provide microwave oven space

measure from the centre line					(nom. 500 deep) either above or below bench. Laminate or polyurethane finish to doors, drawers and exposed panels / edges with HMR melamine interior.
Pantry	600 mm wide				Laminate or polyurethane finish to doors, drawers and exposed panels / edges with HMR melamine
Splash back	Select tiles or glass splash back				
Joinery Handles	Select Metal Satin Chrome "D" handles				
Sinks Approximate size	1 bowl sink with drainer 500 x 1100	Min 1.75 bowl sink single drainer			Polished chrome single lever mixer
Appliances – Oven	Westinghouse SS Electric oven model: POR663S Adaptable / Universal Units Westinghouse SS Electric oven model: PORS663S or as approved by Principal				Wall oven for all types except bedsitters where oven to be under bench
Appliances – Cook top	Westinghouse SS gas burner cook top model: GRH127S or as approved by the Principal				600mm 4 burner
Appliances – Range hood	Westinghouse SS range hood top model: WRJ600US or as approved by the Principal				Fixed range hood mechanically ducted for horizontal discharge
Appliances – Dishwasher	Provision of dishwasher space for future installation				600mm under bench dishwasher space
Fridge space	Allow space 1000w x 1800h				

Main Bedroom

Area (sqm)	14.4sqm minimum 3.5m minimum width		Area includes built-in wardrobe
Min room dimensions	Room size	3.5m x 3.5m min (?)	Dimensions are clear internal of face of wall linings.
Electrical / Data	Light Point	1 off	Ceiling mounted oyster light fitting with replaceable LED bulb. LED down lights may be used in conjunction with a ceiling fan. Light switch to be located adjacent to the door.
	GPO's	3 Double GPO's	Place one double GPO either

			side of bed head and one on opposite wall for TV. The position of the GPO shall be located 600mm AFFL and horizontally not less than 500mm from internal corners.
	Telephone	1 outlet	Next to bed on side closest to door.
	TV aerial socket	1 outlet	On opposite wall to bed head next to GPO. Note: Point to be Pay TV connectable.

Other Bedrooms

Area (sqm)	10.8sqm – 15.1sqm minimum (depending on room orientation)		Area includes built-in wardrobe
Min room dimensions	Room size	3.6 x 3.0 minimum	Dimensions are clear internal of face of wall linings.
Electrical / Data	Light Point	1 off	Ceiling mounted oyster light fitting with replaceable LED bulb. Light switch to be located adjacent to the door.
	GPO's	3 Double GPO's	Place one double GPO either side of bed head and one on opposite wall. The position of the GPO shall be located 600mm AFFL and horizontally not less than 500mm from internal corners.

Bathroom, Bath With LDY & Visitable WC

Special Notes	<ul style="list-style-type: none"> All wet areas to have set downs in floor slab/framing to ensure level access. All tapware to be single lever mixers (min 4 star WELS Rating) except shower - 2 lever handle tapset (4 star WELS rating) Where the bathroom is internal and is located directly under the roof install a "SKYTUBE" style fitting to provide natural daylight to internal areas. All shower to have no bounding hob with minimal change of floor levels. All wet areas to be mechanically exhausted. Bathrooms to be as compact as possible and located near other wet areas & bedrooms. Make all necessary allowance to adaptable dwelling for future adaptation. 		
	Wall Tiling	Glazed ceramic tiles to all walls - full height. No paint to be applied to walls of wet areas.	Wall tile adhesive to be compatible with waterproofing system Includes laundry recess if combined in bathroom.

Bathroom Fixtures	Vanity cabinet unit	Approx. 900w x 450d on nom 150h tubular legs. Vitreous china bowl.	Polyurethane finish to doors, drawers and exposed panels/ edges with HMR melamine interior. Vitrified China Basin Flush doors with satin chrome metal handles Reconstituted Stone bench top Install unframed mirror with polished edges 900mm x 900mm mirror above vanity unit.
	Bath	Provide bath to 3 -6 bedroom dwellings.	1525 x 760 x 460mm (nom) acrylic bath. Install in accordance with manufacturer's instructions. Do not locate shower or window over bath Polished chrome bath spout
	Shower rose	Chrome wall mounted multi directional shower rose. Adjustable shower on rail for adaptable/ accessible dwellings to comply with AS 1428 & AS4299.	
	Soap holder	Metal – polished chrome finish	Surface mounted in shower
	Towel Rails	Metal – polished chrome finish	750mm (L) x No of Beds Mount at 1000mm AFFL
	Toilet Pan	Close coupled dual flush white vitreous china toilet suite. Secondary plumbing point to be installed to suit fixture for future adaptation.	Min 4 star WELS rating Cistern to be dual flush 4.5/3.0L
	Toilet roll holder	Metal – polished chrome finish	Locate adjacent to WC pan.
	Robe Hook	Metal – polished chrome finish	Locate one hook on the back of the bathroom door
	Shower screen	Semi framed powder coated aluminium with 2000h minimum top rail.	For adaptable units - Ceiling mounted sliding track system with bottom weighted shower curtain and strip grates
	Floor Wastes	Chrome metal floor waste/ Tile insert floor waste	

	Laundry Tub	Polymer cabinet with SS trough	The taps associated with the laundry tub is to include for Hot and Cold town water service as well as a harvested water supply control cock. All taps to be lever style
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Laundry (Separate from Bathroom)

Special Notes	<ul style="list-style-type: none"> For separate laundries, preference is for a tub set flush into a bench with additional bench space next to the tub. Laundries within cupboards must have hinged, not bi-fold doors. All wet areas to have set downs in floor slab to ensure level access. All tapware to be chrome lever handles. Provide open shelves unit above tub nom 450 wide x 250 deep to reduce need for bending down. 							
Provision	Bench	Min 800mm long x 600mm deep or 700mm deep if tub bowl is inset. Laminate finished. Design of bench to meet the requirements of AS1428.1.						
	Wall Tiling	Glazed ceramic tiles to splash back of sink and washing machine.				Wall tile adhesive to be compatible with waterproofing system		
Electrical	Exhaust fan	Ducted to outside air, on timer switch. Automatic dampers or shutter and operation control such as manual on/off or interlocking light switch.						
Fixtures	Bedrooms	0	1	2	3	4	5	6
	Tub	45 litre			68 litre			
	Laundry Tub	Powder coated steel cabinet with stainless steel trough The taps associated with the laundry tub is to include for Hot and Cold town water supply control cock. All taps to be lever style.						
	Clothes Dryer	Structural provision and support bracket for future dryer installation.						
	Floor Wastes	Chrome metal floor waste/ Tile insert floor waste						
	Exhaust fan	Mechanically ducted exhaust fan discharging horizontally						

Separate WC

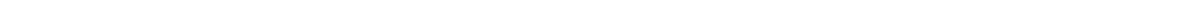
Bedroom	0	1	2	3	4	5	6	Comments
	No separate WC			1	1	1		
Special notes	<ul style="list-style-type: none"> Larger dwellings have a second W.C. in laundry or separate. All wet areas to have set downs in floor slab to ensure level access. 							

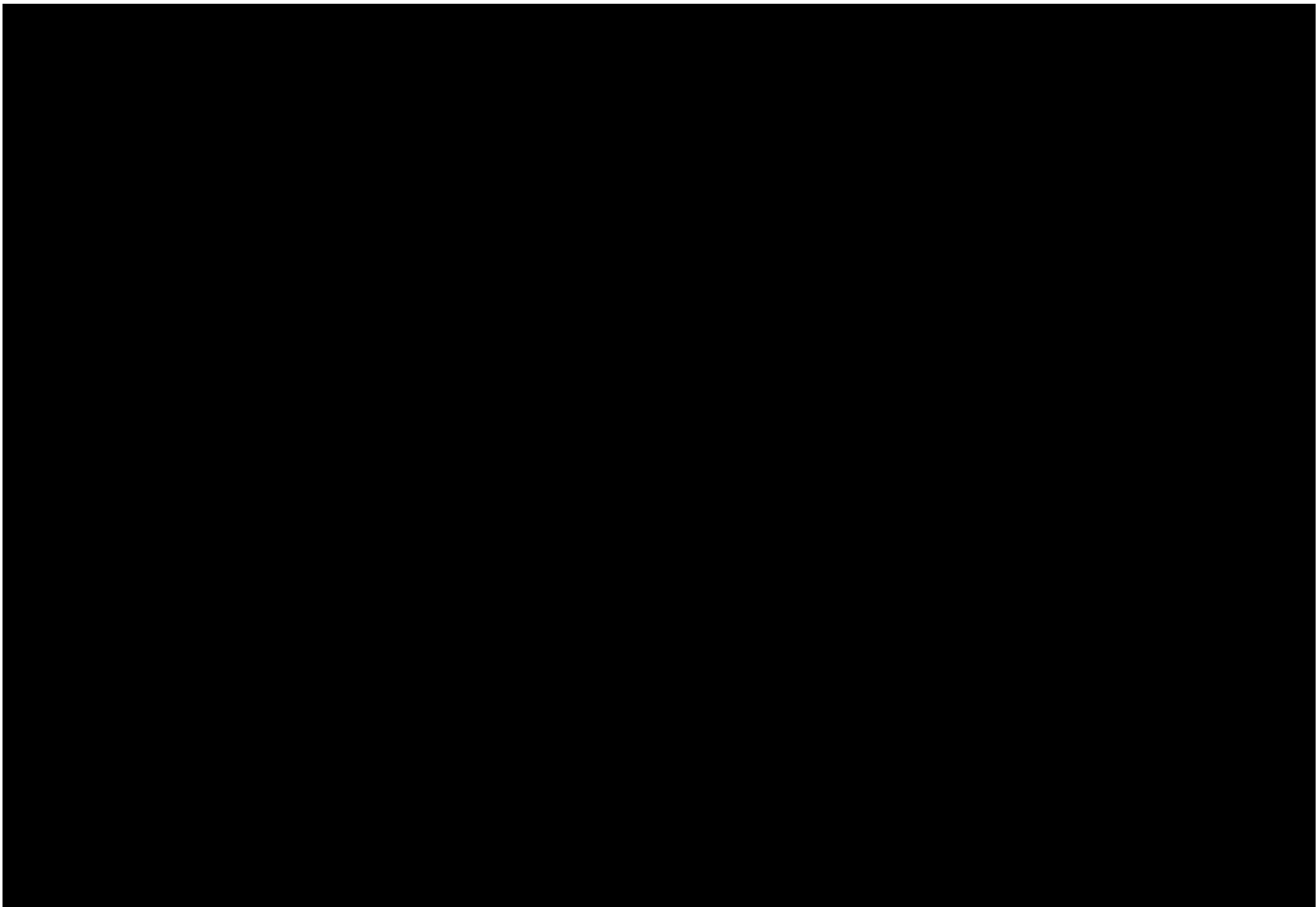
Electrical	Exhaust fan	Fan to be horizontally ducted to outside air (on timer switch). Sized to suit room.	
	Light	Oyster Light fitting with replaceable LED bulb to be installed and appropriately switched	
Fixtures	Basin	Vitreous china 400x 400mm min.	Delete basin if toilet pan is included in a laundry.
	Mirror	Over basin nom 900H x 400W	Powder coated aluminium frame
	Towel Rails	Metal – polished chrome finish	Towel ring/ rail Mount at 1000mm AFFL
	Toilet Pan	Close coupled dual flush white vitreous china toilet suite.	Min 4 star WELS rating Cistern to be dual flush 4.5/3.0L
	Toilet roll holder	Metal – polished chrome finish	Locate adjacent to WC pan.
	Floor Waste	Chrome metal floor waste/ Tile insert floor waste	
	Exhaust fan	Mechanically ducted exhaust fan discharging horizontally	

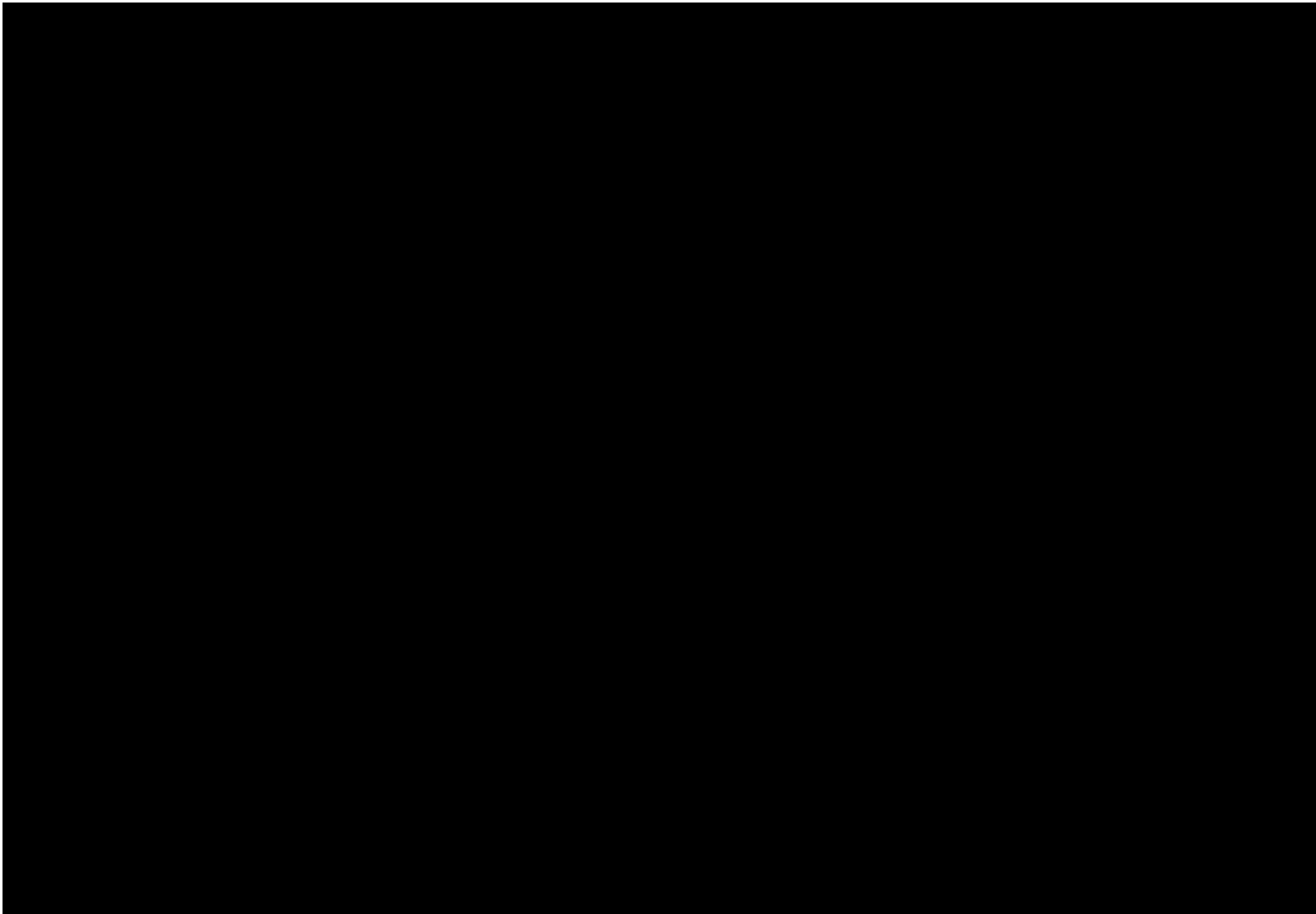
Confidential

Annexure A – Bid Design Deliverables

A2 Initial Delivery Phase Program







Confidential

Annexure A – Bid Design Deliverables

A1 Initial Delivery Phase Plans

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Annexure A – Delivery Phase Plans and Reports

Health and Safety Management Plan

1. Purpose

The Health and Safety Management Plan outlines how SGCH Sustainability will ensure appropriate work health and safety (WHS) practices are achieved during the Delivery Phase and the Service Delivery Phase in accordance with the Services Agreement for the Social and Affordable Housing Fund (SAHF).

The Plan sets out how:

- SGCH Sustainability complies with WHS legislation, including:
 - known hazards and risks in relation to our sites defined as Relevant Infrastructure in the Services Agreement (including the Services)
 - SGCH Sustainability's support measures
- SGCH Sustainability will audit all Subcontractors compliance with WHS legislation and take reasonable steps to mitigate or eliminate risk as far as reasonably practicable
- SGCH Sustainability will monitor Subcontractors to manage any risks or potential risks to the health and safety of people at Relevant Infrastructure
- SGCH Sustainability will monitor Subcontractors to manage WHS incidents and hazards throughout the Delivery Phase and the Service Delivery Phase.

2. Compliance with WHS Legislation

SGCH Sustainability

SGCH Sustainability will comply with the Health and Safety Management Plan and the SGCH Group Work Health and Safety Policy and Procedures to ensure WHS legislation requirements are met during the Delivery and Service Delivery Phases.

The SGCH Group Work Health and Safety Policy - Appendix 1.

Subcontracted Service Provider

St George Community Housing (SGCH) as the Service Provider will act in line with the Health and Safety Management Plan and the SGCH Group Work Health and Safety Policy to ensure WHS Legislation requirements are met during the Delivery and Service Delivery Phases.

SGCH are required to comply with the Health and Safety Management Plan under the Services Subcontract.

Subcontracted Project Manager

For all construction activities, SGCH Sustainability will engage a Project Manager to deliver a development project from Development Application approval to handover at Service Readiness.

The Project Manager will be required by contract to:

- ensure the Builder's WHS Management System is implemented
- monitor compliance of WHS legislation, regulations, standards and codes

- routinely review and comment on Project Safety Plans, Site Safety Management Plans and Safe Work Method Statements
- define the Builder's WHS requirements
- identify and assess risks with work performed on the site and propose to the site controller risk control measures
- consult with all workers and duty holders on WHS issues, including WHS policies, plans and procedures
- monitor / review the Builder's emergency procedures
- participate in investigating incidents / accidents and propose corrective and preventative actions
- report all site incidents and mishaps as well as accidents and injuries that have occurred to SGCH Sustainability
- undertake reviews of the WHS Management system and its implementation on a regular basis
- complete Site Risk Assessments and implement control measures where relevant
- manage the builder's compliance with WHS legislation, regulations, standards and codes of practice
- ensure currency of Builder's accreditations e.g. WHS Quality Assurance System, Federal Safety Commissioner WHS Accreditation
- report monthly (or sooner) to SGCH Sustainability advising of WHS hazards /potential hazards, near misses and incidents.

Subcontracted Builders

Builders, as head contractors, are responsible for managing site safety. All construction companies that SGCH Sustainability will contract during the Delivery Phase, will be required to have current Federal Safety Commissioner (FSC) WHS accreditation under the *Fair Work (Building Industry) Act 2012*.

FSC accreditation is achieved by satisfying the following criteria:

- demonstrated ability to manage construction hazards and high risk activities
- record in relation to workplace safety
- on-site audit results
- performance against the following focus points:
 - demonstrated senior management commitment to WHS
 - integration of safe design principles into the risk management process
 - whole of project WHS consultation and communication
 - demonstrated effective subcontractor WHS management arrangements across building and construction projects
 - whole of project performance measurement
 - WHS training and competency to deal with safety risks

Builders will also be expected to have in place an externally accredited WHS Quality Assurance system.

These requirements provide SGCH Sustainability with assurance that the builders are implementing the highest standard WHS management systems. This will include the employment of specialist WHS staff by the builder to regularly advise and audit construction sites ensuring constant WHS compliance.

In addition to the PM's WHS monitoring obligations, SGCH Sustainability will monitor the builder's WHS systems. This will be undertaken by the Development and Property Services Division of SGCH and include:

- reporting any WHS concerns to the builder and all other entities when SGCH staff are on site attending meetings / inspections
- WHS reporting capturing any incidents, accidents, Safework NSW inspections, site audits, results of internal safety inspections in the monthly builder PCG report
- periodic review of WHS systems by the SGCH Group WHS Committee.

Subcontracted Maintenance Provider

SGCH Subcontracted Maintenance Providers are required by contract to comply with WHS legislation. WHS compliance and monitoring requirements are embedded in the service contracts with Multi-Trade Contractors (MTCs), and cover the work of all subcontractors engaged by the MTCs.

MTCs and their subcontractors are required by contract to:

- comply with the *Work Health and Safety Act 2011* and ensure WHS performance standards outlined under the *Work Health and Safety Act 2011* (and Regulations) and any WorkCover NSW Guidelines are met
- have WHS Certification and provide SGCH with a compliant Work Health and Safety Management Plan, an Emergency Plan and a Health and Safety Risk Assessment Plan
- manage any health and safety hazards and risks and where appropriate or applicable to a specific site, provide SGCH a Safe Work Method Statement
- have comprehensive understanding of NSW statutory requirements regarding handling of hazard materials, asbestos and lead management
- establish and maintain work procedures which ensures workplace safety for their employees and any other person on the site
- report monthly to SGCH on any WHS matters
- comply with SGCH WHS Policy.

3. Risk Management

SGCH as the Service Provider will act in line with the Health and Safety Management Plan, the SGCH Group's Work Health and Safety Policy and procedures to ensure all risk and potential risks at Relevant Infrastructure are managed during the Delivery and Service Delivery Phases.

The SGCH Group's Risk Management Framework is aligned to ISO 31000:2009, Risk Management-Principles and Guidelines.

The SGCH Design and Construction Contract requires the contractor responsible for the Relevant Infrastructure to:

- determine how work is undertaken including management of risks to health and safety
- manage, co-ordinate and control access to the Relevant Infrastructure to ensure optimal work health and safety management
- undertake a WHS risk assessment to identify all reasonable steps and risk controls to eliminate or minimise work health and safety risks
- provide the SGCH PM with details of the risk assessments and evidence of the implementation of risk control measures
- notify SGCH immediately of any incident, lost time incident or injury incurred undertaking work for the Relevant Infrastructure

- report monthly to SGCH on workplace safety incidents including near misses and the actions taken to eliminate or reduce risks for incidents and near misses
- SGCH will update WHS policies, procedures and the Health and Safety Management Plan as required.

4. Implementation

The Health and Safety Management Plan will be implemented by adopting a risk management system for WHS as follows:

- regular review and implementation of WHS policies and procedures
- undertake consultation via the SGCH Group WHS Committee
- promote, maintain and improve safety procedures
- identify, assess, control and review hazards in the workplace
- develop safe working procedures for specific hazards or risks and incorporate these into general operating procedures for service delivery outline health and safety responsibilities of all persons at the workplace whose positions or roles involve specific health and safety responsibilities
- ensure arrangements are in place, between any persons conducting a business or undertaking at the workplace for consultation, cooperation and the coordination of activities in relation to compliance with their duties
- have arrangements in place for managing any WHS incidents that occur
- ensure that all persons at the workplace are informed of any site-specific health and safety rules and the arrangement for ongoing health and safety information
- collect, assess, monitor and review safe work method statements at the workplace.

SGCH Work Health and Safety Policy

Scope

This policy applies to St George Community Housing (SGCH) and its subsidiaries (the "SGCH Group"). This policy applies to workers (as defined by the *Work Health and Safety Act 2011 (NSW)*) and officers of the SGCH Group (a "SGCH person") at all SGCH Group offices.

General principles

The SGCH Group will:

- protect 'workers' and 'other persons' against harm to their health, safety and welfare through the elimination or minimisation of risks arising in the workplace
- comply with the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2011*, Codes of Practice and all other relevant legislation
- ensure that resources are available to comply with the relevant acts and regulations associated with work health and safety (WHS)
- ensure that risks are eliminated or minimised as far as is 'reasonably practicable'
- ensure that 'workers' have the information and training required to perform their work safely
- ensure that 'workers' are consulted on health and safety matters as per the *Work Health and Safety Act 2011*
- maintain effective accident and hazard reporting systems
- ensure that matters concerning health and safety are investigated and appropriate action is taken.

Definitions

Person conducting a business or undertaking (PCBU) 'PCBU' is the term that applies to an organisation or individual conducting a business or undertaking.

Officers

'Officer' is the term that applies to:

- a secretary or director of a corporation
- someone who can make decisions that significantly affect the whole or a substantial part of a business or undertaking
- someone who has the capacity to significantly affect a corporations financial standing
- someone who is accustomed to having their instructions actioned by the board (not including those who provide advice to the board as part of their role).

Workers

'Worker' is the term that applies to any person who carries out work for a PCBU. This includes any person who works as an employee, trainee, volunteer, outworker, apprentice, work experience student, contractor or sub-contractor, employees of a contractor or sub- contractor, employees of a labour hire company assigned to work for a PCBU.

Other persons

'Other persons' is the term that applies to clients, visitors and other people in the workplace.

Workplace

'Workplace' is a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work.

Due diligence

Due diligence involves taking reasonable steps to:

- acquire and keep up-to-date knowledge of WHS matters, and gain an understanding of the nature of the operations of the business or undertaking of the PCBU and the hazards and risks associated with those operations, and
- ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking, and
- ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information, and
- ensure that the PCBU has, and implements, processes for complying with any duty or obligation of the PCBU under the Act, and
- verify the provision and use of the resources and processes

Reasonably practicable

In relation to a duty to ensure health and safety, 'reasonably practicable' means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including:

- a. the likelihood of the hazard or the risk concerned occurring, and
- b. the degree of harm that might result from the hazard or the risk, and
- c. what the person concerned knows, or ought reasonably to know, about
 - (i) the hazard or the risk, and
 - (ii) ways of eliminating or minimising the risk, and
- d. the availability and suitability of ways to eliminate or minimise the risk, and
- e. after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk

Hazard

A hazard is a situation or thing that has the potential to harm a person.

Incident

An incident is an event in relation to a workplace that causes (or could have caused) harm to a person.

Consultation

The SGCH Group is committed to consulting with workers using the agreed mechanisms.

Duties

Under the *Work Health and Safety Act 2011*, the PCBU, officers, workers and other persons have the following duties relating to work health and safety.

PCBU

A 'PCBU' has a primary duty of care. A 'PCBU' must ensure, so far as is 'reasonably practicable', the health and safety of workers while the 'workers' are at the 'workplace'. This may necessitate the SGCH Group disclosing personal information for the purpose of mitigating health and safety risks in the 'workplace'. In such cases, disclosure will be managed in accordance with our Privacy and Confidentiality policy and relevant legislation.

In addition, a 'PCBU' must ensure, so far as is 'reasonably practicable', that the health and safety of 'other persons' is not put at risk from work carried out for the business.

Accordingly, a 'PCBU' must, as far as 'reasonably practicable', provide a safe and healthy 'workplace' by ensuring:

- a work environment without risks to health and safety
- safe plant and structures
- safe systems of work
- safe use, handling, and storage of plant, structures and substances, and
- adequate facilities for the welfare of workers
- information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work
- that the health of 'workers' and the conditions at the workplace are monitored to prevent illness or injury

Officers

An officer of a 'PCBU' must exercise due diligence to ensure that the 'PCBU' complies with its duties or obligations.

Workers

'Workers' have the right to work in a safe and healthy 'workplace'. 'Workers' also have responsibilities related to WHSS.

'Workers' must:

- take reasonable care for his or her own health and safety, and
- take care that his or her acts or omissions do not adversely affect the health and safety of other people, and
- comply, so far as the worker is reasonably able, with any reasonable instruction that is given by the 'PCBU' to allow the 'PCBU' to comply with the Act, and
- co-operate with any reasonable policy or procedure of the 'PCBU' relating to health or safety at the workplace that has been notified to workers.

'Workers' should:

- report observed safety hazards to their manager.
- rectify or remove hazards where appropriate.
- participate in consultation and training about WH&S.
- actively promote safe working practices in the organisation.

Other persons

'Other persons' at the 'workplace' must:

- take reasonable care for his or her own health and safety, and
- take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons, and
- comply, as far as the person is reasonably able, with any reasonable instruction that is given by the 'PCBU' to allow the 'PCBU' to comply with the *Work Health and Safety Act 2011*.

WHS Committee

The functions of the WHS Committee are as follows:

- to provide a mechanism for consultation between 'workers' and 'PCBU' to share relevant information, canvassing 'workers' views and making recommendations on the systematic management of WHS risks for adoption by the 'PCBU'.
- to facilitate cooperation between the 'PCBU' and 'workers' in instigating, developing and carrying out measures designed to ensure the health and safety of 'workers'.
- to assist in developing standards, rules and procedures, relating to health and safety that are to be followed or complied with at the 'workplace'
- any other functions prescribed by the regulations or agreed between the 'PCBU' and the committee.

The WHS Committee must meet at least once every three months or at any reasonable time at the request of at least half of the members of the Committee. The WHS Committee is an advisory body only. It does not make decisions about WHS issues. That remains the responsibility of the PCBU and its officers.

The WHS Committee is also responsible for conducting an annual inspection of all workstations, common areas and overall office environment. A representative of the WHS committee will also inspect the workstation setup for all new employees and contractors.

First Aid Officers/Senior First Aid Officer

In accordance with the *Work Health and Safety Regulation 2011*, the SGCH Group provides first aid equipment for the workplace and ensures that each worker at the workplace has access to first aid equipment and to facilities for the administration of first aid.

First aid officers must hold a current approved first aid certificate and are required to provide first aid treatment as needed. The senior first aid officer at each office/on each level is responsible for checking and maintaining the first aid kits. Any use of the first aid kit must be documented in the first aid register. This register will be maintained by the senior first aid officer for each level or office.

Fire Wardens

The role of fire wardens is to ensure, as far as practical, the safety and orderly evacuation of occupants from the danger zone. Fire wardens will be appropriately trained.

Emergency Plans

The SGCH Group develops and maintains emergency evacuation plans. The SGCH Group will provide information and instruction about emergency evacuation procedures to new 'workers' upon commencement with the SGCH Group and will conduct emergency evacuation drills at least twice per year.

Induction

The SGCH Group will undertake work, health and safety inductions with all contractors to ensure compliance with the SGCH Work, Health and Safety Policy whilst working on site.

Electrical items

The SGCH Group will arrange for SGCH Group electrical items that get plugged into a power point to be tested and tagged annually.

For safety reasons, workers are not permitted to bring their own electrical items to SGCH Group offices, other than electronic devices approved under the SGCH Group's Bring Your Own Device (BYOD) policy. In accordance with the BYOD policy, any items used for BYOD must be tested and tagged.

Workplace behaviour

The SGCH Group will manage workplace behaviour in accordance with the SGCH Group's Workplace Behaviour policy.

Implementation

The SGCH Group will implement the policy by adopting a risk management system for WHS as follows:

- review and implement WHS policies and procedures.
- undertake consultation via the WHS Committee.
- promote, maintain and improve safety procedures.
- follow the four-step risk management approach to hazards in the workplace:
 1. Find (identify)
 2. Check it out (assess)
 3. Fix it (control)
 4. Feedback (review)

The SGCH Group will develop safe working procedures for specific hazards or risks in the workplace. These procedures will be incorporated into the general operating procedures for our operations and service delivery.

Related documents/resources

- Procedure – Emergency Evacuation
- Procedure – Hazard and Incident Reporting
- SGCH Group Policy- Privacy and Confidentiality
- SGCH Group Policy- Workplace Behaviour
- Policy: Bring Your Own Device (BYOD)
- Guide: Other Duty Holders
- Form: other Duty Holders

Annexure B – Service Delivery Phase Plans

Performance and Data Reporting Plan

Purpose

The purpose of the Performance and Data Reporting Plan is to set out the approach for collecting, storing and reporting Tenant household, Dwelling, service and outcomes data for the Service Package delivered by SGCH Sustainability under the Social and Affordable Housing Fund (SAHF) Program.

St George Community Housing Limited (SGCH), as the Performance and Data Reporting Provider, will undertake all data and reporting services for the Service Package.

The Performance and Data Reporting Plan sets out:

- an overview of the information management system for collecting and reporting data
- process for collecting, recording and maintaining all information required to comply with the Services Specification
- process for transmitting the required data to FACS in accordance with the specified reporting requirements
- approach to meeting requirements under Privacy Legislation and Best Services Practices.

Reporting Requirements

In particular the Performance and Data Reporting Plan outlines how the reporting requirements for each of the following plans required under the Services Specifications will be met:

- Quarterly Performance Report
- Annual Performance Report
- Quarterly Data Report
- Annual Data Report
- Annual Outcomes Report.

Outcomes and principles for Performance and Data Reporting

The Performance and Data Reporting Plan aims to meet the Services Specification outcomes in relation to Performance and Data Reporting, covering:

- accurate and timely reporting of performance monitoring and data collection requirements
- Tenants' privacy and confidentiality have been maintained and preserved.

To ensure our service delivery approach meets the key outcomes for Performance and Data Reporting as identified in the Services Specifications we will deliver our services based on the following principles:

- performance data is tracked and reported against Key Performance Indicators (KPIs) at required intervals to ensure effective and cost efficient service delivery across all areas of the business

- data integrity is paramount with processes and practices to ensure and maintain data integrity are rigorously adhered to
- bespoke data capture modules will build an evidence base from which outcomes can be measured over time
- privacy and confidentiality of Tenant and Household Member information is rigorously protected and governed through appropriate policies and systems.

Overview of information management system

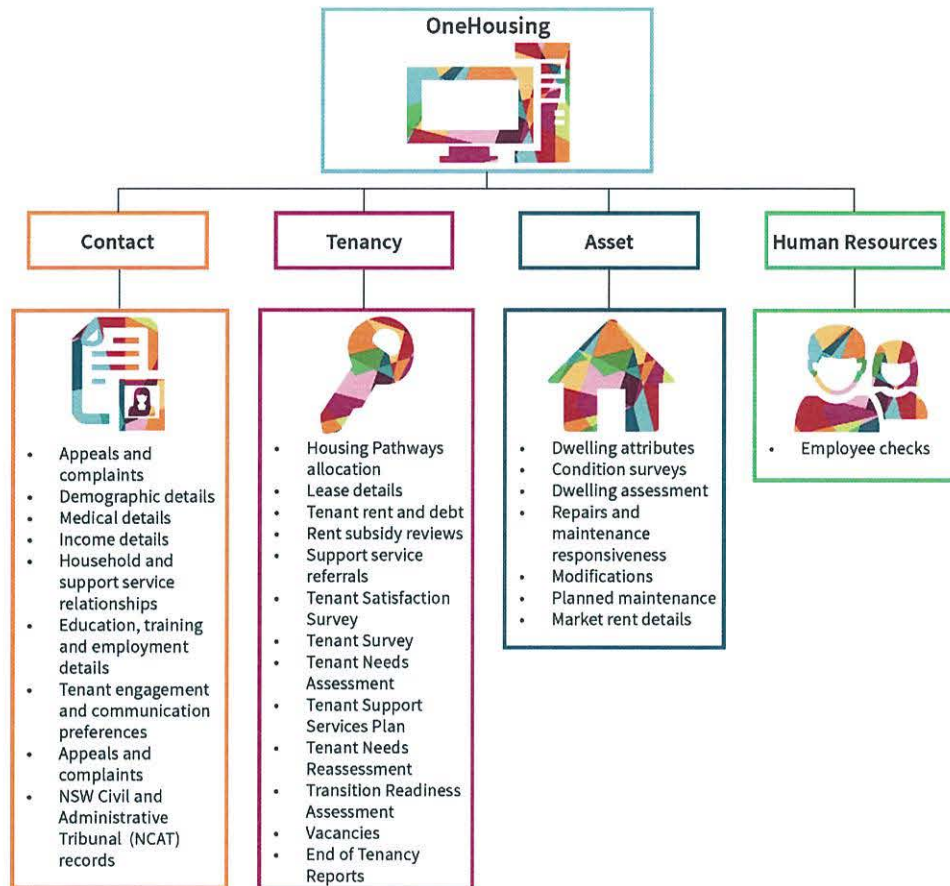
All information to meet the data and reporting requirements for the Service Package will be collected and stored in SGCH's information and communications technology system, OneHousing, developed by TechOne.

OneHousing will collect all the data requirements for reporting to FACS and store all information related to the provision of services including the Tenant Needs Assessment and Tenant Support Services Plans.

The system integrates all of SGCH's business operations across:

- Social Housing and Affordable Housing applications and allocations
- Tenancy management
- Asset management
- Property acquisition and development
- Training and development
- Finance and payroll
- Human resource management
- Work place health and safety.

The diagram below provides an overview of the relevant information modules within OneHousing, and the data that will be collected under each module to meet the performance and data reporting requirements for the Service Package.



Contact Information Module

The Contact Information Module for OneHousing will capture the personal information of each individual within a household under the Service Package. This will include income details, medical details, and education, employment and training details. It will also capture information on appeals and complaints.

Tenancy Information Module

The Tenancy Information Module will collect data at the point of entry for each Tenant and Household Member. It also records data on rent levels, rent subsidy reviews, support service referrals and end of tenancy information.

To meet the specific needs of the Service Package, the Tenancy Information Module will be used to store information related to Tenant Satisfaction Surveys and Tenant Surveys, Tenant Needs Assessment/Reassessments and Transition Readiness Assessments.

Asset Information Module

The Asset Information Module will capture asset information regarding the Dwelling and building attributes and repairs and maintenance data. It will also encompass all modification requests, planned maintenance data and Market Rent information.

Human Resource Module

The Human Resource Module records all staff information including Employee, police and working with children checks.

System amendments to meet reporting requirements

Amendments will be made to OneHousing to ensure the required data inputs are captured to meet the reporting and data requirements.

Compatibility with CHIMES reporting portal

OneHousing is fully compatible with the reporting requirements of the FACS Community Housing Information Management 'E' System (CHIMES).

Process for collecting, recording and maintaining information

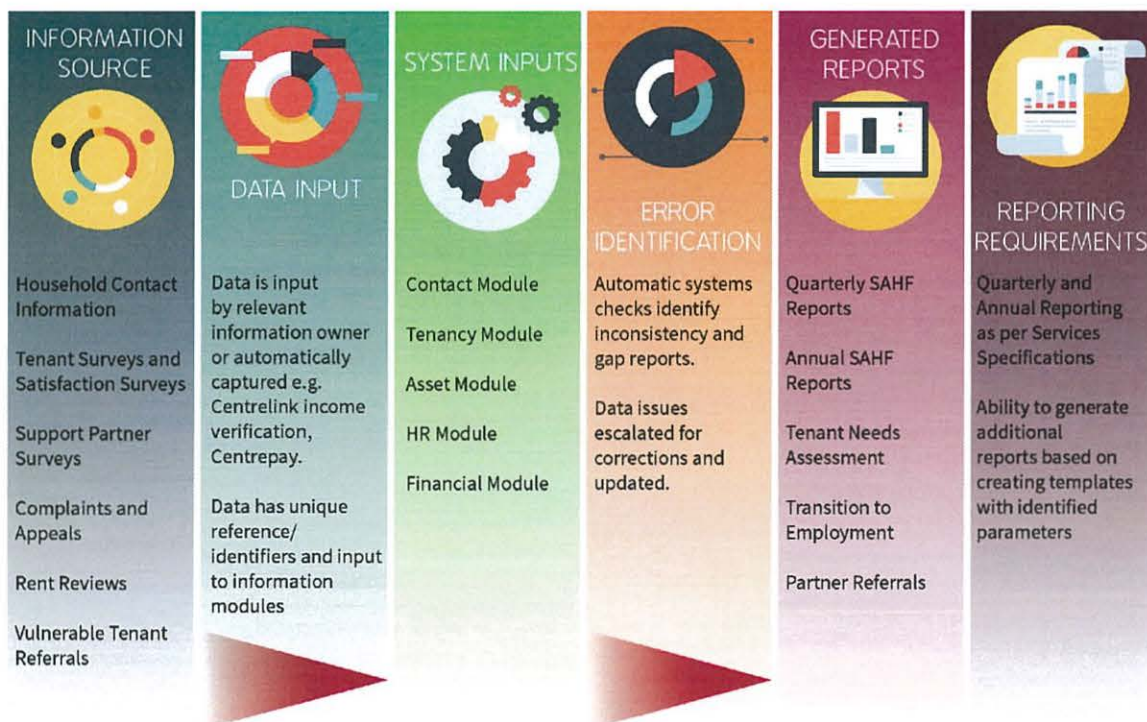
Information is collected and recorded into OneHousing across data modules described in the previous section. Data pertaining to housing assistance applications, assessments and allocations are recorded and maintained on the NSW Housing Register through a module of the FACS HOMES system.

Data inputs to OneHousing include:

- auto-transmission of data: through a formal agreement with Centrelink and with a Tenants' consent, rent which will be electronically verified for rent review assessments Tenants' Centrelink income confirmed electronically and Tenants' rent automatically paid by electronic transfer from Centrelink. Data transmissions will be monitored by Tenancy Managers, the Income Recovery Team and the Rent Review Team.
- manual input: data manually entering into Onehousing including Asset and Tenancy Management Services information, HR and financial transactions and administration data.

To ensure data quality and integrity, exception reports will be run every month and a structured procedure to rectify is implemented.

The diagram below describes our information management approach.



Process for collecting, recording and maintaining information

The tables set out in Appendix 1 – Performance and Data Collection Approach map out the Performance and Data Reporting requirements for the Service Package and the approach to data collection and reporting to meet the Services Specification.

Transmitting the data to FACS

Quantitative data

The quantitative data required for the following plans will be submitted in electronic format(s) as specified by the FACS Representative for;

- Quarterly Performance Report
- Annual Performance Report
- Quarterly Data Report
- Annual Data Report.

The following process will be followed:

- export report files from OneHousing
- Internal data integrity check
- Approval of submission, SGCH General Manager
- Submit to FACS

Qualitative data

The Annual Outcomes Report will be submitted in electronic format(s) as specified by the FACS Representative.

Maintaining Tenants privacy and confidentiality

SGCH will adhere to the requirements set out on Section 47 of the Services Agreement, Confidential Information and Disclosures, Privacy Legislation, Best Services Practices and SGCH's internal Privacy Policy located www.sgch.com.au.

Plan review

Performance and Data Reporting Plan will be reviewed as required in accordance with the Services Agreement or as required by the FACS Representative.

Appendix 1: Performance and Data Reporting Collection Approach

The tables below map out the Performance and Data Reporting requirements for the Service Package and the approach to data collection by identifying the source of the data, responsibility for data input to OneHousing and the reporting method to FACS to meet the Service Specification requirements.

Table 1. SAHF Key Performance Indicators (KPI) – Data source, collection and reporting method

KPI No.	Sch 18 Ref	Key Performance Indicator (KPI)	Data source	Input responsibility into OneHousing	Reporting period	Submission to FACS
101	2.5	Accommodation provided by ServiceCo is available to Tenants in accordance with the Target Turnaround Times	<ul style="list-style-type: none"> Dwelling details End of Tenancy details System generated data triggered by a particular event 	Tenancy Manager	Quarterly	CHIMES
201	4.13	Tenant satisfaction with the maintenance services	Tenant Satisfaction Survey	Data and Reporting Coordinator	Annual	CHIMES
202	4.13	Tenant satisfaction with the condition of the Dwelling	Tenant Satisfaction Survey	Data and Reporting Coordinator	Annual	CHIMES
203	4.13	Tenant satisfaction with the overall quality of the Tenancy Management Services	Tenant Satisfaction Survey	Data and Reporting Coordinator	Annual	CHIMES
204	5.7	Tenant satisfaction with the overall quality of the Tailored Support Coordination Services	Tenant Survey	Data and Reporting Coordinator	Annual	CHIMES
301	4.7	An annual Tenant Transition Readiness Assessment has been conducted for each Tenant	Transition Readiness Assessment	Support Coordinator	Annual	CHIMES
302	4.8	An annual Tenant rent and income review has been conducted for each Tenant as a minimum	Income and rent review	Income and Rent Review Team	Annual	CHIMES

KPI No.	Sch 18 Ref	Key Performance Indicator (KPI)	Data source	Input responsibility into OneHousing	Reporting period	Submission to FACS
303	5.2	ServiceCo conducts a Tenant Needs Assessment for each Tenant and related Household Member on time	Tenant Needs Assessment	Support Coordinator	Quarterly	CHIMES
304	5.4	ServiceCo develops a Tenant Support Services Plan for each Tenant and related Household Member on time	<ul style="list-style-type: none"> Tenant Needs Assessment Tenant Support Services Plan 	Support Coordinator	Quarterly	CHIMES
305	5.3	ServiceCo conducts a Tenant Needs Reassessment for each Tenant and related Household Member at least once a year	Tenant Needs Reassessment	Support Coordinator	Quarterly	CHIMES
306	SA CI 11	Employee Checks are conducted for all employees and contractors (who are not exempt) providing Tailored Support Coordination Services prior to being engaged	Employee check forms	HR Team	Annual	CHIMES
307	SA CI 11	All Tailored Support Coordination Services employees and contractors (who are not exempt) have had a Working With Children Check that is not more than five years old	Working with Children Check documents and confirmation	HR Team	Annual	CHIMES
308	SA CI 11	All Tailored Support Coordination Services employees and contractors (who are not exempt) have had a National Police Check that is not more than four years old.	National Police Check forms and documents	HR Team	Annual	CHIMES
309	5.8	ServiceCo conducts an End of Tenancy Report for each Tenant and related Household Member on time	<ul style="list-style-type: none"> Tenant Needs Re/Assessment End of Tenancy Report 	Tenancy manager	Quarterly	CHIMES
401	6.3	ServiceCo provides an accurately completed Quarterly Performance Report on time	OneHousing Report	System generated/ checked by the Data and Reporting Coordinator	Quarterly	CHIMES

KPI No.	Sch 18 Ref	Key Performance Indicator (KPI)	Data source	Input responsibility into OneHousing	Reporting period	Submission to FACS
402	6.4	ServiceCo provides an accurately completed Annual Performance Report on time	OneHousing Report	System generated/ checked by the Data and Reporting Coordinator	Annual	CHIMES
403	6.5 (b)(i)	ServiceCo provides an accurately completed Quarterly Data Report on time	OneHousing Report	System generated/ checked by the Data and Reporting Coordinator	Quarterly	CHIMES
404	6.5(b) (ii)	ServiceCo provides an accurately completed Annual Data Report on time	OneHousing Report	System generated/ checked by the Data and Reporting Coordinator	Annual	CHIMES
405	6.6	ServiceCo provides an accurately completed Annual Outcomes Report on time	<ul style="list-style-type: none"> • OneHousing Report • Analysis of outcomes data 	Report drafted by Service Improvement Unit	Annual	CHIMES

Table 2. SAHF Outcomes Measurement and Reporting Requirements – Data source, collection and reporting method

Ref	Reporting Requirement	Data Requirement	Data source	Data input responsibility	Unit Record Level	Reporting period	Submission method
1	Assistance Type	(a) ServiceCo must report the type of assistance provided for each Dwelling: Affordable Housing, general housing (Social Housing) or other	<ul style="list-style-type: none"> Application for Housing Assistance (Housing Pathways) Transition Readiness Assessment 	Tenancy Manager	Dwellings	Quarterly	CHIMES
2	CALD Status	(b) ServiceCo must report if the Tenant or Household Members born overseas and has a first language other than English or if one of their parents has those characteristics.	Application for Housing Assistance (Housing Pathways)	Allocations Officer	Tenants and Household Members	Quarterly	CHIMES
3	Complaints	<p>(c) ServiceCo must report the number and nature of complaints received related to neighbourhood disturbances, anti-social behaviour, domestic and family disputes/violence and similar alleged offences at Sites or involving Tenants.</p> <p>(d) ServiceCo must report the number and nature of complaints made against ServiceCo.</p>	OneHousing – data will be retrieved from the Appeals and Complaints engagement	Customer Service Coordinator	SAHF Portfolio	Quarterly	CHIMES

Ref	Reporting Requirement	Data Requirement	Data source	Data input responsibility	Unit Record Level	Reporting period	Submission method
4	Disability Modifications	<p>(e) ServiceCo must report whether the Dwelling has been modified for use by Tenants with a disability and if so, the extent to which the Dwellings have been modified.</p> <p>(f) ServiceCo must report the number of requests from Tenants or Household Members to have the Dwelling modified for use by Tenants with a disability and if so, the extent to which the Dwelling has been modified.</p>	<ul style="list-style-type: none"> • Allocations Assessment • Tenant Needs Assessment • Tenant Needs Reassessment 	Tenancy Manager	Dwellings	Quarterly	CHIMES
5	Disability Status	<p>(g) ServiceCo must report whether each Tenant or Household Members has a physical/diverse, sensory/speech, intellectual/learning or psychiatric impairment.</p>	<ul style="list-style-type: none"> • Application for Housing Assistance (Housing Pathways) • Tenant Needs Assessment • Tenant Support Services Plan 	Tenancy Manager	Tenants and Household Members	Quarterly	CHIMES
6	Dwelling Configuration	<p>(h) ServiceCo must report the number of bedrooms in the Dwelling.</p>	Property elements	Asset Officer	Dwellings	Quarterly	CHIMES

Ref	Reporting Requirement	Data Requirement	Data source	Data input responsibility	Unit Record Level	Reporting period	Submission method
7	Dwelling Details	<p>(i) ServiceCo must report the unique identifier, unit number, street number, suburb, postcode and LGA for each Dwelling.</p> <p>(j) ServiceCo must report the unique identifier for any Dwelling not condition surveyed.</p> <p>(k) ServiceCo must report the unique identifier for any Dwelling that was surveyed and did not meet the Asset Performance Standards for Existing Dwellings.</p>	Condition Survey	Asset Officer	Dwellings	Quarterly	CHIMES
8	End of Tenancy Report	(l) For all Tenancies that end, ServiceCo must report the Tenancy Termination Reason and Where Next Housed recorded (including any additional sub reasons used).	End of Tenancy Report	Tenancy Manager	Tenancy	Quarterly	CHIMES
9	Former Tenant	(m) ServiceCo must report any Tenants or Household Members that were previously Social Housing or Affordable Housing Tenants and are Applicants to or have re-entered a Dwelling (when possible).	<ul style="list-style-type: none"> Application for Housing Assistance (Housing Pathways) Allocations assessment 	Tenancy Manager	Tenants and Household Members	Quarterly	CHIMES
10	Housing Status at allocation	(n) ServiceCo must report whether the Tenant or Household Members were homeless (had no housing) or were residing in temporary or emergency accommodation at the time of allocation.	<ul style="list-style-type: none"> Application for Housing Assistance (Housing Pathways) Allocations assessment 	Tenancy Manager/ Support Coordinator	Household	Quarterly	CHIMES

Ref	Reporting Requirement	Data Requirement	Data source	Data input responsibility	Unit Record Level	Reporting period	Submission method
11	Income at Signing	<p>(o) Assessable income: ServiceCo must report the value of weekly income from all sources (excluding CRA) for all Tenants and Household Members for the first week of the Tenancy. The income used to establish eligibility of a household for receipt of housing assistance.</p> <p>(p) Household income: ServiceCo must report the main income source of the household (wages, Centrelink payments, other or unknown) for the first week of the Tenancy.</p>	Income assessment at the point of Tenancy sign-up	Income and Rent Review Team	Household	Quarterly	CHIMES
12	Income	<p>(q) Household income – ServiceCo must report the main income source of the household (wages, Centrelink payments, other or unknown) (with the most up to date information for the reporting period).</p> <p>(r) Assessable income – ServiceCo must report the value of weekly income from all sources (excluding CRA) for all Tenants and Household Members for the last week of the reporting period as specified and used by the agency to establish eligibility of a household for receipt of housing assistance.</p> <p>(s) CRA income – ServiceCo must report the weekly amount of CRA each household and Tenant is entitled to receive in the fortnight prior to data extraction.</p>	<ul style="list-style-type: none"> • Income and Rent Review • Eligibility Assessment 	Income and Rent Review Team	Household	Quarterly	CHIMES

Ref	Reporting Requirement	Data Requirement	Data source	Data input responsibility	Unit Record Level	Reporting period	Submission method
13	Indigenous Status	(t) ServiceCo must report if a Tenant or Household Member identifies themselves as Indigenous, Aboriginal or Torres Strait Islander	Application for Housing Assistance (Housing Pathways)	Allocations	Tenants	Quarterly	CHIMES
14	Likelihood Of Transition	(u) ServiceCo must report the likelihood of the Tenant and Household Members successfully transitioning out of Social Housing or Affordable Housing in the short-term and/or long-term, as recorded in the Tenant Needs Assessment or Tenant Needs Reassessment (whichever is most recent).	<ul style="list-style-type: none"> • Tenant Needs Assessment • Tenant Needs Reassessment • Income and Rent Review • Transition Readiness Assessment 	Support Coordinator	Tenants and Household Members	Quarterly	CHIMES
15	Market Rent	(v) ServiceCo must report the value of the weekly Market Rent for the dwelling (w) ServiceCo must report the method for determining Market Rent	Market Rent Review	Asset Officer	Dwellings	Quarterly	CHIMES
16	Tenant Details	(x) ServiceCo must report the date of birth and gender of each Tenant and Household Member.	<ul style="list-style-type: none"> • Application for Housing Assistance (Housing Pathways) • Allocations assessment 	Tenancy Manager	Tenants and Household Members	Quarterly	CHIMES

Ref	Reporting Requirement	Data Requirement	Data source	Data input responsibility	Unit Record Level	Reporting period	Submission method
17	Rent Charged	(y) ServiceCo must report the weekly rent charged to the Tenant for the last week of the reporting period (excluding CRA and charges for utilities, meals, cleaning, laundry or other facility costs). The rent charged is the amount of money the Tenant has been asked to pay. It may differ from Market Rent and may not have been received.	Income and Rent Review	Income and Rent Review Team	Dwellings	Quarterly	CHIMES
18	Rental Arrears	(z) ServiceCo must report the value of any rental and non-rental arrears a Tenant accrues with ServiceCo.	<ul style="list-style-type: none"> Income and Rent Review Arrears and Debt Reports 	Income and Rent Review Team	Tenancy	Quarterly	CHIMES
19	Targeted Assistance	(aa)ServiceCo must report whether the letting of the Dwelling is targeted to any specific cohort of the community and specify that cohort.	N/A	N/A	Dwellings	Quarterly	CHIMES
20	Tenancy Details	(bb)ServiceCo must report a unique Tenancy identifier, Dwelling identifier, household identifier, start date and end date for each Tenancy.	Dwelling details Tenancy details	System report	Tenancy	Quarterly	CHIMES
21	Tenant Needs Assessment	(cc) ServiceCo must report on the number of Tenants Needs Assessments that were not conducted or were conducted outside of the required timeframe and the extenuating circumstances (if any) that led to it not being conducted or being conducted outside of the required timeframe.	<ul style="list-style-type: none"> Tenant Needs Assessment Report Audit 	Data and Reporting Coordinator	Tenants and Household Members	Quarterly	CHIMES

Ref	Reporting Requirement	Data Requirement	Data source	Data input responsibility	Unit Record Level	Reporting period	Submission method
22	Tenant Support Services Plan	(dd)ServiceCo must report on the number of Tenant Support Services Plans that were not conducted or were completed outside of the required timeframes and the extenuating circumstances (if any) that led to it not being conducted or being conducted outside of the required timeframe.	<ul style="list-style-type: none"> • Tenant Support Services Plan • Report • Audit 	Data and Reporting Coordinator	Tenants and Household Members	Quarterly	CHIMES
23	Tenant Needs Reassessment	(ee)ServiceCo must report on the number of Tenants Needs Reassessments that were not conducted or were conducted outside of the required timeframe and the extenuating circumstances (if any) that led to it not being conducted or being conducted outside of the required timeframe.	<ul style="list-style-type: none"> • Tenant Needs Reassessment Report • Audit Report 	Data and Reporting Coordinator	Tenants and Household Members	Quarterly	CHIMES

Ref	Reporting Requirement	Data Requirement	Data source	Data input responsibility	Unit Record Level	Reporting period	Submission method
24	Tenant Survey	<p>(ff) ServiceCo must provide valid results for the required Tenant Survey and Tenant Satisfaction Survey.</p> <p>(gg) ServiceCo must provide details of the surveys sample representativeness, including any differences between the demographic characteristics of respondents and the demographic profile of all Tenants housed by ServiceCo.</p> <p>(hh) ServiceCo must provide the date of last survey, number of surveys distributed, how many surveys were sent / Tenants phoned / invitations to interview attempted, numbers of surveys returned, the number of completed surveys received and if interviews were carried out.</p>	<ul style="list-style-type: none"> • Tenant Survey • Tenant Satisfaction Survey 	Data and Reporting Coordinator	SAHF Portfolio	Annual	CHIMES
25	Tenant Status	<p>(ii) ServiceCo must report the employment, education, level of educational attainment, safety and risk status of Tenants and Household Members following the completion of the Tenant Needs Assessment, Tenant Needs Reassessment and End of Tenancy Report.</p>	<ul style="list-style-type: none"> • Tenant Needs Assessment • Tenant Needs Reassessment • End of Tenancy Report 	Support Coordinator	Tenants and Household Members	Quarterly	CHIMES

Ref	Reporting Requirement	Data Requirement	Data source	Data input responsibility	Unit Record Level	Reporting period	Submission method
26	Transfer	<p>(jj) ServiceCo must report whether each Tenancy is a transfer from public housing or another Community Housing Provider.</p> <p>(kk) ServiceCo must report whether a Tenancy is an internal transfer (where a household has moved from one dwelling to another Dwelling that the same ServiceCo manages during the reporting period).</p>	<ul style="list-style-type: none"> • Transfer Application • Tenancy details • Application for Housing Assistance • (Housing Pathways & TRIM) 	Tenancy Manager	Tenants and Household Members	Quarterly	CHIMES
27	Transfer Details	(ll) ServiceCo must report the number of transfer requests, the number of requests that were successful and the primary reasons for transfer as articulated by the Tenant or Household Members.	Transfer Report	Tenancy Manager	Tenants Household Members	Quarterly	CHIMES

Table 3. SAHF Outcomes Measurement and Reporting Framework/Outcomes Report – Data source and reporting method

	Outcomes	Outcomes Indicators	Data source	Reporting period	Submission method
1.1.1	Individuals exit housing positively	Number of Positive Exits, Negative Exits and total exits (Indeterminate Exit, Non-Exit, Neutral Exit, and Non-Tenancy)	End of Tenancy Report	Annual	Outcome Report to FACS
1.1.2	Individuals exit into housing stability	Number of individuals who return for housing assistance as Applicants after previously exiting	Tenant details, Housing Pathways	Annual	Outcome Report to FACS
1.1.3	Individuals are supported to sustain stable housing that is affordable, safe and secure	Length of tenancies in the same Dwelling Most frequent response (mode) to Tenant Survey question 8, 9 and 14 and distance travelled during a Tenancy	Dwelling details, Tenancy details and Tenant Survey, SGCH Evaluation	Annual	Outcome Report to FACS
1.1.4	Stable housing for individuals who were homeless or at risk of homelessness	Number of individuals who were homeless or at risk of homelessness (at allocation) located in the same Dwelling 12 months after signing the Residential Tenancy Agreement	Tenant Needs Assessment, Dwelling details, Tenancy details and housing status at allocation	Annual	Outcome Report to FACS
1.1.5	Individuals are satisfied with the appropriateness and location of their Dwelling	Level of satisfaction individuals have with the appropriateness and location of their Dwelling	Tenant Survey, Dwelling details	Annual	Outcome Report to FACS
1.1.6	Individuals are satisfied with the adequacy of Dwelling modifications and the response to any disability modification requests made to ServiceCo	Percentage of individuals who report satisfaction with the adequacy of disability modifications and the response to any disability modification requests made to ServiceCo	Tenant Survey, Dwelling details	Annual	Outcome Report to FACS
1.1.7	Individuals do not negatively exit or request transfers as a result of dissatisfaction with Dwelling features, location or Support Services	Number of Negative Exits or Tenant requested transfers where the primary reason given is dissatisfaction with Dwelling features, location or Support Services	Dwelling details, Tenancy details, End of Tenancy Report and transfer documentation	Annual	Outcome Report to FACS

	Outcomes	Outcomes Indicators	Data source	Reporting period	Submission method
1.1.8	Individuals are relocated or transferred to a new Dwelling located in the same LGA or school catchment as the previous Dwelling	Percentage of transfers or relocations where the new Dwelling is located in the same LGA or school catchment as the previous Dwelling	End of Tenancy Report and transfer documentation	Annual	Outcome Report to FACS
1.1.9	Avoidance of Under-Occupancy and Overcrowding	Number of Dwellings assessed as Under-Occupancy, Overcrowded or Severely Overcrowded	Dwelling details, Tenancy details, Dwelling configuration and Tenant details	Annual	Outcome Report to FACS
1.2.1	Individuals report that the Support Services they currently access meet their needs	Number of individuals who report that the Support Services they currently access meet their needs	Tenant Survey	Annual	Outcome Report to FACS
1.2.2	Individuals are satisfied with ServiceCo's performance facilitating access to Support Services	Level of satisfaction of individuals have with ServiceCo's performance facilitating access Support Services	Tenant Survey	Annual	Outcome Report to FACS
1.3.1	Individuals have strong support networks	Most frequent response (mode) to Tenant Survey question 6 and distance travelled during a Tenancy	Tenant Survey, Wellbeing Index, SGCH Evaluation	Annual	Outcome Report to FACS
1.3.2	Individuals participate in community activities	Most frequent response (mode) to Tenant Survey question 7 and distance travelled during a Tenancy	Tenant Survey, Wellbeing Index, SGCH Evaluation	Annual	Outcome Report to FACS
1.4.1	Individuals feel safe and secure in their home and in the community	Most frequent response (mode) to Tenant Survey question 8 and 9 and distance travelled during a Tenancy	Tenant Survey, Wellbeing Index	Annual	Outcome Report to FACS
1.4.2	Individuals do not experience violence and anti-social behaviour (especially school aged children or young people who may be at risk of significant harm)	Number of reported violent/anti-social incidents, Number of End of Tenancies triggered by Tenant requested transfers due to the Tenant or Household Members being at risk, harassed or equivalent, and the number of End of Tenancies triggered by Breaches where the reason given was eviction or	Tenant Needs Reassessment, End of Tenancy Report and complaints records	Annual	Outcome Report to FACS

	Outcomes	Outcomes Indicators	Data source	Reporting period	Submission method
		termination as a result of anti-social behaviour			
2.1.1	Individuals in, or seeking employment, have a higher median weekly income	Median weekly income for employed individuals (excluding CRA)	Tenant Needs Assessment, Tenant Needs Reassessment, Transition Readiness Assessment	Annual	Outcome Report to FACS
2.1.2	Unemployed or underemployed individuals achieve a Partial or Pathway Employment Outcome or Full Employment Outcome (where relevant)	Number of individuals who progress to achieve a Partial, Pathway or Full Employment Outcome for a 4, 12, 13 or 26 week period (where relevant)	Tenant Needs Assessment, Tenant Needs Reassessment, End of Tenancy Report	Annual	Outcome Report to FACS
2.1.3	Unemployed or underemployed individuals are Actively Seeking Work and meet any employment services Mutual Obligation Requirements (where relevant)	Number of individuals Actively Seeking Work and/or have registered with an employment Performance and Data Reporting Provider and meet their Mutual Obligation Requirements (where relevant)	Tenant Needs Assessment, Reassessment, Transition Readiness Assessment, End of Tenancy	Annual	Outcome Report to FACS
2.1.4	Individuals are able to manage their finances in a way that avoids rental arrears	Number of tenancies with a rental arrears balance above zero Number of tenancies with rental arrears in excess of the 'metric rent outstanding' threshold set in the National Regulatory System for Community Housing Registration Return Guide	Tenancy charges or rent monitoring, Tenant Needs Reassessment	Annual	Outcome Report to FACS
2.2.1	Improved education outcomes of school aged children and young people	Comparative literacy and numeracy (NAPLAN) scores for school aged children and young people and the Index of Community Socio-educational Advantage Weighted average literacy and numeracy (NAPLAN) scores for the schools attended by school aged children and young people	Tenant Needs Assessment, Tenant Needs Reassessment, SGCH Qualitative Evaluation	Annual	Outcome Report to FACS

	Outcomes	Outcomes Indicators	Data source	Reporting period	Submission method
2.2.2	School aged children and young people are enrolled in and satisfactorily attend school	Proportion of school aged children and young people who are enrolled in and satisfactorily attend school	Tenant Needs Assessment, Tenant Needs Reassessment, SGCH Qualitative Evaluation	Annual	Outcome Report to FACS
2.2.3	School aged children and young people complete Year 10 and go on to complete Year 12	Proportion of school aged children and young people who complete Year 10 and go on to complete Year 12	Tenant Needs Assessment, Tenant Needs Reassessment, SGCH Qualitative Evaluation	Annual	Outcome Report to FACS
2.2.4	Individuals enrol in further education or training (includes university, TAFE, vocational training or equivalents) (where relevant)	Number of individuals who enrol in further education or registered training (includes education activities as part of employment services)	Tenant Needs Assessment, Tenant Needs Reassessment, SGCH Qualitative Evaluation	Annual	Outcome Report to FACS
2.2.5	Individuals complete further education or training (includes university, TAFE, vocational training or equivalents)	Number of individuals who complete further education or registered training (includes education activities completed as part of employment services)	Tenant Needs Assessment, Tenant Needs Reassessment, SGCH Qualitative Evaluation	Annual	Outcome Report to FACS
2.3.1	Individuals progress towards a positive outlook on life	Most frequent response (mode) to Tenant Survey question 3 and distance travelled during a Tenancy	Tenant Survey, Wellbeing Index, SGCH Qualitative Evaluation	Annual	Outcome Report to FACS
2.3.2	Individuals progress towards choosing how they live their lives	Most frequent response (mode) to Tenant Survey question 4 and distance travelled during a Tenancy	Tenant Survey, Wellbeing Index, SGCH Qualitative Evaluation	Annual	Outcome Report to FACS

	Outcomes	Outcomes Indicators	Data source	Reporting period	Submission method
2.3.3	Individuals progress towards having comfort about the balance between what they do for themselves and what they rely on others for	Most frequent response (mode) to Tenant Survey question 5 and distance travelled during a Tenancy	Tenant Survey, Wellbeing Index, SGCH Qualitative Evaluation	Annual	Outcome Report to FACS

Annexure B – Service Delivery Phase Plans

Tailored Support Coordination Engagement Strategy

1. Purpose

The purpose of the Tailored Support Coordination Engagement Strategy is to set out a strategic approach for engaging with the Tenants and Household Members who will be offered Tailored Support Coordination Services under the Social and Affordable Housing Fund (SAHF) Program.

We recognise the importance of the Tenant and Household Member:

- being given a voice
- being heard
- having opportunities for participation and decision making in the services we offer.

Our model for engagement under the Tailored Support Coordination Engagement Strategy and our key activities aim to achieve the following outcomes:

- stable housing for low income individuals and families in need
- improved health and well being through access to good quality housing and links to appropriate services
- greater social and economic independence to support community connections and participation
- sustainable transitions out of Social and Affordable Housing to other tenure types

2. Context

The Strategy has been developed as part of Tailored Support Coordination Services that SGCH will offer under the SAHF. These services will be delivered using a sustainable tenancies approach to assessing Tenant and Household Member support needs. Tenant and Household Members are at the centre of decision making about the type of support they access and the goals they set for health, wellbeing, education, training and employment.

We will provide Tailored Support Coordination Services using a customer centred approach to ensure services meet Tenant needs and are provided in a framework that empowers Tenant and Household Members to achieve improved social and economic independence.

The Strategy outlines how we will work with each Tenant and Household Member to support them to build capacity to achieve their goals.

3. Objectives

The Strategy is underpinned by the following four channels of engagement

To Inform	To Consult	To Involve	To Collaborate
Tenant and Household Members of their rights and responsibilities and provide information on services available to	Tenant and Household Members to understand their preferences when delivering our services and to gain feedback on	Tenant and Household Members so that their ideas, concerns and aspirations are directly reflected in options and	with Tenant and Household Members by welcoming their input to and ownership of support plans and

support their tenancy	ideas, alternatives or proposals to inform our decision making	decisions	the broader program design
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4. Tenant Engagement Approach

Our engagement approach is designed to obtain valuable feedback from a diverse range of Tenant and Household Members across the SAHF portfolio. A full summary of our mechanisms of engagement is located in Appendix 1 – Mechanisms of Engagement. We will implement these mechanisms in alignment with our principles of engagement - Honest, Inclusive, Targeted, Transparent and Respectful:

Honest	We will engage with open purpose, acknowledging expectations and constraints
Inclusive	We will seek to provide opportunities for people with disabilities and engage with Aboriginal people and people from Culturally and Linguistically Diverse backgrounds in culturally appropriate ways
Targeted	We will use a variety of engagement approaches suitable to a full range of Tenant and household cohorts (e.g. young people, seniors)
Transparent	We will seek to engage with people in a manner that fosters trust, open dialogue and mutual respect
Respectful	We will provide clear, accessible and comprehensive information and we will listen to feedback and respond where possible

5. Right to decline participation

While we respect the right of the Tenant or Household Member to decline Tailored Support Coordination Services, we will continue to positively engage with each Tenant or Household Members by:

- constructively engaging with each Tenant and Household Member to get their input in advance of making decisions on operations that may affect them
- using clear, open and honest communication regarding the potential benefits of the services offered at all points of contact
- seeking to identify and clarify any underlying issues that may be impeding participation and work toward a mutual resolution of issues
- offering an open dialogue or one-on-one contact with our Support Coordinators to discuss any concerns and work collaboratively to find a solution
- working with support partner services to explain and promote the benefits of participation
- identifying and offering incentives that may promote or encourage participation
- making contact at regular intervals with Tenant and Household Members to see if they have changed their mind about participating
- providing an avenue for Tenant and Household Members to escalate disputes for resolution through a conciliation process
- ensuring protocols are in place to enable Tenants or Household Members to re-engage with Tailored Support Coordination Services at any time.

7. Responding to Risk

Despite our best efforts, we recognise that there will be times when some Tenants or Household Members will not want to participate in Tailored Support Coordination Services and that this may significantly impact on the undertaking of core activities.

In these situations we will implement a range of strategies to minimise the impact on the performance and the timeliness of reporting to FACS. We will:

- undertake an assessment of risk at the earliest possible time to identify the operational impact of potential non-compliance
- implement an early intervention approach to mitigate the risk to Tailored Support Coordination Services
- undertake regular 'health checks' to identify where there are potential non-compliance issues
- provide monthly internal reports on non-compliance with oversight by senior management
- routinely report any non-compliance issues or risks to FACS
- continue to work positively with Tenant and Household Members to re-engage with Tailored Support Coordination Services throughout their tenure.

8. Tenant Engagement Protocol

We have developed a protocol for how we will engage with Tenant and Household Members under the SAHF. This protocol includes how we will engage with those who are offered Tailored Support Coordination Services, (Appendix 2 – Tenant Engagement Protocol).

Appendix 1

Mechanisms for Engagement

SGCH has developed a range of participation mechanisms to encourage, foster and support engagement which is targeted at the full range of Tenant and household cohorts:

Mechanism	Description	Potential Target Group
Communications and Promotion	We will provide comprehensive information through a range of mediums and promote Tailored Support Coordination Services integrated with SGCH housing and <i>Housing Plus</i> products and services	All Tenant and Household Members
Forums	We will promote the SAHF model through specifically tailored forums (including for people of CALD backgrounds) targeted at prospective Tenants; new Tenants and Tenants who are yet to engage with the Tailored Support Coordination model	Prospective Tenant and Household Members New Tenant and Household Members Existing Tenant and Household Members who are yet to agree to participate.
Written Communication	We will make available a range of written materials about Tailored Support Coordination Services through media releases, displays, exhibits and fact sheets in both hard copy and on-line	All Tenant and Household Members
On line Communication	We will offer information about our Tailored Support Coordination Services via the SGCH website and email We will use digital platforms such as Google Ads, Facebook and Twitter to promote our services We will make information available in a range of open formats to allow the user to choose the delivery method they prefer including information in audio and video formats as needed	All Tenant and Household Members

Mechanism	Description	Potential Target Group
Focus Groups	We will hold at least two focus groups each year on how we are tracking in implementing our Tailored Support Coordination Services. We will use these platforms to inform our learning and service improvement	All Tenant and Household Members
Face to Face Support	We will provide an opportunity for Tenant and Household Members to influence and guide the way in which we offer Tailored Support Coordination Services through direct consultation with specialist Support Coordinators and via a dedicated email address and information and feedback hotline	All Tenant and Household Members
Targeted Early Intervention and Support	We will apply SGCH's system for identifying vulnerable Tenants and implement early intervention and support strategies through a dedicated team of Support Coordinators	All Tenant and Household Members
Face to Face Vocational Planning	We will provide an opportunity for Tenant and Household Members who are interested in training and employment options to develop a vocational plan through consultations with our Employment and Opportunities Manager	Tenant and Household Members identified as having potential to gain and maintain employment
Action Research	We will collaboratively explore any concerns experienced by Tenant and Household Members on the type of Tailored Support Coordination Services we offer and we will work to identify, test and resolve these issues together	All Tenant and Household Members
Tenant Advisory Group	We will provide a platform for Tenant and Household Members to raise issues in relation to housing policy, operations and service delivery through participation in SGCH's Tenant Advisory Group (TAG) We will ensure information is shared through the TAG about our Tailored Support Coordination Services and we will report on the outcomes we are achieving through the TAG meetings	All Tenant and Household Members

Mechanism	Description	Potential Target Group
CALD TAG Groups	We will provide a platform for CALD Tenant and Household Members to raise issues in relation to housing policy, operations and service delivery through participation in one of SGCH's six Tenant Advisory Groups (TAG), one of which is for Chinese Mandarin and Cantonese speaking Tenants	CALD Tenant and Household Members
Newsletters and Factsheets	We will develop a factsheet on Tailored Support Coordination Services in consultation with our Tenant and Household Members and TAG We will provide regular communications on Tailored Support Coordination Services through our quarterly Tenant Newsletter and invite feedback through this media	All Tenant and Household Members
Satisfaction Surveys	We will conduct satisfaction surveys, including exit surveys where applicable, to monitor and evaluate the process for providing Tailored Support Coordination Services and overall satisfaction with service delivery and use this feedback to inform continuous improvement	All Tenant and Household Members SGCH FACS
Employment Seminars	We will conduct tailored information sessions to promote our social procurement program We will link identified Tenants with jobs training and employment services and opportunities	Young people Tenant and Household Members identified as having potential to gain and maintain employment
Youth Councils	We will engage with and consult our existing Youth Council and conduct tailored information sessions to promote our social procurement program and other available training and employment opportunities	Young people
Aboriginal Reference Group	We will engage with and consult SGCH's Aboriginal Reference Group on issues pertaining to Tailored Support Coordination Services to ensure equitable access to culturally appropriate training and employment services opportunities	Tenant and Household Members Aboriginal and Torres Straight Islander people

Mechanism	Description	Potential Target Group
Disability Action Groups	Use assisted tools	Tenant and Household Members

Appendix 2

Tenant Engagement Protocol

This Tenant Engagement Protocol (the Protocol) sets out the business rules for how we will engage with Tenant and Household Members when providing services under the SAHF. This Protocol aligns with our four channels of engagement to:

- Inform
- Consult
- Involve
- Collaborate

1. Inform

When providing information to our Tenant and Household Members we will:

- present all information simply and clearly
- ensure written material is available in multi-lingual formats and/or use translation services for clarity of delivery and understanding of communications
- always provide a detailed information on the suite of service available to them and as much as possible, in writing and in a familiar language
- follow up critical communiqués with a phone call or face to face meeting.

2. Consult

When consulting with our Tenant and Household Members we will:

- ensure meeting places are culturally appropriate for Aboriginal people and accessible for people with disabilities
- use translation services and/or Auslan interpreters, as required
- use assistance technology where possible or appropriate
- allow sufficient time for responses and actively listen to what people say
- provide feedback on the results of consultations within reasonable timeframes
- make sure people know how to make a complaint if they want to
- keep confidential any information provided by Tenant and Household Members in accordance with relevant Privacy Legislation
- demonstrate that the views of those consulted are taken into account in the outcome
- ensure adequate resources are allocated to the process, including ensuring Tenant and Household Members are reasonably assisted to attend consultation events.

3. Involve

When involving our Tenant and Household Members in consultation processes we will:

- agree on the expected levels of participation and commitment and ensure these are matched with the expectations of all involved before commencing a consultation process
- be accountable for issues we are responsible for and hold others accountable by keeping minutes of any meetings noting actions and responsibilities
- ensure clarity about roles and responsibilities by putting them in writing.

4. Collaborate:

When collaborating with our Tenant and Household Members we will:

- develop a shared understanding of what we are trying to achieve, prior to a consultation process
- provide written feedback on how input has influenced decisions, if appropriate

- agree a process of review where disputed decisions are resolved by working together, where possible.

Confidential

Annexure B – Bid Services Deliverables

B1 Initial Service Delivery Phase Plans

Annexure B – Service Delivery Phase Plans

Affordable Housing Allocation Plan

Purpose

The purpose of the Affordable Housing Allocation Plan is to set out the approach to allocating eligible households to Affordable Housing delivered by SGCH Sustainability under the Social and Affordable Housing Fund (SAHF) Program.

St George Community Housing (SGCH) as the Service Provider will allocate vacant SAHF Affordable Housing Dwellings in accordance with this plan.

SGCH operational context

SGCH manages Affordable Housing in accordance with the following policy frameworks and legislation:

- NSW Affordable Housing Guidelines
- *Residential Tenancy Act 2010*
- SGCH Affordable Housing Policy
- SGCH Affordable Housing Management Handbook

1. Target Outcomes

We will manage allocations for Affordable Housing to meet the outcomes of the Service Package:

- stable housing for low income individuals and families in need
- improved health and well being through access to good quality housing and links to appropriate services
- greater social and economic independence to support community connections and participation
- sustainable transitions out of Social Housing and Affordable Housing to other tenure types.

2. Approach to allocating Affordable Housing

Principles for allocation

To meet the Target Outcomes we will make allocations based on the following principles:

- supporting the development of integrated communities through a mix of household and income groups
- providing a customer centred housing experience to allow for access to support and opportunities, choice and flexibility in housing products
- identifying and supporting households with the capacity to transition through a housing continuum to independence.

Target Tenant Cohorts

Social Housing Tenants	Households transitioning from Social Housing Dwellings able to afford a discount to Market Rent Households paying Market Rent, 70% or more of Market Rent or receiving a reduced rent subsidy
Households on the NSW Housing Register	Social Housing eligible households who are able to afford a rent charged at a discount to Market Rent
Low income working households	Low and moderate income working households in housing need who are unable to resolve this need in the medium to long term without assistance.

Identification of Applicants

We will source Applicants through a range of channels including:

- identifying Applicants with the capacity to transition to Affordable Housing
- identifying eligible Applicants from the NSW Housing Register in line with the FACS *Rules for identifying and contacting potential Affordable Housing* through NSW Housing Pathways
- liaising with support partners to identify and refer potential existing Social Housing Tenants or eligible Applicants
- advertising vacancies for eligible low income households.

Transitioning Social Housing Tenants

We will allocate Affordable Housing tenancies to Social Housing Tenants who at the end of their fixed term lease have been assessed as 'transition ready' and are able to sustain an Affordable Housing tenancy.

Market Rent paying Social Housing Tenants

Throughout SGCH Social Housing portfolio, there are a number of Tenants paying Market Rent, or close to Market Rent who may be interested in transitioning to an Affordable Housing tenancy if eligible.

The Tenants will be identified through *Rent Review Process*. When there is a change in income for a Social Housing household which results in rent being paid equivalent to 70% of Market Rent or Market Rent it will trigger a Tenant Needs Reassessment to determine the household's capacity to transition to Affordable Housing.

All new Tenants will be offered a range of Support Services and Housing Plus products to help them to sustain their tenancy and potentially move to the private market. For example, linkages to training, employment, budgeting or other support services.

Housing Pathways Applicants

Interested Applicants identified from the NSW Housing Register will be considered for Affordable Housing that are able to afford a discount to Market Rent.

Using the NSW Housing Register, we will identify Applicants with the capacity to sustain an Affordable Housing tenancy by:

- identifying and matching Applicant needs to Dwelling attributes
- using relevant filters within the Housing Pathways database to locate Applicants with the means to afford and sustain an Affordable Housing rent
- making contact with all suitable Applicants in line with the FACS rules for identifying and contacting potential Applicants

Promoting Affordable Housing to low and moderate income households

We will promote Affordable Housing through the following means:

- one on one visits to local community agencies
- Applicant information campaigns aimed at health, teaching, hospitality, essential services and retail industry workers
- fact sheets, brochures, Q&A material
- *industry websites* - Using established and known real estate websites, for example, www.domain.com.au, we will advertise all upcoming properties if there aren't already suitable Applicants to fill the vacant Dwellings
- *Affordable Housing Expression of Interest (EOI)* - SGCH online Affordable Housing EOI form (<http://www.sgch.com.au/applications/affordable-housing/>) which takes a prospective Applicants through a series of pre-eligibility self assessment questions. Based on the information supplied, the tool is able to validate potential eligibility for Affordable Housing in line with the NSW Affordable Housing Guidelines. If the prospective Applicant meets the eligibility criteria, their details are saved to a list and they are followed up in person to complete the application process. The tool also helps to identify Applicants that are Social Housing eligible and/or are on the NSW Housing Pathways register
- *Existing partners* - We will work closely with current support partners to actively promote Affordable Housing. Clients in transitional housing, with the capacity to move through a pathway to independence will be encouraged to apply for Affordable Housing

Prioritising Applicants

In line with the NSW Affordable Housing Guidelines, we will give preference to households:

- living in Social Housing, including those exiting Social Housing
- spending more than 30% of the gross household income towards rent and whose housing need cannot be met in the short to medium term
- have the potential to transition into home ownership in the medium term
- are on the NSW Housing Pathways register seeking another choice of housing which may be more suited to their needs

Allocating Dwellings

In circumstances where a vacancy arises and there are no identified Social Housing Tenants to be allocated the tenancy, we will update and monitor our existing Affordable Housing waiting list to fill vacant Dwellings.

We will regularly review the Affordable Housing waiting list to identify Applicants:

- whose needs align to the property type
- with the highest priority status
- who has been on the list for the longest time

Once identified, the Applicant will be contacted and a pre-offer discussion will take place. As part of the discussion we will determine whether the household is still interested in Affordable Housing and whether their circumstances have changed. If the Applicant has been on the waitlist for longer than three months, they will be required to update their income details and a new eligibility assessment will be conducted.

If the Applicant is no longer eligible or interested in Affordable Housing, we will write to the Applicant confirming that they have been removed from the Affordable Housing waitlist. If the Applicant is eligible to proceed, we will arrange for the Applicant to view the property as soon as possible.

In the event that the Applicant waitlist has been exhausted, we will advertise the property and arrange an 'open home' viewing schedule. Prior to attending a viewing, Applicants will be encouraged to complete the SGCH Affordable Housing EOI online form to determine eligibility. Once an Applicant inspects and accepts a property they will complete a formal application and provide all supporting documentation for assessment. If they are deemed eligible, a formal property offer will be made. If accepted, a Residential Tenancy Agreement will be signed within three days.

Should an Applicant decline the offer, the database will be updated and the allocation process will recommence or an offer will be made to the next eligible Applicant on the waiting list.

Annexure B – Service Delivery Phase Plans

Site and Community Integration Management Plan

1. Purpose

The purpose of the Site and Community Integration Plan is to set out the approach to delivering and managing Social and Affordable Housing provided by SGCH Sustainability under Phase 1 of the Social and Affordable Housing Fund (SAHF) Program to support the creation of integrated communities.

St George Community Housing Limited (SGCH), as the Service Provider, will deliver the Service Package in accordance with the Site and Community Integration Plan.

The Site and Community Integration Plan sets out:

- the design features that will support the integration of Social and Affordable Housing on each SAHF site and within the surrounding neighbourhood
- operational approach to managing Social and Affordable Housing tenancies to build diverse, mixed communities
- service delivery initiatives to promote community integration.

2. Site & Building Design Features

Site locations and design features will provide opportunities for community integration within the building and the broader community, including:

- sites located in areas that provide opportunities for community connectedness close to local services and public transport
- infill development sites between 20 to 70 Dwellings per site surrounded by private market housing and commercial uses
- shared open space designed to create spaces for Tenants to meet, interact and create a sense of community within each building such as rooftop gardens or BBQ areas
- incorporating multiple building cores, where appropriate, in larger developments (50 Dwellings or above) to reduce general foot traffic flow in foyer areas and potential for large groups to congregate in entrance areas
- inclusion of office space in larger developments to provide an area for onsite tenancy and asset management presence
- inclusion of appropriate ground floor commercial uses where planning requirements have required the inclusion of commercial space such as health or community facilities
- building designed to respond to surrounding area and integrate with the street frontage and adjacent buildings
- application of crime prevention through environmental design principles to optimise safety and security by promoting passive surveillance, access and space management.

3. Operational approach

Allocations to Social and Affordable Housing

A local allocation strategy will be developed for each site to guide the allocation of new tenancies to promote a diverse and mixed community.

The following principles will be applied in each local allocation strategy:

- make the best use of the housing stock available e.g. bedrooms, design, modifications and adaptable Dwellings
- include a mix of Social and Affordable Housing on each site
- create an appropriate social mix that balances the priority needs of Applicants with sensitive allocations that promote cohesive communities
- assess the appropriateness of medium density housing for the Tenant household

Central to the allocation assessment will be promoting client choice by considering the needs of individuals and households through an assessment of the following information:

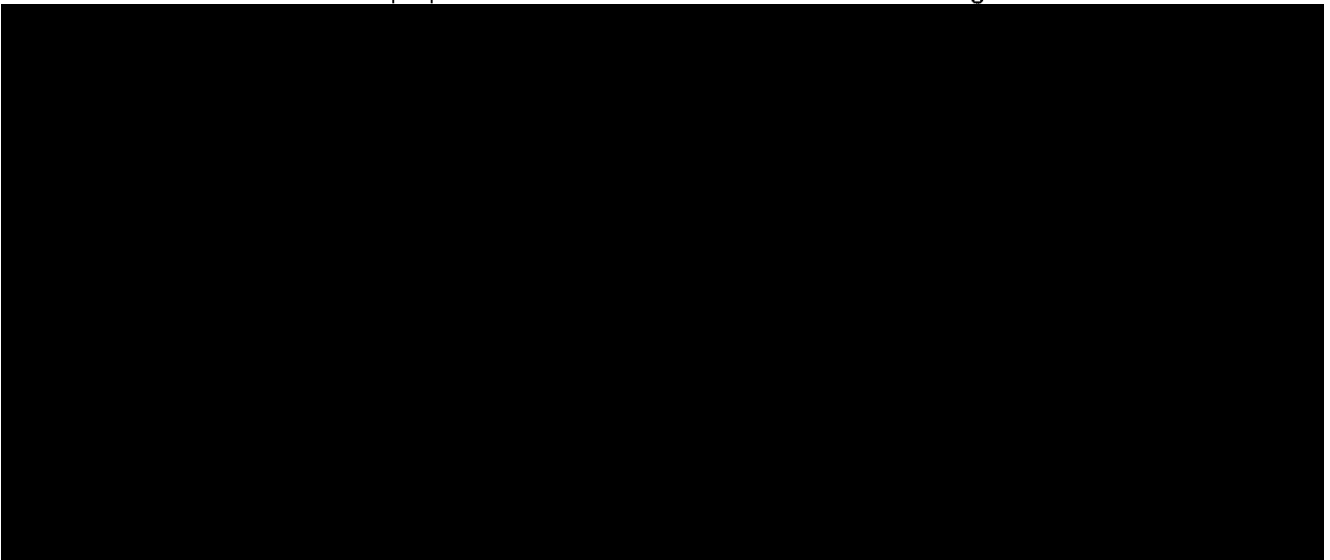
- required Dwelling specifications
- needs and preferences as stated on their application
- further information obtained in pre offer interviews

Social and Affordable Housing Tenant mix

Each site will contain a mix of Social and Affordable Housing Dwellings. The overall mix for the Service Package comprises ■■■ Social Housing and ■■■ Affordable Housing. However, the ratio will vary for each site to accommodate specific local characteristics and integration strategies.

In larger developments a high proportion of Affordable Housing is included to support a greater diversity. The mix also considers the existing concentration of Social Housing in the area for each site to avoid the promotion of the over concentration of social disadvantage.

The table below identified the proposed mix for each sites in the Service Package:





Social and Affordable Housing Dwelling mix

Social and Affordable Housing Dwellings will be salt and peppered throughout each building unless there are specific requirements such as ground floor, adaptable or modified Dwellings that required a targeted allocation approach for a specific group.

4. Service delivery initiatives

Service delivery approach

Our service delivery approach will focus on early intervention and prevention of issues that may impact the Tenant household capacity to sustain their tenancy, or impact on their health or wellbeing.

To promote sustainable tenancies we will:

- provide services that are responsive to the needs of Tenant and Household Members
- proactively manage conflicts within the building community and/or surrounding area, appropriate to seriousness of the issue
- assist Tenant and Household Members to access the services they need through responsive Tailored Support Coordination Services

Place making and community building

Place Coordinators and community building initiatives support integrated, mixed developments and manage relationship with the broader community.

The Place Coordinator will:

- work with government, non-government, community groups and residents at a local level to facilitate development and delivery of initiatives, Programs and services that respond to need and enhance quality of life for Tenant and Household Members
- build on the strengths inherent in the local community and collaborate with residents and local service systems to intervene where necessary to mitigate negative trends and positively impact on individual and community quality of life
- work with local communities in mixed tenure developments to manage issues and mitigate risks to:
 - build a sense of pride to mitigate stigmatisation
 - implement the Pride of Place property maintenance scheme that rewards Tenants for maintaining their properties in conjunction with SGCH responsive and planned maintenance Program
 - advise on local allocation strategies to achieve the most sustainable mix of young people, families, seniors to achieve an integrated community, facilitate connectiveness and increase residents feeling of safety and value in the community
- involve all residents of the community, not just SGCH Tenant and Household Members, through delivery of events, Programs and services to foster a sense of community and cohesion, reducing isolation and promoting community integration
- work to build communities and places that work for everyone and create opportunities for Tenants to develop skills for education, employment and social connection
- facilitate a range of the ways for Tenants and community members to be involved through: fitness Programs, community gardens, language classes, Programs with local schools (free breakfasts, writing projects), assisting local networks such as youth councils, neighbourhood groups and

running information sessions with local service networks through councils, police, and community centres.

Regular onsite presence

For development sites in excess of 50 Dwellings an onsite Tenancy and Asset Management Services will be maintained comprising a small office where tenancy, Asset Management and Tailored Support Coordination staff can meet with Tenant and Household Members.

The office will be open at set times with the level of services determined by the size of the development and the location of other SGCH properties in the locality. SGCH staff will be available to:

- provide advice on tenancy and maintenance issues
- received feedback on our services
- provide advice or referral to specialist services.

Good neighbour policy

The SGCH Good Neighbour Policy will be actively promoted to Tenant and Household Members to provide information on the roles and the responsibilities of being a Tenant and more broadly to support behaviour that facilitates integrated communities.

The Policy aims to manage potential conflict by:

- providing guidance on expected use of Dwellings including common areas
- identifying expected behaviours for Tenants, Household Members and their visitors
- clarifying Tenant roles and responsibilities
- highlighting actions that would breach their tenancy agreements.

The Policy will be provided to all Tenant and Household Members at the commencement of their tenancy.

5. Managing sites in areas of Social Housing concentration

In locations where the concentration of Social Housing in the surrounding area is above ■ percent, we will apply site specific strategies to manage potential issues if the need arises. This will include a combination of a targeted allocations approach or specific place making initiatives for the site.

Confidential

Annexure C – Base Case Financial Model

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Annexure D – Commercial Close Adjustment Protocol

Annexure D - Commercial Close Adjustment Protocol

