

Review of the Amended Unfair Contract Terms Protections

Submission on Unfair Contract Terms

March 2026

Introduction

The National Electrical and Communications Association (**NECA**) has identified, through consultation with its members and key industry stakeholders, persistent and systemic risk allocation practices in construction contracting that create unfair and disproportionate outcomes for subcontractors and trade contractors.

In many government and public sector projects, the contractual relationship between the government principal and the head contractor is governed by a standard form contract, such as GC21. These upstream contracts generally allocate risk in a balanced and transparent manner and are not materially amended. Under such contracts, head contractors benefit from clear and fair entitlements to extensions of time, variations and, in appropriate circumstances, delay costs for events beyond their control.

However, a significant disparity arises downstream. While head contractors enjoy fair and largely unamended risk allocation under government standard contracts, they routinely impose heavily amended subcontract terms on subcontractors and trade contractors. These downstream contracts commonly depart from Australian Standard subcontract forms, particularly AS 4901, by removing or substantially restricting fundamental subcontractor entitlements and shifting material project, coordination, delay, design and site risks onto parties with limited financial, technical and human resources on a “take it or leave it” basis.

By way of example, under a government head contract such as GC21, a head contractor is typically entitled to claim an extension of time and, in some cases, associated delay costs for events outside its control, such as restricted site access, principal-caused delays or coordination failures. However, in many amended downstream subcontracts, those same events are expressly excluded as qualifying causes of delay or compensable events. As a result, the head contractor is able to obtain upstream relief for an event it did not cause or control, while the subcontractor performing the affected work is contractually prevented from claiming either time or cost relief for the very same event, despite also having no ability to control or mitigate its impact.

Although the Australian Consumer Law (**ACL**) contains an unfair contract terms (**UCT**) regime, its practical operation provides limited protection in the construction context.

The UCT regime applies only to *standard form* contracts and only where at least one party to the contract qualifies as a *small business* within the meaning of the ACL. A business will qualify as a small business where it employs fewer than 100 persons or has an annual turnover of less than \$10 million. Subcontractors and trade contractors that do not meet this statutory definition fall entirely outside the scope of the UCT regime. In practice, many subcontractors engaged on major government and infrastructure projects are medium-sized or large enterprises, or form part of broader corporate groups, and are therefore unable to rely on the UCT regime.

Further, even where a subcontract can satisfy both threshold requirements — namely, that it is a standard form contract and that the subcontractor qualifies as a small business — the application of the UCT regime to construction contracts remains largely untested. There is limited judicial guidance on how the regime applies to complex, risk-laden construction contracts involving multiple parties, long contract chains and project-specific risk allocation. This uncertainty further diminishes the regime’s effectiveness as a practical constraint on unfair downstream risk transfer in the construction industry.

The National Electrical and Communications Association (NECA), in consultation with major contractors and industry stakeholders, have prepared this submission to identify specific non-standard downstream risk allocation practices that are now commonplace in construction contracts. These practices distort pricing, incentivise the transfer rather than the management of risk, and erode confidence and sustainability across the construction industry.

The purpose of this submission is not to require government principals to alter the fair and balanced risk allocation reflected in standard upstream contracts such as GC21. Rather, it is to ensure that head contractors do not enjoy the benefit of fair risk allocation upstream while imposing materially harsher and unbalanced risk regimes downstream.

This submission seeks to promote consistency of risk allocation across the contracting chain, so that risks borne fairly by head contractors under government contracts are not inappropriately transferred to subcontractors who lack the ability to control or manage them.

Executive Summary

The recommendations arising from this process are set out below:

1. Subcontracts on government and publicly funded projects must include a positive obligation that the Subcontract Superintendent (and Head Contractor where relevant) act reasonably, honestly and in good faith, and do not engage in arbitrary conduct, particularly when assessing variations, extensions of time, set-off, deductions and completion, as this will drive improved productivity, promote better contracting culture and reduce insolvency risk across the construction supply chain.
2. Head Contractors must retain responsibility for site management and coordination, and should not require subcontractors to accept delays, disruptions or re-work caused by the Head Contractor, the Principal or other subcontractors without compensation.
3. Subcontractors should not bear coordination risks they cannot control and must be entitled to time and cost relief where they are impacted by others in the supply chain, recognising that head contractors are selected and paid for their project management expertise.
4. Subcontractors should have a fair entitlement to time and cost relief where delays or disruptions arise from factors outside their control, and where the Head Contractor is entitled to corresponding relief under the head contract, that entitlement should be passed through to subcontractors.
5. Subcontractors should not be required to rectify, at their own cost, loss or damage to the subcontract works caused by the Head Contractor, Principal or other subcontractors even during the period the subcontractor is responsible for the care of the works, and must have clear contractual recourse under the subcontract to recover those costs, rather than under the law.
6. The Subcontractor should be entitled to interest on late payments.
7. The defects liability period under a subcontract should be linked to completion of the subcontract works and not be tied to the Head Contractor's obligations under the main contract.

8. Set-off and deduction rights under subcontracts should be limited to legitimate, substantiated claims that can be properly particularised, and should not permit the withholding of payments based on estimated, speculative or future amounts, as such regimes undermine cash flow, defeat legitimate claims through disingenuous counterclaims and materially increase insolvency risk in the supply chain.
9. Subcontractors should not be required to warrant the accuracy, completeness or fitness for purpose of designs, drawings or specifications prepared by the Head Contractor or its consultants; responsibility for errors or inadequacies should remain with the party that controls and prepares those documents, and any increase or decrease in cost arising from discrepancies should be treated as a variation to the subcontract.
10. Where a subcontract is let on a construct-only basis, subcontractors should be entitled to time and cost relief for design changes, ambiguities or errors in documentation issued by the Head Contractor after contract award, and such changes should give rise to variations under the subcontract.
11. Liquidated damages under subcontracts should be proportionate to the value of the relevant subcontract and should not exceed the rates agreed under the head contract, and where liquidated damages are the Principal's sole remedy under the head contract, they should also be the sole remedy under the subcontract.
12. Subcontracts should not impose unreasonably short or strict time bars (such as 48-hour notice requirements) that extinguish genuine extension of time claims; notice periods should be reasonable and proportionate to the nature of construction projects.
13. Subcontractors should be entitled to both extensions of time and delay costs where delays are caused by the Principal, Head Contractor or other factors outside the subcontractor's control, and extensions of time should not operate as a sole remedy in such circumstances.
14. Subcontractor entitlements to time and cost relief must not be conditional on whether the Head Contractor obtains a corresponding extension of time or relief under the head contract.
15. Subcontractors should not be bound by undisclosed or confidential head contract obligations; any obligations intended to be passed down from the head contract must be clearly identified and fully disclosed in the subcontract (for example, in an appendix) and should not be enforceable unless expressly incorporated.
16. Unlimited indemnity obligations in subcontracts should be prohibited, particularly where they extend to indirect or consequential loss; indemnities should be limited to losses arising directly from the subcontractor's negligence or breach and capped at a reasonable level, such as the subcontract sum or the value of the subcontractor's insurance cover.
17. Any novation or transfer of a subcontractor's rights or obligations must require the subcontractor's prior agreement and signature, and head contractors or principals should not be permitted to execute novation or transfer documents on a subcontractor's behalf without consent.

Annexure A

Standard risk allocation (AS4901)	Typical risk allocation in industry	Risks identified / reasons unfair	Potential proposal to Government
<p>The Principal shall ensure that the Superintendent fulfils all aspects of the role and functions <u>reasonably and in good faith.</u></p> <p>This positive obligation is highly relevant when approving variations, EOTs and issuing practical completion certificate etc.</p> <p>They cannot unreasonably deny subcontractor claims.</p> <p>(Clause 20)</p>	<p>Head Contracts often don't include an obligation that the Head Contractor or the Superintendent acts reasonably, fairly, honestly and in good faith.</p>	<p>Without such an obligation, the Head Contractor can act unfairly or dishonestly without breaching the contract, despite often working for government clients who are bound by model litigant obligations and broader public expectations of integrity.</p> <p>For example, a Head Contractor may refuse to issue a practical completion certificate due to minor or non-critical defects, thereby delaying final payment and release of security, despite the works substantially being otherwise complete.</p>	<p>There must be a positive obligation that the Subcontract Superintendent (and Head Contractor where relevant) act reasonably and in good faith when assessing variations, extensions of time, set-off, deductions and completion, as this will improve productivity, promote better contracting culture and reduce insolvency risk across the construction supply chain.</p>
<p>The coordination responsibility remains with the Head Contractor and protects subcontractors where delays are caused by others.</p> <p>It defines “qualifying causes of delay” and “compensable causes” broadly to include acts, defaults, or omissions of the Principal, Superintendent, Head Contractor, or other contractors.</p> <p>Subcontractors are entitled to an EOT when such delays occur, and to delay damages when the cause is compensable.</p> <p>(Clause 34)</p>	<p>Head Contracts often require that:</p> <ul style="list-style-type: none"> - Subcontractor must coordinate all work with Head Contractor, Principal, Client, and other subcontractors. - Subcontractor must accept delays, disruptions, or re-work caused by others without compensation; and waive any right to claim costs/time due to coordination issues. 	<p>Requiring subcontractors to bear the full risk of coordination failures, including those caused by the Head Contractor, Principal, Superintendent or other subcontractors, and denying any entitlement to extensions of time or compensation for such disruptions, improperly shifts the Head Contractor’s project management responsibility onto the supply chain, despite the Head Contractor being engaged and paid to manage those risks.</p>	<p>The Head Contractor must retain responsibility for site management and coordination, as this is the basis on which it is selected and paid by the Principal;</p> <p>Subcontractors should not bear coordination risks they cannot control and must be entitled to time and cost relief where they are impacted by acts or omissions of others in the supply chain.</p>

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<p>Clause 25 – Latent Conditions: If the Subcontractor encounters a latent condition differing materially from what should reasonably have been anticipated, the effect is treated as a <u>deemed variation</u>, entitling the Subcontractor to time/cost adjustments.</p> <p>Clause 34 – Time and Progress: Subcontractor is entitled to an Extension of Time (EOT) if delayed by a qualifying cause of delay (e.g., acts or omissions of the Principal, Superintendent, Head Contractor, or their agents). Notice must be given within 21 days. The Subcontractor is also entitled to delay damages for compensable causes.</p> <p>Clause 33 – Suspension: Subcontract Superintendent may direct suspension for reasons such as acts/omissions of the Head Contractor, Principal, or Superintendent, or for safety. If suspension is not caused by the Subcontractor, cost/time impacts are compensable.</p> <p>Clause 11 – Legislative Requirements: If changes in law or statutory requirements cause additional cost, the difference is assessed and added to or deducted from the subcontract sum.</p>	<p>Head Contracts impose obligations that</p> <ul style="list-style-type: none"> - Subcontractors are required to accept that the subcontract price covers all disruptions and delays, allowances, latent site conditions and are prevented from claiming additional time or cost even if the disruption arises from the Head Contractor or circumstances beyond their control. - Subcontractors are not entitled to recover any additional payment for any loss, expense or damage for any disruption to the Subcontractor's execution of the work under the Subcontract including prolongation, delay, acceleration, lack of continuity, overtime, lack of co-ordination, overcrowding, industrial disruption or lack of access, whether or not they were attributable to HEAD CONTRACTOR. - The Subcontractor is responsible for, accepts the risk of, and must carry out all work required to deal with and overcome the effects of, all Site Conditions without any recourse provisions for time/cost. 	<p>This approach forces subcontractors to absorb risks they cannot reasonably manage, including latent conditions, restricted access, coordination failures and industrial issues, resulting in unrecoverable costs such as standing down labour while continuing to incur wages and overheads.</p> <p>These risks are compounded by the limited opportunity subcontractors typically have to inspect site conditions or review extensive tender documentation within compressed timeframes, compared to head contractors who generally have greater resources, specialist teams and significantly longer tender periods.</p> <p>The effect is that systemic project risks are transferred to parties least able to manage or price them, while head contractors and principals preserve their own entitlements under the head contract. This creates a significant imbalance in risk allocation and undermines fair and efficient project delivery.</p>	<p>Subcontractors should have fair entitlement to time and cost relief where delays or disruptions arise from factors outside their control, including:</p> <ol style="list-style-type: none"> 1. Acts or breaches by the Head Contractor 2. Industrial relations issues not caused by the Subcontractor 3. Latent conditions where the Subcontractor had no reasonable opportunity to inspect the site conditions 4. Contamination where the Subcontractor had no reasonable opportunity to inspect or not reasonable for the contamination 5. Changes in law, codes or standards 6. Suspensions not caused by the Subcontractor 7. Circumstances where the Head Contractor is entitled to relief under the Main Contract <p>This entitlement framework should commence with the Head Contractor being afforded appropriate qualifying causes of delay under the head contract and passing those entitlements through to subcontractors.</p> <p>Failure to do so enables systemic project risks to be deliberately underpriced upstream and displaced onto the supply chain, undermining</p>

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<p>Clause 14.3 – Excepted Risks: Loss or damage caused by negligent acts/omissions of the Head Contractor, Superintendent, or Principal are at the risk of the Main Contractor, not the Subcontractor.</p>			<p>fair pricing, productivity and financial sustainability.</p> <p>Subcontractors should not be required to absorb risks that head contractors have chosen not to price or programme, particularly on government projects where price-driven procurement already incentivises risk transfer.</p>
<p>The Subcontractor is responsible for the care of the subcontract works (WUS) until practical completion. However, AS4901 provides an excepted risk regime: if loss or damage occurs due to excepted risks, the Subcontractor is not liable and the effect is treated as a deemed variation. (Clause 14 – Care of the Work and Reinstatement of Damage)</p> <p>Excepted risks include negligent acts or omissions of the Head Contractor, Superintendent, or Principal (and their consultants, agents or contractors), war, civil commotion, radioactive contamination, use or occupation by the Principal or Head Contractor, and defects in the design (other than subcontractor design). (Clause 14.3 – Excepted Risks)</p>	<p>Head Contracts often require that:</p> <ul style="list-style-type: none"> - Any loss or damage caused by others to the subcontract works during the period the subcontractor is responsible for their care must be rectified by the subcontractor at its own cost. - No excepted risk regime is provided, meaning the subcontractor remains liable even where loss or damage is caused by others. 	<p>This places subcontractors at risk for damage to completed or partially completed works that they cannot practically control (e.g., finishing trades damaging earlier work done by the subcontractor).</p> <p>In practice, if Subcontractor A damages Subcontractor B’s work, Subcontractor B may not be able to recover its costs from the Head Contractor, even though the Head Contractor may have recourse against Subcontractor A.</p>	<p>Subcontracts should include a clear contractual mechanism that allows subcontractors to recover time and cost where loss or damage to the subcontract works is caused by the Head Contractor, the Principal or other subcontractors even during the period the subcontractor is responsible for the care of the subcontract works.</p>
<p>If a party fails to pay moneys due and payable under the subcontract, that party shall be liable to pay interest compounded at the rate stated in the Annexure, or if not</p>	<p>Head Contracts don’t provide any right to the interest in delay or non-payment.</p>		<p>The Subcontractor should be entitled to interest on late payments.</p>

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stated, at 18% per annum. (Clause 37.5 – Payment)			
<p>It allows the parties to negotiate DLP. If a specific subcontract DLP is agreed and stated in Item 30, that period will apply.</p> <p>If nothing is stated, the default is that the subcontract DLP expires on the date of expiry of the last defects liability period under the main contract. (Clause 35)</p> <p>This provides flexibility by leaving the period open to bargaining and negotiation between the parties, rather than automatically imposing the head contract period.</p>	<p>Head Contracts require that:</p> <ul style="list-style-type: none"> - The subcontractor’s defects liability period is tied to the head contractor’s obligations under the main contract, rather than being limited to the subcontractor’s own works. 	<p>By tying the subcontractor’s defects liability period to the project or main contract rather than its own works, subcontractors are exposed to extended warranty obligations at no cost.</p> <p>If the project is delayed by the Head Contractor or Principal, the subcontractor must provide a longer DLP without compensation. This effectively transfers the cost of project delays to subcontractors.</p>	<p>The defects liability period under a subcontract should be linked to completion of the subcontract works, not the main contract.</p> <p>Subcontractors should not be required to provide extended warranties when the project is delayed by the Head Contractor or Principal.</p>
<p>AS4901 does not give the head contractor an unfettered right to set off speculative claims. Deductions from payment must be supported by the contract (e.g., adjustment of variations, assessed damages, or proven costs due).</p>	<p>Head Contracts state that:</p> <ul style="list-style-type: none"> - The Head Contractor may set off or deduct from payments any amounts it asserts may become due from the subcontractor (even if only estimated or future amounts) or 	<p>This allows the Head Contractor to withhold payments from subcontractors based on unproven, estimated, or speculative claims, even where no contractual liability exists.</p> <p>The reliance on the Head Contractor’s subjective “bona fide opinion” creates scope for manipulation and unfairness, leaving subcontractors with limited recourse.</p>	<p>Set-off and deduction rights under subcontracts should be limited to legitimate, substantiated claims that can be properly particularised and supported by contractual entitlement.</p> <p>Subcontractors should not be subject to deductions based on estimated, speculative or future claims, as such regimes undermine cash flow, defeat legitimate payment claims and increase insolvency risk within the construction supply chain.</p>
<p>AS4901 does not require the subcontractor to warrant the accuracy, completeness, or suitability of preliminary designs,</p>	<p>Head Contracts require:</p> <ul style="list-style-type: none"> - Subcontractors to warrant that preliminary designs, drawings, 	<p>This shifts design and documentation risks from the Head Contractor onto subcontractors, even though subcontractors are not given the</p>	<p>Subcontractors should be entitled to rely on designs, drawings and specifications provided by the Head Contractor or Principal where they</p>

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<p>drawings, or specifications prepared by the Head Contractor or Principal.</p> <p>Where there are discrepancies, the Subcontract Superintendent is to direct the resolution, and the subcontractor is entitled to claim any adjustment in time or cost as a variation. (Clause 8.1 – Discrepancies; Clause 36 – Variations)</p>	<p>and specifications provided by the Head Contractor are suitable, free of errors, and will produce works that are fit for purpose.</p> <ul style="list-style-type: none"> - Subcontractors to accept that the Head Contractor has no liability for their accuracy or completeness. 	<p>same time, resources, or information to conduct due diligence.</p> <p>This forces subcontractors to accept risks they cannot reasonably manage and creates exposure for defects or inconsistencies in designs and information provided by others.</p>	<p>have not been given a reasonable opportunity to verify them.</p> <p>Responsibility for errors, ambiguities or inadequacies in those documents should remain with the party that prepares and controls the design, and any increase or decrease in time or cost arising from discrepancies should be treated as a variation to the subcontract.</p>
<p>If after award, the Head Contractor issues a revised drawing requiring additional reinforcement or extra fittings, the subcontractor can claim both cost and time relief as a variation under Clauses 8.2 and 36.</p>	<p>Head Contracts don't provide any compensation for design change.</p> <ul style="list-style-type: none"> - The subcontractor is not entitled to a variation or give rise to any claim when there are design changes from the original design and the detailed design issued after contract award. - The subcontractor also bears the risk of ambiguities, errors, or buildability problems in the subcontract documents and must rectify them at its own cost, without entitlement to time or cost relief. 	<p>This exposes subcontractors to additional scope and design changes without compensation.</p> <p>For example, if the Head Contractor's consultant revises the design to include extra fittings, the subcontractor must install them at its own cost.</p> <p>In construct-only engagements, subcontractors price exactly what is shown; forcing them to absorb ambiguities or incomplete design shifts responsibility for design management onto them, even though they have not been engaged to undertake that risk.</p>	<p>Where a subcontract is let on a construct-only basis, subcontractors should be entitled to time and cost relief for design changes, ambiguities or errors in documentation issued after contract award.</p> <p>Responsibility for design risk should remain with the party that prepares and controls the design (the Head Contractor and its consultants), and post-award design changes should give rise to variations under the subcontract rather than being absorbed by subcontractors without compensation.</p>

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<p>If the Subcontractor fails to reach practical completion by the Date for Practical Completion, the Subcontractor shall pay the Contractor liquidated damages at the rate stated in Item 27(a) of the Annexure. (Clause 34.7 – Time and Progress)</p> <p>Item 27(b) and subclause 34.7A provide an optional mechanism for linking subcontract LDs to the main contract LD rate (only if the parties choose to do so).</p> <p>This leaves the subcontract LDs open to bargaining and negotiation between the parties, rather than automatically imposing main contract LDs on subcontractors.</p>	<p>Head Contracts state that:</p> <ul style="list-style-type: none"> - The subcontractor is required to pay liquidated damages if it fails to achieve completion by the due date, but this does not limit the Head Contractor's right to claim additional unliquidated damages. - The subcontractor must also indemnify the Head Contractor for losses or claims brought by the Principal or other contractors arising from delays, meaning liability goes beyond the agreed LD regime. 	<p>The Head Contractors often impose harsher obligations on subcontractors than those faced by the Head Contractor under the main contract.</p> <p>LDs are not capped, are not the Head Contractor's sole remedy, and are often set at higher rates than those applicable under the head contract.</p> <p>This allows LDs to be used as a penalty rather than a fair pre-estimate of loss and gives Head Contractors leverage to offset subcontractors' legitimate claims.</p>	<p>Liquidated damages under subcontracts should be proportionate to the value and scope of the relevant subcontract and should not exceed the rates applicable under the head contract.</p> <p>Where liquidated damages are the Principal's sole remedy under the head contract, they should also operate as the sole remedy under the subcontract.</p> <p>Subcontractors should not be exposed to additional or uncapped delay liabilities beyond the agreed liquidated damages regime.</p>
<p>There is no strict time bar for notice of EOT.</p> <p>The Subcontractor's entitlement is not conditional on the Head Contractor obtaining an extension under the Main Contract.</p> <p>If the delay is caused by a compensable cause (e.g., Principal's breach, failure to provide access, or Superintendent delay), the Subcontractor is also entitled to recover delay damages in addition to an EOT.</p>	<p>Head Contracts provide limited entitlement for EOT.</p> <ul style="list-style-type: none"> - Subcontractor must notify Head Contractor of any possible delay within 48 hours of becoming aware, and then submit a detailed claim within 48 hours of the delay ceasing. - Entitlement is conditional on Head Contractor receiving a corresponding EOT under the Head Contract. - EOT is a sole remedy and there is no entitlement to delay 	<p>Creates an unreasonable time bar.</p> <p>by tying the Subcontractor's entitlement to whether the Head Contractor secures an EOT under the Head Contract, the Subcontractor may be unfairly denied extensions.</p> <p>The absence of delay damages means the Subcontractor bears the cost of delays outside its control (e.g., Principal's breach, access failures, Head Contractor's omissions).</p>	<p>Subcontracts should not impose unreasonably short or strict time bars (such as 48-hour notice requirements) that extinguish genuine extension of time claims; notice periods should be reasonable and proportionate to the nature of construction projects (e.g. no less than 7 days).</p> <p>Subcontractors should have an entitlement to both time and cost relief where delays are caused by the Principal, Head Contractor, or other external factors.</p>

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	damages, even if the delay is caused by the Head Contractor or Principal.		Subcontractor's entitlements should not be subject to whether the Head Contractor recovers EOT under the Main Contract.
There is no clause in AS4901 that forces the subcontractor to automatically accept the head contractor's obligations under the main contract.	<p>Head Contracts impose obligations:</p> <ul style="list-style-type: none"> - To shift Main Contractor's obligations to Subcontractors without disclosing them in the subcontract. - Subcontractors must comply with Main Contract obligations, but Head Contractor can withhold disclosure of key terms it deems confidential. 	<p>Subcontractor is forced to accept obligations under a head contract it cannot fully review.</p> <p>Key information (e.g., contract sum, completion requirements, benefits to Head Contractor) may be withheld.</p> <p>Subcontractor's entitlements are limited to what the Head Contractor can recover under the Main Contract.</p>	<p>Any obligations intended to be passed down from the head contract to subcontractors must be expressly identified and fully detailed in the signed subcontract (for example, in a dedicated appendix).</p> <p>Subcontractors should not be bound by undisclosed, confidential or unidentified head contract terms, and no head contract obligation should be enforceable against a subcontractor unless it is expressly incorporated into the subcontract.</p>
<p>The Subcontractor must indemnify the Contractor for property damage and personal injury arising out of the work, but AS4901 limits this by excluding liability for excepted risks (Clause 14.3) and by requiring proportionate liability so that the indemnity is reduced where loss or damage is caused by the Principal, Contractor, Superintendent, or others (Clause 15.1).</p> <p>AS4901 does not extend indemnities to consequential loss (such as loss of profits or financing costs). The subcontractor's indemnity is limited to direct loss or damage within its control.</p>	Head Contracts require the subcontractors to provide unlimited indemnities, often including liability for indirect or consequential loss.	<p>Subcontractors are exposed to open-ended liability that may far exceed the subcontract value and their insurance cover.</p> <p>Consequential loss can include loss of profits, financing costs, and third-party claims of which risks subcontractors cannot control or price.</p>	<p>Unlimited indemnity obligations should be prohibited in subcontracts, particularly where they extend to consequential loss.</p> <p>Indemnities should be limited to losses arising directly from the subcontractor's negligence or breach, and capped at a reasonable amount (e.g., the subcontract sum or the value of insurance cover).</p>

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AS4901 does not permit the Contractor or Principal to sign novation documents on behalf of the Subcontractor without its agreement.	Head Contracts allow the Head Contractor or Principal to sign documents (such as novation deeds) on behalf of the Subcontractor, even where the Subcontractor does not consent.	It may result in subcontractors being forced into contracts with third parties (e.g., through novation) that they never agreed to.	Any novation or transfer of obligations should require the subcontractor's agreement and signature.