

Nation Building Program (National Land Transport) Act 2009

**NATION BUILDING PROGRAM ROADS TO RECOVERY PROGRAM
CONDITIONS VARIATION 2011/1**

I, ALEXANDER EDWARD FOULDS, General Manager, South East Roads, Department of Infrastructure and Transport, under section 90(5) of the *Nation Building Program (National Land Transport) Act 2009* (the Act), vary the conditions applying to payments under Part 8 of the Act which were determined by the Minister on 9 September 2009 and varied on 25 November 2010.

Dated: 19 April 2011

Signed

ALEX FOULDS
Delegate of the Minister for Infrastructure and Transport

1. Name of variation

This variation instrument is the Nation Building Program Roads to Recovery Program Conditions Variation 2011/1.

2. Commencement

This variation commences on the day after registration and applies to payments made under Part 8 of the Act from the date of commencement of this variation to 30 June 2014.

3. Variation

3.1 At the end of Part 9, insert a new Part 10 as follows:

‘Part 10 Compliance with other laws

- 10.1 Funding recipients are required to comply with all other relevant laws, including those identified below.
- 10.2 The *National Code of Practice for the Construction Industry* (the Construction Code) is the standard of practice for building and construction work, setting out the responsibilities of all parties on construction projects funded by the Australian Government. The *Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry* (the Implementation Guidelines) outlines the process for complying with the Construction Code.

The Construction Code and the Implementation Guidelines apply to all construction projects indirectly funded by the Australian Government through grant or other programs where:

- the Australian Government funding contribution is at least \$5 million and represents at least 50 per cent of the total construction value; and
- the Australian Government contribution to the project is \$10 million or more irrespective of the proportion of Australian Government funding.

For further information, and copies of the Construction Code and Implementation Guidelines, refer to:

<http://www.deewr.gov.au/WorkplaceRelations/Policies/BuildingandConstruction/Pages/NationalCodeandGuidelines.aspx> or contact the National Code Hotline on 1300 731 293.

- 10.3 Under the *Building and Construction Industry Improvement Act (2005)*, Australian Government agencies can only fund “building work” when, subject to thresholds, an accredited builder is engaged.

The Australian Government Building and Construction OHS Accreditation Scheme (the Scheme) operates such that, subject to certain thresholds, only head contractors who are accredited under the Scheme can enter into contracts for building work that is funded directly or indirectly by the Australian Government.

Roads to Recovery projects are considered indirectly funded.

The Scheme applies to projects that are indirectly funded by the Australian Government and where:

- the value of the Australian Government contribution to the project is at least \$5 million and represents at least 50 per cent of the total construction project value; or
- the Australian Government contribution to a project is \$10 million or more, irrespective of the proportion of Australian Government funding.

If a project meets the above thresholds, the requirement that accredited builders carry out the building work only applies to head contracts for building work valued at \$3 million or more.

For further information on the Scheme, refer to the *Australian Government Building and Construction OHS Accreditation Scheme: Guidance for Government Agencies and Funding Recipients*, available on the Federal Safety Commissioner (FSC) website at

<http://www.fsc.gov.au/ofsc/Theaccreditationscheme/> or contact the FSC Assist Line on 1800 652 500.

- 10.4 Projects must adhere to Australian Government environment and heritage legislation eg the *Environment Protection and Biodiversity Conservation Act 1999*. Construction cannot start unless the relevant obligations are met.

The Department strongly recommends that, before starting an environmental study for a project, Proponents contact the Australian Government Department of Environment, Water, Heritage and the Arts

<http://www.environment.gov.au/epbc/index.html>. They can provide advice about Australian Government requirements and ensure that the Australian Government's legislative requirements are properly addressed by the study. This will reduce the likelihood of cost and time delays before construction can commence.

- 10.5 Other statutory requirements

Funding recipients must also meet other statutory requirements where relevant. These may include, but are not limited to:

- Native title legislation;
- State government legislation - for example, environment and heritage; and
- Local government planning approvals'.