

NSW Government Action Plan

A ten point commitment
to the construction
sector

June 2018



PURPOSE

This statement has been developed by the NSW Government's Construction Leadership Group (CLG) and is endorsed by its member agencies¹, all of whom are engaged in the delivery of a large long term pipeline of infrastructure investment on behalf of the NSW Government.

The CLG member agencies recognise that the NSW Government can only achieve its infrastructure objectives in partnership with the private sector, and that this depends on healthy ongoing competition between a capable field of construction firms, sub-contractors and the industry supply chain – not just now, but for years to come.

They have therefore jointly committed to a range of steps to help improve the capability and capacity of the construction sector.

The NSW Government is committed to achieving value for money in construction procurement. But value for money does not mean obtaining the lowest price for every project. Rather, it is about adopting a broader, longer term view about the need to drive quality, innovation and cost effectiveness by fostering a thriving and sustainable construction sector in NSW.

The Government aims to be a “best in class” client for the construction industry and its suppliers. In return, it expects industry to meet the highest standards of integrity, quality, innovation, diversity and inclusiveness.

This Action Plan covers all Government-procured construction and is designed to:

- » Encourage an increase in the “supply side” capacity of the sector to meet future demand.
- » Reduce industry's costs and “down-time” by making Government procurement processes more efficient.
- » Develop the skills, capability and capacity of the construction industry's workforce.
- » Encourage culture change and greater diversity in the construction sector and its suppliers.
- » Foster partnership and collaboration between the public and private sectors to drive innovation in the NSW construction sector.



Included throughout this document are case studies which highlight some of the positive achievements which the construction sector and its suppliers have delivered in partnership with the NSW Government and its agencies.

¹ Infrastructure NSW, Transport for NSW, Roads & Maritime Services, Health Infrastructure, Schools Infrastructure NSW, Justice Infrastructure, Public Works Advisory, NSW Treasury, Department of Industry and Department of Premier and Cabinet.

A 10 POINT COMMITMENT

The member agencies commit to work together through the CLG to:

1. Procure and manage projects in a more collaborative way

- » Use early market engagement to elicit industry's views on the best choice of procurement pathway for each major project, and (where appropriate) for each works package within that project, drawing on good practice in NSW and other jurisdictions.
- » Move away from a reliance on fixed price, lump sum procurement methods, and be open to collaborative contracting models like alliancing.
- » Adopt expedited engagement processes like Early Contractor Involvement (ECI) where a project's risk profile justifies it and where it saves time and resources without sacrificing value for money.
- » Develop in partnership with industry, and then publish, simple guidelines which document "best practice" for each of the main procurement methods, and the circumstances in which each method is likely to be preferred.
- » "Close the loop" with potential bidders once market soundings for major projects have been undertaken, including through an interactive session prior to the finalisation of tender documentation, so that prospective bidders can test and understand the rationale for procurement decisions.
- » Ensure that, once awarded, contracts are managed by both parties in a professional and mutually respectful fashion.
- » Use inception workshops to establish strong behavioural alignment and shared objectives between the parties soon after contract award.



SYDNEY INTERNATIONAL CONVENTION, EXHIBITION AND ENTERTAINMENT PRECINCT

Darling Harbour Live, comprising Lendlease, Hostplus, Capella Capital, AEG Ogden and Spotless, partnered with the NSW Government to deliver the International Convention Centre Sydney (ICC Sydney) – a multi-billion dollar redevelopment of the Sydney International Convention, Exhibition and Entertainment Precinct.

Darling Harbour Live was one of the most successful PPP projects in Australia, delivered on time and on budget. The lessons learned from this major public private partnership have helped shape the future PPP model for other large-scale infrastructure projects.

The procurement process saw the NSW Government interactively engage with proponents during the bid process to provide feedback and answer questions before formal bids are submitted. During the delivery phase, Infrastructure NSW acted as a facilitator within Government to help expedite solutions to problems before they affected the consortium's ability to complete on time and budget. The co-location of the Infrastructure NSW's project team onsite enabled it to have open communication lines with all levels of the consortium's management structure.



2. Adopt partnership-based approaches to risk allocation

- » Recognise that not all risks are capable of being fully assessed, priced, managed or absorbed by the private sector, and that such risks must be managed collaboratively – including risks related to utilities, planning approvals and latent conditions. As a matter of principle, risks should be managed by the party best able to manage them, and should be shared where necessary.
- » Seek the market’s views, early in any procurement process, about the extent of geotechnical and other due diligence that will help to reduce “in-ground” and other risks which are hard to investigate and forecast, and provide Government warranties for the factual accuracy of the resulting data.
- » Seek industry’s views on any other areas in which value for public money and industry sustainability could most readily be improved through risk-sharing.
- » Develop standard contractual risk-sharing mechanisms for these items which keep both parties appropriately incentivised but do not put the contractor’s overall viability at risk.
- » Work with industry to identify collaborative approaches across agencies and projects to manage and reduce utility-related risks.
- » Establish senior level “dispute avoidance” forums as a standard feature of major project contracts, identifying and resolving potential issues before they escalate.



INNOVATIVE PROCUREMENT

With a rapidly rising prison population to accommodate, the NSW Government looked to undertake an innovative approach in the procurement of two 400 bed rapid build prisons, ensuring the projects would be ready to house inmates prior to February 2018.

The Rapid Build prison operating model is an open plan, dormitory style approach to maximum security prison accommodation which seeks to reducing reoffending by providing inmates increased access to education and industry programs. The facility design and operating model was a ‘first’ for Australia. The contractor’s procurement approach sought to de-risk project delivery by engaging the best available regional resources and capability.

There was very early engagement with the construction industry to test the procurement and delivery approach, with the final procurement methodology based on feedback to ‘meet the market’ and ensure appropriate level of participation and delivery surety. There was high weighting of non-price tender criteria which aimed to reward the contractor’s commitment of best people, contributing to the success of the projects.

3. Standardise contracts and procurement methods

- » Engage with industry to identify the key areas in which greater standardisation of contract terms (across projects, agencies or infrastructure sectors) could deliver the greatest benefit in terms of improved resource efficiency.
- » Review NSW’s standard contracts for large projects against contracting approaches internationally, with a view to adopting best practice internationally and, where relevant, harmonising contract terms to encourage further entry into the NSW construction market by firms from overseas
- » Adopt and publish standard guidance materials on key procurement and contract delivery approaches (including ECI and alliancing), to supplement existing materials in relation to GC21 (D&C) and PPPs.
- » Adopt a minimal set of sector-specific variations to standard contract forms, to be used only where strictly necessary and/or by agreement with bidders.
- » Provide regular background briefings for smaller contractors on the key terms and operation of standard contracts like GC21.

4. Develop and promote a transparent pipeline of projects

- » Publish a “whole of government” NSW major project pipeline document at least every six months, detailing the projects which are planned or likely to come to market over the following 3-5 years.
- » Map the network of constructors and developers across all tiers and across their supply chain as a basis for engagement and communication about the project pipeline and related issues.
- » Develop through CLG a “whole of government” approach to market engagement, including face-to-face interactive briefings with industry on the forward pipeline, in addition to briefings provided by individual agencies, and an online resource which provides easy access to project pipeline data across the NSW Government.
- » Through these forums, elicit feedback from industry on the market’s capacity – and planned investment in capacity – to deliver the forward pipeline, and on options for packaging and phasing individual projects to reduce pressure on delivery capacity and enable smaller firms to step up.
- » Offer work to the market in packages which range in size, enabling small and medium-sized firms to compete for contracts which match their capacity to deliver.
- » Engage regularly with the Commonwealth Government and other states and territories to identify and jointly respond to any emerging pressures on industry’s capacity to deliver the national pipeline of projects.

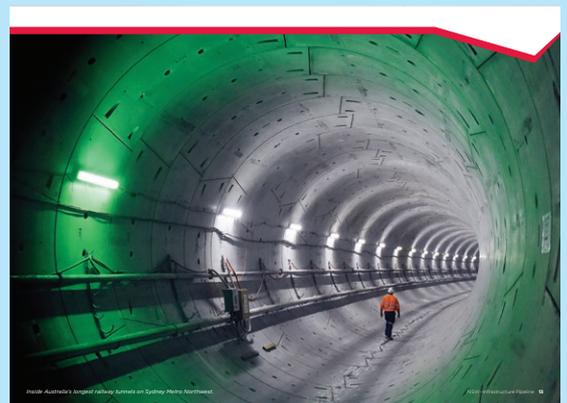
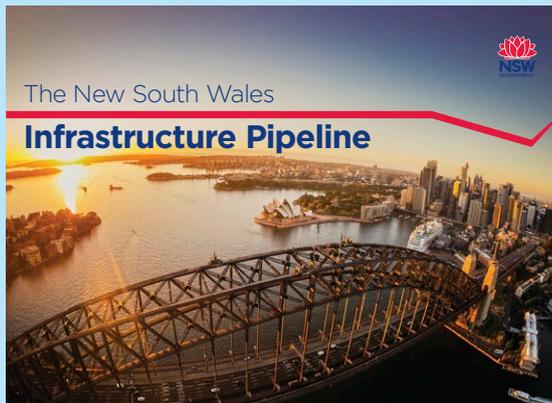


TRANSPARENCY OF PROJECT PIPELINE

In 2017 Infrastructure NSW prepared the first *NSW Infrastructure Pipeline* document to assist the NSW Government in attracting direct investment as well as participation in design, construction, management and operation of infrastructure projects in NSW. The forward-looking pipeline document, identified over 30 major infrastructure projects which the state expects to bring to market over the medium term.

Transport for NSW and Road and Maritime Services have also increased the transparency of its pipeline through several industry forums and the publishing of a yearly Major Projects Forward Work Plan. The document sets out details on more than 100 major projects including stage of development, scale and indicative timings on when the project will be procured and delivered.

The increased engagement and transparency of upcoming work allows industry to plan for their future including resourcing and capacity. It also enables industry to target projects they may be better suited to deliver from a capacity and time perspective. This ensures healthy and sustainable competition in the market and successful delivery of major infrastructure.



5. Reduce the cost of bidding

Reduce industry “down time”

- » Select shortlists of no more than three parties for each major contract, and be prepared to select shortlists of only two if appropriate security can be provided by bidders.
- » Ensure, in evaluating Expressions of Interest that only companies which are demonstrably capable of delivering the project are selected for shortlisting.
- » Seek to minimise the amount of time that unsuccessful bidders are required to remain on “hot standby” pending contractual close with the preferred bidder.
- » Review and consider streamlining internal Government approval processes (for instance at shortlisting and preferred bidder stage) in order to reduce any unnecessary delays.
- » Publish data on average approval timeframes, by agency and by contract type.

Reduce administrative bureaucracy

- » Minimise the design requirements imposed on bidders before the selection of a preferred tenderer, including (where appropriate) by the Government procuring design and adopting a “construct only” approach.
- » Reduce documentary requirements, for instance by mandating electronic lodgement of bid documents, and embracing innovative approaches such as Building Information Modelling as a standard feature of major project procurement.
- » Reduce the “credentials” requirements for firms with a proven track record and rely instead

on streamlined prequalification schemes for contractors, tiered according to their size and capacity.

- » Review existing prequalification schemes to ensure they focus on capacity and capability and do not impose unnecessary costs and administrative burdens on suppliers.
- » Minimise the number of project-specific plans bidders are required to generate and submit prior to the selection of preferred tenderer.

Provide clarity and consistency

- » Ensure, where possible, that tender evaluation criteria give bidders a clear understanding of the Government’s real priorities (for instance in relation to urban design), enabling the market to focus on those priorities with a minimum of wasted effort.
- » Avoid wherever possible changes to evaluation criteria or other key aspects of tender documentation after a Request for Tender has been issued.
- » Standardise requirements for bonding, parent company guarantees and other forms of security across projects and agencies, based on a realistic assessment of financial and performance-related risks.
- » Commit to realistic timeframes for contract and financial approvals in order to reduce industry costs, and then stick to those commitments.
- » Regularly engage with industry to seek honest feedback on how NSW Government agencies are performing in eliminating unnecessary cost and delay in tender processes, with documented follow up actions.



BARANGAROO SKILLS EXCHANGE

The Barangaroo Skills Exchange (BSX), an initiative of Lendlease in partnership with TAFE NSW and the Construction and Property Services Industry Skills Council, operates as a “pop up” college for construction workers to learn new skills and further develop their existing skills.

In two years, 10,000 workers have undertaken formal skills training, resulting in over 16,000 accredited training outcomes ranging from Skills Sets to Advanced Diplomas covering areas such as apprentice mentoring, high risk license training, trades skilling and safety leadership. With a significant commitment by Lendlease to improving social equity, a key focus is providing foundation skills to vulnerable workers to improve literacy and numeracy skills.



THE NORTHERN ROAD EMPLOYMENT AND TRAINING HUB

The Northern Road Employment and Training Hub (TNRHub) is connecting local jobseekers with training, upskilling, on the job experience and employment. The joint initiative between Roads and Maritime Services, Lendlease industry, vocational education and training and non-government groups will run until 2020 as part of construction work on The Northern Road upgrade - a component of the \$3.6 billion Western Sydney Infrastructure Plan.

TNRHub is providing “on the job” construction industry training and jobs for the long-term unemployed, young people under the age of 25, women in construction, refugees and Aboriginal and Torres Strait Islanders. So far 32 people from the target groups have been employed on the project with more expected as the project continues. Roads and Maritime, with industry, will launch three more Employment and Training hubs in 2018 and 2019.



6. Establish a consistent NSW Government policy on bid cost contributions

- » Agree to partially reimburse unsuccessful bidders' costs where it is necessary to do so in order to secure competition in the market.
- » Publish a policy position on bid cost contributions and use market soundings to discuss with industry the forward program of NSW projects for which bid costs are likely to be reimbursed.

7. Monitor and reward high performance

- » Through CLG, publish practice notes on the key behaviours and values expected of good clients and contractors, as a benchmark for performance measurement and as a basis for frank and constructive two-way performance assessments during and after projects.
- » Document the outcomes of these reviews and share data and contractor performance between NSW Government agencies through the CLG.
- » Give weight in bid evaluation to collaborative behaviour, capability and performance, based on bidders' proven track record on Government contracts in NSW and elsewhere.
- » Reward consistently high-performing contractors with the opportunity to win repeat work, as a minimum by recognising past performance in tender evaluation.
- » Adopt standardised contractual approaches to dispute avoidance and resolution.
- » Seek to adopt efficient and standardised processes for contract management, including the administration of contract payments.



BROKEN HILL PIPELINE

The John Holland MPC Group Joint Venture to design and construct the River Murray to Broken Hill pipeline will have far reaching benefits to local and surrounding communities. The Joint Venture will deliver safe and reliable water supply to Broken Hill and pump about \$50 million into the local economy, creating more than 150 local jobs.

The project is on track to surpass its Aboriginal employment target of 25 jobs, or five percent of the total workforce, with 22 Aboriginal people already employed across the project.

Training and upskilling the local community is also a part of the project's delivery, and there are currently trainees working in various roles to complete their qualifications in business, hospitality, leadership and management. A further 20 trainees will work on the pipeline while completing a Certificate II in Civil Construction.



8. Improve the security and timeliness of contract payments

- » Measure and publish agency performance data for timeliness of payments, including for agreed contract variations, and commit agencies to meet “best in class”, published performance standards.
- » Establish industry-specific escrow arrangements which ensure that smaller sub-contractors have improved security of payment.
- » Complete the review of the Building and Construction Industry Security of Payment Act 1999 and implement its recommendations.
- » Amend GC21 and other standard contracts to enable agencies to:
 - > Provide contractual payments ahead of project mobilisation in order to ease upfront cashflow pressures, particularly for smaller contractors.
 - > Provide transparent proof of payment to sub-contractors at all levels of the sub-contracting chain, for sub-contracts above a defined threshold value.



A FAST TRACK TO THE FUTURE

Launched in 2014, the *FastTracking the Future* program was created by Sydney Metro in conjunction with teachers and educators and allows schools to use a major infrastructure project in their own backyard as a real life teaching tool which students are able to easily relate to.

The program’s resources, for both primary and secondary schools, are freely available via the Sydney Metro website to any school in Australia and have more than 130 classroom-ready lessons, with over 10,000 student participants so far.

Constantly evolving, the program also launched a competition to encourage design thinking in high school students in the STEM subjects. *FastTracking the Future* won the Planning Institute of Australia (NSW) Promotion of Planning Award.



9. Improve skills and training

- » Work with industry and its representative bodies to identify, measure and report on current and emerging skills gaps in the construction sector and related trades.
- » Mandate minimum levels of training in all major Government construction contracts at levels consistent with the targets of the Infrastructure Skills Legacy Program (ISLP), including (for general construction):
 - > 20% of the total labour force on a project to be of 'learning workers' (defined as trainees and workers who are updating their qualifications to meet the needs of the infrastructure project).
 - > 20% of all relevant trades positions on a project to be apprentices.
- » Adopt tender evaluation criteria and/or incentive arrangements which give bidders credit for demonstrably exceeding these thresholds.
- » Through the Department of Industry and CLG, monitor and publish data on:
 - > The levels of activity in training and development associated with all major NSW Government construction contracts.
 - > Best practice case studies on training and development.
 - > Trends in industry-wide skills, including areas of actual or emerging skills shortages.
- » Allocate a portion of regional capital project budgets across Government to fund regional smart and skilled providers, skills programs led by industry associations and other forms of vocational training in NSW, with structured input from industry on curriculum and examination requirements.
- » Increase recognition in NSW of employee trade qualifications obtained overseas and in other relevant disciplines like mining.
- » Promote opportunities for off-site prefabrication of construction components, drawing where possible on capability and capacity in the domestic manufacturing sector.
- » Wherever possible, avoid requirements in tender documentation for employee experience and length of service which may discourage "training on the job".
- » Promote on-site training for learning workers to ensure that such opportunities are readily and conveniently available to them.
- » Use CLG to share and promote and publicise "best practice" workforce development initiatives by the public and private sectors.
- » Closely monitor performance industry's performance on workforce development to ensure that all contractual obligations are met.
- » Invest strongly in developing the leadership and commercial skills of NSW Government project and contract managers at all levels.
- » Works with industry to identify opportunities for sharing facilities and resources to optimise value for money and provide continuity for trainees.



GOSFORD HOSPITAL REDEVELOPMENT

In 2016, Lendlease and Darkinjung Local Aboriginal Land Council signed an MoU acknowledging a commitment to Indigenous participation on the NSW Government's \$348 million Gosford Hospital Redevelopment. This included providing opportunities for indigenous individuals to work on the project and opportunities for indigenous businesses to supply goods and services to the project. There has been a strong focus on training and skilling Indigenous people to become tradespeople and future leaders in the construction industry. There is also a focus on supporting indigenous businesses, particularly from the local area.

As a result of these initiatives, more than 125 Aboriginal and Torres Strait Islander people have been inducted on-site. At March 2018, there were 52 indigenous employees across all trades out of an average of 120 workers on site, representing 43 percent of the workforce, and of the 53 total apprentices, 27 were Aboriginal or Torres Strait Islanders. There have been 10 indigenous businesses engaged on the project, with expenditure equal to 5 percent of total project spend.

10. Increase industry diversity

- » Work with industry to identify, measure and report on the diversity of the workforce in the construction sector and related trades.
- » Include in all major Government construction contracts recruitment and training initiatives, wherever possible involving on-site training, which reflect the aspirations of the ISLP, and in particular the targets aiming at:
 - > Doubling the number of women in trade related work (up from the NSW average of 1% to 2%).
 - > Meeting the requirements for Aboriginal participation in NSW Government construction contracts set out in the recently published *Aboriginal Participation in Construction*.
 - > Ensuring that at least 8% of the total project workforce is aged less than 25 years.
 - > Employing and training people from the local region.
- » Adopt tender evaluation criteria which give bidders credit for exceeding these targets.
- » Periodically review and update the ISLP to ensure it adequately addresses all relevant areas of under-representation in the construction sector's workforce.



TACKLING GENDER PAY EQUITY

In January 2018, John Holland identified that 15 per cent of the women in the workforce were being paid less than their male counterparts, and acted immediately to fix the problem. The company has committed to stamping out the gender pay gap where it exists, fixing salaries immediately and taking action to ensure pay gaps doesn't creep back in.

Gender pay equity is about ensuring women and men performing the same role are paid the same amount, and women and men performing different work of equal or comparable value are paid fairly.

John Holland will start on embedding a flexibility and wellbeing culture into the business, making the workplace more inclusive for everyone, especially women. John Holland is also an Equity Ambassador by the Workplace Gender Equality Agency (WGEA).



