



TENDER

CONTRACT RFT T 2026 03

PATHWAY WORKS – ACTIVE TRANSPORT – DOWERIN TOWNSITE

TENDER SUBMISSION DOCUMENT

BOOK 1

TENDER DOCUMENTS

- **BOOK 1**
- BOOK 2
- BOOK 3
- BOOK 4

OTHER INFORMATION

ELECTRONIC

TENDER SUBMISSION DOCUMENT

- CONDITIONS OF CONTRACT
- PROJECT SCOPE
- DESIGN DRAWINGS

DIGITAL DESIGN MODEL

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LOCALITY PLAN



MAP



INVITATION TO TENDER

1 PROJECT

This Invitation to Tender is for Contract RFT T 2026 03 Pathway Works – Dowerin Townsite. It is a Quality Assurance Contract to AS/NZS ISO 9001.

2 PREQUALIFICATION

This is a **roadworks only** contract.

Tenderers are not required to be prequalified in accordance with the Main Road prequalification system. They will however be required to demonstrate previous past experience in completing similar works.

3 INVITATION TO TENDER DOCUMENTS

The 'Tender Documents' comprise the following Books 1 to 5 as well as any formal addenda issued by the Principal in accordance with CT 8:

BOOK 1 – Tender Submission Document, which includes the following:

- Locality Plan
- Invitation to Tender
- Conditions of Tendering
- Tender Schedules
- Formal Instrument of Agreement (Form 2)
- Main Roads Standard Method of Measurement for Construction Works

BOOK 2 – Draft Conditions of Contract, which includes the following:

- Draft General Conditions of Contract AS 2124 Annexures A and B
- Draft Special Conditions of Contract

BOOK 3 – Project Scope, which includes the following:

- Specifics of Works, including specification for works.
- Deliverables
- Contractor and Principal deliverables.

BOOK 4 – Design Drawings, which includes the following:

- Design Drawings
- Standard Drawings

Digital Design Model

The digital design model will be provided electronically.

4 PRE-TENDER MEETING

A pre-tender meeting will not be held. Tenderers may visit the site as they wish, provided that any relevant approvals to enter the site are first obtained.

5 ENQUIRIES

Tenderers seeking clarification of any details provided in the Tender Documents must, no later than 5 business days prior to the closing day stated in Invitation to Tender Clause 6 below (or as amended by addendum), contact:

Principal	Shire of Dowerin
Project Manager	Ben Forbes
Contact number	0477 357 175
Email	bforbes@dowerin.wa.gov.au

6 TENDER LODGEMENT REQUIREMENTS

Tenders must be lodged no later than 4.00pm **AWST** on _____ or such later time as notified to the Tenderers via formal addenda by the Principal (**Tender Period**).

Tenders must be submitted electronically.

Tenderers must ensure that the electronic copy of the Tender is in .doc, .docx, .pdf, .xls or .xlsx including PDF file format and extensions. Price Schedules must be submitted in .xls or .xlsx file format, including PDF.

The Tenderer agrees that:

- (a) If the electronic copy of the Tender contains a virus then, notwithstanding any disclaimer made by the Tenderer in respect of viruses, the Tenderer must pay to the Principal all costs incurred by the Principal arising from, or in connection with, the virus.
- (b) The Principal will not be responsible in any way for any loss, damage or corruption of the electronic copy of the Tender.
- (c) If the electronic copy of the Tender becomes corrupted, illegible or incomplete as a result of transmission, storage, encryption or decryption, then the Principal may request the Tenderer to provide another copy of the Tender either electronically or in hard copy or both.
- (d) If the Principal requests the provision of another copy of the Tender, then the Tenderer must provide:
 - (i) the copy in the form or forms requested within the period specified by the Principal;
 - (ii) a statutory declaration that the copy is a true copy of the Tender which was electronically submitted by the Tenderer and that no changes to the Tender have been made after the initial attempted electronic submission; and
 - (iii) a copy of the electronic tender lodgement service receipt for the initial attempted electronic submission.
- (e) Late Tenders received after the closing time will only be accepted if explicit and conclusive evidence of mishandling by the Shire of Dowerin exists.

Tenders must be emailed to Shire of Dowerin _____ with a copy to Project Manager Ben Forbes at bforbes@dowerin.wa.gov.au

7 PUBLIC DISCLOSURE

Award details will be made publicly available after the contract is legally established. Information to be disclosed will include the successful Tenderer's name(s), a general description of the Works, contract award date and contract value.

CONDITIONS OF TENDERING

CT 1 PREQUALIFICATION

Tenderers are not required to be prequalified. They will however be required to demonstrate previous past experience in completing similar works.

CT 2 AUSTRALIAN STANDARD CODE OF TENDERING

Tenderers must undertake to comply with the Australian Standard Code of Tendering AS 4120 – 1994.

CT 3 GENERAL CONDITIONS OF CONTRACT

The General Conditions of Contract are the Australian Standard 2124 – 1992 incorporating Annexures A and B, as amended in Book 2 but not incorporating Australian Standard 2125 – 1992 and Australian Standard 2127 – 1992.

Tenders must comply with and be based on the General Conditions of Contract (including Annexures A and B). The General Conditions of Contract will be deemed to have been issued and constitute part of the Tender Documents.

CT 4 NOT USED

CT 5 INFORMATION PROVIDED BY THE PRINCIPAL

Tenderers should note that information provided by the Principal and not forming part of the Tender Documents or any addenda:

- (a) is provided only for the convenience of Tenderers and is not part of the Contract. The Principal does not guarantee the information and the Principal accepts no responsibility for interpretations placed on it or for its use;
- (b) will not form part of the Contract; and
- (c) must not be taken as an exhaustive statement of conditions which may be encountered during the course of the work under the Contract.

CT 6 TENDER PERIOD

Tenders must be lodged in strict compliance with Invitation to Tender Clause 6.

CT 7 VALIDITY OF TENDERS

Tenders remain binding and cannot be withdrawn without the written approval of the Principal, whose approval may be withheld in its absolute discretion, until the expiration of six calendar months from the final date fixed for delivery of Tenders. A Tender may be accepted at any time before the expiration of the six-month period.

CT 8 ADDENDA

Addenda to this Invitation to Tender may be issued prior to the close of the Tender Period for the purpose of clarifying this Invitation to Tender or the Tender Documents or to effect modification in the design or Contract terms. Where Tenderers are in doubt as to the true meaning of any part of this Invitation to Tender they should notify the Principal and seek clarification prior to delivering their Tenders. Any interpretation of the Tender Documents will be made only by formal Addenda. The Principal is not responsible for any other interpretation.

Addenda will only be distributed to Tenderers who are registered for this Invitation to Tender with the Shire of Dowerin.

All Addenda issued become part of this Invitation to Tender and one signed copy of every page of each Addendum must be attached to the Tender.

Neither the Principal nor any of its employees will have any authority to make any representation or explanation to the Tenderers as to the meaning of any of the Invitation for Tender or Tender Documents, or as to anything to be done or not to be done by the successful Tenderer, or as to any other matter or thing so as to bind Principal in the exercise of its powers and duties under this Invitation for Tender, unless such information is issued by formal numbered Addenda.

CT 9 TENDERERS TO INFORM THEMSELVES

Tenderers are required to and will be deemed to have:

- (a) examined carefully and to have acquired full knowledge of the contents of the Drawings, Specification, Tender Schedules, Schedule of Rates or Bill of Quantities as applicable, Conditions of Tendering, the General Conditions of Contract and the Special Conditions of Contract, Main Roads Standard Method of Measurement for Construction Works and any other information made available in writing by the Principal to the Tenderers for the purpose of tendering;
- (b) examined all information relevant to the risks, contingencies and other circumstances having an effect on their Tender and which is obtainable by the making of reasonable inquiries;
- (c) examined the site and its surroundings; and
- (d) satisfied themselves as to the correctness and sufficiency of their Tender for the work and that their tender rates and prices cover the cost of complying with all their obligations under the Contract whether expressed or implied and of all matters and things necessary for the due and proper performance and completion of the Contract.

Failure to do all or any of the things deemed to have been done above will not affect the successful Tenderer's liability to perform and complete the obligations of the Contractor under the Contract.

CT 10 NOT USED

CT 11 BUILDING & CONSTRUCTION INDUSTRY TRAINING LEVY

The Building and Construction Industry Training Levy, as required by the *Building and Construction Industry Training Fund and Levy Collection Act 1990 (WA)*, **is payable by the Contractor and must be allowed for in the Tender Price.**

CT 12 NOT USED

CT 13 COMPLETION OF TENDER

13.1 Conformity of Tenders

Tenderers must submit a conforming tender in accordance with the Form of Tender and all other Tender Documents (**Conforming Tender**). A Tender that is claimed to be a Conforming Tender, but which contains departures and qualifications, does not include all schedules or otherwise does not fully answer all of the criteria will only be considered if, in the Principal's absolute discretion, the resolution of such departures and qualifications is fair and reasonable to each of the other Tenderers.

The Principal reserves the right to request clarifications or any additional information from time to time from Tenderers in relation to any part of its Tender and the Tenderer must comply with such a request for information from the Principal as soon as possible.

13.2 Form of Tender

The form of tender in **Tender Schedule A (Form of Tender)** must be completed without alteration and signed by a principal of the Tenderer.

13.3 Not used.

13.4 Contract Resource Plan

Tenderers must provide details of their proposed Contractor's Representative, Management Representatives, key supervisory staff, and key plant if applicable to be used in the Works (**Tender Schedule C**).

Tenderers must also include details of key subcontractors and major suppliers to whom it is intended to subcontract any critical or substantial portion of the Works.

Where the value of the work to be subcontracted to any subcontractor exceeds \$1.5m (GST inclusive) a financial due diligence check on the subcontractor must be conducted by the Tenderer and a signed statement certifying that the subcontractor has satisfied this check must be included in Tender Schedule C.

13.5 Other Project/Contract Commitments

Tenderers must include details of other projects/contracts which are likely to be managed at the same time as the Works and which may affect allocation of resources (**Tender Schedule D**).

13.6 Construction Program

Tenderers must submit with their Tender their proposed detailed Construction Program showing the sequence of activities by which it is proposed to execute the Works (**Tender Schedule E**).

13.7 Not used.

13.8 Not used.

13.9 Not used.

13.10 Alternative Tenders and Qualifying Conditions

In addition to (but not instead of) a Conforming Tender, a Tenderer may also submit one or more Alternative Tenders. An Alternative Tender may contain conditions or exceptions and the consequential price adjustments that differentiate the Alternative Tender from the Conforming Tender. All Tenderers must complete the first section of **Tender Schedule I**.

Where an Alternative Tender contains conditions or exceptions and the consequential price adjustments which differentiate the Alternative Tender from the Conforming Tender have not been included in the Alternative Tender, a Tenderer will not be given the opportunity to submit consequential price adjustments during the Tender assessment period. However, during the Tender assessment period the Tenderer may be given the opportunity to withdraw the conditions or exceptions contained in the Alternative Tender.

When a Tenderer elects to submit an Alternative Tender, it must be detailed in Tender Schedule I. Where more than one alternative is submitted, each must be clearly identified. Where conditions or exceptions are priced, the Tenderer must summarise these in Tender Schedule I, giving details

of the consequential price adjustments associated with the conditions or exceptions that differentiate the Alternative Tender from the Conforming Tender, and the Alternative Tender price.

The Principal may (in its absolute discretion) consider on its merits, or not consider further, any Alternative Tender. Factors that the Principal may take into consideration in deciding not to further consider any Alternative Tender include (but are not limited to):

- (a) any time and resources likely to be required to complete a detailed assessment additional to that already contemplated by the Principal;
- (b) any factors that may result in major redesign or delay to the Project; and
- (c) any apparent failure to:
 - (i) meet the Project budget;
 - (ii) meet Project commitments;
 - (iii) comply with Project approvals and other Project constraints such as land availability; and
 - (iv) achieve minimum acceptable standards for the Project which may include matters with respect to user safety, appearance, amenity of others, requirements of municipal, public or statutory authorities, 'whole of life costs' and commercial or reputational risk to the Principal.

13.11 Preferred Tender and Negotiation

The Principal reserves the right to, but is not required to, select one or more Tenderers to form a shortlist of Tenderers or as preferred Tenderer.

Selection as a preferred or shortlisted Tenderer does not confer any rights on a preferred Tenderer and does not constitute acceptance of a preferred Tenderer's Tender.

The Principal may invite Tenderers selected to form the shortlist or preferred Tenderers to attend a meeting with the Principal and give a presentation on its Tender.

The Principal reserves the right to negotiate with a preferred Tenderer and may, at any time or for any reason, terminate negotiations.

If the Principal does terminate negotiations, the Principal may:

- (a) accept the Tenderer's original Tender;
- (b) select and negotiate with any other Tenderer as a preferred Tenderer in accordance with this clause 13.11; or
- (c) terminate the Invitation for Tender.

13.12 Not Used

13.13 Not Used

13.14 Method of Measurement for Construction Works

In addition to the requirements of CT 3, Tenders must also comply with and be based on the Main Roads Standard Method of Measurement for Construction Works. The Main Roads Standard Method of Measurement for Construction Works will be deemed to have been issued and constitute part of the Tender Documents and are available from:

<chrome-extension://efaidnbmnnnibpcajpcqlclefindmkai/https://www.mainroads.wa.gov.au/48da38/globalassets/technical-commercial/technical-library/tender-preparation/standard-method-of-measurement/standard-method-of-measurement-smm-for-construction-works-january-2026.pdf>

Furthermore:

- (a) All rates must be expressed to two decimal places.
- (b) A rate must be entered against every item in the Schedule of Rates or Bill of Quantities and items must not be grouped together.
- (c) Where both the rate and amount against any item contained in a Schedule of Rates or Bill of Quantities have been omitted then the amount payable against that item will be zero.
- (d) Where there is a discrepancy between the rate and the associated amount entered in a Schedule of Rates, the rate will apply and the amount will be adjusted accordingly.
- (e) Where there is a discrepancy between the rate and the associated amount entered in a Bill of Quantities, the amount will apply and the rate will be adjusted accordingly.
- (f) For Tenders submitted not marked as Alternative Tenders:
 - (i) All items and quantities will be included in accordance with the Schedule of Rates or Bill of Quantities as provided at time of Tender by the Principal or as amended by the Principal by the issue of an Addendum or Addenda.
 - (ii) Where an item has been removed the item will be reinserted into the respective Schedule of Rates or Bill of Quantities and the amount payable against that item will be zero.
 - (iii) Where a different quantity has been entered against an item in a Schedule of Rates, the different quantity will be replaced with that issued by the Principal and the corrected quantity multiplied by the tendered rate to arrive at a new amount for that item.
 - (iv) Where a different quantity has been entered against an item in a Bill of Quantities, the different quantity will be replaced with that issued by the Principal and the tendered amount divided by the corrected quantity to arrive at a new rate for that item.
 - (v) Where a different unit has been entered against an item in a Schedule of Rates or Bill of Quantities, the different unit will be replaced with that issued by the Principal.
 - (vi) Where a different description has been entered against an item in a Schedule of Rates or Bill of Quantities, the different description will be replaced with that issued by the Principal.
- (g) Tenderers must also submit an electronic copy of the Schedule of Rates or Bill of Quantities in Microsoft Compatible Excel .xlsx or .xls file format and extensions. Zipped files are acceptable. The hard copy takes precedence should there be any inconsistencies or errors in the data contained in the electronic copy.

CT 14 ASSESSMENT OF CONFORMING AND ALTERNATIVE TENDERS

The Tender assessment process will be undertaken in a single stage. This will involve selection of the best value Tender that meets all Tender requirements, including those detailed in the Tender Schedules. Assessment will proceed as outlined in CT 14.1. The Principal will exercise its sole discretion in the evaluation of Tenders. The Principal's determination in respect of each Tender will be final.

14.1 Assessment Finalisation

It is the Principal's policy to award contracts to organisations whose Tenders:

- (a) are assessed as compliant (subject to its discretion to consider Alternative Tenders under CT 13.10);
- (b) demonstrate financial capacity to complete the Contract requirements; and

- (c) offer the best value for money outcome for the Shire of Dowerin. In determining best value for money the Principal will apply any preferences applicable and consider other socio-economic impacts.

The Principal is not bound to accept the lowest or any Tender or any part of a Tender.

Assessment will be substantially based on information supplied by the Tenderers.

Information supplied by a Tenderer may be confirmed by:

- (a) Reference to documented information held by the Principal relating to the Tenderer's past performance in meeting contract obligations.
- (b) The Principal's own enquiries into the information provided by the Tenderer including information provided in Tender Schedule F.
- (c) Following up financial and performance references supplied by the Tenderer.
- (d) Conducting Tenderer interviews and visits to company premises if required.
- (e) Any other information that becomes known to the Principal and is deemed relevant to this Tender.

To enable a proper assessment to be made, it is essential that Tenderers submit all relevant information in an accurate and concise format. Poorly presented or inadequate information may result in an unsuccessful Tender. Tenderers must ensure that Tenders are able to be assessed on a stand-alone basis, and should not rely on information supplied to the Principal in previous tenders.

Tenders will be assessed in the following steps.

14.2 Compliance Assessment

Tenders will be assessed for compliance with the requirements of the Conditions of Tender and any Contract requirements, including responses shown in the Tender Schedules. Compliant Tenders will proceed for further assessment as follows. Alternative Tenders may proceed for further assessment in the Principal's absolute discretion and in accordance with CT 13.10.

14.3 Financial Assessment

Tenders will be assessed to determine the Tenderer's financial capacity to complete the Contract requirements. To assess financial capacity the Principal may require the Tenderer to provide up to date financial information together with any other information deemed necessary prior to Contract award.

14.4 Unusually Low Bid Review

The Principal will review Tenders to determine whether it considers any may be an Unusually Low Bid. The review will examine aspects to demonstrate the Tenderer's capability to perform the Contract for the offered price, including but not limited to:

- (a) economics of the method of construction proposed;
- (b) any technical solution offered; and
- (c) exceptionally favourable conditions available to the Tenderer and not others.

If the Principal does identify a Tender that it considers may be an Unusually Low Bid, the Tenderer will be issued with a question of clarification seeking information as to the capability of the Tenderer to perform the Contract for the offered price.

Where the Tenderer is unable to demonstrate to the satisfaction of the Principal, in its absolute discretion, the capability of the Tenderer to perform the Contract for the offered price, the Principal may reject the Tender and is under no obligation to undertake any further evaluation of that

Tender. The Principal’s determination may be made at any time during the evaluation process and must be included in the assessment report.

14.5 Comparative Price Assessment

The comparative price for each Tender will be calculated by applying any applicable price preferences or imposts in accordance with these Conditions of Tendering.

14.6 Non-price Assessment

The non-price assessment component of the assessment process is designed to take into account those aspects of the Tender that do not readily translate into absolute dollar values, but do however, have socio-economic benefits in accordance with the assessment table below.

The Tenderer shall provide evidence and/or commentary for each Assessment Criteria to allow the Principal to appropriately assess and score the criteria.

The criteria on which Tenders will be assessed, the maximum weighted score for each criteria and the scoring methodology is as follows:

Item	Non Priced Assessment Criteria	Score
1	Tenderer’s Resources	30
2	Tenderer’s Previous Experience	30
3	Tenderer’s Methodology	10
4	Local Content	30
	Total Percentage	100

Table 1 Non-Price Assessment Scoring Methodology

14.7 Value for Money Assessment

The Principal reserves the right to take into consideration any feature of a Tender that provides a benefit to the Principal. Any additional features will be evaluated in accordance with the value-for-money assessment process outlined below.

In formulating the recommendation for any acceptance of any Tender or selection of a Preferred Tenderer, value-for-money will be assessed by:

- (a) Identifying the lowest Comparative Price Tender (this Tender then becomes the benchmark for the value-for-money assessment).
- (b) If the next higher priced Comparative Price Tender has a higher Non-Price Assessment Score than the benchmark, identifying the additional benefits (if any) offered and assessing if the additional benefit is worth the additional price.
- (c) Repeating step (b) with the remaining Tenders.
- (d) Determining which of the Tenders, if any, offers the best value for money.

CT 15 RIGHT TO REJECT TENDERS

The Principal is not bound to accept the lowest Tender or any Tender or any part of a Tender.

CT 16 NOTICES FROM PRINCIPAL

The Principal will serve two notices upon the successful Tenderer:

- (a) Notice of Acceptance of Tender; and

(b) Notice giving Possession of Site.

After the Notice of Acceptance of Tender has been issued, the Contractor, and if applicable the Contractor's parent company or other Covenantor, will be required to execute the Formal Instrument of Agreement in the form set out in Form 2 unless, in its absolute discretion, otherwise directed by the Principal.

Although a contract will arise upon Acceptance of Tender as evidenced by a Notice of Acceptance of Tender issued by the Principal to the successful Tenderer, it is a fundamental condition of that contract that if the Formal Instrument of Agreement is not entered into within the time required by Clause 6.2 of the General Conditions of Contract, the Principal may take the work out of the hands of the Contractor or terminate the Contract (refer SCC 4B).

CT 17 GOODS AND SERVICES TAX (GST)

For the purposes of completing the price schedule, the Tenderer is required to insert the GST exclusive amount. In addition, the Tenderer is required to insert the amount of GST estimated to be payable by the Tenderer. In this clause, "GST" has the same meaning as set out in the Contract.

CT 18 Warranties

In submitting a Tender, the Tenderer warrants that:

- (a) it has the necessary resources, experience, expertise and capacity to carry out the works;
- (b) all of the information contained in its Tender is true and correct;
- (c) it relies entirely on its own enquiries and, in respect of information provided to it by the Principal, it has exercised its obligation to inform itself and ensure all information provided to it by the Principal is true and correct;
- (d) it has examined and understood the Invitation for Tender, any addenda, the Conditions of Tendering, the General Conditions or Conditions of Contract (as applicable), any Special Conditions and the information available to the Tenderer in respect of the Invitation for Tender;
- (e) it has made all reasonable enquiries necessary to inform its Tender including review of applicable policies and procedures of the Principal to ensure its Tender complies with all relevant obligations;
- (f) it has made all reasonable enquiries and does not rely on any warranty or representation made by the Principal or any of its representatives;
- (g) it has not paid or received and will not pay or receive any secret commission in respect of the Invitation for Tender;
- (h) it has not and will not colluded or otherwise engaged in any restrictive trade practice in any way connected with or to the Invitation for Tender;
- (i) its offered price is not inflated or deflated to advantage another Tenderer;
- (j) it has not entered and will not enter into any unlawful arrangement with any person in respect of the Invitation for Tender;
- (k) it will pay all its own costs and expenses incurred in preparing and submitting its Tender irrespective of whether its Tender is accepted or not; and
- (l) each and every copy of the Tender submitted is identical.

CT 19 NOT USED

CT 20 NOT USED

CT 21 CONFLICT OF INTEREST

Tenderers must notify the Principal promptly upon becoming aware of any conflict of interest arising or that is likely to arise in respect of the Tenderer, or the employees, agents, consultants, contractors or subcontractors of the successful Tenderer.

If the Principal determines that a conflict of interest has arisen, or is likely to arise, in respect of any particular Tenderer, or the employees, agents, consultants or contractors of the Tenderer, then the Tenderer must take whatever action is required by the Principal to resolve or manage that conflict of interest.

If the Tenderer is unable or unwilling to resolve or manage a conflict of interest to the reasonable satisfaction of the Principal, the Principal may exclude the Tenderer from the procurement process and reject the Tenderer's Tender.

Without limiting the above:

- (a) if a consultant who has previously conducted work that may be relevant to the Project is engaged, or proposed to be engaged, by a Tenderer in relation to the Project, this work must be declared to the Principal by the Tenderer; and
- (b) if a Tenderer wishes to engage a consultant for the Project who is currently engaged by the Principal on another assignment, the Tenderer must advise the Principal.

CT 22 CONFIDENTIALITY

Tenderers must recognise the confidential nature of the Tenders and undertake not to apply under the *Freedom of Information Act 1992 (WA)* for information regarding other Tenders. Tenderers must also recognise that Tenders may be subject to the provisions of the *Freedom of Information Act 1992 (WA)* and may be disclosed by the Principal under a court order or as requested by Parliament or any committee of Parliament or as otherwise required by law.

Without limiting the above, the Principal will not make public any part of the Tender that the Tenderer expressly and reasonably nominates in its Tender as confidential. The Tenderer must specify in its Tender any parts that are to be treated as confidential.

By submitting a Tender, the Tenderer releases the Principal from all liability for any loss, injury, damage, liability, cost or expense resulting from the disclosure of its Tender.

All Tenderers must maintain confidentiality with respect to their own Tenders, and must not seek details of other Tenderer's Tenders.

Except where required by law, Tenderers must not disclose the contents of this Invitation to Tender or any other information provided in connection with it.

Tenderers must not make or authorise, and must procure an undertaking that its Related Bodies Corporate do not make or authorise, a press release or other public statement relating to the following without the prior written consent of the Principal:

- (a) the content of its Tender or any other Tender;
- (b) any information provided or made available by or on behalf of the Principal;
- (c) whether or not the Tenderer has ceased to participate in the procurement process; or
- (d) any decision of the Principal or any other communication between the Tenderer and the Principal relating to the procurement process.

CT 23 COSTS BORNE BY THE TENDERER

All costs and expenses incurred by the Tenderer in preparing and submitting its Tender must be borne entirely by the Tenderer. This includes costs of any additional meetings or information requested by the Principal for whatever reason including after submission of the Tender.

CT 24 JOINT AND SEVERAL LIABILITY

If the Tenderer comprises more than one organisation, each of the organisations comprising the Tenderer will be jointly and severally bound to comply with the obligations of the Tenderer arising from its Tender.

CT 25 PRIVACY ACT COMPLIANCE

If any Personal Information (as defined in the *Privacy Act 1988* (Cth) ("Privacy Act")) is disclosed by any Tenderer to the Principal in connection with its Tender, each Tenderer warrants to the Principal that:

- (a) it has obtained the consent of each individual about which any Sensitive Information (as defined in the Privacy Act) is disclosed; and
- (b) it has ensured or will ensure, within the time required by the Privacy Act, that each individual about whom any Personal Information is disclosed has received a written statement setting out all of the matters required by Australian Privacy Principles 5.1 and 5.2:
 - (i) in relation to disclosure of the Personal Information to the Principal or any adviser of the Principal requiring the information for the purposes set out in paragraph (ii); and
 - (ii) disclosing that the entities referred to in paragraph (i) will use the Personal Information for the purposes of reviewing and assessing the Tender.

The Tenderer must comply with the provisions of the Privacy Act (and all other laws, rules and regulations in Australia which relate to the privacy, protection, use or disclosure of Personal Information), in relation to any Personal Information disclosed by the Principal and any adviser of the Principal to the Tenderer.

TENDER SCHEDULE A – FORM OF TENDER

Contract Number: RFT T 2026 03

Contract Description: Pathway Works – Active Transport – Dowerin Townsite

To: Chief Executive Officer; Shire of Dowerin,

1. Having examined the Tender Documents and any related addenda issued by you for the construction of the above named works, we offer to construct, complete and maintain the whole of the said works in conformity with the Tender Documents and addenda at the rates set out in the Schedule of Rates and Daywork Rates and Prices or such other rates as may be ascertained in accordance with the General and Special Conditions of Contract.
2. As a fundamental condition of this Tender, we undertake to comply with the Australian Code of Tendering AS4120 – 1994.
3. We acknowledge that this Tender is subject to the Western Australian Building and Construction Industry Code of Conduct 2016 (BCI Code) and agree to comply with each of the obligations described in the BCI Code for the duration of the procurement process.
4. If our Tender is accepted we will arrange provision of security as provided in the General Conditions of Contract in the amount set out in Annexure Part A of the General Conditions and will procure that the Covenanter execute the Formal Instrument of Agreement.
5. If our Tender is accepted the Tender, together with your written acceptance, will constitute a binding contract between us in accordance with their terms unless and until a Formal Instrument of Agreement is prepared and executed.
6. In consideration of the trouble and expense incurred by you in preparing the Invitation to Tender and in examining and considering this Tender, we agree that this Tender cannot be withdrawn by us before the expiration of **six calendar months** from the date for close of the Tender Period, and will remain binding upon us and may be accepted at any time before the expiration of that period.
7. Without limiting 6 above, we understand and agree to be bound by the warranties required by the Invitation to Tender, including in CT 18 and 25, in respect of the Tender.
8. We understand that you are not bound to accept the lowest Tender or any Tender you may receive.

Dated this _____ day _____ month _____ year

Signature Print Name in the capacity of

Duly authorised to sign Tenders for and on behalf of _____

COMPANY NAME – BLOCK LETTERS

ABN _____ ACN _____

Business Address of Company¹ _____

Registered Address of Company _____

Witness: Signature _____ Print Name _____

Address of Witness _____

Occupation of Witness _____

Contact Details for the Tenderer	
Name	
Position	
Organisation name	
Phone number	
Email	

TENDER SCHEDULE B – PRICE SCHEDULE

PRICE SCHEDULE

Item	Description	Unit	Qty	Rate	Amount
0.00	<u>GENERAL ITEMS</u>				
0.01	Insurances in accordance with the General Conditions of Contract	Item	1		\$0.00
0.02	Contractor's superintendence during the execution of the Works	Item	1		\$0.00
0.03	All charges, costs and obligations relating to the General Conditions of Contract not provided for elsewhere	Item	1		\$0.00
0.04	Provision and maintenance of site facilities (if applicable)	Item	1		\$0.00
0.05	Occupational safety and health including safety and health plans and safety and health audits	Item	1		\$0.00
	To Summary				\$0.00
1.00	<u>TRAFFIC MANAGEMENT</u>				
1.01	Supply of Traffic Management Plan	Item	1		\$0.00
1.02	Supply of Traffic Management Services	Item	1		\$0.00
	To Summary				\$0.00
2.00	<u>WATER SOURCES AND WASTE</u>				
2.01	Water supplies	Item	0	\$0.00	\$0.00
2.02	Disposal of waste (excluding tip fees)	Item	1		\$0.00
	To Summary				\$0.00
3.00	<u>PATHWAY WORKS</u>				
	<u>SUBBASE</u>				
3.01	Preparation of subbase (including excavation, fill and compaction for path, crossovers and ramps)	m ²	3,431		\$0.00
	<u>CONCRETE PATHWAY & CROSSOVERS</u>				
3.02	Set out of pathway and ramps	Item	1		\$0.00
3.03	- Raising and lowering of assets as required	Item	1		\$0.00
-	-				

3.04	Install concrete pathway at 2m wide and 100mm depth as per Detailed Design and Standard Drawings (including installation and removal of formwork, install concrete path including installing of all joints and brushwork).	m2	2,951		\$0.00
3.05	- Install concrete crossovers at 2m width and 150mm depth with SL72 reinforcing mesh as per Detailed Design and Standard Drawings.	m2	480		\$0.00
<u>PRAM RAMPS</u>					
3.06	Install pram ramps as per Standard Drawings and Detailed Design (including installation and removal of formwork, concrete ramps and tactile strips).	Item	22		\$0.00
<u>BACKFILL</u>					
3.07	Install compacted gravel backfill	Item	1		\$0.00
To Summary					\$0.00
4.00	<u>PATH LINEMARKING</u>				
<u>PATH LINEMARKING</u>					
4.01	Install tactile strips on ramps as per Standard Drawings and Detailed Design	Item	22		\$0.00
4.01	Install linemarking as per Standard Drawings and Detailed Design	Item	1		\$0.00
To Summary					\$0.00
5.00	<u>PROVISIONAL SUMS</u>				
5.01	Provision for undertaking works as identified by Principal's Representative outside of Scope of Project. ONLY TO BE INVOICED IF REQUIRED BY PRINCIPAL EITHER IN PART OR IN FULL.	Item	1	\$50,000.00	\$50,000.00
To Summary					\$50,000.00

SUMMARY OF SCHEDULES

SCHEDULE 0 - GENERAL ITEMS	\$0.00
SCHEDULE 1 - TRAFFIC MANAGEMENT	\$0.00
SCHEDULE 2 - WATER SOURCES & WASTE	\$0.00
SCHEDULE 3 - PATHWAY WORKS	\$0.00
SCHEDULE 4 - PATHWAY LINEMARKING & TACTILE STRIPS	\$0.00
SCHEDULE 5 - PROVISIONAL SUMS	\$50,000.00
GST EXCLUSIVE AMOUNT	\$50,000.00
ESTIMATED GST PAYABLE	\$5,000.00
TOTAL OF TENDER	\$55,000.00

The Price Schedule Spreadsheet may also be used for the price submission.

All care has been taken by the Principal to provide accurate quantities, Contractors shall use these quantities as a guide only. Contractors shall inform themselves of the quantities and make their own determination on the quantities.

The Principal won't be held liable in any way for any discrepancies in the quantities provided.

TENDER SCHEDULE C – CONTRACT RESOURCE PLAN

The Tenderer must complete and submit the following details:

PROVIDE NAMES AND CVS OF THE PROPOSED PERSONNEL:

Position	Name of Nominated Personnel	CV Attached (enter YES)
Contractor’s Representative		
Quality Management Representative		
WHS Management Representative		
Traffic Management Representative		

PROVIDE DETAILS OF PROPOSED KEY PLANT AND EQUIPMENT:

Plant Type	Manufacturer	Date of Manufacture

PROVIDE DETAILS OF PROPOSED KEY SUBCONTRACTORS AND MAJOR SUPPLIERS:

Subcontractors for the following critical processes **must** have Third Party Certification for their Quality Management System to AS/NZS ISO 9001
 For the Manufacture and or Supply of: (Refer to Annexure 201E)

Critical Process	Name of Proposed Subcontractor / Major Supplier	Third Party Certified to AS/NZS 9001	
		YES	NO
Concrete			
Tactile strips			

NOTE: This sheet is for indicating minimum information required. Tenderers may present their information in their preferred format.

TENDER SCHEDULE D – OTHER PROJECT / CONTRACT COMMITMENTS

The Tenderer must provide the following details:

Project Description	Client	Contract Value \$	Commencement Date	Anticipated Completion Date

NOTE: This sheet is for indicating minimum information required. Tenderers may present their information in their preferred format.

TENDER SCHEDULE E – CONSTRUCTION PROGRAM

The Tenderer must provide the following details:

The program must be based on the working hours, including all Public Holidays, specified in the Special Conditions of Contract and must include:

- The dependencies between items of work as normally identified in Critical Path Analysis methods;
- The minimum duration of each work item;
- The critical path;
- All activity durations in number of days;
- An adequate description of each activity;

The program must not include specific dates.

NOTE: This sheet is for indicating minimum information required. Tenderers may present their information in their preferred format.

TENDER SCHEDULE F TO H – NOT USED

TENDER SCHEDULE I – ALTERNATIVE TENDERS

NUMBER OF ALTERNATIVE TENDERS
(if none write NIL)

If the Tenderer elects to submit one or more Alternative Tenders, the Tenderer must provide in this schedule the details identified in CT 13.10 (see table below), and any amplifying information.

Where more than one Alternative Tender is submitted, each must be clearly identified and separately summarised.

Schedule Item	Alternative Price	Variation from Conforming Tender	
Alternative Tender Price \$			

NOTE: This table indicates the preferred format for a summary. Tenders may submit any amplifying information in their preferred format.

TENDER SCHEDULE J to N – NOT USED

FORM 2 – FORMAL INSTRUMENT OF AGREEMENT

Date

Parties

Shire of Dowerin

13 Cottrell Street, DOWERIN W.A. 6461

(Principal)

CONTRACTOR NAME

ABN _____

ADDRESS

(Contractor)

Recitals

- A. The Principal wishes to engage the Contractor to execute and complete the Works in accordance with the Contract.
- B. The Contractor agrees to its engagement on the terms set out in the Contract.
- C. The Contractor is experienced in the construction of work of a nature similar to the work under the Contract.
- D. The Principal wishes to engage the Contractor to execute the work under the Contract in accordance with the terms of the Contract and the Contractor accepts that engagement.

The parties agree, in consideration of, among other things, the mutual promises contained in the Contract as follows:

1 Interpretation

In this Formal Instrument of Agreement, words and expressions have the same meanings as are respectively assigned to them in the General Conditions of Contract.

2 Contract Sum

The contract sum is Schedule of Rates: the sum of the measured quantity of each section or item of work actually carried out under the Contract multiplied by the rate for that section or item indicated in the schedule of rates.

3 Order of precedence

The following documents comprise or are deemed to comprise this and must be read in order of precedence as listed:

- (a) This Formal Instrument of Agreement;

- (b) Special Conditions of Contract in Annexure Part B;
- (c) AS 2124 – 1992 General Conditions of Contract, including Annexure Part A but excluding the Special Conditions in Annexure Part B;
- (d) Specifications (Book 3 Project Scope), including any contract specific amendments (Book 2 Conditions of Contract);
- (e) Drawings (Book 4);
- (f) Main Roads Standard Method of Measurement for Construction Works, including any contract specific amendments;
- (g) Priced Schedule of Rates/Bill of Quantities.

4 Parties to give effect to the Contract

The parties agree that they shall do everything reasonably necessary to give effect to the Contract.

If any provision of the Contract is unenforceable, illegal or void then it is severed and the rest of the Contract remains on foot.

5 Mutual warranties

Each party represents and warrants to the other party that:

- (a) it has full power and authority to execute the Contract and to perform its obligations under the Contract;
- (b) the Contract has been duly executed by it; and
- (c) the obligations undertaken by it and set out in the Contract are enforceable against it in accordance with the terms of the Contract.

6 Variation

A variation of any term of the Contract will be of no force or effect unless it is in writing and signed by each of the parties.

7 Costs and expenses

Each party must pay its own costs (including legal costs) and expenses in connection with the negotiation, preparation, execution and delivery of the Contract.

8 Waiver

- (a) A waiver of a right, remedy or power must be in writing and signed by the party giving the waiver.
- (b) A party does not waive a right, remedy or power if it delays in exercising, fails to exercise or only partially exercises that right, remedy or power.
- (c) A waiver given by a party in accordance with clause 8:
 - a. is only effective in relation to the particular obligation or breach in respect of which it is given and is not to be construed as a waiver of that obligation or breach on any other occasion; and
 - b. does not preclude that party from enforcing or exercising any other right, remedy or power under the Contract nor is it to be construed as a waiver of any other obligation or breach.

9 Severance

If a provision in the Contract is wholly or partly void, illegal or unenforceable in any relevant jurisdiction that provision or part must, to that extent, be treated as deleted from the Contract for the purposes of that

jurisdiction. This does not affect the validity or enforceability of the remainder of the provision or any other provision of the Contract.

10 Governing law and jurisdiction

The Contract is governed by and is to be construed under the laws in force in Western Australia.

Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Western Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with the Contract. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

11 Further assurances

Each party must, at its own expense, do all things and execute all further documents necessary to give full effect to the Contract and the transactions contemplated by it.

12 No reliance

Neither party has relied on any statement by the other party which has not been expressly included in the Contract.

13 Entire agreement

The Contract documents identified in clause 3 above constitute the entire agreement between the parties in respect of its subject matter, and the Contract supersedes all previous agreements, undertakings, communications and any tender, whether written or oral, relating to the subject matter of the Contract. Without limiting the foregoing and for the avoidance of doubt, the Contract supersedes and replaces any terms, conditions, exclusions or clarifications previously provided by the Contractor to the Principal.

14 Counterparts

The Contract agreement may be executed in any number of counterparts, each signed by one or more parties. Each counterpart when so executed is deemed to be an original and all such counterparts taken together constitute one document.

A party that has executed a counterpart of the Contract may exchange that counterpart with another party by faxing or emailing it to the other party or the other party's legal representative and, if that other party requests it, promptly delivering that executed counterpart by hand or post to the other party or the other party's legal representative. However, the validity of the Contract is not affected if the party who has faxed or emailed the counterpart delays in delivering or does not deliver it by hand or by post.

15 Relationship of parties

The Principal and the Contractor are not and are not to be taken to be in a partnership, joint venture, employment or fiduciary relationship.

Nothing in the Contract gives a party authority to bind any other party in any way.

16 Remedies cumulative

Except as provided in the Contract and permitted by law, the rights, powers and remedies provided in the Contract are cumulative and not in lieu of the rights, powers or remedies provided by law independently of the Contract.

Executed as an agreement

Executed by the Principal:

The common seal of
Shire of Dowerin
was hereunto affixed pursuant to a
resolution of the Shire of Dowerin in the
presence of:

sign here ► _____
Chief Executive Officer

print name _____

sign here ► _____
Shire President

print name _____

Executed by the Contractor:

Executed by *CONTRACTOR NAME* ABN:
_____ in accordance with section 127(1) of
the *Corporations Act 2001* (Cth) by:

Signature of Director

Signature of Director/Company Secretary

Full name (print)

Full name (print)

MAIN ROADS STANDARD METHOD OF MEASUREMENT FOR CONSTRUCTION WORKS

Tenderers are to be aware that the Main Roads Standard Method of Measurement for Construction Works (SMM) will be deemed to have been issued and constitute part of the Tender Documents and are available in PDF format from:

<https://www.mainroads.wa.gov.au/48da38/globalassets/technical-commercial/technical-library/tender-preparation/standard-method-of-measurement/standard-method-of-measurement-smm-for-construction-works-january-2026.pdf>

Main Roads SMM comprises the following sections:

- Principles for Preparing Schedules of Rates and Bills of Quantities
- Preambles to the Schedules of Rates and Bills of Quantities
- Units and Method of Measurement
 - Series 100 – General Requirements
 - Series 200 – Management Requirements
 - Series 300 – Earthworks
 - Series 400 – Drainage
 - Series 500 – Pavement and Surfacing
 - Series 600 – Traffic Facilities

END OF DOCUMENT



TENDER

CONTRACT RFT T 2026 03

PATHWAY WORKS – ACTIVE TRANSPORT – DOWERIN TOWNSITE

TENDER SUBMISSION DOCUMENT

BOOK 2

TENDER DOCUMENTS

- BOOK 1
 - **BOOK 2**
 - BOOK 3
 - BOOK 4
- TENDER SUBMISSION DOCUMENT
 - CONDITIONS OF CONTRACT**
 - PROJECT SCOPE
 - DESIGN DRAWINGS

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ANNEXURE PARTS A & B TO AS 2124 – 1992
GENERAL CONDITIONS OF CONTRACT

AS 2124 - 1992 - ANNEXURE PART A

ANNEXURE to the Australian Standard

General Conditions of Contract

PART A

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

The law applicable is that of the State or Territory of: (Clause 1)	Western Australia
Payments under the Contract shall be made at: (Clause 1)	Perth, Western Australia
The Principal: (Clause 2)	Shire of Dowerin
The address of the Principal:	Shire of Dowerin 13 Cottrell Street Dowerin WA 6461 Email: dowshire@dowerin.wa.gov.au (CC: bforbes@dowerin.wa.gov.au)
The Contractor (Clause 2)	<i>CONTRACTOR NAME</i> ABN: _____
The address of the Contractor	<i>CONTRACTOR PHYSICAL ADDRESS</i> Email: _____
The Superintendent: (Clause 2)	Ben Forbes, Manager Infrastructure and Projects, Shire of Dowerin
The address of the Superintendent:	13 Cottrell Street Dowerin WA 6461
Nature of Contract: (Clause 3)	Schedule of Rates
Limits of accuracy applying to quantities for which the Principal accepted a rate or rates: (Clause 3.3(b))	+/- 20%
Bill of Quantities - the alternative applying: (Clause 4.1)	Alternative 1

The time for lodgement of the priced copy of the Bill of Quantities: (Clause 4.2)	With the Tender
# Contractor shall provide security in the amount of: (Clause 5.2)	10% of Contract Sum in the form of a bank guarantee
# Principal shall provide security in the amount of: (Clause 5.2)	Not Applicable
# The period of notice required of a party's intention to have recourse to retention money's and/or to convert security: (Clause 5.5)	Not Applicable
The percentage to which the entitlement to security and retention moneys is reduced: (Clause 5.7)	50%
Interest on retention moneys and security - the alternative applying: (Clause 5.9)	Alternative 2
The number of copies to be supplied by the Principal: (Clause 8.3)	1 copies
The number of copies to be supplied by the Contractor: (Clause 8.4)	1 copies
The time within which the Superintendent must give a direction as to the suitability and return the Contractor's copies: (Clause 8.4)	14 days unless stated elsewhere
Work which cannot be subcontracted without approval: (Clause 9.2)	Any work
The percentage for profit and attendance: (Clause 11(b))	Not Applicable
The amount or percentage for profit and attendance: (Clause 11(c))	Not Applicable
Excepted legislative requirements (Clause 14)	Nil.
Insurance of the Works – the alternative applying: (Clause 18) SCC 13	Contractor

The assessment for insurance purposes of the costs of demolition and removal of debris: (Clause 18(ii)) SCC13	Contractor
The assessment for insurance purposes of consultants' fees: (Clause 18(iii))	Contractor
The value of materials to be supplied by the Principal: (Clause 18(iv))	N/A
The additional amount or percentage: (Clause 18(v))	N/A
Public Liability Insurance – the alternative applying: (Clause 19)	Alternative 1
The amount of Public Liability Insurance shall be not less than: (Clause 19)	\$20 000 000.00
The amount of Employer's Liability Insurance shall be not less than: (Clause 20.2(b))	\$50 000 000.00
The amount of Professional Indemnity Insurance for any one claim shall be not less than: (Clause 20.4(b)(i))	Not Applicable
The amount of Professional Indemnity Insurance for all claims in aggregate during a single twelve month period of insurance shall be not less than: (Clause 20.4(b)(ii))	Not Applicable
Professional Indemnity Insurance shall be specific to the Contract (Clause 20.4(d))	Not Applicable
The time for giving possession of the Site: (Clause 27.1)	On or before 28 days after Date of execution of the Formal Instrument of Agreement
# The Date for Practical Completion: (Clause 35.2)	TBC with successful Contractor
# Liquidated Damages per day: (Clause 35.6)	\$250 per day

# Limit of Liquidated Damages: (Clause 35.7)	5% of the Contract Sum
# Bonus per day for early Practical Completion: (Clause 35.8)	Nil
# Limit of bonus: (Clause 35.8)	Not applicable
# Extra costs for Delay or Disruption: (Clause 36)	Not applicable
# The Defects Liability Period: (Clause 37)	52 weeks
The Charge for overheads, profit, etc. for Daywork: (Clause 41(f))	TBC with Contractor
Times for Payment Claims: (Clause 42.1)	On the 1st day of the month immediately following the month covered by a Payment Claim.
Unfixed Plant and Materials for which payment claims may be made notwithstanding that they are not incorporated in the Works: (Clause 42.1(ii))	Nil
Retention Moneys on: (Clause 42.3)	Nil

Unfixed Plant or Materials - the alternative applying: (Clause 42.4) The rate of interest on overdue payments: (Clause 42.9)	Alternative 1 The then current large business variable rate as shown in the Reserve Bank of Australia F.5 Indicator Lending Rates for Large business loans weighted-average rate on credit outstanding.
The delay in giving access of the Site which shall be a substantial breach: (Clause 44.7)	3 months
The alternative required in proceeding with dispute resolution: (Clause 47.2)	Not applicable
The person to nominate an arbitrator: (Clause 47.3)	Not applicable
Location of arbitration: (Clause 47.3)	See Special Conditions of Contract SCC 30
Minimum number of apprentices or trainees required: (Special Condition of Contract – SCC 44)	Not Applicable

Where there are Separable Portions, these items shall be struck out and deemed not part of this Contract

AS 2124 - 1992 - ANNEXURE PART B

ANNEXURE to the Australian Standard

General Conditions of Contract

PART B

NOTE: This table is intended for easy reference to clauses that may have been deleted, amended or added to Australian Standard 2124 - 1992.

The following Clauses have been deleted from the General Conditions in

AS 2124 - 1992:

- Clause 10.5 - Direct Payment of Nominated Subcontractor
- Clause 35.7 - Limit on Liquidated Damages
- Clause 35.8 - Bonus for Early Practical Completion

2. The following Clauses have been amended and differ from the corresponding Clauses in AS 2124 - 1992 (Applicable Special Conditions of Contract Clause numbers in brackets):

- Clause 2 - Construction of Contract (SCC 1)
- Clause 5.2 - Provision of Security (SCC 2A)
- Clause 5.5 - Recourse to Retention Moneys and Conversion of Security (SCC 3A)
- Clause 5.7 - Reduction of Security and Retention Moneys (SCC 3B)
- Clause 5.8 - Release of Security (SCC 4)
- Clause 5.10 - Deed of Guarantee, Undertaking and Substitution (SCC 4A)
- Clause 6.2 - Formal Instrument of Agreement (SCC 4B)
- Clause 81 - Discrepancies (SCC 4C)
- Clause 8.6 - Confidential Information (SCC 5)
- Clause 7 - Service of Notices (SCC 6)
- Clause 9.1 - Assignment (SCC 7)
- Clause 9.2 - Subcontracting (SCC 8)
- Clause 9 - Assignment and Subcontracting (SCC 9)
- Clause 12 - Latent Conditions (SCC10)
- Clause 16.3 - Excepted Risks (SCC 11)
- Clause 17 - Damage to Persons and Property Other than the Works (SCC 12)
- Clause 14 - Statutory Requirements (SCC 12A)
- Clause 16 - Care of the Work Under the Contract (SCC 12B)
- Clause 18 - Insurance of the Works (SCC 13)
- Clause 19 - Public Liability Insurance (SCC 13)
- Clause 20 - Insurance of Employees (SCC 13)
- Clause 21 - Inspection and Provision of Insurance Policies (SCC 13)

- Clause 23 - Superintendent (SCC 13A)
- Clause 27.1 - Possession of Site (SCC 13B)
- Clause 27.3 - Delivery of Materials to and Work on Site Before Possession (SCC 13C)
- Clause 28 - Setting out the Works (SCC 15)
- Clause 30.2 - Quality Assurance (SCC 16)
- Clause 30.6 - Generally (SCC 17)
- Clause 32 - Working Hours (SCC 18)
- Clause 33.2 - Construction Program (SCC 19)
- Clause 34.1 - Suspension by the Superintendent (SCC 20)
- Clause 35.1 - Time for Commencement of Work on the Site (SCC 20B)
- Clause 35.2 - Time for Practical Completion (SCC 20C)
- Clause 35.5 - Extension of Time for Practical Completion (SCC 21)
- Clause 35.6 - Liquidated Damages (SCC 21A)
- Clause 36 - Delay or Disruption Costs (SCC 22)
- Clause 37 - Defects Liability (SCC 23)
- Clause 40.1 - Variations to the Work (SCC 23A)
- Clause 40.5 - Valuation (SCC 24)
- Clause 40 - Variations (SCC 25)
- Clause 42.1 - Payment Claims, Certificates, Calculations and Time for Payment (SCC 26)

- Clause 44.2 - Default by the Contractor (SCC 25A)
- Clause 44.7 - Default of the Principal (SCC 25B) Clause 46.1 - Contractor's Prescribed Notice (SCC 28)
- Clause 46.2 - Time for Disputing Superintendent's Directions (SCC 29)
- Clause 47 - Dispute Resolution (SCC 30)

.....

3. The following Clauses have been added to those of AS 2124 - 1992:

See Special Conditions of Contract.

- SCC 20A - Suspension by an Inspector
- SCC 26 - Termination for Convenience
- SCC 31 - Contractor's Performance
- SCC 32 - Consents
- SCC 33 - Warranties from Third Parties
- SCC 34 - External Requirements
- SCC 35 - Pre-Conditions to Commencement of Works
- SCC 36 - Warranties by Contractor
- SCC 37 - Interface
- SCC 39 - Taxes (Including Goods and Services Tax (GST))
- SCC 40 - Safety and Health of Personnel
- SCC 41 - Industrial Matters
- SCC 45 - Principal's Representative
- SCC 50 - COVID-19
- SCC 51 - Application of the Civil Liability Act

SCC 52 - Financial Capacity

SCC 53 - Principal may act

SPECIAL CONDITIONS OF CONTRACT

Amendments to the General Conditions of Contract

SCC 1 Interpretation (GC 2)

Insert the following definitions into GC 2 in alphabetical sequence after “In the Contract, except where the context otherwise requires ...”

Approvals	means any certificates, licences, consents, permits, approvals, authorities, waivers, exemptions, registration or requirements of Law or any Authorities.
As-Built Information	means the completed as-built drawings, bitumen surfacing daily records and spraying loading records, Contractor supplied water bore-hydrological reports, commissioning records and operation manuals referred to in the Specifications.
BCI Code	means the Western Australian Building and Construction Industry Code of Conduct 2016 which is available at https://www.wa.gov.au/media/39731/download?inline
Business Day	means a day on which banks are open for business in Western Australia.
Claim	means a demand, action or proceeding of any nature whether actual or threatened and includes any claim for payment of money (including damages) or for an increase in the Contract Sum: <ul style="list-style-type: none">(a) under, arising out of, or in any way in connection with, the Contract, including any direction of the Superintendent;(b) arising out of, or in any way in connection with, work under the Contract or the Works; or(c) arising otherwise under law or in equity including:<ul style="list-style-type: none">(i) by statute;(ii) in tort for negligence or otherwise, including negligent misrepresentations; or(iii) for restitution.
Covenantor	means, where applicable, the party providing the covenant in Clause 5.10.
GST	means the same as it means in the GST Law.
GST Law	means the same as it means in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Indirect or Consequential Loss	<p>(a) means any losses of production, revenue, profit or anticipated profit, business reputation, value of shares, business opportunity, business name, or wasted overheads and payments of liquidated sums, penalties or damages under any agreement (other than the Contract);</p> <p>(b) does not include damage or losses arising from Claims by Third Parties or the Principal's Personnel in respect of property damage, personal injury, nervous shock or death.</p>
Law	means any act, ordinance, regulation, by-law, award and proclamation of the Commonwealth or the State or Territory in which work under the Contract or any part of work under the Contract is being carried out.
Legislative Requirement	includes: <ul style="list-style-type: none">(a) Laws;(b) Approvals; and(c) fees, levies and charges payable in connection with the foregoing and otherwise in connection with the work under the Contract including all training payments and levies.
Loss	means: <ul style="list-style-type: none">(a) any liability, cost, expense, loss, personal injury (including illness), death or damage; and(b) in relation to a Claim, includes amounts payable on the Claim and (whether or not the Claim is successful) legal costs and disbursements on a full indemnity basis.
Notice	means a notice of dispute stating the nature of the Dispute and includes an application for adjudication pursuant to the <i>Construction Contracts Act 2004</i> (WA).
WH&S Legislation	means the <i>Work Health & Safety Act 2020</i> (WA) and the <i>Occupational Work Health & Safety Regulations 2020</i> (WA) and any other legislative requirements dealing with health, safety or protection of workers on building sites in Western Australia, as amended.
Prescribed Appointer	means the same as it means in the <i>Construction Contracts Act 2004</i> (WA).
Principal's Personnel	means the Principal's directors, officers, employees, agents and subcontractors, including the Superintendent and the Superintendent's Representative but excluding the Contractor and the Contractor's directors, officers, employees, agents and subcontractors.
Principal's Representative	means a person appointed in writing by the Principal under SCC 45.
Supply	means making available any goods and/or services, and includes the same meaning as it means in the GST Law.
Tax Invoice	means the same as it means in the GST Law.
Third Party	means a person not being the Principal or the Contractor or a director, officer or employee of the Principal or the Contractor.

Amend the definition of "Principal" to the following:

“Principal” means the Principal stated in the Annexure and, so far as concerns the functions exercisable by the Principal’s Representative, includes a Principal’s Representative.

Amend the definition of “Works” to the following:

“Works” means the whole of the work to be executed in accordance with the Contract, including variations provided for by the Contract, which by the Contract is to be handed over to the Principal. It also includes all ancillary works not expressly specified but which are necessary for the satisfactory completion of the obligations of the Contractor under the Contract.

Add the following paragraphs at the end of the clause:

“The obligations of the Contractor under the Contract are all the obligations under the Contract other than those specifically allocated to the Principal or Superintendent.

Terms not defined but commencing in upper case have their apparent meanings.

The words “include”, “includes” and “including” are not to be construed as words of limitation.

Reference to a thing (including a right or obligation) includes a part of that thing.

If the Contractor comprises more than one person, each person is bound jointly and severally to comply with the obligations on the part of the Contractor contained or implied in the Contract and must act only jointly in relation to the exercise by that party of its rights under the Contract.

The Contractor is solely responsible for all costs associated with the performance of an obligation of the Contractor under the Contract except to the extent (if any) expressly otherwise provided in the Contract.

Unless a contrary intention is specifically expressed, no provision of the Contract limits any rights of the Principal whether under the Contract or applicable law.

SCC 2 Errors in Bills of Quantities (GC 4.4)

In GC 4.4 third paragraph (line 37 on page 8), delete “\$400” and substitute “\$2,000”.

SCC 2A Provision of Security (GC 5.2)

At the end of GC 5.2 add the following:

“Notwithstanding Clause 42.1, if at any time and for any reason whatsoever the Principal has paid or pays to the Contractor more than the amount shown in a payment certificate issued by the Superintendent pursuant to Clause 42.1 (as amended by SCC 26) as the amount due to the Contractor, the Contractor must provide an additional security (in the form specified in Clause 5.3) for the amount of the difference. Notwithstanding Clause 42.1, the Principal is not liable to make any additional payments under the Contract until the Contractor provides any security that the Principal requires pursuant to this Clause 5.2.

Notwithstanding Clauses 5.7, 5.8 and 5.9, the Principal is not liable to return to the Contractor security provided pursuant to this Clause 5.2 to the value of claims under the Contract that have been disputed and are unresolved.”

SCC 3 NOT USED

SCC 3A Recourse to Retention Moneys and Conversion of Security (GC 5.5)

Delete the text of GC 5.5 and substitute:

“A party may have recourse to retention moneys and/or cash security and/or may convert into money security that does not consist of money where the party has become entitled to exercise a right under the Contract in respect of the retention moneys and/or security.”

SCC 3B Reduction of Security and Retention Moneys (GC 5.7)

In the first sentence of GC 5.7 delete the words “Upon issue of the Certificate of Practical Completion, the” and substitute:

“Upon the later of:

- (a) the issue of the Certificate of Practical Completion; and
- (b) the date upon which the Superintendent notifies the Contractor that the As-Built Information is suitable in accordance with Clause 8.4,

the”

SCC 4 Release of Security (GC 5.8)

In the first paragraph of GC 5.8 delete the words “pursuant to Clause 42.4” and substitute:

“pursuant to Clause 42.1 or Clause 42.4”

SCC 4A Deed of Guarantee, Undertaking and Substitution (GC 5.10)

Delete GC 5.10 and substitute:

“5.10 Covenantor’s Obligations

- (a) The Covenantor guarantees to the Principal the due and punctual payment of all debts and damages due and payable or from time to time to become due and payable to the Principal under or in connection with the Contract.
- (b) If the Contractor makes default in the performance or observance of any of the Contractor’s obligations under the Contract, the Covenantor must on demand from time to time by the Principal immediately perform or procure the performance of all of the Contractor’s obligations in the same manner as, and to the extent that, the Contractor is required to perform them.
- (c) The Covenantor:
 - (i) must indemnify the Principal against all damage, expense, loss or liability (including legal expenses on a full indemnity basis) which the Principal suffers or incurs in respect of a failure by the Contractor to do what the Contract states it must do, including any damage, expense, loss or liability incurred by the Principal:
 - (A) to the extent that it is caused or contributed to by the Contractor’s failure to perform any of the Contractor’s obligations under the Contract;
 - (B) because the Contract is void, voidable or otherwise unenforceable against the Contractor; or
 - (C) because of the winding up of the Contractor; and
 - (ii) pay the amount of any such damage, expense, loss or liability on demand to the Principal.
- (d) The Covenantor’s obligations under paragraphs (a) (b) and (c) are separate and independent from each other.

- (e) Clause 5.10 will continue and the Covenantor will remain liable to the Principal notwithstanding that:
 - (i) as a consequence of any breach or non-observance by the Contractor, the Principal has exercised any of its rights under the Contract; or
 - (ii) the Contractor may be wound up.
- (f) The liability of the Covenantor is absolute and unconditional and is not affected by any act, omission, matter or thing which, but for this provision, might operate to release or otherwise exonerate the Covenantor from any of its obligations including any one or more of the following (whether occurring with or without the consent of any person):
 - (i) the grant to the Contractor or the Covenantor of any time, waiver or other indulgence or concession or any whole or partial discharge or release of the Contractor or the Covenantor;
 - (ii) any transaction or arrangement that may take place between the Principal and the Contractor or the Covenantor in respect of the work under the Contract;
 - (iii) any transaction or arrangement that may take place between the Principal and the Contractor or the Covenantor in respect of the work under the Contract;
 - (iv) the amendment, or assignment by a party, of the Contract;
 - (v) the failure by the Principal to give notice to the Covenantor of any default by the Contractor;
 - (vi) any legal limitation, disability, incapacity or other circumstance related to the Contractor or the Covenantor;
 - (vii) any failure or delay by the Principal in exercising any rights under the Contract; or
 - (viii) the fact that any person who was intended to be bound as a Covenantor in respect of Clause 5.10 does not become bound or having been bound ceases to be bound.
- (g) The Principal and the Covenantor acknowledge and agree that the Covenantor's obligations under the Contract may be enforced against the Covenantor without the Principal being required to make any demand or exercise any remedy it may have against the Contractor.
- (h) The Covenantor's obligations under the Contract continue notwithstanding any settlement of account, intervening payment or other matter whatever and are irrevocable until discharged.
- (i) Any certificate, expert determination, judgment, order, arbitral award or mediation or settlement agreement binding upon the Contractor is also binding upon the Covenantor.
- (j) The Covenantor must hold on trust for the Principal any security that the Covenantor holds from the Contractor, to secure the liability of the Covenantor to the Principal under the Contract but only to the extent that the security secures any liability of the Contractor to the Covenantor in respect of the Contract.
- (k) The Covenantor must not:
 - (i) be subrogated to the Principal's rights against the Contractor or any other surety or any security of the Principal;

- (ii) have or exercise any rights as surety; or
- (iii) prove in the winding up of:
 - (A) the Contractor; or
 - (B) any other surety for the Contractor's obligations under the Contract,in competition with the Principal unless the amount the Principal is entitled to will not be reduced as a result.
- (l) In respect of any winding up of the Contractor and until the discharge of the Covenantor's obligations under the Contract:
 - (i) the Covenantor irrevocably authorises the Principal (but without any obligation on the part of the Principal) to prove in the Contractor's winding up for all moneys and damages owed (actually or contingently) by the Contractor to the Covenantor;
 - (ii) if any dividends are received by the Covenantor from the Contractor's winding up it must immediately pay them to the Principal and until it does so it must hold them upon trust for the Principal; and
 - (iii) the Principal may retain any dividends from the Contractor's winding up or moneys received from the Covenantor under subparagraph (ii) and apply them towards satisfaction of the Covenantor's indebtedness to the Principal under the Contract.
- (m) The Covenantor represents and warrants to the Principal that:
 - (i) it has full legal capacity and power:
 - (A) to own its property and assets and to carry on its business; and
 - (B) to enter into the Contract and to perform its obligations under the Contract;
 - (ii) it has taken all corporate action that is necessary to authorise its entry into the Contract and to perform its obligations under the Contract;
 - (iii) the Contract constitutes its legal, valid and binding obligations enforceable against the Covenantor in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally);
 - (iv) neither its execution of the Contract nor the carrying out of its obligations under the Contract, does or will:
 - (A) contravene any law to which it or any of its property is subject or any order of any authority or other person that is binding on it or any of its property;
 - (B) contravene any undertaking or instrument binding on it or any of its property; or
 - (C) contravene its constitution;
 - (v) no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending or threatened against it which (if adversely decided) could have a material adverse effect on the Covenantor's business, assets or financial condition or its ability to perform its obligations under the Contract;
 - (vi) no controller (as defined in the Corporations Act 2001 (Cth)) is currently appointed in relation to any of its property;

- (vii) it is not entering into the Contract as trustee of any trust or settlement;
 - (viii) the Covenantor's payment obligations pursuant to Clause 5.10 rank at least equally with all of the Covenantor's other unsecured and unsubordinated payment obligations (whether present or future, actual or contingent) other than obligations that are mandatorily preferred by law; and
 - (ix) the Covenantor and its property are free of any right of immunity from set-off, proceedings or execution in respect of its obligations under Clause 5.10.
- (n) The Covenantor acknowledges that the Principal has executed the Contract in reliance on the representations and warranties that are made in paragraph (m).
- (o) The Principal may exercise a right under Clause 5.10 at its discretion and separately or concurrently with another right.
- (p) The Covenantor acknowledges that it has not entered into the Contract in reliance on or as a result of any statement or conduct of any kind of or on behalf of the Principal or any other indemnified party.
- (q) The maximum liability of the Covenantor pursuant to Clause 5.10 is no greater than the maximum liability of the Contractor to the Principal under the Contract or, where for any reason the Contract is void, voidable or otherwise unenforceable against the Contractor, the maximum liability which the Contractor would have had to the Principal but for the Contract being void, voidable or otherwise unenforceable."

SCC 4B Formal Instrument of Agreement (GC 6.2)

Insert after "execute" in the second line of the second paragraph of GC 6.2:

" , and cause the Covenantor where applicable to execute,"

At the end add:

"If the Contractor fails to return the executed copies of the Formal Instrument of Agreement (Contract) to the Principal within the period required by Clause 6.2, the Principal may, without giving a notice to show cause, exercise the right under Clause 44.4(a) or (b)."

SCC 4C Discrepancies (GC 8.1)

Add clause 8.1A:

"8.1A Order of precedence

In the event of any inconsistency, ambiguity or discrepancy between the Contract Documents, the order of precedence set out in the Formal Instrument of Agreement shall apply."

Replace the final paragraph of GC 8.1 with the following:

"The parties agree that:

- (a) where the inconsistency, ambiguity or discrepancy relates to the required quality or standard of the Works or to the extent of the Contractor's obligations under the Contract, the Contractor shall comply with the highest quality or standard specified or perform the more onerous obligation;
- (b) where the inconsistency, ambiguity or discrepancy relates to a requirement under the Contract as compared to a legislative requirement, the Contractor shall comply with the more onerous requirement provided it does not contravene the legislative requirement; and

- (c) where clause 8.1A, 8.1(b) or 8.1(c) do not resolve the inconsistency, ambiguity or discrepancy, the Contractor shall comply with the Superintendent's direction as to the interpretation to be followed by the Contractor in carrying out the work and if the direction causes the Contractor to incur more or less cost than the Contractor could reasonably have anticipated at the time of tendering, the difference shall be valued under Clause 40.5."

SCC 5 Confidential Information (GC 8.6)

At the commencement of GC 8.6 delete "Drawings" and substitute:

"Confidential Information, drawings"

At the end add:

"The Contractor must ensure that information and other items described in this Clause are not used or disclosed by the Contractor, or any person to whom it is given by the Contractor, for any purpose other than the performance of the Contract or essential compliance with applicable laws."

SCC 6 Service of Notices (GC 7)

Add the following text at the end of GC 7:

"notices under the Contract may be sent by email to the email addresses specified in Annexure Part A and shall be deemed to have been received once sent unless:

- (a) the sender receives notice that the email transmission has been unsuccessful or could not be delivered;
- (b) an out of office notice indicates that the recipient is unavailable; or
- (c) the email is sent on a day which is not a business day, in which case it shall be deemed to have been received on the next business day."

SCC 7 Assignment (GC 9.1)

Delete the text of GC 9.1 and substitute:

"9.1 Assignment

- (a) No party may assign or change any interest of that party arising under the Contract without the written approval of the other party.
- (b) Any substantial change in the ownership and control of the Contract will be treated as an assignment of the Contract.
- (c) A substantial change in the ownership and control of the Contractor is a substantial breach of the Contract and occurs when:
 - (i) having regard to voting rights, rights to receive income or capital, rights to appoint directors and any other matters that relates to effective control, any person who controls or beneficially owns at the date of the Contract more than 40% of the ordinary shares or other voting income or capital participation rights in the Contractor ceases to hold or control more than 40% of such ordinary shares or other rights after the date of the Contract; or
 - (ii) there occurs a change in the shareholding of ordinary shares or other shares in the Contractor such that any person who does not at the date of the Contract hold or control more than 20% of such ordinary shares or other shares obtains or is entitled to obtain under section 609 of the Corporations Law, 20% or more of those ordinary or other shares; or

- (iii) the Contractor is a subsidiary of another company and ownership and control of the parent company changes after the date of the Contract in the way described in Clause 9.1(a) or (b)."

SCC 8 Subcontracting (GC 9.2)

Delete the text of GC 9.2 and substitute:

“9.2 Subcontracting

- (a) The Contractor must not without the written approval of the Superintendent, which approval must not be unreasonably withheld, subcontract or allow a subcontractor to assign or subcontract any of the work under the Contract.
- (b) All subcontractors must be approved by the Superintendent prior to the commencement of any work under the Contract.
- (c) With a request for approval, the Contractor must provide to the Superintendent particulars in writing of the work to be subcontracted and the name and the address of the proposed subcontractor and the value of the work to be subcontracted. Where the value of the work to be subcontracted to any subcontractor exceeds \$500,000 (GST inclusive) a financial due diligence check on the subcontractor must be conducted by the Contractor and a signed statement certifying that the subcontractor has satisfied this check must be included with the request for approval to the Superintendent.
- (d) The Contractor must provide to the Superintendent other information which the Superintendent reasonably requests, including the proposed subcontract documents without prices and details of any criminal convictions of any director, owner or key management personnel of the Nominated and Selected subcontractors. The Contractor need not make disclosure of any conviction which is a “spent conviction” within the meaning of the Spent Convictions Act 1988. Without limiting the Superintendent's powers under this Clause, the Contractor acknowledges that the Superintendent may, as deemed appropriate at the Superintendent's sole discretion, decline approval on the basis of the information disclosed of criminal convictions.
- (e) Within 14 days after a request by the Contractor for approval, the Superintendent must advise the Contractor of approval or the reasons why approval is not given.
- (f) Unless otherwise approved by the Superintendent, all subcontracts shall include:
 - (i) an entitlement on the subcontractor to make a claim for payment at intervals not exceeding 14 days; or
 - (ii) an entitlement on the subcontractor to:
 - (A) make a claim for payment on or within five days prior to the date that the Contractor is entitled to submit its monthly payment claim to the Superintendent pursuant to Clause 42.1.6 ("Contractor Claim Date"); and
 - (B) be paid on or prior to the date that is 35 days from the Contractor Claim Date.
- (g) Approval may be conditional upon:
 - (i) the subcontract including:
 - (A) provisions that the subcontractor must not assign or subcontract without the consent in writing of the Contractor;
 - (B) provisions which may be reasonably necessary to enable the Contractor to fulfil the Contractor's obligations to the Principal; and

- (ii) the Contractor providing:
 - (A) where the subcontract price for the particular work is greater than \$50,000, confirmation that the proposed subcontract conditions incorporate AS 2545-1993 as the General Conditions of Subcontract and contain no amendments other than those necessary to reflect the Contract between Contractor and the Principal; and
 - (B) a warranty that the subcontract will be entered into in accordance with the requirements of Clause 9.2(g)(ii)(A).
- (h) Notwithstanding the provisions of Clause 9.2, the Superintendent may approve subcontract conditions that do not comply with the requirements of Clause 9.2(g)(i) or (ii).”

SCC 9 Assignment and Subcontracting (GC 9)

Add the following clause to GC 9:

“9.4 Privity of Subcontract

The Contractor must inform all subcontractors including Nominated and Selected Subcontractors that the contractual relationship between the Contractor and the subcontractor does not include or imply any obligation on the Principal to the subcontractor.”

SCC 10 Latent Conditions (GC 12)

Delete GC 12.1 to 12.4 and substitute:

“12.1 Notification

If during the execution of the work under the Contract, the Contractor encounters on the Site or its surroundings physical conditions (other than climatic conditions or conditions arising from climatic conditions) including artificial obstructions, which the Contractor considers:

- (a) differ materially from the conditions which would have been ascertainable by the Contractor if the Contractor had:
 - (i) examined all information made available in writing by the Principal to the Contractor for the purpose of tendering; and
 - (ii) examined all information relevant to the risks, contingencies and other circumstances having an effect on the tender and obtainable by the making of all reasonable enquiries; and
 - (iii) inspected the Site and its surroundings; and
 - (iv) in relation to physical conditions below the surface of the site and its near surrounds, performed its own tests to determine the nature and extent of the physical conditions below the surface of the site and to assess the risks associated with the physical conditions below the surface of the site; and
- (b) could not reasonably have been anticipated at the date of the Contractor’s tender by a person experienced and competent in carrying out work of the type with which the Contract is concerned,

the Contractor must, as soon as practicable and no longer than 28 days after encountering the conditions and where possible before the physical conditions are disturbed, give written notice of the conditions to the Superintendent.

12.2 Provision of Details

Where the Contractor provides written notice to the Superintendent pursuant to Clause 12.1, the Contractor must specify in the written notice:

- (a) the physical conditions encountered, in what respects they differ materially and why they could not reasonably have been anticipated;
- (b) the additional work and additional resources which the Contractor considers necessary to deal with the physical conditions;
- (c) the time the Contractor anticipates will be required to deal with the physical conditions and the expected delay in the completion of the Works; and
- (d) the Contractor's estimate of the cost of the measures necessary to deal with the physical conditions.

In the event the Superintendent reasonably requires other details, those details must be provided by the Contractor to the Superintendent.

12.3 Superintendent's Direction

After receipt from the Contractor of a notice under Clause 12.1 the Superintendent must, if the Superintendent is satisfied that the physical conditions are physical conditions to which Clause 12.1 applies, determine whether a variation to the work under the Contract is necessary. If the Superintendent determines that a variation to the work under the Contract is necessary, the Superintendent must, upon making the determination, order a variation under Clause 40.

12.4 Time Bar

In making a valuation for the purposes of a variation ordered by the Superintendent under Clause 12.3, regard will not be given to the value of additional work carried out, additional Constructional Plant used or extra cost incurred more than 28 days before the date on which the Contractor gives the written notice required by Clause 12.1."

SCC 12A Statutory Requirements (GC 14)

Delete GC 14.1 - 14.2 and replace with the following.

"14 Statutory Requirements

14.1 Compliance

The Contractor shall satisfy all Legislative Requirements (including obtaining and maintaining all Approvals) except those stated in Annexure Part A or directed by the Superintendent to be satisfied by or on behalf of the Principal.

The Contractor shall comply with all Legislative Requirements when performing the works under the Contract and ensure that the Works complies with all Legislative Requirements.

The Contractor, upon finding that a Legislative Requirement is at variance with the Contract, shall promptly give the Superintendent written notice thereof.

14.2 Changes

If a Legislative Requirement comes into effect after the date of Contract:

- (a) necessitates a change to the Works;
- (b) could not reasonably have been anticipated by a competent contractor at the date of Contract (as determined by the Superintendent); and
- (c) 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."

SCC 12B Care of the Work Under the Contract (GC 16.1)

Delete the words "possession of" in the first sentence of GC 16.1 and replace them with the words "access to".

SCC 11 Excepted Risks (GC 16.3)

Delete paragraph '(e)' of GC 16.3 and renumber paragraph '(f)' as paragraph '(e)'.

SCC 12 Indemnities – Damage to Persons or Property (GC 17)

Delete GC 17 and replace with the following:

"17 INDEMNITIES

17.1 Indemnity by Contractor

The Contractor must indemnify the Principal and the Principal's Personnel against any Loss and Claims suffered or incurred:

- (a) by the Principal or the Principal's Personnel arising from or in connection with the performance or the non-performance of work under the Contract or any act or omission by the Contractor; or
- (b) in connection with any Claim by a Third Party against the Principal or the Principal's Personnel arising from or in connection with the performance or non-performance of work under the Contract or any act or omission by the Contractor, including by reason of any:
 - (i) breach of contract;
 - (ii) tort, including negligence or breach of a Legislative Requirement;
 - (iii) breach of equitable duty, including breach of confidentiality or breach of fiduciary duty.

17.2 Apportionment of Liability

The Contractor's liability in Clause 17.1 may be reduced proportionally to the extent that the Loss was caused by the negligence of, or breach of, the Contract by the Principal or the Principal's Personnel.

17.3 Termination

The indemnities in Clause 17.1 survive the termination of the Contract.

17.4 Enforcement of Indemnity

The Principal need not incur any loss or make any payment before enforcing any right of indemnity under this Clause 17.

17.5 Conduct of Litigation

- (a) If a Claim from a Third Party is made against the Principal or the Principal's Personnel in the circumstances described in Clause 17.1, the Principal must, as soon as reasonably practicable:
 - (i) notify the Contractor in writing of the Claim; and
 - (ii) provide the Contractor with such details as are available to the Principal about the Claim.

- (b) Nothing in Clause 17.5(a) requires the Principal to provide to the Contractor legal advice received by the Principal.
- (c) If the Contractor acknowledges in writing that it is liable to indemnify the Principal and/or the Principal's Personnel against the Claim from the Third Party under Clause 17.1, the Principal may either:
 - (i) conduct the defence of the Claim itself; or
 - (ii) provide the Contractor with such details as are available to the Principal about the Claim.
- (d) The party conducting the defence of the Claim must keep the other party informed of all material matters relating to the conduct of any defence or response in respect of the Claim.
- (e) The Contractor, if conducting the defence of a Claim in accordance with Clause 17.5(c)(ii), must have regard to the Principal's expressed views if those views are confirmed in writing and are reasonable having regard to the legitimate interests of both parties.

17.6 Insurance

The insurances contemplated by Clause 20 (as amended by SCC 13) are primary and not secondary to the indemnities referred to in this Contract.

SCC 13 CONTRACTOR'S ADDITIONAL INSURANCES

20.1 Contractor's Plant and Equipment

- (a) The Contractor must maintain or effect and maintain a policy that provides cover in respect of the Constructional Plant under the ownership or control of the Contractor or its subcontractors (whether owned, hired or leased and not otherwise being the property of the Principal) for which the Contractor and its subcontractors are responsible (whether located on or off Site) that is not otherwise covered under the CWI Policy or motor vehicle insurance required under Clause 20.3.
- (b) The insurance will cover any liability to third parties for personal injury, death, disease or illness (including mental illness) or liability to third parties for loss or damage to property caused by or in connection with the use of the Constructional Plant.
- (c) The policy referred to in paragraph (a) and (b), must:
 - (i) cover the Principal, the Contractor, the Superintendent, all subcontractors and their respective representatives, agents and employees for their respective rights, interests and liabilities; and
 - (ii) have a limit of cover at least equal to the full replacement value of the Constructional Plant referred to in paragraph (a), including delivery to the Site; and
 - (iii) have a limit of liability in respect of the cover referred to in paragraph (b) of no less than \$10,000,000.
- (d) The Contractor must, from the time it commences work under the Contract, maintain continuous cover under the policy referred to in paragraphs (a) and (b) or a replacement policy in the same material terms until the time the Superintendent issues the Final Certificate to the Principal and the Contractor.

- (e) The Contractor must ensure that the policy referred to in paragraphs (a) and (b) provides that the insurer waives all rights and all entitlement to remedies or relief against the Principal and the Superintendent (and their respective representatives, agents and employees) to which the insurer might become entitled by way of subrogation.

20.2 Insurance of Employees

Delete GC 19 and replace with:

- (a) Before commencing work under the Contract, the Contractor must insure against the Contractor's statutory and common law liability regarding any Claim for death of, or personal injury to, any persons employed or engaged by the Contractor:
 - (i) at common law and for breach of any statutory duty or Legislative Requirements (to the extent permitted by Law); and
 - (ii) for any compulsory statutory workers' compensation benefits or other liability under the *Workers' Compensation and Injury Management Act 2023* (WA) or other applicable legislation,

which arises out of, or is caused by, the performance or non-performance of work under the Contract by the Contractor or any subcontractor or agent or employee of the Contractor or subcontractor.

- (b) The insurance must, in relation to employer's liability at common law, have a limit of cover in respect of any one occurrence at least equal to the sum specified in the Annexure as the limit of cover for employer's liability insurance.
- (c) The insurance cover must be maintained until completion of all work under the Contract (including remedial work) until the time the Superintendent issues the Final Certificate to the Principal and the Contractor.
- (d) The Contractor must ensure that all consultants and subcontractors have similarly insured their employees.
- (e) The insurance must be in the name of the Contractor and extended to indemnify the Principal as principal or owner or occupier against any liability which it may incur to such employees or persons engaged in the provision of work under the Contract both statutory and at common law.

20.3 Motor Vehicle Insurance

- (a) The Contractor must maintain or effect and maintain, and ensure that each of its subcontractors maintains or effects and maintains insurance cover in relation to motor vehicles in respect of liability to third parties for personal injury, death, disease or illness (including mental illness) or liability to third parties for loss of or damage to property.
- (b) The Contractor must from the time it commences work under the Contract maintain continuous insurance cover in relation to motor vehicles in the terms referred to in paragraph (a) until the time the Superintendent issues the Final Certificate to the Principal and the Contractor.
- (c) The limit of liability must be no less than \$5,000,000.
- (d) Other than for compulsory third party motor vehicle insurance, the insurance must be in the name of the Contractor and, to the extent permitted by law, extended to indemnify the Principal as principal for Claims from Third Parties.

21 CONTRACTOR'S INSURANCES – OTHER RIGHTS AND OBLIGATIONS

Delete GC 20 and replace with the following:

21.1 Principal's Right to Approve Policies

(a) Before the Contractor commences work under the Contract the Contractor must, in respect of the policies of insurance referred to in Clause 20, secure the Principal's approval in writing for:

- (i) the proposed terms of the policy; and
- (ii) the identity of the insurer or insurers,

and the Principal must act reasonably in determining whether or not to give such approval.

(b) Before the Contractor renews any of the policies of insurance approved by the Principal pursuant to paragraph (a), the Contractor must secure the Principal's approval in writing for:

- (i) the proposed terms of the renewal policy; and
- (ii) the identity of the insurer or insurers of the renewal policy,

and the Principal must act reasonably in determining whether or not to give such approval.

21.2 Evidence of Policies

The Contractor must, in respect of each policy of insurance it is required to effect or maintain, give the Principal:

- (a) proof to the Principal's reasonable satisfaction of currency and coverage of each policy of insurance before commencing work under the Contract;
- (b) on request, certified copies of all cover notes, policies, certificates of currency, renewal certificates and endorsement slips within a reasonable time after the Contractor receives them; and
- (c) on request, other evidence of the insurances that the Principal reasonably requires.

21.3 Premiums and Deductibles

Without limitation to other obligations set out in the Contract, the Contractor must punctually pay all premiums and all deductibles in respect of all insurance policies the Contractor is required to effect and maintain.

21.4 Principal's Right to Effect Insurance

(a) If the Contractor does not comply with Clause 21.2, or Clause 21.3, or fails to maintain or effect and maintain any policy required under this Contract to be maintained or effected and maintained (other than those forming part of the PCIP Policies), the Principal may, but is not obliged to, effect or renew the relevant insurance policy, or pay the premium due in respect of that policy, and may recover the cost of doing so:

- (i) as a debt due from the Contractor;
- (ii) from amounts payable to the Contractor; or
- (iii) from the proceeds of the security provided by the Contractor pursuant to Clause 5.

(b) Without limiting the Principal's rights under this Clause 21 and Clause 44.2:

- (i) the Contractor will not be entitled to lodge any Claim for payment;
 - (ii) the Principal is entitled to refuse payment of any amount due to the Contractor; and
 - (iii) the Principal may suspend the Contract by written notice to the Contractor, until the Contractor has provided proof of insurance effected and maintained by the Contractor in accordance with this Clause 21 and the Principal has no liability and the Contractor is not entitled to an extension of time, for any delay caused by this.
- (c) If the Contractor fails to produce evidence of insurance required by the Contract, this is a substantial breach of the Contract for the purpose of Clause 44.2 and the Principal may exercise its rights under Clause 44.
- (d) The rights given to the Principal under this Clause 21 are in addition to any other rights the Principal may have.

21.5 Mitigation and Reinstatement

If any of the Works, Temporary Works, the Constructional Plant or other property the subject of work under the Contract for which the Contractor is responsible is damaged or destroyed:

- (a) at any time on or before the Date of Practical Completion, the Contractor must take the following steps to:
- (i) make secure the Works, Temporary Works, the Constructional Plant or other property and the Site;
 - (ii) notify:
 - (A) appropriate authorities, emergency services and the like; and
 - (B) all relevant insurers,of the occurrence and comply with their reasonable instructions; and
 - (iii) subject to Clause 21.5(a)(ii), clear any debris and begin work to repair or replace the Works, Temporary Works, the Constructional Plant or other property;
- (b) at any time after the Date of Practical Completion and before the date that the Superintendent issues the Final Certificate to the Principal, and while the Contractor is on the Site discharging any of its obligations under Clauses 30.3, 30.4 or 37, the Contractor must take the following steps:
- (i) immediately notify the Principal and comply with all reasonable directions of the Principal; and
 - (ii) subject to a direction of the Principal to the contrary, take the steps specified in Clause 21.5(a) above;
- (c) in either of the circumstances described in Clause 21.5(a) and (b), the Contractor must, in addition to its obligations set out in Clause 21.5(a) and (b), also promptly consult with the Principal to procure its approval for steps to ensure:
- (i) the prompt repair or replacement of the Works, Temporary Works, the Constructional Plant or other property;
 - (A) to ensure that the Works or Temporary Works comply with the standards and specifications required by the Contract; and

- (B) any disruption to the free flow of traffic in the areas surrounding the property being repaired or replaced is minimised; and
- (ii) that, to the greatest extent possible, the Contractor continues to comply with its obligations under the Contract.

21.6 Application of Insurance Proceeds

Unless the Principal otherwise directs, if the Works and/or Temporary Works and/or any property of the Principal is damaged or destroyed:

- (a) all insurance proceeds in respect of that damage or destruction must be applied to repair or reinstate the Works and/or Temporary Works and/or the property of the Principal; and
- (b) if the Principal has repaired or reinstated the Works and/or Temporary Works and/or the property of the Principal then all insurance proceeds in respect of that damage or destruction must be paid to the Principal.

21.7 No Waiver by Principal

The Principal is not to be taken to have waived any rights or any breaches by the Contractor merely because it has not exercised or sought to enforce any of its rights under Clauses 21.1 to 21.5 (inclusive).

21.8 Contractor Comprising Two or More Persons

Where the Contractor comprises two or more persons:

- (a) insurances effected pursuant to the Contractor's obligations under the Contract (with the exception of insurances effected pursuant to Clauses 20.2 and 20.3) must be effected jointly by those persons, unless the Principal otherwise agrees in writing; and
- (b) each such insurance must name each person comprising the Contractor as an insured.

21.9 Notices from or to Insurer

In respect of any insurance that the Contractor is required to take out under Clause 20:

- (a) the Contractor must inform the Principal, whenever the insurer gives a notice in connection with the policy;
- (b) the Contractor must give the Principal a copy of any notice of cancellation, non-renewal or material alteration given by the insurer to the Contractor within 24 hours of its receipt;
- (c) if there is a difference of opinion or disagreement between the Contractor and the Principal as to whether or not a Claim should be made, the Principal as a party whose interest is noted on the relevant policies will have the right under the policy of insurance to directly inform the insurer of its position with respect to a Claim being made and the existence of the difference of opinion or disagreement;
- (d) the insurance will provide that a notice of Claim given to the insurer by either party, the Superintendent, or a subcontractor will be accepted by the insurer as a notice of Claim given by both parties, the Superintendent, and the subcontractor; and
- (e) if the policy ceases or notification of cessation is issued by the insurer, the Contractor must promptly give written notice thereof to the Principal and, in any event, prior to the cancellation, non-renewal or material alteration of any of the policies required under Clause 20.

21.10 Notices of Potential Claims

The Contractor must, as soon as practicable and in writing, inform the relevant insurer of any occurrence that may give rise to a Claim under an insurance policy required by Clause 20 and must keep the Principal informed of subsequent developments concerning the Claim. The Contractor must ensure that its subcontractors in respect of their operations similarly inform the parties.

21.11 Cross Liability

Except for compulsory statutory workers' compensation, professional indemnity and compulsory motor vehicle insurance, every policy of insurance required under the Contract must include a cross liability endorsement that all agreements and endorsements except limits of liability must operate in the same manner as if there was a separate policy of insurance covering each party insured and include a provision that a failure by any insured party to observe and fulfil the terms and conditions will not affect any other party.

21.12 Common Terms

- (a) Unless otherwise stated in the Contract, every policy of insurance required under Clause 18, 19 and 20 must:
- (i) provide that any breach of the conditions of the insurances by the Contractor or the Contractor's personnel for whose actions the Contractor is responsible, must not in any way prejudice or diminish any rights which the Principal has under the insurances; and
 - (ii) provide that the insurance is primary with respect to the interests of the Principal and any other insurance maintained by it is excess to and not contributory with the insurance policies required under Clause 20.
- (b) Where the Principal is not a named insured entitled to cover under any policy required to be taken out under Clause 20, the Contractor must cause its insurers to waive all rights of subrogation against the Principal in respect of a Claim arising under the insurance policy.

21.13 Contractor's Further Obligations

- (a) The Contractor must not do or omit to do any act that would be grounds for an insurer to refuse to pay a Claim made under any of the policies of insurance.
- (b) If the Contractor breaches its obligations set out in paragraph (a), this is a substantial breach of the Contract and the Principal may exercise its rights under Clause 44."

SCC 13A Superintendent (GC 23)

Insert the following after the first paragraph of GC 23:

"The Superintendent will at all times give directions, and carry out all functions under the Contract including its certification, valuation and assessment functions as the agent of the Principal and not as an independent certifier, assessor or valuer."

SCC 13B Possession of Site (GC 27.1)

In clause 27.1:

- (a) replace the words "possession of" with the words "access to"; and
- (b) add the following words at the end, "Delay by the Principal in giving access shall not be a breach of the Contract."

SCC 13C Delivery of Materials to and Work on Site Before Possession (GC 27.3)

In clause 27.3, delete the words "possession of" and replace them with the words "access to".

SCC 14 NOT USED

SCC 15 Contractor's Surveyor – Setting out the Works (GC 28)

Add to GC 28 the following:

“28.5 Surveyors

The Contractor must only use surveyors who are third party certified to AS/NZS ISO 9001 unless approved by the Principal.

Alternatively, where the Contractor uses in-house surveying resources, the Contractor's third party certified quality system must include surveying as a special process.

A surveyor who is a member of the Surveying and Spatial Sciences Institute (Australia) must be on-site at all times during survey work.

28.6 Contractor to Check

The Contractor must, as soon as practicable and before commencing any work under the Contract, check all levels, dimensions and measurements, and workability of details and satisfy itself that they are correct for the specified purpose and that they conform to the requirements of the Contract including details shown on Drawings and Specifications. If the Contractor discovers any error it must immediately notify the Superintendent and request rectification. If the Contractor fails to check such levels, dimensions and measurements or fails to inform the Superintendent of an error in due time before incurring any associated expense or delay, the Contractor will not be entitled to claim on any basis for any additional payment or extension of time in respect of any related matter.”

SCC 16 Quality Assurance (GC 30.2)

Renumber GC 30.2 as GC 30.2A and add the following additional clause:

“30.2B Further Quality Assurance obligations

If Clause 30.2A applies, the following additional conditions apply:

- (a) Prior to commencement of the Works, the Contractor must provide to the Superintendent for approval a copy of the Contractor's Quality Plan for the Contract including a breakdown of required work and services, management responsibilities, inspection and test plans and step by step procedures for implementing the Plan.
- (b) The Quality Plan must be prepared in accordance with the applicable current Australian Standards.

- (c) The Contractor must appoint a management representative in accordance with AS/NZS ISO 9001, with defined authority and responsibility for implementing the Quality System under the Contract. The management representative will, for the purpose of this Contract, be known as the Quality Management Representative (QMR). The QMR must be experienced in construction and familiar with the nature of the work specified in the Contract.
- (d) Failure to comply with the Contractor's approved Quality Plan (as may be amended from time to time with the written approval of the Superintendent) is a substantial breach of the Contract for the purposes of Clause 44.2.
- (e) Nothing in Clause 30.2B limits any other rights or obligations under the Contract."

SCC 17 Materials and Work – Generally (GC 30.6)

Add at the end of GC 30.6:

"The Contractor must not rely upon any inspections or tests carried out for its own purposes by the Principal or Superintendent and those inspections or tests will not affect the Contractor's responsibility for the Works."

SCC 18 Working Hours (GC 32)

Delete the text of GC 32 and substitute:

"32 WORKING HOURS

- (a) The working hours and working days are as stated in the Contract and must not be varied without the prior approval of the Superintendent except, when in the interests of safety or to protect life or property, the Contractor finds it necessary to carry out work outside the working hours or on other than the working days. In such cases the Contractor must promptly notify the Superintendent in writing of the circumstances.
- (b) Unless the Contract otherwise provides, the working hours may be up to a maximum of 9 hours per day worked between 8.00am and 5.00pm unless otherwise approved by the Principal's Representative in writing prior to utilising adjusted hours, provided that no more than 90 hours are worked per fortnight. The allowable hours per fortnight must be reduced by 9 hours for every public holiday occurring in any fortnight period. Works are to be carried out on Monday to Friday (no weekend or public holiday work) unless approved by the Principal's Representative in writing prior to undertaking works on proposed amended days. The Contractor must notify the Superintendent of the start and finish times and working days prior to commencement of work on Site.
- (c) Any variations to (b) for exceptional circumstances (i.e. make road safe, breakdowns affecting traffic, etc) shall be as approved by the Superintendent.
- (d) In approving a variation to the working hours or working days, the Superintendent may attach conditions which may preclude the performance of work requiring inspection or attendance by or on behalf of the Principal or may include a requirement that the Contractor meets the Principal's costs of inspection or attendance of the work under the Contract during the varied times approved by the Superintendent. Where the Principal's costs of inspection or attendance are not required to be borne by the Contractor, they shall be borne by the Principal."

SCC 19 Construction Program (GC 33.2)

Delete the text of GC 33.2 and substitute:

“33.2 Construction Program

- (a) Prior to commencement of the Works, the Contractor must provide to the Superintendent for approval, a detailed Construction Program consisting of a Critical Path Network in diagrammatic form including a time bar diagram giving details of the earliest dates by which, the various stages or portions of work under the Contract are to be commenced and completed.
- (b) The Superintendent may approve or reject any program delivered by the Contractor. Any revision requested by the Superintendent must be provided within 7 days. The process shall continue until the Construction Program is approved.
- (c) The Superintendent may direct changes to any aspect of the approved Construction Program. If the direction will result in a substantial departure from the logic shown in the approved Construction Program, the Contractor is entitled to claim an extension of time, subject to the Contractor complying with clause 35.5.
- (d) The Contractor must amend and submit for approval such further Construction Programs as is required from time to time so that the program represents the current state of progress of the Works but must not alter the Date for Practical Completion unless an extension of time is granted.
- (e) The Contractor must proceed with the Works in accordance with and at a rate of progress consistent with the approved Construction Program, and must not depart from the sequence shown in the approved Construction Program without first giving prior notice to the Superintendent of its intention to do so and the reasons for doing so.

”

SCC 20 Suspension by Superintendent (GC 34.1)

Delete the text of GC 34.1 and substitute:

“If the Superintendent considers that the suspension of the whole or part of the work under the Contract is necessary:

- (a) because of an act or omission of:
 - (i) the Principal, the Superintendent or an employee, consultant or agent of the Principal; or
 - (ii) the Contractor, a subcontractor or an employee or agent of either;
- (b) for the protection or safety of any person or property;
- (c) to comply with an order of a court; or
- (d) for the convenience of the Principal,

the Superintendent may direct the Contractor to suspend the progress of the whole or part of the work under the Contract for such time as the Superintendent thinks fit.”

SCC 20A Suspension by an Inspector (GC 34.1)

Insert the following paragraph at the end of GC 34.1:

“In addition, each inspector appointed under Clause 22 as a Contract Surveillance Officer has the authority to suspend the progress of the whole or part of the work under the Contract if, in the inspector's reasonable opinion, there is a risk of imminent injury or harm to workers or the public.”

SCC 20B Time for Commencement of Work on the Site (GC 35.1)

Delete the words "possession of" in the third paragraph and replace them with the words "access to".

SCC 20C Time for Practical Completion (GC 35.2)

Delete the words "possession of" in the second paragraph and replace them with the words "access to".

SCC 21 Extension of Time for Practical Completion (GC 35.5)

Add the words "(and in no case greater than 7 days)" after the word promptly in the first paragraph of GC 35.5.

Add the following at the end of the third paragraph of of GC 35.5

"It is a condition precedent to the Contractor's entitlement to an extension of time to the Date for Practical Completion that the Contractor complies with the notification requirements in this Clause 35.5."

Add the following before the fourth last paragraph of GC 35.5 :

“In determining whether the Contract is or will be delayed in reaching Practical Completion by inclement weather regard must be had to:

- (a) meteorological averages;
- (b) what delays arising from adverse conditions both seasonal and annual the Contractor could reasonably have expected;
- (c) the net effect overall of any beneficial weather conditions and any beneficial effect on the work under the Contract of such conditions with respect to any saving in time;
- (d) the immediate effect of delays arising from individual instances of adverse weather conditions.”

Delete the second last paragraph of GC 35.5 and replace it with the following

"Notwithstanding that the Contractor is not entitled to an extension of time the Superintendent may, in its absolute discretion, at any time and from time to time before the issue of the Final Certificate by notice in writing to the Contractor extend the time for Practical Completion for any reason to the benefit of the Principal. The Superintendent is not obliged to act reasonably in exercising such discretion to grant an extension of time."

SCC 21A Liquidated Damages (GC 35.6)

Add the following sentence at the end of GC 35.6:

"The Contractor acknowledges and agrees that the Principal will suffer and incur loss and damage if Practical Completion is not reached by the Date for Practical Completion. The amount stipulated as liquidated damages in Annexure Part A is an agreed genuine pre- estimate of the Principal's loss and damage in the event that Practical Completion occurs after the Date for Practical Completion. The Contractor agrees that it will not assert in any proceedings under Clause 47 or in any expert

determination, court, arbitration or other proceedings that the liquidated damages provided for in this Clause 35.6 are a penalty or that this Clause 35.6 or the obligation to pay liquidated damages under the Contract is void or unenforceable (whether in whole or in part).

If, notwithstanding the above paragraph, the liquidated damages provided for in this Clause 35.6 are determined to be a penalty, void or unenforceable for any reason (whether in whole or in part), then general damages shall apply.

SCC 22 Delay or Disruption Costs (GC 36)

Delete the text of GC 36 and substitute:

“Only where the Contractor has been granted an extension of time under Clause 35.5 for any delay caused by:

- (a) any of the events referred to in Clause 35.5 (a) or (b); or
- (b) any other event for which payment of extra costs for delay or disruption is provided for in the Annexure or elsewhere in the Contract,

will the Principal pay to the Contractor such extra costs as are directly and actually incurred by the Contractor on that day by reason of the delay subject to the limitation that the total amount of compensation payable under this clause 36 will not exceed \$3,000 for any one day and \$30,000 in the aggregate.

The Principal is not liable to pay:

- (a) extra costs for delay or disruption which have already been included in the value of a variation or any other payment under the Contract; or
- (b) damages for breach of contract in relation to any cause of delay described in Clause 35.5 in addition to any extra costs for delay and disruption payable in respect of any extension of time the Contractor is entitled to by reason of such cause of delay.”

SCC 23 Defects Liability (GC 37)

Add the following paragraph to GC 37:

“The Contractor must indemnify the Principal against any liability of the Principal to any person arising out of the failure of any product, materials or equipment supplied by the Contractor either directly or through a subcontractor and irrespective of whether the failure is caused by design manufacture, construction or installation unless the failure was due to:

- (a) faulty design for which the Principal was responsible; or
- (b) the use of a brand or type specified by the Principal which was not suitable for the relevant purpose.”

SCC 23A Variations to the Work (GC 40.1)

Delete the '.' at the end of the second paragraph after the words 'Clause 40' and replace it with the following text:

“, in each case only where such direction or approval is entitled 'Variation Direction' (**Variation Direction**).”

Add the following text at the end of GC 40.1:

“Where the Contractor considers any direction given by the Superintendent which is not identified as a Variation Direction constitutes a variation, the Contractor shall

notify the Superintendent before executing any work the subject of that direction and no longer than 14 days after receiving the direction.

The Superintendent shall, within 14 days of receipt of notice notify the Contractor of its determination as to whether or not such direction constitutes a variation and, if it determines such direction to constitute a variation and requires the Contractor to implement it, issue a Variation Direction.

If the Contractor fails to give the notice as required, it will not be entitled to make any claim (including for payment, extension of time or relief) against the Principal in respect of the direction and must perform the work the subject of the direction at its own cost.

Where the Contractor gives the notice in writing required by this Clause 40.1 and the Superintendent does not issue a Variation Direction under Clause 40.1 within 14 days of receipt of the Contractor's notice being issued, the Contractor shall not be barred from claiming that the relevant work amounts to a variation and the question of whether the direction amounts to a variation may be referred to dispute resolution under Clause 47."

SCC 24 Valuation (GC 40.5)

Delete the text of GC 40.5 and substitute:

"Variations must be directed and valued by the Superintendent in accordance with the following principles:

- (a) if the Contract prescribes specific rates or prices to be applied in determining the value, those rates or prices must be used;
- (b) if paragraph (a) does not apply, the rates or prices in a Priced Bill of Quantities or Schedule of Rates, without alteration, must be used to the extent that it is reasonable to use them;
- (c) where paragraphs (a) and (b) do not apply, the Superintendent must establish a new rate or price which is fair and reasonable and, so far as is possible, is based upon the rates or prices contained within the Priced Bill of Quantities or Schedule of Rates, adjusted by way of addition or deduction to take into account any dissimilarity between the component in the rates or prices contained in the Priced Bill of Quantities or Schedule of Rates and the corresponding affected component of the varied work;
- (d) in determining the deduction to be made for work which is taken out of the Contract, the deduction must include a reasonable amount for profit and overheads;
- (e) if the valuation is of an increase or decrease in a fee or charge, the value will be the actual increase or decrease without regard to overheads or profit;
- (f) if the valuation relates to extra costs incurred by the Contractor for delay or disruption, the valuation must include a reasonable amount for overheads but must not include profit or loss of profit; and
- (g) Daywork must be valued in accordance with Clause 41.

The Contractor must support a variation with measurements and other evidence of cost, as is required to properly establish the basis and the methodology used in quantifying the claim for a variation, and must provide such further relevant information as is directed by the Superintendent. The Contractor must provide such

information as the Superintendent directs regarding the build-up of the rates or prices contained in a Priced Bill of Quantities or Schedule of Rates.”

SCC 25 Variations (GC 40)

Add the following clause at the end of GC 40:

“40.6 Approval of Principal

The Contractor accepts that the Superintendent, when performing the functions of the Superintendent under Clause 40 in relation to variations, may be required by internal delegation or policies to obtain the approval of the Principal.”

SCC 25A Default by the Contractor (GC 44.2)

Add a new subclause (b) as follows and renumber paragraph ‘(b)’ as paragraph ‘(c)’ and so on to update the subparagraph numbering:

“(b) a substantial departure from a construction program without reasonable cause or the Superintendent’s approval;”

SCC 25B Default of the Principal (GC 44.7)

In the second paragraph, delete the words 'Substantial breaches include but are not limited to' in paragraph 2 and replace them with "Substantial breaches are limited to".

Delete the text in subclause (b), (c) and (e) and replace each with the words "not used".

Replace the words "possession of" in the subclause (d) with the words "access to".

SCC 26 Termination for convenience

Add the following new clause 45A:

"45A Termination for convenience

(a) Without prejudice to any of the Principal's other rights or entitlements or powers under the Contract, the Principal may (without exercising any good faith):

- a. at any time for its sole convenience by written notice to the Contractor terminate the Contract from the date stated in the notice; and
- b. thereafter either itself or by third parties complete the uncompleted part of the work under the Contract.

(b) If the Principal terminates the Contract under this clause 45A, the Contractor:

- a. subject to clause 42.10 or any other debt due from the Contractor to the Principal under the Contract, will be entitled to payment of the following amounts as determined by the Superintendent:
 - i. for work carried out prior to the date of termination, the amount which would have been payable if the Contract had not been terminated and the Contractor submitted a payment claim for work carried out to the date of termination;
 - ii. the costs of goods or materials reasonably ordered by the Contractor for the Works for which the Contractor is legally bound to pay, provided that:
 1. the value of the goods or materials is not included in the amount payable under subclauses 45A(b)(a)(i); and

2. title in the goods or materials will vest in the Principal upon payment; and
 - iii. the reasonable cost of removing from the site all labour, construction plant and other things used in connection with the works under the Contract,
but in no case shall the total amount payable to Contractor under this subclause (b), when added to other amounts already paid and payable to the Contractor, be more than the Contract Sum as adjusted in accordance with the Contract; and
- (c) must as a precondition to payment:
- a. take all reasonable steps to mitigate the costs referred to in subparagraphs 40A(b);
 - b. immediately hand over to the Principal all design documents and copies of documents provided by the Principal under this Contract; and
 - c. cause to be delivered to the Principal any goods and materials referred to in subclause 40A(b)(a)(ii).
- (d) The amount to which the Contractor is entitled under this clause 45A will be a limitation upon the Principal's liability to the Contractor arising out of, or in any way in connection with, termination of the Contract under this clause 45A and the Contractor may not make any Claim against the Principal arising out of, or in any way in connection with, the termination of the Contract other than for the amount payable under this clause 45A.
- (e) After the Contractor has satisfied its obligations under this clause 45A, the Principal shall release any remaining security still held by the Principal.
- (f) This clause 45A shall survive termination of the Contract by the Principal under subclause 45A(a)."

SCC 27 Not Used

SCC 28 Contractor's Prescribed Notice (GC 46.1)

In GC 46.1 second paragraph, delete "42" and substitute "28".

SCC 29 Time for Disputing Superintendent's Directions (GC 46.2)

In GC 46.2, delete "56" and substitute "28".

SCC 30 Dispute Resolution (GC 47)

Delete GC 47 and substitute:

"47 DISPUTE RESOLUTION

- (a) Any question, dispute or difference of any kind (in Clause 47 "Dispute") arising out of or in connection with the Contract must be resolved in accordance with this Clause.
- (b) A senior executive or other designated officer of each of the parties must meet within 10 Business Days after the date when one party serves on the other a Notice and in good faith, attempt to resolve the Dispute.
- (c) If within 10 Business Days of the first meeting under Clause 47(b), the Dispute is not resolved, the Principal or the Principal's delegate and the chief executive

officer of the Contractor, or the chief executive officer’s delegate, must meet within five Business Days of the expiry of the 10 Business Days and, in good faith, attempt to resolve the Dispute.

- (d) If the Dispute is not resolved within 20 Business Days of the first meeting under Clause 47(b), or such further time as may be agreed, the parties must refer the Dispute to mediation by an accredited mediator agreed by the parties, or failing agreement on the mediator and terms of appointment within a further five Business Days, an accredited mediator nominated by the Chair of Resolution Institute (ACN 008 651 232) or the Chair’s designated representative. The terms of the appointment must be in accordance with the Resolution Institute Mediation Rules. The location of the mediation will be Perth, Western Australia or other location determined by the Principal.
- (e) The reference to mediation will commence when either party gives notice to the other requiring resolution of the Dispute under Clause 47(d).
- (f) The parties agree to genuinely participate in the mediation process. Any information or document obtained through or as part of the reference to mediation is confidential and may not be used for any purpose other than the settlement of the Dispute under Clause 47.
- (g) The parties will share equally the mediator’s fees for any mediation.
- (h) If the Dispute is not resolved within 20 Business Days of the commencement of the reference to mediation, either party may then, but not earlier, commence proceedings in any court of competent jurisdiction.
- (i) Unless the Parties agree otherwise in writing, The Institute of Arbitrators and Mediators (Western Australian Chapter) is appointed as the Prescribed Appointor for all disputes referred to adjudication under the *Construction Contracts Act 2004* (WA).
- (j) Subject to the *Construction Contracts Act 2004* (WA), circumstances beyond the control of the parties permitting, each party must continue to perform the Contract even though a Dispute exists or proceedings have been commenced under Clause 47(h).
- (k) Clause 47 survives the termination of the Contract.”

SCC 31 Contractor’s Performance

- (a) To the extent allowed by law and unless provided otherwise by this Contract, the Contractor is solely responsible for all aspects of the planning, control, supervision and management of all the work under the Contract.
- (b) The Contractor shall carry out and complete the work under the Contract in accordance with the Contract so that the Works, when completed, shall:
 - a. be fit for their intended purpose;
 - b. comply with all the requirements of the Contract; and
 - c. comply with all legislative requirements;
- (c) The Contractor must perform all of the Contractor’s obligations under the Contract in a proper, thorough, skilful and professional manner with all due expedition and in accordance with probity requirements and current best practice and in all respects in accordance with the terms of the Contract.

- (d) The Contractor remains fully responsible for the Works irrespective of any approval, consent, review, audit, inspection or acceptance by the Principal or the Superintendent of the Works or any proposal relating to the Works.

SCC 32 Consents

Any consent or approval of the Principal required under the Contract may be given conditionally or unconditionally or withheld by the Principal in each case in its absolute discretion unless otherwise expressly provided. If a consent or approval is given conditionally, the Contractor must comply with each condition. A consent or approval of one thing does not apply to any other thing. The grant of consent or approval does not in any way affect the obligations of the Contractor in respect of the subject of the consent or approval.

SCC 33 Warranties from Third Parties

- (a) Upon the termination of the Contract, the Contractor must use all reasonable endeavours to ensure that any warranties in favour of the Contractor relating to the Works are assigned to the Principal.
- (b) If a particular warranty cannot be assigned to the Principal, the Contractor holds the benefit of the warranty in trust for the Principal and appoints the Principal as the Contractor's agent for the purposes of obtaining the benefit of the warranty and enforcing its terms.

SCC 34 External Requirements

- (a) The Contractor must comply with:
 - (i) all applicable Industrial Awards, Industrial Agreements, registered workplace agreements and orders of competent Courts or Industrial Tribunals;
 - (ii) other applicable codes of practice, guidelines and standards including those issued by the Principal.
- (b) The Principal is entitled to recover from the Contractor:
 - (i) any moneys received by the Contractor; or
 - (ii) any sum by which the Tender price was increased;in contravention of AS 4120 – 1994 as if such sum were a debt due from the Contractor to the Principal under or by virtue the Contract.
- (c) The Contractor warrants that, in respect of its Tender for the Contract, it complied with the Australian Standard Code of Tendering AS4120 – 1994.
- (d) The location of known sites of rare flora will be notified to the Contractor by the Superintendent who will also advise of the measures to be taken. Any further sites suspected of coming under this category found during the course of Works must be brought to the attention of the Superintendent by the Contractor.
- (e) The Contractor is subject to the BCI Code, and must comply with each of the obligations described in the BCI Code, for the term of this contract.

SCC 35 Preconditions to Commencement of Work under the Contract

The Contractor must not commence work under the Contract until the Superintendent has notified the Contractor that the Superintendent has approved the Contractor's:

- (i) Construction Program,

- (ii) Traffic Management Plan,
- (iii) Work Health and Safety Management Plan,
- (iv) Environmental Management Plan, and
- (v) Quality Plan.

This approval is conditional on the Contractor complying with any subsequent instructions from the Superintendent to amend the plans, within a time limit specified by the Superintendent.

SCC 36 Warranties by the Contractor

36.1 Warranties

- (a) The Contractor will supply sufficient properly qualified and experienced labour to ensure that it is able diligently perform the works under the Contract.
- (b) The Contractor, its subcontractors and their respective employees, have the requisite expertise, applicable professional skills and capabilities to carry out the Works and will continue to have them during the term of the Contract.
- (c) The Contractor has familiarised itself with local conditions and all applicable legislative requirements.
- (d) The Contractor's subcontractors and the respective employees of the Contractor and its subcontractors will not enter the Site without having first familiarised themselves to the extent necessary with local conditions and legislative requirements.
- (e) The Contractor has examined all information relevant to the risks, contingencies and other circumstances having an effect on the Schedule of Rates and obtainable by making reasonable inquiries (including all site conditions) and ascertained that these conditions will not prejudice the Contractor's ability to complete the Works.
- (f) The Contractor has inspected the Site and its surroundings.
- (g) The Contractor will not do or permit anything which might damage the name or reputation of the Principal or reasonably invite adverse public criticism or result in the Principal being the subject of any official investigation.
- (h) The Contractor has fully and properly informed itself of the Principal's project requirements, nature of the work under the Contract and the materials necessary for the performance of the work under the Contract, the means of access to and from the site including all prohibitions and restrictions applying to the site (including the use) under any law, and all relevant physical features of the site.
- (i) In entering into the Contract, the Contractor has not relied on any representations, information or advice given by or on behalf of the Principal including the information documents, or the accuracy, completeness, suitability of any information or data supplied or made available by or on behalf of the Principal to the Contractor, including information documents, reports and any other information.

36.2 Warranties unaffected

The warranties and the Contractor's obligation to comply with its obligations under the Contract remain unaffected notwithstanding:

- (a) any variation;

- (b) any receipt or review of or comment, agreement, approval, authorisation, certification, decision, demand, determination, explanation, instruction, notice, permission, rejection, request or requirement in respect of any document, any work or any other matter in respect of the Works by the Principal, Superintendent, or any associate of the Principal;
- (c) any change made to the design documents as a consequence of, or in accordance with a direction of the Superintendent, the Superintendent's Representative, the Principal or any associate of the Principal; or
- (d) that the Contractor has entered into a novation of any prior contract between the Principal and a contractor and thereafter has retained that contractor or Consultant in connection with the work under the Contract.

SCC 37 Interface

37.1 Related Contracts

In SCC 37, 'Related Works' means any works being carried out or which are required to be carried out by other contractors on or in the vicinity of the Site at the request or direction of the Principal.

37.2 Other Work

The Contractor acknowledges that the Principal may have work performed by other contractors and that it is of paramount importance that the Works are fully and completely coordinated with Related Works in view of their concurrent and sequential nature.

37.3 Contractor's Obligations

The Contractor must at all times and in accordance with the requirements and directions of the Superintendent comply with items:

- (a) take all reasonable steps to coordinate and integrate the execution of the Works including the work of subcontractors and suppliers with the activities of other contractors;
- (b) attend such coordination meetings called by the Superintendent to plan, review and coordinate activities for the management of interfaces between the Works and Related Works;
- (c) plan, program and perform the execution of the work so as to minimise any interference with or hindrance of the performance of the Related Works;
- (d) at all times refrain from carrying out any operation on-site in a manner which is likely to cause damage or inconvenience to the execution of the Related Works;
- (e) take all necessary steps to protect the Works from accidental damage caused by related contractors;
- (f) at all times cooperate with the Principal, the Superintendent, any public or private utilities, statutory or other relevant authorities and others who may be engaged on the Site so as to promote and foster a coordinated and integrated approach to the Works and the Related Works;
- (g) take all reasonable steps to coordinate with and afford all reasonable access to any public or private utilities, statutory and other relevant authorities and others which may be engaged on the Site;
- (h) comply with all obligations as to interfacing the Works with the Related Works as are detailed in the Specification;

- (i) permit the Principal and any other contractor or supplier employed by the Principal and duly authorised by the Principal to enter upon the site upon reasonable notice to stockpile suitable material on the Site.

Where this direction results in a delay or disruption to the project, the delay will be valued under Clause 36 or where additional costs are incurred, the additional costs will be valued under clause 40.

SCC 38 Not Used

SCC 39 Taxes (including Goods and Services Tax (GST))

Unless stated otherwise, all duties, taxes and charges imposed or levied in Australia or overseas in connection with the supply of goods and services used by the Contractor to undertake the work under the Contract are payable by the Contractor.

All amounts in this Contract (except where otherwise specified) are exclusive of GST.

SCC 40 Safety and Health

40.1 General Requirements

The Principal is committed to ensuring, so far as is practicable, a working environment for its employees and members of the public, that is safe and without risk to health.

The Contractor must at all times:

- (a) comply with, and at all times ensure that its subcontractors comply with, the WH&S Legislation and any applicable standards and codes of practice under such legislation;
- (b) identify and exercise all necessary precautions for the safety and health of all persons including:
 - a. the Contractor's employees;
 - b. any subcontractor and their employees;
 - c. the Superintendent and the Superintendent's staff and agents;
 - d. The Principals' employees, agents, contractors and subcontractors; and
 - e. any other person;who may be affected directly or indirectly by or as a result of any work under the Contract; and
- (c) keep complete records of its compliance, with the requirements of the WH&S Legislation and the associated work health and safety legislation;
- (d) immediately notify the Principal of any accident or injury occurring on site related to the work under the Contract and any other act, fact or circumstance which, in the Contractor's reasonable opinion having regard to the Contractor's professional expertise, may give rise to a breach of the requirements of any WH&S Legislation and any applicable standards and codes of practice under such legislation.

40.2 Work Health & Safety (WHS) Management System

The Contractor must at all times implement and maintain a certified WHS management system that, as a minimum requirement, demonstrates compliance with:

- (a) all statutory requirements in relation to occupational safety and health, including but not limited to the WHS Legislation; and
- (b) the requirements of AS 4801 *Occupational health and safety management systems – Specification with guidance for use*.

Certification shall be by a third party qualified to provide such certification.

The Contractor must ensure that it and its employees, subcontractors and all other persons employed or engaged on work under the Contract comply with the Contractor's WHS management system and WHS Management Plan.

The Contractor shall provide a non-conformance report to the Superintendent promptly after any non-conformance with the WHS Management Plan, is observed by the Contractor or is brought to the Contractor's notice by the Superintendent which includes details of the non-conformance or risk, the corrective action to be taken and the date by which the corrective action is to be completed.

40.3 WHS Management Representative

The Contractor must for the purpose of this Contract, appoint a representative to manage the WHS Management Plan with defined authority and responsibility for the implementation of the plan. The representative shall, for the purpose of this Contract, be known as the WHS Management Representative (WHS MR). The WHS MR must:

- (a) be familiar with the nature of the work required in the Contract; and
- (b) be a full time member of the site management team and generally in attendance on the Site at all times activities relating to the Contract are taking place.

The WHS Management Plan must identify the name, qualifications and experience of the WHS MR.

40.4 Non-compliance

Failure to comply with the provisions of SCC 40, or the WHS Management Plan as approved by the Superintendent, is a substantial breach of the Contract for the purposes of GCC 44.2.

Imposition of a conviction in relation to occupational safety and health is a substantial breach of Contract for the purposes of GCC 44.2.

Single or partial exercise of a right under SCC 40 does not prevent any other exercise of that right. Further, a waiver of a right under this SCC 40 does not prevent the exercise of any other right.

40.5 Not Used

40.6 Compliance with WHS Law

For the purpose of the Work Health & Safety Regulations 2020:

- (a) the Contractor accepts its appointment and engagement as the Main Contractor for the Works and the contract and must comply with all obligations of a Main Contractor;

- (b) the Principal authorises the Contractor to have management and control of any workplace (including the means of access to and egress from the workplace) necessary to discharge the duties of a Main Contractor, while the Contractor is performing work under the Contract or the Works; and
- (c) the Contractor acknowledges and agrees that in the event that the appointment and engagement of the Contractor as Main Contractor is not valid under the WHS law, the Contractor must nevertheless perform the function of a Main Contractor in accordance with the requirements of the Work Health & Safety Regulations 2020 (WA) and the Work Health & Safety Act 2020 (WA).

SCC 40A Traffic

40A.1 General Requirements

The Contractor must ensure that it and its employees, subcontractors and all other persons employed or engaged on work under the Contract comply with the Contractor's Traffic Management Plan, as approved by the Superintendent.

40A.2 Traffic Management Representative

The Contractor must for the purpose of this Contract, appoint a representative to manage the Traffic Management Plan with defined authority and the responsibility for the implementation of the plan. The representative shall, for the purpose of this Contract, be known as the Traffic Management Representative (TMR). The TMR must:

- (a) Be familiar with work site traffic management;
- (b) be familiar with the nature of the work required in the Contract; and
- (c) be a full time member of the site management team and generally in attendance on the Site at all times activities relating to the Contract are taking place.

The Traffic Management Plan must identify the name, qualifications and experience of the TMR.

40A.3 Non-compliance

Failure to comply with the provisions of SCC 40A, or with the Traffic Management Plan as approved by the Superintendent, is a substantial breach of the Contract for the purposes of GC 44.2.

Single or partial exercise of a right under this SCC 40A does not prevent any other exercise of that right. Further, a waiver of a right under this SCC 40A does not prevent the exercise of any other right.

SCC 40B Environment

40B.1 Environmental Management System

The Contractor must at all times implement and maintain an environmental management system which as a minimum requirement demonstrates compliance with:

- (a) all statutory requirements in relation to environmental controls; and
- (b) the requirements of *AS/NZS ISO 14001 – Environmental management systems, requirements with guidance for use*.

The Contractor must ensure that it and its employees, subcontractors and all other persons employed or engaged on work under the Contract comply with the

Contractor's environmental management system and Environmental Management Plan.

40B.2 Environmental Management Representatives

The Contractor must appoint a representative to manage the Environmental Management Plan with defined authority and responsibility for implementing the Plan. The representative shall, for the purpose of this Contract, be known as the Environmental Management Representative (EMR). The EMR must:

- (a) be experienced in environmental management of construction works;
- (b) be familiar with the nature of the work required in the Contract;
- (c) be a full time member of the Contractor's management team and generally in attendance on the Site at all times that activities relating to the Contract are taking place.

The Environmental Management Plan must indicate the name, qualifications and experience of the EMR.

40B.3 Non-compliance

Failure to comply with the provisions of SCC 40B or the Environmental Management Plan as approved by the Superintendent is a substantial breach of the Contract for the purposes of GCC 44.2.

Imposition of a conviction in relation to WHS is a substantial breach of Contract for the purposes of GCC 44.2.

Single or partial exercise of a right under SCC 40B does not prevent any other exercise of that right. Further, a waiver of a right under this SCC 40B does not prevent the exercise of any other right.

SCC 41 Industrial Matters

The Contractor is responsible for the conduct of all proceedings, conferences, negotiations and dealings with unions and union representatives, regarding industrial matters arising in relation to the performance of the works under the Contract but the Contractor must keep the Superintendent fully informed of all such matters.

The Contractor must observe the requirements of all relevant industrial awards and must immediately notify the Superintendent if a strike or any other form of industrial unrest occurs and provide full details if requested.

SCC 42 NOT USED

SCC 43 NOT USED

SCC 44 NOT USED

SCC 45 Principal's Representative

The Principal may from time to time appoint individuals to exercise any functions of the Principal under the Contract but not more than one Principal's Representative will be delegated the same function at the same time. The appointment of a Principal's Representative does not prevent the Principal from exercising any function.

The Principal must forthwith notify the Contractor in writing of:

- (a) the appointment and the name of any Principal's Representative and the functions delegated to the Principal's Representative;

- (b) any changes or variation to the functions delegated to the Principal's Representative; and
- (c) the termination of the appointment of a Principal's Representative.

SCC 46 NOT USED

SCC 47 NOT USED

SCC 48 NOT USED

SCC 49 NOT USED

SCC 50 PANDEMIC EVENT

50.1 Current Pandemic Events

- (a) Both parties acknowledge and agree that:
 - a. legislative requirements and guidelines have been promulgated by the authorities in response to a pandemic which apply as at the date of Contract and may disrupt or delay the Contractor from carrying out the whole or any part of its obligations pursuant to the Contract; and/or
 - b. there may be existing disruptions to, and shortages of, the supply of labour, materials, equipment or services as a result of a pandemic which, as at the date of Contract, may affect the Contractor's performance of the Works

(Current Pandemic Event).

- (b) The Contractor must, within 10 Business Days of being requested by the Principal or Superintendent, submit to the Superintendent a plan for managing the impact of a pandemic on the performance of the Works for the Superintendent's approval and once approved, such plan shall be the Pandemic Plan.
- (c) Notwithstanding anything to the contrary in this Contract, the Contractor is not entitled to any EOT or additional costs in relation to reasonably foreseeable disruption arising out of or in connection with Current Pandemic Event.

50.2 New Pandemic Events

- (d) Both parties acknowledge and agree that there may be new legislative requirements promulgated by Authorities in response to a Pandemic Event that:
 - a. come into effect after the date of Contract which were reasonably foreseeable at the date of the Contract; and
 - b. prohibit the Contractor's ability to access and perform the Works at the Site; and
 - c. could not be avoided or overcome by the taking of all reasonably steps by the Contractor;

(New Pandemic Event).

- (e) If the Contractor is interrupted in or prevented from carrying out the whole or any part of the Works by reason of a New Pandemic Event, then the Contractor will be entitled to a reasonable extension of time (but not any additional payment) to perform those of its obligations which are affected by the New Pandemic Event, subject to compliance with clause 35.5.

- (f) The Contractor agrees that its sole remedy for delay and disruption due to a New Pandemic Event is as set out in this clause 50.

SCC 51 Application of the Civil Liability Act

- (a) The operation of Part 1F of the *Civil Liability Act 2002 (WA)* is excluded in relation to all and any rights, obligations and liabilities under the Contract whether such rights, obligations or liabilities are sought to be enforced as a breach of contract or claim in tort (including negligence), in equity, under statute or otherwise at law.
- (b) Without limiting the generality of paragraph (a), it is further agreed that the rights, obligations and liabilities of the parties (including those relating to proportionate liability) are as specified in the Contract and not otherwise whether such rights, obligations and liabilities are sought to be enforced as a breach of contract or claim in tort (including negligence), in equity, under statute or otherwise at law.

SCC 52 Financial Capacity

The Contractor must immediately notify the Principal of any significant changes to its financial capacity that may have a material adverse effect on the Contractor's ability to perform its obligations under the Contract.

The Principal may request up to date financial information from the Contractor for the purpose of confirming or reviewing the Contractor's financial capacity to complete the Contract requirements. The requested information must be provided within the time period specified by the Principal or otherwise agreed to by both parties.

SCC 53 Principal may act

Without limiting any other provision of the Contract, the Principal may, either itself or by a third party, carry out an obligation under the Contract which the Contractor was obliged to carry out but which it failed to carry out within the time required in accordance with the Contract (or, where no time for performance is prescribed in the Contract, within a reasonable time). The costs, expenses and damages suffered or incurred by the Principal in connection with this clause 53 shall be a debt due and payable from the Contractor to the Principal. The Contractor acknowledges and agrees that it will have no claim against the Principal for any action the Principal takes pursuant to this clause 53.

ANNEXURE 1 FORCE MAUJURE EVENT

'Force Majeure Event' means any one of the following events which is beyond the control of either Party, could not have been reasonably foreseen by a Party and which prevents that Party from discharging an obligation under this Contract, which, in the case of the Contractor, is critical to the Contractor delivering the Goods and/or providing the Services by the Completion Date:

- a. a civil war, insurrection, riot, fire, flood, explosion, earthquake, operation of the forces of nature of catastrophic proportion or an act of a public enemy;
- b. a general strike or general industrial action of Western Australia wide application, which did not arise at the Contractor's premises and has not been caused by the Contractor; or
- c. the enactment of any statute or regulation by the parliaments of the Commonwealth of Australia or Western Australia, which the Contractor could not have been aware of prior to the execution of this Contract,

but is not an event which arises from any of the following:

- d. a breach of a contract, including this Contract, or Law by the Contractor;
- e. negligence by the Contractor relating to the performance of its obligations under this Contract;
- f. an occurrence that is a risk assumed by the Contractor under this Contract;
- g. a shortage or delay in the supply of Goods and/or Services required under this Contract; or
- h. Wet or inclement weather.



TENDER

CONTRACT RFT T 2026 03 PATHWAY WORKS – ACTIVE TRANSPORT – DOWERIN TOWNSITE

TENDER SUBMISSION DOCUMENT

BOOK 3

TENDER DOCUMENTS

- BOOK 1 TENDER SUBMISSION DOCUMENT
- BOOK 2 CONDITIONS OF CONTRACT
- **BOOK 3** **PROJECT SCOPE**
- BOOK 4 DESIGN DRAWINGS

OTHER INFORMATION

- ELECTRONIC DIGITAL DESIGN MODEL

PROJECT SCOPE:

PATHWAY WORKS – ACTIVE TRANSPORT – DOWERIN TOWNSITE

Comprehensive Project Specifications and Compliance Guidelines

1. General Overview

This Project Scope delineates the requirements for the installation of a concrete pathway, inclusive of reinforced crossovers, in strict accordance with all applicable Western Australian standards, local authority specifications, and relevant codes of practice. Key references include the Western Australian Local Government Association (WALGA) Guidelines, Main Roads WA standards, and Australian Standards such as AS 1379 (for concrete supply), AS 3727 (for concrete pathways), and AS 1428.1 (for accessibility).

2. Principal's Representation

- The Principal is the Shire of Dowerin.
 - Principal's Representative is Ben Forbes, Manager Infrastructure & Projects (Shire of Dowerin).
 - The Principal's Representative may call on Allister Butcher, Consultant (Rural Infrastructure Services) to act on their behalf and shall provide direction with the same authority as the Principal's Representative.

3. Site Preparation

- Survey and precisely mark the proposed pathway alignment as per the approved construction drawings, ensuring all existing assets (such as utilities, trees, and infrastructure) are identified and protected throughout the works.
- Excavate to the specified depth—typically to accommodate a minimum of 100 mm concrete thickness for standard pathways and 150 mm for crossovers (unless otherwise specified by local authority). Remove all vegetation, debris, and unsuitable material. Depth of fill beneath the concrete shall be sufficient to achieve a stable, level subgrade, and any fill material used must be compacted to engineering requirements (usually not less than 94% compaction).
- Prepare the subgrade to a uniform, level condition and compact to achieve a structurally stable base. If fill is required to build up the subgrade, it must be placed in layers not exceeding 150 mm loose thickness and compacted as specified.
- Install appropriate barriers and safety signage to protect the public and personnel throughout the duration of works. Any adjacent assets (such as underground services,

trees, or existing structures) must be clearly marked and physically protected from potential damage during construction activities.

- All preparation works (formwork, etc) shall be installed and protected from the public (even overnight if required) so as to provide a safe environment for all.

4. Materials

- Concrete must have a minimum compressive strength of 25 MPa at 28 days, complying with AS 1379 and all Shire requirements.
- Delivery dockets for the concrete to be provided to the Principal in a timely manner.
- Reinforcing mesh (SL72 as specified in the drawings) must be provided in all pathway sections as per the Drawings.
- Expansion joints, dowel bars, and curing compounds are to be supplied and installed as detailed within the project standard drawings, ensuring durability and compliance with relevant standards.

5. Pathway Construction

- All works shall be carried out as per the detailed drawings, standard drawings, Project Scope document and all Contract details.
- Install and secure formwork to achieve the specified pathway width, alignment, and shape as per design documentation, while ensuring no disturbance or damage to existing assets.
- Place and compact concrete to the required thickness — 100 mm for standard pathways and 150 mm for crossovers. Ensure that the fill beneath the slab is compacted and meets engineering standards.
- Pathway widths shall be installed at 2m width.
- Concrete used for pathways and crossovers shall be constructed from 25MPa concrete.
- Finish the exposed concrete surface with a broomed, non-slip texture suitable for pedestrian use and in compliance with accessibility standards.
- Provide expansion joints shall be installed not more than 50m apart longitudinally, at the start and end of curves (including alignment deviations), where path connects to an existing path or kerb, between the back of kerb and edge of path, where path abuts a kerb or infrastructure (including underground infrastructure and pits). Expansion joints shall be constructed with foam or polyurethane filler. The joint material shall extend 50mm below the path and 10mm past the outer edge of the path to ensure complete path separation.
- Lock joints shall be installed at intervals not more than 4m intervals and be constructed of 3mm recycled PVC joint strip.

6. Pram Ramps

- Pram Ramps shall be installed as per the Standard Drawings.

7. Reinforced Crossovers

- Increase concrete thickness and reinforcement within crossover areas to accommodate vehicle loads to 150 mm thickness with SL72 mesh. Ensure fill material beneath crossovers is compacted to a minimum 96% density and thickness to support vehicular loading.
- Construct crossovers to the specified levels, alignment, and gradient to ensure safe and compliant access for both vehicles and pedestrians, while protecting adjacent assets and infrastructure, as per the drawings.
- Existing sealed crossovers
 - Where crossovers are required to traverse an existing sealed crossover/s, the new concrete crossover path shall be constructed to meet the existing sealed crossover levels.
 - All cuts of the existing sealed crossover shall be undertaken with a quick cut saw so as to provide a clean edge to install the new concrete path to. The sealed surface shall be backfilled and sealed (if required) to the new concrete path.
 - Where damage to the seal occurs, the Contractor shall be responsible to repair and remediate the gravel base course and sealed surface.
- Existing paved (with paving bricks) crossovers
 - Where crossovers are required to traverse an existing paved crossover/s, the new concrete crossover path shall be constructed to meet the existing paved crossover levels.
 - The existing paved crossover shall have the pavers cut to neatly meet the new concrete pathway. The surface below the pavers shall be back filled and compacted so that the pavers do not subside.
 - Where damage to the pavers occurs, the Contractor shall be responsible to repair and remediate the base course and pavers.
- Existing gravel crossovers
 - Where crossovers are required to traverse an existing gravel crossover/s, the new concrete crossover path may be constructed to be not more than 100mm above the existing gravel surface level with compacted gravel backfill each side of the crossover to provide a smooth transition of not more than 4% grade each side of the path. Any queries shall be directed to the Principal for resolution.
 - Where damage to the gravel surface occurs, the Contractor shall be responsible to repair and remediate the base course.
- Existing natural surface crossovers
 - Where crossovers are required to traverse an existing natural surface crossover/s, the new concrete crossover path may be constructed to be not more than 100mm above the existing natural surface level with compacted gravel backfill each side of the crossover to provide a smooth transition of not more than 4% grade each side of the path.

- Where damage to the natural surface occurs, the Contractor shall be responsible to repair and remediate the natural surface with gravel.
- Integrate crossover construction with existing kerbing and drainage infrastructure, ensuring continuity, compliance with design requirements, and the protection of all existing assets.

8. Assets Within Path Works

- There are asset lids/frames of assets located within the Path Works area (identified on the design) and may be required to be lowered or lifted to meet the finished level of the path so as to reduce trip hazard/s.
- Where possible the contractor shall install precast/fabricated items to lift or lower the level of the lid/frame of the asset to meet the finished level of the path.
- Any queries and/or discrepancies regarding lifting and lowering of the lids/frames of assets shall be raised with the Principal prior to the lifting/lowering works being undertaken.
- The lifting/lowering of lids/frames shall be undertaken so that lids/frames open freely and have unrestricted access.
- The lifting/lowering of asset lid/frames shall be to the satisfaction of the Principal.

9. Protection of Assets

- There are underground assets located within the work area and all care has been taken by the Principal to note their alignments on the design.
- It is the responsibility of the Contractor to protect the assets entirely at their own expense.
- The Principal takes no responsibility for damage to assets in the road reserve as caused by the works undertaken by the Contractor.
- Any damage to the asset/s shall be rectified entirely at the Contractors expense; including any reinstatement costs, damages costs and/or compensation costs due to the damage to the asset/s.

10. Protection of Crossovers

- After pouring and forming the crossovers, they shall be cordoned off (so as to not allow vehicle access) for at least 48 hours to allow sufficient curing time prior to allowing traffic to use the crossover.
- Any damage to crossovers due to inadequate cordoning of the crossovers shall be remediated at the expense of the Contractor.

11. Linemarking

- Linemarking shall be carried out as per the drawings and as per Main Roads WA Policy and Application Guidelines Signage and Pavement Markings on Paths.

12. Compliance and Quality Assurance

- All works must be performed in full conformity with the latest WALGA Guidelines, Main Roads WA standards, and all relevant Australian Standards, including AS 3727 and AS 1428.1 for accessibility. These standards dictate the minimum requirements for materials, workmanship, and asset protection.
- Carry out concrete testing (including slump and compressive strength tests) as required to verify compliance with the specified standards.
- Conduct regular inspections throughout the works to ensure correct placement, reinforcement, finishing, and curing of concrete, as well as the protection of all assets and infrastructure in the vicinity of the works.

13. Restoration and Clean Up

- Remove all formwork, construction debris, and surplus materials from the site upon completion of works, ensuring that all assets are left undamaged and in good condition.
- Backfill and compact adjacent areas as necessary and reinstate all disturbed land to its original condition or as otherwise specified, taking care not to disturb or damage any protected assets.
- Backfill must be undertaken not more than five (5) days after being poured to allow sufficient time for the concrete to cure.
- Repair any damage to existing infrastructure occurring as a result of the works.

14. Contractor's Responsibilities

- The Contractor shall provide in the Tender Price Schedule entirely at their own cost:
 - Adequate number of suitably qualified and experienced staff complete the works in a timely, efficient manner to the highest possible standard and quality.
 - Adequate number of plant including all running and maintenance costs to complete the works in a timely, efficient manner to the highest possible standard and quality.
 - All materials to complete the works including concrete, reinforcing mesh, formwork materials, fill material for sub-base, tactile strips, etc as per the drawings.
 - All survey and set out costs.
 - Supply and installation of traffic management to undertake the works, inclusive of staff, signs and devices. All traffic management must adhere to AS 1742.3 and MRWA Traffic Management for Works on Roads Code of Practice.
 - Supply of traffic management plan or generic traffic management plan if applicable.
 - All licences, insurances and levies required to complete the works.

Commented [AB1]: Is Contractor or Shire to provide sub-base fill material?

15. Shire's Responsibilities

- The Shire (Principal) shall provide for the Works entirely at their own cost (no cost to Contractor):
 - Removal and disposal of exiting pathway and vegetation.
 - Gravel backfill material (located at Shire depot in Dowerin townsite)
 - Access to water in Dowerin townsite
 - Access to Shire refuse site (Amery Refuse Site) without tipping fees (only for refuse relating to these works). Access to the Refuse Site must be in liaison with The Principal's Representative.

16. Completion of Works

- Practical Completion of the works shall be prior to 5pm Wednesday 10 June 2026.

Commented [AB2]: As per proposed RIS program timeline

17. Handover/ Practical Completion

- Practical Completion
 - A Practical Completion inspection shall be undertaken with the Principal as close to the Practical Completion date as possible agreed by both parties. A Practical Completion Certificate shall be provided by the Principal and signed by all parties.
- Practical Completion Defects
 - the Practical Completion inspection any defects shall be identified and documented and shall be attached to the Practical Completion Certificate with a Defects list that is signed by all parties.
 - All defects must be rectified within four (4) weeks from the Practical Completion date.
- Submit as-built drawings and compliance certificates to the Principal upon practical completion, detailing depths of fill, materials used, and measures taken to protect assets.

Commented [AB3]: Shire to advise if they would like as-constructed details or not.



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	BYD Drainage
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AMENDMENTS			

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MAPPING SURVEY STANDARD:	
DATE OF CAPTURE:	JAN 26
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HEIGHT DATUM:	AHD

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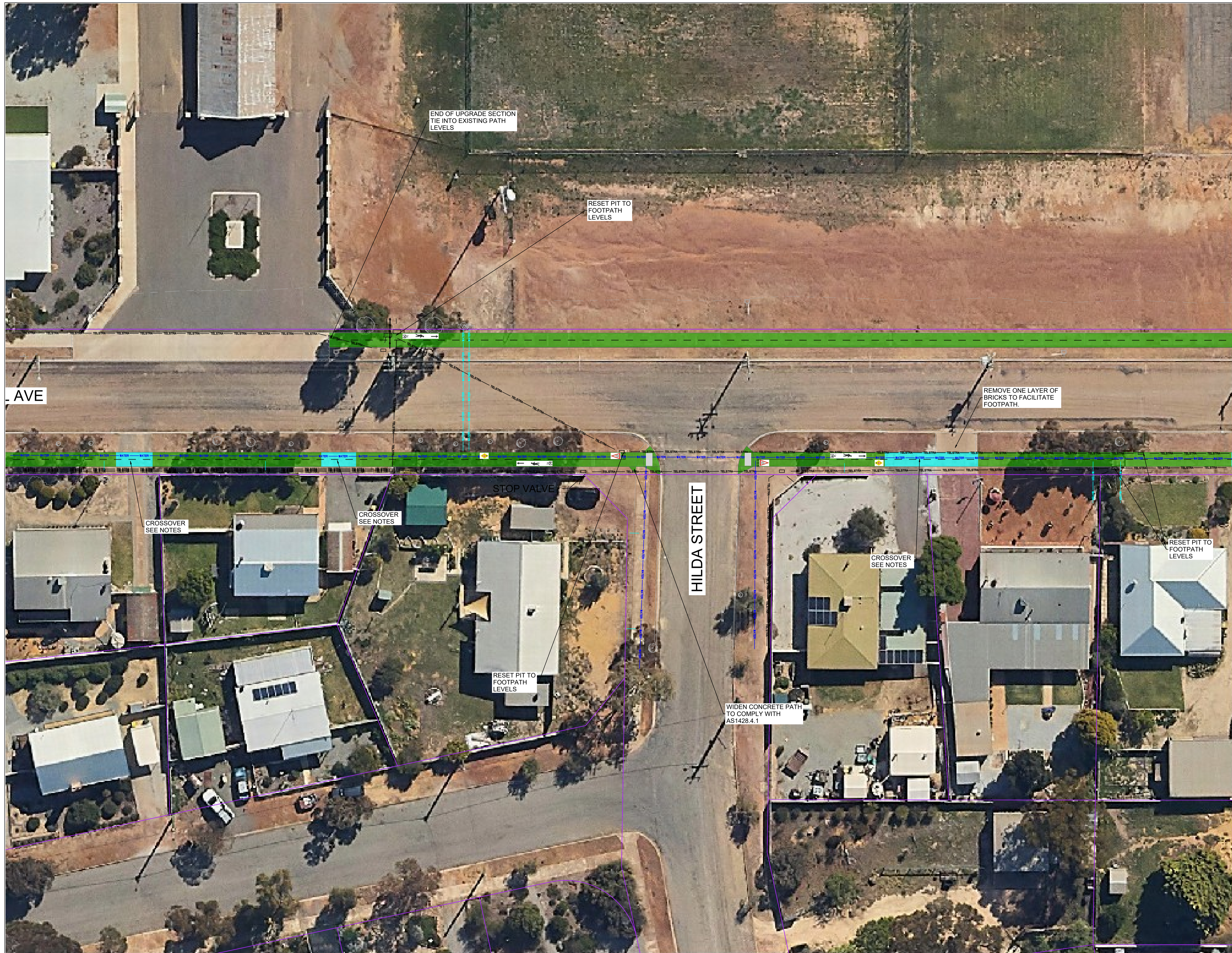
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13 COTTRELL ST, DOWERIN
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DOWERIN FOOTPATH TOWNSITE
FOOTPATH DESIGN
PLAN
Sheet 1 of 8

MRWA DRAWING NUMBER
1072-008-002-1

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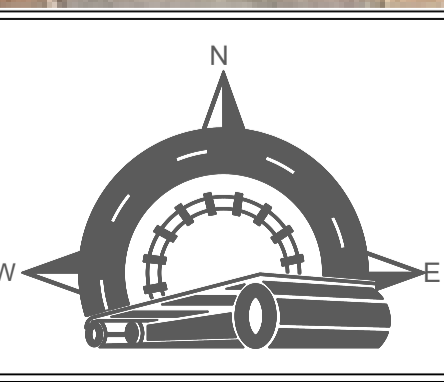
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DOWERIN FOOTPATH TOWNSITE
FOOTPATH DESIGN
PLAN
Sheet 2 of 8

MRWA DRAWING NUMBER
1072-008-002-2



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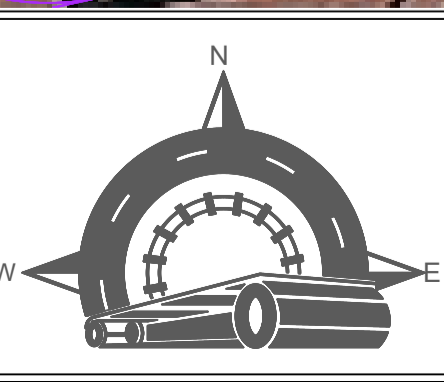
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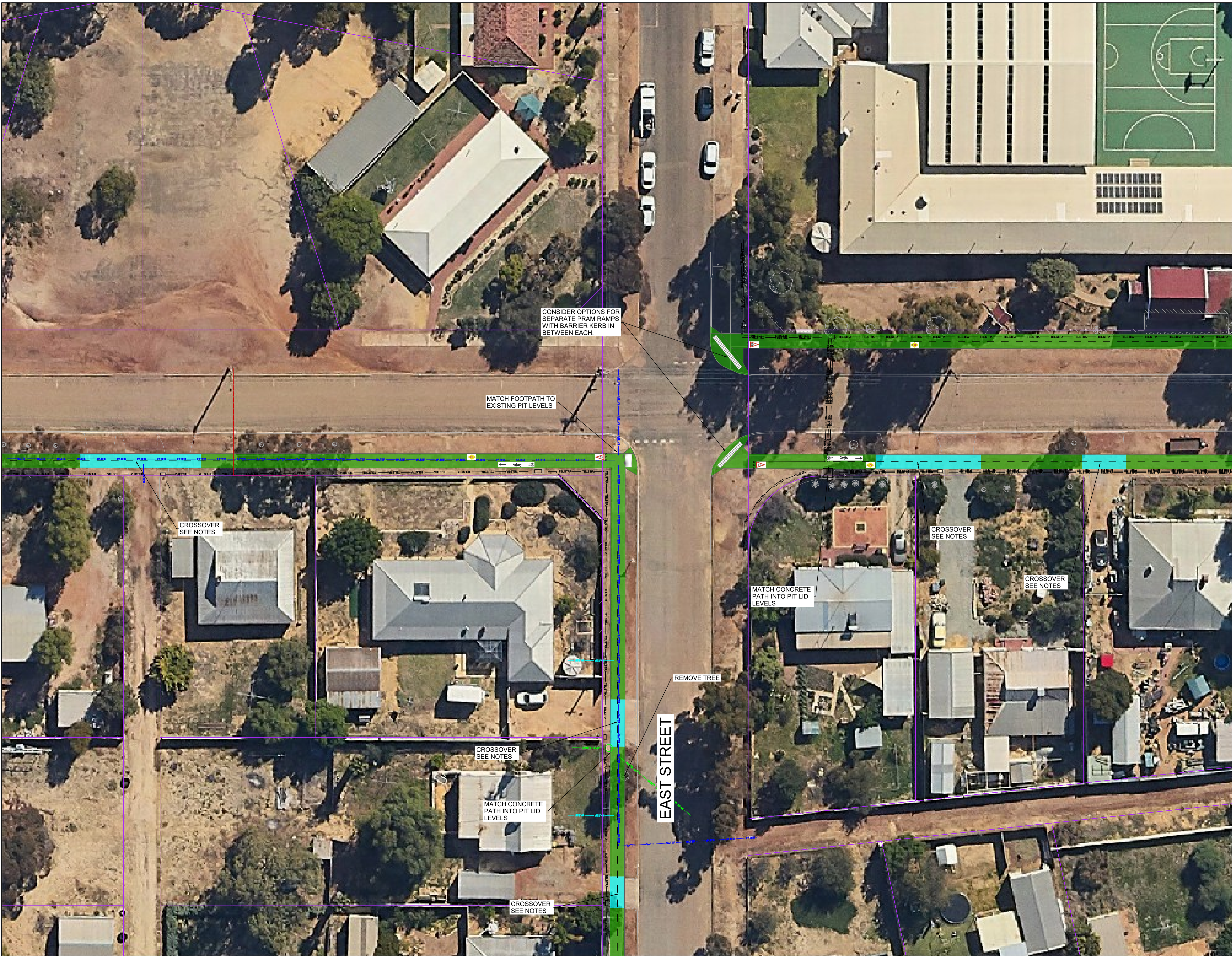
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13 COTTRELL ST, DOWERIN
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DOWERIN FOOTPATH TOWNSITE
FOOTPATH DESIGN
PLAN
Sheet 3 of 8

MRWA DRAWING NUMBER
1072-008-002-3



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LEGEND

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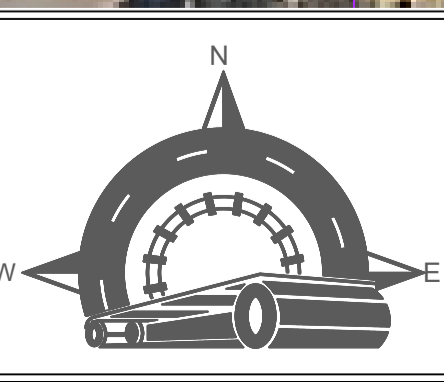
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DOWERIN FOOTPATH TOWNSITE
FOOTPATH DESIGN
PLAN
Sheet 4 of 8

MRWA DRAWING NUMBER
1072-008-002-4



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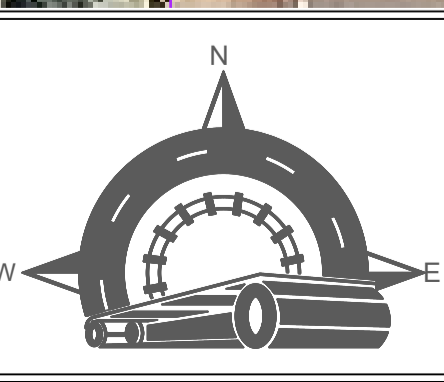
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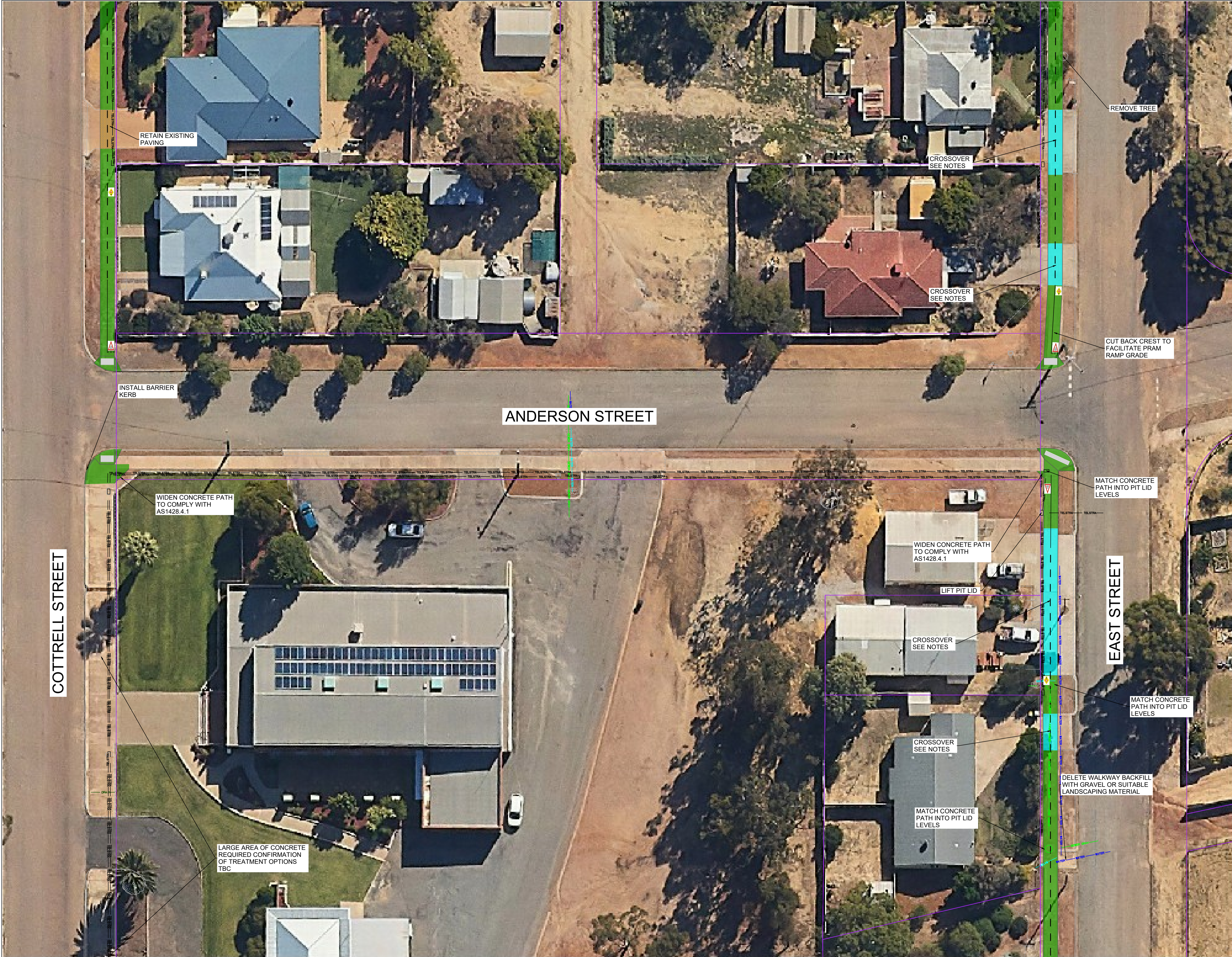
DOWERIN FOOTPATH TOWNSITE
FOOTPATH DESIGN
PLAN
Sheet 5 of 8

MRWA DRAWING NUMBER
1072-008-002-5

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LEGEND

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DOWERIN FOOTPATH TOWNSITE
FOOTPATH DESIGN
PLAN
Sheet 6 of 8

MRWA DRAWING NUMBER
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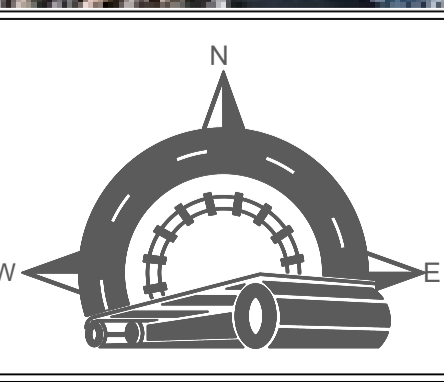
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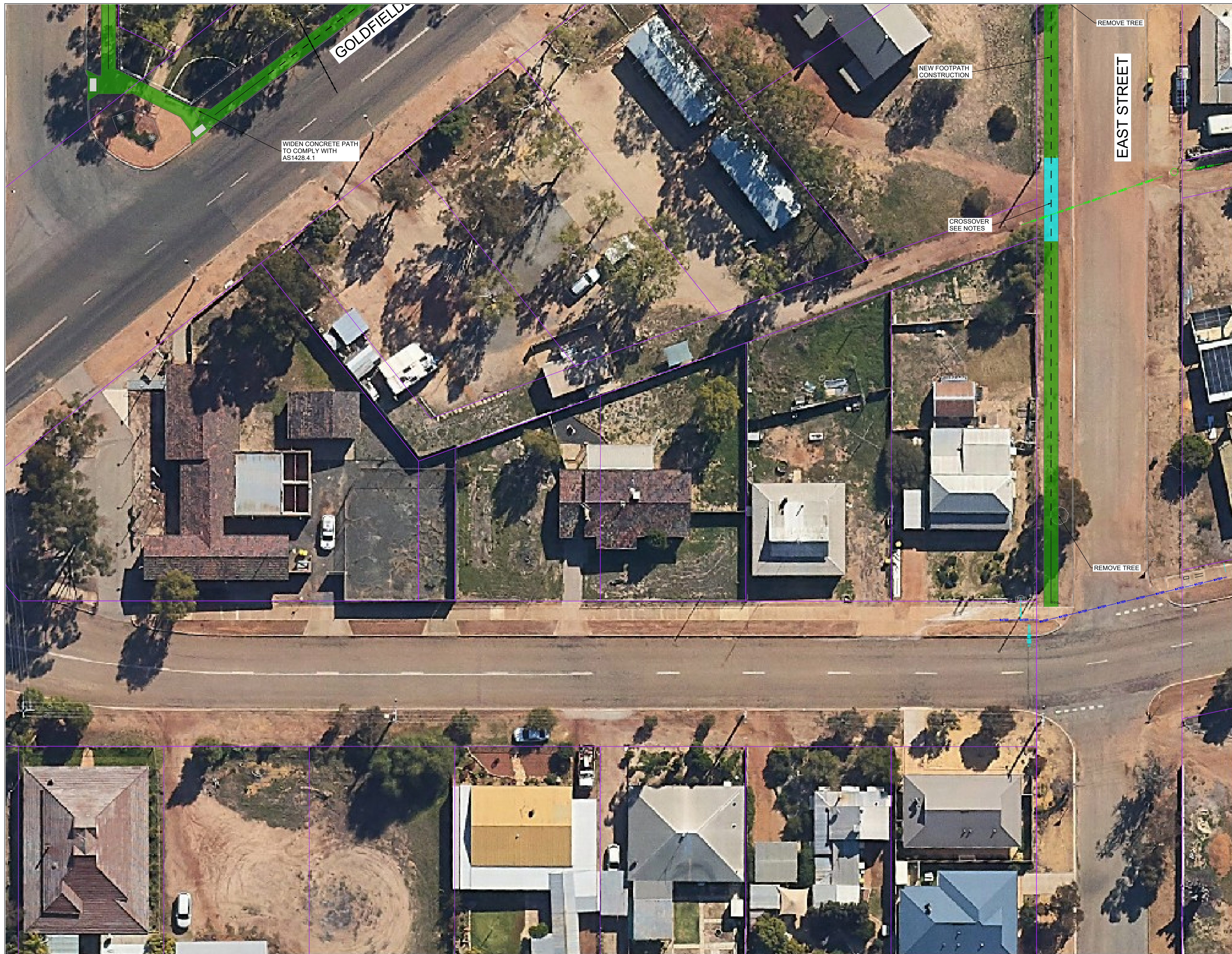
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DOWERIN FOOTPATH TOWNSITE
FOOTPATH DESIGN
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Sheet 7 of 8

MRWA DRAWING NUMBER
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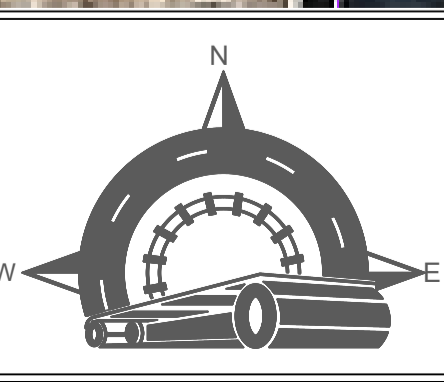
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JOB NO.	

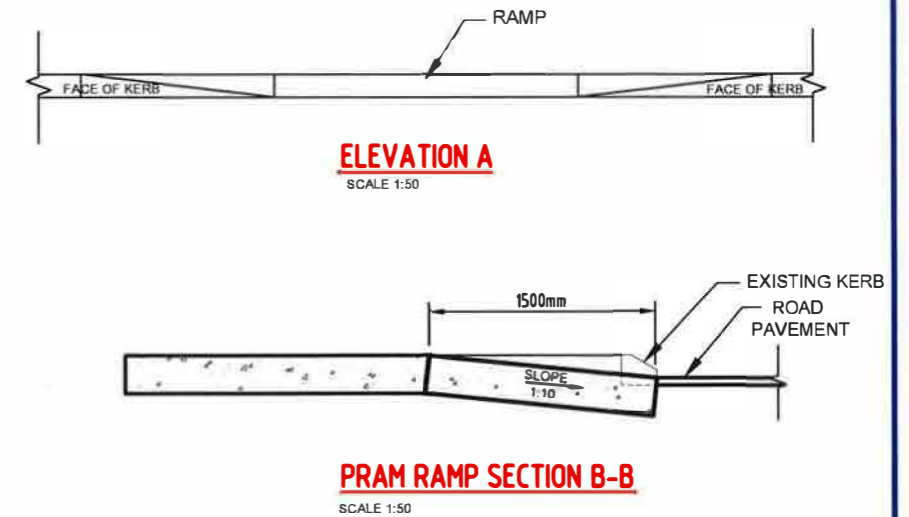
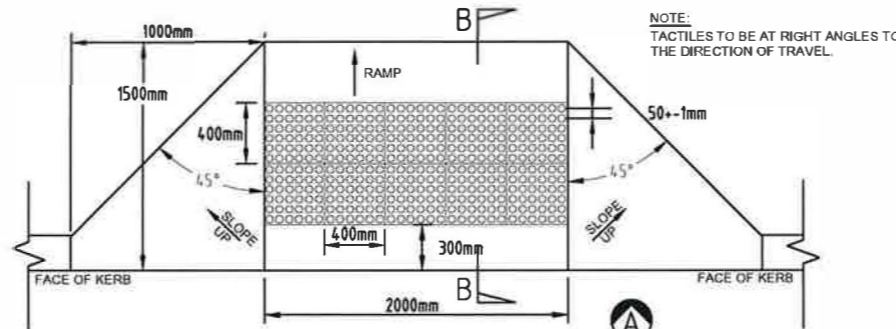
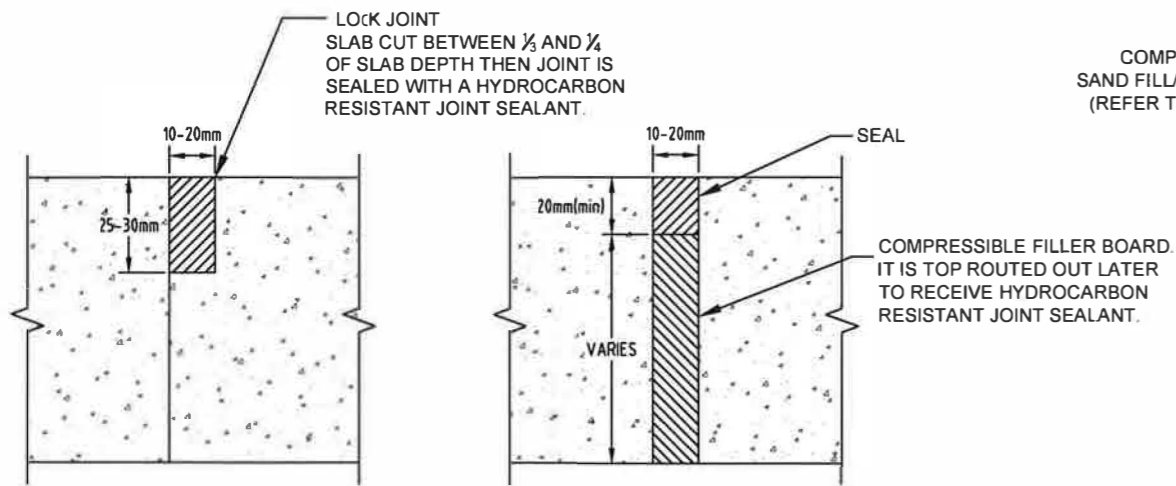
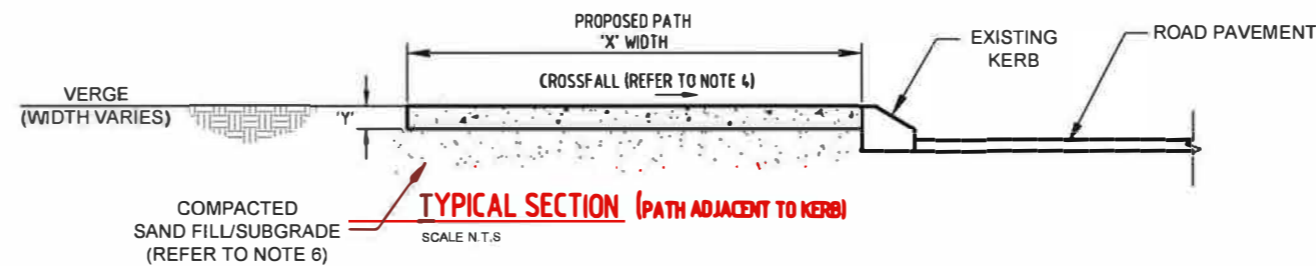
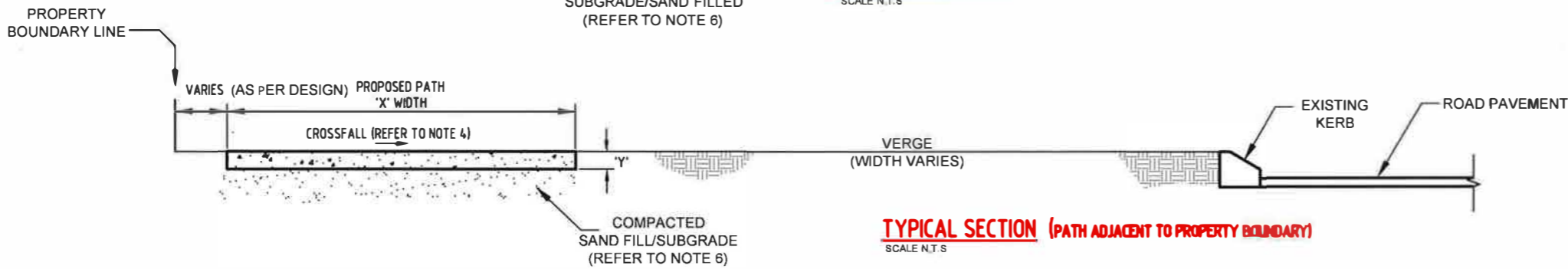
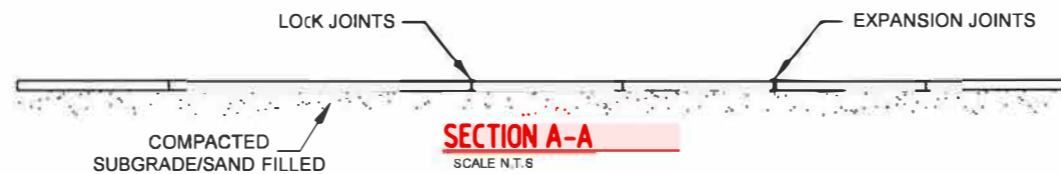
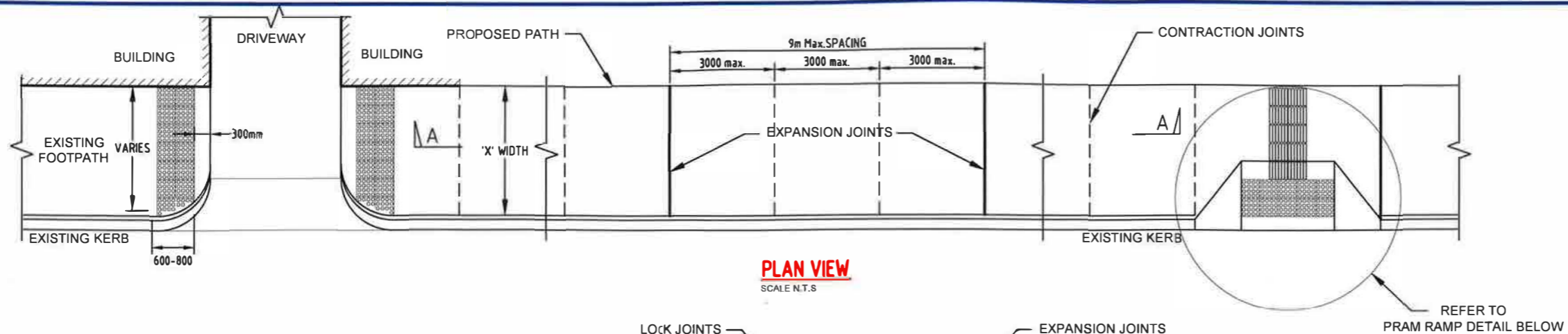
SHIRE OF DOWERIN
TIN DOG TERRITORY

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WHEATBELT REGION
13 COTTRELL ST, DOWERIN
(08) 9631 1202

DRAWN	
DESIGNED	
VERIFIED	
APPROVED	
FILE NO.	

DOWERIN FOOTPATH TOWNSITE
FOOTPATH DESIGN
PLAN
Sheet 8 of 8

MRWA DRAWING NUMBER
1072-008-002-8

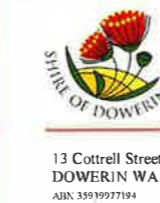


- ### NOTES
- CONCRETE**
 - THE CAST IN SITU CONCRETE FOOTPATH IS TO BE 100mm THICK AND 15DMM FOR CROSSOVERS
 - ALL CONCRETE SHALL DEVELOP A MINIMUM COMPRESSIVE STRENGTH OF 25mpa AND HAVE A MAXIMUM SLUMP OF 80mm USING 10mm AGGREGATE.
 - ADDITIVES SHALL BE USED IN ACCORDANCE WITH MANUFACTURER RECOMMENDATIONS.
 - SURFACE FINISH AND TEXTURE**
 - THE CONCRETE SHALL BE SCREED TO CORRECT LEVELS AND FINISHED WITH A WOOD FLOAT OR BROOM TO PRODUCE A NON-SLIP DENSE FINE TEXTURED SURFACE FREE FROM DEFECTS SUCH AS DEPRESSIONS, HONEYCOMB SECTIONS OR THE ACCUMULATION OF FINE DUSTY ACCRETIONS.
 - JOINTING**
 - AN EXPANSION JOINT MUST BE PROVIDED AT THE PROPERTY BOUNDARY, AT THE REAR OF THE KERB AND WHERE THE CROSSOVER BUTTS UP TO AN EXISTING FOOTPATH
 - CROSSFALL**
 - CROSSFALL ON THE FOOTPATH SHALL BE AS FLAT AS PRACTICABLE CONSISTENT WITH ACHIEVING AN ADEQUATELY DRAINED SURFACE. CROSSFALL (WHETHER CROWNED OR BANKED) SHOULD NOT EXCEED 1:100 AS SPECIFIED IN AS1428. STEEPER CROSSFALLS MAY BE PROVIDED IF DRAINAGE PROBLEMS ARE EXPECTED OR WHERE THE TERRAIN IS NOT SUITABLE FOR FLATTER CROSSFALLS. THE MAXIMUM CROSSFALL IS 1:40
 - RAMPS**
 - KERB RAMP - TO BE IN ACCORDANCE WITH AS1428.1
 - TGSI - TO BE IN ACCORDANCE WITH AS1428.4. ALL TGSI IS TO BE OF TILES (i.e. NON-STICK ON TYPE)
 - COMPACTION**
 - THE FOUNDATION MATERIAL SHALL BE COMPACTED TO A MINIMUM DRY DENSITY RATIO OF 94% WHEN TESTED IN ACCORDANCE WITH AS1289
 - REINSTATEMENTS**
 - THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE FULL REINSTATEMENT OF ROADS, DRIVEWAYS (CROSSOVERS), PATHS, VERGES, RETICULATION SYSTEM AND STREET FURNITURE. THIS SHALL INCLUDE LEAVING THEM IN THEIR ORIGINAL CONDITION OR BETTER.
 - EXISTING SERVICES**
 - THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL EXISTING SERVICES AFFECTED BY THE CONSTRUCTION

REVISIONS	No	DATE	DRN	CHK	DES	APP

	DATE	TITLE
DRAWN	N.B	JAN'10
CHECKED	J.C	JAN'10
DESIGNED	J.C	2009
APPROVED		

STANDARD DRAWING FOOTPATH



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