

## Changes to the Waka Kotahi NZ Transport Agency Bitumen Price Adjustment Mechanism

Circulation	All road controlling authorities Local Government New Zealand (LGNZ) Civil Contractors NZ (CCNZ) Association of Consulting Engineers NZ (ACENZ) Ministry of Business, Innovation and Employment (MBIE) Office of the Auditor General
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### Purpose

This general circular advises of the following changes to Waka Kotahi NZ Transport Agency contract price adjustment practice for cost fluctuation for infrastructure contracts:

- The bitumen price adjustment series, used with the bitumen volume-based method of contract price adjustment, to adjust for fluctuation in the price of bitumen, is to be calculated using a new formula
- A second bitumen price adjustment series is to be introduced for use with all NEW contracts.

If you are involved in establishing a new contract or are responding to an RFX for a new contract (one that will have a tender close date of 1 September 2023 or later) then this change will affect your contract. Waka Kotahi expects that any bitumen volume-based part of the contract price adjustment will be calculated using the NEW contracts bitumen price adjustment series described in this general circular. The specific action you will need to take is set out below under *Action required*.

### The need for change

Since November 2019 the Waka Kotahi monthly bitumen price adjustment series value, used with the bitumen volume based method of contract price adjustment in infrastructure contracts, and described in the document [Contract Price Adjustment for Cost Fluctuation: Infrastructure Contracts](#), has been calculated from the Z Energy list price for bitumen. Prior to November 2019 the series value movement had been calculated from movement in the Platts Singapore HSFO 180 price and the USD/NZD exchange rate, but when change became necessary Waka Kotahi agreed with industry, bitumen importers and contractors, to use a Z Energy list price-based formula, as a temporary measure while we worked with industry to find a better solution. From the end of June 2023 Z Energy has ceased to import bitumen and will cease to publish a list price – a Z Energy list price basis for the bitumen price adjustment series will no longer be an option.

Working with industry Waka Kotahi has agreed to a new formula for the series which is based on the Argus Singapore bitumen price, plus an Argus freight price plus the USD/NZD exchange rate with an allowance for other costs incurred by a bitumen importer to land bitumen in New Zealand. The first value to be calculated using this new formula will be the July 2023 value.

### Two bitumen price adjustment series will be published

The bitumen price adjustment series is published monthly on the [Waka Kotahi open data portal](#) along with the quarterly indexes - used together to adjust the price of infrastructure contracts for cost fluctuation.

In working with industry to develop a new formula to replace the Z Energy list price based formula the opportunity has been taken to develop a second series. The two series are referred to below as – the

*EXISTING contracts bitumen price adjustment series and the NEW contracts bitumen price adjustment series.*

As its name implies the EXISTING contracts series is to be used to adjust the price paid for bitumen on all existing contracts. The EXISTING contracts series continues the series that up until June 2023 has been calculated from the Z Energy list price. As further discussed below, *Action required*, no specific action is required of clients or contractors in relation to an existing contract as we move from the Z Energy list price-based formula to the Argus based formula. This statement assumes that contract price adjustment follows the instructions set out in the document [Contract Price Adjustment for Cost Fluctuation: Infrastructure Contracts](#).

In this regard an EXISTING contract is to be defined as one that has a tender close date prior to 1 September 2023.

The intention of Waka Kotahi is that all infrastructure contracts, that use bitumen price adjustment for bitumen price fluctuation, and have a tender close date on or after 1 September 2023 will use the NEW contracts bitumen price adjustment series for that purpose. In time the NEW contracts bitumen price adjustment series will displace the EXISTING contracts series as older contracts (contracts with tender close date prior to 1 September 2023) come to an end.

As discussed below under *The Adjuster is being updated*, work is underway to change the [Adjuster](#) so that it has access to both bitumen price adjustment series (the EXISTING contract series and the NEW contracts series) and to ensure that it (the Adjuster) will apply the correct series according to the contract's tender close date.

The intervening period, between now and 1 September 2023 gives us time to 'transition' to using the NEW contracts bitumen price adjustment series.

## **Contract price adjustment for cost fluctuation: Infrastructure contracts has been updated**

The document [Contract Price Adjustment for Cost Fluctuation: Infrastructure Contracts](#), which provides instructions for how to apply contract price adjustment on infrastructure contracts, has been amended.

The above document now refers to the fact that there are two bitumen price adjustment series, the EXISTING contracts series and the NEW contracts series. It states that the Waka Kotahi expectation is that a contract with a tender close date on or after 1 September 2023, that includes bitumen price adjustment, will use the NEW contracts series to calculate the adjustment. A brief description of the formulae used to calculate monthly series values (the EXISTING contracts series and the NEW contracts series) is included.

Section 4 *Establishing a value for 'P'* has been expanded. The NEW contracts bitumen price adjustment series formula will account for fewer drivers of bitumen price than has been the case. The Z Energy bitumen list price, used as the basis for the series from November 2019 to June 2023, changed in response to other factors including, for example, a change in importer overhead costs – a cost that is within the control of importers and subject to competitive tension. RFX writers and tenderers need to be aware of these differences. This has an impact on determining a fair value for 'P', the proportion of costs to be indexed. Section 4 now includes a 'formula' to help establish a value for 'P'.

## **The Adjuster is being updated**

The [Adjuster](#) web-based tool is used to calculate contract price adjustment for infrastructure contracts. To do so it refers to 'lookup' tables of index values and a table of values for the bitumen price adjustment series. The updated Adjuster will include two bitumen price adjustment series values tables, the EXISTING contracts series and the NEW contracts series.

When an Adjuster user 'creates' a new contract in the Adjuster they enter certain data to define the contract, including the tender close date. The tender close date will determine whether the Adjuster calculates the bitumen volume-based part of the adjustment using the EXISTING contracts series or the NEW contracts series. Contracts with a tender close date on or after 1 September 2023 will use the NEW contracts series.

## Action required

As stated above no specific action is required of clients or contractors in relation to an existing contract, or a contract soon to be established, that has a tender close date prior to 1 September 2023. As also stated above this assumes that contract price adjustment follows the instructions set out in the document [Contract Price Adjustment for Cost Fluctuation: Infrastructure Contracts](#) – the managers of such a contract are also expected to be using the [Adjuster](#) to calculate the monthly contract price adjustment.

For a new contract, with a tender close of 1 September 2023 or later, the RFX and the contract itself will need to include a statement to make it clear to potential tenderers that the bitumen volume-based part of the contract price adjustment will be calculated using the NEW contracts bitumen price adjustment series.

Potential tenderers will be advised through the RFX of the value of 'P', the proportion of value to be indexed, to be used in calculating the contract price adjustment. Refer to the updated Section 4 *Establishing a value for 'P'* in the document [Contract Price Adjustment for Cost Fluctuation: Infrastructure Contracts](#) for advice on how to determine a fair value for 'P'.

## Monitoring

The exit of Z Energy from the New Zealand bitumen supply market represents a significant change. Z Energy has for some years been the major bitumen supplier. Other firms import and are increasing the volumes they import. Waka Kotahi has been assured by the importers that ongoing supply is assured and that the supply market will be a competitive market.

Waka Kotahi intends to monitor the market for sufficiency of supply and for strength of competition. Product quality is already monitored by Waka Kotahi and this will continue. The monitoring system will require Waka Kotahi to gather information from bitumen importers and from contractors and subcontractors that purchase bitumen from the importers for use on our roads, on local roads and state highways. The monitoring scheme may require Waka Kotahi to gather some information from local road controlling authorities.

Waka Kotahi is working with industry, and with Civil Contractors NZ (CCNZ) to build the above monitoring system.

## Further communications

Between now and 1 September 2023 Waka Kotahi may need to communicate further with road controlling authorities, with bitumen importers and contractors over matters of detail related to the plans described in this general circular to update the Adjuster and change to use of the NEW contracts bitumen price adjustment series. We will need to communicate in more detail in relation to monitoring the bitumen supply market.

Further communication will be by email – emails will be sent to everyone who has [subscribed to receive updates](#) to the [Procurement Manual](#).

If you are not sure if you are on our subscription list then please use this link to [subscribe](#) – you will be asked for your name and email address.

## Enquiries

For further information, please contact Bernie Cuttance on 021 247 9934 or email [bernie.cuttance@nzta.govt.nz](mailto:bernie.cuttance@nzta.govt.nz).

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### **Shane Avers**

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Waka Kotahi