

18 May 2018

Invitation: National Capital Works 4 (NCW4) Industry Consultation

Dear Industry Participant

On behalf of members of the Australasian Procurement and Construction Council (APCC) and Austroads, we invite you to review and comment on the draft National Capital Works (NCW4) General Conditions of Contract developed by government for use by government agencies.

With AS2124 outdated and its intended replacement AS11000 not being progressed, APCC and Austroads have initiated development of a new General Conditions of Contract with a focus on improving the efficiency of project delivery and reduce the potential for contractual disputes by driving greater consistency in the contractual conditions and clauses used by our members.

It is important to note that NCW4 is primarily for Construct Only contracts with special conditions to be considered at the jurisdictional level. The clauses have been developed for public sector use.

There are numerous inclusions in NCW4 to align it with contemporary Australian construction Construct Only contracts, such as:

- provision for current legislation (GST, WHS, Security of Payment and Personal Property Securities);
- distinction between working days and business days;
- use of a Commercial Framework, which is customised by each agency to cover matters such as schedule of rates, bill of quantities, lump sums, overheads, profit, rise & fall etc.;
- clarification of the entitlement to delay costs;
- clarification of which documents can be relied upon by the contractor;
- options for alternative dispute resolution;
- clarification of the procedure for claims; and
- more extensive use of defined terms to avoid ambiguity.

It is worth noting that the risk allocation of NCW4 is fundamentally the same as that in AS2124. In addition, to keep the transition process as simple as possible, the clause numbering of NCW4 generally aligns with that of AS2124.

To develop NCW4 to its current stage, extensive APCC and Austroads member collaboration and consultation has occurred. It has now reached the stage where wider government and industry feedback is required.

Furthermore, a set of Explanatory Notes have been developed which will be released together with NCW4.

The purpose of this consultation is to seek feedback on the content, suggested improvements and understand any major barriers to adoption of NCW4.

When providing feedback, please be constructive. If you have any concerns or suggested improvements, provide examples of alternative wording.

Please note that both industry and government are being consulted, consequently there may be further changes to NCW4 subject to the feedback received.

A four-week consultation period is provided, beginning 10 May 2018 and ending COB 7 June 2018. Feedback should be emailed to info@apcc.gov.au.

Thank you for your time and valuable feedback.

Yours sincerely



Teresa Scott
Executive Director, APCC

Yours sincerely



Nick Koukoulas
Chief Executive, Austroads