Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry

BPIC and Transport Projects

BUNDLE 1

BPP/BPICs Timeline

BPP	SA	MC	BPIC	BPIC
MAY 2018	NOV 2018	OCT 2019	FEB 2020	FEB 2021
Best Practice Principles (BPP)	**Best Practice Principles (BPP)**	**Minimum Conditions (MC)**	**Best Practice Industry Conditions (BPIC)**	**Best Practice Industry Conditions (BPIC)**
Best Practice Principles were introduced.	Deed of Variation signed between DHPW and Managing Contractor (WATPAC) to retrospectively apply BPPs on North Queensland Stadium through Sample Agreement (SA).	Application of Minimum Conditions to the Cairns Convention Centre project to trial an Industry Conditions approach	Application of the draft Best Practice Industry Conditions (BPICs) to the Southern Queensland Correctional Precinct to further trial the approach	Queensland Procurement Policy updated to reflect Govt decision in late 2020 to apply BPICs to BPPs on a project-by-project basis.

Post BPIC Major Transport Projects

Project	Location	Cost (approx)	Main Contractor	Award Date	Completion Date	Application of BPIC
Cooroy to Curra Section D (Contract 1)	Veteran (Gympie)	$1.162bn (combined)	Bielby and BMD	August 2020	October 2024	Policy not yet in place
Cooroy to Curra Section D (Contract 2)	Curra (Gympie)		CPB Contractors	March 2021	October 2024	Retrospective
Bruce Highway Upgrade Bribie Island Road to Pumicestone Road	Caboolture to Elimbah (Moreton Bay)	$662m (combined)	Acciona	September 2020	August 2023	Policy not yet in place
Bruce Highway Upgrade Pumicestone Road to Steve Irwin Way			Fulton Hogan	March 2021	April 2024	Retrospective
M1 Pacific Motorway – Yatala South Interchange (Exit 41) Upgrade	Yatala (Gold Coast)	$50m	Georgiou	July 2021	July 2023	Not Applicable

Gold Coast Light Rail Stage 3	Broadbeach to Burleigh Heads (Gold Coast)	$1.54bn	John Holland	March 2022	July 2026	Retrospective
Walkerston Bypass	Wallkerston (Mackay)	$186m	Fulton Hogan	February 2022	July 2025	Retrospective
Coomera Connector (Stage 1) North Shipper Drive to Helensvale Road	Coomera to Helensvale (Gold Coast)	$425m	Acciona and Georgiou	November 2021	December 2025	During Procurement
Coomera Connector (Stage 1) Central Helensvale Road to Smith St Motorway	Helensvale to Molendinar (Gold Coast)	$1.5bn	Fulton Hogan, JF Hull, and McIlwaine	September 2024 (Early Works from 2023)	Est. 2028	During Procurement
Exit 49 Interchange Upgrade	Pimpama (Gold Coast)	$110m	Seymour Whyte	June 2022	February 2025	During Procurement
Centenary Bridge Upgrade	Jindalee (Brisbane)	$298m	BMD and Georgiou	December 2022	Est. Late 2027	During Procurement
Queensland Train Manufacturing	Torbanlea (Fraser Coast) Ormeau (Gold Coast)	$9.5bn	Downer	June 2023	Est. 2030s	During Procurement

Rockhampton Ring Road (Phase 1 North)	Parkhurst (Rockhampton)	$280m (combined)	Acciona and Fulton Hogan	June 2023	April 2026	During Procurement
Rockhampton Ring Road (Phase 1 South)	Fairy Bower (Rockhampton)		Bielby and BMD	June 2023	June 2026	During Procurement
Beams Road Level Crossing	Carseldine (Brisbane)	$205m	Bielby and JF Hull	December 2023	Est. Late 2026	During Procurement
Beerburrum to Nambour Rail Upgrade	Beerburrum to Nambour (Sunshine Coast)	$550m	John Holland and Seymour Whyte	September 2024	Est. Late 2027	During Procurement
Loganlea Station Relocation	Loganlea (Logan)	$173m	Martinus Rail and Degnan	September 2024	Est. Late 2027	During Procurement

Queensland Government

The Queensland Cabinet and Ministerial Directory

Centenary Bridge funding deal done

Published Monday, 05 October, 2020 at 03:37 PM

JOINT STATEMENT

Premier and Minister for Trade
The Honourable Annastacia Palaszczuk

Minister for Transport and Main Roads
The Honourable Mark Bailey

Funding is locked in to build a second Centenary Bridge at Jindalee.

The Palaszczuk Government will commit $112 million for construction, supported by $112 million from the Federal Government expected to be confirmed in tomorrow's Federal Budget.

Premier Annastacia Palaszczuk said her government was backing Queenslanders and jobs with a record investment in road, rail, public transport and port projects.

"COVID-19 has brought construction sites to a halt across the world, but work hasn't stopped in Queensland because of our strong response to managing the health crisis," the Premier said

"Since last November, my government has announced more than $4.8 billion in new and accelerated joint funding for roads and transport projects to get people into jobs quickly.

"It's part of the plan for Queensland's economic recovery that we're already delivering.

"We have done the work to get the new Centenary Bridge project ready to build and we'll start work on it next year, supporting hundreds more jobs.

"Our infrastructure guarantee is backing Queensland jobs and driving demand for tradies across the state at a time when they're needed most."

Transport and Main Roads Minister Mark Bailey said work would start on the new bridge in 2021.

"The Palaszczuk Government kickstarted this project with $20 million to do the business case and detailed design," Mr Bailey said.

"That work is done, so, once the Federal funding flows, we'll be ready to go out to market and get crews on site as quickly as possible to start building.

"We're on track to finish the $400 million Ipswich Motorway upgrade and the $80 million Sumners Road interchange projects late next year too, so these projects will ease congestion to get people home sooner.

"These are projects the LNP have typically mis-managed.

"The LNP cut the Sumners Road upgrade from the budget when Deb Frecklington was Campbell Newman's Assistant Minister."

Member for Mount Ommaney Jess Pugh said adding capacity at the Jindalee river crossing was a huge win for her community.

"Getting the Sumners Road upgrade started was a major priority for my community and building a new Centenary Bridge is the next one," Ms Pugh said.

"We lost momentum on local upgrades after Sumners Road was cut by the LNP, so I was determined to make sure we didn't lose any more time with the Centenary upgrade.

"I've fought hard to make it a priority so it could receive the funding it needed to become a reality.

"Today's announcement means the wait is over and we can start work next year.

"This is another example of the Palaszczuk Government delivering on its promise to deliver projects our community needs."

The Centenary Bridge upgrade includes:
• a new, three-lane, northbound bridge built to the west of the existing bridge
• reconfiguration of the existing bridge to provide three southbound lanes
• improved active transport for pedestrians and bike riders.

The $224 million construction budget will be split 50/50 by the State and Federal Governments, with a further $20 million already provided by the State Government for planning and design.

ENDS

Media contact: Toby Walker – 0439 347 875

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From: Neil Scales[N[redacted]
Sent: Mon 22/02/2021 7:06:17 PM (UTC+10:00)
To: Anne E Moffat[A[redacted]
Subject: Fwd: GCLR BPICs - cabinet in confidence

You and I simply do not exist

Kind regards

Neil Scales
Director-General
Department of Transport and Main Roads

[redacted]

From: Deanne M Hawkswood <[redacted]
Sent: Monday, February 22, 2021 7:02:55 PM
To: tam.vanalphen[redacted]
Cc: Neil Scales [redacted]
<Brett.Reed[redacted]Amanda Yeates [redacted]
Subject: RE: GCLR BPICs - cabinet in confidence

Hi Tam

Please find attached the recent analysis from Scott (KPMG) pricing the base trade rates from the ETU and CFMEU contracting frameworks with the applicable conditions in the Transport BPIC, compared to the three John Holland EAs.

Also included is the most recent (and reviewed) analysis of the BPIC, Contracting Frameworks and John Holland cost comparison. This is what we spoke to last Thursday.

Thanks

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Finance and Procurement Branch | Corporate Division | Department of Transport and Main Roads

[redacted]

[redacted]

From: Tam van Alphen [redacted]
Sent: Sunday, 21 February 2021 3:56 PM
To: Amanda Yeates [redacted]
Cc: Neil Scales [redacted] Deanne M Hawkswood [redacted] Brett.Reed [redacted]
Subject: RE: GCLR BPICs - cabinet in confidence

Thanks Amanda – that's a helpful summary.

The work Scott is doing to cost a possible option 4 (e.g. increasing base rates consistent with proposed contracting framework instead of site allowance on GCLR) will be critical – along with being able to reference equivalence to rates on stages 1, and hopefully 2.

I think next steps our end will be for Ministers Bailey and de Brenni to meet with union reps and confirm that there has never been a government commitment to implement their contracting frameworks on GCLR or the balance of the $300M+ QTRIP pipeline, and that we jointly need to determine a sustainable way forward. We'll also need to give heads up that proceeding with early works, if that is a go.

I also think it's critical to get Centenary to market as soon as possible with BPICs, and to resolve Gympie Bypass so that we can demonstrate good faith, and the benefits to resolving a sustainable way forward for the pipeline, particularly bearing in mind that we need to continue to manage our Federal colleagues when the $300M + pipeline is majority Fed funded.

Will discuss though with the Minister, Denise, and Min de Brenni CoS and come back to you tomorrow.

Thanks again to you and the team – I know it has been a big week,

Tam

Queensland Government **Tam van Alphen**
Chief of Staff
Minister for Transport and Main Roads
[redacted]

From: Amanda Yeates [redacted]
Sent: Sunday, 21 February 2021 11:55 AM
To: Tam van Alphen <[redacted]
Cc: Neil Scales [redacted] Deanne M Hawkswood [redacted]; Brett Reed [redacted]
Subject: RE: GCLR BPICs - cabinet in confidence

Hi Tam

I thought it would be worth consolidating the current status from a departmental perspective, given the many discussion we had with stakeholders on Thursday and Friday.

GCLR to enhance outcomes and align to BPIC

- When TMR sent a request for information to John Holland in relation to how they would align with the BPIC (we sent the $100m-$330m BPIC), they originally (informally) came back verbally to say they expected the additional cost to fully implement BPIC would be about $60m.

- When we look at the breakdown of pay rates from the John Holland Civil agreement and the BPIC, there is about a 10% difference in workers' pay.
- If we assumed labour in the construction estimate we have is around $250m, the $60m additional as discussed with them is probably about right- it would be made up of around $25-$30m of additional pay to workers and $25-$30m in time (due to the additional time associated with the hot weather stop work requirements and the rostered RDOs.
- If this were JHs position, I think we could bring the additional $ down significantly through discussions about the valuing of time and how they could consider differently the managing of hot weather and the RDO calendar.
- Note that since TMR's request for information, John Holland has met with unions and they have **significantly changed their pricing proposal** based on those discussion (see where to from here for GCLR below)

Enhanced BPIC for $300+

- Your request below, as I understand it, is for TMR to commence development of a BPIC+, based on the BPIC, for projects above $300m, starting with some implementation where possible for GCLR
- As we discussed in the meeting you, Brett Dee and I had with Scott Gartrell last Thursday, TMR is working up a BPIC+ that has rates as per the BPIC and with the addition of a site allowance, aimed at attracting quality staff back from southern states, and a training allowance, to enhance skills and capability outcomes.
- These two allowances are aligned to policy drivers of quality jobs; local participation; building culture; mental health and well-being; and reduced casualisation in the sector
- The BPIC+, based on the above parameters, would be amount to an approximate 16% increase in labour costs, above the $100-$300 BPIC.

Union Consultation regarding BPIC+

- Meetings were held separately with CFMEU and ETU reps on Friday to discuss the TMR BPIC+ and its possible implementation on GCLR
- Our thinking was that we could work with unions to maximise outcome for workers on GCLR, and get a position where we could award as soon as possible on this basis.
- We had anticipated that, if we could get agreement that unions could live with that approach on GCLR, we could also get agreement from them around minimising industrial disruption on the job.
- Scott had suggested that the best way to achieve this agreement, would be to get an MOU with the unions that they would not unnecessarily disrupt the project.
- In both meetings, unions reps outright rejected any discussion of BPIC+. In both meetings the unions advised they believe they have a commitment from government that their own union contracting framework will be applied to GCLR.
- Note that the CFMEU and ETU contracting framework both have 45% higher labour costs than the BPIC.
- I asked Scott to follow up with ETU and CFMEU to see if they would tell us where in government they believe those commitments have come from.
- In a phone conversation, Peter Ong advised Scott that he had met with you and Brett to discuss their claim and at that meeting, there had been discussion about trying to make the ETU contracting framework work and to have it applied to GCLR. (So not a guarantee or commitment but I can see how he read that as something stronger than was possibly intended).
- At both meetings union reps advised they would not enter into any further negotiation with TMR officers on anything other than the application of the contracting framework.
- Given this, I think it would be best for TMR officers to pause any further union consultation until we have direction from government, as we have limited ability to influence the outcomes given the commitments they believe they have.

Where to from here for GCLR and John Holland alignment to BPIC

- Post TMR's RFI to John Holland, they were approached for meetings by the CFMEU and the ETU.
- At the meeting with the CFMEU, Jade advised JH that TMR had provided the BPIC and that this only applied to $100-$300m projects and was not applicable to GCLR
- Jade provide JH the CFMEU contracting framework and advised that it was CFMEUs expectation that JH would reprice the job according to the CFMEU contracting framework. Jade cited that this was what had occurred on Townsville Stadium and Gatton Prison, and that was his expectation of what would happen here (I appreciate I am paraphrasing here, I was not at the meeting and I don't want to misrepresent the discussion but this also aligns to what Jade advised Dee and I were his expectations in a meeting last week).
- Post that meeting with CFMEU, John Holland has significant concerns about heightened industrial action on the site and has recently advised TMR that, they would need to significantly increase their pricing of risk of industrial action in their alignment to BPIC. They have informally advised that their revised BPIC (and this is BPIC for $100-$300, not BPIC+) would be more like $150m.
- The $150m is probably the original $60, with the additional $90m being increased risk allocation around industrial, as well as increased cost for time.
- John Holland has further advised that if they had to reprice for the union contracting

frameworks (as per Townsville Stadium, Gatton Prison etc), the increase would be more like $180m to $220m

• Additionally, the application of the contracting framework would have significant precedent challenges for them in their broader rail business nationally, and they may not be able to continue with discussions if that was what was required by government.

Options for GCLR

I have tried to capture a few options re what we could do for GCLR:

1. **Early works package**

• This would allow us to get going with PUP relocations, geotech etc. We would probably be looking at an early works package with around a four month timeframe, and probably up to $60m

• Early works would allow us to get reclaim some program time, but it would not be day for day. We would still be probably looking at something like at least seven moths delay (our current program had trams early 2025 but we would be looking at late 2025)

• Would mean we have an early works contract awarded and activity on site

• JH had previously advised they were not interested in entering into an early works contract. They have since revised that position and are open to it.

• The team is working up an early works proposal.

• Would buy us time to sort out the main contract and still have activity commencing

2. **Apply elements of BPIC and possibly the additional site and training allowances**

• Given discussion JH has had with CFMEU, JH are unlikely to walk away from the additional risk pricing for BPIC. That would mean JH additional cost for alignment to BPIC would be at least the $150m they have previously informally advised us, plus an additional 16% direct costs for the two allowance payments to workers.

• I think John Holland, from their conversation with CFMEU, strongly believe that if this was the outcome, there would almost certainly be heightened industrial activity from unions.

3. **Stop/ Pause the Procurement (not preferred and I hope an option of last resort)**

• This is possible (definitely not preferred)- there would be costs.

• We would be liable for the full costs of tendering for both tenderers- I think this would be around $20m in total

• We would also be liable for costs for Plenary and GoldLinq- I haven't got a good handle on these costs yet but they are not going to be insignificant.

• We have also already ordered the trams- there was a go/no go gate where would could have cancelled at no cost in December- if we cancel the order now we will be up for costs.

• I am getting the team to look at what the total cost to stop the procurement would be- I don't think we would get out of it for under $50m

4. **Get a position that unions could live with that is aligned to the BPIC+ concept articulated**

above (this is my preferred option)

- If is it possible to get a position that unions could live with, and if it is close to the BPIC+, then I think we could work on John Holland to reduce the costing of risk and time that make up their total $150m.
- I don't think I could get it in under the $40-50m as per your email, but I reckon we could do a lot better than where we are right now.

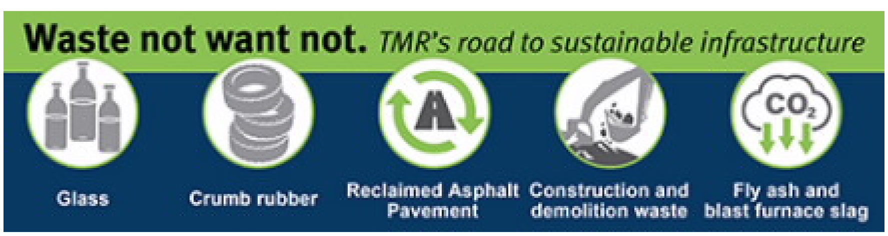
There might eb other options but I am fresh out of ideas!

I wish I had a more positive update to give you- happy to discuss further of course. Noting also that delay costs on this job are around $5m per month, we are very motivated to find a solution government is comfortable to move forward with.

'Respect the Distance'. Stay Safe.

Amanda Yeates BE (Civil) RPEQ FIEAust CPEng EngExec NER APEC Engineer IntPE (Aus) MAICD
Deputy Director-General | Infrastructure Management & Delivery
Department of Transport and Main Roads

[redacted] tmr.qld.gov.au



From: Tam van Alphen <[redacted]
Sent: Wednesday, 17 February 2021 4:03 PM
To: Amanda Yeates [redacted]
Cc: Neil Scales <[redacted] Deanne M Hawkswood [redacted] Brett.Reed[redacted]
Subject: GCLR BPICs - cabinet in confidence

Hi Amanda

Further to discussions with Premier's & Minister De Brenni's office, I wanted to email some further guidance to ensure we are all on the same page about the next steps to finalise the CBRC submission on GCLR and application of the Transport BPICs.

The Government has never committed to implementing the CFMEU 'pattern agreement' on light rail or any other civil project, and there is no appetite to fund what John Holland has indicated would be the cost on GCLR. There is also concern about what this would mean for the QTRIP pipeline.

Can TMR therefore please develop an enhanced Transport BPIC option to include in the CBRC Submission on GCLR, which should be:

- based on the Transport BPIC for $100 to $300 million projects, as per the previous CBRC decision on Transport BPICs from October 2020
- developed in consultation with the GoldLinq, the short listed contractor and the relevant Trade Unions (CFMEU, ETU, AMWU and AWU)
- focused primarily on including additional provisions relating to training and apprentices, but may include other elements if considered a priority following consultation
- aimed at coming in under $40-$50M in additional costs, and if possible with each element separately costed to allow CBRC visibility of selected elements
- include a discussion (and possibly a separate amount) for IR risks, noting how the risk can be minimised or eliminated

We will need the option to include in the CBRC submission for next week. Therefore expect that meetings with the relevant Trade Unions would need to occur in the near future. Could you pls let us know when they are scheduled as we have committed to keep relevant offices updated.

Of course happy to discuss further.

Thank you for all of your work on this,

Tam

From:	Peter A Papantoniou[redacted]
Sent:	Fri 26/02/2021 8:40:47 AM (UTC+10:00)
To:	Deanne M Hawkswood[d[redacted] Dean A Misso[redacted]
Cc:	Julian D Zorzo[J[redacted]Andrew Z Biagioni[A[redacted]
Subject:	FW: Cabinet related and commercial in confidence: CONFIDENTIAL RESPONSE - JH BPIC Response.

Hi guys
Please find attached the response received from JH re BPIC yesterday. Please note that this is an informal copy and we are still to received it formally through Goldlinq which we expect to be someday today.
Key issues are still Building code compliance and sub-contractor mgt.
You will note also that JH have not put in writing some of the cost and time impacts verbally advised last week.
In addition, the proposed timeline information provided is not achievable as JH and GL need to go through the corporate and bank approval processes.
I will provide a summary of the next steps in relation to early works later today.
Happy to chat as usual.
Kind Regards,
Peter Papantoniou
Project Director | Gold Coast Light Rail Project Stage 3
Infrastructure Management & Delivery | Department of Transport and Main Roads
[redacted]
Customers first | Ideas into action | Be courageous | Unleash potential | Empowering people

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From: Julian D Zorzo
Sent: Thursday, 25 February 2021 4:45 PM
To: Peter A Papantoniou ; Andrew Z Biagioni
Subject: CONFIDENTIAL RESPONSE - JH BPIC Response. - incase you would like to re-send.
Pathway to Financial Close and Best Practice Principles (#5855.1)

John Holland, at the request of the State and GoldlinQ, has reviewed the potential impacts of the introduction of the draft Best Practice Industry Conditions policy (TMR_DRAFT_BPIC_Document_Vs 21) to the Gold Coast Light Rail Stage 3 (GCLR3) project. As discussed at a meeting between State Government, GoldlinQ and John Holland on 12 February 2021, our initial assessment indicates that these impacts will be significant across both price and program with an order of magnitude conveyed at that time.
It was also confirmed at this meeting, that the above referenced document which forms the basis of John Holland's initial impact assessment will not be the final set of conditions placed on GCLR3. As the specific BPIC to be applied to GCLR3 is yet to be finalised, an estimation of impacts to price and program for this project by John Holland is not possible at this time.

Given the additional time required for the State to finalise the negotiation and implementation of the Best Practice Industry Conditions policy on GCLR3, John Holland encourages GoldlinQ and the State to consider an Early Works Agreement or Limited Notice to Proceed to enable the Project to meaningfully progress beyond the current tender validity period (14 March 2021).

Introduction of an Early Works Agreement

The establishment of a suitable commercial arrangement under which early works may be progressed will assist in minimising the impacts to current program durations and enable time critical works (i.e. design and associated investigative works) to progress in parallel with the BPIC impact assessment / re-price timeframe.

In order to progress an EWA or similar, John Holland's Commercial Manager, Monica Chaplin, will engage with Allens, acting on behalf of GoldlinQ and Corrs, acting on behalf of the State. This engagement will commence this week (week beginning 22 February 2021).

Whilst we will endeavour to expedite this process, there is a risk that it will not be in place by 14 March 2021. As such, all parties will need to consider how validity should be addressed in such an event.

Specific comments with respect to early works in relation to BPIC include:

1. As any subcontract works to be progressed under an early works arrangement are to be investigative in nature only (including traffic management associated with investigative works) it is not expected this would impact the future adoption of a Greenfields agreement under the D&C Contract. John Holland would need to seek legal advice to confirm this once the length of the early works is defined and that nature of anticipated works to be undertaken is confirmed.
2. John Holland expects that the potential early works subcontractors would likely be engaged on competitive market relevant conditions with pricing and program to be adjusted accordingly.

As previously discussed, we require the application of BPIC to be resolved prior to Financial Close with the relevant BPIC conditions mandated in the contract at the time of contract execution.

Best Practice Industry Conditions

The use of BPIC on GCLR3 will make this project the first in the Queensland civil infrastructure industry to adopt and implement this new State Policy. There are significant considerations that John Holland must make as a business in taking on any obligations in respect of this policy and how it impacts future work for our company including engagement of subcontractors and suppliers going forward, and our forward pipeline of work both in Queensland and Interstate (including future joint venture partners and the John Holland business nationally).

The State must ensure that any introduction of BPIC to this project does not contravene John Holland's current Building Code compliance obligations under the Federal Government's *Code for the Tendering and Performance of Building Work 2016* (Building Code). John Holland notes that, as a Code-covered entity, where Building Code obligations apply, these take precedence over any tendering or contractual requirement.

In respect of the above Building Code obligations, John Holland has identified the following as the key risks:

3. How the State intends to require John Holland to adopt the BPIC on GCLR3. Prior to implementation, the State may also need to consider any obligations under the Fair Work Act 2009 (Cth).

4. How the State intends to manage and communicate with subcontractors to adopt or apply the BPIC on GCLR3.
5. Achieving Code-compliance in the event that subcontractors and suppliers' are required to re-price their packages prior to award,

It is noted that a number of the above risks could typically be managed through the passing down of client tender documents/requirements at the commencement of the tender process (which is not an avenue available in the current circumstances).

Depending on how the State implements the BPIC in respect of the Building Code considerations detailed above, John Holland will – so far as permitted under the Building Code - undertake a reprice of the project to these conditions and finalise a new offer. This repricing exercise will take between 2 and 4 months. It is John Holland's expectation that costs associated with such re-pricing will be reimbursed.

Supply Chain Education

Supply chain education, imposition and ownership of the obligations must be the responsibility of the State and should be commenced as soon as possible. The State will need to ensure the supply chain is well informed of the State's policy expectations, how they will apply to GCLR3 and what is required to comply with these new requirements. It is not appropriate for John Holland to provide a specific list of subcontractors to the State to undertake this process. We also require the communication and education of the State's intentions to be as broad as practicable as we anticipate a number of subcontractors will withdraw from the procurement process, thus requiring John Holland to engage with new subcontractors not previously contemplated.

Expected subcontracted packages of work include (but are not limited to):

Works Package to be Subcontracted		
Rail Systems Core (BT Scope)	ITSE	MHM - Manhole Mods
Road Signage, Wayfinding & Station	Dilapidation Survey	Plant Hire
HV Traction Testing & Commissioning	Energex Feed-cable & HV&LV fitout	Crane hire
CCTV Pipe Inspection	Linemarking	Vac Track
Asphalt and Seal	Earthing & Bonding Testing	Concrete pumping
Canopy Structure	HDD Gas	Surveyor
Kerb and channel	TPIS & TPS Complete Solution	Geotechnical Testing
Landscaping	Pipe Relining - Sewer	Traffic Controllers
Extruded Barrier	Bus Shelter & misc. furniture S&I	Tree Lopping
Cable & Termination & Earthing	Manhole Mods	Road Profiling (Milling)

Electrical Auditing	Pipe Jacking Sewer	Haulage and Disposal
Stray current cabling	HDD Sewer	Profile Grinding
Fencing	Track Installation	Temporary Fencing
Building Works	Building Demolition	HDDW - HDD Water

John Holland has also provided details of proposed providers and subcontractors – previously engaged during the tender phase – within our original tender submission under R22 Contractual Structure (specifically R22.6, noting RFC 2448 issued 19 June 2020 under which John Holland confirmed Table k should be referred to throughout this response, not "i" as listed).

Proposed Timeline

For the purpose of ongoing discussions, please find below a proposed high-level timeline to progress matters noted above:

1. From 22 Feb to 14 March (approx. 3 weeks):

    a. finalise outstanding matters by all parties (to extent possible) – any remaining issues to be addressed as part of the early works arrangement;
    b. formalise early works arrangement, with pricing and programme reflecting early works commencement on 15 March with both price and programme being subject to adjustment for resolution of the outstanding matters;
    c. State to formalise BPIC requirements for repricing/programming via RFC along with resolution regarding Building Code concerns noted above;

2. From 15 March to 15 August (approx. 5 months):

    a. JH to progress early works;
    b. State to engage with supply chain on BPIC requirements/expectations for GCLR3;
    c. Following on from 2(b) above, BPIC repricing/reprogramming undertaken by JH with submission to GLQ/State on or before [15July] (or 4 months after industry consultation is complete); and
    d. Finalisation of any other outstanding matters by all parties on or before [15 July] in readiness for Financial Close.

3. 30 August 2021 – revised Financial Close sunset date.

Regards
Julian Zorzo

Project Manager | Gold Coast Light Rail
Infrastructure Management & Delivery | Department of Transport and Main Roads
[redacted]

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Queensland government procurement policy: best practice principles (BPPs)

Queensland's Best Practice Principles

The Queensland government's Procurement Policy (QPP) is an overarching policy for the procurement of goods and services by Queensland state government agencies. The most recent iteration of this policy, QPP 2021, commenced on 1 February 2021.

Sitting within the QPP, the Queensland government has published a series of interrelated policy statements and guidelines covering different aspects of procurement.

One of these guidelines is the Best Practice Principles (**BPPs**). The BPPs provide a set of criteria that tender respondents must address in responding to tenders for building projects to which the BPP apply. All government agencies covered by the Queensland Procurement Policy must apply the BPPs to major projects of $100 million or more and to other projects below that threshold as declared by the Queensland government.

The BPPs are also supported by a document called the Best Practice Industry Conditions (**BPIC**) which may apply on a project-by-project basis. This document takes the form of a draft enterprise agreement contained specific employment conditions.

Noting that the BPPs are broad policy objectives, how they are incorporated into building projects can differ on a case by case basis. Below, the ABCC examines how the BPPs apply on the Centenary Bridge Upgrade Project.

Centenary Bridge Upgrade Project

The Centenary Bridge Upgrade Project is a $244 million Brisbane based road and bridge project, partly funded by both the Commonwealth government and the Queensland government.

On 7 May 2021, the Queensland government released the tender package for that project to pre-qualified tenderers. This is the most recent project to which Queensland's BPPs will apply.

The tender package for this project includes an iteration of the BPIC, called the '*Best Practice Industry Conditions for Transport Civil Construction Projects*' or '***Transport BPIC***'. It also includes a document titled "Expression of Interest Centenary Bridge Upgrade Project" (**EOI**). Tenderers who respond to the EOI are required to complete a form (EOA Schedule 4) in which they agree to apply the Queensland Government's Code of Practice for the Building and Construction Industry to any project to which it applies, regardless of whether or not their tender for the Centenary Bridge Project is successful.

The ABCC has assessed the tender package and does not consider that the package or the Transport BPIC breach the law or the *Code for the Tendering and Procurement of Building Work 2016* (**Code**). That is, the mere promulgation of these documents is not unlawful. However, contractors should be wary of the legal risks they face in tendering for projects to which the BPPs, in their current form, apply.

Centenary Bridge Procurement Documents

The Queensland government's procurement for the Centenary Bridge Upgrade Project will be undertaken in two stages. At Stage One, applicants will be shortlisted against "non-price selection criteria". The shortlisted applicants will then be invited to progress to an RFT as Stage Two of the process. Stage Two involves both non-price selection criteria and price-based selection criteria.

The tender package describes a series of Key Result Areas (**KRAs**) that comprise the non-price selection criteria. The KRAs expound upon the Queensland Government's policy objectives. Tender applicants are required to address how they will meet the KRAs through a series of selection criteria questions.

Of concern, KRA one provides that tender respondents should address the Queensland government on how it will ensure that the wages and entitlements set out in the BPICs will be implemented on the project by the tender respondent. KRA one is set out as follows:

Best Practice Industry Conditions

The document titled - The Best Practice Industry Conditions for Transport Civil Construction Projects ("Transport BPIC") is applicable to this project and is relevant to the on-site works and personnel. The following information is also relevant to the BPIC:

1. *The Best Practice Principles in the Queensland Procurement Policy 2021 set an expectation that projects will implement best practice industrial relations to ensure a skilled workforce is attracted and retained for the life of a project's delivery.*
2. *The Transport BPIC is an expression of government policy to achieve these aims. Such terms and conditions promote best practice industrial relations by facilitating a detailed focus on all aspects of the employment relationship and achieving the goals of the project in a positive, collaborative and productive way. This includes facilitating the adoption of practices to support the implementation of the highest possible levels of health and safety practices, procedures and training.*
3. *The Transport BPIC is provided as guidance for Applicants.*
4. *The Applicant will be required to consider in its Stage 2 RFT, if shortlisted:*
    (a) *How the Applicant intends to achieve the intent and outcomes of the Best Practice Industry Conditions on this Project*
    (b) *If appropriate, alternate ways to progress best practice industry relations on this Project; and*
    (c) *Outline how it will take the Transport BPIC into account when selecting and engaging Reputable Suppliers including sub-contractors on this Project.*
5. *Although the Transport BPIC is set out in the form of an agreement, Applicants are not required to enter into an agreement or require their subcontractors to enter into an agreement. An enterprise agreement with the named employee organisations is not a mandatory requirement. Applicants are able to demonstrate the intent and outcomes of the Transport BPIC in any manner the Applicant chooses to nominate.*
6. *Where a particular supplier of training or superannuation is referred to in the Transport BPIC, this entitlement or obligation relates to that supplier or any suitable equivalent which the Tenderer may choose to nominate.*
7. *Nothing in the Transport BPIC requires an Applicant to make any commitment that would breach any laws, for example the Building Code.*

Although this KRA sets out some appropriate caveats, such as "*Nothing in the Transport BPIC requires an Applicant to make any commitment that would breach any laws*", it also states that the Transport BPIC, which contains specific wages and entitlements, "*is applicable to this project and is relevant to the on-site works and personnel.*"

The Centenary Bridge procurement documents encourages tenderers to either adopt the terms in the BPIC or to propose ways in which the tenderer would provide terms and conditions of employment that met or exceeded the terms in the BPIC.

The BPPs, the Transport BPIC and the law

Provisions of the *Fair Work Act 2009* (**FW Act**) described below apply to any person. Provisions of the *Building and Construction Industry (Improving Productivity) Act 2016* (**BCIIP Act**) described below apply to "building industry participants". This term includes "building contractors" as well as any "person who enters into a contract with a building contractor under which the building contractor agrees to carry out building work or to arrange for building work to be carried out".

The FW Act and BCIIP Act provide that it is unlawful for a person:

- to coerce or apply undue pressure on another person to *make, vary or terminate* an enterprise agreement (section 54, BCIIP Act)
- to take action against a building employer because they are covered or not covered (or proposed to be covered/not covered) by a Commonwealth industrial instrument (section 55, BCIIP Act)
- to take adverse action against another person because they have a workplace right or seek to exercise a workplace right (section 340, FW Act)
- to threaten, organise or take action with intent to coerce the other person to exercise, or not exercise a workplace right, or exercise the workplace right in a particular way (section 343, FW Act)
- (if an employer) to exert undue influence or undue pressure on an employee in relation to a decision by the employee to agree to or to terminate, an individual flexibility arrangement (s 344, FW Act)
- (if an employer) to induce an employee to become, not become, remain or cease to be an offer or member of an industrial association (including a union) (section 350, FW Act) and
- to discriminate against an employer because they are covered or not covered by a particular type of workplace instrument or an enterprise agreement that does not cover an employee organisation (section 354, FW Act).

The Centenary Bridge procurement documents encourage tenderers to either adopt the terms in the BPIC or to propose ways in which the tenderer would provide terms and conditions of employment that met or exceeded the terms in the BPIC. These documents, on their own, do not constitute 'coercion' or 'undue influence' because this encouragement does not effectively negate the choice of tenderers to make, vary or terminate any industrial agreements.

It would be unlawful for:

- any person to coerce or apply undue influence on a tender respondent to, for example, make a new enterprise agreement or vary an existing enterprise agreement, in such a way that it actually negates choices or attempts to, or imposes undue influence on a person to do so;
- any person to discriminate or take other adverse action against a tender respondent, because they do not have an enterprise agreement or do not have an enterprise agreement in the same terms as the Transport BPIC;
- an employer to place undue pressure on an employee who has an individual flexibility arrangement to terminate that arrangement because it was not consistent with the Transport BPIC and/or to enter into a new arrangement which was consistent with the Transport BPIC; or
- an employer to offer to pay an employee an additional sum of money (including to a fund such as a redundancy fund or a training fund) if (and only if) they become a member of a particular union and/or disclose to the employer that they are a member of a particular union.

Cascading Requirements

The Centenary Bridge Upgrade Project also asks tenderers to demonstrate how they will engage 'Reputable Suppliers'. 'Reputable Suppliers' are defined in the package by as suppliers who are preferred by TMR due to certain "Reputable Attributes: including (among other criteria):

> *'a commitment to using best endeavours to engage subcontractors who provide terms and conditions of employment, including specific pay rates, for its personnel who will perform work under the Contract, which are equivalent to the Transport BPIC'.*

This passage infers that tender applicants that are able to demonstrate how they will engage subcontractors that will pay wages and entitlements at or above the rates described in the Transport BPIC, or who are otherwise "preferred" by TMR will be preferred over those applicants who do not.

As described above, it would be unlawful for a contractor to "threaten, organise or take action with intent to coerce the other person to exercise, or not exercise a workplace right, or exercise the workplace right in a particular way" (section 343, FW Act).

This would prevent the successful tenderer from imposing contractual or other *requirements* on subcontractors or tender respondents to alter their registered enterprise agreement or provide for conditions in accordance with the Transport BPIC. Similarly it would be unlawful for the Queensland Government to be involved in such conduct (section 550, FW Act).

It would also be unlawful for the successful tenderer to discriminate against an employer because their employees are covered or not covered (or it is proposed that their employees will, or will not, be covered) by a particular type of workplace instrument (section 354, FW Act). The preferred tenderer *cannot* refuse to engage a potential subcontractor on the basis of the terms and conditions it pays its workers under a lawfully made enterprise agreement or pursuant to a modern award.

In responding to the Centenary Bridge Upgrade tender, contractors cannot require subcontractors to exceed the terms and conditions of their lawful agreements. The Building Code also prohibits contractors from monitoring or auditing the enterprise agreements of its subcontractors (see s11(3)(k)/11(4) of the Code).

Role of the ABCC

The ABC Commissioner has statutory functions under section 16 of the *Building and Construction Industry (Improving Productivity) Act 2016*, which include:

1. monitoring and promoting appropriate standards of conduct by building industry participants, including by:
   (a) monitoring and promoting compliance with this Act, designated building laws and the Building Code by building industry participants; investigating suspected contraventions, by building industry participants, of this Act, designated building laws or the Building Code;
2. ensuring building employers and building contractors comply with their obligations under this Act, designated building laws and the Building Code;
3. providing assistance and advice to building industry participants regarding their rights and obligations under this Act, designated building laws and the Building Code; and
4. disseminating information about this Act, designated building laws and the Building Code, and about other matters affecting building industry participants, including disseminating information by facilitating ongoing discussions with building industry participants.

The information set out above has been prepared by the ABCC to address issues, questions and concerns raised by a significant number of building industry participants in Queensland about the application of Queensland's Best Practice Principles and in particular how they intersect with the Building Code 2016.

Contact us

We encourage stakeholders to contact the ABCC with any other questions or concerns they have regarding their obligations under FW Act, BCIIP Act or the Code. We thank you for your continued engagement on this issue.

You can also find more information on our website at www.abcc.gov.au or by contacting the ABCC hotline on 1800 003 338.

[redacted]

[redacted]

[redacted]

From: Allan S Uhlmann [redacted]
Sent: Wednesday, June 9, 2021 4:52:37 PM
To: Deanne M Hawkswood <[redacted] Dean A Misso [redacted] ; Graham J Hobbs [redacted]
Cc: Adam J Williams [redacted]
Subject: FW: BPIC impact on prior contracts

Graham

No need to respond until after we have a chat.

Dee, Dean

FYI below. We can discuss at our catch up tomorrow.

My initial thoughts are:

- It's unlikely that there has been impacts already based on the two North Coast jobs (particularly since one of them didn't involve changes to existing IR arrangements). GCLR may well have local impact.
- Impacts on salaried staff will be demand based not due to BPIC (because it only relates to blue collar workforce).
- Any "change in legislation/industrial arrangements" claims would be assessed on their merits but contractors would need to demonstrate actual cost increases.

Cheers

Allan

Allan Uhlmann
Executive Director (Program Management and Delivery)
Program Delivery and Operations | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: David I Selth [redacted]
Sent: Wednesday, 9 June 2021 4:33 PM
To: Allan S Uhlmann [redacted] Graham J Hobbs [redacted]
Cc: Paul D Noonan [redacted] Andrew M Wheeler [redacted]
Subject: BPIC impact on prior contracts

Allan, Graham
Now that the impact of BPIC on the prices on two contracts at North Coast are known to industry, a 7% and a 14% increase over the tender prices (as they describe) along with the current Light Rail Stage 3 BPIC contract negotiations, there is a deep concern by the existing contractors of the large long term M1 contracts on their ability to deliver within the contracted cost and time. This topic has been raised at every meeting with my contractors recently.

The contractors are concerned – and already experiencing – loss of subbies and now indications of

loss of salaried staff – to the BPIC contractors which are now seeking staff to manage their contracts as well as trades. This is due to the BPIC contracts offering much higher pay rates.
So combined with the increasing costs and lack of supply items due to over demand, the contractors are concerned.

It has been mentioned that a claim for additional costs to pay equivalent in order to retain staff and subbies could be lodged. That could be due to a 'legislative change' or 'industrial action'.

The query put to me today – 'Is TMR going to implement a change on the existing contracts before the BPIC influence has a negative impact on the existing long term contracts'.
There is a potential that major contractual issues / disputes could arise as existing contractors attempt to manage the higher costs and retain timelines over the next few years.

The new smaller projects with shorter contract periods may be able to adjust at tender to match the new industry norm prices, but the long duration M1 contracts already in construction have been locked in. I suspect the other major contracts in place around the state, but in particular SEQ, will also be similarly affected.

It is also expected that there will be industry / union pressure for the current contractors to align with BPIC influenced rates as well.

Could you please advise if there is a TMR position on this and / or is there anything that is in train to combat the change in the marketplace instituted by TMR?

The contractors are seeking some reassurance. It is also better that any change in rates be implemented prior to any industry / union pressure to do so.

Could you please advise.

Thank you,

David Selth
Manager M1 Delivery | South Coast Region
Program Delivery And Operations Branch | Infrastructure Management and Delivery Division | Department of Transport and Main Roads

[redacted]
W:www.tmr.qld.gov.au

From: Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A14534893B9295-DEANNE MARI]
Sent: Fri 11/06/2021 5:09:48 PM (UTC+10:00)
To: Dean A Misso[redacted]
Subject: RE: Mtg summary

Thank you!

Appreciate the notes from the meetings.
It appears that EPW have a lot to consider and resolve and we'll be in that mix (I've actually just started to put together the eval guide for CBU)
Look like a good discussion with OIR too.

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

Floor 21 | 313 Adelaide Street | Brisbane Qld 4000
[redacted]
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From: Dean A Misso [redacted]
Sent: Friday, 11 June 2021 4:55 PM
To: Deanne M Hawkswood [redacted]
Subject: Mtg summary

Hi Dee,

Quick summary, no real surprises:

1. **EPW and Industry**

   - BPIC hard gates unlawful in industry view. Advice from MBA "you are clearly encouraging a breach of the law"
   - No way forward if PC/MC and subcontractors already have EAs in place. Which subcontractors will qualify, what will you do in regional areas – will send the industry broke (on basis they will not be able to tender)
   - Favours big players and not those you wish to encourage to build capacity and become industry leaders
   - EPW model does not work for all contracting types, such as D & C and lump sum (clear lack of understanding of what industry does)
   - If you are so confident with the lawfulness of BPIC then indemnify contractors
   - Need full transparency on evaluation process – how will the tender be assessed – make weightings transparent and set – do not give discretion to category councils with union representation
   - Raised all the policy considerations we have already heard – only outcome is time and cost implications on projects

    - Unhappy with triparte panel (think due to union representative but did not expressly say) and compelling evidence
- EPW/TMR/industry to work together on contracting types to ensure all happy with approach
- EPW to consider legal position and prequalification questions (notably question 13)
- EPW to consider who the BPIC applies to (consultants and white-collars that go to site)
- EPW to consider what further information can be provided in terms of the panel particularly reps
- EPW to consider what information can be gathered in relation to evaluation and assessment criteria + weightings

2. **OIR discussion**

- Confirmed we are doing the right thing by seeking Crown Law support and way forward
- Genuinely felt uncomfortable with the spot we are in – not for public servants – brief up in writing once Crown Law advice received – for political decision on how they wish to deal with it
- Position is that union demarcation is a matter for the rules and Fair Work Commission and EAs are a matter between the Employer and Employees (and reps)
- Are comfortable that we could 'encourage' as part of a positive IR environment but that is all on the basis it is project risk time and cost related – head contractor needs to manage IR issues – ultimately impacts the communities we serve
- Floated risk discussion and transfer if not seen to be taking reasonable steps to engage for a positive IR environment – they thought this was reasonable subject to Crown Law views
- They will brief their Minister's Office that the issue is now real (they confirmed that a similar CRR approach was likely and that AWU seem to be using this as a 'model')
- I noted the Cooroy to Curra example and that the EA was currently before the Commission and will update them with how that goes
- Noted that very unlikely that Minister Grace would intervene in any Fair Work Commission matter – has the power to intervene – but this was discussed and rejected as part of CRR project
- Strongly recommended that if trade unions discussed that the Minister must/should intervene, that they be given the heads up
- Very happy to continue discussions – has plenty of attention

Dean

Dean Misso
Executive Director (Office of the Deputy Director-General)
Infrastructure Management and Delivery Division
Department of Transport and Main Roads

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From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A14534893B9295-DEANNE MARI]
Sent:	Wed 16/06/2021 8:32:08 AM (UTC)
To:	jingham[redacted] [redacted]Paul Dunbar[redacted] Beau Malone (ETU)[redacted]Luke Barden[[redacted]
Cc:	Gartrell, Scott[s[redacted] Brett Reed[redacted]; tam.vanalphen[redacted] Amanda Yeates[redacted]; Dean A Misso[redacted]
Subject:	In confidence - response to questions raised
Attachment:	Union advice 15 June 2021.pptx
Attachment:	Example Clauses - TIC-CO.docx

Good evening

Thank you for your time yesterday and the questions raised at our meeting. We have put together responses in the attached document (Union advice 15 June 2021). Also attached are the sample contract clauses that are subject to review and updated over the approx. next 2 months (Example Clauses – TIC-CO).

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

Questions raised by Trade Unions to TMR

1. What contract mechanisms will be used to ensure BPIC applies and is enforced, including termination provisions for poor performance?
2. How BPICs will be evaluated during tender phase
3. How TMR will prevent union exclusion
   * Will all unions be invited to participate workplace arrangements?
4. Gaining visibility on any legal advice on the above
5. What happens when contractors are not applying BPIC on the job?
   * What enforcement actions apply?

BPICs implementation in TMR (in progress)

Contract mechanisms

* Enhanced contract provisions will be included in the Tender which will ensure contractors meet the standards and outcomes expected, including those related to BPIC.
* Contract performance of the Key Result Areas (KRAs), including the BPIC will be monitored. BPICs are one of five KRAs being implemented as part of the Government's Best Practice Policy.
* Extracted sample clauses from TMRs TIC-CO contract are provided as an example of clauses that will be reviewed and enhanced where possible to enable better contract performance.

BPICs in the tender process

- BPIC is the standard provided to address KRA 1 – Quality Jobs; this is part of the tender requirements (as per Figure 1).
- The first project to include the KRA's and BPIC is Centenary Bridge Upgrade Project (see Figure 2) – in active procurement.
- This process applies a two-stage process to (1) shortlist the best quality tenderers based on govt policy commitments and their skills & capability to deliver. Short listing is focussed on non-price criteria and capability; and (2), For a short list, seek detailed tender responses against KRAs (including BPIC) to be evaluated with the price criteria (as per Figure 2),
- Commitments from the winning Tender including those for KRAs and BPIC will then be captured in the contract, including provisions on contractor performance requirements such as ensuring industrial harmony (see below).

Participation of all trade unions with coverage on transport civil construction projects

- TMR are currently considering options to ensure the importance of industrial harmony on its projects.
- Referencing 'reputable suppliers' and the requirement to prepare and submit a Supply Chain Engagement Strategy, tenderers will also be required to outline their approach to maintain industrial harmony when assessing their tender.
- TMR will establish a regular meeting with key stakeholders with the intent to share information, learnings and create a regular 'feedback loop' on major projects (incorporating BPIC). This will be important to embed the new BPIC policy and develop the client and market maturity.

BPICs implementation in TMR (in progress)

Provision of legal advice

- TMR has sought advice on this matter, and it is highly unlikely approval will be granted to share the advice.
- The process of implementing the BPIC into major projects through procurement relies upon specialist advice to ensure the department's processes and tender requirements are legal and support tenderers to respond with a compliant bid.

BPICs commitment during project delivery

- Following the evaluation, approval and award of the tender to the contractor, the commitments and obligations will be captured in their contract.
- Regular reporting and monitoring, including audits, will be undertaken by TMR on the contractors' performance against the contract commitments through a dedicated Assurance and Performance team in TMR.
- Dispute resolution and escalation procedures within the contract provide a way to manage contract breaches including clauses such as termination.

Performance result at prequalification

- TMR is developing a Queensland supplement to the National Prequalification Scheme to address the BPP requirements. This will be implemented on a project basis over the next 6 or so months (enough to test and validate the supplement).
- Performance on a contract is measured and reported with results relevant for prequalification. This is applicable for future tender opportunities.

Figure 1: KRA and BPICs implementation in TMR

Prequalification

- Tenderers for civil (road & bridge) construction must be approved under the National Prequalification Scheme (NPS)
- TMR developing a new *Qld supplement* to reflect the Best Practice Principles (BPP) including the BPIC
- Contractor performance on TMR projects feeds into their prequalification status
- For example, poor performance on BPP

Tender (Stage 1 & 2)

Tender - Stage 1 (100% non-price)

- Compliance check incl. EST/ESM
- For BPP, tenderer to address:
  - Use of reputable local suppliers incl. Supply Chain Engagement Strategy
  - BPIC response incl approach to maintain industrial harmony
  - Best practice WHS & stds.
  - Proposed workforce profile incl. self managed, sub-contracted and labour hire work packages
  - Best practice commitment to trainees and apprentices
- Shortlisted tenderers invited to stage 2

Tender - Stage 2 (30% non-price | 70% price)

- Builds on stage 1 BPP commitments
- Non-price and price criteria
- Best ranked Tenderer invited to negotiate
- Tender outcome approved and contract awarded

Contract

- Tender commitments are captured in the contract
- Contractor obligated to meet the contract conditions, including requirements in relation to the KRAs, including the BPIC and/or their industrial relations management plan.
- Contract obligations extend to reporting across the BPP and KRAs, including BPIC
- Ability for TMR to conduct audit and compliance activities

Delivery & Performance

Through the Assurance & Performance Team:

- TMR has a single point of contact for KRA, KPI and BPIC implementation matters
- Measures, monitors and manages contractor performance alongside CA & PMs
- Builds capacity across TMR on regulatory framework and government policy matters
- Collaborates and shares information across government agencies incl EPW as lead procurement agency, to enable end-to-end performance management, including managing interface with regulators e.g. Fair Work Ombudsman & WHSQ

Figure 2: Centenary Bridge Upgrade Project – tender overview

Stage 1 – Expressions of Interest

Description	Criteria Non-Price (100%)
Local content / benefits (reputable suppliers and Supply Chain Engagement Strategy)	10
Best practice workplace health and safety systems and standards	10
Best practice commitment to apprentices and trainees	5
Best practice industrial relations	10
Proposed workforce profile	5
Company Experience and Construction Methodology	15
Working over water	15
Management Plans (Environmental; Traffic and Marine Execution)	20 (6 + 7+ 7)
Resources	10
Total	**100**

Stage 2 – Request for Tender

Description	Criteria (%)
Non Price	30
KRA 1 – Quality Jobs, including the BPIC KRA 2 – Safe workplaces KRA 3 – Local supply chains and manufacturing KRA 4 – Sustainability KRA 5 – Project delivery optimisation	
Price	70
Total	**100**

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Queensland Government

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[redacted]

[redacted]

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From: Melinda Pugh [redacted]
Sent: Wednesday, 16 June 2021 9:41 AM
To: Dean A Misso [redacted]
Cc: Deanne M Hawkswood [redacted] Jane E Learmonth
[redacted]
Subject: RE: Discussions with Unions today

Hi Dean

The new BPP guide requires application of the BPICs in certain circumstances but is not prescriptive about how that is done.

In my view, the way that TMR is implementing the TMR BPICs is consistent with the guide. TMR is entitled to conduct its procurement processes in accordance with its procedures that reflect the principles in the QPP. There is not one way to do procurement. The BPP guide itself recognises differences between the BPICs and the TMR BPICs.

I have attended a meeting with Minister De Brenni and the CFMMEU and its lawyer where there were general discussions about legal issues. It was not about the Gatton Prison project or any particular project, just the BPPs generally, as a policy of EPW.

The Attorney specifically instructed me not to reveal the State's legal advice in that meeting.

I would have to seek the AG's instructions to release any legal advice to trade unions and I would recommend that ***not*** be done. Once privilege is waived by disclosure, it is waived for all purposes. If the legal advice is disclosed to the trade unions, then it can be disclosed to anyone, including the ABCC or the ACCC, and that would not be in the interests of the State.

Queensland Government

Melinda Pugh
Deputy Crown Solicitor
Commercial, Property, Insurance and Risk Branch
for **Crown Solicitor**
Crown Law

[redacted]

From: Dean A Misso [redacted]
Sent: Tuesday, 15 June 2021 10:00 PM
To: Melinda Pugh [redacted]
Cc: Deanne M Hawkswood [redacted] Jane E Learmonth [redacted]
Subject: Discussions with Unions today

Hi Melinda,

Thank you for your advice. It helped inform today's session with trade unions.

A continued comment that is made by trade unions is the 'apparent' inconsistency in application of BPIC by EPW and TMR during its procurement process. The Gatton Prison has been used as the example. A way forward may be to undertake that discussion with EPW with yourself, which was previously planned but somewhat overtaken by BPP policy discussions.

Also, trade unions advised that the State's legal position on BPICs had been shared in a joint meeting with EPW, Crown Law and trade unions in relation to the Gatton Prison. Could you please advise if this is your understanding. The trade unions have requested a similar session with Crown Law, TMR and themselves and requested that we share our legal advice on the basis of their previous EPW dealings.

Thanks,
Dean

Dean Misso
Executive Director (Office of the Deputy Director-General)
Infrastructure Management and Delivery Division
Department of Transport and Main Roads

[redacted]

Sent: Sun 27/06/2021 6:35:12 AM (UTC)
To: Deanne M Hawkswood[redacted]
Subject: FW: BPIC+

Hi Dee,

As discussed, I just wonder what you would discuss in any case. I am more than happy to facilitate an assurance and performance meeting with them, but it will be towards the end of July before I am in a position with clauses and the compliance framework for insertion into the Centenary Bridge tender and contract documents.

As for the redundancy and super additions, this is nothing new but I would strongly suggest we do not do this without costing the program and written agreement with MO – it should be taken on notice only (unlike income protection). Super should remain at the percentages legislated. There is no need to move beyond this – they want amounts that would move amounts at greater pace than legislation allows. It's a bullish tactic which would create long term precedent beyond what is 'economically responsible'.

With Beau as discussed I think we just take the clauses as part of the consultation process and take them on notice only for consideration of TMR with the other feedback received.

And my last thought is that discussion with Amanda (well you and Amanda). She asked to get Scott's view on a meeting – it really does not matter what Scott's view is, we can take any view – that is, TMR could do anything it wished – but it needs to be aware of the legal and generally project risks. We already have a Crown Law view of a meeting. I am not sure who is obsessed with the meeting idea, but a letter would have the same intent and could be settled by Crown Law and it could be on the basis of….

The new QTRIP released and the new BPP guideline and I would like to attach the BPIC that has been agreed by government to ensure benefits X, Y and Z and an expectation about ensuring positive industrial relations environments on TMR projects. The meeting per se is what I foresee on a revamped TIS Category quarterly meeting…

Thanks,
Dean

From: Gartrell, Scott <[redacted]
Sent: Thursday, 24 June 2021 12:28 PM
To: Deanne M Hawkswood[redacted]
Cc: Dean A Misso[redacted] Spence, Ryan[redacted]
Spiccia, Nina[redacted]
Subject: RE: BPIC+

Hi Dee
Ok. Thanks for that. Yes agree. Lets let it slide a week.

Kind regards

Scott Gartrell
Executive Director
Management Consulting

[redacted]

From: Deanne M Hawkswood <[redacted]
Sent: Thursday, 24 June 2021 12:27 PM
To: Gartrell, Scott [redacted]>
Cc: Dean A Misso[redacted]; Spence, Ryan[redacted] Spiccia, Nina [redacted]
Subject: RE: BPIC+

(Cabinet in Confidence)

Thanks Scott
Good feedback on their position. As you know, we are pushing ahead with the draft submission and have used some of those quantum's in the analysis. The beauty of these methodologies is being able to plug in different values to get an overall impact result. Will share this analysis shortly, once I've had a closer look.

I msg'd Beau yesterday to take up his offer to meet and receive any draft clauses they may want to share.

On that, Dean is currently drafting the RFC 'ask' for GCLR in conjunction with Crown Law. This will be relevant for the conditions/requirements regarding application of BPIC.

Based on that, we might not schedule a further meeting next week and look toward the following week?

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Gartrell, Scott [redacted]
Sent: Thursday, 24 June 2021 12:11 PM
To: Deanne M Hawkswood [redacted]
Cc: Dean A Misso [redacted] Spence, Ryan <[redacted]
Spiccia, Nina [redacted]
Subject: BPIC+

Hi Dee

I had a call with Jade this morning. He confirmed that he's met with Minister Bailey and had indicated that the CFMEU would not re-engage on the BPIC+ until they had a satisfactory answer to how to prevent the C to C Project Agreement outcome occurring again. He's expecting Tam to come back to him today.

I pushed him on a meeting to at least talk about the BPIC template we prefer. His only comment was to say that he wouldn't be meeting until he had a satisfactory answer but indicated that we 'are on the right track'. When I pushed him, he said the format might work, but the Schedule would need to include new quantum's on Super and Redundancy, insert Income Protection, as well as a site allowance matrix.

Kind regards

Scott Gartrell
Executive Director
Management Consulting

KPMG
International Tower 3,
300 Barangaroo Avenue
Sydney NSW 2000 Australia

[redacted]

Sent: Tue 29/06/2021 12:26:20 AM (UTC)
To: Melinda Pugh[redacted]Deanne M Hawkswoo[redacted]
Subject: FW: 3445-9990-6069-v4 - RFC-GCLR3-BPP-Best Practice Industrial Relations-Draft v2.0 (Corrs & PT) 210629
Attachment: 3445-9990-6069-v4 - RFC-GCLR3-BPP-Best Practice Industrial Relations-Draft v2.0 (Corrs & PT) 210629.docx

Hi Melinda and Dee,

A summary from me:

- Item 1 – paragraph removal – I think it gives suitable context of why the information is required and is not contentious
- Item 1, para (vi) – we need to be clear on trade unions (not just stakeholders). This is a specific requirement of the Minister's Office.
- Item 1, para (f) – Mel, thoughts on the wording removed given this is now embedded in the new BPP (I think the words are possibly too strong – but would like to be consistent with forthcoming policy given it will be released during the negotiations and may spark interest if the wording is different)
- Item 1, para (g) – this changes the context – I think we need to ensure there is a comparison against the BPIC
- Item 4, (b) – needs to include workers that visit the site but do not sit in the site office – such as inspectors, safety auditors and the like – although generally covered by the words 'professional', expressly stated is preferred.

I think that is it – the other wording changes, although probably not strictly necessary (particularly from a legal viewpoint) does not appear to change the context.

Off for a swim….

Will check email later.

Dean

From: Andrew Z Biagioni [redacted]
Sent: Tuesday, 29 June 2021 10:04 AM
To: Dean A Misso [redacted]
Cc: Peter A Papantoniou [redacted] Julian D Zorzo [redacted] peter.schenk[redacted]
Subject: 3445-9990-6069-v4 - RFC-GCLR3-BPP-Best Practice Industrial Relations-Draft v2.0 (Corrs & PT) 210629

Hi Dean.

As per previous e-mail, see attached comments / suggested amendments from Corrs & P/Team

Happy to discuss as suitable

Cheers,

AB

Department of
Transport and Main Roads

2 July 2021

Gold Coast Light Rail Stage 3

Issued to: GoldlinQ

Clarification #OFiM-79?-C

Returnable 28 & 17:

Third Commitment Deed Poll, Schedule 5, paragraph 1.3: relevant information with regards to BPIC for this project

[Corrs note: We note that the ABCC has recently commented on the interaction between BPIC, BPP and the Commonwealth Code (https://www.abcc.gov.au/queensland-government-procurement-policy-best-practice-principles-bpps) on the Centenary Bridge Upgrade Project (Qld). We assume that TMR is seeking advice from Crown Law on the matters set out in the commentary.]

The State (Department of Transport and Main Roads (TMR)) has been assessing the submission from GoldlinQ and the preferred D&C Contractor (hereafter referred to as John Holland), for the design and construction of Stage 3 of the Gold Coast Light Rail (GCLR) project.

Unless otherwise defined, defined terms in this document shall have the meaning given to them in the Third Commitment Deed Poll – John Holland Pty Ltd dated 4 June 2021.

As part of the tender submission and the request for further clarification (our ref: #OFiM-79-C), GoldlinQ and John Holland expressed commitments to adhere to the Queensland Government's Best Practice Principles (BPP), specifically in relation to best practice industrial relations.

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For the purposes of the Queensland Government's Best Practice Principles (BPP) and when applying the 'best practice industrial relations' principles, Best Practice Industry Conditions also need to be considered.

By way of update, subject to and in accordance with the Third Commitment Deed Poll, Schedule 5, paragraph 1.3, TMR is now in a position to provide the *Best Practice Industry Conditions for Transport Civil Construction Projects – Gold Coast Light Rail Stage 3 Project* (GCLR3 BPIC) (**enclosed as Attachment A**) with regards to this project. In developing the GCLR3 BPIC relevant enterprise agreements, awards and legislation relevant to the transport civil construction industry were analysed to ensure the document at Attachment A reflects modern and progressive industrial practices for the civil construction industry.
In addition, TMR is committed to ensuring that GoldlinQ and John Holland work with and engage **Reputable Suppliers** on this project (**enclosed as Attachment B**). It is therefore expected that John Holland demonstrates and upholds the attributes of a Reputable Supplier including those contractors in its supply chain.

TMR is seeking a revised OF Mod proposal from GoldlinQ (which will include a Revised D&C Offer from John Holland) to resolve outstanding matters now that the terms of the GCLR3 BPIC have been finalised. Relevant information with regards to the BPIC for this Project for the purposes of Schedule 5, paragraph 1.3 of the Third D&C Commitment Deed Poll are set out below.

In seeking a revised OF Mod proposal from GoldlinQ, TMR anticipates that any revisions to the OF Mod proposal related to GCLR3 BPIC:

- are limited to the proposed enhancements to maintain a positive industrial relations environment;
- are based on detailed cost estimates (which detail specific packages/subcontracts) with baseline and revised assumptions;
- include (for elements within the price structure) both a fixed price and provisional cost option, together with a provisional cost contractual / administrative framework
- can be clearly articulated and quantified in a way that provides a direct benefit to workers; and
- can be substantiated and subject to a suitably structured reporting and compliance and audit regime.

TMR notes the requirements in Schedule 5, paragraph 1.5 of the Third Commitment Deed Poll that apply to John Holland i.e. to act reasonably, in good faith and in an open and transparent manner, to provide the required level of detail and information and to provide access to information as reasonably required will be applicable to the matters the subject of this Clarification.

The GCLR3 BPIC

. The GCLR3 BPIC document provides guidance on how a workforce with optimal levels of skills and experience can be attracted and retained for project delivery and ensure that relevant stakeholders can interact in a positive, collaborative and productive way through to successful project completion.

The GCLR3 BPIC document is a guidance document and is not mandatory. ***[Corrs note: The GCLR3 BPIC states that "the GCLR BPIC … is a policy position of the Queensland Government and TMR." We understand from the embedded comments in this document that the nature of the GCLR3 BPIC is under internal consideration. Once this has been settled internally, the wording in these documents may need to be updated.]*** Although the GCLR3 BPIC is set out in the form of an agreement, John Holland is not required to enter into any specific agreement or require their subcontractors to enter into any specific agreement. Similarly, an enterprise agreement with the named employee organisations is not a mandatory requirement. John Holland can demonstrate the intent and outcomes of the GCLR3 BPIC in any manner it chooses to nominate.

Where a particular supplier is referred to within the GCLR3 BPIC, this entitlement or obligation relates to that supplier or any suitable equivalent that John Holland may wish to nominate.

Nothing in the GCLR3 BPIC requires John Holland to make any commitment that would breach any laws, for example the *Code for the Tendering and Performance of Building Work 2016* ("the Code"). Should GoldlinQ or John Holland contend that there are any issues of such a nature with the GCLR3 BPIC or its implementation, it is expected that those matters are clearly articulated and raised early in the process (i.e. before finalising a response).

On consideration of both **Attachment A** and **Attachment B**, TMR requires further clarification to understand the impacts, if any, of GCLR3 BPIC on GoldLinQ's proposal, including price, program and other departures necessary and reasonably required to address it (for example, documentation such as plans provided as part of the tender process). In consideration of its response, John Holland should propose strategies that limit program impacts, and if possible seek to maintain the current Date for Stage 3 Completion. . Where this is not possible, despite its best intentions, these program implications and their reasons should be clearly articulated.

TMR has identified the following key items of industrial relations, as part of information to be provided under, paragraph 1.5 that will also require further clarification as part of John Holland's revised D&C Offer.

<u>Item 1 – John Holland approach to its self-performing work</u>

GoldlinQ is requested to detail how John Holland intends to:

a) Establish and maintain a positive industrial relations environment for this project including:

    i. How John Holland in using its best endeavours, intends to reflect the intent and outcomes of the GCLR3 BPIC as part of its industrial relations strategy;

    ii. Given the GCLR3 BPIC what additional matters John Holland has considered above the existing industrial relations strategy to progress best practice industrial relations on this project;

    iii. Whether the GCLR3 BPIC changes the approach to self-performing work, and if so, the impacts of these changes and how they will be managed;

    iv. Whether a Greenfields agreement as an alternative to existing John Holland enterprise agreements has been further considered as part of the industrial relations strategy;

    v. How, in consideration of the information contained in the GCLR3 BPIC, John Holland intends to clearly articulate any additional impacts in relation to both costs and schedule, and the reasons why these are considered different to the existing D&C offer;

    vi. How John Holland intends to take reasonable steps to engage with all relevant stakeholders with an interest in the project, should a Greenfield agreement be negotiated with a view to ensuring industrial harmony is achieved and maintained for the project;

vii. What approach will John Holland undertake in the event a proposed Greenfields agreement is negotiated that does not include all relevant unions as parties, and how it intends to maintain a positive industrial relations environment should these circumstances arise; and

viii. If John Holland intends to negotiate a Greenfields agreement, will the replacement NSW Rail and Signalling Agreements contain a 'carve out' provision similar to that contained in the Qld Civil Agreement?

Item 2 – John Holland's approach to engaging subcontractors, including industrial instruments covering subcontractors

<u>GoldlinQ is requested to detail:</u>

a) John Holland's commitment to engaging and using Reputable Suppliers and subcontractors;

b) What work packages John Holland intends to procure via subcontract arrangements;

c) John Holland's proposed list of subcontractors (by work package) for the project;

d) (based on John Holland's experience on other projects in Queensland that reference best practice industry conditions) which work packages and subcontractors are more likely to use their best endeavours to take the GCLR3 BPIC into account;

e) How John Holland intends to provide the GCLR3 BPIC to subcontractors in relation to this work;

f) How is it proposed that John Holland will use its best endeavours to take the GCLR3 BPIC into account when evaluating, selecting and engaging subcontractors for the project, including how it is intended that John Holland will use its best endeavours to engage subcontractors (as Reputable Suppliers) who will provide terms and conditions of employment which are consistent with modern and progressive industrial practices;

g) How John Holland intends to inform the State, should it propose to select a subcontractor that achieves a low score for best practice industrial relations;

h) In the circumstances outlined in (d) and (g), what strategies will John Holland employ in relation to pricing, to ensure that price represents actual project impacts of the implementation of best practice industrial relations;

i) If John Holland selects subcontractors that achieve a low score for best practice industrial relations including as evaluated against the GCLR3 BPIC, does John Holland consider this to be an industrial relations risk and if so, how it proposes to mitigate this industrial relations risk;

j) TMR notes the local industry / content commitments that GoldlinQ has provided as part of its current offer. TMR wishes to maintain these commitments. GoldlinQ is requested to articulate how, in the context of GCLR3 BPIC guidance material, it intends to revise its proposal whilst maintaining these commitments.

Item 3 – Assurance and Performance

GoldlinQ is requested to detail:

a) How GoldlinQ and John Holland will ensure compliance, including monitoring and reporting mechanisms in relation to Best Practice Principles and best practice industrial relations for those components that are:
   i. self-performed; and
   ii. performed by subcontractors.

b) In relation to work to be performed by subcontractors, the proposed strategies that will be undertaken by GoldlinQ and John Holland to manage issues of non-performance on any commitments made in their respective tenders in relation to the Best Practice Principles, including best practice industrial relations.

Item 4 – Other relevant matters

a) In relation to item 2, the State advises that it will undertake an interactive session at a time and place to be agreed with GoldlinQ and John Holland, that will provide:
   i. An overview of the project;
   ii. An overview of the government policies relevant to the project, specifically the Best Practice Principles, including the GCLR3 BPIC;
   iii. Information for subcontractors in the supply chain; and
   iv. A forum for attendees to raise relevant queries for written response.

b) In relation to the identified work packages relevant to item 2, and to remove any doubt, the GCLR3 BPIC:
   i. is not to be considered for the recently commenced early works package, including any respective best endeavours application;
   ii. does not extend to (except to the extent ordinarily covered by Awards relevant to the civil construction industry) professional, administrative or incidental workers situated in a site office either for the duration of the project periodically or on an "as needs" basis (for example but not limited to engineering, architectural and design, surveying or quantity surveying services);
   iii. is not to be considered for non-contestable public utility plant (PUP) works, such as those to be undertaken by APA Gas, Energex, NBN and Telstra;

iv. is intended to be applied to materially significant on-site works only, and therefore does not include;

- off-site prefabrication of made-to-order components to form part of the project, unless it is performed on an auxiliary or holding site;
- the transportation (delivery to or removal) and supply of goods, material or equipment to and from the project;
- warranty, repair and maintenance work performed on plant and machinery utilised on the project;
- goods and services rendered on a temporary and/or intermittent basis, for example but not limited to cleaning services, general office and building maintenance, tree lopping services, geotechnical, material, soil testing or laboratory testing services.

As required under paragraph 1.4 of Schedule 5, the parties will agree a methodology within 14 days of receipt of this Clarification in relation to how the impact of the BPIC on the Project will be assessed prior to the date of Stage 3 Financial Close.

From:	Gartrell, Scott[[redacted]
Sent:	Wed 30/06/2021 12:14:02 AM (UTC)
To:	Deanne M Hawkswood[[redacted]
Cc:	Dean A Misso[[redacted] Spence, Ryan[[redacted] Spiccia, Nina[[redacted] Joel Eakin[redacted]
Subject:	BPIC+ cost analysis
Attachment:	TBPIC_300+Analysis-with-QTRIP_v1.1.xlsx

Hi Dee

Trust you're navigating lock down ok.

We have reviewed the cost estimates provided by Rakkitha and Joel, specifically the QTRIP analysis. Below is an initial assessment of the various BPIC+ uplift costing scenarios and how these scenarios compare to the unions' claims. In our view, we think a bargaining strategy that starts with scenario 2 and 3 as a starting point for negotiations makes sense. Given the union's claims, scenario 4 may represent a final position for the major project uplift and BPIC+.

We understand the current union claims includes the following:

- $52.21 base trade rate
- $175.00 per week redundancy contribution
- $49.92 per week income protection contribution
- $263.00 per week superannuation contribution
- Inclusion of an hourly site allowance (indexed to overall project cost, up to a maximum value of $4.00 per hour).

We believe scenario 2 or 3 to be an adequate starting point for negotiations as both income protection and redundancy contributions are equivalent to the unions' claims. In addition to the conditions provided for in the TMR BPIC, scenario 2 and 3 contemplate the inclusion of the following:

- **Scenario 2** (uplift of 6.6% compared to the TMR BPIC across 36 hours)
  - Major project site allowance (indexed to overall project cost, up to a maximum value of $4.00 per hour); and
  - $49.92 per week income protection insurance
- **Scenario 3** (uplift of 11.7% compared to the TMR BPIC across 36 hours)
  - Major project site allowance (indexed to overall project cost, up to a maximum value of $4.00 per hour);
  - $49.92 per week income protection insurance; and
  - $175.00 per week redundancy contribution

Leveraging scenario 2 and 3 and pending union feedback, we may see scenario 4 as a final position. This gives us the upper and lower book ends for seeking Government authority to re-commence negotiations, subject to where discussions on TMR's proposed implementation strategy get to.

Scenario 4 provides an uplift of 16.5% across 36 hours and meets a number of the unions' key claims.

Scenario 4 contemplates the inclusion of the unions' claims with the exception of the $52.21 per hour base trade rate:

- Major project site allowance (indexed to overall project cost up to $4.00 per hour);
- $49.92 per week income protection insurance;
- $175.00 per week redundancy contribution; and
- $263.00 per week superannuation contribution.

A significant gap in wage rates will still exist between the TMR BPIC base trade rate of pay of $39.00 and the unions' claim of $52.21. However, the inclusion of the $4.00 per hour site allowance will increase TMR BPIC base trade rate from $39.00 per hour to $43.00 per hour. In our view we believe scenario 4 may be an appropriate middle-ground between the unions' claims and the current TMR BPIC for the major project uplift considering the GCLR BPIC was developed as a standalone project BPIC that would not be replicated.

Might be useful for us to schedule a chat to discuss.

Kind regards

Scott Gartrell
Executive Director
Management Consulting

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[redacted]

From: Amanda Yeates [redacted]
Sent: Thur 01/07/2021 6:22:11 AM (UTC)
To: Neil Scales [redacted]
Cc: Anne E Moffat [redacted] Deanne M Hawkswood [redacted]
Subject: FW: Cabinet in Confidence_Legal Advice and Coomera Analysis
Attachment: CL_DOCS-#11853232-v1-MINIMUM_CONDITIONS_-_Further_advice_ltr_to_Department_of_Transport_and_Main_Roads.pdf
Attachment: Copy of TBPIC_300+Analysis-with-QTRIP_v1.2.xlsx
Attachment: RE: Discussions with Unions today

Afternoon DG

Ahead of our 4.30 meeting this afternoon I wanted to provide you with the legal advice that COS asked us to get from Crown law. The Cos's key questions were – (a) what are the opportunities for TMR's procurement processes to require tenderers to engage with all unions during the procurement process; and (b) what are TMR's options (contractually) if contractors do not do what they said they were going to do.

I appreciate you wont have had a chance to read these in the ten minutes we now have until the meeting but I wanted to make sure you had them.

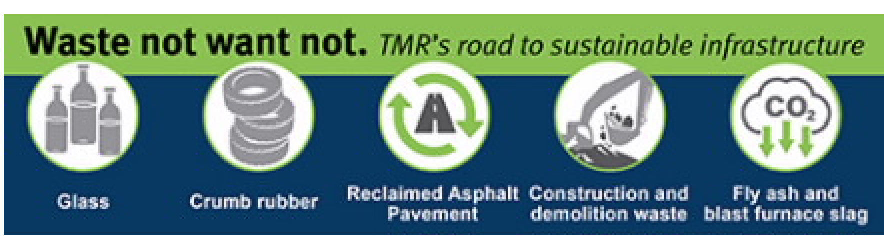
Also provided is a copy of the BPIC+ cost modelling. If time permits it would be good to talk about this at the meeting.

Thanks DG

'Respect the Distance'. Stay Safe.

Amanda Yeates BE (Civil) RPEQ FIEAust CPEng EngExec NER APEC Engineer IntPE (Aus) MAICD
Deputy Director-General | Infrastructure Management & Delivery
Department of Transport and Main Roads

[redacted]



From: Deanne M Hawkswood [redacted]
Sent: Thursday, 1 July 2021 1:03 PM
To: Amanda Yeates [redacted]>
Subject: Cabinet in Confidence_Legal Advice and Coomera Analysis
Importance: High

Hi Amanda

Thank you for the update earlier, so much going on. Attached is the advice from Crown Law regarding:

- the role TMR can take to encourage employers to consult with the unions, prior to and following award
- what mechanisms could we use in that regard, and
- TMR contemplating undertaking an 'all in' meeting with contractors and unions at contract award and what risks that might introduce, key messages etc

There was a follow-up email to this advice where we asked more specifically about a meeting between the Minister's office, unions and Crown Law – similar to what we were advised had occurred with EPW and Minister deBrenni. This is also attached.

The excel sheet is the analysis for the BPIC+ which runs about 5 different scenarios against Haughton River Floodplain Upgrade, which we continue to use as the QTRIP baseline. This has been shared with Scott and we are currently finding a time to work through these and test that we have appropriate parameters included.

As always, any questions please let me know.

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

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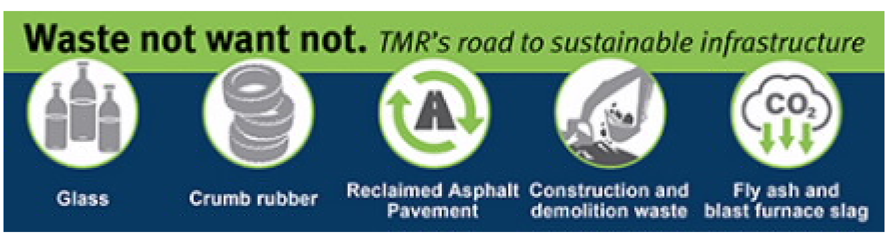
From:	Amanda Yeates[redacted]
Sent:	Fri 02/07/2021 8:19:29 AM (UTC)
To:	tam.vanalphen[redacted] Neil Scales[redacted]
Cc:	Deanne M Hawkswood[[redacted] Anne E Moffat[[redacted]
Subject:	BPIC legal advice and cost modelling
Attachment:	Copy of TBPIC_300+Analysis-with-QTRIP_v1.5.xlsx
Attachment:	CL_DOCS-#11853232-v1-MINIMUM_CONDITIONS_-_Further_advice_ltr_to_Department_of_Transport_and_Main_Roads.pdf

Evening Tam and Neil
Attached are two documents in preparation for our Min/DG meeting on Monday morning.
The first is the legal advice regarding (a) opportunities for TMR's procurement processes to require tenderers to engage with all unions during the procurement process; and (b) TMR's options (contractually) if contractors do not do what they said they were going to do.
The second is the cost modelling for a range of scenarios for BPIC 300+
See you Monday
'Respect the Distance'. Stay Safe.
Amanda Yeates BE (Civil) RPEQ FIEAust CPEng EngExec NER APEC Engineer IntPE (Aus) MAICD
Deputy Director-General | Infrastructure Management & Delivery
Department of Transport and Main Roads
[redacted]
W: www.tmr.qld.gov.au



Department of Transport and Main Roads
Noting Brief
MBN24472

To: Minister for Transport and Main Roads

SUBJECT: Best Practice Industry Conditions meeting with Trade Unions	**Urgent:** Meeting scheduled for 7 July 2021 with pre-brief on 6 July 2021

Summary

- You will be meeting with representatives from relevant Trade Unions, Crown Law and Department of Transport and Main Roads (TMR) staff about the implementation of the Best Practice Industry Conditions (BPIC) for transport civil construction projects. The meeting is in response to concerns raised by the Trade Unions about:
  - the ability for the relevant unions, who have coverage on a project, to genuinely engage with principal contractors on best practice industrial relations
  - what processes TMR can establish to encourage this engagement, including where the engagement does not occur, what steps could be taken by the department.
- TMR has consulted with the Australian Workers' Union (AWU); Electrical Trades Union (ETU); Construction, Forestry, Maritime, Mining and Energy Union (CFMEU); Australian Manufacturing Workers' Union; and Plumbing Trades Employees Union (PPTU) on the development of a Transport BPIC for projects over $300 million. However, the above concerns have impacted any meaningful discussion.
- The AWU has elected to not participate in recent BPIC discussions.
- TMR has sought advice from Crown Law (**Attachment 2**) on:
  - opportunities for TMR's procurement processes to require tenderers to engage with all relevant unions during the procurement process and
  - TMR's options (contractually) should contractors not meet their engagement commitments.
- This advice is for TMR only and is subject to legal professional privilege.
- To help inform the BPIC for projects over $300 million, TMR has undertaken cost modelling estimates on a range of scenarios (**Attachment 1**).

Background

- In October 2020, the Cabinet Budget Review Committee (CBRC) approved:
  - a set of BPIC for transport civil projects with a value between $100 million–$300 million (the transport BPIC), including where possible those projects in the active procurement phase (partial implementation projects)

Action Officer:	**Endorsed by:**	**Endorsed by: DDG**	**Endorsed by: DG**
Melissa Johansson	Deanne Hawkswood	Amanda Yeates	Neil Scales
Manager	A/General Manager	Deputy Director-General	Director-General
Tel: [redacted]	Tel: [redacted]	Tel: [redacted]	Tel: [redacted]

  - major projects with a project value over $300 million will use the transport BPIC as the base case for negotiating project specific industrial conditions and wages and seek CBRC approval.

- TMR has been engaging with relevant trade unions and industry associations on a set of BPICs for the Coomera Connector stage one project which is valued over $300 million. TMR is proposing to utilise this BPIC document for all transport civil construction projects over $300 million (referred to as BPIC+). This will shortly be considered by CBRC for approval.

Issues and Suggested Approach

- After issues with the non-attendance of the AWU representatives at BPIC+ discussions and the perception of exclusionary practices on BPIC partial implementation projects, such as Cooroy to Curra section D (contract two) awarded to CPB, trade union representatives have requested a meeting.
- This meeting is for those trade unions to outline their concerns and to suggest appropriate processes and lawful actions that TMR could take to avoid any exclusionary practices and the possible contract provisions to enforce compliance by contractors to meet BPIC commitments provided for in their tender.
- TMR has previously met with trade unions to discuss their suggestions in relation to implementation of the BPIC and possible contract provisions and are concerned that those suggestions may not fully align with relevant legal obligations, including those contained in the Code for Tendering and Performance of Building Work 2016. **Attachment 2** provides some of the advice provided by Crown Law on these issues.
- The issues raised by trade unions are outlined below.
  - For AWU:
    - AWU does not wish to engage with the government on employee conditions and wages relating to projects, and will instead engage directly with the employers (contractors) and their employees as required under the *Fair Work Act 2009*
    - AWU has majority coverage of the civil work trades and on that basis, will not sign an enterprise agreement jointly with the CFMEU
    - AWU's position for TMR's BPIC+ is the CPB - Cross River Rail Civil and Surfacing Works Greenfield Agreement 2019.
  - For the ETU, CFMEU and PPTU:
    - these unions are participating in good faith with TMR on the development of the BPIC+ document but have little certainty about being invited to engage with a principal contractor on the industrial relations strategy of major transport civil construction projects
    - these unions have expressed their intention that if the implementation of the BPIC policy (at the front end of the process) does not work to their expectations, they will focus their efforts on ensuring compliance with industrial and safety related matters of major transport civil construction projects
    - the recent CPB Greenfield agreement for the Cooroy to Curra stage D (contract two) project includes the AWU as a party to the agreement. The agreement was approved by the Fair Work Commission and reflects a high number of conditions and wage rates within the Transport BPIC. Regardless, the other unions consider it a sub-standard document and site their exclusion as an example of the policy implementation not working.

- TMR has met with the trade unions on a couple of occasions to work through the issues and shared the position and approach that TMR proposes to take, which is supported by the Crown Law advice (**Attachment 2).**
- TMR provided further advice on its implementation approach to the trade unions (**Attachment 3**):
  - TMR values and expects industrial harmony on its project sites to mitigate time and cost impacts. This will be clearly stated in the tender document seeking tenderers to demonstrate how they will meet this requirement, which is further considered during the comparative evaluation process
  - this commitment by the tenderer will be captured in their contract with performance monitored by TMR, like other contract provisions
  - non-performance can be addressed through the contract, firstly seeking to rectify the issue but where that fails, access to stronger remedies such as escalation and dispute resolution procedures can be utilised, with termination available
  - performance will be monitored and measured and will be captured during prequalification systems to inform future tender access. A strengthened function on assurance and reporting within TMR is being established, with a focus on contractors meeting or exceeding the Key Result Areas (KRA) including KRA – one quality jobs, which includes the transport BPIC.
- The development of the BPIC+ is on critical path for the Coomera Connector stage one project. TMR has received feedback from industry associations on the BPIC+ document, however has made little progress with the trade unions.
- TMR has developed several scenarios which have been costed. The scenarios look at a range from lowest estimated cost (the current Transport BPIC) to highest estimated cost (trade union contracting frameworks). The purpose of the analysis is to inform negotiations and the subsequent CBRC submission for consideration. The analysis is a work in progress and is provided for information at **Attachment 1**.

Financial Implications

- The cost modelling at **Attachment 1** outlines the potential cost implications on a range of scenarios to apply BPICs on projects over $300 million.

Consideration of the *Human Rights Act 2019* (HR Act)

- The HR Act was considered when undertaking actions outlined in this brief, and there are no impacts to human rights.

Consultation with Stakeholders

- TMR consulted with relevant unions on the development of the transport BPIC and with industry stakeholders on its application and implementation.

Employment

- There are no employment impacts associated with this matter.

Media

- There are no media impacts associated with this matter, however the implementation of the BPICs policy on the Gold Coast light rail stage three project has attracted some media interest in recent months.

Election Commitments

- This matter does not relate to an election commitment.

Government Priorities

- Implementation of the transport BPIC and BPIC+ support delivery of the accelerated program, in turn creating and sustaining quality jobs and build resilience of the sector through a skilled, local and ongoing workforce operating under safe, fair workplace conditions.

Minister's comments
Noted / Not Noted
Minister's signature……….……………………
Date ………/……….../……..…

From:	Allan S Uhlmann [redacted]
Sent:	Sat 10/07/2021 11:48:11 PM (UTC)
To:	Dean A Misso [redacted] Deanne M Hawkswood [redacted]
Subject:	RE: First cut of GCOC with BPICs
Attachment:	Tender Process Endorsement - ED Signed.pdf

Hi Dean

Thanks for the opportunity to review – I've included my comments in the attached doc.

Comments on Doc

- Generally OK
- I'm still uncomfortable with the Deed Poll inclusion – I would prefer that there isn't any connection with subcontractors other than through the Contractor. I'd appreciate specific advice or a conversation with Melinda about why the current provisions under Clause 14.6.3 aren't enough and whether those provisions can be strengthened (if required) without using the Deed Poll model.

Comments Generally

- The documents need to go to Graham and the contracts team for comment prior to Wednesday.

- I think, for now, this needs to be a "one-off" document for Centenary Bridge and not included and published as a standard document.
- If I understood correctly and this is planned to go out to union stakeholders this week then it absolutely needs to go to Centenary tenderers and industry stakeholders at the same time – noting that the tender process is on foot and we have no probity agreement with union stakeholders who may be reviewing and sharing.

Happy to discuss further as required.

Cheers

Allan

Allan Uhlmann
Executive Director (Program Management and Delivery)
Program Delivery and Operations | Department of Transport and Main Roads

[redacted]

[redacted]
www.tmr.qld.gov.au

From: Dean A Misso <[redacted]
Sent: Saturday, 10 July 2021 9:19 PM
To: Deanne M Hawkswood <[redacted]Allan S Uhlmann
[redacted]
Subject: First cut of GCOC with BPICs

Hi Dee and Allan,

This is the first cut. At this stage, it looks like the same BPIC provisions as Gatton.

Allan – probably need you to think about the deed poll in favour of the State, particularly after the EPW discussion on the Qld Code.

Can you let me know if you don't get the attachment. Sending it from my phone so have that silly email thread issue.

I will look at it properly tomorrow afternoon/evening, so if you have any comments before 8pm would be great and then we can chat with Melinda Monday.

Dean

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent:	Mon 12/07/2021 4:44:39 AM (UTC)
To:	Gartrell, Scott [redacted]
Subject:	General Conditions of Contract with BPIC
Attachment:	First cut of GCOC with BPICs

Hi Scott

Following on from our catchup earlier on all things related to BPIC, I mentioned that Dean and Melinda have been focused on drafting clauses for the Transport Infrastructure Contract (Construction Only) – for Centenary. This was a point of discussion at the meeting last week between the Minister, TMR and CFMEU & ETU.

For your info I've attached the email we received with the first draft of the Contract from Crown Law. There has been a bit of commentary on the Deed Poll and preference for the responsibility to rest with Principal Contractor and an ability for the Principal to 'reach in' when/if required.

I've also included a link to the Ethical Supplier Mandate.

I'm off to [redacted] and will progress that mapping we talked about.

Thanks
Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent:	Wed 14/07/2021 7:38:05 AM (UTC)
To:	Mandy L Bird[redacted]
Cc:	Anne E Moffat[redacted]Amanda Yeates[redacted]Allan S Uhlmann[redacted]Dean A Misso[redacted]Melinda Pugh[redacted]
Subject:	Urgent - Email from DG to trade unions in line with commitment
Attachment:	CL_DOCS-#11954262-v1-C7830_TIC_GCoC_alp_with_BPP_and_BPIC_clauses.pdf
Attachment:	CL_DOCS-#11957976-v1-Form_of_Subcontractor_Deed_Poll.pdf

Hi Mandy

A commitment was made to the CFMEU and ETU at a meeting last week, to provide 'marked-up' version of the contract that incorporates the Best Practice Industry Conditions. The commitment was to provide the document/s by **COB today**.

It was agreed that the document/s would be communicated to all trade unions, not just CFMEU and ETU, and it would also be provided to the tenderers for the Centenary project. The Project Team are actioning the message to the tenderers, and it would be ideal for the DG to send the email to the Trade Unions.

The email details are:

Email recipients	Michael Ravbar, CFMEU, [redacted] Jade Ingham, CFMEU, [redacted] Luke Tiley, legal advisor CFMEU, [redacted] Beau Malone, ETU, [redacted] Lisa Midson, ETU, [redacted] Mark Raguse, AWU, [redacted] Rohan Webb, AMWU, [redacted] Luke Bardon, Plumbers, [redacted]
Subject	TMR Conditions of Contract – Draft for Centenary
Message text	Please find attached the current TMR Transport Infrastructure Contract – Construct Only (TIC-CO) general conditions of contract and the amendments that TMR are proposing to implement in relation to the Best Practice Principles and Best Practice Industrial Relations, for the Centenary Bridge Upgrade Project.
Attachments	The two documents attached in this email:

	• Conditions of Contract (marked up) • Subcontractor Deed Poll

Thank you Mandy!

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From:	Allan S Uhlmann[redacted]
Sent:	Wed 14/07/2021 12:54:51 AM (UTC)
To:	Bishrul H Mohamed Hafreth[redacted] Graham J Hobbs[redacted]
Cc:	Dean A Misso[redacted] Adam J Williams[redacted]
Subject:	FW: Meeting follow up
Attachment:	CL_DOCS-#11954262-v1-C7830_TIC_GCoC_alp_(CL_amendments)_TMR_comments_v_2.DOCX
Attachment:	CL_DOCS-#11954262-v1-C7830_TIC_GCoC_alp_with_BPP_and_BPIC_clauses.DOCX

Haafi, Graham

As discussed – will need Dean to confirm/provide a final version.

This will need to go to tenderers on the Centenary project today for their information as a draft of the planned GCC for the project (because it will be released to Unions this afternoon – as committed by Min's office).

There will be time to review and make amendments prior to the Centenary tender docs being finalised.

Cheers

Allan

Allan Uhlmann
Executive Director (Program Management and Delivery)
Program Delivery and Operations | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

[redacted]

From:	John Ryan[redacted]
Sent:	Thur 15/07/2021 1:28:46 AM (UTC)
To:	Adam Edwards[redacted] warren.crowther[redacted]; BRADY[redacted] Terry.Waterson[redacted] gary.georgiou[redacted] Ross.Olsen@[redacted] Richard.Cowley[redacted] Andrew Hammill[redacted] [redacted]nz@jhg.com.au]; [redacted]
Cc:	Patrick J Dennehy[redacted]Dean A Misso[redacted]Allan S Uhlmann[redacted]Deanne M Hawkswood[redacted]]
Subject:	Centenary Bridge Upgrade - Documents are FYI only
Attachment:	CL_DOCS-#11954262-v1-C7830_TIC_GCoC_alp_with_BPP_and_BPIC_clauses_DRAFT_SECURED.pdf
Attachment:	CL_DOCS-#11957976-v1-Form_of_Subcontractor_Deed_Poll_DRAFT_SECURED.pdf

Good morning,

I am emailing you regarding the Centenary Bridge Upgrade project's contract documentation addressing Best Practice Principles and Transport Best Practice Industrial Relations.

As you have submitted an EOI you would be aware that the Department of Transport and Main Roads is in the process of shortlisting based on Expression of Interests received on Thursday 10 June 2021. For the Best Practice Principles and Transport Best Practice Industrial Relations to be included in the project the department has made some changes to the TIC-CO contract documents. Accordingly please find attached the department's TIC-CO General Conditions of Contract and the amendments that are proposed for implementation. These documents are being sent to you for your information only, and do not form any part of the current shortlisting process, and do not require any response on your behalf.

The attached documents are sent to you without prejudice, and may change without notice prior to being released as part of the Request for Tender (Stage 2) of the Centenary Bridge Upgrade project's procurement process. Further, this email is being sent to all parties that have submitted an EOI for the project, and is in no way any indication of who will be shortlisted.

The attached documents are also being sent to industry groups, such as the Queensland Major Contractors Association, for their information only.

Regards,

Jack Ryan
Deputy Regional Director (Metropolitan)
Department of Transport and Main Roads

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent:	Fri 16/07/2021 3:25:14 AM (UTC)
To:	TMR DLO[redacted]
Subject:	RE: Email to Trade Unions regarding Centenary Conditions of Contract

Thanks Cyndy

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: TMR DLO [redacted]
Sent: Thursday, 15 July 2021 10:33 AM
To: Deanne M Hawkswood [redacted]
Subject: RE: Email to Trade Unions regarding Centenary Conditions of Contract

Hi Deanne

This has been sent to CoS.

Kind regards

Cyndy Nguyen
A/Department Liaison Officer | Minister for Transport and Main Roads
Corporate Division | Governance Branch | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Deanne M Hawkswood [redacted]
Sent: Wednesday, 14 July 2021 6:07 PM
To: TMR DLO [redacted]
Subject: Email to Trade Unions regarding Centenary Conditions of Contract

Good evening

The attached email was issued recently to the following Trade Unions:

- Michael Ravbar, CFMEU, [redacted]
- Jade Ingham, CFMEU, [redacted]
- Luke Tiley, legal advisor CFMEU, [redacted]
- Beau Malone, ETU, [redacted]
- Lisa Midson, ETU, [redacted]
- Mark Raguse, AWU, [redacted]
- Rohan Webb, AMWU, [redacted]
- Luke Bardon, Plumbers, [redacted]

This was a commitment provided at a meeting last week between the Minister, CoS, Director-General and TMR staff.

Would it be possible for you to advise the Minister's Office that the email was issued as per the commitment.

Thank you!
Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent:	Tue 27/07/2021 11:05:16 AM (UTC)
To:	Amanda Yeates[redacted]Gartrell, Scott[redacted]
Cc:	Rakkitha Widanapathiranage[redacted] Adnan Raheem[redacted]Dean A Misso[redacted]
Subject:	Urgent_Coomera BPIC Costing Scenarios - update for discussion
Attachment:	Copy of TBPIC_300+Analysis-with-QTRIP_v10.0 - PIP extract July 2021(for consult V2).xlsx

Cabinet in Confidence

Hi Amanda and Scott

I apologise this is coming through late, but we ran a number of scenarios today which I've summarised below. I've included the transition from Award to our original QTRIP baseline and then to the BPIC (top 3 rows). This shows that the BPIC is 66% above the Award and 11% above the QTRIP baseline. After that I've included 5 scenarios of possible major project positions, the final 2 scenarios is what the unions put on the table. Would appreciate a discussion tomorrow please.

Scenario	**Weekly Cost**	**Increase %**	**QTRIP Uplift %**
Building & Construction Award	$1,195.93	0%	
QTRIP Baseline (Haughton River Floodplain Upgrade)	$1,786.52	11%	
Transport BPIC	$1,987.78	66%	
Scenario 2 Transport BPIC plus - Major project (site) allowance and Income Protection	$2,305.28	16% (from BPIC)	4.79%
Scenario 3 Transport BPIC plus - Major project (site) allowance, Income protection, increased redundancy $120, increased training $15	$2,353.28	18.4%	5.52%

Scenario 3.1 as above with increased superannuation $255	$2,426.67	22.1%	5.81%
Scenario 4 – new base wage rate $46.05, no site allowance, income protection, increased redundancy, increased training	$2,308.93	16.2%	4.85%
Scenario 4.1 – as above with increased superannuation	$2,386.35	20.1%	6.02%
Scenario 5 – is actually same as 3.1 (oops!)			
Scenario 6 – Union's Claim $300-$700. GCLR BPIC, minus trade allowance, plus site allowance, increased redundancy and superannuation	$2,853.63	43.6%	13.07%
Scenario 7 – Union's Claim +$700m John Holland Enterprise Agreement for Gatton Prison	$3,136.26	57.8%	17.33%

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

Queensland Government

Memorandum

Our ref
Your ref CN-14818
Date 26 August 2021

To Assessment Panel - Chair
Alan Purvis, Manager Delivery, South Coast Region

Copy to Tender Manager, Bishrul Mohamed Hafreth, Director, Infrastructure Procurement, PMD
Deanne Hawkswood, General Manager, Strategic Procurement, IMD
Dean Misso, Executive Director, Office of the Deputy Director-General, IMD

Subject **Stage 2 Offer – Evaluation – Industrial Relations Component**
Coomera Connector Stage 1 North – Shipper Drive to Helensvale Road
Project Number: 1776678
Contract No: *CN-14818, CN-15367*

Purpose

The Tender Evaluation Plan – Coomera Connector Stage 1 North – Shipper Drive to Helensvale Road (Project No. 1776678) – CN-14818, CN-15367 (TEP) dated December 2021, provides for External Advisors (see section 2.7) to support and provide advice to the Assessment Panel through the Stage 2 Offer.

The purpose of this memorandum is to:

a) Provide commentary and recommendations from the External Advisors in relation to the industrial relations component (Best Practice Industrial Relations, including Best Practice Industrial Relations) against identified Selection Criteria; and
b) Provide support to the Assessment Panel during its own deliberations, evaluation and recommendations in relation to the Coomera Connector Stage 1 North – Shipper Drive to Helensvale Road Project.

Department of Transport and Main Roads
Infrastructure Management & Delivery
Office of the Deputy Director General

Enquiries Deanne Hawkswood
Telephone +61 7 3066 1704

The following External Advisors were nominated:

- Deanne Hawkswood, General Manager Strategic Procurement, TMR
- Dean Misso, Executive Director, Officer of the DDG (IMD), TMR

Our assessment has been undertaken in accordance with the TEP, with a specific focus on the industrial relations component (Best Practice Industrial Relations, including Best Practice Industrial Relations) against identified Selection Criteria.

BPP and BPIC

To assist with the Queensland Government's commitments in relation to the BPPs, including best practice industrial relations, TMR has developed a guidance document entitled the *Best Practice Industry Conditions for Transport Civil Construction Projects* dated December 2020 (Transport BPIC). In developing the Transport BPIC in consultation with stakeholders, relevant enterprise agreements, awards and legislation to the transport civil construction industry were analysed to ensure the guidance document reflects modern and progressive industrial practices for the civil construction industry.

The Transport BPIC is to be considered when tendering for projects with TMR for transport civil construction projects with a total project value between $100 million - $300 million only. This was provided to tenderers on or about 6 July 2021.

TMR recognises that the Coomera Connector Stage 1 – North (Shipper Drive to Helensvale Road) may exceed that project value threshold. TMR are in the process of developing a Transport BPIC to address projects with a total value over $300 million. TMR notified tenderers that the Transport BPIC (over $300 million) would be included in the procurement process at a later time. For the benefit of the Assessment Panel, consideration by government is currently scheduled for 8 September 2021, subject to current negotiations.

Following government approval, the Transport BPIC (over $300 million) will be available for release to the Tender Manager assist with remaining procurement processes and importantly, contract award.

Assessment

By way of method of assessment, each External Advisor applied the process outlined in the TEP, reviewing each tender response independently. Following the independent evaluation, the External Advisors then met on the following dates to moderate together as a External Advisor 'team':

- 10 August 2021
- 17 August 2021
- 24 August 2021

- 26 August 2021

The External Advisor 'team' also met with the Assessment Panel on 10 August 2021 to discuss the tender submissions more generally. Several clarifications and queries were made between both the Assessment Panel and External Advisors in relation to the tender process.

The Summary of Results, to assist with tender feedback is provided as **Attachment 1**.

Recommended Rankings

The tenders have been ranked utilising the scoring available in the Microsoft Excel spreadsheet (entitled "SD2HR BPIC Non-price") and the scoring criteria rating provided between 0 and 5. The summary is provided as **Attachment 3.**

The recommended rankings are as follows:

1. Tenderer – Fulton Hogan Albem McIlwain JV
2. Tenderer – Acciona Georgiou JV

Other General Comments or Suggestions for Improvement

- Tender Manager to ensure that the External Advisors have all relevant tender documentation required to undertaken the assessment, including the projects TEP and its Addendums, at the same time as the tender offers are provided.
- To seek advice in relation to the weighting for the criteria of Expert Advisors, at least for consideration of the Assessment Panel. An example is the weighting given to the Contractor's Draft Workplace Relations Management Plan.
- Tender Manager advice on whether the best practice industrial relations questions, including the Supply Chain Engagement Plan was useful or otherwise and any suggestions for improvement on future tenders.

Questions for Project Team (potentially to be conveyed to Proponents)

<u>Fulton Hogan Albem McIlwain - JV</u>

- Reference is made to labour hire permanent employees. It would be useful to further clarify whether the labour hire companies such as Protech, Dreampath and Workpac would be permanent employees and generally the employment conditions they would work under, including specific wage rates and allowances.

- Reference is made to statements made in the tender including "*the Transport BPI will be provided as a guidance to subcontractors where appropriate (in accordance with the law and not in breach of the Building Code)*" page 39 and "*FHAMJV will not evaluate, select and engage subcontractors based directly on subcontractor's response to meeting the intent of the Transport BPIC as certain elements of the BPIC may be in contravention of the Building Code*". As part of any feedback sessions, it would be useful to establish what TMR could provide, in their view, to assist future tender processes.
- The "Impacts of BPIC" pricing (**Attachment 2**) would need to be refined to include assumptions and methodology, including a breakdown of lump sum items so that TMR's position can be robust, defensible and provide value for money. Further clarity would be required on a number of BPIC impacts, for example, FHAMJV staff costs, additional FHAMJV IR staff, increased survey costs, elected representatives and program. Similarly, best practice principles enhancement assumptions and methodology, including a breakdown of lump sum items and clarification questions would be required.

Acciona Georgiou - JV

- The tender submission makes several references to the statement "*there is a current lack of clarity regarding the legalities of explicit or tacit provision of the Transport BPIC requirements to other persons, for example, suppliers and subcontractors*". As part of any feedback sessions, it would be useful to establish what TMR could provide, in their view, to assist future tender processes.
- A statement is provided at page 19 of 22, that "*we note that the introduction of the Transport BPIC within the civil infrastructure market has already commenced impacting South East Queensland projects and resources*". It would be beneficial as to ascertain whether this statement is founded on evidence. It is understood that no evidence has been provided to TMR at this time.
- AGJV indicate the "AGJV can adjust rates of pay to ensure attraction and retention of our workforce where necessary", however no further explanation is given as to how this might be implemented. It may be useful to understand how this may be undertaken.
- The BPIC implementation pricing (**Attachment 2**) would need to be refined to include assumptions and methodology, including a breakdown of lump sum items so that TMR's position can be robust, defensible and provide value for money. This includes the additional sums for the items stated, such as "*inclement weather provisions, salary sacrifice and rostered days off*".

Further information

As previously mentioned, it has been agreed by the External Advisors and the Assessment Panel that to assist the evaluation process, further queries or meetings of the External Advisors can be arranged. In that regard, the External Advisors would be pleased to further assist the Assessment Panel as appropriate.

Endorsed: Deanne Hawkswood

Position Title: General Manager, Strategic Procurement, IMD

Signature: [redacted]............ **Date:** 26 August 2021

Endorsed: Dean Misso

Position Title: Executive Director, Office of the Deputy Director-General

Signature: [redacted].......... **Date:** 27 August 2021

Attachment 1 - Summary of Results

With a specific focus on the industrial relations component (Best Practice Industrial Relations, including Best Practice Industrial Relations) against identified Selection Criteria, the following summary for feedback is provided by the Expert Advisors for tender feedback purposes:

Fulton Hogan Albem McIlwain JV

Areas of strength

- Clear identification of who, including both management and supervision, is responsible and accountable for various plans and requirements
- Clear articulation of targets and stretch targets for government commitments, such as ATSI participation
- Guidance in relation to the workplace relations strategies that will be employed for this project, including use of examples
- Identification of key challenges to project success, such as security of critical material supply, and the mitigation strategies to be utilised for the project
- The articulation of why labour hire will be utilised for the project, noting that permanent and secure employment is preferred where possible, including the types of labour hire companies used.
- Use of worked examples, based on real project experience, has been very useful in evaluating 'demonstration' of the key matters

Areas for Improvement

- More detailed information on how the JV would consult with subcontractors on BPP matters, including best practice industrial relations and BPIC and how offers can be enshrined in subcontracts and monitored against would have been more helpful
- Information relating to engaging with unions and union demarcation were strong, but could have been improved by identifying those unions who would have coverage on the project, and specific strategies that could be used in relation to those identified unions
- While the basis of the Transport BPIC impact and basis of assessment were clearly articulated, the cost impact lacked considerable detail in relation to both assumptions and methodology used. This comment is extended to the BPP – enhancement principles. It is difficult to establish how these cost impacts are attributed.

Acciona Georgiou

Areas of strength

- The intended work profile was well described and information related to various work packages was well articulated
- Made it clear which industrial relations strategy and EA was applicable for implementation on the project. The section 'reflecting the intent of the Transport BPIC' was well set out and the comparison with the current EA was well explained
- Proposed subcontractors were identified well
- Particularly strong in relation to JV and subcontractor assurance and compliance monitoring as well as regular reporting

Areas for Improvement

- Diversity and inclusion items were discussed, but without specific reference to how it would apply to this project, such as current baselines and specific targets
- Better articulation of the reasons why labour hire are necessary and strategies to provide permanent and secure employment for the project would have strengthened the tender submission
- The tender does not give sufficient information to enable robust assessment of engaging reputable subcontractors. It does not indicate the current strategies, what might change due to changes in government policy or the need to ensure subcontractors are maintaining a positive industrial relations environment for the project. The flow down of the BPP requirements is also not detailed
- The tender submission makes no clear attempt to discuss how the Transport BPIC may or may not be considered by subcontractors identified for the various components of work. Statements are made in relation to the ability legally to undertake subcontractors engagement, in comparison to "within the requirements of the relevant laws" we would undertake the following….
- Information relating to engaging with unions and union demarcation could have been improved by identifying those unions who would have coverage on the project, and specific strategies that could be used in relation to those identified unions. Reliance was made of past performance "neither party has witnessed significant competition between unions, or trade union demarcation disputes for many years". That might be so, but the question was really about looking forward and demonstrating that, should a dispute arise, what strategies would be employed to address and mitigate them"
- The cost impacts of BPIC were not well described or articulated. There was no detail in relation to both assumptions and methodology used. For example, *"additional provisions could be incorporated with an additional cost impact of approximately $9.3 million"*. TMR need to draw assumptions on whether this relates to the several additional areas noted, such as inclement weather provisions, salary sacrifice and rostered days off. These costs were not separately addressed or explained.

Attachment 2 – Transport BPIC ($100-$300 million) impact summary

Fulton Hogan Albem McIlwain - JV

BPIC Impact	Cost Impact
FHAMJV Direct Labour	$1,516,480
Subcontractor labour costs	$5,563,277
Wet Plant Hire	$1,800,932
FHAMJV Staff Costs	$6,389,544
Additional FHAMJV IR staff	$735,953
Increased Survey Costs	$533,617
Elected representatives	$979,963
Costs associated with enhanced self perform scope	$2,801,780
Program	2,233,279
Total	$22,554,825

Best Practice Principles - Enhancement	Cost Impact
Indigenous Engagement – Subcontract Spend	$637,284.47
Indigenous Engagement – Principal Employment	$1,893,587.23
New Entrant Training – exceeding new entrant training targets	$3,098,597.28
Other Workforce Training – exceeding other workforce training targets	$159,813.80
Total	$5,789,282.79

Acciona Georgiou - JV (direct workforce only)

BPIC Impact	Cost Impact
BPIC Costs	$5,400,000
Supervision, site facilities and overheads	$800,000
Risk Allowance	$620,000
Margin	$852,500

Sub Total	$7,672,500
Costs of several additional areas including inclement weather provisions, salary sacrifice and rostered days off	$9,300,000
Total	$16,972,500

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent:	Wed 01/09/2021 1:01:03 AM (UTC)
To:	jingham[redacted]; luke[redacted]Chris Lynch[redacted]
Cc:	Scott Gartrell[redacted]
Subject:	Centenary Bridge - Media Release

Please find below the recent media release on the shortlisted proponents for Centenary.

Minister for Transport and Main Roads
The Honourable Mark Bailey

Centenary Bridge upgrade takes big strides forward

A major upgrade of the Centenary Bridge at Jindalee has reached two new milestones, with four contractors shortlisted for the project and community consultation set to start.

The upgrade includes building a new, three-lane, northbound bridge and refurbishing the existing bridge to become a three-lane, southbound bridge.

Recognised as the first stage of the overall Centenary Motorway upgrade, the project will also include active transport provisions.

Federal Minister for Communications, Urban Infrastructure, Cities and the Arts, the Hon Paul Fletcher MP, said the Centenary Bridge upgrade was one of many critical infrastructure projects being delivered by the Morrison Government across the region.

"The Morrison Government has committed $112 million for the upgrade of the Centenary Bridge, which provides a critical link for South East Queensland carrying more than 85,000 vehicles a day," Minister Fletcher said.

"Duplicating the Centenary Bridge will help to increase capacity, efficiency and travel-time reliability along the Centenary Motorway, as well as the active transport routes between Brisbane's central business district and western suburbs.

"By alleviating congestion along critical sections of roads like this one, we're helping people to get home to their families sooner and safer, we're helping freight move more quickly between our cities, and we're generating jobs across the country."

Queensland Transport and Main Roads Minister, the Hon Mark Bailey MP, said there had been significant community interest and now was the opportunity to review the project.

"It is important to fix congestion and safety issues along the Centenary Motorway, so the feedback will help us to better understand the experiences and needs of the local community and road users," Minister Bailey said.

"The bridge and associated active transport connections will see the Palaszczuk Government delivering an overall $224 million project.

"This work is being delivered through the Palaszczuk Government's record $27.5 billion, four-year roads and transport investment plan to support 24,000 jobs.

"This project alone will support 240 jobs, helping to drive Queensland's economic recovery from COVID-19.

"I am also pleased to announce four contractors have been shortlisted for the upgrade's stage two tender.

"This is the first Transport and Main Roads project to have Best Practise Industry Conditions included in the tendering documents."

Federal Member for Ryan, Julian Simmonds MP, welcomed the milestone.

"This project is part of my commitment to improve traffic flow for the Western Suburbs, it will have a big impact on our community" Mr Simmonds said.

"The federal funding injected into the Centenary Motorway upgrade will mean less time sitting in traffic and more time at home with your family.

"I'll be encouraging Ryan residents to have their say."

State Member for Mount Ommaney, Jess Pugh MP, said she was excited to hear from her constituents about what they want the new Centenary Bridge to look like.

"This is an important part of the planning process and moves us a step closer to getting shovels in the ground," Ms Pugh said.

"Delivering a second Centenary Bridge was a commitment the Palaszczuk Government made during the 2020 election campaign, and now we are getting on with the job.

“This work follows the recently completed $80 million upgrade of the Sumners Road Interchange on the Centenary Motorway, which we delivered six months ahead of schedule.

"I encourage Centenary residents to get involved and provide their feedback on this important bridge upgrade.

“I’ll also be running mobile offices around the electorate in a COVID-safe way between now and September 19, which will be the last chance for people to have their say before major works start next year.”

“I look forward to talking to people around the area and hearing what they want from this exciting project.”

The expression of interest process closed on 10 June 2021 and shortlisting was completed on 10 August 2021.

The recommended four shortlisted contractors are (in alphabetical order) Bielby Hull Brady Joint Venture, BMD Georgiou Joint Venture, Fulton Hogan BESIX Watpac Joint Venture and John Holland. The shortlisted proponents will be invited to submit a tender for the works later this month.

In response to the COVID-19 public health crisis, the Queensland Government has endorsed safety measures, including social distancing and limiting non-essential face-to-face contact.

Unfortunately, this means the planned information sessions are unable to take place. However, there are other ways to provide your feedback or ask any questions you may have about the proposed design.

For more information or to provide your feedback by 19 September 2021, visit the project webpage at http://www.tmr.qld.gov.au and search for 'Centenary Bridge Upgrade', read through the frequently asked questions, view the online map email the project team at metropolitanregion@tmr.qld.gov.au or call 3066 4338 (during business hours).

Media contact:

Toby Walker | 0439 347 875 | Toby.Walker@ministerial.qld.gov.au

2nd September 2021

Allan Uhlmann
Infrastructure Management & Delivery
Department of Transport & Main Roads

By email: [redacted]

Re: Draft BPIC Plus Feedback

Dear Allan;

Thank you for the opportunity to provide some feedback on the revised version of the TIC-CO for the Centenary Highway Bridge Upgrade, which includes a version of the BPIC. The QMCA and the CCF have collectively engaged on behalf of Industry, with the ABCC regarding the proposed amendments to the TIC-CO with the simple objective to securing a clear understanding of the ABCC's position in regards to these documents and their application. We have also had the document reviewed by our lawyers who have provided further advice.

Cascading Requirements and the Building Code

In their review the ABCC's advice is to the effect that:

- the Contract, in its current form, does not breach the Building Code; however, it does gives rise to many serious implementation issues for a Contractor and their sub-contractors.
- giving effect to some parts of the Contract, as clearly intended by the terms of the Contract and the history and development of the BPICs, poses serious compliance risk for a contractor; and
- those risks relate to:
    - coercion or applying undue influence on any subcontractor (whether commercially linked to a contractor or their subcontractors) to make or vary an enterprise agreement (Ground 1);
    - discrimination against a subcontractor because its employees are (or are not) covered by a particular type of industrial instrument (Ground 2);

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ABN 39 154 195 240

- applying undue influence or pressure on a subcontractor to pay above their enterprise agreement (Ground 3).

Ultimately, the ABCC concludes that the process of including the BPP/BPICs in procurement documentation; and requiring subcontractors to address in the tender documents how the subcontractor measures up against the BPICs, will contravene the Building Code (sections 11(3)(f) and 11(4)).

The ABCC were quite specific in their advice:

"In considering the Contract and in particular Clause 9, the successful tenderer must ensure they do not agree to contractual terms which would contravene the law when implemented. For example, the terms of the Contract oblige the successful tenderer to assess subcontractors' terms and conditions of employment against the BPIC.

In fulfilling this requirement it would be unlawful for the successful tenderer to coerce or apply undue influence on a subcontractor to make a new or vary an existing enterprise agreement.

It would be unlawful for the successful tenderer to discriminate against a subcontractor because their employees are covered or not covered (or it is proposed that their employees will, or will not, be covered) by a particular type of workplace instrument (section 354, FW Act). It would also be unlawful for the Queensland Government to be involved in such conduct for example through an appointed Administrator (section 550, FW Act).

The Code prohibits the successful tenderer from applying undue influence or pressure on a subcontractor to exceed the terms and conditions of their lawful agreements (see section 12(2)).

The terms of the Contract require that when selecting a subcontractor, the head contractor must include the BPP in its subcontract tender documents, provide subcontractors with the BPIC and require subcontractors to demonstrate how they propose to address each of the BPPs; including how the subcontractor's terms and conditions for the subcontractor's personnel compare to the BPIC.

This conduct, when taken together, will contravene section 11(3)(f) (read together with section 11(4)) of the Code if it is likely to have the effect of prescribing the terms and conditions of employees of a subcontractor."

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Whilst TMR's document may not be strictly illegal, as written, it creates illegal activity and issues for the Contractor if it was to implement the requirements of the BPIC and the TIC-CO amendments. By attempting to insert the Administrator into the contractual arrangement between the State and the Contractor and getting them to attempt to impart influence on the process of selecting sub-contractors based on their industrial arrangements, a process never seen before in this industry. This also creates confusion, increased costs, and is likely to modify the commercial dynamics and autonomy needed by Contractors whilst also having significant time implications on projects; notwithstanding potentially leaving the Administrator, and the State, to be exposed to the risk of contravening the Building Code as per the advice in the paragraph above.

By inserting the Administrator into the procurement process it raises significant potential for delays, additional costs, dilution of accountability, additional liability for the Administrator and disputes. The Administrator does not have the same commercial drivers as the contractor and this also leads to further conflict with the proposed arrangements.

Invariably the Administrator will not be an expert in Code Compliance and under the terms of the contract be ensuring that the procurement documents comply with the Contract (as opposed to the Code). It would be very likely that each Administrator would apply their own interpretation in the review of the procurement documents with the likely outcome that either:

a) an inexperienced Project Manager/ Contractor accepts the Administrator comments and in doing so inadvertently breaches the Code; or
b) procurement is delayed through argument over the appropriate construction and drafting of the procurement documentation leading to delays, disputes and increased costs.

The ABCC also points out in its advice that a breach of Commonwealth legislation can also capture an accessory which participates in the breach (which could be the State and the administrator, acting for the state), via section 550 of the Fair Work Act or section 92 of the BCIIP Act.

A potential solution might be contained in the Supply Chain Engagement Plan (SCEP) which for CBUP that is of the TIC-CO amendments tie the Contractor back to their tender commitments, a SCEP that contains pro-forma procurement enquiry documents submitted at tender could circumvent the issue provided that the

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"Approval" is effectively granted through the Award of the Contract (rather than later by the Administrator).

This solution provides TMR with the visibility that they want without the administrative burden of the Administrator approving every package that the Contractor releases to market. The Administrator can than simply audit compliance with the plan just like any other management plan that is provided (i.e. Environmental Management Plans etc).

Access to Records

The amended TIC-CO contains requirements relating to Records and Access to Records. Clause 14.12 requires the Contractor to keep accurate and complete records of its tender, tenders it has received, execution of work, compliance with its tender commitments and others. It also requires the Contractor to ensure that every subcontractor does the same.

These requirements include an obligation to keep records that demonstrate compliance with the commitments to the BPP and BPIC including 'payroll records, management records and time recordings…'. Clause 14.12 goes further to allow the Principal, (potentially through the Administrator) to audit the Contractor, with respect to their compliance with Clause 9 (Subcontracting requirements). The Clause requires the Contractor to facilitate such an audit, for example by providing records for inspection and arranging for access to workplaces.

Sections 11(3)(k) and 11(4) of the Code prohibit code covered entities (contractors) from monitoring or auditing the enterprise agreements of their subcontractors. This is therefore illegal for contractors to do and would also result in a contravention of the Building Code. The state should not be dictating actions to contractors which are quite clearly illegal and in contravention of various Commonwealth legislation that governs the industry.

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On Going Issues of Concern

As an industry, our members continue to struggle with the concept that current industry workplace relations practices have been deemed substandard, against an undeclared set of measures that have yet to be clearly and expressly identified.

The lack of guidance around assessment is leading to angst and confusion in the industry.

We also warn that these clauses, as they currently read, could lead a Contractor to break their code and legal obligations.

The inclusion of instruments within the TIC-CO contract form is an attempt to force and coerce industry into dictating these BPIC conditions on their operations and the operations of their sub-contractors, that has been found by the ABCC to be unlawfaul. This is the issue that the civil construction industry has had with BPIC since its first inception.

Contractors, subcontractors and suppliers should not be excluded from, or disadvantaged in, tender processes because they are operating under their existing, approved and lawful enterprise agreements that they have reached with their employees (and often with their representatives). The amended TIC-CO contract in effect gives rise to this issue through the Administrator.

Contractors, subcontractors and suppliers should not be coerced into varying their legal enterprise agreements, or enter into new agreements, to carry out work on Queensland Government projects. These existing lawful enterprise agreements are often national in their application and enable companies to efficiently operate across state borders and on projects of varying value.

We thank the Department for the opportunity to continue to work collaboratively with you to resolve many of these issues and the potential application of BPIC across the TMR portfolio.

We continue to hold serious concerns regarding this policy, and its implementation, with regard to the risk that we believe it inherently exposes contractors and sub-contractors to in relation to the Building Code.

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We request that TMR also directly consult with and seek further determination from the ABCC on matters of code compliance to provide comfort and assurance to the industry and further review the advice that they have provided industry with (Queensland Government draft Transport Infrastructure Contract | ABCC).

Please feel free to contact me to discuss any element of this submission.

Regards

[redacted]

ANDREW CHAPMAN
CEO
QMCA

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From: Dean A Misso[redacted]
Sent: Tue 28/09/2021 10:58:50 PM (UTC)
To: Deanne M Hawkswood[redacted]
Subject: Best Practice Principles - Costs

Hi Dee,
Yesterday you mentioned a mid-FY update for BPP costs.
As mentioned, the BPP costs are derived from 4 main sources:

1. BPIC – wages and allowances for both the direct and subcontractor workforce
2. BPIC – conditions such as hot weather, RDOs, Training, Alcohol & Drugs, salary sacrifice (Acconia)
3. BPP target exceedance (such as apprentices and training and so on)
4. Risk – project schedule; IR disruption; productivity decreases due to training, alcohol and drugs, safety, wage parity and so on

In relation to the mid-FY how did we calculate the items 2 to 4. We need to standardise some of these costs.
It will become much clearer from Centenary, but currently we only have GCLR and Coomera to rely upon.
Thanks,
Dean

Dean Misso
Executive Director (Office of the Deputy Director-General)
Infrastructure Management and Delivery Division
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

INDICATIVE BID TITLE

Best Practice Industry Conditions risk for QTRIP delivery

Please provide details:

No applicable

- **Is the proposal Financial?** No
- **Are there FTE impacts?** No
- **Is this proposal linked to a Government Election Commitment?** Yes – GEC1716
- **Is this proposal part of a broader policy package?** Yes – the Department of Energy and Public Works is the policy lead for Best Practice Principles and Best Practice Industry Conditions on major projects.

SHORT DESCRIPTION

This submission does not seek funding supplementation. However, the submission outlines key funding risks associated with a combination of factors causing cost escalation pressures on transport infrastructure projects within the *Queensland Transport and Roads Investment Program 2021–22 to 2024–25* (QTRIP) including the implementation of the Best Practice Industry Conditions (BPIC).

The Department of Transport and Main Roads (TMR) is implementing the Queensland Government's Best Practice Principles policy and supporting BPIC on projects valued over $100 million.

The BPIC sets out conditions and wage rates that reflect best practice standards for the civil construction industry. TMR has developed supporting guidance outlining how the BPIC will be implemented into the department's procurement processes.

The QTRIP 2021-22 to 2024-25 includes approximately 30 projects valued at over $100 million that will be subject to the BPIC, with a total value in the order of $12 billion with early estimates indicating the direct BPIC cost impacts on projects in delivery to be in the order of $600 million to $900 million.

Summary of key BPIC issues

The wage rates and conditions established in the BPIC are more generous than existing enterprise agreements in the civil construction industry.

The civil construction industry is less 'unionised' compared to the building construction industry. This is reflected in the civil construction industry's lower wage rates and conditions. Relevant unions are using the BPIC as an enabler to close this wage gap.

The impact of BPIC on civil constructors and sub-contractors is starting to materialise, with the TMR experiencing cost increases for materials above normal tolerances. Coupled with the implementation of BPIC and rising resource demand, the ability for these cost pressures to continue to be absorbed within existing project budgets is becoming a real risk for the Queensland Government, which will result in project budget increases or the need to reduce scope within existing project budgets (where possible).

DETAILED DESCRIPTION

Government direction

The Department of Energy and Public Works is the policy lead for Best Practice Principles and BPIC on major projects. TMR has developed the *Best Practice Industry Conditions for Transport Civil Construction Projects December 2020* document (referred to as the Transport BPIC) for transport projects valued between $100 million and $300 million. The Transport

BPIC responds to the *Queensland Procurement Poli*cy's Best Practice Principles for major projects over $100 million and establishes best practice industrial relations on TMR projects.

In late 2020, the government approved (Decision No. 1159) the following:

- that Transport BPIC be implemented, where possible, on projects that were in active procurement
- that Centenary Bridge upgrade be the first project to apply all Key Result Areas (KRAs), including the Transport BPIC
- for projects valued over $300 million, TMR to negotiate project specific wages and conditions using the Transport BPIC as a base case and to seek government approval.

Key TMR actions

Since early 2021, TMR has:

- implemented the Transport BPIC on projects in active procurement, including:
    - two Bruce Highway upgrade projects through to contract award, with a third close to award
    - the Gold Coast Light Rail Stage 3 project (GCLR3). With GCLR3 being a complex public private partnership and valued at over $300 million, draft project specific wages and conditions using the Transport BPIC as a base case have been negotiated, which has been provided to the state's preferred Design and Construct Contractor for consideration and response.
- modified the department's procurement processes for major transport infrastructure projects to require the implementation of all the KRAs, including Transport BPIC on the Centenary Bridge upgrade project
- negotiated a BPIC for the Coomera Connector project which was approved by Government in September 2021 (Decision No. 1290).

Emerging issues and risks

The current cost escalation impacts on projects in delivery are exceeding the normal allowances made through QTRIP cost escalation estimating and forecasting processes. While TMR will do all it can to manage within project budgets and not all projects will be impacted to the extent that their budgets will be exceeded, TMR fully expects to see a proportion of projects that will require additional funding.

TMR provided estimates of the potential cost impacts of BPIC on the QTRIP in a submission to government in late 2020. This estimate was based on an uplift in direct employee costs, including base wage rate, allowances, superannuation, training contribution and redundancy provision compared to a typical transport infrastructure project.

This estimate did not include BPIC's potential risks to project delivery and potential BPIC related claims which may be generated towards the end of project, including additional Rostered Days Off, hot weather delays or industrial disputes. For projects between $100 million and $300 million, applying the Transport BPIC will result in an estimated uplift of approximately 3.5 per cent of the total project cost.

The recently approved Coomera Connector BPIC, which has slightly higher rates and entitlements, was costed by an external estimator using more sophisticated analysis methodology and included provision for delivery delays based on BPIC conditions. This BPIC has an estimated uplift of approximately 8.1 per cent.

Table 1 – BPIC potential cost impact summary

Project Value/BPIC	**Project Cost Impact (increase)**
$100m - $300m (Transport BPIC)	3.48%
$300m - $700m (Coomera Connector)	8.1%

Overview of approach to manage BPIC implementation

As noted, TMR has implemented the Transport BPIC on two Bruce Highway inflight projects, with the approach adopted by contractors demonstrating alternate ways of realising the outcomes and benefits. The uplift cost for these two projects (outlined in **Table 2** below) will be absorbed within the allocated project budget and will be managed as a provisional sum. Using a provisional sum to manage the additional costs associated with BPIC reduces the risk of the contractor not delivering the additional benefits.

The implementation of the BPIC will increase the cost of delivering major transport projects. This additional cost will provide a number of benefits, some of which are starting to materialise, such as a shift toward principal contractors committing to employ more staff directly and reduce the number of casuals and labour hire staff.

Due to other factors in the civil construction industry, such as material price escalation and labour shortages, project budgets are unlikely to be able to absorb the increased costs associated with BPIC, resulting in increased project budgets or the need to reduce the scope of work within existing project budgets.

Table 2 - Implementing BPIC on two Bruce Highway projects

	Cooroy to Curra Section D	**Caboolture to Steve Irwin Way – 6 laning**
Project value	$318.1m	$131.9m
Contractor	CPB Contractors	Fulton Hogan Constructions
KRA response - Industrial Relations	Greenfield Agreement with general alignment to BPIC, including a wage rate of $41.17 compared to a wage rate of $29.28 in the CPB state-wide enterprise agreement	No change
KRA response - Social	• Increase self-perform work from 10% to 40% (permanent workforce)	• 90% local content w/in 75km • reduced casual labour from 100% to 20% (increase in permanent workforce) • training opportunities increased 80% (existing staff) 30% (new staff) • Indigenous trainee on survey crew
KRA/BPIC cost ($)	$23m (cap)	$5.95m

KRA/BPIC cost (%)	7.2%	4.5%

PROPOSAL RATIONALE

Key drivers and objectives for the Best Practice Principles and the BPIC, are as follows:

- Build a resilient sector with a skilled, local workforce – More workers are needed to support Queensland's planned pipeline of civil infrastructure works. TMR knows that diverse workforces perform better – and the industry's existing workforce is not diverse enough
- Shape a secure future workforce with quality jobs – This industry has a reliance on casual and labour hire staff; the casualisation of the workforce can have wider implications on inclusion, well-being and safe work practices
- Provide safe workplaces – Safe Work Australia has identified the construction industry is a priority industry with higher worker compensation claims rates than other industries
- Support health and well workers – Suicide rates among construction workers, particularly young men, are more than double other Australians.

The BPIC forms part of the approach and through its focus on worker conditions (including safety, security, inclusion and wellbeing), capability and rates.

Government Priorities

Supporting jobs

Please provide detail to demonstrate how this proposal directly contributes to achieving the selected priority.

TMR is focused on enabling a sustainable industry with a skilled, diverse and local workforce operating in a safe workplace with quality conditions. The BPIC, as a policy initiative, speaks directly to these objectives and has signalled the government's intention on industrial relations. The industry is starting to respond to these signals with TMR seeing an early shift in the commitment to more permanent staff employed by principal contractors, away from labour hire or casual hire (as an example).

[redacted] [redacted]
[redacted] [redacted]
[redacted] [redacted]
[redacted] [redacted]
[redacted] [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

From: Logan Timms [redacted]
Sent: Friday, 15 October 2021 9:10 AM
To: Dean A Misso [redacted]
Cc: Andrew De Zilva [redacted]; Ashley Newcomb [redacted]
Subject: FW: BPP/PQC cab sub

Current version

Queensland Government

Logan Timms
Executive Director, Strategy – Strategy and Policy and Building Contract Management
Major Projects | **Building Division**
Department of Energy and Public Works
P [redacted] P: [redacted] | E [redacted]
Level 10, 53 Albert Street, Brisbane Queensland 4001

From: Andrew De Zilva [redacted]

Sent: Thursday, 7 October 2021 1:16 PM
To: Peter Bayliss [redacted]
Cc: Logan Timms [redacted] BCM Secretariat [redacted] >; Anastasia Tritchler [redacted] Jonathan Thompson [redacted] ; Graham Atkins [redacted]
Subject: RE: BPP/PQC cab sub

Hi Peter

Following further advice from John Martin this week, please find updated submission including tracked changes. Updates have also been made to address comments from DPC and Treasury and Crown Law advice has also been received and included as attachment 10.

In summary, the updates include:

- Minister's Office requested that all implementation actions expected for Quarter 4 2021 be moved to Quarter 1 2022 as cabinet has not yet considered the submission.

- Refer to BPICs as 'standard BPICs' not 'Default BPICs' – at the request of DPC and Treasury. No material difference.

- As per CBRC decision 1077, DPC and QT requested rewording to clarify that CBRC will get to consider BPICs on a project by project basis. The submission includes:
    - 45. Draft BPICs have been developed in consultation with the four main building industry union organisations and the Master Builders Association of Queensland. It is expected that the draft BPICs will be applied to all new BPP projects to promote consistent application of government policy and to provide greater certainty for industry. If the draft BPICs are not appropriate for a project, conditions will be negotiated to reflect prevailing economic and market conditions for specific projects. The financial considerations of a BPP project, including BPICs, will be presented to CBRC for approval on a project-by-project basis. The draft BPICs will be reviewed every two years.

- Change to Building Policy requirement "Agencies must consult with DEPW during development of business cases and preparation of government briefing material for BPP projects or potential BPP projects~~with a notional value between $50 million to $100 million~~."
    - Removal of reference to $50m-$100m was requested by DPC and Treasury to avoid a perception that the threshold for BPP projects is being lowered. DPC, Treasury and Education are supportive of the rewording.

- Legal advice has been included as Attachment 10 and subsequent amendments made in submission and PQC form (replace PQC question and specifically refer to IRG in PQC privacy note). Advice includes:
    - The proposed prequalification process, including Industry Reference Group

consultation, can be implemented without breaching any laws, provided that the existing Q15 (commitment to implement the Best Practice Industry Conditions (BPICs)) in the draft application forms is deleted. The question in the Building Construction and Maintenance (BCM) application forms has been redrafted to be clearer on this point, as follows:

> **Updated Question. BEST PRACTICE INDUSTRY CONDITIONS – General requirement**
>
> Do you understand and acknowledge that the Best Practice Principles, including the Best Practice Industry Conditions, will be applied to Queensland Government Best Practice Principles projects and do you express interest in registration for the projects on that understanding and acknowledgement?
> It is not mandatory to have an enterprise agreement or a specific form of industrial instrument to express interest in registration for Queensland Government Best Practice Principles projects.

- Crown Law advise that this redrafted question should avoid the risk of the possible contraventions referred to by the Australian Building and Construction Commission (ABCC).

- Wording changes as requested by Minister's Office. All requested changes that relate to TMR wording (including the removal of a recommendation for noting) have been endorsed by TMR.

Further actions:

- The Minister's Office has also requested written confirmation that the 4 unions and MBAQ are supportive of the BPICs.
- DPC and Treasury have requested further discussion on the consultation process for applying government policy to GOCs. Scheduled for Tuesday 12 October 2021.

Please see attached.

Andrew

Queensland Government

Andrew De Zilva
A/ Executive Director, Strategy
Strategy, Policy and Building Category Management
Major Projects | Building Division
Department of Energy and Public Works
[redacted]

QUEENSLAND GOVERNMENT
Department of Transport and Main Roads

Our ref 1776678
Your ref
Enquiries Steve How Lum

11 November 2021

Acciona Construction Georgiou Joint Venture
C/- Acciona Australia
100 Melbourne Street
South Brisbane Qld 4101

Attention: Mr Darren Wagstaff

Dear Mr Wagstaff

Coomera Connector Stage 1 North – Shipper Drive to Helensvale Road
Project No. 1776678
Contract Number: CN-14818

LETTER OF ACCEPTANCE OF EARLY WORKS AGREEMENT

I refer to my letter of 5 October 2021 in relation to the advice of Preferred ECI Contractor for the Coomera Connector Stage 1 North – Shipper Drive to Helensvale Road project.

Further to Clause 12 of the Early Contractor Involvement (ECI) Stage One Contract, the State of Queensland represented by the Department of Transport and Main Roads, intends to enter into an Early Works Agreement with Acciona Construction Georgiou Joint Venture (Contractor).

The following matters will be finalised following the Early Works Agreement award:-

- the Collaborative Project Agreement (CPA); and
- the Scope of Works and Technical Criteria (SWTC) Document Final Version.

The Commencement Date of the Early Works Agreement shall be 15 November 2021.

Yours sincerely

Andrew Wheeler
Deputy Regional Director (South Coast)

Program Delivery and Operations
South Coast Region
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Email steve.f.howlum@ tmr.qld.gov.au
ABN 39 407 690 291

CN-13712 – Centenary Bridge upgrade Project – Stage 2

Post Tender Correspondence - Request for Information Form

To the Project Proponent,

Herein is a Request for Information (RFI) form. Pl ease fill out areas required of the proponent and f orward the form as an email attachment to metropolitan.projects@tmr.qld.gov.au

Thank you

Request for Information Details (to be filled out by initiator of RFI)	
Date Initiated:	22/11/2021
Short Description of Issue:	Conditions of Tendering – C7821.TIC
Requested By (Person's name & proponent or TMR):	Junwei Ang TMR Tender Assessment Panel Chair

Transport and Main Roads (to be filled out by TMR)	
TMR RFI Reference Number:	**PTC-RFI-007**

Proponent Name: (to be filled out by proponent)	**BHBJV** **FHBWJV** **GBJV** **John Holland**
Proponent Reference Number: (if any)	N/A
Email Contact:	N/A
Phone number:	N/A

TMR Office Use Only

TMR RFI Number	**PTC-RFI-007**
Date Sent	22/11/2021
Date response received:	22/11/2021
Date closed	22/11/2021

Note: Proponents are requested to not remove / dele te the grey highlighted section, or enter / edit da ta in 'TMR Office Use Only' section.

Queensland Government

CN-13712 – Centenary Bridge upgrade Project – Stage 2

Information Provided by ☒ **TMR** ☐ **Contractor**

Background
In reference to Conditions of Tendering – C7821.TIC , Clause 12.4 b)

For Tenders with non-price tendering criteria, the Principal shall, with two Business Days after the Tender closing, announce all company names and relative ranking based on the tendered amount (including any Alternative Tenders) as shown on the Tender Form for each Tender received from the Tenderer through:

i a schedule issued to Tenderers via the Electronic Tendering System, or
ii via correspondence or other means of communications in the absence of an Electronic Tendering System.

The Principal shall announce the relative ranking only and indicate whether the tender appears conforming or is an Alternative Tender but the tendered amount shall not be revealed.

After Award, the following information shall be made available:

iii winning Tenderer and Tender Price
iv Tender Prices of all Tenderers at the close of tenders.

Information Provided
In lieu of the limitation with the Electronic Tender System used, please find attached information in relation to the company names and relative ranking based on the tendered amount (including any Alternative Tenders) as shown on the Tender Form for each Tender received (Lowest tendered amount at the top and highest tendered amount at the bottom).

No.	Name of tenderer	Appears Complying
1.	Bielby Hull Brady Joint Venture (BHBJV)	Alternative Tender
2.	Georgiou BMD Joint Venture (GBJV)	Yes
3.	Bielby Hull Brady Joint Venture (BHBJV)	Yes
4.	John Holland Qld Pty Ltd	Yes
5.	Fulton Hogan BESIX Watpac Joint Venture (FHBWJV)	Yes
6.	John Holland Qld Pty Ltd	Alternative Tender

.

Response to provided information by ☒ **TMR** ☐ **Contractor**

N/A, No response required, PTC-RFI-007 closed 22/11 /2021

--End--

Queensland Government

From: Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent: Wed 24/11/2021 2:45:15 AM (UTC)
To: Darren Laarhoven[redacted]; Junwei Ang[redacted]
Cc: [redacted]
Subject: RE: CBU - CN13712 - Tender assessment progress and relative ranking of submissions received

Hi Darren

The RTI was in the possession of one of the relevant unions (CFMEU) so not a proponent, but certainly an interested party. I'm not aware of how they got the info, which is why I was asking Gavin and Junwei some questions as my understanding was the information is restricted IE not published/publicly available.

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Darren Laarhoven[redacted]
Sent: Wednesday, 24 November 2021 12:34 PM
To: Junwei Ang <[redacted]Deanne M Hawkswood [redacted]
Subject: RE: CBU - CN13712 - Tender assessment progress and relative ranking of submissions received

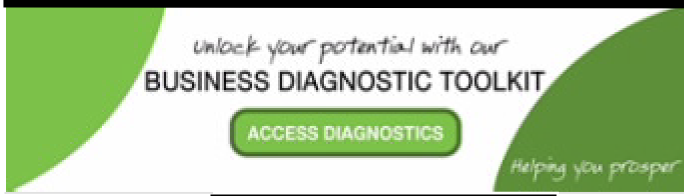
Deanne, based on the questions (or comments) you and Gavin have fielded,

- Would the proponent likely to have known greater information than what was in their submission and the subsequent information provided by Junwei
- Did they suggest where they gained the information?

Regards

Darren Laarhoven
Managing Partner

My new email address [redacted]
UHY Haines Norton Chartered Accountants & Business Advisors
[redacted]



From: Junwei Ang [redacted]
Sent: Wednesday, 24 November 2021 12:22 PM
To: Deanne M Hawkswood <[redacted]>
Cc: Darren Laarhoven [redacted]
Subject: RE: CBU - CN13712 - Tender assessment progress and relative ranking of submissions received

Hi Dee,

The information was released as per the C7821 - Conditions of Tendering, Cl 12.4b) and yes, is based only on the tendered amount at close of Tender.

We were meant to post this on the Electronic Tendering System as a schedule, but due to the limitations with the QBuild system, it was sent as a PTC instead.

I do not have any legal training but my interpretation for general purposes is this is not meant to be public knowledge even when posted on the Electronic Tendering System as it would only be available to TMR and the Tenderers as a schedule and as per Clause 24.3 that Information supplied by the Principal (including the Tender Documents or any other information provided by the Principal pursuant to these Conditions of Tendering) shall be regarded as confidential and shall not be disclosed by the Tenderer to any person or use for any purpose other than complying with these Conditions of Tendering except
the extent:
i. the information is already generally known to the public
ii. the Principal has given its prior written consent (which consent shall not be unreasonably withheld)
iii. disclosure is required because of any legislative requirement
iv. information is disclosed to and used by a professional advisor or an insurer or financier, or
v. a Subcontractor or Consultant (who is contractually bound to keep the information confidential)
and in any case only for the purpose of allowing the party to comply with these Conditions of Tendering.

Noting there are various shared and common suppliers here across the 4 proponents especially in relation to girders supply, I surmise the spread of (mis)information might have started from one such supplier / sub-contractor.

Hope this helps

12.4 Rankings and Tender Prices
a) For Tenders with price-only tendering criteria, the Principal shall, within two Business Days after the Tender closing, announce the tendered amount (including any Alternative Tenders) as shown on the Tender Form of each Tender received from the Tenderers through: i. a schedule issued to Tenderers via the Electronic Tendering System, or

ii. via correspondence or other means of communications in the absence of an Electronic Tendering System.

After award, the winning Tenderer and Tender Price shall be made available.

b) For Tenders with non-price tendering criteria, the Principal shall, with two Business Days after the Tender closing, announce all company names and relative ranking based on the tendered amount (including any Alternative Tenders) as shown on the Tender Form for each Tender received from the Tenderer through: i. a schedule issued to Tenderers via the Electronic Tendering System, or

ii. via correspondence or other means of communications in the absence of an Electronic Tendering System.

The Principal shall announce the relative ranking only and indicate whether the tender appears conforming or is an Alternative Tender but the tendered amount shall not be revealed.

After Award, the following information shall be made available:
i. winning Tenderer and Tender Price

ii. Tender Prices of all Tenderers at the close of tenders.

Kind Regards,

Junwei Ang
Principal Engineer | Metropolitan Region / Brisbane Office
Program Delivery & Operations Branch | Infrastructure Management & Delivery | Department of Transport and Main Roads

---

[redacted]
W: www.tmr.qld.gov.au

From: Deanne M Hawkswood <[redacted]
Sent: Wednesday, 24 November 2021 11:42 AM
To: Junwei Ang <[redacted]
Cc: [redacted]
Subject: RE: CBU - CN13712 - Tender assessment progress and relative ranking of submissions received

Thank you Junwei

Can I please just confirm that the recent RFI with the status and ranking (price only) of the tenderers was only sent to those tenderers and would not be available to others? That is the info was restricted and not public.

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Junwei Ang <[redacted]
Sent: Wednesday, 24 November 2021 11:19 AM
To: Trevor A Land [redacted] Gavin G Allen [redacted] David Nghi [redacted] Gautham Z Nair [redacted] Dean A Misso [redacted] Deanne M Hawkswood [redacted] Rohan M Davies [redacted] Amod P Rijal <[redacted] Faiz Z Rahmansyah [redacted]
Subject: CBU - CN13712 - Tender assessment progress and relative ranking of submissions received

Good morning TAP members and Specialist Advisors,

Further to my discussion on Monday with the bid manager from GBJV and yesterday with the Bid Managers from FHBWJV and BHBJV, there were comments about industry chatter on the relative pricing of the submissions that is the subject of PTC-RFI-007. This morning, I had another call from the bid manager from John Holland and along the same vein as previous conversations with the other bid managers, news seems to out in the industry as John Holland had heard about the 2 potential ULB letters that had gone out? I was asked a very pointed question by John Holland which I neither confirmed or otherwise and merely confirmed that the non-price assessment is completed; and TMR is still doing the compliance and conformance checks for all the submissions received as part of the price assessment currently underway and not just for the "Tenders in Contention". I am also not implying confidentiality / probity has been breached nor the Tender Assessment progress has been leaked, I suspect the proponents had worked out the ULBs outcome, based on their own discussions on their relative price submissions, hence the pointed query from John Holland.

I am also made aware by Gav this morning, Deanne (General Manager - Strategic Procurement) has been fielding queries from industry on this relative ranking information as well in recent days.

Can I reiterate that the information that the TAP members and Specialist Advisors are privy to, are privileged information and not for public dissemination while the Tender Assessment is still in progress. To maintain probity and the robustness of this Tender assessment process, please be extra careful with any conversations in relation to CBU with anyone that is not part of the CBU project (directly or indirectly) and as Darren reminded us in his Probity sessions, no corridor / pantry discussions but quiet room / area only discussions please. If we needed any further clarity / advice, I am happy to facilitate any discussion with Darren, if not also happy if you would like to speak to Darren directly as well.

I thank you for your assistance and let me know if we had inadvertently breached any confidentiality / probity and I can discuss with Darren as required as per normal process.

Thanks!

Kind Regards,

Junwei Ang
Principal Engineer | Metropolitan Region / Brisbane Office
Program Delivery & Operations Branch | Infrastructure Management & Delivery | Department of Transport and Main Roads

Floor 15 | 313 Adelaide Street | Brisbane City Qld 4000
[redacted]
W: www.tmr.qld.gov.au

From: Junwei Ang
Sent: Monday, 22 November 2021 3:35 PM
To: Gautham Z Nair [redacted]
Subject: CBU - CN13712 - PTC-RFI-007 - Approved

Gautham,

PTC-RFI-007 approved. Please organise for this to be send out to all proponents.

I have discussed this with Sarah and Antonia our Procurement Delegates earlier this afternoon, after the bid manager from GBJV rang earlier today requesting for this information.

Thanks

Kind Regards,

Junwei Ang

From:	Deanne M Hawkswoo[redacted]
Sent:	Thur 25/11/2021 7:47:26 AM (UTC)
To:	Sharon Bailey[redacted]
Cc:	Amanda Yeates[A[redacted]; Les S Dunn[redacted]Dean A Misso[redacted]
Subject:	Centenary Bridge Upgrade Project
Attachment:	PTC-RFI-007 - CBU - CN13712 - 20211122.pdf

Hi Sharon

Lovely to speak with you as always .. maybe one day it will be on a different topic?!

I also had a call earlier from Jade (CFMEU) which sounds like it was similar to the call between Paul and Michael last night.

They have somehow obtained a copy of a document issued only to the four tenderers for Centenary (see attached). It is a requirement to notify tenderers on who tendered, their conformance and they are listed by the tendered price (from lowest to highest). It is no indication of the outcome – the department doesn't know the outcome as the evaluation process remains underway. At this stage, the schedule is to have it finalised/awarded before Christmas, however that could change.

Jade's concerns were also with the BPIC not being a threshold for compliance, and it isn't for TMR. It is part of the non-price weighting through both stage 1 and 2 of the tender process. It is treated in much the same way as other govt policy commitments – if your don't respond well to the commitment, you will be scored accordingly and vice versa for those who do respond positively. As you know, the risks for TMR to mandate this on the contractor and requiring the contractor to mandate it to their subcontractors is very high, so implementation is via the process and the contract. I think this varies a bit from the EPW process but I didn't want to pose a counter argument with Jade.

Hope this information is helpful and always happy to provide anything further.

Thanks again
Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
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Sent:	Thur 25/11/2021 5:47:09 AM (UTC)
To:	TMR DLO[redacted]
Cc:	Amanda Yeates[A[redacted]Dean A Misso[[redacted]]; 'scott.gartrel[redacted]
Subject:	Contact by CFMEU regarding Centenary Bridge Upgrade

Hi team

I just had a call from Jade Ingham at CFMEU raising concerns about BPIC on the current Centenary Bridge procurement. He indicated he will bring his concerns to the Ministers Office.

Jade has obtained a copy of the notice provided to the 4 Tenderers which ranks them by tender box price and advises if they are conforming or alternative. He is concerned the highest ranked on that list are not aligned on BPIC (based on his interaction with them) and those ranked lowest are aligned on BPIC. I advised him it is not an indication of the outcome as the evaluation is still active and the list is only based on their tender box price. He would not disclose how he got the notice.

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Dean A Misso[redacted]
Sent: Fri 26/11/2021 12:04:04 AM (UTC)
To: Anne E Moffat[redacted]; Deanne M Hawkswood[redacted]
Subject: RE: Meeting with MO yesterday
Attachment: Centenary Bridge Upgrade Project

Hi Anne,
I was only at the meeting for a few minutes were I gave an update on GCLR3.
Dee will have some information as the trade union CFMEU has been in contact with Dee and DG EPW and there is some concerns about the Centenary Bridge Upgrade Project.
Fulton Hogan is part of a JV for this project. A summary provided to Sharon Bailey of EPW yesterday is attached.
For noting, the CFMEU has a copy of the tender information. The probity advisor for the project has been advised as there are clear confidentiality requirements as part of any tendering process, including this one.
Dean

Dean Misso
Executive Director (Office of the Deputy Director-General)
Infrastructure Management and Delivery Division
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Anne E Moffat [redacted]
Sent: Friday, 26 November 2021 8:57 AM
To: Deanne M Hawkswood [redacted] Dean A Misso [redacted]
Subject: Meeting with MO yesterday

Was there a Fulton Hogan issue that was raised as part of your meeting yesterday?

Anne Moffat
Chief Operations Officer
Office of the Director-General | Department of Transport and Main Roads

[redacted]

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent:	Sun 28/11/2021 9:52:20 PM (UTC)
To:	Neil Scales[[redacted] Amanda Yeates[/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cc94690672ff4e3ca20f993b453a5539-Amanda Z YE]
Cc:	Anne E Moffat[/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e3a4580a0a024bcdb186e443e3d9816c-Anne E Moff]
Subject:	Beswix Watpac and CFMEU Civil Enterprise Agreement
Attachment:	Beswix Watpac_CFMEU_21.pdf

Morning DG and Amanda

Attached is a copy of a recently lodged Enterprise Agreement for Beswix Watpac. I think this may be relevant to the concerns raised late last week by CFMEU regarding Centenary, regardless it is very relevant for our sector and work. I will update you both shortly.

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From:	/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5969191D1C204A3EB0E3651EC E515276-PETER A PAP[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5969191D1C204A3EB0E3651EC E515276-PETER A PAP]
Sent:	Mon 29/11/2021 8:17:10 AM (UTC)
To:	Amanda Yeates[redacted]
Cc:	Dean A Misso [redacted] Deanne M Hawkswood[redacted] Julian D Zorzo[redacted] Andrew Z Biagioni[redacted]
Subject:	FW: Update: GCLR3 progress -Cabinet Related - Commercial in confidence
Attachment:	GCLR3 DDG FN Update 22 November 2021.docx
Attachment:	Attachment 2 - BPIC_IR Risk_R2.docx
Attachment:	Attachment 1 - GCLR3 EA Negotiations Flowchart RevC.pdf

Amanda

The attached brief was sent to you for the last meeting with John Steve and Andrew and many of the positions / key messages in this brief remain current.

You are meeting with this group tomorrow and a quick update follows:

Early Works

- State has provided draft documents to all parties for review and comment
- Key issue for JH is to ensure that there is an acknowledgement that they want some acknowledgement that there may some BPIC impacts during this period – the lawyers have agreed that this can be accommodated without making any commitments to them
- **Key message: All parties need to focus this week above all other matters on finalising the agreements to be entered into by end of this week or next Monday at the latest**

IR Strategy

- JH have responded to our correspondence indicating disappointment that TMR will not assist in influencing the AWU to come to negotiating table
- The project team has indicated that this is not able to be done at the project Team level however discussions may have occurred at more senior levels within govt.
- JH will probably raise the breach of confidentiality issue with you
- **Key message: Indicative timeframes for lodgement of agreement with FWC needs to be brought forward to enable resolution by early to mid March next year**

Risk profile and Pricing

- Phil Mumford is pushing hard for discussions on this asap
- This may be counterproductive for the State at this point in time given our focus should be on getting the Early Works Agreement sorted and the current position being taken by JH
- JH indicated late last week that the risk sharing arrangements based on their original offer are no longer on the table and are dismissing the E3 assessment of the impacts
- It will not be productive to enter into a heated debate on this issue at this stage while we try and close out the extension
- **Key message: TMR needs greater clarity of latest IR risk issues put on the table especially the IR risk transfer they want relating to the AWU not being party to the agreement**

Hope this helps

Kind Regards,

Peter Papantoniou
Project Director | Gold Coast Light Rail Project Stage 3
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]

Customers first | Ideas into action | Be courageous | Unleash potential | Empowering people

[redacted]

[redacted]

[redacted]

[redacted]

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent:	Tue 30/11/2021 12:46:58 AM (UTC)
To:	Darren Laarhoven[[redacted]
Subject:	RE: IN CONFIDENCE : Centenary post tender document release to CFMEU

Thanks for that Darren and yes, it could have be an internal breach.

No I'm not aware if Junwei has done that.

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
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From: Darren Laarhoven [redacted]
Sent: Tuesday, 30 November 2021 8:35 AM
To: Deanne M Hawkswood [redacted]
Subject: IN CONFIDENCE : Centenary post tender document release to CFMEU

Thanks Dee,

Your comments to the CFMEU were very well measured and thankyou for the update. At this point I do not require anything further from yourself.
I agree this could be a breach of one of the proponents. However it could also be an internal breach.

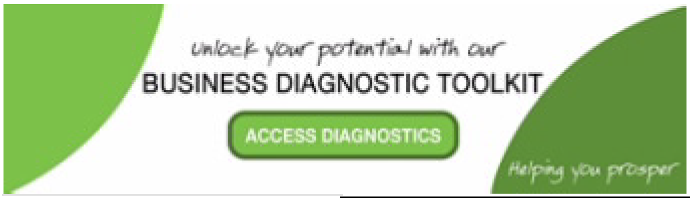
For completeness do you know whether Junwei has reported to the A/RD the pricing information has been leaked.

Regards

Darren Laarhoven

Managing Partner

My new email address [redacted]
UHY Haines Norton **Chartered Accountants & Business Advisors**
[redacted]



From: Deanne M Hawkswood [redacted]
Sent: Monday, 29 November 2021 6:01 PM
To: Darren Laarhoven <[redacted]>
Cc: Deanne M Hawkswood <[redacted]
Subject: Centenary post tender document release to CFMEU

In Confidence

Hi Darren

I was going to call and realised I didn't have your number. Just following up after our last discussion regarding the post tender document the CFMEU had a copy of.

I did speak with Jade Ingham from CFMEU last Thursday afternoon as he wanted to share his concerns with me after he had read this document. I asked how he came to have a copy of it and he would not disclose (fell off the back of a truck apparently).

He appears to have read the document and taken it as the potential outcome of the process and a demonstration the department is not committed to the BPIC policy. As you'd appreciate, I tried to correct those assertions and mentioned:

1. The evaluation remains underway, there is no decision or ranking
2. The document he has obtained a copy of, is a requirement in the process to notify the tenderers on the conformance status and they ranked by tender box price
3. The tender box pricing is no indication of the outcome as non-price is considered part of the decision making for the evaluation panel
4. He raised concerns that 30% for 'BPIC' is not sufficient and that the BPIC should be a threshold criteria – here I said:
    a. the first stage was 100% non-price which included the BPP and BPIC. This stage was 30% and 70% (non-price/price) and is appropriate as TMR must balance value for money, constructability and government priorities.
    b. Regarding BPIC threshold his view is that if you don't comply, you won't be recommended in line with EPW and government commitment. My response was on the procurement governance process and role of the various parties – evaluation team, internal delegates and approving officer. At this point he did ask who was on the evaluation team, to which I said TMR officers.

This may be a breach of the tendering conditions (?) of another party to release this document. However I do not see any gain/advantage by doing so, but does reinforce many parties are watching this one.

Please let me know if you need anything further from me?

Thanks
Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: TMR DLO[redacted]
Sent: Tue 08/02/2022 7:01:43 AM (UTC)
To: Deanne M Hawkswood[[redacted]
Cc: Amanda Yeates[[redacted]
Subject: RE: BPIC Update for Minister's Office - meeting with Building Trades Group 9 Feb

Hi Deanne,
DG approval obtained, and information provided to MO, thank you

Warm Regards,

Jim Rintoull
Departmental Liaison Officer | Cabinet, Legislation and Executive Services
Governance Branch | Corporate Division | **Department of Transport and Main Roads**
[redacted]

From: Deanne M Hawkswood <[redacted]
Sent: Tuesday, 8 February 2022 4:34 PM
To: TMR DLO [redacted]
Cc: Amanda Yeates <[redacted]
Subject: BPIC Update for Minister's Office - meeting with Building Trades Group 9 Feb

Good afternoon

I understand there is a meeting tomorrow with the Minister's Office and the Building Trades Group (of unions). The Minister's office requested an update on the BPIC implementation which is provided below (including the attachments). Could you please send this through the appropriate channels, thank you.

BPIC Update

- The **Besix Watpac and CFMEU Minor Civil Construction Union Collective Agreement** was approved by the Fair Work Commission on 1 February (please see *attached* which includes the Commission's deliberations). It is a Greenfields Agreement and appears to cover Civil and Marine works for the company and relates to the Brisbane City Council's Kangaroo Point Green Bridge contract awarded to Besix Watpac. We are currently reviewing the scope and application of this agreement to understand what it might mean more broadly for transport civil construction projects.

- **GCLR3** – John Holland lodged their Greenfield Agreement with the ABCC late last year, at this stage TMR is not aware if that has been approved as yet. Should it be approved, the Greenfield Agreement will be lodged with the Fair Work Commission for consideration and approval.
- **BPIC Project Updates** (Project Pipeline attached):
  - **Coomera Connector North Project** – TMR has worked with the proposed JV contractor (Acciona Georgio JV) on their IR strategy and draft project specific agreement. Their draft project specific agreement is currently with the ABCC before they commence negotiations. In line with commitments by the department a meeting is scheduled for 1pm tomorrow (9 February) with the following invited parties. Following this meeting we anticipate AGJV will release their draft project specific agreement and commence the negotiation process with the relevant unions in line with their commitment.

    - Amanda Yeates, TMR (Chair)
    - Deanne Hawkswood, TMR
    - Melinda Pugh, Crown Law
    - Ann-Maree Knox, TMR
    - Malcolm Tilgner, TMR
    - Scott Gartrell, Advisor to TMR
    - David Balmer, Joint Venture
    - Gary Georgiou, Joint Venture
    - Ryan Murphy, Joint Venture
    - Mark Raguse, AWU (declined)
    - Chris Lynch, ETU
    - Jade Ingham, CFMEU
    - Rohan Webb, AMWU (declined)
    - Luke Bardon, PPTEU

  - **Coomera Connector Central Project** – this is the second package of works that comprise the Coomera Connector Stage 1 Project and is currently being evaluated. Similar to the North project (package), this Central project (package) included the Transport BPIC for projects over $300 million, which was included as part of the procurement process.
  - **Centenary Bridge Upgrade Project** – the procurement process remains active.

- **Rocky Ring Road Project** – the procurement for this project is underway and is going through the evaluation stage currently. The project which will be awarded through two packages including the KRAs and Transport BPIC. Given the likely value of the packages, it is envisaged the Transport BPIC for projects over $300 million will be applicable (this is subject to a CBRC decision).
- **Exit 49 Pacific Motorway** – this project is going through procurement with evaluation of the second stage planned to commence later this month. The project is valued at approx. $110m and includes the KRAs and Transport BPIC.
- **Walkerston Bypass Project** – this $145m project was one of projects approved to apply the BPIC retrospectively as it was in the procurement process when the CBRC decision was made. The project was recently awarded to Fulton Hogan. Benefits committed to include increased direct employment opportunities, training, local spend, indigenous participation and indigenous local suppliers.

• Completing a **CBRC submission** - **BPIC for Transport Projects valued over $300 million**. There is some urgency on this with some current projects within this threshold in active procurement such as Qld Train Manufacturing Program, Coomera Connector Central and Rocky Ring Road. We engaged with DPC and Treasury last week on the submissions content and will provide a copy this week for their feedback.

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent:	Mon 21/02/2022 3:04:16 AM (UTC)
To:	Jennifer E Allen[redacted]
Cc:	Benjamin J Stewart[redacted] Allan S Uhlmann[redacted]
Subject:	RE: Quick question on BPICC and budget sub

Hi Jen

Thank you for confirming. We have been working with PIP on the details for the projects, value and impact (of BPIC) to make sure that it is aligned with QTRIP and acknowledging things shift a little. On that basis late last week the current numbers were agreed as:

- 27 major projects that will be subject to BPIC with an approximate indicative cost impact of around $1b and total project value estimated at $14 billion.

Could these changes be made to the 2 submissions?

Also - here is the latest data as at Feb 22 (snipped from the analysis sheet). Some projects were removed, others grouped together and some added which has changed the numbers slightly.

Investment Name (Approved and Finalised Investments)	Budgeted Final Cost (BFC)	TBPIC and TBPIC+ uplift	(
Coomera Connector (Stage 1), Coomera to Nerang, construct new route	$ 1,530,500,000	$ 129,868,309	
Bruce Highway (Brisbane - Gympie), Pine River to Dohles Rocks Road interchange, fundi	$ 2,098,000,000	$ 178,022,680	
Gold Coast Light Rail (Stage 3), Broadbeach South to Burleigh Heads, construct light rail	$ 1,044,000,000	$ 88,587,073	
Bruce Highway (Cooroy to Curra) Section D, construction	$ 1,000,000,000	$ 84,853,518	
Pacific Motorway, Daisy Hill to Logan Motorway, funding commitment	$ 1,000,000,000	$ 84,853,518	
Rockhampton Ring Road, plan, preserve and construct	$ 1,065,000,000	$ 90,368,996	
Bruce Highway (Brisbane - Gympie), Caboolture - Bribie Island Road to Steve Irwin Way	$ 662,500,000	$ 56,215,456	
Rollingstock Expansion Project, construct new rollingstock	$ 600,000,000	$ 50,912,111	
Beerburrum to Nambour Rail Upgrade (Stage 1)	$ 550,791,000	$ 44,732,934	
Warrego Highway, funding commitment	$ 543,883,711	$ 44,171,953	
Bruce Highway additional funding, funding commitment	$ 500,000,000	$ 40,607,902	
Logan and Gold Coast Faster Rail (Kuraby to Beenleigh) upgrade	$ 356,155,272	$ 27,629,846	
Mackay Port Access, Bruce Highway to Mackay - Slade Point Road, construct new two lan	$ 350,000,000	$ 27,152,332	
Cairns Ring Road (Cairns CBD to Smithfield)	$ 359,000,000	$ 27,850,535	
Sunshine Motorway, Mooloolah River Interchange Upgrade (Stage 1)	$ 320,000,000	$ 24,824,989	
Cairns Western Arterial Road, Redlynch Connector Road to Captain Cook Highway, dupli	$ 300,000,000	$ 23,273,427	
Centenary Bridge Upgrade	$ 244,000,000	$ 8,088,654	
Bruce Highway, Queensland Government funding commitment	$ 200,000,000	$ 6,630,045	
Bruce Highway, Cairns Southern Access Corridor (Stage 5), Foster Road, contingency	$ 225,000,000	$ 7,458,800	
Beams Road (Bracken Ridge), open level crossing, Queensland Government funding cor	$ 163,000,000	$ 5,403,486	
Boundary Road (Coopers Plains), rail level crossing, funding commitment	$ 146,000,000	$ 4,839,933	
Walkerston Bypass	$ 150,000,000	$ 4,972,533	
Cunningham Highway Future Projects, funding commitment	$ 139,500,000	$ 4,624,456	
Access to Gladstone Port, upgrade	$ 125,000,000	$ 4,143,778	
Linkfield Road Overpass	$ 125,000,000	$ 4,143,778	
Pacific Motorway, Exit 49, upgrade interchange	$ 110,767,901	$ 3,671,981	
Bruce Highway (Gympie - Maryborough), Tiaro Bypass, construct bypass	$ 107,000,000	$ 3,547,074	
Total value/ Total uplift value ($100 million - $700 million)	$ 6,277,597,884		
Total value/ Total uplift value ($300 million+) - TBPIC+ range only			
Total value/ Total uplift value ($100 million+)	$ 14,015,097,884	$ 1,081,450,097	
		$ 969,808,590.07	re

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Jennifer E Allen [redacted]
Sent: Monday, 21 February 2022 11:31 AM
To: Deanne M Hawkswood [redacted]
Subject: Quick question on BPICC and budget sub
Importance: High

Hi Dee,

I'm reviewing the budgets subs and ensuring alignment between the BPIC FTE request and the market conditions sub. Can I please check the below with you – I'm proposing to update the FTE sub for the blue highlighted bits below (in order to align with the market conditions sub)? Can I please ask you to confirm that my updates are correct?

FTEs:
There are approximately~~29~~ 30 major projects in the current 2021-22 to 2024-25 QTRIP that will be subject to the BPIC with an approximate indicative cost impact of over $1 billion (total project value estimated at $12 billion).

Market Conditions:
To facilitate best practice industrial relations, TMR has developed a guidance document *'Best Practice Industry Conditions for Transport Civil Construction Projects*' (or the Transport BPIC) and guidance note to support tenders to respond to the BPIC and its intent during procurement. The QTRIP 2021-22 to 2024-25 includes approximately 30 projects valued at over $100 million each that will be subject to the BPIC, with a total value in the order of $12 billion.

Kind Regards,

Jen Allen
A/Director (Budgeting and Financial Planning) | Financial Performance and Systems
Finance and Procurement Branch | Corporate Division | Department of Transport and Main Roads
----
[redacted]
www.tmr.qld.gov.au

[Find us at Finance & Procurement Central on insideTMR]

Customers first | Ideas into action | Unleash potential | Be courageous | Empower people

From:	Lynda Cooper[redacted]
Sent:	Tue 22/02/2022 3:09:18 AM (UTC)
To:	Deanne M Hawkswood[redacted]Dean A Misso[redacted]
Cc:	Alex McLaughlin[redacted]Stuart McLaughlin[redacted] Michelle Jackson-Hay[M[redacted]; Pam.Geekiyanage[redacted]; Jason Wishart[redacted]
Subject:	RE: [EXTERNAL] FW: Submission Update

OFFICIAL

Hi Dee and Dean,

Thank you for taking the time to talk through the submission yesterday. Pam's comments capture the issues raised at the meeting yesterday, however, please also see further Treasury comment:

Cover Sheet

- The cover sheet is an opportunity to give a succinct explanation of the next stage of TMR implementation of BPIC and the impact this will have on the State. Noting TMR's engagement with unions and the market to implement BPIC will have time and cost impacts to the State and require the State to take on additional risk associated with industrial relations.

Recommendations

- Do quite so many things need to be noted by Government. Is than an opportunity to scale back the number of recommendations - further discussions to be had with QT and DPC.
- The Recs should ask CBRC note the expected costs (in $'s, not just % increase of costs of projects) of the BPIC and how this will be funded – the Financial Implications section should then provide further information on this
- The submission should clearly state why Rec 1 is seeking approval for the BPIC for $100M to $700M when a decision has already been made on $100M to $300M.
- Rec 2 mentions Major Project Allowance – this terminology is not used anywhere else in the submission and is confusing.

Submission

- The submission should make a stronger case as to why the $300M to $700M BPIC is needed / justified (in addition to the $100M-$300M) and why it necessitates higher costs (labour costs, travel, training etc).
- Given the significant costs (over $1B) would expect the submission include further, lower cost, options for the specific rates proposed for the BPIC, or an explanation as to why this is the only option
- **Financial Considerations** – I understand that the estimated BPIC impact number ($1.07B) has been calculated by reference to the higher rates of pay in the respective BPIC documents. However, the figure does not include an estimate of the additional cost that is associated with the extra quantity of labour (time and cost impact) needed to implement the BPIC conditions,

i.e. extra RDOs or stoppages for hot weather. If this understanding is correct, I would assume the $1.07B figure is underestimating the impact of BPIC and needs to be explained in the submission.

- The financial consideration should include further details on the estimated costs over $1B (split within and post the FEs – so CBRC has an idea of when these costs are going to materialise). As per previous comment, should also clearly state how this is being funded. CBRC can not approve this BPIC arrangements if costs are unfunded.
- The submission should quantify what the costs would be if it had the same conditions as the $100M to $300M BPIC projects. This will highlight to CBRC the incremental costs of the proposed BPIC.
- The submission outlines the feedback/issues raised from the various stakeholder groups – there appears to be significant disagreement/opposition - the submission would benefit from detailing how TMR will mitigate these issues and why the project needs to continue despite the opposition.
- Reiterate Pam's query on the impact of the BPIC on Federal Funding – this is a key issue, noting the potential extra $$ required – para 22 doesn't seem to indicate that $$ have been discussed with the Federal Govt?
- **Implementation Challenges and Outcomes** – the remedy undertaken to address the issue of union coverage potentially involves project contractors seeking a ruling from the Fair Work Commission, i.e. Gold Coast Light Rail Stage 3. This remedy process will have time and cost impacts for any project that adopts it, with the State likely to have to take on additional risk associated with unfavourable industrial relations rulings from the FWC.

See you on Monday.

Kind regards
Lynda

Lynda Cooper
Industry Policy
Industry, Investment & Commercial
Queensland Treasury
[redacted]
Web: www.treasury.qld.gov.au

Mon	Tue	Wed	Thu	Fri
✓			✓	✓

Queensland Government

From: Pam Geekiyanage [redacted]
Sent: Tuesday, 22 February 2022 12:33 PM

To: Deanne M Hawkswood <[redacted]Dean A Misso
[redacted]>
Cc: Lynda Cooper <[redacted]Alex McLaughlin
[redacted]>; Stuart McLaughlin
[redacted]; Tracey.O'Meara [redacted]
Michelle Jackson-Hay [redacted]>
Subject: [EXTERNAL] FW: Submission Update

Hi Dee and Dean

Thank you for sharing the discussion paper with us. Further to our discussion yesterday, please see below for some interim comments.

General comments

- DPC notes that the BPIC impact on project value as a percentage is 3.3 per cent for projects between $100M-$300M and 8.1 per cent for projects over $300M, and in dollar terms is $1.07 billion. DPC considers that both these values must be outlined in a recommendation.
- The submission should outline how the additional costs due to the BPIC will be funded.
- Please outline the financial and potential project delay impacts of AWU not engaging with consultation on the transport BPIC or the BPIC 300+ appendix on all eligible projects. Based on the feedback on the submission, this may also impact projects over $700 million.
- Please outline impacts the BPIC Policy will have on Federal Government funding. It is noted that when the policy was first considered, increase in project budget due BPICs could be managed within the project contingency, this may not be the case anymore. Note that the BPIC related increase for Gold Coast Light Rail was solely funded by Queensland Government. Will this be the case moving forward?
- Noting that there are a number of challenges of implementing the BPIC on projects, could you outline how the risks have been mitigated?

Coversheet and recommendations

- Understanding the complexity of the subject, please make the coversheet 2 pages if possible.
- Please clarify in the coversheet where relevant that TMR will develop a project specific BPIC (not an appendix to the transport BPIC?) and seek CBRC approval on a case by case basis.
- Given that any changes to Federal or State laws could trigger the need to update the BPIC, could recommendation 5 be reworded to include the possibility of legislative requirements triggering a change?
- Could the number of projects (27) be used in recommendation 8 rather than referring to a "number of projects"

Body of submission

- Amend references to Coomera Connector stage 1 value to $2.16 billion in line with the budget increase.
- Please make the project value of the Rolling Stock Expansion Project consistent.
- Noting AfPA's intention to provide an appendix to the Transport BPIC for the asphalt industry, care would need to be taken to highlight that the BPIC is not mandatory and instead requires contractors to apply best endeavours.

- Regarding rural and regional impact, will the introduction of the BPIC exclude some contractors from applying due to the added administrative workload?
- Paragraph 47 refers to indirect impact on workers in rural/ regional areas if workers seek out projects with better wages and conditions due to the application of different BPIC entitlements to projects with different values. Would this also occur in SEQ? Please outline.

More than happy to discuss anything.

Thanks
Pam

Queensland Government **Pam Geekiyanage**
A/ Senior Policy Officer
Economic Policy
Department of the Premier and Cabinet
E pam.geekiyanage@premiers.qld.gov.au **P** 07 3003 9341 **M** 0418 930 283
[redacted]

BPIC Cost Impact Analysis (including major project allowance) – February 2022

Projects	Project Name	Project value	Labour value (30%)	TBPIC uplift for labour	% Cost impact - TBPIC
Projects $300m +	Coomera Connector (Stage 1), Coomera to Nerang, construct new route	$1,530,500,000	$459,150,000	$136,195,036	8.49%
	Bruce Highway (Brisbane - Gympie), Pine River to Dohles Rocks Road interchange, funding commitment Gateway Motorway, Bracken Ridge to Pine River, funding commitment	$2,098,000,000	$ 629,400,000	$186,695,319	8.49%
	Gold Coast Light Rail (Stage 3), Broadbeach South to Burleigh Heads, construct light rail.	$1,044,000,000	$313,200,000	$92,902,723	8.49%
	Bruce Highway (Cooroy to Curra) Section D, construction	$1,000,000,000	$300,000,000	$88,987,283	8.49%
	Pacific Motorway, Daisy Hill to Logan Motorway, funding commitment	$1,000,000,000	$300,000,000	$88,987,283	8.49%
	Rockhampton Ring Road, plan, preserve and construct	$1,065,000,000	$319,500,000	$94,771,456	8.49%
	Bruce Highway (Brisbane - Gympie), Caboolture - Bribie Island Road to Steve Irwin Way upgrade	$662,500,000	$198,750,000	$58,954,075	8.49%
	Rollingstock Expansion Project, construct new rollingstock	$600,000,000	$180,000,000	$51,366,715	8.49%
	Beerburrum to Nambour Rail Upgrade (Stage 1)	$550,791,000	$165,237,300	$47,009,775	8.12%
	Warrego Highway, funding commitment	$543,883,711	$163,165,113	$46,420,241	8.12%

Projects	Project Name	Project value	Labour value (30%)	TBPIC uplift for labour	% Cost impact - TBPIC
	Bruce Highway additional funding, funding commitment	$500,000,000	$150,000,000	$42,674,785	8.12%
	Logan and Gold Coast Faster Rail (Kuraby to Beenleigh) upgrade	$356,155,272	$106,846,582	$29,102,108	7.76%
	Mackay Port Access, Bruce Highway to Mackay - Slade Point Road, construct new two-lane road	$350,000,000	$105,000,000	$28,599,150	7.76%
	Cairns Ring Road (Cairns CBD to Smithfield)	$359,000,000	$107,700,000	$29,334,556	7.76%
	Sunshine Motorway, Mooloolah River Interchange Upgrade (Stage 1)	$320,000,000	$96,000,000	$26,147,794	7.76%
	Cairns Western Arterial Road, Redlynch Connector Road to Captain Cook Highway, duplication	$300,000,000	$90,000,000	$24,513,557	7.76%
Projects $100m-$300m	Centenary Bridge Upgrade	$244,000,000	$73,200,000	$8,088,654	3.32%
	Bruce Highway, Queensland Government funding commitment	$200,000,000	$60,000,000	$6,630,045	3.32%
	Bruce Highway, Cairns Southern Access Corridor (Stage 5), Foster Road, contingency	$225,000,000	$67,500,000	$7,458,800	3.32%
	Beams Road (Bracken Ridge), open level crossing, Queensland Government funding commitment	$163,000,000	$48,900,000	$5,403,486	3.32%

Projects	Project Name	Project value	Labour value (30%)	TBPIC uplift for labour	% Cost impact - TBPIC
	Boundary Road (Coopers Plains), rail level crossing, funding commitment	$146,000,000	$43,800,000	$4,839,933	3.32%
	Walkerston Bypass	$150,000,000	$45,000,000	$4,972,533	3.32%
	Cunningham Highway Future Projects, funding commitment	$139,500,000	$41,850,000	$4,624,456	3.32%
	Access to Gladstone Port, upgrade	$125,000,000	$37,500,000	$4,143,778	3.32%
	Linkfield Road Overpass	$125,000,000	$37,500,000	$4,143,778	3.32%
	Pacific Motorway, Exit 49, upgrade interchange	$10,767,901	$33,230,370	$3,671,981	3.32%
	Bruce Highway (Gympie - Maryborough), Tiaro Bypass, construct bypass	$107,000,000	$32,100,000	$3,547,074	3.32%
	Total project value **Total uplift value ($100 million+)**	**$14,015,097,884**	**$4,204,529,365**	**$1,130,186,373**	**8.06%**

From:	Graham J Hobbs[[redacted]
Sent:	Sun 17/07/2022 10:30:47 PM (UTC)
To:	Deanne M Hawkswood[redacted]
Cc:	Paul A Schmidt[[redacted] Adam J Williams[[redacted] Gavin G Allen[redacted]
Subject:	FW: BPIC - B2PB effects

Hi Dee

Some feedback on the impacts being felt by some current non BPIC projects as a result of BPIC projects. It is going to be difficult for the longer non-BPIC projects that were tendered before BPIC to absorb these costs and there are probably limited opportunities for contractual relief.

Regards,

Graham Hobbs RPEQ FIE Aust

Director | Prequalification and Contracts

Program Management and Delivery | Department of Transport and Main Roads

[redacted]

www.tmr.qld.gov.au

From: David I Selth [redacted]

Sent: Monday, 18 July 2022 8:22 AM

To: Andrew M Wheeler <A[redacted]Graham J Hobbs [redacted]; Belinda L Stewart <[redacted] Jamie D Osborne <[redacted]

Subject: Fwd: BPIC - B2PB effects

FYI

Get Outlook for iOS

From: Glen Mosch [redacted]

Sent: Monday, July 18, 2022 8:11 am

To: David I Selth <[redacted]

Subject: BPIC - B2PB effects

David

Some of the effects that we have on B2PB to date:

CFMEU advising workforce to move to GCLR and they will be paying 30 to 50 % more that they are currently getting

FRP sub contractor requested $1M increase in price and reneged on agreement – he was able to send crew to a BPIC agreement project that was paying higher rates.

Truck drivers leaving haulage companies to work on BPIC projects for $20/hr higher rate

Staff are being offered higher rates on BPIC projects due to higher rates ie Leading hands rates are now higher than Supervisors – so rate increase and then Engineers etc.
I will get further info from our fellas and forward an update, we expect to see effects when GCLR and Coomera Connector commence locally (Brisbane projects ie Centenary Highway etc) for employees, staff and subbies. Currently it seems effects from CRR, Bruce highway and Cooroy to Curra that are operating on BPIC agreements.

Regards

Glen

Glen Mosch
Project Director

M [redacted]

BURLEIGH TO PALM BEACH
(PACKAGE B)
SMA
INFRASTRUCTURE

A PO Box 47
Morningside QLD 4170
ABN 19940455206

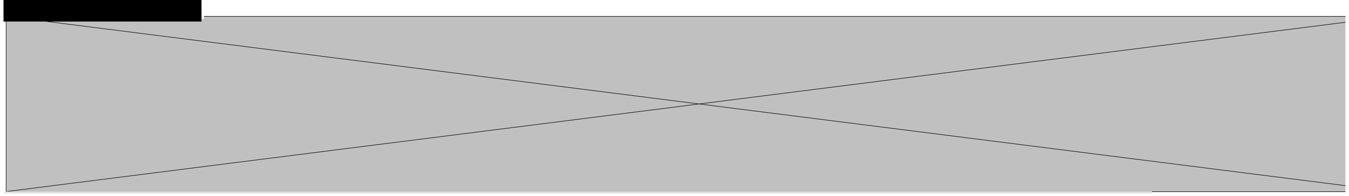
Community Contact
E b2pb.community@smainfrastructure.com.au
P 1800 799 824 (Option #2)

From:	Debra A Nixon[redacted]	
Sent:	Tue 19/07/2022 5:38:19 AM (UTC)	
To:	Deanne M Hawkswood[redacted]	
Cc:	IMD DDG Correspondence[redacted]	
Subject:	FW: Updated- URGENT: Major Milestones Report	
Attachment:	Major Milestones weekending 22.07.2022.xlsx	

Centenary Motorway (Ellen Grove – Toowong), Centenary Bridge, duplicate bridge (known as the Centenary Bridge Upgrade) **Cost:** $244 million **Funding:** Preconstruction funding $20 million, State: 100% Construction funding $224 million, 50% State, 50% Fed **Estimated Jobs:**N/A	Metropolitan	Main contract procurement: - Tentative date for Contract Aw

Hi Deanne
I just want to make sure that you are comfortable with the highlighted wording that is mentioned in the MM report.

Debra Nixon
Director to the Office of the Deputy Director-General
Infrastructure Management and Delivery Division
Department of Transport and Main Roads
[redacted]



From: IMD DDG Correspondence
Sent: Tuesday, 19 July 2022 1:28 PM
To: Dennis J WALSH
Subject: Updated- URGENT: Major Milestones Report

Hey Deb,
Ive gone through the MM report and culled it down a lot (see attached). There are still some with a bit of information, as I wasn't too sure on them.
Let me know your thoughts.

Emma Turner
Senior Advisor | Executive Directorate
Office of the Deputy Director-General | Infrastructure Management and Delivery Division | Department of Transport and Main Roads
Works: Mon – Thur
[redacted]
www.tmr.qld.gov.au

From: IMD DDG Correspondence
Sent: Tuesday, 19 July 2022 9:36 AM
To: Dennis J WALSH <[redacted]
Cc: IMD DDG Correspondence <IMDDDG.Correspondence@tmr.qld.gov.au>
Subject: URGENT: Major Milestones Report

Hi Deb

Please see attached the Major Milestones Report for your review and approval – apologies for the delay in this, 3 districts were very late with their entried.

The report is also available via Teams if you wish to edit there.

Thank you.

Emma Turner
Senior Advisor | Executive Directorate
Office of the Deputy Director-General | Infrastructure Management and Delivery Division | Department of Transport and Main Roads
Works: Mon – Thur
[redacted]
www.tmr.qld.gov.au

From:	Deanne M Hawkswood[[redacted]
Sent:	Mon 25/07/2022 3:10:14 AM (UTC)
To:	TMR DLO[[redacted] DDG Correspondence[[redacted]
Cc:	Georgina A Christensen-Bailey[[redacted]
Subject:	Re: VERY URGENT: [Cabinet in Confidence] Briefing for today - BPICs - update on status

They advised the WILL take action such as a rally. I've also heard it will be 4 August.

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From: TMR DLO [redacted]
Sent: Monday, July 25, 2022 1:01:36 PM
To: Deanne M Hawkswood [redacted] IMD DDG Correspondence [redacted]
Cc: Georgina A Christensen-Bailey [redacted]
Subject: RE: VERY URGENT: [Cabinet in Confidence] Briefing for today - BPICs - update on status

Hi Deanne,

We've been requested to clarify the last point: "will" or "are" – and, do we mean industrial action?

Regards,

Jim Rintoull
Departmental Liaison Officer | Cabinet, Legislation and Executive Services
Governance Branch | Corporate Division | **Department of Transport and Main Roads**
[redacted]

From: Deanne M Hawkswood [redacted]
Sent: Monday, 25 July 2022 12:47 PM
To: TMR DLO [redacted] IMD DDG Correspondence [redacted]
Cc: Georgina A Christensen-Bailey [redacted]
Subject: RE: VERY URGENT: [Cabinet in Confidence] Briefing for today - BPICs - update on status

Hi Jim

Dot points regarding Coomera Connector Stage 1 – BPIC response:

- The Acciona/Georgio Joint Venture (AGJV) negotiated a project specific greenfields agreement with the unions, particularly the CFMEU and AWU.
- As part of the Building Trades Group (BTG) the AGJV also had early discussions with the ETU and Plumbers, however advised they were not going to be employing these trades and did not seek to include them as a signatory on the greenfield agreement.
- The AGJV advised they had not received any response for further feedback in the previous 6 weeks from the CFMEU.
- The greenfield agreement was signed with the AWU on 13 July and has now been lodged with the FWC.
- The greenfield agreement is well aligned with the BPIC on wages and outcomes (through the conditions). Noting the negotiation process, not all parties got conditions they put on the table.
- Advice was received earlier today that the CFMEU are aware of the signed agreement and are will take action.

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]

From: TMR DLO <[redacted]
Sent: Monday, 25 July 2022 11:17 AM
To: Deanne M Hawkswood [redacted] IMD DDG Correspondence [redacted]
Cc: Georgina A Christensen-Bailey <[redacted]
Subject: RE: VERY URGENT: [Cabinet in Confidence] Briefing for today - BPICs - update on status

Thanks Deanne,

We've been advised that the bulk of it (CBRC submission) is in the MO office.

Given this, and the timeframe, dotters will be great, thank you

😊

Regards,

Jim Rintoull
Departmental Liaison Officer | Cabinet, Legislation and Executive Services
Governance Branch | Corporate Division | **Department of Transport and Main Roads**

[redacted]

From: Deanne M Hawkswood [redacted]
Sent: Monday, 25 July 2022 11:13 AM
To: TMR DLO [redacted]; IMD DDG Correspondence [redacted]
Cc: Georgina A Christensen-Bailey [redacted]
Subject: RE: VERY URGENT: [Cabinet in Confidence] Briefing for today - BPICs - update on status

Hi Jim

I'll send through some dot points via email as well which will specific on the Coomera Connector project agreement which was lodged with the FWC last week. I understand this will form part of the topic of discussion. Are email dotters ok?

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]

From: TMR DLO [redacted]
Sent: Monday, 25 July 2022 10:53 AM
To: IMD DDG Correspondence [redacted]>
Cc: Deanne M Hawkswood [redacted]
Subject: RE: VERY URGENT: [Cabinet in Confidence] Briefing for today - BPICs - update on status
Importance: High

Hi Teams,

DLOs have confirmed the Minister's office has CBRC submission in their office. If any other materials are required, please advise, but we will assume none required.

Please let us know if the reps are available for 4pm today and we will send invites, thank you

Regards,

Jim Rintoull
Departmental Liaison Officer | Cabinet, Legislation and Executive Services
Governance Branch | Corporate Division | **Department of Transport and Main Roads**
[redacted]

From: TMR DLO
Sent: Monday, 25 July 2022 10:24 AM
To: IMD DDG Correspondence <[redacted] Government Relations <Government.Relations@translink.com.au>
Cc: Deanne M Hawkswood [redacted] Cameron Y Leslie [redacted] Peter Y Brown [redacted]
Subject: VERY URGENT: [Cabinet in Confidence] Briefing for today - BPICs - update on status
Importance: High

Hi Team,

Please note the below very urgent request from MO Chief of Staff.

Can we please confirm that the below requested reps are available for this time, and if materials will be provided prior?

DLOs will send invites upon confirmation.

Briefing - **4pm today** on Transport BPICs

Particularly on Coomera Connector, Centenary, Gold Coast Light Rail.

Attendees – dept - DDG IMD, Deanne Hawkswood, Scott Gartrell
Attendees – min – Alana Tibbitts, Stuart Stark, Tam Van Alphen, Hamish Bessant

Location – **Teams**

Regards,

Jim Rintoull

Departmental Liaison Officer | Cabinet, Legislation and Executive Services
Governance Branch | Corporate Division | **Department of Transport and Main Roads**
[redacted]

From: Alana Tibbitts [redacted]
Sent: Monday, 25 July 2022 10:12 AM
To: TMR DLO [redacted]
Cc: Stuart Stark [redacted]
Subject: [Cabinet in Confidence] Briefing for today - BPICs - update on status

Hi DLOs

Could you please assist in arranging a briefing for 4pm today on Transport BPICs?

Particularly on Coomera Connector, Centenary, Gold Coast Light Rail.

Attendees – dept - DDG IMD, Deanne Hawkswood, Scott Gartrell
Attendees – min – Alana Tibbitts, Stuart Stark, Tam Van Alphen, Hamish Bessant

Teams meeting is fine for this.

Regards,

Queensland Government

Alana Tibbitts
Chief of Staff
Office of the Hon. Mark Bailey MP
Minister for Transport and Main Roads

[redacted] [redacted] [redacted]u

CFMEU Construction & General QLD/NT

4 August 2022 ·

It is pretty damn simple. When the state government is building public infrastructure, Queensland taxpayers' money should be spent in Queensland. Right now bureaucrats are just accepting the lowest, sometimes non-conforming, tender bids and ignoring very clear government policy. This must end now, and bureaucrats like Neil Scales (TMR) must go.

Thank you to all who turned out loud and proud today to give the muppets in William St a wake-up call. We will not back away from this fight. See less

Building Trades Group of Unions

GOVERNMENT FAILS ITS OWN PROCUREMENT TEST

August 4, 2022

The Palaszczuk government is being white-anted by senior bureaucrats determined to run their own policy and ideological agendas in direct conflict with the government's explicit local procurement and 'best practice' policy for major contracts.

On major, taxpayer-funded public works, contracts are consistently awarded to a cohort of non-conforming tenders that fail to comply with Best Practice Industry Conditions principles including training, apprentices, EBA conditions, local procurement and other requirements.

This dereliction of policy duty is costing thousands of Queensland jobs in construction and local manufacturing, undermining safety standards and working conditions on job sites, and producing second-rate finished product.

"Departments such as Transport and Main Roads are simply not complying with government policy when it comes to procurement," CFMEU state secretary Michael Ravbar said.

"This sees cheap, inferior imported product being used on major public works – at the expense of quality local manufacturers – and ultimately serves to further drive up construction costs and exacerbate supply chain issues."

"It sees training and apprenticeship opportunities passed up in favour of contracting bargain-bin builders using labour hire firms – in the midst of a skilled labour shortage - and paying bare minimum rates with scant regard for safety or build quality."

"What is infuriating is that the government has very clear policy directives in this area which are simply being ignored by bureaucrats like TMR director-general Neil Scales."

Combined unions representing the construction, electrical and plumbing trades are demanding Mr Scales immediately resign due to his systemic noncompliance with government's BPIC Policy and the extraordinary mismanagement and misuse of taxpayer money.

"We further call on the Crime and Corruption Commission to immediately investigate senior TMR executives and the circumstances surrounding the awarding of recent government contracts," Mr Ravbar said.

"We are asking the government to enforce its own policy, nothing more, nothing less."

[redacted]

266 14 47

This photo is from a

CFMEU Constr
QLD/NT
4 August 2022 ·

13

No co
Be the fir

Write a comm

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A14534893B9295-DEANNE MARI]
Sent:	Fri 12/08/2022 12:46:11 AM (UTC)
To:	Georgina A Christensen-Bailey[redacted]
Subject:	General union factions info ...

General

Monday, 8 August 2022
10:11 AM

ALP Factions

From Scott …
Essentially, there are four factions in the Qld ALP: Left, Right, AWU and Old Guard. The left has been on the rise for a number years now. The State Conference of the ALP is the top body that sets policy annually. The factions (through ALP branches) get to determine 212 delegates (x delegates/branch), while the unions, collectively, get the same. So, if the Left improves its share of branch delegates, they add these to the left union delegates and then get to influence decisions at the Conference.

So, despite the Premier and Treasurer being in the AWU faction, they are in the smallest faction within the Party and the major decisions get decided by leaders like your Minister.

Premier AWU - Right aligned faction
Left is dominant and controls the branch.
Delegates to the state conference - 50/50 (branches and unions)
Branch - number of delegates based on their size.
More are coming from branches with decline in union membership.
Unions have control way outside of their
ALP ministers - Caucus come together and they elect and Prem will decide the portfolio. Most will be from the left. More democratic and opportunity for influence.
LNP - prem determines the ministers and what portfolios are.
Peter Ong - powerful member. Leader of the left. Rowan Webb as well (powerful). Plumbers are left.
CFMEU left the left - own faction. Get delegates in their own right, stack the branches to form a mini faction. Rich in assets not members. Why the push for the civil side, the building side has less opportunity. Not to many Queens Wharf projects. Subcontractors as CFMEU.

CFMEU Rub Points

Govt policy is not delivering what the unions want - best IR contractor. This is what Govt needs to confront.

Value for Money - BPIC/IR is a part of that
EOI phase - shortlist to those. Starting point with a commitment to BPIC as a minimum.
Targeting the Minister and the DG. AGJV omitting ETU hasn't helped.

Changes to the Code

Can we mandate and what does it mean
FWA change - for example, favour more secure work forms (Labour committed to), limit to short term contracts, casual, GIG workers limits to tackle security of work.
Start turning your mind to this (Crown Law) to anticipate the future changes.
Where? ALP national website.

Centenary

Quick view from Mel - on conditional award re Code.
Don't hold up the process, create the conditions to give us the time and scope. Meet with her and Jack, Scott and I and way forward.

From: Dennis J WALSH[redacted]
Sent: Mon 22/08/2022 12:55:18 AM (UTC)
To: Deanne M Hawkswood[redacted]u]
Cc: Debra A Nixon[redacted]; Adriana M Chilnicean[redacted]
Subject: FW: URGENT request for pre-brief on BPICs (incl Centenary update) - today at 1.00pm

Dee

Can you pull some notes together please

Regards

Dennis Walsh BEng, MEng Sc, CPEng, APEC Engineer, Int PE (Aus), RPEQ, MIEAust, M IPWEA, GAICD
A/Deputy Director General | Infrastructure Management and Delivery
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Gai Duffy [redacted]
Sent: Monday, 22 August 2022 10:54 AM
To: Tanja A Hagarty [redacted]
Cc: Dennis J WALSH [redacted] TMR DLO [redacted]
Subject: URGENT request for pre-brief on BPICs (incl Centenary update) - today at 1.00pm

Hi Tanja
The Minister has a meeting this afternoon at 3pm with the Premier's Deputy CoS (Tam van Alphen) and CFMEU on BPICs.

He would like a pre-brief (at 1pm) ahead of that meeting on BPICs and including an update on Centenary Hwy

Alana suggested that the dept reps should be Dennis Walsh and Deeanne Hawksworth.

I will send a diary invite through shortly – would you please confirm Dennis and/or Dee's attendance.

DLOs – would you also check if there are any relevant materials that can be made available ahead of the pre-brief or brought to the meeting.

Any issues, please let me know asap.

Regards
Gai

Gai Duffy
Executive Assistant and Office Manager
Office of the Hon. Mark Bailey MP
Minister for Transport and Main Roads

[redacted]

This rally combined Building Trades Group unions endorses the following resolution:

We condemn the Queensland government for repeatedly ignoring its own procurement policy, and failing to abide by requirements set out in its Best Practice Industry Conditions document.

On major, taxpayer-funded public works, contracts are consistently awarded to non-conforming tenders that don't comply with key BPIC principles including training, apprentices, EBA conditions, local procurement and other requirements.

This dereliction of policy duty is costing thousands of Queensland jobs in construction and local manufacturing, undermining safety standards and working conditions on job sites, and producing second-rate finished product.

We demand that Neil Scales should immediately resign as Director General of Transport and Main Roads due to his systemic noncompliance with government's BPIC Policy and the extraordinary mismanagement and misuse of tax payer's dollars under his direction and control.

We further call on the CCC to immediately carry out an investigation into all the Senior Executives of Transport and Main Roads into their mismanagement of Government contracts.

The government must give an iron-clad commitment to follow its own policy, and not allow senior bureaucrats to run their own private policy and ideological agendas.

CFMEU

REGIONAL OFFICES
Darwin – Ph (08) 8981 5280
Townsville – Ph (07) 4766 8715
CFMEUQ
State Construction
& General Division

HEAD OFFICE
16 Campbell Street
Bowen Hills QLD 4006
Ph (07) 3231 4600
Fax (07) 3231 4699
qntqueries@cfmeu.org

22 August 2022

The Proper Officer
Crime and Corruption Commission
515 St Pauls Terrace
Fortitude Valley QLD 4006

By email: mailbox@ccc.qld.gov.au
complaints@ccc.qld.gov.au

Dear Sir/Madam

Re: Complaint regarding conduct of the Department of Transport and Main Roads ('TMR')

The CFMEUQ represents approximately 300 members employed by TMR. Further, TMR regularly procures the completion of work by private sector employers which also employ members of the CFMEUQ.

When it is undertaking procurement TMR is required to follow a policy of the Queensland Government known as 'BPIC'. A copy of BPIC can be found here.

It has come to the attention of the union that TMR has recently engaged in significant procurement activities which do not comply with BPIC. Those examples, which may not be exhaustive, are as follows.

1. The Centenary Bridge Duplication Project valued at $300 million has not yet been formally let but 'preferred tenderer' status has been given to a joint venture between BMD and Georgiou, which tender did not comply with BPIC. The shortfall between the non-BPIC tender that has been endorsed and a BPIC-compliant tender is a significant one which is disadvantageous to members and potential members of the union. It also impairs the ability of the union to organise these workers and in that sense it affects our organisation as well as our members.
2. The Coomera Connector Project valued at $1.5 Billion has not yet been formally let but 'preferred tenderer' status has been given to a joint venture between Acciona and Georgiou, which tender did not comply with BPIC. The shortfall between the non-BPIC tender that has been endorsed and a BPIC-compliant tender is a significant one which is disadvantageous to members and potential members of the union. It also impairs the ability of the union to organise these workers and in that sense it affects our organisation as well as our members.

The fact that TMR has inexplicably disregarded the policy of the government of the day is of great concern to the Union and its members. Further, it should be the concern of the Government and by extension the taxpayers who are funding these projects. This significant departure from policy does not appear to have been permitted by the policy nor justified in any way. It gives rise to an impression that the decision-maker(s) may have been acting for an improper purpose.

I raise these important matters for your attention and call for them to be investigated by the CCC as the only body that can be trusted to do at arm's length from the Government. To that end, I ask that you please urgently undertake a preliminary assessment of the matters set out in this correspondence and report back to me as to what you will do about this complaint.

The Union is happy to provide any and all further assistance in order for you to deal with the complaint. However, as you'll appreciate, there are many aspects of the above transactions that the Union is not privy to, nor does the Union have the power to compel the production of such information or documents. We note that your agency has relevant powers in this regard.

I look forward to hearing from you shortly.

Yours faithfully

[redacted]

Michael Ravbar
State Secretary

23 August 2022

Hot issues brief – Mary St protest

Media response

We are aware of a protest at 61 Mary Street this morning by the CFMEU about procurement.

Our partnerships with industry remain as strong as ever, ensuring we deliver services and infrastructure based on best practice.

The State Government is committed to maximising procurement benefits through the Queensland Procurement Policy to support local jobs and businesses, and drive economic, environmental, and social outcomes.

All government agencies covered by the Queensland Procurement Policy (QPP) must apply best practice principles to major projects with a value of more than $100 million.

The QPP ensures quality, safe workplaces through delivering the highest possible standards of workplace health and safety, engaging appropriate numbers of trainees and apprentices, and implementing best practice industrial relations.

A set of Best Practice Industry Conditions for transport civil construction projects ($100-$300 million) was approved in October 2020 (Transport BPIC), following extensive consultation with relevant unions and other stakeholders.

The Department of Transport and Main Roads (TMR) fully supports the Queensland Government's priorities to improve matters such as employment conditions, safety and training opportunities for the transport civil construction industry through the Transport Best Practice Industry Conditions.

BACKGROUND

- Senior members of the CFMEU including Michael Ravbar, Jade Ingham and Paul Dunbar were invited to attend an industry briefing on the Queensland Transport and Roads Investment Program 2022-23 to 2025-26 to be held in the 61 Mary Street Conference Centre, Brisbane at 10am on Tuesday 23 August 2022. Due to COVID restrictions, seating was limited to 160 invited guests. No response to the invitations were received.

Prepared by:	*Document author*	**Contact for further information:**	*Content expert*

23 August 2022

Hot issues brief – Mary St protest

- Approximately 200 CFMEU members took the opportunity to enter the building under the guise of attending the briefing and occupied the Ground Floor Conference Room.
- The Director-General Neil Scales was attending a meeting on the ground floor and was scheduled to speak at the briefing.
- The Building was locked down and Police were called to attend with two officers arriving around 9:15am. A number of other officers. The event was called off at 9:40am and an email sent to all invited attendees and an announcement was made on the front steps of the building.
- Some members of the CFMEU then stormed the front doors around 10am, with a security guard knocked to the ground. The guard was uninjured and has indicated he will not press charges.
- Police engaged with the CFMEU and TMR senior management and deescalated the situation. The CFMEU then left the building at 10:30am.
- Throughout the incident members of the CFMEU were taking videos and photos, with a media camera appearing across the road by 10:30am.
- The Department of Transport and Main Roads is committed to maximising benefits for Queenslanders by using procurement to support local jobs and businesses to drive economic, environmental and social outcomes.ttt
- The Queensland Procurement Policy ensures quality, safe workplaces through highest possible standards of workplace health and safety, engaging appropriate numbers of trainees and apprentices, and best practice industrial relations.
- For best practice industrial relations, a set of Best Practice Industry Conditions (BPIC) for transport civil construction projects ($100-$300 million) was approved in October 2020 (Transport BPIC), following extensive consultation with relevant unions and other stakeholders.
- The Transport BPIC outlines a set of conditions and wage outcomes reflecting best practice industrial relations for the civil construction industry.
- TMR has been implementing the Transport BPIC in accordance with the Fair Work Act and Code for the Tendering and Performance of Building Work 2016 (Building Code).
- TMR, through the Department of Energy and Public Works, sought Crown Law advice on the impact of the Transport BPIC's application and implementation following changes to the Building Code on 26 July 2022.
- The advice notes that:
    - The changes to the Building Code remove most of the obligations that were imposed by the Code.
    - The provisions in the Fair Work Act 2009 (FW Act) about discrimination, adverse action, and coercion in relation to workplace rights, and corresponding provisions for building work in the Building and Construction Industry (Improving Productivity) Act

Prepared by:	*Document author*	**Contact for further information:**	*Content expert*

2016 (the BCIIP Act), remain unchanged and the ABCC's functions and powers continue.

- Therefore, the main risks to the State in the implementation of the BPPs and the BPICs remain.
- The main barrier to contractors and subcontractors agreeing to BPP auditing by the State has been removed from the Building Code.
- Project agreements continue to be unenforceable under the BCIIP Act.

- In accordance with the Queensland Government's Best Practice Principles: Quality, safe workplaces guide September 2021, TMR through its procurement process, assesses tenders against the best practice principles and requires contractors to deliver on their commitments made in their offers.
- Where the Transport BPIC is relevant to a best practice principles project, they are a mandatory evaluation criterion in the tender. This means that Tenderers are required to respond about whether the terms and conditions of their own employees who will work on the project are at least equivalent to the Transport BPIC as part of the tender process, with tender commitments made with respect to the Transport BPIC to form part of the contract. Tenderers are also required to address how they will use their best endeavours to engage subcontractors who will commit to providing terms and conditions of employment for their employees who will perform work on the project, which will be at least equivalent to the Transport BPIC.
- The Transport BPIC is provided a guidance document in the tender and is not mandatory, as this would be a breach of the Fair Work Act and Building Code. Tenderers can demonstrate the intent and outcomes of the Transport BPIC in any manner they choose to nominate throughout the procurement process. TMR gives full and reasonable consideration to alternative ways of achieving the Transport BPIC. Nothing in the Transport BPIC requires a Tenderer to make any commitment that would breach any laws.
- The final industrial relations arrangements entered into on TMR projects remain a matter for the respective parties.
- TMR introduced the Transport BPIC retrospectively on the following BPP projects:
  - Gold Coast Light Rail (Stage 3A) – Broadbeach South to Burleigh Heads
  - Bruce Highway (Cooroy to Curra) Section D, contract 2
  - Bruce Highway (Caboolture) Bribie Island Road to Steve Irwin Way
  - Walkerston Bypass.
- The following projects included the Transport BPIC as part of the procurement process:
  - Centenary Bridge Upgrade Project – $244 million
  - Pacific Motorway (M1) Exit 49 Interchange Upgrade – $110 million
  - Rollingstock Expansion Program (Qld Train Manufacturing Program) – $600 million

Hot issues brief – Mary St protest

- Coomera Connector Stage 1 – $2.16 billion
  - North package (separate tender/contract)
  - Central package (separate tender/contract)
- Rockhampton Ring Road – $1.065 billion.

- A previous protest on the same issue was held at 1 William Street on 4 August 2021.The media covered the protest. Link below:
- Union protest at 1 William St targets Main Roads bureaucrat Neil Scales | The Cairns Post

Prepared by:	*Document author*	**Contact for further information:**	*Content expert*

From: Anthony P Philp [redacted]
Sent: Tuesday, 23 August 2022 2:31 PM **To:**
Julie Mitchell [redacted]; Josh M Hannan
[redacted]
Subject: FW: CFMEU down stairs

Tony Philp
General Manager (Portfolio, Investment and Programming)
Policy, Planning & Investment Division | Department of Transport and Main Roads

Floor 16 | 61 Mary Street | Brisbane Qld 4000
GPO Box 1412 | Brisbane Qld 4001
(07) [redacted] | M: [redacted]
anthony.p.philp@tmr.qld.gov.au
www.tmr.qld.gov.au

From: Nick T Shaw [redacted]
Sent: Tuesday, 23 August 2022 12:17 PM
To: Anthony P Philp [redacted]
Subject: FW: CFMEU down stairs

Kind Regards

Nick Shaw
Chief Finance Officer
Finance and Procurement Branch | Corporate Division | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Adrian D Langford [redacted]
Sent: Tuesday, 23 August 2022 11:15 AM
To: Kym E Murphy [redacted]; Alarna E Lane-Mullins [redacted]; Tracy A O'Bryan [redacted]; Nick T Shaw [redacted]
Cc: Penny J Ford [redacted]
Subject: RE: CFMEU down stairs

Good morning

Yes, quite grubby behaviour generally.

I spoke to Paul Taylor, CFMEU official, he said '*this is about Scales and about Procurement.'* He wouldn't offer anything further…

2 videos attached.

1. A security guard getting knocked over by a small crowd pushing into the foyer when the QPS opened to doors to let other police in.
2. CFMEU holding a mock conference, with someone on stage wearing a DG mask – was very unintelligent.

Regards

Adrian

Adrian Langford
Deputy Chief People and Culture Officer | Human Resources Branch
Corporate Division | Department of Transport and Main Roads
[redacted]

From: Kym E Murphy [redacted]
Sent: Tuesday, 23 August 2022 9:15 AM
To: Alarna E Lane-Mullins [redacted]; Tracy A O'Bryan
[redacted]; Nick T Shaw [redacted]
Cc: Penny J Ford [redacted]; Adrian D Langford
[redacted]
Subject: RE: CFMEU down stairs

Have now followed DG into the Room for the briefing. QPS here but …

Kind regards,

Kym

Kym Murphy BE(Civil) RPEQ FIEAust CPEng EngExec NER APEC Engineer IntPE (Aus)GAICD
General Manager
RoadTek Branch | Infrastructure Management & Delivery Division
Department of Transport and Main Roads

[redacted]
E: [redacted]
W: www.tmr.qld.gov.au

About my working preferences:
In TMR, we embrace workplace flexibility. My usual work days are: Monday to Friday.
If you are receiving this email outside of standard work hours please note this is in alignment with my working hours, and there is no obligation for a response outside of your working hours.

Link: https://streetsmarts.initiatives.qld.gov.au/qrsw-2022/
Road safety starts with me. Queensland Road Safety Week 22–26 August 2022.

From: Kym E Murphy [redacted]
Sent: Tuesday, 23 August 2022 9:07 AM
To: Alarna E Lane-Mullins [redacted]; Tracy A O'Bryan
[redacted]; Nick T Shaw [redacted]
Cc: Penny J Ford [redacted]; Adrian D Langford
[redacted]
Subject: RE: CFMEU down stairs

The Industry Brief networking starts at 9.30am with presso starting 10am.

Chanting “Neil Scales smells like corruption”. Grubby language and intimidating behaviour.

Saying they following DG around and make life very uncomfortable. It’s taking a lot for me not to go stand by him but I’d just get too defensive.

Kind regards,

Kym

Kym Murphy BE(Civil) RPEQ FIEAust CPEng EngExec NER APEC Engineer IntPE (Aus)GAICD
General Manager
RoadTek Branch | Infrastructure Management & Delivery Division
Department of Transport and Main Roads

[redacted]
W: www.tmr.qld.gov.au

About my working preferences:
In TMR, we embrace workplace flexibility. My usual work days are: Monday to Friday.
If you are receiving this email outside of standard work hours please note this is in alignment with my working hours, and there is no obligation for a response outside of your working hours.

Link: https://streetsmarts.initiatives.qld.gov.au/qrsw-2022/
Road safety starts with me. Queensland Road Safety Week 22–26 August 2022.

From: Alarna E Lane-Mullins [redacted]
Sent: Tuesday, 23 August 2022 9:05 AM
To: Tracy A O'Bryan [redacted]; Nick T Shaw [redacted]
Cc: Kym E Murphy [redacted]; Penny J Ford [redacted]; Adrian D Langford [redacted]
Subject: CFMEU down stairs
Importance: High

Dear Tracy and Nick,

I understand the CFMEU are at 61 Mary and protesting around QTRIP and treating workers fairly.
Adrian is heading down to enquire about the protest – and will keep it very friendly.
We were not aware this was planned. I understand there is an industry meeting on ground floor.

Will keep you updated.

Regards,

Alarna

Alarna Lane-Mullins
Chief People and Culture Officer | Human Resources Branch
Corporate Division | Department of Transport and Main Roads
[redacted] E: [redacted]
W: www.tmr.qld.gov.au

CFMEU

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qntqueries@cfmeu.org

MARK BAILEY MUST REIN IN ROGUE DEPARTMENT

August 25, 2022

Transport Minister Mark Bailey needs to stop blaming front-line workers for serial failings in his own department, and instead hold decision makers in his bureaucracy accountable.

Tuesday's attendance by construction workers at a Queensland Transport and Roads Investment Program briefing was nothing more than key stakeholders - the men and women who actually build this state's infrastructure – wanting to have a say on issues which impact on their working lives, and the infrastructure needs of all taxpayers, CFMEU assistant secretary Jade Ingham said.

"Construction workers and their union are industry stakeholders. If the government, or bureaucrats or the opposition, think otherwise then it is a sad reflection on the contempt they have for the workers of Queensland," Mr Ingham said.

"The reality is that under the tenure of TMR director-general Neil Scales – a bureaucratic relic of the Campbell Newman era – construction standards have fallen, costs have blown out, projects are running late, use of insecure and poorly paid labour hire has exploded, and safety standards have fallen."

"Mr Scales' reign – and his preference for using a small clique of bargain bin contractors - has delivered us death and defects on the Airport Link project, disastrous safety standards, cost overruns and build quality on the Toowoomba Range, and the ongoing debacle that is Cross River Rail," Mr Ingham said.

"Construction workers have had a gutful of being treated like a cheap and disposable commodity, and it is disgraceful that successive Ministers in this allegedly Labor government have allowed Mr Scales to wage his war on workers unabated."

"Mr Bailey has had multiple warnings about the rogue elements in his department and their cavalier disregard for government procurement policy, yet still he fails to act."

"On Tuesday construction workers, frustrated at government inaction over this dysfunctional department, turned up to participate in an industry stakeholder meeting."

"Workers – who were at no point asked to leave by police or security – departed of their own accord when the meeting was cancelled by a government too scared to face scrutiny."

"The solution is simple Mr Bailey: Clean out your sclerotic bureaucracy, starting at the top."

[redacted]

CFMEU Construction & General QLD/NT
25 August 2022 ·

Members may have seen some rather over-excited media reporting of a certain meeting at TMR earlier this week. Here are the facts:

52 9

No comments yet
Be the first to comment.

Write a comment...

From:	Regina Z Albert[redacted]
Sent:	Tue 30/08/2022 4:40:56 PM (UTC+10:00)
To:	Neil [redacted]; Anne E Moffat[redacted]; Dennis J WALSH[redacted]
Cc:	Alarna E Lane-Mullins[redacted]; Adrian D Langford[redacted]; Darren M Sargood[redacted] WHS Connect[WHS_Connect@tmr.qld.gov.au]
Subject:	CONFIDENTIAL Safety Notification - High Profile Incident where employees were exposed to aggressive CFMEU Union protesters storming the 61 Mary Street building in Brisbane
Attachment:	PAN 10292 - PAN Incident Notification.pdf
Attachment:	PAN 10293 - PAN Incident Notification.pdf
Attachment:	PAN 10298 - PAN Incident Notification.pdf
Attachment:	PAN 10300 - PAN Incident Notification.pdf
Attachment:	PAN 10300 - Impact statement from [redacted].pdf

Good Afternoon,

WHS Connect have been advised of high profile incidents in Brisbane where CFMEU Union protesters have stormed the Mary Street Building in an aggressive manner.

Location, date and time

- 61 Mary Street, Brisbane
- Tuesday 23 August 2022 09:00am – 11:00am.

Situation

- CFMEU Union protesters forcibly entered the Transport and Main Roads building ahead of an industry briefing due to take place that day.
- Protesters were aggressive, yelling and pushing through employees to gain access to other areas of the ground floor.
- Employees reported to be stressed by the incident and felt their safety was at risk due to the behaviour of the protesters.
- Employees have raised concerns that similar incidents could happen in the future.
- An employee reported experiencing back pain whilst moving office equipment and a coffee cart out of the path of protesters and employees.

Incident reports recorded as a result of this incident

- PAN 10292 – An employee experienced back pain after pushing a coffee cart.
- PAN 10293 – An employee reports to be stressed by protest action in the office building.
- PAN 10298 – Exposure to workplace or occupational violence by protesters.

- PAN 10300 – An employee was exposed to workplace occupational violence by protesters.

Action taken

- Managers are providing employees with support and access to EAP services.
- First aid was provided to the injured worker.
- Human Resource Branch are providing additional support to relevant managers.
- IR are reviewing the matter and will continue to consider ways to promote more constructive union interactions.

Kind regards,

Regina Albert
A/Manager (WH&S) I WH&S and Rehabilitation Unit
Human Resources Branch | Corporate Division
Department of Transport and Main Roads
[redacted]
www.tmr.qld.gov.au

"A near miss is a free lesson in incident prevention, so report the event to WHS Connect on 1800 TMR WHS (1800 867 947) and share what you have learned"

Privacy

TMR is required to comply with the 11 Information Privacy Principles contained in the *Information Privacy Act 2009.*

All personal information collected must be kept confidential. Any personal information collected about a worker must only be divulged to authorised persons for the sole purpose of managing health and safety risks. The information collected must not be disclosed to any third party without the workers consent unless required or authorised to do so by law.

Person affected:

[redacted]

Details:

Name: Debra Sadler
Person Type: Full-time

Position Title: WHS Officer
Business Unit: Health & Safety
Person Workplace: [redacted]
Work Phone:

Email: [redacted]

Notified On Behalf Of:

Name: [redacted]
Person Type: Full-time

Position Title: [redacted]
Business Unit: Program Management (PMD)
Person Workplace: [redacted]
Work Phone:

Email: [redacted]

Details

Incident Type: Lost Time Injury (LTI)
Status: New
Time Zone: (UTC +10:00) Brisbane
Inc. Statistical Reporting: Yes
Date of Incident: Tuesday, 23 August 2022
Time of Incident: 9:00 AM
Date Logged: Thursday, 25 August 2022
Time Logged: 12:34 PM
Assigned To: [redacted]
Did an injury occur: Yes
Notifiable: No
Is confidential: No
Restricted Work Duties: No
HiPo: No

Risk Assessment

Inherent Rate:
Residual Rate:

Title

An employee experienced back pain after pushing a coffee cart.

Description

An incident occurred at the conference room where protesters have stormed the office building. An employee has rushed to gather laptops, other computer equipment and boxes of supplies. The employee has also pushed a coffee cart into a storage room. The next working day the employee woke up experiencing lower - mid back pain. The employee administered first aid by applying a heat pack and taking pain killers. The employee did not attend her shift that day. The employee will be seeing a physiotherapist for treatment. The incident has been reported to a supervisor.

Security Impact

Security Impact: No
Identified Security:
Impact Description:

Environment Impact

Environmental Impact: No

Classification
Identify what occurred: Muscular stress while handling objects other than lifting, carrying or putting down
What was the most significant cause: Other agencies, not elsewhere classified
Identify the type of Injury or illness sustained: Trauma to muscles and tendons, not elsewhere classified
What part of the body was/is most affected: Back - upper or lower
What side of the body was affected if applicable: Both

Incident Location
The Incident is located: TMR Site, 61 Mary Street Flr 1
Location Details: Conference Room

Work/activity Being Performed
Work/Activity Category: Office Work
Work/Activity Frequency: Daily
Activity Being Performed:
Plant Equipment:

Injury Details
Was first aid given: Yes
Was medical treatment given: No
Treatment Details: Heat pack applied
Pain killers
Injury Details: Back pain

Property Damage
Was there any property involved/damaged: No

Relevant Event
High Potential

Witness Details
Witness Available: No

Vehicle Involved
Vehicle Involved: No

Notification
Manager/Supervisor: [redacted] 25/08/2022 12:19 PM
Other Internal Person:
External Person:

Person affected:

[redacted]

Details:

Name: Debra Sadler
Person Type: Full-time

Position Title: WHS Officer
Business Unit: Health & Safety
Person Workplace: [redacted]
Work Phone:

Email:
[redacted]

Notified On Behalf Of:

Name: [redacted]
Person Type: Full-time

Position Title: [redacted]
Business Unit: Directorate (PMD)
Person Workplace: [redacted]
Work Phone:

Email:
[redacted]

Details

Incident Type: Near Miss, Security Incident
Status: New
Time Zone: (UTC +10:00) Brisbane
Inc. Statistical Reporting: Yes
Date of Incident: Tuesday, 23 August 2022
Time of Incident: 9:00 AM
Date Logged: Thursday, 25 August 2022
Time Logged: 1:21 PM
Assigned To: [redacted]
Did an injury occur: No
Is confidential: Yes
Restricted Work Duties: No
HiPo: No

Risk Assessment

Inherent Rate:
Residual Rate:

Title

An employee reports to be stressed by protest action in the office building.

Description

An incident occurred at the conference room where protesters have stormed the office building. An employee reports to be stressed by the incident as the protesters were aggressive, yelling and were pushing through employees to gain access to other areas on the floor. Union protesters then decided to hold a union meeting in the conference room and have told the employee that they were having a meeting and to "get the f**k out". The employee left the conference room and waited for the protesters to leave. Once the protesters left the building, employees were left to clean up the mess that the protesters had made. Benestar has been offered to staff members in regards to this stressful event.

Security Impact

Security Impact: Yes
Identified Security: Client/Customer Agression
Impact Description: Union protest - union members showing aggression, yelling, pushing past employees

Environment Impact

Environmental Impact: No

Classification

Identify what occurred: Exposure to workplace or occupational violence
What was the most significant cause: Other adults

Incident Location

The Incident is located: TMR Site, 61 Mary Street Flr 1
Location Details:

Work/activity Being Performed

Work/Activity Category: Other
Work/Activity Frequency: Daily
Activity Being Performed:
Plant Equipment:

Property Damage

Was there any property involved/damaged: No

Relevant Event

Medium Potential

Witness Details

Witness Available: No

Vehicle Involved

Vehicle Involved: No

Notification

Manager/Supervisor: [redacted], 25/08/2022 12:50 PM
Other Internal Person: [redacted] 25/08/2022 12:50 PM
External Person:

Person affected:

[redacted]

Details:

Name: Katrina Skinner
Person Type: Full-time

Position Title: WHS Officer
Business Unit: Health & Safety
Person Workplace: [redacted]
Work Phone:

Email: [redacted]

Notified On Behalf Of:

Name: [redacted]
Person Type: Full-time

Position Title: [redacted]
Business Unit: Government Partnerships
Person Workplace: [redacted]
Work Phone:

Email: [redacted]

Details

Incident Type: Near Miss, Security Incident
Status: New
Time Zone: (UTC +10:00) Brisbane
Inc. Statistical Reporting: Yes
Date of Incident: Tuesday, 23 August 2022
Time of Incident: 9:00 AM
Date Logged: Friday, 26 August 2022
Time Logged: 4:02 PM
Assigned To: [redacted]
Did an injury occur: No
Is confidential: Yes
Restricted Work Duties: No
HiPo: No

Risk Assessment

Inherent Rate:
Residual Rate:

Title

Exposure to workplace or occupational violence by protestors

Description

Union protesters stormed a TMR office building at the same time the employee entered the premises. The employee reports feeling stressed and anxious as building security were swarmed by protesters and there was no indication as to why they were in the building. The employee felt anxious that she was locked on the ground floor with the protestors and concerned about being injured. Benestar has been offered to staff members in regard to this stressful event.

Security Impact

Security Impact: Yes
Identified Security: Client/Customer Agression
Impact Description: Exposure to workplace or occupational violence

Environment Impact

Environmental Impact: No

Classification

Identify what occurred: Exposure to workplace or occupational violence
What was the most significant cause: Other adults

Incident Location

The Incident is located: TMR Site, 61 Mary Street Flr 1
Location Details: Ground floor and conference room

Work/activity Being Performed

Work/Activity Category: Other
Work/Activity Frequency: Daily
Activity Being Performed: Protesters entered TMR building
Plant Equipment:

Property Damage

Was there any property involved/damaged: No

Relevant Event

Medium Potential

Witness Details

Witness Available: No

Vehicle Involved

Vehicle Involved: No

Notification

Manager/Supervisor: [redacted] 26/08/2022 3:01 PM
Other Internal Person: [redacted] 26/08/2022 3:01 PM
External Person:

Person affected:

[redacted]

Details:

Name: Katrina Skinner

Person Type: Full-time

Position Title: WHS Officer

Business Unit: Health & Safety

Person Workplace: [redacted]

Work Phone:

Email: [redacted]

Notified On Behalf Of:

Name: [redacted]

Person Type: Part-time

Position Title: [redacted]

Business Unit: [redacted] (PMD)

Person Workplace: [redacted]

Work Phone:

Email: [redacted]

Details

Incident Type: Near Miss, Security Incident
Status: New
Time Zone: (UTC +10:00) Brisbane
Inc. Statistical Reporting: Yes
Date of Incident: Tuesday, 23 August 2022
Time of Incident: 9:00 AM
Date Logged: Friday, 26 August 2022
Time Logged: 5:18 PM
Assigned To: [redacted]
Did an injury occur: No
Is confidential: Yes
Restricted Work Duties: No
HiPo: No

Risk Assessment

Inherent Rate:
Residual Rate:

Title

An employee was exposed to workplace occupational violence by protestors.

Description

The employee was in the TMR building when a large crowd of union protestors walked into the conference area. The protestors were carrying flags, signs, Director General (DG) face masks and an effigy. The employee was locked down with the protestors on the ground floor. The protestors were shouting, jeering and their demeanour was boisterous, loud, and unsettling. The employee felt at risk from the aggressive, angry protestors and concerned as the DG was on the floor in a meeting room. When the employee tried to pack up the conference room the protestors stormed the area advising that they were now having a meeting. The protestors shouted free coffees to which the employee ordered the coffee cart contractor to shut down as this was only for registered attendees. Protestors continued to take over the whole of the conference area and rooms. The violence and intimidation shown towards the employee has left the employee feeling vulnerable, traumatised and unprotected.

Security Impact

Security Impact: Yes
Identified Security: Client/Customer Agression
Impact Description: /.,/.,

Environment Impact

Environmental Impact: No

Classification

Identify what occurred: Exposure to workplace or occupational violence

What was the most significant cause: Other adults

Incident Location

The Incident is located: TMR Site, 61 Mary Street Flr 1

Location Details: Conference room, networking area and registration desk.

Work/activity Being Performed

Work/Activity Category: Other

Work/Activity Frequency: Daily

Activity Being Performed: 2022 QTRIP Industry Briefing event (IB).

Plant Equipment:

Property Damage

Was there any property involved/damaged: No

Relevant Event

High Potential

Witness Details

Witness Available: No

Vehicle Involved

Vehicle Involved: No

Notification

Manager/Supervisor: [redacted] 26/08/2022 4:31 PM

Other Internal Person: [redacted] 26/08/2022 4:31 PM

External Person:

Report of Workplace Injury – [redacted]

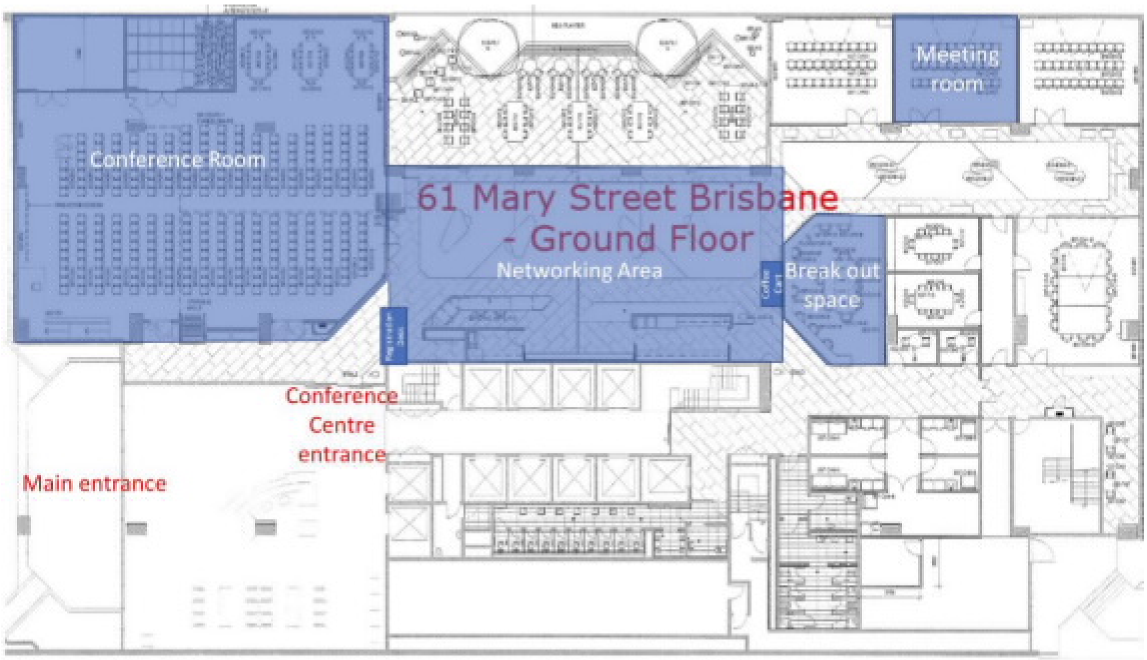
Date of injury: 23rd - 26th August 2022 (the time of writing)
Location: 61 Mary Street, Brisbane, 2022 QTRIP Industry Briefing event (IB).

Please note that the workplace injury is for a psychological injury and occurs over two separate parts: 1) IB event protest on 23rd August 2022, and 2) Departmental handling of the protests post-IB from 23rd August to 26th August 2022.

Details of Incident 1: IB event protest

The incident occurred from approximately just before 9am and lasted until approximately 11am (by the time we had cleaned up the event and were ready to leave).

Please note that there are certain rooms/areas of the venue that will be referred to throughout this statement. For clarity, these rooms/areas are defined below:



Just before 9am [redacted] A/Program Director, [redacted] A/Executive Director, [redacted] Program Advisor from my team and I were waiting for the IB to commence (the conference room, networking area with coffee cart, and registration desk were all set up). [redacted] and I were standing together at the far end of the 'Networking area' near the coffee cart, when [redacted] who had been stationed at the registration desk, called out to us that protestors had arrived. From my position at that time, I could not see anyone at the Conference Centre entrance, however as I moved closer to [redacted] I saw a large number CFMEU members (the 'first wave' estimated at around 150) stride past [redacted] into the Networking area. They were carrying flags, signs, Neil Scales face masks, and an effigy of Neil Scales. They were shouting and jeering and their demeanour was boisterous, loud and unsettling. It was clear their intent was to be disruptive and create chaos.

As they filled the Networking area, the protestors were shouting about how they wanted Neil Scales 'sacked', they were unhappy with him and several were holding placards with negative slogans on them about Neil Scales. I knew that Neil Scales was on the floor in a meeting room, having arrived for a meeting about 20 minutes prior. This removed the 'abstract' nature of the protests and made the risk feel very material in the moment because they were angrily protesting a person I knew to be on the floor.

[redacted] and I began to pack up the registration desk as more shouting CFMEU protestors streamed past us. We ferried everything into the Conference Room and began trying to work out how to lock the doors. Our thinking was that if we could lock the doors and keep the Conference Room untouched, if the protestors could be removed, then the event could still go ahead. Unfortunately, the locks for the doors were on the outside of the Conference Room so we realised we could only keep the protestors out so long as they didn't realise they could unlock the doors. Someone ([redacted], I think) was able to lock the doors along the side of the Conference Room that has the windows that look out to the front of the building. [redacted] stood guard outside the room in front of the main entrance doors to the Conference Room. The whole time the protestors were shouting and chanting.

At that point, I heard the protestors shout about the coffees that were available for event attendees, calling out things like 'coffees! Come on boys, get a coffee'. I left the Conference Room, made my way through the crowd of protestors to the coffee machine. I asked the barista if she was ok and she nodded but looked a little uncertain about what was going on. I advised her that we needed to stop making coffees as they were only for registered attendees. At that point I announced to the protestors that the coffees were only for registered attendees. To which the crowd teased, shouting that they had all registered. I knew that this was not true.

I returned to the Conference Room to confirm to [redacted] that the coffees had been stopped and to assist with continuing to try and secure the room. Once inside, I stepped up on some chairs near the front of the room against the windows and observed that the front doors appeared to have been locked with more protestors gathering outside.

[redacted] and I decided to go confirm with security that the police had been called. We went and spoke with the only security guard we could see who was standing in front of the registration desk trying to discourage protestors from entering the Networking area, however the protestors just ignored him and continued into the Networking Area. The security guard confirmed that police had been called.

[redacted] and I assessed that the crowd was growing and there were more outside the front of 61 Mary Street trying to come in. I saw one CFMEU member at the front main entrance automatic sliding doors which were apparently locked, reaching up (he was very tall) and appear to manipulate something at the top of the door. The door then appeared to open. Whether he was able to open them or they were opened from the inside I do not know, but more CFMEU protestors began to enter the building.

[redacted] directed that anyone involved in the event must be brought into the Conference Room. I proceeded to the coffee cart, through the crowd of protestors and asked the barista to come with me into the Conference Room. Behind the coffee cart, an early IB attendee named [redacted] was waiting in the 'Break out space'. I told her that we were gathering everyone unrelated to the protest into the Conference Room and asked if she would like to come along. She declined and said she was fine to stay where she was. [redacted] was also working in the Break out space and declined to come into the Conference Room. Once the barista had collected her things, she and I made our way back to the Conference Room.

The protestors were extremely loud, chanting and calling out for Neil Scales to be sacked. They were also shouting loudly and aggressively about industry conditions, TMR's procurement decisions around awarding Toowoomba Second Range Crossing to Acciona, wasting tax payer dollars, getting rid of Minister Bailey, and holding an inquiry into TMR. I personally found the atmosphere extremely intimidating. I am a 6 ft tall woman and every time I had to move near or through the crowd I felt the need to hold my stance as large as possible to try and appear as less vulnerable. This is something I have never felt the need to do in a workplace in my entire working career. The energy in the room was 'gleefully' aggressive towards TMR and I felt very vulnerable as a TMR employee. When I say 'gleefully' aggressive, I mean that it was loud, taunting, provoking and sometimes joking. I found it confusing to mix aggression with the odd joke. It made me feel like they were playing with us and that this protest wasn't a big deal to them. To me it was a big deal. This was my workplace for that morning. It was a TMR building, hosting a TMR event, my team were with me, I felt invaded, intimidated, harassed and menaced. Some of the CFMEU protestors may have been having fun and enjoying causing the chaos, but my team and I were not. I felt a strong sense of wanting to protect particularly [redacted] and the barista as they are shorter women than me. Any time I had to move through the crowd and I was with [redacted], [redacted] or the barista I wanted them to stay close to me.

Back in the Conference Room, [redacted] and I apologised to the barista for the unexpected chaos and asked if she was ok. She said she was ok, but a little overwhelmed. She hadn't liked when the CFMEU protestors rushed the coffee cart. We agreed with her that we would try and wheel the coffee carts into a meeting room for safe keeping to be collected by her team at a later time.

At this point, I went and stood on the stage at the front of the Conference Room and looked out the side windows to the front of the building. There were people crowding the front building entrance steps. I then decided to go to my handbag and get my phone out in case the protestors tried to enter the room. Very shortly after I got my phone out, I saw one of the protestors open one of the sets of doors into the

Conference Room, to the left of the main Conference Room door. [redacted] was standing in front of the doors on the inside of the Conference Room and tried to pull it closed. The protestors pulled the door open and [redacted] stepped aside. Then, I saw a protestor open the door that [redacted], on the outside of the Conference Room, had been standing in front of. [redacted] put his arm across the door to block the protestor's access, but the protestor pushed past him. At this point, the protestors began filing into the Conference Room. I had started recording video on my phone of this and continued to film them, however, trying to do so stealthily for fear of repercussion if I was caught by the protestors, and all the while trying to collect my personal belongings, work laptop, boxes of supplies for the meetings, TMR banners and so on. For noting, the crowd was actually quite quietat this point as they entered the room, comparative to their behaviour in the Networking area, however once settled and they began speaking/having their 'union meeting', they became very loud and rowdy again.

[redacted] and I left the Conference Room, however, JPL(the Audio Visual Contractors) did not leave as they didn't want to leave their expensive equipmentunattended. They had previously communicated this decision to [redacted].

[redacted] and I (at this point I understand that the barista had been able to leave) left theconference room and went to the end of the Networking Area where we dropped our gear on a large bench-type seat and just looked stunned at each other. That was probably the first moment we had had to stop and think. However, we then had to immediately switch into 'clean up mode' as the event had not been officially cancelled and by this point it was close to 10am.[redacted] began making phone calls to senior staff to get approval to officially cancel the event. [redacted] came over and said she would go find theDG and seek direction from him. During this time there were CFMEU members filtering through from the Conference Room to get some teas from the tea station in the Networking area or to use the bathrooms. Due to this traffic we decided to move to the Break out space as it afforded a little more privacy for our team to regroup and organise the formal cancellation of the event. We could clearly hear the shouting and jeering from the Conference Room.

During this time, I observed one police officer speaking towho I believed to be the leader of the protest. Some senior TMR/61 Mary Street staff appeared to be involved in the conversation as well. A few more police officers arrived and it appeared that more CFMEU protestors were entering the building and heading into the Conference Room. My initial expectation that police would remove the protestors was incorrect as it appeared that the protocol was 'de-escalation'. This meant we were reliant on the protestors to be happy to leave. This was later confirmed to me after the event by [redacted].

My team and I worked in the Break out space for a while trying to coordinate the formal cancellation of the event. I also notified the rest of my team about what had happened. All the while we could hear shouting and noise from the protestors in the Conference Room.

Then [redacted] came and said we should move to a meeting room where we could not be seen by the protestors. We then went across the hall to a meeting room and waited. In the room was myself, [redacted]. We waited here for maybe, 30 minutes. Around 10.30am we were told that the protestors had left and we were able to also leave. We then packed up the Conference Room and returned to 313 Adelaide Street, our usual workplace.

Details of Incident 1: Departmental handling of the protests post-IB

Once we returned to our usual workplace at 313 Adelaide Street, [redacted] and I briefed the team on what had happed and we were able to start to debrief with each other.

During the course of the afternoon, several senior staff came and visited [redacted] andme to check in on us. I appreciated their care and concern. EAP counsellors were made available that afternoon for us to speak to. It was too early on in the process for mefeel ready to speak to a counsellor on the day but I did speak with one the next day on Wednesday 24th August and again on Thursday 25th August 2022.

At no point from the time of the event to the time of writing of this statement (26th August 2022) did the Department make any official statement about what happened at the IB.

Between the evening of 24th to 26th August 2022, there have been several media stories about the incident including on Channel 9, the Courier Mail and Brisbane Times. The Premier and Minister Bailey have spoken about the event but only in response to questions from journalists at press conferences about other matters.

Whilst TMR staff have been extremely supportive and shown an outpouring of kindness to me and my team, at no point has my employer, TMR, taken any action (other thanThe Premier and Minister Bailey responding to questions from media) to defend us as staff and to condemn what happened to us.

Impact Statement – [redacted]

Whilst the invasion of hundreds of CFMEU protestors into the IB event space, resulting in me and my team being locked down in the building with them and having to shelter in place was traumatic, I also experienced psychological injury from the failure of my employer, TMR, to publicly and accurately address what occurred, naming who was responsible, and to state that this was unacceptable. The only public discussion of the events that occurred has been as a result of questioning from journalists.

This has left me feeling vulnerable and unprotected by my employer. I saw hundreds of aggressive and loud protestors literally storm our workplace (a government building), carrying anti-TMR propaganda/paraphernalia and walk around security guards and armed police officers into our event space. I saw them still somehow able to enter the building at times despite it apparently being locked down. I heard them loudly chanting nasty things about TMR, and Neil Scales, all the while knowing Neil was secreted on the floor in a meeting room.

I saw CFMEU protestors physically push past TMR employees, and understand that a security guard was knocked down. I have not been asked by TMR to make a detailed statement on the events as a key witness and I have been subjected to misinformation about the event, not only spreading through the media due to TMR failing to accurately and assertively address the event in a timely manner, but also spreading to my own peers and colleagues in the department. Myself and those who were at the event have had to correct the record with other TMR staff who were apparently told the protests were limited to the outside of 61 Mary Street. Those staff have been shocked to learn what really occurred at the IB.

The only reason this event has been discussed in the public domain is that journalists havefound out about it and asked questions, and it has turned into a political circus about our Minister. TMR's employees were not defended by TMR other than for our Minister and Premier to respond to the media. This has left me feeling vulnerable as there appear to be virtually no consequences for any militant protestors who may choose to invade my workplace. The IB has shown me that a similar event could easily happen again at any TMR workplace, even if security guards and multiple police officers are present.

Neil Scales champions TMR as a White Ribbon workplace that does not tolerate violence or intimidation in domestic settings. [redacted].

I have spent a lot of time successfully going to counselling to overcome those experiences and it has given me a unique perspective to identify the parallels between my experiences as [redacted], with a large 6 ft 2 man invading my home loudly shouting and menacing my family, and the 300 or so large, burly CFMEU protestors who invaded my workspace and intimidated me and my colleagues. I simply don't understand how TMR can be vocal about domestic violence but not proactively condemn those who intimidate us in our workplace, other than as a response to media inquiries.

From: Melinda Pugh[redacted]
Sent: Wed 31/08/2022 3:03:27 AM (UTC)
To: Deanne M Hawkswood[redacted]
Cc: Jane E Learmonth[redacted]John Ryan[redacted]]; Paul A Schmidt[redacted]Adam J Williams[redacted]
Subject: RE: Centenary

Dear Dee

You asked for advice about the option of the tenderer establishing an enterprise agreement after being selected as the highest ranked tenderer and before contract award.

Q: At this stage of the procurement, where TMR are in post-offer negotiations with the highest ranked tenderer, can TMR introduce a new requirement for an industrial agreement? If we can, what are the risks and what process and information would be required to be provided to the tenderer?

A: The tender process is aimed at identifying a suitably qualified and experienced supplier to perform the work under the Contract.

The tender documents are an invitation to submit an offer for the provision of the work under the Contract that demonstrates the tenderer has the necessary experience, capacity, understanding and capability to provide the work under the Contract at a competitive price.

The tender process is not a process for imposing obligations on a tenderer to be performed during the tender process. There is no mechanism in the tender documents for TMR to impose obligations on a tenderer.

The Conditions of Tender give TMR the right to:

- negotiate with a tenderer for the purposes of determining the best-for-project tender (clause 15(e) Conditions of Tender)
- negotiate on any aspect of a tender before identifying whether to accept or reject it (clause16(h))
- invite best and final offers from any one or more tenderers (clause 16(i))
- proceed with a contract on the basis of a scope of work of a different nature or extent or on terms different from those set out in the tender documents (clause 16(1)).

TMR is able to negotiate a deal with the tenderer that is on different terms than what was contemplated in the tender documents.

I understand that during post-tender negotiations, the tenderer has discussed amending its offer to include establishing a project-specific agreement for direct labour and staff on certain terms.

TMR has no objection to this amendment. TMR can accept an amended offer from the tenderer, even at this late stage in the tender process.

However, the tenderer is not bound to perform a mere offer. The tenderer makes a non-binding offer to perform the work under the contract and the tenderer is not bound to perform any part of the offer until the offer is accepted by TMR (by entering into a contract with the tenderer that requires the tenderer to perform its offer).

There is a legal mechanism, often referred to as a condition precedent, that is a conditional agreement that allows the parties to make it clear that the agreement that has been reached between them is conditional in the sense that the contract as a whole will not to come into existence unless and until the specified condition has been satisfied. The elements for formation of a binding contract are satisfied except that formation is delayed or contingent on the stipulated condition.

In this scenario, there would be no contract between TMR and the tenderer prior to the satisfaction of the condition (to establish the project-specific industrial agreement). If the condition was not met, no contract with the tenderer would ever be formed. TMR could go to its second-ranked tenderer and attempt negotiations with it. On the other hand, if the condition is met, the contract is formed automatically without the need for any further steps.

Of course, if the tenderer agrees to go ahead and pursue the project-specific agreement even without being awarded the contract, there would be no objection to that and no need for TMR to accept the offer or enter into a conditional agreement. However, the tenderer's 1 June 2022 submission indicates that it cannot do that for a variety of reasons.

As you know, because of the Commonwealth Fair Work Act and BCIIP Act, there are ways that TMR is permitted to implement the BPICs through its tender processes and ways in which it must not seek to implement them.

TMR can seek to deal with tenderers that meet a certain standard in the employment conditions that they provide to their own employees evaluated against the BPICs – so long as that does not include an obligation to have an enterprise agreement (EA). TMR can rank a contractor lower in a tender process because it has not demonstrated best practice industrial relations, according to the evaluation criteria.

TMR cannot refuse to deal with the tenderer *because* it does not have a project-specific agreement. TMR cannot coerce the tenderer (use unlawful pressure) to establish a project-specific agreement.

If TMR decides to proceed with a conditional agreement, it will need to be drafted carefully so as to minimise the risk of breaching the Commonwealth laws.

Please let me know if I can assist you further.

Melinda Pugh
Deputy Crown Solicitor
Commercial, Property, Insurance and Risk Branch
for **Crown Solicitor**
Crown Law
[redacted]

From: Deanne M Hawkswood [redacted]
Sent: Friday, 26 August 2022 6:39 PM
To: Melinda Pugh [redacted]
Cc: Jane E Learmonth [redacted] John Ryan [redacted] Paul A Schmidt [redacted] Adam J Williams [redacted]
Subject: RE: Centenary

Hi Mel

Thank you so much for this advice and I've now received your full response from EPW. We discussed at the time, the options for the industrial instrument being settled before and post contract award. You confirmed in your advice that the lower risk was post contract award and to include a time bar. I've been asked to explore the option of settling the instrument by the tenderer before contract award. In that regard the question would be – at this stage of the procurement, where TMR are in post-offer negotiations with the highest ranked tenderer, can TMR introduce this requirement? If we can, what are the risks and what process and information would be required to be provided to the tenderer?

Sorry to send this on a Friday night but it has been a chaotic few days. Could you please let me know what additional information you require and an estimated timeframe?

Thank you and hope you have a lovely weekend.

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads
[redacted]
www.tmr.qld.gov.au

From: Melinda Pugh [redacted]
Sent: Monday, 22 August 2022 11:58 AM
To: Deanne M Hawkswood [redacted]

Subject: Centenary

Dear Dee

Here is the summary from my advice for your information:

- The changes to the Building Code remove most of the obligations that were imposed by the Code.
- The provisions in the Fair Work Act 2009 (FW Act) about discrimination, adverse action, and coercion in relation to workplace rights, and corresponding provisions for building work in the Building and Construction Industry (Improving Productivity) Act 2016 (the BCIIP Act), remain unchanged and the ABCC's functions and powers continue.
- Therefore, the main risks to the State in the implementation of the BPPs and the BPICs remain.
- The main barrier to contractors and subcontractors agreeing to BPP auditing by the State has been removed from the Building Code.
- Project agreements continue to be unenforceable under the BCIIP Act.

The changes to the Building Code mean that implementing the BPPs and BPICs are lower risk for contractors and subcontractors, as they no longer face being banned from Commonwealth work for eg. making a deal about subcontractor employee's wages. However, it can still be a breach of the FW Act to refuse to deal with a contractor because they do not have an enterprise agreement or an enterprise agreement on particular terms.

In relation to Centenary, although it is an option to ask the proponent to have its enterprise agreement in place before entering into the contract, it would be possible to have appropriate contract terms setting a time frame for the enterprise agreement to be in place and giving TMR the right to terminate if the time frame is not met.

That approach is not without risk because it turns on the subtle difference between terminating because the proponent did not fulfil the contractual term and terminating because the proponent did not have an enterprise agreement, but it is possible to do it with careful drafting and decision-making.

Even without a contract in place, there is a similar risk of not proceeding to contract with the proponent because it does not have the enterprise agreement in place.

Melinda Pugh
Deputy Crown Solicitor
Commercial, Property, Insurance and Risk Branch
for **Crown Solicitor**
Crown Law

[redacted]

Department of Transport and Main Roads
Meeting Brief
DLO6281

To: Minister for Transport and Main Roads

SUBJECT:
Crown Law briefing regarding Australian Building and Construction Commission and Building Code changes

Date/Time: Friday 2 September, 8.00 am – 8.30 am
Minister's boardroom, Level 36, 1 William Street, Brisbane

Attendees:
- Ms Tam Van Alphen, Office of the Premier
- Ms Mel Pugh, Crown Law
- Mr Dennis Walsh, Deputy-Director-General, Department of Transport and Main Roads
- Ms Deanne Hawkswood, General Manager (Strategic Procurement), Department of Transport and Main Roads

Urgent
Meeting scheduled for 8am on Friday 2 September 2022

Minister's Comments:

Summary

- The primary purpose of the meeting is to be briefed by Ms Mel Pugh from Crown Law on the implications of the recent changes to the Australian Building and Construction Commission (ABCC) and the Code for the *Tendering and Performance of Building Work 2016* (Building Code) .
- This briefing will provide a foundation of understanding that will facilitate further discussion on options, risks and the best way forward.

Background

- The ABCC provided advice to industry on its concerns regarding the Transport Best Practice Industry Conditions (BPIC) in the Centenary Bridge Upgrade Expression of Interest documents.

Action Officer:	**Endorsed by:**	**Endorsed by: DDG**	**Endorsed by: DG**
Cassandra Franklin	Deanne Hawkswood	Dennis Walsh	Neil Scales
A/Principal Advisor (Comm and Change)	General Manager	Deputy Director-General	Director-General
Strategic Procurement, IMD	Strategic Procurement	Infrastructure Management and Delivery	
[redacted] [redacted]	[redacted] [redacted]	[redacted] [redacted]	[redacted] [redacted]
Date: 1 September 2022	Date: 1 September 2022	Date:	Date:

- On 26 July 2022, the Building Code was amended significantly removing many of its requirements. The Department of Transport and Main Roads (TMR) has sought advice from Crown Law on what these changes mean to the implementation of the BPIC on major projects as this will be relevant for Centenary and other upcoming 'BPIC' projects.
- The advice notes that:
  - the changes to the Building Code remove most of the obligations that were imposed by the Code
  - the provisions in the *Fair Work Act 2009* (FW Act) about discrimination, adverse action, and coercion in relation to workplace rights, and corresponding provisions for building work in the *Building and Construction Industry (Improving Productivity) Act 2016* (the BCIIP Act) remain unchanged and the ABCC's functions and powers continue
  - therefore, the main risks to the State in the implementation of the Best Practise Principles (BPPs) and the BPIC remain.
- Project agreements continue to be unenforceable under the BCIIP Act.
- The changes to the Building Code mean that implementing the BPPs and BPIC are lower risk for contractors and subcontractors, as they no longer face being banned from Commonwealth work. For example, making a deal about subcontractor employee's wages. However, it can still be a breach of the FW Act to refuse to deal with a contractor because they do not have an enterprise agreement or an enterprise agreement on particular terms.
- The approach is not without risk because it turns on the subtle difference between terminating because the proponent did not fulfil the contractual term and terminating because the proponent did not have an enterprise agreement, but it is possible.

Issues and Suggested Approach

- Regarding the Centenary Bridge Upgrade project, further advice was sought based on the following question:
  - *At this stage of the procurement, where TMR are in post-offer negotiations with the highest ranked tenderer, can TMR introduce a new requirement for an industrial agreement? If we can, what are the risks and what process and information would be required to be provided to the tenderer?*
- Crown Law provided the following advice:
  - The tender process is aimed at identifying a suitably qualified and experienced supplier to perform the work under the contract.
  - The tender documents are an invitation to submit an offer for the provision of the work under the contract that demonstrates the tenderer has the necessary experience, capacity, understanding and capability to provide the work under the contract at a competitive price.
  - The tender process is not a process for imposing obligations on a tenderer to be performed during the tender process. There is no mechanism in the tender documents for TMR to impose obligations on a tenderer.
  - The Conditions of Tender give TMR the right to:
    - negotiate with a tenderer for the purposes of determining the best-for-project tender (clause 15(e) Conditions of Tender)
    - negotiate on any aspect of a tender before identifying whether to accept or reject it (clause16(h))
    - invite best and final offers from any one or more tenderers (clause 16(i))

- proceed with a contract on the basis of a scope of work of a different nature or extent or on terms different from those set out in the tender documents (clause 16(1)).

– TMR is able to negotiate a deal with the tenderer that is on different terms than what was contemplated in the tender documents.

– Crown Law understands that during post-tender negotiations, the tenderer has discussed amending its offer to include establishing a project-specific agreement for direct labour and staff on certain terms.

– TMR has no objection to this amendment. TMR can accept an amended offer from the tenderer, even at this late stage in the tender process.

– However, the tenderer is not bound to perform a mere offer. The tenderer makes a non-binding offer to perform the work under the contract and the tenderer is not bound to perform any part of the offer until the offer is accepted by TMR (by entering into a contract with the tenderer that requires the tenderer to perform its offer).

– There is a legal mechanism, often referred to as a condition precedent, that is a conditional agreement that allows the parties to make it clear that the agreement that has been reached between them is conditional in the sense that the contract as a whole will not come into existence unless and until the specified condition has been satisfied. The elements for formation of a binding contract are satisfied except that formation is delayed or contingent on the stipulated condition.

– In this scenario, there would be no contract between TMR and the tenderer prior to the satisfaction of the condition (to establish the project-specific industrial agreement). If the condition was not met, no contract with the tenderer would ever be formed. TMR could go to its second-ranked tenderer and attempt negotiations with it. On the other hand, if the condition is met, the contract is formed automatically without the need for any further steps.

– If the tenderer agrees to go ahead and pursue the project-specific agreement even without being awarded the contract, there would be no objection to that and no need for TMR to accept the offer or enter into a conditional agreement. However, the tenderer's 1 June 2022 submission indicates that it cannot do that for a variety of reasons.

– Because of the FW Act and BCIIP Act, there are ways that TMR is permitted to implement the BPIC through its tender processes and ways in which it must not seek to implement them.

– TMR can seek to deal with tenderers that meet a certain standard in the employment conditions that they provide to their own employees evaluated against the BPIC – so long as that does not include an obligation to have an enterprise agreement. TMR can rank a contractor lower in a tender process because it has not demonstrated best practice industrial relations, according to the evaluation criteria.

– TMR cannot refuse to deal with the tenderer because it does not have a project-specific agreement. TMR cannot coerce the tenderer (use unlawful pressure) to establish a project-specific agreement.

– If TMR decides to proceed with a conditional agreement, it will need to be drafted carefully so as to minimise the risk of breaching the Commonwealth laws.

Financial Implications

- There are no financial implications as this is advice only for discussion purposes.
- However, the construction sector is facing significant pressures as the market continues to respond to a large number of material, labour and social pressures.

Consultation with Stakeholders

- No consultation has been undertaken regarding the impacts of the ABCC changes.

Employment

- There are no employment impacts associated with this matter.

Media

- There are no media impacts associated with this matter.

Election Commitments

- This matter does not relate to an election commitment.

Government Objectives

- This matter does not relate to a government objective.

Department of Transport and Main Roads
Noting Brief
DBN18303

To: Director-General

SUBJECT: Unprecedented External Impacts on Infrastructure Contracts	**DATE:** 6 September 2022,
Director-General's comments:	

Summary

- The primary purpose of the meeting is to outline the unprecedented challenges being faced by the Department of Transport and Main Roads (TMR) and the construction industry as a result of a range of external factors and the introduction of the Best Practice Industry Conditions (BPIC) policy.
- Industry is looking to work with TMR to find solutions to the current challenges that enable and build the industry and the collaborative relationship with TMR instead of resorting to contractual claims.
- TMR continues to do all it can to manage the issues and support the industry through this period of economic uncertainty.
- TMR acknowledges that industry is struggling financially, due to a large number of unknowns and the department wants to support industry with a balanced approach that considers budget constraints, industry viability and does not set an unsustainable precedent.

Background

- TMR is hearing from industry and several districts that contractors are facing concurrent (and in some respects unprecedented) challenges in delivering projects at this time due to a number of circumstances
- Some of these challenges include:
  - COVID-19 (increased illness/absence, lockdowns, increased sanitisation, disturbance to delivery programs)

Action Officer:	**Endorsed by: GM**	**Endorsed by: DDG**
Deanne Hawkswood	Deanne Hawkswood	Dennis Walsh
General Manager Strategic Procurement Infrastructure Management and Delivery Tel: [redacted]	General Manager Strategic Procurement Infrastructure Management and Delivery Tel: [redacted]	A/Deputy Director-General Infrastructure Management and Delivery Tel: [redacted]
Date: 6 September 2022	Date: 6 September 2022	Date:

- BPIC impacts on non-BPIC projects (migration of resources to BPIC projects, escalating labour rates, difficulty in attracting and retaining critical resources)
  - extreme wet weather in 2021, the first half of 2022 and forecasts aren't favourable for summer 2022
  - material supply issues and escalating costs (steel, concrete, precast, geofabric, bitumen)
  - skilled labour shortages generally (due to additional work generated by stimulus packages)
  - plant and equipment shortages (truck and dog in particular)
  - acceleration of projects (added pressure to fast-track planning and design works resulting in design changes during construction and causing delays)
  - lack of availability of skilled labour from interstate or overseas – concurrent stimulus work interstate and overseas
  - international conflicts affecting fuel prices

- The above challenges make it extremely difficult for contractors to accurately tender for projects, requiring them to absorb escalating costs during construction.
- To support industry, TMR introduced contract Annexure D to provide a relief mechanism to contractors on the time and cost impacts of COVID-19 for partial (not full) compensation for COVID-19 impacts. It was not intended to provide relief for rising costs associated with COVID-19 stimulus packages of work. Implementation of Annexure D is on a case-by-case basis.
- In addition, TMR introduced contract Annexure E for partial (not full) relief to contractors for extraordinary cost escalation of certain materials. This is over and above standard rise and fall provisions in TMR contracts that already provide relief for normal inflationary price escalation.
- Nevertheless, there are still some issues in the consistent application of these contract provisions. TMR is actively collaborating with Industry to resolve any concerns with Annexure D and E.
- On 5 October 2020, Cabinet Budget Review Committee (CBRC) approved the Transport BPIC for projects $100 million - $300 million (projects over that value were to seek CBRC approval for project specific BPICs). CBRC also approved the BPIC be implemented on projects over $100 million at the beginning of procurement commencing with the Centenary Bridge Upgrade project and to be retrospectively applied to a number of projects that were in the procurement process at the time of the approval. The first of those projects was Contract 2 on Bruce Highway Cooroy to Curra Section D (C2CD).
- There were concerns raised by industry at the time that the difference between the BPIC projects and non-BPIC projects, would likely result in a shifting of the workforce to projects with better wages and conditions and create challenges for those projects where the policy was not applied.
- These pressures are not isolated to Queensland or to the larger construction projects and are being felt across the breadth of the civil and building construction sectors on the east coast.
- New South Wales (NSW) and Victoria (Vic) have significant infrastructure spend and attract the skilled, quality workers away from Queensland. In Queensland, the impact is further pronounced by recent natural disasters and increased demand associated with population growth.

- To better understand the wage variances between jurisdictions, TMR commissioned analysis of the wage rates on current major civil projects across the country to understand how the proposed Transport BPIC (for projects over $300 million that has a higher wage outcome compared to project between $100 million - $300 million) is positioned and compared. The analysis showed it is comparative with NSW (within two per cent) and lower than Vic (by 13-20 per cent) but higher than Western Australia (26 per cent).
- The majority of ($100 million+) projects in delivery are in the south east (refer to **Attachment A**).

Issues and Suggested Approach

- The BPIC policy was introduced to TMR major projects in early 2021 in the midst of COVID-19 restrictions however, the construction industry was relatively stable and unimpacted.
- To implement the Transport BPIC, TMR introduced Key Result Areas (KRAs), each aligned to government priorities. These KRAs are structured to motivate contractors to provide more quality local jobs, maintain safer workplaces, increase use of local suppliers and manufacturers, advance infrastructure sustainability outcomes and optimise project delivery.
- The Transport BPIC is a guide for tenderers and outlines standards and expectations to ensure a quality local workforce is attracted and retained for the life of a project's delivery. It is not mandatory as tenderers can demonstrate the intent and outcomes in any way they choose.
- To date industry respond to the Transport BPIC primarily in two ways:
  - Negotiate a project specific greenfield agreement with similar BPIC rates/conditions with the relevant union/unions to cover the contractor's direct staff.
  - Apply the contractor's existing Enterprise Agreement, particularly where the wage rates are slightly below/close to the BPIC and provide strategies and/or conditions to provide better outcomes for workers such as rostered days off.
- For projects that have provided a project specific greenfield agreement, the wage rates and conditions are overall better as they aim to attract a skilled workforce to their project.
- TMR acknowledges that industry is struggling financially, due to a large number of unknowns and the department wants to support industry with a balanced approach that considers budget constraints, industry viability and doesn’t set an unsustainable precedent.
- TMR expects that as market conditions stabilise, industry's reliance on Annexure D and E is expected to reduce, as costs will be more certain and included within their tenders.
- TMR can explore a temporarily relaxation on rise and fall on all contracts >90 days. Assessments will need to occur to ensure claims do not double-up.
- Further options/considerations to address broader industry challenges might include:
  - BPIC impacts on non-BPIC Projects - Development of an Annexure F to provide some relief (particularly labour costs) while taking into consideration costs recovery through general rise and fall provisions.
  - extreme Wet Weather Impacts - TMR contracts already have provisions to grant extensions of time for inclement weather but not costs

- advanced purchase of critical materials – possible Principal supplied (this is already being done in some cases)
    - resolving the issues and constraints that inhibit or prevent accelerated upfront planning, investigations and design reducing problems during construction for accelerated works
    - minimise the time between tender close and contract award – it is very difficult for contractors to hold prices with their suppliers in the current market
    - more careful choice of contract type/delivery strategy – using the right contract for the right circumstances that matches the complexity, value and risk profile. TMR provides guidance through the Transport Infrastructure Project Delivery System but perhaps guidance could be enhanced and more robust governance put in place to ensure appropriate contract types being used
    - higher quality tender documents – there seems to be a lot of inconsistency, errors, omissions, inconsistency that impacts tenderers ability to accurately price works
    - reduce tender validity periods and allow contractors to re-price impacted aspects of their tender if the Tender Validity Period is exceeded. TMR has historically specified 90-day tender validity periods but this is often being exceeded for a variety of reasons including tenders exceeding budget allowances requiring scope/design changes on the fly, BPIC negotiations and approval delays
    - improved risk identification through the project lifecycle and effective communication of known risks to tenderers
    - accelerated progress payments to support the contractor's cashflow
    - developing and enhancing relational skills for key project participants (contractor, designer, suppliers, CA and client)
    - do not rush the design phase – a good design provides greater certainty in pricing.
- There will be cost impacts to TMR for many of the initiatives listed above and it will be difficult to quantify those impacts in the short term.
- TMR recently reported that material and resource cost increases from 2020 to 2022 are varied as outlined below:

Material/Resource	**Average cost increase** – 2020 to 2022
Labour	9%
Gravel	28%
Bitumen	36%
Asphalt	14%
Concrete	9%
Precast bridge deck units	10%
Fuel	53%
Steel reinforcing	67%

- At a recent meeting with Beilby Holdings regarding the challenges it is facing on the C2CD-1 project, Beilby Holdings explained that:
  - it has lost staff to the contract 2 project
  - its subcontractors are not holding their agreed prices (claiming the increased rates on Contract 2)
  - ramifications of COVID-19 on supplies and services.
- Beilby Holdings also raised that a number of major projects on the South Coast are likely to be similarly impacted (outlined below) and noted the region is experiencing abnormally high demand for construction resources[1].
- The following projects were awarded prior to the introduction of the BPIC policy:
  - M1 Watland Street to Sports Drive – Beilby Hull JV
  - M1 Exit 41 Upgrade – Georgiou
  - M1 Burleigh to Palm Beach – SGC McIlwain Albem JV
  - M1 Palm Beach to Tugun – Seymour Whyte.
- As noted above, the potential impacts are not limited to the south coast region and may be experienced by other projects due to the market conditions active on the east coast currently. The impacts are not isolated to the introduction of the BPIC policy.
- The following are the main risks identified by TMR and industry:
  - Delay and disruption:
    - Workforce availability and productivity. Ongoing covid impacts, skilled labour shortages, workforce transition between projects (moving to projects with better conditions).
    - Increased industrial activity and project stoppages (this risk is now occurring with union representatives entering several government projects for safety reasons).
    - Wet weather events from early 2022.
    - Material supply issues, plant and equipment shortages.
  - Contract claims:
    - Contractors seeking compensation from TMR for adverse market impacts including the BPIC policy introduction.
  - Consequences on the local market:
    - Smaller participants in the civil infrastructure industry are not well equipped to respond to tenders where BPIC applies and may opt out of tendering.
    - Should the risks above materialise local suppliers may experience loss of staff, lower productivity, and financial impacts.
- In addition to Annexure D and E mentioned above, TMR has and continues to respond these challenges working closely with the industry to identify and implement solutions, such as:

[1] Construction Skills Qld estimated 6 619 construction jobs in the GC region, being the upper level of historical peaks and is expected to grow to 7 508 (13.4%) by January 2023 for committed projects. When considering planned projects, this is expected to increase to 13 164 (98.9%) by August 2023.

- Supported contract administrators to ensure they acted fairly and reasonably in response to contractual claims relating to extraordinary events beyond the control of the contractor.
- Developed jointly with industry an *Industry Engagement Charter* to enhance and optimise project delivery and collaboration.
- Developing a collaborative procurement and contracting model/framework to enhance collaborative project delivery – currently being trialled on projects in Rockhampton, Mackay and South Coast.
- Developed and trialling a new contract (TIC-TPC) specifically developed for accelerated works (small to medium scale) applying collaborative mechanisms. This has been consulted and welcomed by industry.

- This environment also provides the opportunity for TMR and industry to work together to identify options, solutions and actions to navigate and leverage this *'perfect storm'* and realise the government priorities and secure the intended benefits, such as:
  - ensure workforce growth on projects is created through improved training and upskilling and not poaching from other projects
  - build industry capacity and capability now in advance of future demands
  - minimise project productivity impacts from labour and material constraints and unplanned stoppages from industrial action
  - reduce/eliminate the likelihood of contract claims
  - enhance economic and social outcomes above government targets.
- There a number of considerations that Infrastructure Management and Delivery Devision can and will explore with industry, especially to address the shorter-term issues however some of the longer-term options will require broader input from TMR and industry.
- For TMR's initiatives to be successful, industry will need to assist with the following:
  - Be able to demonstrate what proactive measures are being taken to minimise the impacts on construction.
  - Recognise that there needs to be some sharing of the risks – TMR cannot carry all risks.
  - Be able to provide adequate justification and evidence in support of claims.
  - Recognise that while consistency is strived for, it is very difficult to achieve given the circumstances on nearly every project are unique and there is not a 'one size fits all' approach

Financial Implications

- Project budgets will increase to accommodate the legitimate claims from contractors. While this is difficult to estimate in the short term, the costs are expected to be significant and will result in program reprioritisation and deferral of some projects.

Consultation with Stakeholders

- Nil.

Employment

- There are no employment impacts associated with this matter.

Media

- There are no media impacts associated with this matter.

Election Commitments

- This matter does not relate to an election commitment.

Government Objectives

- This matter does not relate to a government objective.

SENSITIVE

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ABN 32 164 714 360

Crime and Corruption Commission
QUEENSLAND

Our Reference: CO-22-2272 – 22/145832
Contact Officer: Dir. Brookes

TO BE OPENED BY ADDRESSEE ONLY

12 September 2022

FAO Mr Michael Ravbar
C/- Mr Paul Dunbar
16 Campbell Street
BOWEN HILLS
QLD 4006

By Email: [redacted]

Dear Mr Ravbar

RE: YOUR CONCERNS

Thank you for your correspondence to the Crime and Corruption Commission (CCC), dated 22 August 2022, raising concerns about unknown person(s) at the Department of Transport and Main Roads (the Department).

Your complaint
We understand you allege that unknown employees of the Department have engaged in significant procurement activities, which do not comply with the Department's 'Best Practice Industry Conditions' (BPIC) for Transport Civil Construction projects. You identify the Centenary Bridge Duplication project and the Coomera Connector project as examples.

You suggest that the Department's failure to comply with the BPIC *'gives rise to an impression that the decision-maker(s) may have been acting for an improper purpose'*.[1]

Although we may have used different words to describe your complaint, or not specifically referred to every issue that you raised, we have carefully considered all the information you provided, including other information available to the CCC and a copy of the BPIC document.

To help you understand our process, we have set out what the CCC will do in relation to the complaint you forwarded for consideration.

[1] Michael Ravbar, 'Letter to the CCC: Re: Complaint regarding conduct of the Department of Transport and Main Roads ('TMR')', dated 22 August 2022, 1.

Decision about the concerns raised
The CCC will not be taking any action in relation to the anonymous concerns raised with your office.

Reason for our decision
Under the *Crime and Corruption Act 2001* (CC Act), the CCC can only deal with complaints about Queensland's public agencies, including the Department, if they involve an allegation of corrupt conduct.

In simple terms, section 15 of the CC Act provides that a matter will involve corrupt conduct where the complaint is about the way in which the agency, or an employee of the agency, is performing their job; and

(a) their actions have an adverse effect; and
(b) an agency's or person's actions were not honest or impartial OR involved a breach of the trust placed in them to do their job OR involved a misuse of confidential information; and
(c) the conduct you are complaining of amounts to a criminal offence OR is a reasonable basis for terminating the person's employment.

For a matter to involve corrupt conduct it must meet each of (a), (b) and (c) above.

Having considered the information you have provided, the CCC does not consider the elements of section 15 have been met. In reaching this conclusion the CCC notes that the BPIC is simply a guiding document, meaning that compliance is not mandatory. As there is no legal requirement to comply with the BPIC, a failure to do so does not amount to corrupt conduct. The requirements of (b) and (c) above have not been satisfied.

As the alleged conduct does not meet the requirements of section 15 of the CC Act, the Crime and Corruption Commission does not have jurisdiction to deal with your concerns.

We also note your comment that failure to comply with the BPIC gives rise to an impression that decision makers are acting for an improper purpose. You have not, however, provided any evidence or information to support that statement, and in the absence of further information we consider there is no basis on which to raise an allegation of corrupt conduct.

Application of the *Human Rights Act 2019* (HR Act)
The HR Act applies to the CCC when it makes decisions about how it will deal with complaints that it receives. In circumstances where a matter falls outside of the jurisdiction of the CCC, the CCC considers that its decision to take no action is compatible with its obligations under the HR Act.

Further information
While this matter does not fall within the CCC's jurisdiction, there may be other avenues available to you to raise your concerns and you may wish to seek independent legal advice regarding what lawful options are available to you.

For example, if you have concerns about administrative decisions, you may consider that your concerns warrant referral to the Queensland Ombudsman (QO). Under the *Ombudsman Act 2001*, the QO has the power to investigate the decisions and actions of Queensland state government departments and agencies.

If you require further information as to the role of the QO you can find this information here.

If you have concerns about significant procurement activities. you might consider raising those with the Queensland Audit Office who can be contacted here.

We have enclosed more detailed information for you about:

- what the CCC can and cannot deal with, and
- our Charter of Service, which sets out how the CCC deals with complaints and what you can do if you are unhappy with our decision.

We trust this information assisted you.

Yours sincerely

[redacted]

Elizabeth Foulger
Executive Director - Integrity Services

CFMEU Construction & General QLD/NT

9 November 2022 ·

A big thank you to the more than 6000 members who turned out loud and proud today to deliver a very blunt message to the Queensland government's about their anti-worker wage suppression policies. This government needs to realise that while politicians come and go, we're not going anywhere. And we're certainly not going quietly.

255 35 49

From: Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent: Mon 05/12/2022 3:47:35 AM (UTC)
To: Julie Mitchell[J[redacted]
Subject: FW: Was the convo ok?

Hi Julie

This was my summary to Anne from the chat Alarna and I had re Centenary, the new Legislation and the CBRC sub.

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads
[redacted]
www.tmr.qld.gov.au

From: Deanne M Hawkswood
Sent: Friday, 2 December 2022 2:55 PM
To: Anne E Moffat [redacted]
Subject: RE: Was the convo ok?

Yes .. went well but towards the end the fire evacuation alarm sounded and we had to evacuate!

Explained the context, dialog and complexities which she understood and seemed comfortable with. She wanted to know if the greenfield was similar to BPIC – I said I hadn't seen it but that was their commitment and it was coming from the Coomera greenfield, which is a pretty good standard.

We chatted briefly on the changes from the new IR Bill. I have the advice the EPW sought from Crown Law (even tho the legislation was draft). She asked if it would have an impact or apply on this project? I'm not sure how the changes are to be implemented, but will find out once we have more info. I see the bill was passed late last night.

She mentioned the union consider that EPW are implementing the policy 'correctly' and TMR are doing it differently. I said that will be around prequalification and that we will be aligning as much as possible with the EPW approach and that will be over the next couple of months.

The last thing we spoke about was the CBRC sub which should be good to go late Jan/early Feb.

She thinks that Tam will want an f2f update and will let us know.

By then the alarm was screaming to evacuate .. so I did.

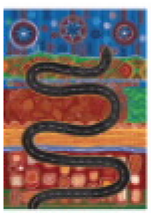
Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads
[redacted]
www.tmr.qld.gov.au

From: Anne E Moffat [redacted]
Sent: Friday, 2 December 2022 1:19 PM
To: Deanne M Hawkswood [redacted]
Subject: Was the convo ok?

Anne Moffat
Chief Operations Officer
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au



The Department of Transport and Main Roads acknowledges the Traditional Owners and Custodians of this la

We also acknowledge their ancestors and Elders both past and present.

The Department of Transport and Main Roads is committed to reconciliation among all Australians.

Discover the story on the 'Travelling' by Gilimbaa artwork included in our Acknowledgment statement above.

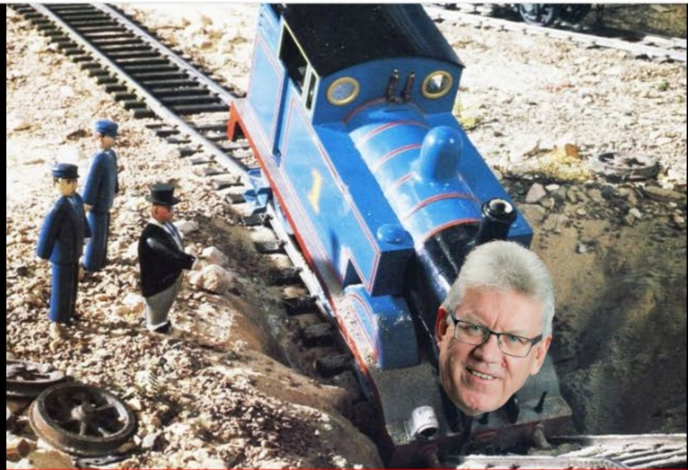
CFMEU Construction & General QLD/NT · Follow

16 December 2022 ·

A very merry Christmas from the CFMEU to TMR director-general Neil Scales, Transport Minister Mark Bailey, and all the management team bringing you Cross River Fail.

110 · 12 · 20

https://www.facebook.com/photo.php?fbid=5850163791707818&set=p.5850163791707818&type=3



TMR IS BROKEN – WE PAY THE PRICE

Transport and Main Roads is wasting billions of dollars of your money every year.

Director-general Neil Scales and his department routinely ignore the state government's own explicit policy on tendering and procurement – awarding multi-million-dollar jobs to the cheapest cowboy contractors even when not compliant with tendering rules.

This has left a long list of projects running way behind schedule, vastly over budget and riddled with building defects and safety issues. Some recent examples:

- Cross River Rail is running at least 18 months behind schedule and $3 billion over budget, with more than 200 recorded safety breaches.
- The $1.6 billion Toowoomba Second Range Crossing – open for just three years - is now partly closed after major engineering failures, which will take more than a year and over $100 million to rectify.

This arrogant disregard for process, policy and accountability betrays workers, subcontractors and the Queensland taxpayer.

FOR THE GOOD OF QUEENSLAND, NEIL SCALES MUST GO.

CFMEU Construction & General QLD/NT
16 December 2022 ·

3

Advice for Minister for Transport and Main Roads

Subject: John Holland Queensland Pty Ltd Gold Coast Light Rail Stage 3 Project Agreement

Document ID:	MBN25688

Key Issues

- On 21 October 2022, the Fair Work Commission (FWC) approved the John Holland Queensland Pty Ltd Gold Coast Light Rail Stage 3 Project Agreement (the Brownfield Agreement).
- The 21-day appeal period for the approved Brownfield Agreement has lapsed and current John Holland blue collar workforce on the project will be covered by this agreement.
- The Brownfield Agreement is a single enterprise agreement covering both the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU) and the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU).
- The Brownfield Agreement does not cover the Australian Workers Union (AWU), however, the AWU has elected to remove its previous appeal on the Greenfield Agreement, and has indicated that it would not oppose or appeal the FWC-approved Brownfield Agreement. As a consequence, the previously submitted Greenfield Agreement application has been withdrawn by John Holland from the FWC.
- While this removes a significant industrial relations risk retained by the State, owing to the cost reimbursable structure for Best Practice Industry Conditions (BPIC), the State maintains the risk of cost overruns attributable to the application of BPIC if they exceed the original estimates in the contract.
- In addition, the State retains some delay risks linked to BPIC (including for time lost due to inclement weather in excess of what was allowed for in the contractor's program and in very limited circumstances on-site industrial action (greater than 48 hours)).

Minister's Comments

Noted / Not Noted

Minister's signature……………………………

Date ………/………../………....

Action Officer/ Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Belinda Stewart	Ann-Maree Knox	Dennis Walsh	Neil Scales
A/ Regional Director	General Manager (Program Delivery and Operations)	A/Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: [redacted]	[redacted]	[redacted]	[redacted]
Date: 22 December 2022	Date: 23 December 2022	Date: 23 December 2022 – progressed under GM endorsement	Date: 3 January 2023

MBN25688

From: Scott Gartrell[[redacted]
Sent: Mon 16/01/2023 11:48:42 PM (UTC)
To: Deanne M Hawkswood[redacted]
Subject: FW: Happy 2023 (and BPICs) In-Confidence
Attachment: BPICs Policy draft Jan 23.docx
Attachment: Draft Renewable Energy IndustryConditions 30 Nov22.docx
Attachment: BPICs Appendices Nov 22.pdf

Hi Dee
See attached.

Kind regards

Scott Gartrell
Director

Brook Street Consulting
ABN – 82 567 593 669

[redacted]

[redacted]

From: Sharon Bailey [redacted]>
Date: Monday, 9 January 2023 at 10:00 am
To: Scott Gartrell [redacted]>
Subject: Happy 2023 (and BPICs) In-Confidence

Hello Scott

Happy New Year!

Hope you had a great break and what better way to start the year than BPICs….

I've attached the draft submission to give you the flavour of where we are currently headed and would appreciate any thoughts

CFMEU are back this week and so I'll chase them up for comments and see if the AWU comes back with anything further. I'll adjust the submission when I get further comments.

In the meantime, as we discussed back in the wilds of 2022, could you:

- Touch base with the GOCs to get a sense of where they are at with BPICs generally;
- Touch base with Michael Ravbar (perhaps later in the week or next week, after Kane has had a chance to get feedback to me)
- Touch base with Peter Ong (conscious you are likely to be meeting with ETU and others next week in the context of the Compact).

Things are still quiet this week, so happy to arrange a Teams catch-up at a time that works for you.

Look forward to talking soon
Sharon

Queensland Government

Sharon Bailey
Deputy Director-General
Queensland Government Procurement
Department of Energy and Public Works
[redacted]
Level 15 Mineral House | 41 George Street | Brisbane

From:	Sharon Bailey[S[redacted]
Sent:	Tue 17/01/2023 1:00:17 AM (UTC)
To:	Deanne M Hawkswood[d[redacted]
Subject:	Cabinet-in-Confidence BPICs
Attachment:	Draft submission - Renewable Energy BPICs 1701.docx
Attachment:	Draft Renewable Energy IndustryConditions 30 Nov22.pdf
Attachment:	BPICs Appendices Nov 22.pdf

Here we go

Look forward to talking soon
Sharon

From: Deanne M Hawkswood [redacted]
Sent: Tuesday, 17 January 2023 10:33 AM
To: Sharon Bailey [redacted]
Subject: Renewables submission

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Morning Sharon

Hope the week is going well for you so far .. I know its only Tuesday!

I was just speaking with Scott G as he'd received a call from M Ravbar yesterday and shared that feedback. He has sent me through a copy of renewables BPIC, but would you mind sending me through a copy of your draft submission? I'm squeezing in time to get our updated, and making progress. I'll get a copy to you soon, but I'd like to go through yours to get alignment.

Thank you!
Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent:	Mon 23/01/2023 11:21:33 AM (UTC)
To:	Kathie A Stephens[redacted]Melissa A Johansson[redacted]
Cc:	Adam J Williams[redacted]
Subject:	Heads up - Brief on Centenary will be coming

Evening ladies

We can expect to get a request from the MO for a brief on the procurement process for Centenary following a meeting today between DG, DPC and CFMEU.

I'll explain tomorrow.

Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A14534893B9295-DEANNE MARI]
Sent: Fri 10/02/2023 7:33:42 AM (UTC)
To: Peter T Trim[P[redacted]
Subject: RE: RRR - BPIC impacts

Love to … yes!

The format is very similar to what was used for Centenary and was also the basis for the negotiation. It is actually a very informative table to understand their assumptions and gives us something to work with.

I'll review and do some comparisons to Centenary as well (for framing). Will come back to you Monday/Tuesday .. that OK?

Thanks Pete

Dee

Deanne Hawkswood
Chief Procurement Officer | Chief Procurement Office
Finance & Procurement Branch | Corporate Division
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Peter T Trim [redacted]
Sent: Friday, 10 February 2023 5:00 PM
To: Deanne M Hawkswood [redacted]
Subject: FW: RRR - BPIC impacts

Hi Deanne
This is a first pass of an estimate of BPIC for the Northern package for the Ring Road project.

I have had quick look and can see areas for negotiation with the JV that could dramatically reduce this cost and could change the quantum of any KRA pool for these contracts.

Not suer if I was to share this with you but would you have a look and provide some comments.

Kind Regards

Peter Trim
Project Director (Rockhampton Ring Road) | Fitzroy District | Central Queensland Region
Program Delivery and Operations Branch | Infrastructure Management and Delivery Division
Department of Transport and Main Roads

[redacted]ton Qld 4701
peter.t.trim@tmr.qld.gov.au
www.tmr.qld.gov.au

From: Terry Waterson [redacted]
Sent: Thursday, 9 February 2023 4:12 PM
To: Peter T Trim [redacted]; Mark Guymer [redacted]
Cc: Chris J Pyne [redacted]
Subject: RRR - BPIC impacts

Peter, I heard you mention you were catching up with Deanne about BPIC tomorrow. You would be aware our preference is not to have BPIC apply to the project, and certainly not BPIC+. Thought I would do a quick estimate of BPIC impacts should full BPIC be mandated on RRR as per the attached spreadsheet which Deanne will be familiar with.

Essentially what it tells us is that if BPIC is fully implemented across the full range of conditions (Eg. minimal labour hire, higher than usual rates of diversity and training, BPIC rates paid to the direct labour force, BPIC rates by a lot of the subcontractors, 26 RDO's per year across the project, comprehensive administrative requirements for all procurement, new greenfield EBA agreement for the project etc), it would add around $8M to the Stage 1 project. Note that about $1M of this is already in the pricing as a project uplift on our EBA that we put in to attract people. BPIC+ would likely double the $8M cost. This is not super accurate as the estimate is a work in progress so is just a high level first pass.

Also, what we are seeing is something less than the full take-up of BPIC on projects. For example, taking up 6 RDO's a year and not the full CFMEU quota of 26 days per year that BPIC requires, loosening the onerous administration requirements on our subbie and supplier procurement etc. This can reduce the above cost impact significantly.

This is probably the subject of a separate session once TMR has settled on a position, but I thought getting this information to you early would assist in getting to that position.

Regards,

Terry Waterson
Precontracts Manager
BMD Constructions
[redacted]

From:	Julie Mitchell[redacted]
Sent:	Mon 20/02/2023 1:18:26 AM (UTC)
To:	Elena Potenza[redacted]
Cc:	Anthony P Philp[[redacted]Deanne M Hawkswood[redacted] Allan S Uhlmann[redacted]]; Paul A Schmidt[[redacted]
Subject:	RE: Comments for consideration: Confidential- Meeting Tony and I had Friday with CCF and QMCA

Thanks Elena

any unjustified mixing of 'funding' and 'financing' terms are mine not QMCA- Ill cop that
yes fully agree re the second point. I just wanted to let you know that we did have a conversation on the topic of capacity and of course its in their interest to say there is lots of capacity. You are completely correct its much bigger than suppliers. They did acknowledge the interaction with southern states. So we take it all with a grain of salt but there are some interesting comments in there.
suspect that its only with individual contractors that you will be able to get the real picture.
will arrange a catch up to chat

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
MBA MEM GAICD
Deputy Director-General
Infrastructure Management & Delivery | Department of Transport and Main Roads
----
[redacted]
www.tmr.qld.gov.au

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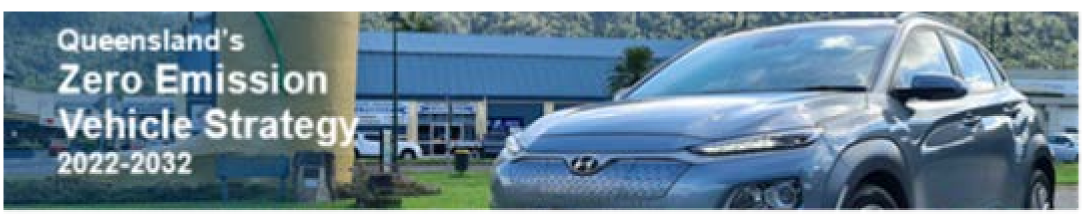

For more information on Queensland's Zero Emissions Vehicle Strategy, please visit https://www.qld.gov.au/zevstrategy

From: Elena Potenza [redacted]
Sent: Monday, 20 February 2023 11:10 AM
To: Julie Mitchell <J[redacted]

Cc: Anthony P Philip <[redacted]Deanne M Hawkswood [redacted]; Allan S Uhlmann <[redacted]Paul A Schmidt [redacted]
Subject: Comments for consideration: Confidential- Meeting Tony and I had Friday with CCF and QMCA

Julie,

Thanks for sharing the notes below (albeit some meeting notes are hard to have full context when in short form and not in attendance).

I'd like to tee-up a call with you to discuss some key points for next steps.

In terms of some points below, my (unsolicited) comments are:

- QMCA comments on funding are not quite apt. Funding and financing are two completely different things (many mistakenly interchange the two). Construction finance (by say, a construction company/entity) will require the project to have full Funding by the State or Principal, regardless. Project/construction finance is just a tool for cashflow during construction period, and will still require interest payment and balloon payment by the Principal (or State) it does not resolve "funding challenges" nor is it useful if there are project scope cost-blow outs. Construction finance may be provided by some Contractors, but in a high interest environment and lack of cheaper equity, this is of limited value, and of opportunity-cost to the contractor. The State, just like in a PPP, will need to have the full funds in place (or allocated) one way or another, either accounted for in Budget and allocated over the period, which assists with cashflow, or the traditional method. So the comment: "construction finance to fill the gap" does not actually fill the gap. Happy to explain in more detail.
- CCF - please note that they represent mainly small civil contractors, suppliers, plant and the subcontract market, not say, the Tier 1, 2+ Contractors, nor major/mega project issues which mainly relate to a significant shift in Form of Contracts and commercial terms. Fair points for bread and butter (BAU) work. **Capacity** isn't just available labour for forward pipeline of work, but capacity is the ability for a Contractor (and their supply chain) to undertake terms and conditions of a contract, Financially this means: Parent Company Guarantees (PCG), Bonding capacity, Bid Costs, Insurances, capability to undertake liabilities should they be triggered, LD's (most entities enterprise value alone is less than a major project value for instance). Capacity is also resources (Engineers, labour, trades, designers etc), plant and equipment and so one. A Principal will need to take a look where they already have Claims or calls on Guarantees from a portfolio point of view on whether they have the financial and commercial where-with-all to undertake (PPP style) contracts or large D&C contracts with back-to-back risks.

Regards,
Elena

> On 20 Feb 2023, at 11:08 am, Julie Mitchell [redacted]wrote:
> Elena
> I thought you may be interested in these note. Tony Philip and I met with Andrew Chapman QMCA and Damian Long CCF.
> Tony – Blue highlight is for you
> Dee --yellow is for you
> I mentioned that we had a project where we would be back to talk about capacity
> **Funding (conversation resulted for the Rocky Ring Road delays)**

When we have a funding gap between project costs and available/ scheduled $- options are :

- Trim the project (scope)
- Delay the project
- cancel
- Extra money- state/ super

If there are funding challenges maybe industry can assist with construction finance to fill the gap (or entire project) (rather than PPP)
CBUS QMCA - super fund investment
Super- Equity investment
Super funds in this sector
Vs state funds
Benefit is bring forward Olympics certainty and social
Benefits
Tony to raise with Treasury to see if there is an appetite
………………………………………………
Discussion about capacity/ market
How big is the capacity-
CCF Significant capacity in market see 2012 peak- nowhere near that its about planning
Takes time to get capacity up- and they will prepare for it if they have the forward pipeline
Visibility of the pipeline
Bottom line - There is capacity- some parts in supply chain that are issues and some issues are major
is the market Hot?- no / they have to work a bit harder, plan more in advance, this has made the industry more organised. More time in planning, could ring for pipes and get them, need to plan more in advance, more efficiencies once get more certainty
Suppliers? some issues in some areas (patchy to even get to tender IE GC)
Value? New base costs post covid
Some stabilisation in some costs / tracking what's difficult to get and getting differential prices over the regions/ but no predictability.
Will keep workforces in place when have certainty
Will projects in states and sectors where there is greater certainty
Quarry products- truck capacity
Bodies for trucks are the issue (will be resolve but a lag)
Erosion of margins will take capacity out of the markets
Looking at projects in the greater south east projects (more here- didn't understand – Damian Long)
How things are packaged is important
Is south (Victoria) is still expanding - Treasurer says dropping off- can increase capacity here
Qleave - data tracks historically, civil and building- source of data
CSQ- receipts-% of salary
2012 and 13- LNG- highest 70/30 (resources vs infrastructure) flood- very regional – below from
Andrew chapman note it is in dollars of the day (impact bigger if inflated, IE cf 2012 $)
2023 lower in actual $ (if raise by CPI)
Logistics easier when concentrated
Energy was a huge driver
Multi year jobs- and volatility- costing of jobs-
Contractors working with clients who are more sensitive to pressures- open book/ review rates regularly/ reduce risk on the contractor
Been burnt - shy- won't take the bet- appetite for risk reduced
Longer term pipe line and certainty will give value and attract the required workforce for the delivery.
In demand market (demand for people)- moving down south- doing projects- will come back- seeing this in our prices
International shipping related shortages has backed off.
Workforce quite transferrable- in demand across the supply chain- more amplified
BPICs impact on attractiveness of project / interest
Its not the salaries

Productivity and flexibility issues/ terms and conditions/ overtime/ RDOs/ hot weather
Nature of work is dynamic
Stifles a companies ability to be dynamic and flexible
Over inflating salary unnecessarily
Big companies- have no staff and can just do a green field
Wages aren't an issue up to $300m/ its loss of production
Unionisation impacts not problem/ it's the not complying with the rules
CFMEU- dictating what workforce looks like eg number of traffic controllers
Fearful of this
AWU - reasonable
some employers have non union agreements in place and this should be fine
Industry is not anti union
Fear of the lawlessness
<image002.png>

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
MBA MEM GAICD
Deputy Director-General
Infrastructure Management & Delivery | Department of Transport and Main Roads
----
[redacted]
Julie.Mitchell@tmr.qld.gov.au
www.tmr.qld.gov.au

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<image001.png>

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From: Gavin A Massingham[[redacted]
Sent: Tue 21/02/2023 3:28:52 AM (UTC)
To: Julie Mitchell[redacted]
Cc: Andrew M Wheeler[[redacted]Deanne M Hawkswood[redacted]
Subject: FW: GCLR3_Depot Building Subcontract - Potential Additional BPIC Costs
Attachment: Depot Building Subcontract - Potential costs.pdf

Hi Julie

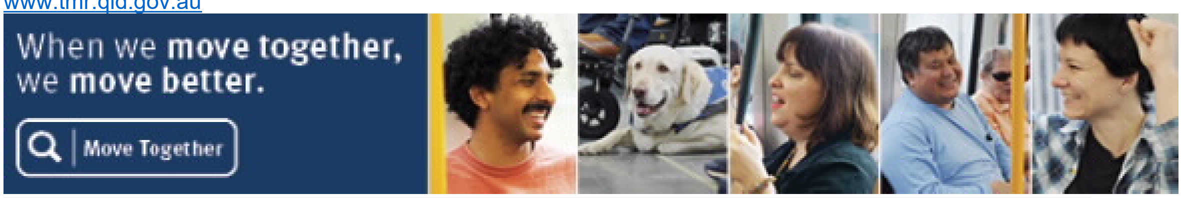
As discussed earlier, see attached for 'paper' as provided by JH on potential extra costs at the depot

Thanks

Gavin

Gavin Massingham
Program Director (Gold Coast Light Rail) | South Coast Region
Program Delivery and Operations Branch | Infrastructure Management and Delivery Division
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au



Five separate images of passengers and a guide dog on a train with the text 'When we move together, we move better. Search Move Together.'

From: Glynn Ladbrooke-JHG [redacted]
Sent: Tuesday, 14 February 2023 2:40 PM
To: Gavin A Massingham [redacted]
Cc: [redacted]
Subject: GCLR3_Depot Building Subcontract - Potential Additional BPIC Costs

Gavin,

See attached proposed paper regarding the issues John Holland are encountering with our Depot Building Subcontractor. This builds on an update Boyd provided directly to Julie around a week ago.

I'm keen to discuss with you at our catch up on Thursday how we progress this without John Holland bearing the risk of recovering these additional costs. Also, I'll will raise this at tomorrow's BPP Sub-committee.

Regards

Glynn Ladbrooke
Project Director
Gold Coast Light Rail - Stage 3

JOHN HOLLAND

[redacted]

Summary report of the potential and anticipated costs identified to the Tallai Project Group Pty Ltd (**Tallai**) Depot building subcontract as a direct result of an IR conflict mitigation strategy for the building works for Gold Coast Light Rail Stage 3 Depot Expansion.

<u>Background</u>

- Activity by the unions with regards to Depot Building subcontract is continuing. JH have already provided urgent briefing paper to GoldlinQ and State in relation to the procurement process followed for the engagement of the Depot Building subcontract. This was following allegations made by unions to the Queensland Government that John Holland had not followed an appropriate process and had engaged a company that was asserted to be "non-compliant".
- In addition to the above, JH is being made aware of several instances where subcontractors (that have agreed to adopt employment conditions consistent with the GCLR3 BPICs guidance document provided by the State) are being placed under significant and undue pressure by unions to adopt these conditions across their entire business immediately, and not only on the GCLR3 project. Threats are being made to subcontractors that if they do not comply with this requirement, that they will not be permitted to participate in the project. This has resulted in several companies declining to tender or withdrawing after tendering for packages of work.
- A number of subcontractors that have been recommended by the unions to undertake these works have subsequently confirmed that they are either to committed on other larger building projects or when they have provided a price, then this price far exceeds the usual price that can be anticipated for the same scope of works in the current market.
- Tallai, the depot building subcontractor has advised that both its preferred and backup plumbers have withdrawn. Consequently, JH and its subcontractor, have engaged with the associated unions and have initially identified an additional cost of ~$230k to engage an alternative plumber.
- JH continues to engage regularly with all unions and continues to reiterate that the adoption of the GCLR3 BPICs by the supply chain is on a 'reasonable endeavours' basis, and NOT a mandatory requirement for engagement on the project. However, it appears the unions will be maintaining their (incorrect) view. If this behaviour persists, it will pose a significant risk to the timely and cost-effective delivery of the works.

<u>Current IR conflict mitigation strategy</u>

There have been several meetings and discussions held with all parties regarding the Tallai Depot building subcontract to discuss an IR conflict mitigation strategy. The current approach is that several high-risk trades have been identified, and actions agreed with Tallai for each:

- Plumbing – an alternative price has been sought from a subcontractor that is currently engaged elsewhere on the project. Other plumbing subcontractors promoted by the unions have either not provided a price or are reluctant to confirm their pricing with the Tallai on the project.

- Electrical – Tallai agreed to go back out to the market for additional pricing. In the interim they are in detailed discussions with Specialist Electrical Engineering Group (**SEEG**), which is currently engaged on the project installing the inground electrical services. SEEG has a previous relationship with KD, the O&M Contractor.
- Mechanical – Tallai is currently trying to get alternative pricing from the market. VAE, Ellis Air and Venmist have now confirmed that they will not be pricing to Tallai. Navaska has yet to confirm a price – or that it is willing to price for the depot builder. JH is engaging with them now in conjunction with Tallai.
- Roofing – Tallai is currently trying to obtain alternative pricing from the market, awaiting pricing from Dowbury Roofing. There will be a consequential additional lead time for the alternative tender to be assessed for program risk. The alternative contractor put forward by the union has now confirmed it will not be pricing due to current commitments.
- Windows – whilst this package has not yet been identified as high risk, it is anticipated that there is a risk that there will be pressure to revert to another contractor. Pricing has already been received by Tallai from Queensland Glass who has previously been identified by the union as preferred.
- Structural Steel Rigging – Cain Constructions, has been identified as a risk for the structural steel installation. The current strategy is to utilize Borger Cranes Hire (currently on site) for installation of the structural steel to offset any risk utilising Cain Constructions. Mulherin Rigging and Cranes has priced the installation of the structural steel, but the additional cost is $58,000 for 3 weeks works.
- Ceiling, partitions, and joinery. – Tallai was anticipating self-performing these works utilising current resources. During discussions it has become apparent that this could potentially be a risk that could be mitigated utilising a subcontractor already identified by the union. Pricing is currently being sought from Keybuild (who has already priced a portion of the works to John Holland during tender time) and Superior Walls & Ceilings. Other potential subcontractors are being identified.
- Other trades – It is anticipated that as the works proceed, strategies will need to be developed to reduce the potential for IR conflict. These trades have not been identified.

Cost of mitigation strategy

The current forecast cost of this mitigation is estimated in the table below:

Gold Coast Light Rail Stage 3

Depot Expansion – Building Works

JOHN HOLLAND

Trade	Original Net Price		Revised Net Price		Scope Gap		Additional Cost	
	Subcontractor	Amount (A)	Subcontractor	Amount (B)	Item	Amount (C)	D = (B)+(C)-(A)	
Plumbing and Drainage	Doolan	$ 247,227.71	CC P&D	$ 427,000.00	Supply & install fixtures	$ 49,661.00	$ 229,433.29	Currently engaged elsewhere on the project
			Shore Plumbing	$ 503,849.00				Reluctant to confirm this price to Tallai
			Underground Plumbing	TBC				Have not yet provided a price
Electrical	SJ Electrical	$ 539,952.00	SEEG Electrical	$ 941,952.00		$ -	$ 402,000.00	Seeg are currently engaged on the project and are in detailed discussions with the depot builder.
			Project Lighting & Electrical (PLE)	$ 1,140,788.00				
			Stowe	$ 1,062,421.00				
Mechanical	Glennair	$ 431,400.00	Navaska (estimate)	$ 900,000.00	Sundries	$ 1,400.00	$ 470,000.00	Estimate - Navaska are currently pricing
			Ellis Air	DNP				Will not be pricing citing current work load
			VAE	DNP				Will not be pricing citing current work load
			Venmist	DNP				Will not be pricing citing current work load
Roof	Rooftek	$ 217,000.00	Havendeen (estimate)	$ 300,000.00		$ -	$ 83,000.00	Havendeen are reluctant to price. Value provided is based on a verbal estimate previously provided.
			Dowbury Roofing (estimate)	$ 300,000.00				Dowbury are yet to confirm if they are to price
Windows	Crown	$ 121,000.00	QLD Glass	$ 220,000.00		$ -	$ 99,000.00	Pricing has been received from both subcontractors
Structural Steel	Cain Projects	$ 48,000.00	Mulherin	$ 105,206.00	Sundries	$ 4,794.00	$ 62,000.00	Pricing has been received from both
Ceiling, Partitions and Joinery	Tallai	$ 176,000.00	Keybuild	$ 600,000.00		$ -	$ 424,000.00	Keybuild are yet to price the works. Allowance based on pricing already provided
			Superior ceilings					Superior have yet to provide pricing
			Wadsworth					Wadsworth have indicated a willingness to price - but have yet to price the works
Other Trades not identified above							$ 250,000.00	Estimate
Forecast additional cost							**$ 2,019,433.29**	

DNP = Did Not Price
Scope gap = utilised to equalise the scope between the original and revised price

COMMERCIAL IN CONFIDENCE - 3

Conclusion

JH has identified an initial estimate of the total impact to the Depot Building subcontract to all trades, covered under the subcontract, ranging between $1.5-2.5m.

In essence the unions perceive GCLR3 to be a 'closed' job which fundamentally changes the terms on which JH entered in the D&C Contract.

JH requires direction/assistance from the State to mitigate this risk and this significant change from the BPIC principles it signed up to within the D&C Contract.

CFMEU

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qntqueries@cfmeu.org

6 March 2023

Elizabeth Foulger
Executive Director – Integrity Services
Crime and Corruption Commission

By Email: **mailbox@ccc.qld.gov.au**

Dear Ms Foulger

Re: Complaint regarding conduct at the Department of Transport and Main Roads

I refer to my complaint correspondence dated 22 August 2022 and to your response correspondence dated 12 September 2022.

Jurisdiction

Through your response the CCC declined to take any action in relation to the complaint on the basis that it 'falls outside the jurisdiction of the CCC'. For reasons that follow, the CFMEU respectfully suggests that this conclusion was reached in error and should be revisited.

Your correspondence seems to proceed based upon two misapprehensions of fact.

1. You describe the complaint as being about 'unknown persons'/'unknown employees' and 'anonymous concerns'. As to the latter, the concerns are not anonymous, they have been raised with you by me on behalf the Union. As to the former, noting that I explained in the penultimate paragraph of my correspondence why the union was not able to provide particulars of the conduct complained of, the absence of such particulars does not mean the complaint is invalid. Further, in any event, the Union understands that Mr Neil Scales of TMR approved, and was involved in the making of, the procurement decisions the subject of the complaint.

2. Contrary to your correspondence, the policy is not simply a guiding document meaning that compliance is not mandatory. One wonders why the Government would go to the trouble of drafting and publishing a 74-page policy if it was indifferent as to whether that policy would be followed.[1] The notion that the policy is one that TMR officials such as Mr Scales were obliged to comply with is evident from the following parts of the introduction to it:

   (a) the word 'committed' in the first paragraph; and

   (b) the word 'must' in the second paragraph.

Once your misapprehensions of fact are corrected, it becomes apparent that a different conclusion should be reached in respect of jurisdiction. I respectfully submit that it should now be apparent to you that (b) and (c) from page 2 of your letter, in respect of section 15 of the CC Act, are capable of being satisfied.[2] The complaint falls within the jurisdiction of the CCC.

---

[1] To say nothing of the extensive process of consultation that preceded it, as mentioned in the document.
[2] Your correspondence does not dispute that (a) is satisfied.

Subsequent events

1. Since the complaint the Centenary Bridge Duplication Project, valued at $298.5 million, has now been formally awarded to a joint venture between BMD and Georgiou (**the Decision**). The bid of the successful tenderers did not comply with BPIC.

2. The Decision has had the following adverse impacts.

   (a) The shortfall between the non-BPIC tender that has been endorsed and a BPIC-compliant tender is a significant one which is disadvantageous to members and potential members of the union.

   (b) Because of this shortfall, the Decision also impairs the ability of the union to organise these workers and in that sense it affects our organisation as well as our members.

3. The decision also adversely effects other participants in the industry. For example, the decision to award the contract to a non-BPIC tenderer is manifestly unfair to those who submitted BPIC-compliant tenders as requested, but were ultimately not successful, having been inexplicably excluded. Those tenderers will have lost millions as a result.

4. What's more, the union understands that the bid of the successful tenderers BMD and Georgiou was initially rejected by TMR but BMD and Georgiou were later *invited* by TMR to re-submit another tender. For TMR to have had such a cosy relationship with BMD and Georgiou does not "pass the pub test". When this information is taken together with the curious fact that a non-BPIC tender was accepted, there is a strong inference that something untoward has occurred during this procurement process. It must be investigated.

5. Finally, at the risk of stating the obvious, there has also been a huge amount of taxpayer money thrown away on a BPIC-facing tender process that was ultimately abandoned.

I wish to supplement my complaint with the above information.

If the CCC had taken prompt action upon my complaint, this project might never have been awarded to a tenderer whose bid did not comply with BPIC. This is an entirely unsatisfactory state of affairs and underscores the need for appropriate action to be promptly taken on this matter by the CCC.

Next steps

In light of the above, I ask that you please reconsider your decision that the CCC will not take any action in relation to the complaint on the basis that it 'falls outside the jurisdiction of the CCC'.

I call on you to ensure that these matters are investigated by the CCC. I also ask that you please urgently report back to me as soon as to what you will do about this complaint (as clarified).

I look forward to hearing from you shortly.

Yours faithfully

[redacted]

Michael Ravbar
State Secretary

CFMEU

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6 March 2023

The Hon Catherine King MP
Minister of Infrastructure, Transport, Regional Development
and Local Government

By Email: Catherine.King.MP@aph.gov.au

Dear Minister King

Re: Centenary Bridge Duplication Project; Coomera Connector Project

I refer to the above and enclose:

1. letter from the CFMEU to the Crime and Corruption Commission of Queensland (**CCC**) dated 22 August 2022;
2. letter from the CCC to the CFMEU dated 12 September 2022; and
3. letter from the CFMEU to the CCC dated 6 March 2023.

As you will see from the enclosed, the Union has complained to the CCC about matters relating to the above projects. The Union is concerned about conduct which appears to be, at best, a gross misuse of public money.

I am drawing these matters to your attention because the projects are partly funded by the Commonwealth and I understand that you are the responsible Minister given your portfolios of Infrastructure and Transport.

I am sure that you will share the concerns of the Union about the way in which the procurement activities have been undertaken with respect to these projects. I seek your assistance to resolve those concerns in an appropriate way.

I am happy to meet with you or your staff to discuss, alternatively I can be contacted by telephone at your convenience.

Yours faithfully

[redacted]

Michael Ravbar
State Secretary

From:	Sharon Bailey[redacted]
Sent:	Tue 07/03/2023 11:00:19 PM (UTC)
To:	Deanne M Hawkswood[[redacted]Graham Atkins[redacted]]; David Shankey[redacted]
Cc:	Brett Brogan[redacted] Logan Timms[redacted]]; Peter Lac[redacted]]; Megan Collins[redacted]
Subject:	IR Expertise and BPP
Attachment:	MBN IR.docx

Hi Dee, Graham and David

I've had a shot at pulling together a brief on IR and BPP

Would really value your thoughts – very happy to amend as you see fit

Thanks
Sharon

Queensland Government

Sharon Bailey
Deputy Director-General
Queensland Government Procurement
Department of Energy and Public Works
[redacted]
Level 15 Mineral House | 41 George Street | Brisbane

DIRECTOR-GENERAL DOT POINT BRIEFING NOTE

Subject: Industrial Relations and Best Practice Principles Procurement
Responsible Area: Queensland Government Procurement
Contact Officer Sharon Bailey – [redacted]

KEY ISSUES

- Sets of Best Practice Industry Conditions (BPICS) are being developed by multiple agencies (including GOCs) on multiple projects – leading to different approaches and document standards, which is confusing for industry and resulting in stakeholder frustration.
- Some projects are experiencing lengthy negotiations and the exacerbation of demarcation disputes, leading to project delays, and additional risks and costs.
- Negotiation of BPICs has required industrial relations expertise and this has had to be purchased by relevant agencies, further exacerbating the issue of divergent approaches.
- The project-by-project approach to BPICs was intended to allow for responsiveness to local circumstances, however the Government has stated that its desire for a statewide approach (a tradie in Cairns is paid the same as a tradie in Brisbane for the same work) and stakeholders have also increasingly advocated for a more standardised approach.
- Over the past two years it has become apparent that there is a need for a clearer industrial relations framework under which to negotiate the BPICs and the availability of consistent industrial relations expertise to assist negotiations.
- The BPP/BPIC policy framework was developed in response the 2006 changes to the Federal Industrial Relations framework. In response to these same changes, in 2009 the Queensland Government handed over its industrial relations powers to the Commonwealth Government, and consequently its industrial relations resources and expertise have substantially decreased.
- Unions have maintained this expertise and hence it could be argued that there remains an information/skill asymmetry in negotiations.
- The Federal Government's recent changes to the Code for the Tendering and Performance of Building Work 2016 and passing of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022,* remove some but not all of the issues which prompted the development of BPP/BPICs, i.e. now:
    - the Principal Contractor (PC) can monitor the industrial relations compliance of its subcontractors, and the Queensland Government can assess a PC's compliance where contractual commitments require that monitoring is being undertaken
    - PCs can contractually require subcontractors to exceed the terms and conditions of their current agreements to implement the BPPs/BPICs policy
    - there is potential for negotiation of project agreements post tender and prior to commencement of a project via a greenfield or brownfield agreement
    - the State can include proposals for project agreements in tender specifications and evaluate tenderers on their proposals to form project agreements.
- The Queensland Government needs to develop a position on what the federal changes mean for a range of policies and programs including BPP/BPICs.
- The development of project agreements is a specific example, where a clear policy and subsequent process/standard is required.
- A project agreement is developed after a tender is awarded and involves the principal/major contractor and relevant unions negotiating a set of rates and conditions that would apply for the duration of the project.
- In relation to BPP/BPICS, in theory:
    - a project tender could attach a set of BPICs which set the Government's expectations for rates and conditions on the project allowing tenderers to properly price the project (effectively setting a floor for negotiations);

ENDORSEMENT	DIRECTOR-GENERAL APPROVAL	COMMENTS
Name **Title** **Division** Date: / /	Paul Martyn **Director-General** **Department of Energy and Public Works** Date: / /	

  - the tender would also note that the award of the tender was conditional on the negotiation of a project agreement post award; and
  - once the tender was awarded, the successful proponent would then enter into negotiations with all unions with coverage and flow the agreement through to sub-contractors.
- Project agreements could offer many benefits to delivery, but industrial relations advice is required to appropriately define and frame such a process at the front-end, if we are to avoid the issues that have been experienced on BPICs.
- Additionally, centralised industrial advice could assist the Government negotiate standard sets of BPICs for construction industry projects, civil industry projects, and renewable energy industry projects (which have aspects of both construction and civil).
- In an ideal world, it would be helpful if each of these standard sets contained within them, some room for variance, i.e. regional vs south east corner, complex vs standard. There was some discussion of this early in the genesis of BPICS, but stakeholders would not likely now support – preferring a ‘patent agreement’ model.
- Some progress has been made towards the goal of a set for each industry type, however it is likely that the construction unions (or at least four of the five) will now advocate towards one set of BPICs for all government work, i.e. the construction BPICs which incur the highest rates.
- This could potentially lead to cost overruns as these rates likely exceed the basis of the current costings, and hence a robust negotiation process will be required.
- The Office of Industrial Relations (OIR) has considered these issues and will likely propose that an expert project team be established (within OIR) to work closely with DEPW and other impacted agencies (including Government-owned Corporations) to:
  - Clarify the specific issues being encountered, at a whole-of-Government policy level and through infrastructure project developments, and identify drivers in these issues;
  - Engage with Crown Law and private sector legal and industrial relations specialists (those engaged in the complexities and nuances of significant infrastructure, construction and engineering projects, transactions and disputes) to clearly identify the ‘legal and industrial relations’ skillset requirements for Government, and the market for acquiring those skills;
  - Provide options for the delivery of those services to Government, including consideration of direct employment of this capability, or engagement through third parties;
  - Establish an agreed framework under which to negotiate (BPICs and other related procurement policy dimensions) utilising the required skillsets, with Executive Government making explicit decisions for the negotiation of infrastructure procurement and delivery that align with other government imperatives; and
  - Consider wider opportunities for reform to assist Government with the delivery of infrastructure.

- It is acknowledged that there is no quick fix to the issues being experienced, but the OIR proposal would assist in developing a sounder, more consistent and more deliberate approach.
- The other issue not detailed in this brief is the decentralised nature of vertical and horizontal infrastructure procurement. At a time of significantly increased infrastructure spend by Government and a very tight labour and materials market, this is inflating the market and only adding to the difficulties in negotiating industrial instruments that meet the Government’s objective of safe, secure, quality, local jobs, and delivering projects. This will be the subject of separate discussions.

CONSULTATION

- Office of Industrial Relations, Department of Education provided input to this brief.
- This brief draws from previous briefs that underwent consultation with the Public Works division, Energy division and the Department of Transport and Main Roads.

BACKGROUND

- Since 2018, the Government has enacted procurement policies (Best Practice Principles/Best Practice Industry Conditions (BPP/BPICs) aimed at improving industrial conditions.
- BPICs is the mechanism for demonstrating best practice industrial relations on a Building Construction and Maintenance or Transport and Infrastructure Services BPP project (over $100 million project).
- BPICs are effectively a set of wage rates and working conditions that are attached to a tender to signal a threshold that must be met by contractors and applied to sub-contractors down the supply chain.
- BPICs are intended to reflect current economic conditions and draw from existing best practice industrial agreements that have been registered with Fair Work.
- In 2021, a set of BCM BPICs was approved for satellite hospitals and the 2021-2023 and then subsequently approved for broader use on BCM projects. These will expire in mid 2023, and another set is currently being negotiated.
- A set of BPICs for TIS projects of $100-$300m was approved in late 2020 and DTMR are currently in the process of seeking approval for an updated set of BPICs that includes a provision for projects $300M - $700M. DTMR has also had a number of project specific BPICs approved for projects over $300M or outside of the scope, such as Rollingstock Manufacturing.

Jacqui Collie

From:	Complaints <Complaints@ccc.qld.gov.au>
Sent:	Wednesday, 15 March 2023 11:52 AM
To:	Jacqui Collie
Subject:	CLASS S: Correspondence from the Crime and Corruption Commission - CCC Ref: CO-22-2272

SENSITIVE

Dear Mr Ravbar,

Thank you for your email of 6 March 2023 to the Crime and Corruption Commission (CCC) concerning the conduct of the Department of Transport and Main Roads.

The CCC has considered the further information provided by you. Nothing you have raised in your recent correspondence causes the CCC to alter its initial assessment.

You may recall that, for the reasons outlined in the CCC's letter to you dated 12 September 2022, the CCC will not be taking any action in relation to your complaint.

While the CCC acknowledges that this matter remains of concern to you and that you may remain dissatisfied, nothing you have raised in your recent correspondence causes the CCC to alter its initial assessment.

Yours sincerely,

Crime and Corruption Commission
QUEENSLAND

Integrity Services
Crime and Corruption Commission

T +61 7 3360 6060 | F +61 7 3360 6333 | E complaints@ccc.qld.gov.au
Level 2 North Tower, 515 St Pauls Tce, Fortitude Valley QLD 4006 | GPO Box 3123, Brisbane QLD 4001

www.ccc.qld.gov.au | Subscribe for email updates | Facebook | Twitter

We value: People Accountability Integrity Courage Excellence

From: Deanne M Hawkswood <[redacted]
Sent: Wednesday, 22 March 2023 11:35 AM
To: Julie Mitchell <[redacted]; Anne E Moffat [redacted]
Subject: Urgent_Info for Building Trades Group following meeting with CoS yesterday
Importance: High

Morning Julie and Anne

Before sending this through to DLO to CoS and the secretaries of the BTG, would appreciate you quick review.
We committed to send them

- Information on key points approved on 3 March – BPIC, prequalification changes and assurance
- Marked-up version of the updated Transport BPIC compared to the 2020 version (attached)

The following is the information on the key points:

Implementation advice - BTG

TRANSPORT BPIC

- Originally approved October 2020 and addressed projects $100m - $300m
- Updated Transport BPIC (Decision 1546) was approved on 3 March 2023 addressing projects $100m - $700m and provided an update covering:
    - Following approval in October 2020 TMR has introduced the BPIC on 12 projects valued at $6.92B.
    - The current Qld Transport and Roads Investment Program 2021/22 - 2024/25 has seven projects $100m-$300m and twelve projects over $300m.
    - The updated BPIC includes a major projects provision with increased base wage rates and employee entitlements, which were developed for the Coomera Connector - Stage 1 program.
    - Projects over $700m will be negotiated and approved on a project by project basis.

- To streamline process and ensure conditions remain consistent with the legislation and represent leading practice for the transport civil construction sector, it was approved that the Minister for Transport and Main Roads can make amendments to the Transport BPIC as required, with approval from the Premier and Treasurer.
- Overview of the changes below ($300-$700m):
    -

	Transport BPIC ($100 m- $300 m)	Over $300 m	
Wage Rate	$40.17/hr	$45.28/hr	

(CW5)			
Income Protection	-	$40.30/wk	
Redundancy	$81.00/wk	$120.00/wk	
Fares and Travel	$36.05	$40.00	
Site Allowance	-	**Project value**	**Allowance**
		$300 m to $400 m	$5.00/hr
		$400 m to $500 m	$5.50/hr
		$500 m to $600 m	$6.00/hr
		$600 m to $700 m	$7.00/hr
Training	$10/wk	$15/wk	
Overtime	1.5 times first 2 hours 2.0 times thereafter	2.0 times	

PREQUALIFICATION

- It was also approved a Queensland supplement to the National Prequalification System (Civil and Bridge Construction) be implemented by TMR to establish the BPP and the approved Transport BPIC, as a prequalification requirements for contractors. This will ensure project over $100m or those declared align to prequalification conditions as requirement by DEPW for building construction, to the extent possible, and provide a consistent approach for the construction industry.
- It is expected the implementation of the changes to the National Prequalification System will impact approximately 50% of the suppliers currently prequalified. Full commencement will be completed by 1 August 2023.
- For those major project planned to commence procurement prior to 1 August, TMR will apple the requirements as part of the procurement process.

ASSURANCE

- TMR has established a dedicated team to work with the relevant major projects monitoring, reporting and assessing commitments made during procurement and contracting for major projects are being met.

- Once fully recruited, there will be 11 staff in the team.
- There are five key result areas included in major project tenders that reflect government outcomes and TMR priorities, which include a number of compliance and information measures.
- The KRAs are:

  - KRA 1 – Quality Jobs: Progressing best practice industrial relations, inclusive and diverse workforces and opportunities to invest and build the sector's capability particularly through a strong commitment to trainees and apprentices.
  - KRA 2 – Safe Workplaces: Prioritising best practice workplace health and safety systems and standards and a culture of safety for all.
  - KRA 3 – Local Supply Chains and Manufacturing: Actively supporting quality local Queensland suppliers and industries on Queensland Government projects.
  - KRA 4 – Sustainability: Advancing infrastructure sustainability outcomes that enable social, environmental and economic benefits.
  - KRA 5 – Project Delivery Optimisation: Apply innovative technologies, techniques and industry initiatives to drive better project delivery success, productivity and optimisation.

- To monitor compliance against these KRAs a number of measures are reported and monitored. The following are measures for KRA 1 - Quality Jobs:

  - compliance with provisions of the industrial instrument
  - meeting or exceeding Workplace Relations Management Plan commitments
  - industrial relations matters potentially impacting project
  - Skills Development Plan
  - project workforce including diversity
  - industrial relations – right of entry
  - commitment to culture and community
  - rostered days off.

CFMEU

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23 March 2023

Executive Director – Corporate Services
Crime and Corruption Commission

By Email: mailbox@ccc.qld.gov.au

Dear Corporate Services,

Re: Complaint regarding Commission's handling of complaint of 22 August 2022

I write to complain about the Commission's handling of my 22 August 2022 complaint.

In my complaint I raised a number of issues in relation to TMR's activities in relation to seeking tenders and providing preferred tenderer status to certain companies whose proposals were not BPIC compliant. My view in the circumstances was that those facts gave rise to an inference of improper conduct.

On 12 September 2022 a response was provided by the Commission to the complaint. In that response the Commission stated that:

1. The complaint did not involve corrupt conduct;
2. The concerns raised were anonymous;
3. There is no basis to raise an allegation of corrupt conduct;
4. The Commission would be taking no action in relation to the complaint.

I set out my dissatisfaction with that response, with reasons, in a letter of 6 March 2023 to which a further response was provided by the Commission by email on 15 March 2023. That email, which did not engage at all with the detail set out in my letter, stated *'Nothing you have raised in your recent correspondence causes the CCC to alter its initial assessment,'*.

The CCC has refused to deal with my complaint and I am dissatisfied with that outcome. Please consider this letter to be a written complaint in relation to the Commission's handling of my 22 August 2022 complaint.

I await your further advice.

Yours faithfully

[redacted]

Michael Ravbar
State Secretary

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A14534893B9295-DEANNE MARI]
Sent:	Fri 24/03/2023 5:27:53 PM (UTC+10:00)
To:	TMR DLO[redacted]]
Cc:	Julie Mitchell[redacted]
Subject:	RE: Follow-up on Questions from union/s

Thank you

Deanne Hawkswood
Chief Procurement Officer | Chief Procurement Office
Finance & Procurement Branch | Corporate Division
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: TMR DLO [redacted]
Sent: Friday, 24 March 2023 5:16 PM
To: Deanne M Hawkswood <[redacted]
Cc: Julie Mitchell [redacted]
Subject: RE: Follow-up on Questions from union/s

Thanks Deanne, endorsed by DG and emailed to Alana.

Kind regards

Melanie Walker
Departmental Liaison Officer | Cabinet, Legislation and Executive Services
Corporate Division | Governance Branch | Department of Transport and Main Roads

[redacted]au
w[redacted]

From: Deanne M Hawkswood [redacted]
Sent: Friday, 24 March 2023 3:47 PM
To: TMR DLO [redacted]
Cc: Julie Mitchell <[redacted]Anne E Moffat [redacted]
Subject: Follow-up on Questions from union/s

Afternoon DLO

Could you please provide the following email (with attachment) to Chief of Staff. Following discussion with Alana, there were a couple of questions which some of the unions had raised with her for a response. The email below are responses to those queries.

Thank you
Dee

Email beings:

Hi Alana,

Good to see you earlier this week and thankyou for raising these queries from the unions with me. As I understood the queries were:

1. Procurement for Centenary Bridge and particularly the treatment of the successful tenderer, GMD Georgiou JV, in the process.
2. Other agencies, namely EPW, are considered to be implementing the BPIC policy more effectively than TMR. Implicating that TMR are not doing enough with implementation.
3. Associated with the previous point that others are doing it better, references were raised on the wages, conditions and other conditions (such as women in construction, indigenous participation) being agreed with the contractors on TMR major projects where BPIC is applied.

- **CENTENARY BRIDGE UPGRADE PROJECT**

- The Centenary Bridge Upgrade project is the first TMR project to have BPP and BPIC included in the Tendering documents in accordance with the Queensland Procurement Policy 2021 delivered under a Construct Only contract (TIC-CO)

  - A two-stage procurement process was used, Stage 1: Expression of Interest (EOI) – 100% Non-price, Stage 2: Request for Tenders (RFT)– 30% Non-price, 70% price
  - Stage 1 EOI was released on the Qld Government Tender site (E-Tender) on the 7 May 2021 with a industry briefing was held on 13 May 2021. The EOI closed on the 10 June 2021 and shortlisting confirmed on 11 August 2021
  - Stage 1 EOI 6 proponents submitted an application with 4 proponents shortlisted for next stage
  - Stage 2 Request For Tender was released on the 3 September 2021 and closed on the 26 October 2021
  - Stage 2 RFT - A total of 6 tenders received (4 conforming tenders and 2 alternative tenders)
  - Following evaluation the preferred tenderer (BMD Georgiou JV) entered into a post-tender negotiation process with the department
  - The contract was awarded on 16 December 2022

Stage 1 Expression of Interest	Stage 2 Request for Tender	TIC- CO Contract Award

BMD Georgiou JV	BMD Georgiou JV	BMD Georgiou JV
Bielby Hull Brady JV	Hull Bielby Albem JV	
John Holland	John Holland	
Fulton Hogan BESIX Watpac JV	Fulton Hogan BESIX Watpac JV	
CPB Contractors		
McConnell Dowell Seymour Whyte JV		

2. **TMR IMPLEMENTING THE BPIC POLICY COMPARED TO OTHERS**

- There are nuances between the built and civil construction industries which shaped how TMR approached implementation such as:

    i. A large portion of funding for our program (QTRIP) is from the Federal government under the National Partnership Agreement on Land Transport Infrastructure Projects (the NPA) which required the States' to meet certain requirements such as:

    1. Compliance with the Building Code 2016 as a tender conditions for contractors and subcontractors. Further noting that failing to meet these requirements may result in being excluded from tendering/awarded federally funded building work for up to one year.
    2. Despite the requirements, TMR introduced the BPIC as a guide and the civil industry responded to BPIC tenders, working through how to manage this risk.

    ii. The prevailing wage rates for the Qld civil industry are lower compared to the built industry which was reflected in the first version of the Transport BPIC. With the current price escalation on all construction projects, civil rates have increased however still remain lower in comparison.

    iii. Principal contractors delivering major transport civil projects undertake a large portion of the works using their own workforce (self-performed) who are covered by existing enterprise agreements and utilise sub-contractors for the remainder of the work packages.

- With changes to the legislation during the later part of 2022, the risk to contractors and sub-contractors has reduced significantly following the removal of the Building Code and the abolition of the ABCC (who had taken a keen interest in TMR during implementation). TMR are now updating its processes to reflect these changes to enable a more aligned adoption of the BPIC requirements.
- Tenderers have responded positively to the introduction of the Key Result Areas, which include the BPIC, during procurement committing to advancing a number of social

outcomes for example:

i. More fixed and flexible rostered days off, in line with the BPIC, providing staff with more time for life.
ii. Lifting targets for diversity and participation of indigenous Australians and women in construction (for example).
iii. Emphasis on lifting capability and training, favourable conditions for adult apprentices and opportunities for school-based apprenticeships to gain qualifications on the job.

Deanne Hawkswood
Chief Procurement Officer | Chief Procurement Office
Finance & Procurement Branch | Corporate Division
Department of Transport and Main Roads
[redacted]
www.tmr.qld.gov.au

From: Deanne M Hawkswood </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A14534893B9295-DEANNE MARI> on behalf of Deanne M Hawkswood
Sent: Friday, 24 March 2023 5:27 PM
To: Neil Scales
Cc: Anne E Moffat; Julie Mitchell; Nick T Shaw
Subject: Meeting with CFMEU, ETU and CoS - Tuesday 21 March

Good afternoon DG

A short update on the meeting Tuesday where CoS and I briefed the Building Trades Group on the updated Transport BPIC.

The BTG were represented by Jade Ingham (CFMEU) and Peter Ong (ETU).

- We handed out a copy of the updated Transport BPIC and spoke to the changes which had been previously agreed in later half of 2022.
- They were disappointed with the rates and referenced past TMR projects with BPIC which they view as failures (for example, Coomera Connector and Centenary).
- Their feedback:
    - The BPIC is out of date on wage rates and falls short of ETU contracting framework (we agreed that it does).
    - Implementation is not good enough - not following through and contractors are establishing a sub-standard outcome.
    - Frustrated that the work they have put into this isn't getting the outcomes as expected and TMR are not doing a good enough job. EPW are doing it better, but said they are not perfect either.
    - On prequal changes – they remain sceptical about the outcome.
- We discussed BPIC gap for rail and the need to address that – they acknowledged the gap and want to be involved.
- We explored some of the challenges with implementation, noting the difficulties being experienced (demarcation, civil v building rates and conditions, Building Code). I asked for their feedback on what they consider can be done to make it work better. I put a suggestion forward of offered rates by trades (which is similar to what we have now but adjust it to accommodate the variance in the trades, such as electrical which is about $10 higher). They suggested looking at INPEX LNG project agreement – said it was dated but good.
- We mentioned the changes to approval process for any updates to BPIC raised – they acknowledged and accepted this.

- A BTG was meeting being held this Thursday (yesterday) and they were taking this updated BPIC to that group. Expect they will not accept it.
- TMR was to provide more information on - approach to prequalification, standing up the assurance team/function, marked up version of BPIC. Which was completed (see attached).

There is a meeting/briefing with the AWU on the 30 March – we'll see how they respond?

Thank you and happy to discuss.

Hope you have a nice weekend.

Dee

Deanne Hawkswood
Chief Procurement Officer | Chief Procurement Office
Finance & Procurement Branch | Corporate Division
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

Advice for Minister for Transport and Main Roads

Subject: Transport Best Practice Industry Conditions – Australian Workers' Union

Document ID:	DLO6717

- Your office is hosting a briefing with Australian Workers Union (AWU) on 30 March 2023 to discuss the new Department of Transport and Main Roads (TMR) Transport Best Practice Industry Conditions (BPIC).
- TMR attendees:
  - Ms Julie Mitchell, Deputy Director-General (Infrastructure Management)
  - Deanne Hawkswood, Chief Procurement Officer.
- Cabinet Budget Review Committee (CBRC) approved the new Transport BPIC out of session on 3 March 2023. This updates the original Transport BPIC approved in October 2020.
- TMR developed the updated Transport BPIC largely in consultation with trade unions.
- Since October 2020, TMR has introduced the Transport BPIC on the following Best Practice Principles (BPP) projects, some retrospectively and others as part of the procurement process:

	Project	Published Value	BPIC Applied	Project Status
1	Gold Coast Light Rail (Stage 3A) – Broadbeach South to Burleigh Heads	$1.22 B	Retrospective	Awarded to John Holland
2	Bruce Highway (Cooroy to Curra) Section D, contract 2	$318 M	Retrospective	Awarded to CPB
3	Bruce Highway (Caboolture) Bribie Island Road to Steve Irwin Way	$131.9 M	Retrospective	Awarded to Fulton Hogan
4	Walkerston Bypass	$186.6 M	Retrospective	Awarded to Fulton Hogan
5	Centenary Bridge Upgrade Project	$244 M	During procurement	Awarded to Georgiou–BMD Joint Venture
6	Pacific Motorway (M1) Exit 49 Interchange Upgrade	$110 M	During procurement	Awarded to Seymour Whyte
7	Qld Train Manufacturing Program	$600 M	During procurement	Awarded to Downer
8	Coomera Connector Stage 1 1. North package 2. Central package 3. South package (not at procurement stage)	$2.16 B	During procurement	*North* – awarded to Acciona-Georgiou Joint Venture *Central* – in procurement
9	Rockhampton Ring Road	$1.065 B	During procurement	In procurement

Action Officer/Approved by:	Endorsed by DDG	Endorsed by DG
Deanne Hawkswood	Julie Mitchell	Neil Scales
Chief Procurement Officer	Deputy Director-General (IMD)	Director-General
Tel: [redacted]	Tel: [redacted]	Tel: [redacted]
Date: 24 March 2023	Date: 24 March 2023	Date:

	Project	Published Value	BPIC Applied	Project Status
10	Beerburrum to Nambour Rail Upgrade (Stage 1)	$550 M	During procurement	In procurement
11	Linkfield Road Overpass upgrade	$125 M	During procurement	In procurement
12	Beams Road Rail Level Crossing upgrade	$209.3 M	During procurement	In procurement
	Total Project Value	**$6.92 B**		

- TMR procurement processes for major projects are structured to facilitate the creation of quality jobs, encourage using reputable local contractors and suppliers, and support local manufacturers as outlined in the BPP.
- TMR also uses infrastructure procurement to foster the growth and development of the current and future skilled workforce through more training and apprenticeship opportunities.
- Under the Queensland Government's approach to procurement, TMR has seen more benefits for more Queenslanders than ever before.

Transport BPIC

- The new Transport BPIC, approved in March 2023, will be applied to projects valued between $100 million and $700 million. Higher wage rates and specific allowances are included for major projects valued between $300 million and $700 million.
- Changes to the Transport BPIC will be developed on a project-specific basis for projects valued over $700 million.
- Following the CBRC approval, TMR anticipates a further amendment to the Transport BPIC may be required to address rail trades and conditions. Internal discussion has commenced on this.
- The Transport BPIC remains as a guideline (it is not mandatory) and focuses on the key areas of workplace health and safety systems, apprentices and trainees and industrial relations on projects over $100 million.
- To enable better clarity for industry on the Government's requirements with the application of the BPIC policy, TMR will introduce a Queensland Supplement to the Austroads National Prequalification System (Civil and Bridge Construction). This will establish the BPP, including the approved Transport BPIC, as a prequalification requirement for contractors.
- This is a significant change and will ensure the BPP for projects over $100 million, or declared, align to prequalification conditions currently required by the Department of Energy and Public Works for building construction. This will provide a more consistent approach on the application of the BPP and BPIC for the wider construction industry.
- TMR is focused and committed to using our significant investment and long-term pipeline of infrastructure projects to leave a positive legacy for the sector and the State.

Key Result Areas (KRAs)

- TMR consulted extensively on the framework for the adoption of consistent KRAs, KRA measures and reporting requirements for projects over $100 million. The KRAs reflect government outcomes and TMR priorities, and include a number of measures (compliance and information).

  - KRA 1 – Quality Jobs: Progressing best practice industrial relations, inclusive and diverse workforces and opportunities to invest and build the sector's capability particularly through a strong commitment to trainees and apprentices.
  - KRA 2 – Safe Workplaces: Prioritising best practice workplace health and safety systems and standards and a culture of safety for all.
  - KRA 3 – Local Supply Chains and Manufacturing: Actively supporting quality local Queensland suppliers and industries on Queensland Government projects.
  - KRA 4 – Sustainability: Advancing infrastructure sustainability outcomes that enable social, environmental and economic benefits.
  - KRA 5 – Project Delivery Optimisation: Apply innovative technologies, techniques and industry initiatives to drive better project delivery success, productivity and optimisation.
- Monitoring and assurance are key to ensure compliance requirements are being met and is seen as a core TMR function to undertake for these KRAs. For example, KRA 1 - Quality Jobs (which includes the Transport BPIC) will measure and report on:
  - compliance with provisions of the industrial instrument
  - meeting or exceeding Workplace Relations Management Plan commitments
  - industrial relations matters potentially impacting the project
  - Skills Development Plan
  - project workforce including diversity
  - industrial relations – right of entry
  - commitment to culture and community
  - rostered days off.
- A dedicated TMR team will undertake the monitoring and assurance tasks, working with the relevant projects. Implementation is well progressed with application and reporting commencing on the following projects:
  - Exit 49, M1 South Coast
  - Centenary Bridge Upgrade.

AWU participation and consultation

- In 2020, TMR officers and KPMG worked collaboratively with a number of trade unions, including AWU, on the original Transport BPIC document.
- AWU raised concerns regarding the scope and the awards listed in the document as well as a number of definitions, including that of “union delegate” and “representative”.
- The project team made amendments to address this feedback in the new version of the BPIC.
- TMR and KPMG continued communications and consultation with AWU regarding the BPIC for TMR. Regarding the updated BPIC, AWU, while invited to participate in the discussions on, did not attend. TMR provided materials to all unions regardless of attendance at the consultation meetings.

AWU involvement in BPIC project agreements

- AWU is a signatory on the greenfield agreements with the following projects:
  - Coomera Connector – Stage 1 North:
    - AWU signatory with Acciona/Georgiou Joint Venture

- Centenary Bridge Upgrade Project:
  - AWU signatory with BMD Construtions/Georgiou Joint Venture
- Cooroy 2 Curra Section D Contract 2:
  - AWU signatory with CPB.

Gold Coast Light Rail 3 (GCLR3)

- TMR developed a project specific GCLR3 BPIC in April 2020 and invited the following unions to participate:
  - AWU
  - Australian Manufacturing Workers Union
  - Construction Forestry Mining Energy Union (CFMEU)
  - Electrical Trades Union
  - Plumbing and Pipe Trades Union.
- Engagement with the unions was not equally represented as AWU elected not to participate. Despite attempts to engage with AWU, they confirmed their position to engage only with the proponent/contractor. AWU also advised TMR that they would not 'sign-up' with the other unions (specifically CFMEU) and that their position regarding the contents of BPIC for GCLR3 was the CPB Cross River Rail Civil and Surface Works Greenfields Agreement 2019-23. TMR understands this position now reflects the Brisbane Metro Greenfield Agreement.
- Acceptance on the GCLR3 BPIC was reached with all unions, excluding AWU based on their position above.
- In June 2021, the GCLR3 BPIC was introduced into the active procurement process and provided to the preferred Design & Construct contractor, John Holland.
- Despite the various challenges John Holland navigated to settle on an appropriate industrial agreement for the project. The Fair Work Commission (FWC) approved the 'John Holland Queensland Pty Ltd Gold Coast Light Rail Stage 3 Project Agreement' (the Brownfield Agreement) on 21 October 2022.
- The Brownfield Agreement is a single enterprise agreement covering both the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, and the Construction, Forestry, Maritime, Mining and Energy Union, who form part of the Building Trades Group of Unions (BTG).
- The Brownfield Agreement did not cover AWU, however, AWU has indicated they would not oppose or appeal the FWC approved Brownfield Agreement.
- The Brownfield Agreement was consistent with the Greenfields Agreement and the intent and outcomes of the GCLR3 BPIC.
- Previously, John Holland had reached agreement with the BTG on a single multi union Greenfields Agreement in relation to GCLR3 for their directly employed workforce. This agreement was lodged with the FWC for certification and appealed by AWU.
- The FWC upheld AWU's appeal and on that basis did not certify the Greenfields Agreement for the project. Overall, the FWC was not satisfied that the relevant employee organisations covered by the agreement were (taken as a group) entitled to represent the industrial interests of a majority of the employees who would be covered by it.
- All parties reached agreement to allow the Brownfields Agreement to progress unopposed.

From: Leah Rogash [redacted]
Sent: Mon 27/03/2023 4:31:09 AM (UTC)
To: Deanne M Hawkswood [redacted]
Subject: FW: Minister/ ELT meeting - can you shoot me some dotters about any issues you wish to raise/focus on?
Attachment: Minister ELT Meeting April 2023 DDG Talking Notes.docx

Hi Dee
Here's what I've put for BPIC Notes. Julie suggested I just copy the info you had already provided. Let me know if you would like any changes made.
Thanks
Leah

Leah Rogash
Manager (Office of the Deputy Director-General)
Infrastructure Management and Delivery
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Leah Rogash
Sent: Monday, 27 March 2023 2:22 PM
To: Julie Mitchell [redacted]
Cc: Adriana M Chilnicean <[redacted]
Subject: RE: Minister/ ELT meeting - can you shoot me some dotters about any issues you wish to raise/focus on?

Hi Julie
Please see updated Minister/ELT Notes.
Adriana for papers please.
Thanks
Leah

Leah Rogash
Manager (Office of the Deputy Director-General)
Infrastructure Management and Delivery
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

Minister/ELT Meeting – DDG IMD Notes

Project Sheppard Update

Closer to the time TQ still won't take guidance nor clarify risk position, nor provide a detailed program that show its deliverable before the Olympics, 24/5 is the date for their submission, have been warned risk a submission may be unable to recommend

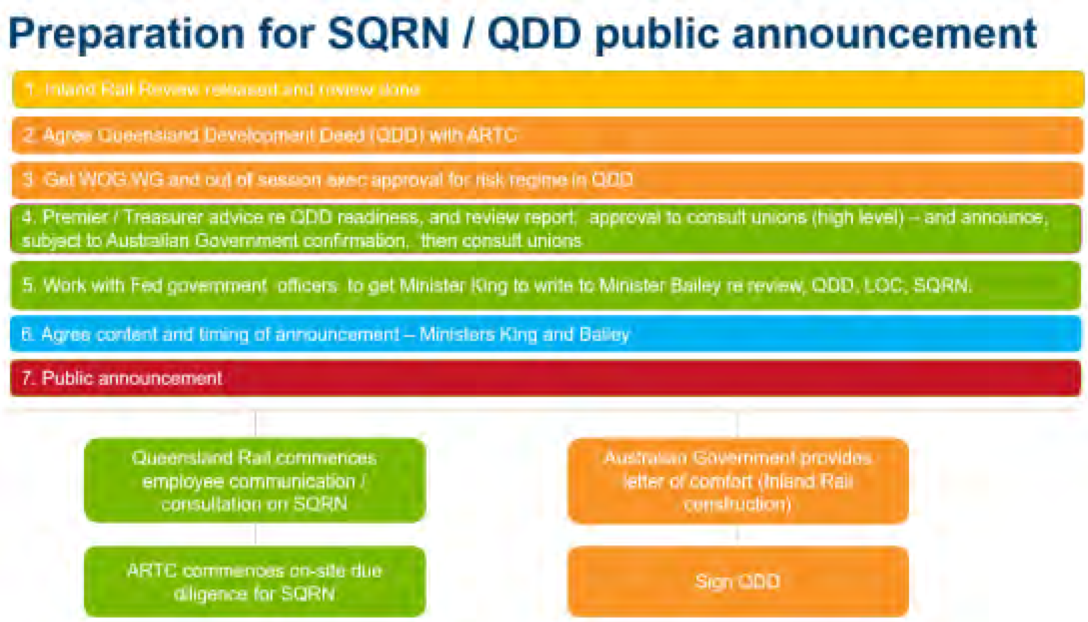
DG has written to Kevin Devlin, Director-General, Major Transport Infrastructure Authority from Victoria to meet with them to understand their lessons learnt with respect to the Westgate Tunnel Project and their dealings with Transurban to identify the value, potential state risks with their recent experience on this project.

Inland Rail Update

Offer Level agreement reached on the QDD 21/3. ARTC took the document to the board on 23/3 but no resolution was handed down and it will now be further considered at the May board meeting. Team will now begin the process of getting the WOG WG and out of session executive approval for the agreed risk regime in the QDD.

There will be a workshop set up going forward to inform on key items and how they operate in the QDD.

We are hoping to have the Inland Rail Review findings handed down by the Commonwealth by May.



Market Sounding

IMD is undertaking market sounding to consider Capacity and Capability, Risk allocation and commercial structuring, Pipelines and any other issues as raised by Industry.

As you know over the next 10 years, as well the existing approved projects in the 4-year QTRIP there are expected to be demands for transport projects to address forecast SEQ growth (especially rail investment), and the Olympics.

TMR projects will likely primarily fill gaps in Motorway networks north and south of Brisbane and rail, to capitalise on Cross River Rail completion. Regional investment will continue noting there are still four years remaining in the current 10-year Bruce Highway Upgrade Program (2013-14 to 2027-18) coupled the Future-proofing the Bruce policy, which targets a joint-funded $1 billion per annum spend on the Bruce Highway over a 15-year period.

If course we know there are a number of other demands on contractors, consultants the supply chain, and talent, including:

- energy and dam projects in Central Queensland and other states
- demands to deliver projects in southern states,
- inland rail in Queensland
- Brisbane Metro,
- demands for Olympic venues and accommodation that must be delivered prior to 2032 and
- the hospital program.

BPIC Update

Moving to prequal, Projects with agreement with AWU targeted by CFMEU, projects with agreements with CFMEU advised a hard time attracting subcontractors in some cases due to desire not to deal w CFMEU, union scaring off non-union companies.

John Holland Reimbursable Cost Claim for BPIC costs.

BPP007 - Depot Subcontract.pdf

TRANSPORT BPIC

- Originally approved October 2020 and addressed projects $100m - $300m
- Updated Transport BPIC (Decision 1546) was approved on 3 March 2023 addressing projects $100m - $700m and provided an update covering:

- Following approval in October 2020 TMR has introduced the BPIC on 12 projects valued at $6.92B.
  - The current Qld Transport and Roads Investment Program 2021/22 - 2024/25 has seven projects $100m-$300m and twelve projects over $300m.
  - The updated BPIC includes a major projects provision with increased base wage rates and employee entitlements, which were developed for the Coomera Connector - Stage 1 program.
  - Projects over $700m will be negotiated and approved on a project-by-project basis.
- To streamline process and ensure conditions remain consistent with the legislation and represent leading practice for the transport civil construction sector, it was approved that the Minister for Transport and Main Roads can make amendments to the Transport BPIC as required, with approval from the Premier and Treasurer.
- Overview of the changes below ($300-$700m):
  -

	Transport BPIC ($100 m- $300 m)	Over $300 m	
Wage Rate (CW5)	$40.17/hr	$45.28/hr	
Income Protection	-	$40.30/wk	
Redundancy	$81.00/wk	$120.00/wk	
Fares and Travel	$36.05	$40.00	
Site Allowance	-	**Project value**	**Allowance**
		$300 m to $400 m	$5.00/hr
		$400 m to $500 m	$5.50/hr
		$500 m to $600 m	$6.00/hr
		$600 m to $700 m	$7.00/hr
Training	$10/wk	$15/wk	
Overtime	1.5 times first 2 hours 2.0 times thereafter	2.0 times	

PREQUALIFICATION

- It was also approved a Queensland supplement to the National Prequalification System (Civil and Bridge Construction) be implemented by TMR to establish the BPP and the approved Transport BPIC, as a prequalification requirement for contractors. This will ensure project over $100m or those declared align to prequalification conditions as requirement by DEPW for building construction, to the extent possible, and provide a consistent approach for the construction industry.
- It is expected the implementation of the changes to the National Prequalification System will impact approximately 50% of the suppliers currently prequalified. Full commencement will be completed by 1 August 2023.
- For those major projects planned to commence procurement prior to 1 August, TMR will apple the requirements as part of the procurement process.

ASSURANCE

- TMR has established a dedicated team to work with the relevant major projects monitoring, reporting and assessing commitments made during procurement and contracting for major projects are being met.

- Once fully recruited, there will be 11 staff in the team.
- There are five key result areas included in major project tenders that reflect government outcomes and TMR priorities, which include a number of compliance and information measures.
- The KRAs are:
  - KRA 1 – Quality Jobs: Progressing best practice industrial relations, inclusive and diverse workforces and opportunities to invest and build the sector's capability particularly through a strong commitment to trainees and apprentices.
  - KRA 2 – Safe Workplaces: Prioritising best practice workplace health and safety systems and standards and a culture of safety for all.
  - KRA 3 – Local Supply Chains and Manufacturing: Actively supporting quality local Queensland suppliers and industries on Queensland Government projects.
  - KRA 4 – Sustainability: Advancing infrastructure sustainability outcomes that enable social, environmental and economic benefits.
  - KRA 5 – Project Delivery Optimisation: Apply innovative technologies, techniques and industry initiatives to drive better project delivery success, productivity and optimisation.
- To monitor compliance against these KRAs a number of measures are reported and monitored. The following are measures for KRA 1 - Quality Jobs:
  - compliance with provisions of the industrial instrument
  - meeting or exceeding Workplace Relations Management Plan commitments
  - industrial relations matters potentially impacting project
  - Skills Development Plan
  - project workforce including diversity
  - industrial relations – right of entry
  - commitment to culture and community
  - rostered days off.

Sustainability in Infrastructure Provision

- issue of increasing pressure on adopting changes to materials and so on without necessarily the research and impacts for example, increasing limestone in cement
- trade-off between short term carbon reduction and whole of life carbon if performance is not equivalent
- recycling challenges
- need for continued commitment to targeted research as well as approach to industry change (incentivise/disincentivise/ultimatum and so on)

Sustainable OSOM Access

- Building on reform work in 2022 with crane industry

- OSOM Industry to provide greater transparency of loads and configurations and so on (telematics/OBM) for less permits and more mapped based access
- Increased surveillance leads to either NHVR taking direct action and/or us creating camera offences

Statewide Network Operations Update

- TMR has established a new branch, Statewide Network Operations, which will focus on integrated road network operations across the State.
- The new branch will provide TMR with greater agility to better manage increasing, and increasingly complex pressures across Queensland's Road network, and drive improved outcomes for road users.
- The vision of branch is to consistently operate and optimise the road network to unlock network capacity and maximise safe and reliable customer mobility
- Consolidating TMR's road operations functions from the current model into one accountable areas will also:
  - deliver greater consistency of processes and procedures
  - maximise knowledge and skills development
  - enable more agile and effective workforce planning at a statewide level.

Women In Construction

RoadTek launched the WiC program in 2015, achievements to date:-

- 79x women trained in construction
- 98% success rate for those completing the 3 weeks of theory (linked to accredited training in Civil Construction)
- 70% retained by RoadTek for an ongoing period after the initial 3 weeks theory program
- 90% retention rate in Civil Construction Industry
- 20x women in 2023 cohort
- 2022 Winner of the National Associate of Women In Construction (NAWIC) - for advancing the interests of women in Civil Construction (Protech / RoadTek Partnership
- 2023 Nominee for the NAWIC National Business Award – Women In Constriction Program (Protech / RoadTek Partnership)

Electrifying RoadTek's Fleet

- QFleet vehicles – 19 hybrids and 2 electric vehicles.
- Electric Charging Station installed at Sunshine Coast Depot
- 8 Electric Forklifts/Front End Loaders (with 2 more on order)

- 102 Solar Powered VMS trailers
- 2023/24 will also see Electric Remote Control Mowers as part of the RoadTek ‘electric’ fleet.

MINISTERIAL BRIEFING NOTE

Subject:	Renewable Energy Best Practice Industry Conditions (BPICs)– Update on revised cost modelling
Decision/Action by:	N/A
Reasons for Urgency:	N/A
Briefing type:	Requested briefing note for noting
Responsible Area:	Procurement
Contact Officer:	Sharon Bailey – [redacted]

PURPOSE

- To provide updated advice regarding the cost uplift associated with the draft Renewable Energy BPICs.

AUTHORITY

- Not applicable.

RECOMMENDATION

It is recommended that the Minister:

1. Note the contents of this brief, including the cost uplift identified by the KPMG modelling, associated with basing the Renewable Energy BPICs on the draft Queensland Major Hospitals Agreement.

Noted	Approved	Not approved

	Yes	No
Media Release Required		

☐ **Routine** **(Straight to MO)** ☐ **Copy to DG** **(Routine items)** ☒ **Non-routine** **(DG to endorse)**

ENDORSEMENT	**ENDORSEMENT**	**MINISTERIAL APPROVAL**
Sharon Bailey **Deputy Director-General** **Procurement** Date: / /	Irene Violet **A/Director-General** Date: / /	Mick de Brenni MP **Minister for Energy, Renewables and Hydrogen** **Minister for Public Works and Procurement** Date: / /

DEPARTMENTAL COMMENTS	**MINISTERIAL COMMENTS**

KEY ISSUES

- In February 2023, the Building Trades Group unions (BTG) requested that the Renewable Energy BPICs be based on the Queensland Major Hospitals Agreement – a construction industry instrument, currently under development.
- Prior to that point, a set of Renewable Energy BPICs had been developed but was more closely aligned with a civil industry agreement.
- To understand the impact of this change, KPMG was engaged to undertake modelling and an initial draft has now been received. While this document is still under review for quality assurance, it is likely the substantive contents will be confirmed as provided. A copy of this draft is provided (refer to **Attachment 1)**.
- As part of this exercise, the BTG was asked to provide examples of current and relevant agreements and provided the *CEPU Electrical Division Queensland Enterprise Agreement 2019 – 2023*. This agreement has been integrated into the revised modelling
- The findings of the modelling will now form the basis of the negotiation process between relevant government owned corporations (GOCs) and unions to arrive at a set of Renewable Energy BPICs.
- The modelling has identified the cost uplift resulting from the Renewable Energy BPICs is significant, with impacts on the overall estimated project budget ranging between 4.7 and 12.5 per cent (for projects valued at up to $300 million), and between 8.99 and 10.44 per cent (for projects valued at over $300 million).
- These cost uplifts will have flow on impacts for the Queensland Energy and Jobs Plan.
- A Ministerial Briefing Note MN01469-2023 (refer to **Attachment 2**) providing an update on stakeholder negotiations regarding BPICs for renewable energy projects, was previously provided in February 2023.

FINANCIAL CONSIDERATIONS

- As noted above, the modelling undertaken has identified the cost uplift resulting from the Renewable Energy BPICs is significant.

GOVERNMENT AND ELECTION COMMITMENTS

- The issue is not the subject of an election or government commitment.

FUTURE STEPS

- As noted above, the modelling will now form the basis of the negotiations process between relevant GOCs and unions to arrive at a set of Renewable Energy BPICs.

CONSULTATION

- Consultation with relevant GOCs, unions and other parties remains ongoing as part of the Renewable Energy BPICs process.
- This briefing note was consulted with Ms Tara Gardiner, Executive Director, Supply and Storage, Energy Division, Department of Energy and Public Works.

COMMUNICATIONS/MEDIA OPPORTUNITIES

- Not applicable.

HUMAN RIGHTS CONSIDERATIONS

- There are no implications for human rights under the *Human Rights Act 2019*.

ATTACHMENT/S

- **Attachment 2** – Draft Revised Renewable Energy Project Weekly Cost and Project Uplift Analysis
- **Attachments 2A to 2D** – MN01469-2023 (including attachments).

From:	andrew.chapman[redacted]
Sent:	Fri 31/03/2023 12:41:29 AM (UTC)
To:	Deanne M Hawkswood[[redacted]Damien Long[redacted]
Cc:	Paul A Schmidt[[redacted]
Subject:	RE: Meeting to share feedback on BPIC lessons learnt/discuss planned changes to prequalification

Thanks Deanne- I think we both know the feedback already too from the contractors as they raise it weekly with us, but very happy for you to hear it unfiltered

Regards

QMCA QUEENSLAND MAJOR CONTRACTORS ASSOCIATION

Andrew Chapman
CEO

[redacted]

www.qmca.com.au

From: Kathie A Stephens <[redacted]**On Behalf Of** Deanne M Hawkswood
Sent: Friday, March 31, 2023 8:55 AM
To: Damien Long [redacted] andrew.chapman[redacted]
Cc: Paul A Schmidt [redacted]
Subject: Meeting to share feedback on BPIC lessons learnt/discuss planned changes to prequalification

Good morning Damien and Andrew

As implementation of the Transport BPIC continues to progress on all major projects, TMR is engaging with industry to discuss lessons learnt so far.

The first meeting is being held on Monday with senior representatives from some contractors who have tendered on a project where BPIC has applied. The intent of the meeting is for all parties to share their experiences and learnings from implementation, particularly the inclusion of the Transport BPIC in the tender process, as well as take the opportunity to touch on the proposed changes to prequalification to include the Best Practice Principles and the Transport BPIC.

Following this, we would like to meet with you both as industry representatives to share the feedback from the contractors session and provide more detail about the planned changes to prequalification. I will be sending you a meeting invite for 11am to 12pm on Friday, 14 April. If you have any questions about the meeting please let me know, otherwise I look forward to seeing you on the 14th.

Regards
Dee

Deanne Hawkswood
Chief Procurement Officer | Chief Procurement Office
Finance & Procurement Branch | Corporate Division
Department of Transport and Main Roads

[redacted]
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CFMEU

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qntqueries@cfmeu.org

4 April 2023

Mr J Krause
Chair
Parliamentary Crime and Corruption Committee
Parliament House
BRISBANE QLD 4000

By Email: [redacted]

Dear Mr Krause MP,

Re: Breach of BPIC policy by the Department of Transport and Main Roads

I write to complain about the Crime and Corruption Commission (CCC)'s flippant and inept handling of my 22 August 2022 complaint.

For your reference, I enclose the following documents:

1. Letter to the CCC dated 22 August 2022;
2. Letter from the CCC dated 12 September 2022;
3. Letter to the CCC dated 6 March 2023;
4. Email from the CCC dated 15 March 2023; and
5. Letter of complaint to the CCC regarding their handling of my 22 August 2022 complaint.

Background

In my complaint I raised serious concerns about TMR's activities in relation the Centenary Bridge Duplication Project and the Coomera Connector Project. These projects are valued at $300 million dollars and $1.5 billion dollars respectively.

My complaint was that non-BPIC compliant tenders were sought, and preferred tenderer status had been given to joint ventures which were not BPIC compliant. My view, and the view of any reasonable person having regard to the circumstances, was that those facts gave rise to an inference of improper conduct by decision-makers. For what proper reason could this decision have been made?

On 12 September 2022 a response was provided by the CCC to the complaint. In that response the CCC stated that:

1. The complaint did not involve corrupt conduct;
2. The concerns raised were anonymous;
3. There is no basis to raise an allegation of corrupt conduct;
4. The Commission would be taking no action in relation to the complaint.

I set out my dissatisfaction with that response, with reasons which addressed the reasons that the CCC had provided for deciding not to investigate the complaint, in a letter of 6 March 2023.

The CCC would only deign to reply to that 6 March 2023 letter by email of 15 March 2023. That email, which was facile in the way it refused to engage at all with the detail set out in my letter, stated *'Nothing you have raised in your recent correspondence causes the CCC to alter its initial assessment,'*.

On 23 March 2023 I wrote to the CCC complaining of the above. To date, I have not received a reply.

The inference of improper conduct arising out of TMR's conduct of the tender process in relation to the Centenary Bridge Duplication and Coomera Connector projects is obviously within the power of the CCC to investigate. For the CCC to not do so is an abdication of their responsibility.

I look forward to hearing from you regarding your investigation into the conduct of the CCC.

Yours faithfully

[redacted]

Michael Ravbar
STATE SECRETARY

LMT:4221546:7960309

Department of Transport and Main Roads
Noting Brief
MBN26021

To: Minister for Transport and Main Roads

SUBJECT: Advise status of Transport Best Practice Industry Conditions contractor claims on Gold Coast Light Rail Stage 3	**URGENT:** As requested by your office

Summary

- Ms Julie Mitchell, Deputy Director-General (Infrastructure Management and Delivery) met with members of your office on 2 May 2023 to brief on the status of Transport Best Practice Industry Conditions contractor claims and possible representations to the Minister from unions related to Gold Coast Light Rail Stage 3.
- This brief is provided as a follow-up briefing.
- Following the approval of the Transport Best Practice Industry Conditions (BPIC) in October 2020, the BPIC policy was retrospectively applied on Gold Coast Light Rail Stage 3 (GCLR3), through the negotiated project-specific GCLR3 BPIC.
- In response, the Fair Work Commission approved the 'John Holland Queensland Pty Ltd Gold Coast Light Rail Stage 3 Project Agreement' (the Brownfield Agreement) on 21 October 2022.
- To manage the cost uncertainty of applying the BPIC, a Best Practice Principles (BPP) governance committee was established to consider claims for reimbursement from Operator Franchisee 3 (OF3/GoldlinQ 3 – the company established by GoldlinQ) on behalf of the D&C Contractor, John Holland, to ensure they are able to meet their contracted commitments in the Stage 3 Works Deed (the Deed) without loss.
- The unions, who have been supporting the implementation of the BPP and BPIC policy into Queensland Government, are currently openly critical of the Department of Transport and Main Roads' (TMR) performance with implementing the BPIC on its transport projects.
- At a recent meeting between OF3, TMR and John Holland, regarding a claim for additional BPIC costs associated with the construction of a Depot, TMR challenged the request seeking further evidence and asked the parties to ensure they followed the contracted requirements in the Deed and any relevant policies.
- It was noted in the meeting that this advice may give rise to further criticism and action by the unions.

Background

BPIC application to GCLR3

- In accordance with the Queensland Procurement Policy 2021, Stage 3 of the Gold Coast Light Rail is subject to the 'Best practice principles: Quality, safe workplaces, State of Queensland (Department of Energy and Public Works) 2021' .

Action Officer:	**Endorsed by: DDG**	**Endorsed by: DG**
Deanne Hawkswood	Julie Mitchell	Neil Scales
Chief Procurement Officer	Deputy Director-General	Director-General
	Infrastructure Management and Delivery	
[redacted]	[redacted]	[redacted]
Date: 3 May 2023	Date: 3 May 2023	Date:

- Pursuant to the BPP, the 'Best Practice Industry Conditions for the Department of Transport and Main Roads – Gold Coast Light Rail Stage 3 Project' (GCLR3 BPIC) will be implemented in respect of Stage 3.
- On 21 October 2022, the Fair Work Commission (FWC) approved the the Brownfield Agreement.
- The Brownfield Agreement is a single enterprise agreement covering both the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU) and the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU), who form part of the Building Trades Group of Unions (BTG).
- The Brownfield Agreement was approved following unsuccessful attempts to have the FWC approve a multi-union greenfield agreement with the BTG, which was opposed and appealed by the Australian Workers Union (AWU).
- The Brownfield Agreement is consistent with the wages, conditions, intent and outcomes of the GCLR3 BPIC.
- The State has adopted a collaborative contracting framework within the Public Private Partnership (PPP) to administer the BPIC on GCLR3. This includes a Reimbursable Cost Schedule/Model and a set of overall BPIC Guiding Principles which are included in **Attachment 1**.
- The total capital cost for BPIC impacts allows for up to $150 million and a residual State held risk contingency of up to $34 million. The target cost can be adjusted for a series of pre-agreed risks by the BPP Committee.
- Any demonstrated cost which is approved, within the target cost or above, related to the implementation of BPIC, will be directly funded by the State outside of the PPP financed costs.
- In February 2022 the State granted extension of the Early Works Letter of Intent by one month until 28 March 2022 for the primary purpose of finalising GCLR3 BPIC negotiations.
- Schedule 21 and its supplementary documents was negotiated and agreed, as it is a supporting Schedule to the Deed. Included with the Schedule is a Reimbursable Cost Model which outlines all labour rates and subcontractor packages affected by BPIC and provides an agreed cost with some residual and related risks. At this stage, an Original Estimate was agreed at $141,213,876 with an Original Target of $150,000,000 for BPIC impacts on GCLR3. This provides the available budget to manage BPIC related costs incurred.
- All parties went into financial close in March 2022 agreeing to the program and all BPIC related commitments.

The BPP Committee

- The BPP Committee meets quarterly and consists of a representative from TMR, (currently Ms Julie Mitchell, Deputy Director-General, Infrastructure Management and Delivery), OF3, John Holland and such other persons as the parties agree on.
- The purpose of the BPP Committee is to discuss all BPP, BPIC, GCLR3 BPIC, and D&C BPIC Commitments and related issues in connection with Stage 3 Activities, and where required, endeavour to resolve any matters and make any determinations referred to the BPP Committee.
- The first meeting was held in June 2022 and at each meeting TMR has reinforced that BPIC for subcontractors is not mandatory and is a best endeavours obligation, TMR also noted that market forces and pressure on the supply chain is also driving increases in subcontractor pricing.
- On 6 March 2023, prior to the BPP Committee meeting on 8 March 2023, John Holland provided a Determination Paper to the BPP Committee regarding the Depot Subcontract.

BPIC relating to subcontractors on GCLR3

- The treatment and application of the BPIC for subcontractors is clearly outlined in a number of documents, such as the relevant policy and the Stage 3 Works Deed.
- The BPP policy document states that contractors are required to address how they will use their best endeavours to engage subcontractors who will commit to providing terms and conditions of employment for their employees, who will perform work on the project which will be at least equivalent to BPIC (the policy can be found online at www.forgov.qld.gov.au/__data/assets/pdf_file/0010/212410/best-practice-principles-quality-safe-workplaces.pdf).
- In relation to the Stage 3 Works Deed, John Holland insisted the non-mandatory nature of these arrangements be reiterated in the agreement, in line with the Queensland Government's BPP Guidance. For example, these words (drafted by John Holland) are included in Schedule 21:
  - "The D&C Contractor will not, and will make clear to tenderers for subcontract packages that it will not penalise the Subcontractor in the tender assessment if the Subcontractor elects to adopt, or not adopt, any particular Subcontracted Commitments in respect of the GCLR3 BPICs (including but not limited to not being penalised in respect of any enterprise agreement on particular terms that the Subcontractor elects to adopt, or not adopt, or particular terms and conditions that may otherwise be set out in an enterprise agreement) in giving effect to or not giving effect to the BPICs or the GCLR3 BPICs."
- Furthermore, the John Holland GCLR3 Procurement Plan states the following under section 1.3 BPICs:
  - "The GCLR3 BPICs is a guidance document that will be included in the project specific tender documents however it is not a mandatory requirement of a subcontract. It will be a matter for a tenderer for a subcontract package as to whether it will make any commitments in respect of BPICs or the GCLR3 BPICs, however any commitment made must be specified in the Subcontract Agreement."

Industrial environment – trade union coverage

- Compared to other jurisdictions there is a long-standing demarcation issue between the unions representing the civil industry in Queensland (AWU and CFMEU) which has added complexity for contractors trying to implement and apply the BPIC on projects.
- Coverage for building or vertical infrastructure is less complex with the BTG representing the industry. The vertical industry also has more experience and industrial maturity in comparison.
- The demarcation issues, along with the Australian Government's abolition of the statutory watchdog, has led to increased adverse union activity on TMR project sites.
- John Holland noted their concern about the possible industrial consequences of not acquiescing to the expectations of certain unions. This complex industrial scenario was also navigated by the Centenary Bridge Upgrade and Coomera Connector Stage 1 – North projects. A contractor on both projects has seen disruption due to sustained unions' inspections of sites, a situation John Holland is keen to avoid on GCLR3.

Industrial environment – impact on GCLR3

- John Holland has been advancing the project and has submitted claims for the extra costs associated with extra pay in workers pockets and the working conditions associated with BPIC.
- John Holland recently submitted a claim to the BPP Committee associated with the construction of the depot.
- This additional estimated cost (being more than double the original value) was caused by a narrow pool of subcontractors willing to perform the works on a BPIC basis. and pricing the works inconsistent with current market conditions.

- In addition to the increased adverse union activity on the project, John Holland noted numerous examples of pressure on subcontractors:
  - to adopt GCLR3 BPIC conditions across their entire business (and not just GCLR3) on an immediate basis
  - to comply, on a mandatory basis, with the GCLR3 BPIC (failing which they were told that they would not be permitted by the union to work on the Project), which has led to subcontractors advising the D&C Contractor they:
    (a) did not wish to tender for the works
    (b) wished to withdraw after tendering for packages of work.

Issues and Suggested Approach

- TMR enquired of John Holland as to why it appeared they were applying the GCLR3 BPIC as though it was mandatory, they responded that:
  - certain unions advised that this was a BPIC project and so made their expectations clear as a condition of industrial harmony
  - certain unions had raised the expectation that BPIC to be applied to all workers on the site.
- John Holland has primary responsibility for industrial matters on the project and is an experienced major construction contractor with the maturity and capability to manage the relationship and expectations of the unions on their projects.
- It is common that contractors encounter unexpected project costs and seek to claim these from the principal, using provisions within the contract. In this case, BPIC may be being blamed for matters that are ultimately irrelevant.
- The claim therefore is still to be resolved and while the quantum or the claim may be overstated, the sentiments about unintended BPIC impacts (or transitional impacts) expressed by John Holland have been corroborated in part by other contractors. These impacts include:
  - small and medium subcontractors seeing BPIC as too administratively difficult
  - not wishing to engage with a project where they may become a target for certain union attention
  - how BPIC rates can be applied for only a small part of their business.
- TMR will ensure John Holland are fairly reimbursed for additional BPIC related costs, as such has sought further clarity on the factors driving the cost (such as BPIC, market and/or external influences impacting supply constraints).
- TMR will apply the mechanisms it has available to manage the determined additional cost, however, is approaching this with caution to avoid creating a precedent that may have wider implications for the project.
- John Holland expressed dissatisfaction with TMR’s position and made TMR aware of the possible industrial consequences of not acquiescing to the expectations of certain unions. In particular, they are concerned about the disruptive effects (on planning and proactive safety resources) of sustained unions inspections of sites.

Financial Implications

- No additional financial impacts to those already being dealt with.

Consideration of the *Human Rights Act 2019* (HR Act)

- The HR Act was considered when making the recommendations outlined in this brief, and there are no impacts to human rights.

Consultation with Stakeholders

- There was no consultation undertaken.

Employment

- GCLR3 will deliver local employment and economic stimulus when construction starts later this year with 760 jobs to be supported, which is a key part of Queensland's regional economic recovery plan for the Gold Coast.

Media

- There are no media impacts associated with this matter.

Election Commitments

- This matter does not relate to an election commitment.

Government Objectives

- This matter does not relate to a government objective.

Minister's comments	
	Noted / Not Noted
	Minister's signature……………………………
	Date ………/………../……....

Attachment 1 – BPIC Guiding Principles

Guiding principles

Without limiting any other requirement in this deed, the parties agree that the guiding principles of this Part B of this schedule 21 are:

a) the maximum that OF3 will be required to pay to D&C Contractor, and the State will be required to pay to OF3 for all impacts related to the BPICs in the Stage 3 Activities is the Original BPIC Target, plus any amounts determined by the BPP Committee to be payable in accordance with this **schedule 21**;

b) a primary focus on satisfying Project objectives and delivering desired outcomes;

c) ensuring all transactions relating to BPICs, the GCLR3 BPICs, the D&C BPICs Commitments and this schedule 21 are conducted on a transparent basis in accordance with this schedule 21 and ensuring that there are no costs for risks assumed in the Contract Price (as defined in the D&C Contract) as at Stage 3 Financial Close;

d) providing a transparent project governance framework for the BPICs, the GCLR3 BPICs, the D&C BPICs Commitments and this schedule 21;

e) ensuring the obligations under this deed relating to the BPICs, the GCLR3 BPICs, the D&C BPICs Commitments and this schedule 21 are properly performed and delivered;

f) ensuring that any consideration of the BPICs, the GCLR3 BPICs, the D&C BPICs Commitments and this schedule 21 for the Project is transparent;

g) ensuring reporting to the BPP Committee is timely, accurate and comprehensive;

h) open, straight and honest communication between all members of the BPP Committee;

i) the governance and implementation of this schedule 21 by the BPP Committee will be proactive, innovative and collaborative;

j) having responsibility for performance of its obligation to provide a successful outcome in accordance with this schedule 21;

k) in calculating any amount under this schedule 21 there will be no double counting;

l) OF3 and D&C Contractor will be fairly and reasonably compensated (and to be granted a fair and reasonable extension of time) in accordance with this schedule 21 for the impacts to OF3 and D&C Contractor of the BPICs and the GCLR3 BPICs (including the D&C BPICs Commitments) on the Stage 3 Activities; and

m) D&C Contractor acknowledges that the Impact Assessment indicates the overall potential time and cost impacts of the BPICs and the GCLR3 BPICs for the Stage 3 Activities as at the date of the Impact Assessment.

SENSITIVE

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ABN 32 164 714 360

Crime and Corruption Commission
QUEENSLAND

Our Reference: CO-22-2272 / 23/067641
Contact Officer: E Foulger

3 May 2023

FAO Mr Michael Ravbar
State Secretary
CFMEU

C/- Ms Jacqui Collie
Governance, Political and Executive Officer

By email: [redacted]

Dear Mr Ravbar

RE: Your complaint against DTMR – request for review of decision

Thank you for your letters dated 6 and 23 March 2023, both of which, due to an administrative oversight, were only recently brought to my attention.

I have accepted your letter of 6 March 2023 as comprising a request for the Crime and Corruption Commission (CCC) to undertake what is called a complaint service review. In simple terms, this is a request to review our initial assessment that your complaint, made on 22 August 2022, did not fall within the jurisdiction of the CCC.

Under the CCC's policy, the CCC will generally only undertake a review of an assessment decision when the request for review is received within eight weeks of the complainant being notified of the outcome of the assessment. While your request for review was received well outside of that timeframe, noting the concerns you have raised I have determined to action your request on this occasion.

At your request, the CCC will now review all the material that you gave us and review the decision that we made about your complaint.

A more senior CCC officer, who was not involved with the original decision, will conduct the review.

We will let you know the outcome of this review within eight weeks.

Your letter of 23 March 2023 is addressed to the Executive Director, Corporate Services, and raises concerns about our email to you dated 15 March 2023, where we indicated we would not re-assess your prior complaint.

SENSITIVE

I apologise for the email of 15 March 2023. The email was sent in error as the assessment officer dealing with the matter was inexperienced and did not identify that your letter of 6 March 2023 was in fact a request for a review. I have since spoke with the relevant officer and provided feedback and guidance. The issue was also addressed in a general staff meeting to ensure it does not occur again.

I have brought your correspondence of 23 March 2023 to the attention of the Executive Director Corporate Services and have discussed with him what occurred and how your concerns are being addressed. I indicated I would address these concerns in my letter to you dealing with your request for a review.

I trust this letter addresses your concerns, however if you consider your complaint of 23 March 2023 has not been adequately dealt with, please let me know.

Yours sincerely

[redacted]

Elizabeth Foulger
Executive Director, Integrity Services.

From:	THOMPSON, Brad[[redacted]
Sent:	Mon 15/05/2023 6:21:22 AM (UTC)
To:	Deanne M Hawkswood[[redacted]Malcolm G Tilgner[redacted]]
Subject:	CC-HR2SS: (C-i-C) Greenfields negotiations have commenced
Attachment:	Draft FHHMJV Coomera Connector Central Civil Works Greenfields Agreement 2023.pdf

Dee/Malcolm,

Just confirming that we have commenced negotiations for the Coomera Central Greenfields Agreement with AWU.

We had a productive meeting last week and expecting to meet again this week.

As promised, draft agreement attached for your information.

Obviously this information remains Commercial in Confidence whilst negotiations are underway.

Regards,

Brad.

Brad Thompson
BE(Civil) FIEAust CPEng RPEQ
Project Director
Fulton Hogan Hull McIlwain Joint Venture
[redacted]

Fulton Hogan +
hull +
MCILWAIN +
Working with DTMR and community to deliver a safer and greener
COOMERA CONNECTOR

This office is located on the land of the Turrbal people and the Coomera project on Yugambeh land.
We acknowledge the traditional Aboriginal custodians of Country throughout Australia and pay our respect to elders past, present and emerging and to the ongoing living culture of Aboriginal people

From:	Kathie A Stephens[[redacted]
Sent:	Wed 24/05/2023 7:35:54 AM (UTC)
To:	Deanne M Hawkswood[[redacted]
Subject:	FW: Cabinet-in-Confidence BPICs - Renewable Energy
Attachment:	Draft submission - Renewable Energy BPICs 1701.docx
Attachment:	Draft Renewable Energy IndustryConditions 30 Nov22.pdf
Attachment:	BPICs Appendices Nov 22.pdf

Kathie Stephens
Senior Advisor | Chief Procurement Office
Finance & Procurement Branch | Corporate Division
Department of Transport and Main Roads

P: 07 3066 1786 | M: 0424 151 721
[redacted]
kathie.a.stephens@tmr.qld.gov.au
www.tmr.qld.gov.au

From: Deanne M Hawkswood <[redacted]
Sent: Tuesday, 17 January 2023 11:12 AM
To: Kathie A Stephens [redacted]
Subject: FW: Cabinet-in-Confidence BPICs

Can you pls print

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Sharon Bailey [redacted]
Sent: Tuesday, 17 January 2023 11:00 AM
To: Deanne M Hawkswood <[redacted]
Subject: Cabinet-in-Confidence BPICs

Here we go

Look forward to talking soon
Sharon

From: Deanne M Hawkswood [redacted]
Sent: Tuesday, 17 January 2023 10:33 AM
To: Sharon Bailey [redacted]

Subject: Renewables submission

[illegible]

Morning Sharon

Hope the week is going well for you so far .. I know its only Tuesday!

I was just speaking with Scott G as he'd received a call from M Ravbar yesterday and shared that feedback. He has sent me through a copy of renewables BPIC, but would you mind sending me through a copy of your draft submission? I'm squeezing in time to get our updated, and making progress. I'll get a copy to you soon, but I'd like to go through yours to get alignment.

Thank you!
Dee

Deanne Hawkswood
General Manager | Strategic Procurement
Infrastructure Management & Delivery | Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Julie Mitchell[J[redacted]
Sent: Sun 25/06/2023 11:24:01 PM (UTC)
To: Deanne M Hawkswood[redacted]
Subject: RE: RRR - EBA Formation

Dee

do u thinks its worth explaining that with regard to best endeavours for that the expectation is that ongoing consultation will occur with relevant unions/ they will be advised of the packages that will be going to tender a few weeks before they go out. Unions will be asked to provide the details of any particular subbies they would like to be considered for the project beside other subbies. Unions should be given a few weeks for this.

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
MBA MEM GAICD
Deputy Director-General
Infrastructure Management & Delivery | Department of Transport and Main Roads
----
[redacted]
www.tmr.qld.gov.au
Transport and Main Roads offers flexible work arrangements for staff. I am sending this message now because it suits my working arrangements. I don't expect you to read, action or respond out of your normal work hours.

For more information on Queensland's Zero Emissions Vehicle Strategy, please visit https://www.qld.gov.au/zevstrategy

From: Deanne M Hawkswood [redacted]
Sent: Monday, 26 June 2023 8:17 AM
To: Peter T Trim <[redacted]
Cc: Julie Mitchell <Julie.Mitchell@tmr.qld.gov.au>; Adam J Williams
[redacted]
Subject: Re: RRR - EBA Formation

Hi Peter

Sorry for the delay.

Given the value of the packages (both less than $300m), the normal BPIC rates apply. I've attached the updated Transport BPIC which shows the split from sub $300m and over $300m.

In terms of process which they need to finalise and lodge their greenfield prior to commencing. For Centenary we asked for confirmation of lodgement with FWC prior to contract award. You can do something similar here or alternatively it is a condition of contract to meet their tender commitments (develop a project specific greenfield agreement prior to employing their direct workforce for the project).

The making of the agreement is between the contractors (employers) and the union parties (representing the workforce on the project). When making the agreement they will be required to demonstrate that the terms and conditions of their own employees who will work on the project are at least equivalent to the Transport BPIC (this is required under their contract as per the tender conditions).

During that process the contractors are required to do effective consultation which is ongoing and continuous for the life of the project/agreement. Different employees will be represented for example by different unions, it is important that all employees unions are consulted with during the project.

The term best endeavours is one that makes eyes roll (particularly unions), however what it means in this context is … taking all steps necessary to reach agreement with potential subcontractors about implementing BPICs including … attending and participating in meetings with relevant parties (this is outlined in the Policy).

Hope that helps, but looks like they are on the right path.

Dee

Get [Outlook for iOS]

From: Adam Edwards [redacted]
Sent: Friday, June 23, 2023 5:29:30 PM
To: Peter T Trim [redacted]
Cc: Deanne M Hawkswood <[redacted] david.balmer[redacted]
<[redacted] Rob.Pickard@[redacted] IDE, David
[redacted]
Subject: RRR - EBA Formation

Hi Peter,

Phone message refers.

Collectively the JV's have commenced preparation for EBA formation for the RRR project. We will need EBA's in place prior to commencement of site works to preserve the 'greenfields' nature of the agreement and so time is becoming quite tight.

If TMR's position in relation to a RRR BPIC is still unclear then then we suggest that we proceed on the basis that a Project Specific BPIC/BPIC + will not be required for at least the initial packages of RRR. We would then proceed as if the $100-300M BPIC applied and prepare accordingly.

Whilst we haven't got a PLT Steering Group meeting for a month or so we probably need a meeting quite soon to ensure we are aligned on expectations and approach before we commence any external engagement around prospective EBA's. Could you please confirm some potential timeslots and attendees your end and we can get something diarised.

Cheers
Adam

Adam Edwards
Managing Director

Bielby
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[redacted]
www.bielby.com.au

CFMEU

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& General Division

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Bowen Hills QLD 4006
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qntqueries@cfmeu.org

12 July 2023

Mr J Krause
Chair
Parliamentary Crime and Corruption Committee
Parliament House
BRISBANE QLD 4000

By Email: [redacted]

Dear Mr Krause MP,

Re: Breach of BPIC policy by the Department of Transport and Main Roads

I write to complain about the Crime and Corruption Commission (CCC)'s flippant and inept handling of my 22 August 2022 complaint.

For your reference, I enclose the following documents:

1. Letter to the CCC dated 22 August 2022;
2. Letter from the CCC dated 12 September 2022;
3. Letter to the CCC dated 6 March 2023;
4. Email from the CCC dated 15 March 2023;
5. Letter to the CCC dated 23 March 2023; and
6. Letter from the CCC dated 3 May 2023.

Background

In my complaint I raised serious concerns about TMR's activities in relation the Centenary Bridge Duplication Project and the Coomera Connector Project. These projects are valued at $300 million dollars and $1.5 billion dollars respectively.

My complaint was that non-BPIC compliant tenders were sought, and preferred tenderer status had been given to joint ventures which were not BPIC compliant. My view, and the view of any reasonable person having regard to the circumstances, was that those facts gave rise to an inference of improper conduct by decision-makers. For what proper reason could this decision have been made?

On 12 September 2022 a response was provided by the CCC to the complaint. In that response the CCC stated that:

1. The complaint did not involve corrupt conduct;
2. The concerns raised were anonymous;

3. There is no basis to raise an allegation of corrupt conduct;
4. The Commission would be taking no action in relation to the complaint.

I set out my dissatisfaction with that response, with reasons which addressed the reasons that the CCC had provided for deciding not to investigate the complaint, in a letter of 6 March 2023.

The CCC would only deign to reply to that 6 March 2023 letter by email of 15 March 2023. That email, which was facile in the way it refused to engage at all with the detail set out in my letter, stated *'Nothing you have raised in your recent correspondence causes the CCC to alter its initial assessment,'*.

On 23 March 2023 I wrote to the CCC complaining of the above. I did not receive a reply to that correspondence until 3 May 2023. That letter from the CCC stated that my previous two letters were overlooked 'due to an administrative oversight'. I was advised that a review would take place and that I would be notified of the outcome within eight weeks. It has now been ten weeks and I have heard no further about my complaints. I can only assume the CCC does not intend to provide any further response. In any event, I no longer have confidence in the CCC's process for dealing with my complaint.

The inference of improper conduct arising out of TMR's conduct of the tender process in relation to the Centenary Bridge Duplication and Coomera Connector projects is obviously within the power of the CCC to investigate. For the CCC to not do so is an abdication of their responsibility.

I look forward to hearing from you regarding your investigation into the conduct of the CCC.

Yours faithfully

[redacted]

Michael Ravbar
State Secretary

Transport BPIC – Next Steps

Proposed approach

Australian Government

18 August 2023

Queensland Government

Where we are and why ..

- Work on building and civil projects is not the same. Pay rates, conditions and subcontractor experience differ as a result
- Transport BPIC is a guide, not mandatory for contractors, who retain flexibility for how they can best reflect the guide
- Rates in Transport BPIC were not accepted by unions for not representing the current market
- Transport BPIC does not cater for the delivery of, and workers on rail infrastructure projects
- BPIC has had a material effect on project cost and timelines, however other market pressures have impacted
- Recent federal government review has been critical of wage rates in Qld
- Federal legislation changes mean TMR have options with the approach it takes for BPIC

What is happening outside of TMR ..

- Trade Unions – seeking commercial wages and conditions for workers on govt major projects. Seeking to replicate their pattern style agreements to inform EBA negotiations.

- BPIC documents are now reflecting more of these commercial conditions & rates and opting for a template style for implementation (cut n' paste for a project specific industrial agreement).

- Water BPIC – Currently in progress with all unions including AWU on model conditions and union specific clauses and wages. The implementation process is still undecided

- Renewables BPIC – Currently in progress with all unions. Template style

- Building BPIC – Currently in progress with all unions. Template style

- CRR Project Agreements expiring shortly before project completion, could impact Trasport

We need to act quickly

- TMR has implemented BPIC on a number of projects and has data and information on the actual impacts (compared to forecast impacts)
- Our pipeline of work is reliable and significant, supporting the infrastructure sector building for Olympics and State growth. Support the deliverability of the program is paramount
- Pending Fed Govt review outcome, the next major project will likely tender in early - mid 2024 (excluding Coomera Connector and LGCFR projects)
- Civil industry has found implementation challenging and advised they require flexibility to establish project appropriate conditions for major projects they are responsible for delivering
- Sustaining the whole civil industry (all operators large and small) in Queensland is essential. Civil contractors frequently move their workforce between major projects, local council work and domestic work. As a result, they are unable to structure their complete business around a major project or risk becoming uncompetitive.
- TMR's unique (data) informed position can be used to inform implementation options

Options for implementation

- There are 2 options being considered by Govt for implementing BPIC:

  1. BPIC takes **template EBA style** form, becoming the one-size template for project specific agreements and certified by FWC
     - Current iterations = prescriptive inflexible clauses, lengthy documents with over 250 pages
  2. BPIC takes a **guiding policy document**, setting out minimum wages and conditions applicable to each industry, to be tailored to specific projects and negotiated between contractor and union/s
     - Industry specific BPIC enabling genuine agreement-making for each project, providing stakeholders with clarity on minimum wages & conditions prevailing within each relevant industry

Proposed approach

- Step 1 – Brief Minister on proposed approach (asap)
- Step 2 – Undertake data driven analysis of the implementation options (*Sept 23)*
  - Data collection and case studies from BPIC projects in delivery (GCLR3, Coomera Connector, Centenary Bridge, Exit 49)
  - Engagement and input from industry, applicable agencies
- Step 3 – Determine preferred implementation model, briefing key govt stakeholders (*late Sept 23*)
- Step 4 – Seek government approval via submission (*Oct 23*)
- Step 5 – Pending approval, commence negotiations, develop and settle on Transport BPIC (asap from decision)
- Step 6 – Finalise and seek government approval on new Transport BPIC (Feb *23*)

Thank you and stay connected

www.tmr.qld.gov.au

TMRQld @TMRQld TMRQld Department of Transport and Main Roads

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A1453489 3B9295-DEANNE MARI]
Sent:	Fri 25/08/2023 11:33:28 PM (UTC)
To:	Melissa A Johansson[[redacted] Kelly A Taylor [redacted] Paul A Schmidt [redacted] ; Max R Broadhurst[[redacted]
Cc:	[redacted]
Subject:	FW: RRR Draft EA and Negotiation Strategy

Morning

For your information and for future guidance to contractors on implementing BPIC.

As background, on the first couple of BPIC projects with the last one being Coomera (North), the contractors would seek support from the dept that they were 'meeting the intent' of the policy with their draft. They would then use that draft to start the negotiation process with union/s. For our part in that, we would do a comparative assessment against the BPIC document to assess what elements they were reflecting and how close they were. There were a number of key conditions we would be mindful of, such as wages.

The industrial situation for the contractors (and TMR) has moved on – both parties are more aware. When this request came through I was not comfortable providing any level of support as it is the contractors responsibility to determine their starting point, not ours. As a result the following response was prepared and provided by Peter that will signal to the industry on their role and our role.

Mel & Kel – could we get our heads together next week to start preparing a guide to BPIC.

Thanks
Dee

Deanne Hawkswood
Chief Procurement Officer
Finance & Procurement Branch
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

From: Peter T Trim <[redacted]
Sent: Friday, 25 August 2023 4:51 PM

To: Adam Edwards [redacted]
Cc: Deanne M Hawkswood [redacted]; Ryan Murphy [redacted] Mark Guymer [redacted];
[redacted]
Subject: RE: RRR Draft EA and Negotiation Strategy

Hi Adam
Apologies for any delay in responding to your email.
I have taken the time to review your proposal and to seek advice and comment from other areas within TMR before responding.

While I acknowledge the EA and negotiation strategy is based on previous submissions for TMR projects, the landscape is constantly changing and the negotiation and development of EBAs may need to change accordingly.

The process undertaken to create an EBA is the responsibility of the contractors. Obviously the Best Practice Principles apply, specifically, the best practice industrial relations which considers *the approach to relationship management with employees, employee representatives and/or unions*. Which unions will differ depending on the scope and location of work being performed.

I would appreciate if you could keep me updated with the progress on these negotiations.

Kind Regards

Peter Trim
Project Director (Rockhampton Ring Road) | Fitzroy District | Central Queensland Region
Program Delivery and Operations Branch | Infrastructure Management and Delivery Division
Department of Transport and Main Roads
____

[redacted] on Qld 4701
[redacted]
www.tmr.qld.gov.au

From: Adam Edwards [redacted]
Sent: Thursday, 27 July 2023 9:34 AM
To: Peter T Trim <[redacted]
Cc: Mark Guymer <[redacted]; david.balmer@acciona.com; IDE, David
[redacted]
Subject: RRR Draft EA and Negotiation Strategy
Importance: High

Hi Peter,

As discussed, attached is the final draft of the proposed EA's that BBJV and AFHJV intend to use to commence negotiations for the RRR project. They are identical in all respects other than title.

The EA's have been developed based on the Coomera Connector North EA with minor amendments to reflect the EA recently implemented on Centenary Bridge Upgrade. Both of these agreements have been made between the respective Contractors on those projects and the AWU with TMR's input/agreement. We believe this represents the most contemporary position in respect of BPIC implementation on TMR projects.

Our preferred negotiation strategy is to commence discussions with the AWU for the following reasons:

1. The AWU have majority coverage of the workers proposed to be engaged on the RRR project and so is the relevant Union in this circumstance;
2. The JV's are confident that an agreement can be reached substantially on the proposed terms given recent experience on Coomera North and Centenary Bridge; and
3. We are confident that direct negotiation will deliver an EA within a relatively short timeframe to ensure that impact to programs on both packages are minimal if at all.

We are confident that this process will yield EA's for both packages within 4-6 weeks compared to ~12 weeks if we are required to engage more broadly.

In the spirit of collaboration, we request:

1. Confirmation that TMR are comfortable that the intent of BPIC for the RRR project is being met; and
2. That TMR has no objections to the proposed EA negotiation strategy.

Cheers
Adam

Adam Edwards
Managing Director

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[redacted]
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AUSTRALIAN WORKERS' UNION
Stronger Together

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ABN: 28 853 022 982 (AWU)

20th September 2023

Adam Edwards &
Managing Director
Bielby
[redacted]

Rob Pickard
General Manager - QLD & NT
BMD Constructions
[redacted]

David Balmer &
Regional Manager – QLD
ACCIONA Construction
[redacted]

David Ide
Construction Manager - Northern Region
Fulton Hogan Construction
[redacted]

RE: Rockhampton Ring Road (North Package 1 & South Package 1) Projects

Dear all,

Firstly, congratulations to your respective JV's on being awarded the contracts for this vital project in the Central Queensland region.

Whilst the AWU has dealt with your organisation/s on many occasions over the years, it's probably prudent to remind you of our coverage so that we may press ahead with discussions to cover off the industrial arrangements for the project.

Recent civil construction project awards, including Coomera Connector (North), Coomera Connector (Central) and Centenary Bridge Upgrade Projects have involved positive industrial outcomes between the respective Contractors and the AWU, including project-specific greenfields enterprise agreements with the AWU.

In circumstances where the AWU eligibility rules cover "every bona fide worker employed in or in connection with the industries or callings of" the construction, repair maintenance or demolition of civil and/or mechanical engineering projects, there is no dispute that the AWU is the principal civil construction union in Queensland.

To make it very clear, I attach (Appendix A) key excerpts of the eligibility rules of the AWU on both civil construction and building construction sites. Accordingly, construction of the Rockhampton Ring Road (North Package 1 & South Package 1) Projects falls within the industrial coverage of workers who the AWU have the right to represent.

Section 187(5) of the *Fair Work Act (2009)* "FW Act" provides that only a union that has the capacity to represent the industrial interests of the majority of employees on a project can enter into a greenfields agreement.

The effect of s 187(5) of the FW Act is that it is only the AWU who can, as a single union, be covered by a civil construction greenfields agreement. This is because the AWU is the only union who is entitled to represent the industrial interests of a majority of the employees who will be covered by such an agreement, in relation to work to be performed under the agreement.

Put very plainly, the AWU has the capacity to represent every worker that could feasibly be employed on the Rockhampton Ring Road project, and it is on this basis that we seek to commence discussions with you for a civil scope greenfields enterprise agreement.

As always, the AWU stands ready to support the Palaszczuk Labor Government's civil infrastructure projects to deliver benefits for Queensland communities.

Please contact Assistant Secretary Mark Raguse to commence discussions at your earliest convenience [redacted]

Yours sincerely,

STACEY SCHINNERL
BRANCH SECRETARY

cc. Julie Mitchell, Deputy Director-General (Infrastructure Management and Delivery), Department of Transport and Main Roads [redacted]

Peter Trim, Project Director (Rockhampton Ring Road), Department of Transport and Main Roads - Central Queensland Region [redacted]

Deanne Hawkswood, Chief Procurement Officer, Department of Transport and Main Roads ([redacted]

Appendix A - Eligibility rules of the AWU on both civil construction and building construction

A full version of the current AWU Rules can be found at https://www.fwc.gov.au/documents/organisations/current_rulebooks/Current-RB-002N.docx

Particularly, Rule 5, Section 1 Part A (4) says, *inter alia*, the following:

> " (4) Without limiting the generality of any other provisions of this Rule or being limited in any way thereby, every bona fide worker employed in or in connection with the industries or callings of:
>
> (a) Landscaping (other than in the Northern Territory);
>
> (b) Builders labourers in that area of Queensland situated north of a line commencing at the sea coast with the 22nd parallel of south latitude, thence by that parallel of latitude due west to 147 degrees of east longitude thence by that meridian of longitude due south to 22 degrees 30 minutes of south latitude, thence by that parallel of latitude due west to the western border of the State.
>
> **(c) The construction, repair maintenance or demolition of:**
>
> **(i) Civil and/or mechanical engineering projects.**
>
> (ii) Power transmission, light, television, radio, communication, radar, navigation, observation towers or structures.
>
> (iii) Power houses, chemical plants, hydrocarbons and/or oil treatment plants or refineries.
>
> (iv) Silos, excepting grain silos in Tasmania, South Australia, Western Australia and that area of Queensland not included in paragraph 4(b) above.
>
> (v) Sports and/or entertainment complexes.
>
> (vi) Car parks excepting car park buildings and car parks within the alignment of a building;
>
> shall be eligible for membership of the Union"

Despite the restriction of coverage of builders labourer's in Rule 5, Section 1 Part A (4)(b), Rule 6A - Additional Eligibility For Admission To Membership In The State Of Queensland, says the following at subsection (4) (24) (set out below) – also note additional callings relating to civil construction works.

> "(4) Subject to this Rule 6A **every bona fide worker male or female, engaged in manual or mental labour in or in connection with any of the following industries or callings namely**:
>
> …
>
> **12. Road Making including construction and/or maintenance and/or repair and all work in or in connection with or incidental thereto.**

13. Water Supply construction and/or maintenance and/or repair and/or operation of and all work in or in connection with or incidental thereto. Sewerage construction and/or maintenance and/or repair and/or operation of and all work in or in connection with or incidental thereto.

14. Railway construction and/or Maintenance and/or repairs and all work in or in connection with or incidental thereto.

…

17. All employees engaged in or in connection with or incidental to the construction and/or maintenance and/or repair and/or operation of local authority work or works.

18. All employees engaged in the construction and maintenance of tramways.

…

20. Bridge Carpenters and all other labour employed in or in connection with or incidental to the construction and/or maintenance and/or repair and/or alteration and/or demolition of bridges, wharves, piers, jetties, dolphins, barrages and other similar or like structures.

…

24. All kinds of general labour (including builders' labourers).”

From:	Deanne M Hawkswood[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B73018F5978646BBA2A14534893B9295-DEANNE MARI]
Sent:	Mon 09/10/2023 11:05:36 PM (UTC)
To:	Nick T Shaw [redacted]
Subject:	I'm wfh today too
Attachment:	BPIC discussion SS to MR_RM and DH review further PP.pptx

Hi Nick

I'm feeling quite average so working from my Bracken Ridge office today 😊

Quick update on BPIC and rail

- Rocky Ring Road – Sally spoke to MR (CFMEU) on Friday and is speaking with him again today (his key points are below)
    - Should be a 5 union deal (multi union agreement)
        - Why have a BPIC at all if all unions are not going to be involved
        - We as the buyer need to insist its done and don't sign a contract if they don't do a multi-union deal
    - Purported to represent all unions including AWU
    - Govt hasn't learned from CRR and they will be all over Centenary and RRR making CRR look tame in comparison
    - All agencies are now on board except TMR
    - We (Julie, Ryan, Peter P, me) have prepared a number of slides to support the discussion (attached)
- CBRC submission – Ben hit the ground running (although he was not very well) and I really liked his approach to developing the document. He is leading that now with Sharon coordinating and scheduling. It remains tight and I'm speaking with them both at 10 for an update.
- Session later today with on Rail Addenda – discuss with Clayton Utz instructions on drafting. Ryan and Ben Swan guiding the what should be included and the engagement approach with unions on the draft document.
- Catchup tomorrow with Sally will largely be an update and direction for the next week.
- Sharon Pollock will be on leave same time as me from 23/10 – 27/10. I've asked Leah Rogash and she's happy to step in (checked with Julie who is ok with it).

Deanne Hawkswood
Chief Procurement Officer
Finance & Procurement Branch
Department of Transport and Main Roads

[redacted]
www.tmr.qld.gov.au

ROCKY RING ROAD

9 October 2023

Background

- Both JV Partners #, have written to both State Secretaries of:
  - the CFMEU (Michael Ravbar) and
  - AWU (Stacey Schinnerl)

- Both JV Partners proposing Greenfield Agreements for the Rockhampton Ring Road Projects (North Package 1 and South Package 2).

- The content (wages and conditions) of the greenfield agreements are likely to be very similar.

- AWU had written to JVs 20/9/23 indicating that they have majority coverage and that they reserve their legal rights if an agreement is entered into with another party.

"BMD Constructions & Bielby Holdings" and "Acciona Construction & Fulton Hogan Construction" on 29 September

Key Summary

- Clarified the applicable TMR BPIC is the $100m to $300m range (project values are approx. $140m each).
- Proposed Greenfields Agreements to cover their direct workforce.
- Letter from JVs to CFMEU advised that AWU has advised via letter that they have majority coverage of the proposed Greenfield Agreements,
  - but that the JVs are open to any objection that CFMEU wishes to put forward regarding majority coverage
- Letter from JVs to AWU advised that the JVs acknowledge AWU's eligibility to achieve majority coverage of the project workforce

Drayton's
WORKPLACE
CONSULTING

29 September 2023

Michael Ravbar,
State Secretary
Construction, Forestry, Maritime, Mining and Energy Union (Queensland Branch)
16 Campbell Street
Bowen Hills 4006 QLD

Via. email: qntindustrial@cfmeu.org

Dear Michael,

I am writing to you in respect of the Rockhampton Ring Road Projects ('the Projects').

Drayton's Workplace Consulting has been appointed to act on behalf of the two (2) Consortiums proposed for the construction of the two (2) distinct and separate Project packages, in respect of the negotiations for project agreements.

The Consortiums are comprised of the following:

1. North Package 1 - Consortium of BMD Constructions Pty Ltd and Bielby Holdings Pty Ltd;
2. South Package 1 - Consortium of Acciona Construction Australia Pty Ltd and Fulton Hogan Construction Pty Ltd.

Applicable BPIC Model

The Project as determined by the client, the Department of Transport and Main Roads (TMR) will be subject to the TMR Best Practice Industry Conditions ('BPIC'). The Projects value for the purposes of BPIC is within the $100m to $300m range of the TMR BPIC Model.

The Consortiums propose that the applicable TMR BPIC model is the $100m to $300m range.

Enterprise Agreement Coverage

The Consortiums propose to make Greenfields agreements in terms of the *Fair Work Act 2009* (Cth) to cover the direct civil construction workforces for the respective Projects.

The respective Consortiums are in receipt of correspondence from the AWU regarding eligibility for coverage in relation to the respective Projects. The correspondence asserts the AWU's eligibility for coverage in relation to civil construction works to achieve majority coverage of the Projects for the purposes of a Greenfields agreement in terms of the Fair Work Act 2009 (Cth).

Given the projected civil construction works of the Projects, the Consortiums are not in a position to object to the AWU claims in this instance, however they are open to the CFMMEU providing any material position to the contrary.

Drayton's
WORKPLACE
CONSULTING

In the interim, the Consortiums consider it appropriate to commence engagement with the AWU to progress a Greenfields Agreement for the Projects, a position consistent with the anticipated direct civil construction workforces for the Projects and other recent BPIC projects in the civil construction industry in QLD.

Notwithstanding the commencement of discussions with the AWU, should the CFMMEU wish to engage with the Consortiums further in relation to the Projects I would welcome your response by 5th October 2023.

Yours sincerely,

[redacted]

Greg Power

AUSTRALIAN WORKERS' UNION
Stronger Together
Queensland and Northern Territory
Level 13 333 Adelaide St, Brisbane QLD 4000
1800 298 753
secretary@awu.org.au
awu.net.au/qld
ABN: 54 942 536 069 (AWUEQ)
ABN: 28 853 022 982 (AWU)

20th September 2023

Adam Edwards &
Managing Director
Bielby
[redacted]

Rob Pickard
General Manager - QLD & NT
BMD Constructions
[redacted]

David Balmer &
Regional Manager – QLD
ACCIONA Construction
[redacted]

David Ide
Construction Manager - Northern Region
Fulton Hogan Construction
[redacted]

RE: Rockhampton Ring Road (North Package 1 & South Package 1) Projects

Dear all,

Firstly, congratulations to your respective JV's on being awarded the contracts for this vital project in the Central Queensland region.

Whilst the AWU has dealt with your organisation/s on many occasions over the years, it's probably prudent to remind you of our coverage so that we may press ahead with discussions to cover off the industrial arrangements for the project.

Recent civil construction project awards, including Coomera Connector (North), Coomera Connector (Central) and Centenary Bridge Upgrade Projects have involved positive industrial outcomes between the respective Contractors and the AWU, including project-specific greenfields enterprise agreements with the AWU.

In circumstances where the AWU eligibility rules cover "every bona fide worker employed in or in connection with the industries or callings of" the construction, repair maintenance or demolition of civil and/or mechanical engineering projects, there is no dispute that the AWU is the principal civil construction union in Queensland.

To make it very clear, I attach (Appendix A) key excerpts of the eligibility rules of the AWU on both civil construction and building construction sites. Accordingly, construction of the Rockhampton Ring Road (North Package 1 & South Package 1) Projects falls within the industrial coverage of workers who the AWU have the right to represent.

Section 187(5) of the *Fair Work Act (2009)* "FW Act" provides that only a union that has the capacity to represent the industrial interests of the majority of employees on a project can enter into a greenfields agreement.

The effect of s 187(5) of the FW Act is that it is only the AWU who can, as a single union, be covered by a civil construction greenfields agreement. This is because the AWU is the only union

who is entitled to represent the industrial interests of a majority of the employees who will be covered by such an agreement, in relation to work to be performed under the agreement.

Put very plainly, the AWU has the capacity to represent every worker that could feasibly be employed on the Rockhampton Ring Road project, and it is on this basis that we seek to commence discussions with you for a civil scope greenfields enterprise agreement.

As always, the AWU stands ready to support the Palaszczuk Labor Government's civil infrastructure projects to deliver benefits for Queensland communities.

Please contact Assistant Secretary Mark Raguse to commence discussions at your earliest convenience [redacted] or [redacted]

Yours sincerely,

[redacted]

STACEY SCHINNERL
BRANCH SECRETARY

cc. Julie Mitchell, Deputy Director-General (Infrastructure Management and Delivery), Department of Transport and Main Roads [redacted]

Peter Trim, Project Director (Rockhampton Ring Road), Department of Transport and Main Roads - Central Queensland Region [redacted]

Deanne Hawkswood, Chief Procurement Officer, Department of Transport and Main Roads [redacted]

Next Steps for project:

- AWU and both JV's commencing negotiations for the two agreements.
- If the CFMEU challenges the 'coverage claim',
  - both JV partners would need to consider the materials filed by the CFMEU and respond accordingly
- CFMEU replied in writing to JVs (5/10/23) that
  - The 5 unions can represent all unions on site
  - negotiations should be with all 5 unions to protect freedom of association for workers
  - purported to represent all unions (including AWU) and
  - inconsistent with AWU position advised to TMR that they had adequate coverage alone
- There is some urgency as need the local employment benefits of the project in Rocky
- Project has committed to largely local labour rather than FIFO/DIDO

CFMEU

REGIONAL OFFICES
Darwin – Ph (08) 8981 5280
Townsville – Ph (07) 4788 8715
CFMEUQ
State Construction
& General Division

HEAD OFFICE
16 Campbell Street
Bowen Hills QLD 4006
Ph (07) 3231 4600
Fax (07) 3231 4699
qrlqueries@cfmeu.org

05 October 2023

Greg Powers
Senior Consultant
Drayton`s Workplace Consulting

Email [redacted]
CC: peter [redacted]
gary [redacted]
rohan.webb [redacted]
secretary@awu.org.au

Dear Greg

I am writing in response to your correspondence dated 29 September 2023 concerning bargaining for Project Agreements in respect of the Rockhampton Ring Road Projects.

The CFMEU seeks to bargain in relation to these agreements not only with both Consortiums but also all Unions, a position consistent across all BPIC negotiations. For clarity the Unions I refer to are the CFMEU, ETU, AMWU, AWU and the CEPU (Plumbers Union).

As I am sure you are aware the five unions mentioned are all able to represent workers in relation to the work proposed. In fact, it has long been our position that negotiations need to include all relevant unions to appropriately ensure the freedom of association of workers is best protected.

The above position has been articulated most succinctly by Government in the "Best Practice Industry Conditions for Transport Civil Construction Projects", as published on the TMR website. Under the definition of Union you will find listed – AMWU, AWU, CEPU, CFMEU and ETU.

In any event the CFMEU looks forward to bargaining in good faith. Could you please provide the relevant particulars for the proposed bargaining meetings at your earliest convenience.

Regards

[redacted]

Michael Ravbar
State Secretary

entitled to represent the industrial interests of employees employed by the Employer as required. All parties to this Document shall be notified as soon as practicable after the election of a Union Delegate.

Union Representative means a member of an employee organisation entitled to represent the industrial interests of employees.

Union means the:

- *AMWU;*
- *AWU;*
- *CEPU;*
- *CFMEU; and*
- *ETU.*

Verification of Competency (VOC) means an assessment of an employee's knowledge and skills to assist in deeming staff competent to perform a task or operate plant and/or equipment.

Wage Guard is the nominated income protection insurance provider for the AMWU.

Wage Rate means the Employee's ordinary hourly rate of pay as set out in this Document.

Welcome to Country means a ceremony that is performed by Indigenous Traditional Owners for people visiting their Country.

Best Practice Industry Conditions for Transport Civil Construction Projects

The Queensland Government through the Queensland Procurement Policy is committed to maximising benefits for Queenslanders by using procurement to support local jobs and businesses to drive economic, environmental and social outcomes. This includes ensuring quality, safe workplaces for people engaged on major state government projects, through the implementation of Best Practice Principles (BPPs), in accordance with guidance issued by the Department of Energy and Public Works and the Office of Industrial Relations.

For major projects of $100 million and above and declared projects, the value for money assessment must also include application of all the following BPPs:

- Workplace health and safety systems and standards
- commitment to apprentices and trainees
- best practice industrial relations

The Department of Transport and Main Roads (TMR) fully supports the Queensland Government's priorities to improve matters such as employment conditions, safety and training opportunities for the transport civil construction industry and ensure the industry is, and remains sustainable, safe and progressive.

To assist with the Queensland Government's commitments in relation to the BPPs, including best practice industrial relations, TMR has developed a guidance document entitled the *Best Practice Industry Conditions for Transport Civil Construction Projects* dated December 2020 (Transport BPIC). In developing the Transport BPIC in consultation with stakeholders, relevant enterprise agreements, awards and legislation to the transport civil construction industry were analysed to ensure the guidance document reflects modern and progressive industrial practices for the civil construction industry. The Transport BPIC is included to assist with tendering for TMR's transport civil construction projects with a total project value of between $100 million - $300 million which in this circumstance, includes this Project.

The Transport BPIC is an expression of government policy as it relates to best practice industry relations for the civil construction industry. The guidance document sets standards and expectations to ensure that a workforce with optimal levels of skills and experience is attracted and retained for the life of a project's delivery and ensure that relevant stakeholders can interact in a positive, collaborative and productive way through to successful project completion.

The Transport BPIC is a guidance document and is not mandatory. Applicants and/or Tenderers can demonstrate the intent and outcomes of the Transport BPIC in any manner it chooses to nominate throughout the procurement process. TMR will give full and reasonable consideration to alternative ways of achieving the Transport BPIC. Where a particular supplier is referred to within the Transport BPIC, this entitlement or obligation relates to that supplier or any suitable equivalent which the Applicants and/or Tenderers may wish to nominate. Nothing in the Transport BPIC requires an Applicant and/or Tenderer to make any commitment that would breach any laws.

Last week - CFMEU (Michael Ravbar)

- Contacted Logan Timms at Department of Energy and Public Works mid last week suggesting that ADG TMR had misled him regarding release of BPP projects to tender as he had received notification about RRR.
  - Logan spoke to Dee for clarification who confirmed it was incorrect and this project was initially released to market in late 2021 with the TOC development commencing in April 2022
  - JVs selected and are now finalising their EBA's
- Contacted ADG last week
  - Espousing the great outcomes that BPICs is to deliver (TMR fully on board)
  - IR consultants that the JVs are using are dinosaurs
  - We have done the hard work getting an agreement everyone agreed to
  - We did a deal with them and now reneging on the deal
  - It should be a 5-union deal
  - Why have a BPIC at all if *all unions* are not going to be involved
  - TMR are the buyer and just need to insist its done – that is, don't sign a contract if they don't have the 5-union deal
  - That the government hasn't learned from Cross River rail and they will be all over Centenary and RRR (CRR will pale into) and
  - That all agencies - Water, Renewables, Health and so on were now on board except TMR (which is not quite true)

Key messages- coverage

- TMR is fully committed with the endorsed **Best Practice Principles (BPP) policy objectives and outcomes** such as local buy, increased indigenous participation, focus on trainees and apprentices and more diversity, safety and better secure jobs

- The letter from the JVs asked CFMEU to provide their views regarding **coverage** to the contrary
    - We understand that CFMEU didn't address the matter re coverage in their response.

- The BPP and Transport BPIC is union agnostic and doesn't address coverage, that is a matter for the employers, employees, the unions and the Fair Work Commission
- We realise the matter of coverage is a very technical, legal and emotive question and as a department, we are not in position to form a view

Note: JH attempted to do a 4 union Greenfield agreement (CFMEU, ETU, Plumbers and Metal) for GCLR 3, it failed at the Fair Work Commission with regard to coverage.

Key messages - what are the project needs and benefits of a 5 party EBA

- We consider a simple EBA will support local engagement in a regional setting
  - So we think it needs to be ‘user friendly’.
  - A document specific to the needs of the project is preferable to a 300+pg document that has material unrelated to the project.
- The JVs have advised there are no metal workers, plumbers or electricians going to be directly employed so the EBA doesn’t need to cover them.

- Possible response “This is the policy, this was the deal, the definition of unions includes all five unions”
  - Possible replies
    - You are correct the definition of unions references all five unions
    - The tender process for this project referenced the transport BPIC that is a guidance document
    - The Transport BPIC requires a tenderer to <u>not</u> make a commitment that would breach any laws.
    - Each project is a case-by-case pending the needs of the project
    - We can’t make (force) any party (contractors or other unions) to do a multi-union deal

Key messages- TMR can't force unions to do a multi-union deal

- Letter from CFMEU advising they want to bargain and represent all 5 unions
- Have seen a letter from AWU outlining their views about coverage on this project
  - AWU has advised the JV it does not agree that it needs a joint agreement with other unions
- **TMR (I) can ask the JV to consult with all the relevant unions (CFMEU only) to cover directly employed staff and can ask AWU to consider a multi union deal**
  - **However we are unable to enforce that on either the JV or the AWU**
  - **I can only commit to you what I can lawfully do in my role**

AWU are very unlikely to agree to enter into an agreement with CFMEU and have make their position on this project and its EBA very clear

Key messages - TMR as a buyer- legal limitations under FW Act

- Advice regarding the suggested **multi-union agreement** (confirmed with legal):
  - We cannot require the contractors to have an enterprise agreement on particular terms
    - this includes which union/s parties they must deal with
      - We can ask them to, but we have no mechanism to enforce that
  - We can suggest/recommend this and acknowledge it may promote industrial harmony during procurement
    - but we can't go any further than that
  - However, we can require them to *engage* with the relevant unions
    - but we can't require them to have a multi-union agreement
- With regard to freedom of association mentioned in CFMEU letter-
  - all unions don't need to be included in an EBA as
    - under the law neither TMR nor the contractor nor another union cannot require a worker to be a member of any particular union / nor a member of any union

Advice on procurement process / tender assessment process (not for RRR but future project procurement) (confirmed with legal):

- We can favour a commitment by the tenderer to engage with multiple unions and work toward a multi-union agreement to ensure industrial harmony, but we can't ensure that. It remains a matter between the contractor and the union/s
- We can express what we are looking for and require the tenderers to address that in their tender response in future
- Their response is considered as part of the comparative evaluation process (if a multi union engagement/deal is not appropriate for the project, the tenderer can nominate that)

Transport BPIC and History

- Transport BPIC currently is consistent with other BPICs
  - based on the CFMEU pattern agreement.
- All projects with Greenfield EBAs
  - Are with AWU as they have coverage over the workforce
  - CFMEU given opportunity to participate in each, coverage wasn't relied upon to exclude them from process
- Only Gold Coast Light Rail 3 is a brownfield agreement (small number of workforce employed)
  - Negotiated by John Holland and above the GCLR3 BPIC provided by TMR
  - JH attempted to do a 4 union Greenfield agreement (CFMEU, ETU, Plumbers and Metal), it failed at the Fair Work Commission with regard to coverage and exposed TMR to negative publicity)#
- Civil industry has evolved with Transport BPIC and would likely be open to more productive consultation than previously

(see Government 'pressures' builders to deal-in CFMEU mates – 28.02.2022)

TMR is different

- Civil industry is starting from a different place to Building & Health.
  - Vertical construction is a ‘closed ecosystem’ all their work is the same or similar.
  - Civil industry needs to be able move between different work types to remain viable so move between mega projects, local councils and mid-tier projects.
- Union coverage has been contested for decades, so not unique to TMR, subject to High Court rules.
- We understand that we cannot insist on multi-union agreements (should not be unique to TMR)
  - We can require them to *engage* with the relevant unions, but we have no mechanism to enforce that
  - This is addressed during procurement and considered the evaluation process
- It's important to remember that the bargaining framework is designed to be between the employer and the employee (and their representatives) and the government in having a role in this in procurement is interfering in a complex legal system.
- TMR is different because our BPIC is govt approved, operational and guideline based. Shouldn’t be compared with other draft BPICs that are neither approved or operational.

Best Practice Principle Projects
Awarded and "In Procurement"

	Project	Published Value	Project Status
1	Gold Coast Light Rail (Stage 3A) – Broadbeach South to Burleigh Heads	$1,220 M	Awarded to John Holland
2	Bruce Highway (Cooroy to Curra) Section D, contract 2	$318 M	Awarded to CPB
3	Bruce Highway (Caboolture) Bribie Island Road to Steve Irwin Way	$131.9 M	Awarded to Fulton Hogan
4	Walkerston Bypass	$186.6 M	Awarded to Fulton Hogan
5	Centenary Bridge Upgrade Project	$244 M	Awarded to Georgiou–BMD Joint Venture
6	Pacific Motorway (M1) Exit 49 Interchange Upgrade	$110 M	Awarded to Seymour Whyte
7	Qld Train Manufacturing Program	$4,869 M	Awarded to Downer
8	Coomera Connector Stage 1 • North package • Central package • South package	$2,160 M	*North* – awarded to Acciona-Georgiou Joint Venture *Central* – in procurement – nearing award *South* – in procurement
9	Rockhampton Ring Road	$1,065 M	First construction phase: *(South Package 1)* - awarded to Acciona/Fulton Hogan JV *(North Package 1)* – awarded to Beilby/BMD JV
10	Beerburrum to Nambour Rail Upgrade (Stage 1)	$550 M	In procurement – nearing award
11	Linkfield Road Overpass upgrade	$125 M	In procurement – nearing award
12	Beams Road Rail Level Crossing upgrade	$209.3 M	In procurement – nearing award
13	Logan Gold Coast Faster Rail	$2,598 M	In procurement
	Total Project Value	**$13.787 B**	

Industrial, Rail & Construction

TRANSPORT BPIC SURVEY

OCTOBER 2023

PREPARED BY:
Ryan Murphy: [redacted]
Ben Swan: [redacted]

Commercial-in-Confidence

CONTENTS

GLOSSARY

BPIC means Best Practice Industry Conditions, which provide for the minimum terms and conditions of employment, including classification rates of pay and allowances, for workers engaged on publicly-funded building and construction projects

BPP means Best Practice Principles, which is a set of procurement strategy evaluation criteria across three principles including: (1) workplace health and safety; (2) apprentice and trainee engagement; and (3) best practice industrial relations

EBA means an Enterprise Bargaining Agreement genuinely made and certified in accordance with the *Fair Work Act 2009* (Cth)

local means within a radius of 125km from a relevant Project location

non-conforming building product means building products about which false claims have been made as to their quality and purpose, or which do not meet required standards for their intended use

QTRIP means Queensland Transport and Roads Investment Program

sham contracting means a contrived mechanism to disguise a contract of service as a contract for services

supplementary labour means labour hire

TMR means the Queensland Department of Transport and Main Roads

PROJECT RESPONDENTS

Cooroy to Curra (Stage D, Contract 2)
CPB Contractors

Coomera Connector
AGJV

Centenary Bridge
GBJV

GCLR3
John Holland

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EXECUTIVE SUMMARY

- TMR has the unique experience of having "lived experience" with respect to BPICs, giving a valuable base of data to examine

- Broadly speaking, there are two models of BPIC implementation that can be considered by Government, namely: (1) BPIC as a template EBA; or (2) BPIC as guidance to tenderers on minimum employment conditions

- The data analysis that has been conducted includes qualitative and quantitative approaches which are designed to assist Government in its consideration of those two models

- Four Project Respondents were selected for the survey, namely: (1) Coomera Connector (AGJV); (2) GCLR3 (John Holland); (3) Centenary Bridge (GBJV); and (4) Cooroy to Curra (CPB Contractors).

- There are some limited examples from the reflections of Project Respondents as to how BPIC is practically assisting in the realisation of core Government objectives

- Issues concerning the engagement of local suppliers and subcontractors assume a higher degree of importance in the consultations undertaken with Project Respondents

BPIC OVERVIEW

Consistent with existing Government policy, BPICs are specifically designed to provide guidance to industry with respect to best practice industrial relations on major publicly-funded building and civil construction projects undertaken in Queensland.

BPICs will typically cover quality employment standards, safe workplace standards, and workforce/stakeholder engagement processes.

Key objectives of BPIC include:

- attracting and retaining a productive and engaged workforce
- building a more diverse workforce
- supporting local engagement, for both workers and business
- enhancing project delivery in terms of budget and time

To date, TMR has applied BPIC on 12 projects valued at $6.92bn.

The current QTRIP includes 24 projects over $100m.

Compared to other Government Departments currently considering the adoption of BPIC in their portfolios, TMR is in the unique position of having "lived experience" with respect to BPIC development and implementation on major projects.

METHODOLOGY

It is important for the process of data collection and analysis to be devoid of perceived or actual bias. The data itself should lead to a conclusion, rather than a conclusion dictating the type of data to be collected and analysed.

Fission has already collected and analysed one level of data relating to BPIC labour rates and cost-to-employer across:

- Original BPIC
- BPIC700^{+}
- BPICRE
- AGJV (Coomera Connector North)
- CRRCPB
- JHGCLR

In addition to this data, the next most instructive base of potential data points rests *within* the construct of current BPIC implementation models. Pre-interview surveys and data requests (quantitative) were undertaken with Project Respondents, followed by face-to-face interviews (qualitative).

The approach adopted by OneIRC has involved:

- examining any collected and reported data
- identifying gaps between data measures and BPIC policy objectives
- identifying reasons for poor outcomes
- suggestions as to how any gaps can be addressed through a particular BPIC model can be made at a subsequent stage

PRE-INTERVIEW SURVEY HIGHLIGHTS

- BPIC has mostly had <u>no effect</u> in assisting in the engagement of local subcontractors.
- BPIC has mostly had a <u>moderate effect</u> on reducing the need for labour hire.
- BPIC has mostly had <u>no effect</u> on the employment of ATSI peoples.
- BPIC has mostly had <u>no effect</u> on the employment of women.
- BPIC has mostly had <u>no effect</u> on the employment of apprentices and trainees.
- BPIC has had <u>no effect</u> on the employment of mature aged workers.
- BPIC has mostly had <u>no effect</u> in the identification and treatment of sham contracting.
- BPIC has mostly had <u>no effect</u> in the identification and treatment of non-conforming building products.
- Training conducted on Projects is <u>mostly in line</u> with Project expectations (but refer to Respondent comments about existing Government Policies on Training).

[NB: The above points do NOT suggest that these objectives are not being met by Projects. It only reflects the belief of Projects that BPIC is not the primary driver/source of the obligation to meet the objectives. For example, the Government already has a Building and Construction Training Policy, or the objectives are addressed in KRAs which are then reduced to contractual terms]

PROJECT INTERVIEW HIGHLIGHTS

- BPP and BPIC are two fundamentally distinct concepts, however BPP already covers underlying principles regarding: (1) safety; (2) apprentices and trainees; and (3) harmonious industrial relations.
- There are potentially four layers of regulation applying to major Projects, being: (1) legislation and existing Government Policy; (2) BPP; (3) BPIC; and (4) EBAs made in pursuance of BPIC. This "doubling-up" could invite disagreement and disputation where divergences in wording occur.
- Local subcontractors are being discouraged from tendering for work on major Projects because of compliance costs, lack of resources, and flow-on effects within their businesses. This is having a negative impact on the ability of major contractors to source and utilise local suppliers and their labour.
- Unsustainable wage and conditions increases are occurring - these were not forecasted when BPICs were introduced, and the question as to where this trend goes remains open.
- BPIC is changing the way in which the industry employs workers. There is a shift away from labour hire / casual employment to more direct and secure forms of employment on major projects.
- Hard policy targets should be addressed contractually, which can be priced in tenders for major projects.

ANALYSIS & CONCLUSIONS

Analysis

There are a number of readily identifiable policy objectives contained in the most current iteration of Transport BPIC. Broadly stated, these policy objectives can be identified as:

- promoting harmonious employment and industrial relations
- promoting the engagement of local suppliers and subcontractors
- promoting more secure forms of employment and limiting the use of labour hire
- promoting the employment of ATSI peoples
- promoting the employment of women
- promoting the employment of mature aged workers
- promoting the employment of apprentices and trainees
- promoting the conversion of casual employees to more permanent forms of employment
- limiting the use of temporary foreign labour
- promoting greater work/life balance and limiting the need for employees to work on their RDOs or on public holidays
- identifying and treating the incidence of sham contracting
- identifying and treating the use of non-conforming building products
- ensuring compliance with industrial instruments and Australian law through periodic auditing

Taken in aggregate, it is difficult to reach a firm conclusion that BPIC is necessarily facilitating the realisation of each of these objectives, or even most of them. There are limited examples of where this is occurring, (for example, with respect to limiting the use of labour hire) but the reports from industry indicate that this is the exception rather than the norm.

ANALYSIS & CONCLUSIONS (CONT)

BPP and BPIC clearly do not mean the same thing. The former is a procurement guidance. The latter is an expression of minimum terms and conditions of employment, which are typically expressed in a very prescriptive manner.

BPP already covers the underlying principles concerning safe workplaces, apprentice and trainee engagement, and harmonious industrial relations. Tenderers are expected to articulate their plans to achieve the broad principles required by BPP. Ideally, these plans should crystallise in the contracts that are ultimately entered into.

BPIC is another, deeper layer sitting on top of BPP.

EBAs that are made pursuant to, and in conformity with BPIC, add a third tier of prescription.

And finally, existing laws, regulations and Government policy become a fourth layer of governance. For example, the Work Health and Safety Act and the Government's Building and Construction Training Policy already apply to major contractors before similar variations of the themes arise in BPP, BPIC and EBAs.

The thematic overlap between these various documents creates an additional level of risk. Each successive layer invites greater risk of disputation where wording varies slightly (whether by design or whether by effect).

ANALYSIS & CONCLUSIONS (CONT)

The issues concerning the engagement of subcontractors is perhaps the more predominant concern amongst Project Respondents.

There are five core issues that have been identified, namely:

1) Subcontractors do not have the scale, system maturity, or resource capabilities (whether financial or human) to manage compliance and implementation of very complex documents such as BPIC.

2) The complexity of BPIC is driving local subcontractors away from engagement on major projects. This appears to be contrary to a key plank of BPP and BPIC, which is industry engagement.

3) Subcontractors with smaller workforces struggle to manage the dynamics of dual pay rate regimes within their businesses. Those workers performing work on major projects are enjoying conditions that fellow workers are not enjoying on other sites, creating the potential for discord and disharmony.

4) Some subcontractors are being placed in the position of negotiating EBAs that extend in scope beyond major projects and which become state-wide agreements. They are making themselves uncompetitive in other markets.

5) The rotation of subcontractor crews in and out of major projects in order to evenly distribute the benefits amongst workers could have safety implications (i.e. loss of 'project knowledge').

ANALYSIS & CONCLUSIONS (CONT)

One positive consequence of BPIC is that industry is starting to shift its practices away from a reliance on labour hire and casual labour and toward direct employment models that support secure and permanent forms of employment. In some instances, this is reported as giving a greater deal of flexibility in project design, but can become more costly when unforeseen climactic conditions interfere with planned business operations. Despite the costs, this shift appears to reflect one of the Government's key policy objectives.

The significance of unpredictable and unplanned-for wage and condition increases is a concern for industry. This becomes an obvious issue of sustainability into the future, but particularly in the context of the scale of construction work planned over the next decade.

Lastly, some of the Project Respondents have declared a preference to be given "hard" rather than "soft" policy targets during the tender stages, so that these clear expectations can be priced-in and adequately planned for.

The crystallisation of expectations and commitments can then be left to the construct of appropriate contracts, which in turn are legally enforceable by each of the counterparties.

ANALYSIS & CONCLUSIONS (CONT)

Conclusions

The contention that BPIC is the driving force behind the realisation of core Government policy objectives is true to a limited extent, but is largely not supported through the reflections of Project Respondents on their actual experiences.

Unnecessary duplication and "layering" of identical concepts between laws, regulations, policies, and industrial instruments is costly to administer and prone to increasing disputation, rather than decreasing disputation.

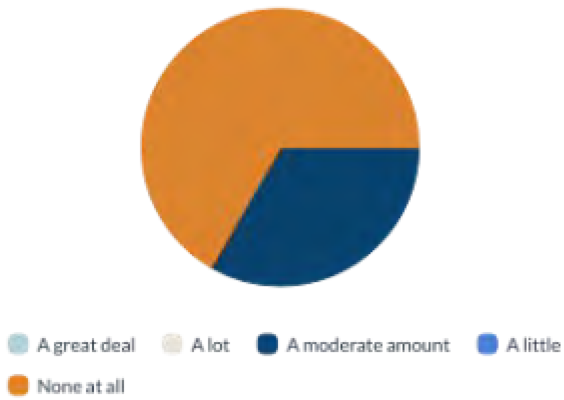
Circumstances will, and do, differ from one project to another. This should not be unexpected in a geographically and demographically diverse State such as Queensland. The adoption of a "one-size-fits-all" prescriptive approach to the regulation of terms and conditions of employment cannot reasonably be expected to accommodate all nuances and localised needs that may arise from time to time, and from place to place.

Paradoxically, BPIC is having a negative outcome on the engagement of local suppliers and subcontractors, rather than encouraging that engagement. This narrows the pool of options available to major contractors, and does not appear to support the Government's policy of greater industry engagement.

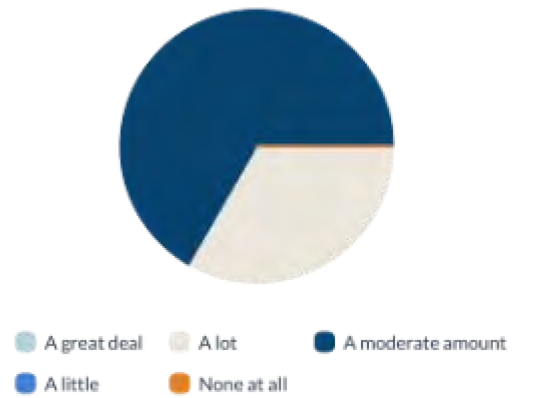
APPENDIX 1

KEY PRE-INTERVIEW SURVEY RESULTS

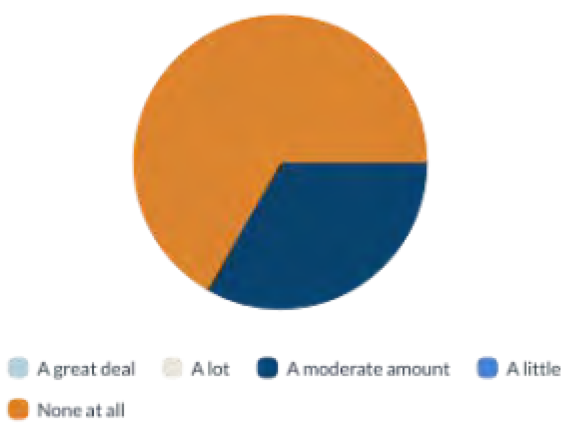
The BPIC applying to your Project has assisted in the Project's engagement of local contractors and subcontractors



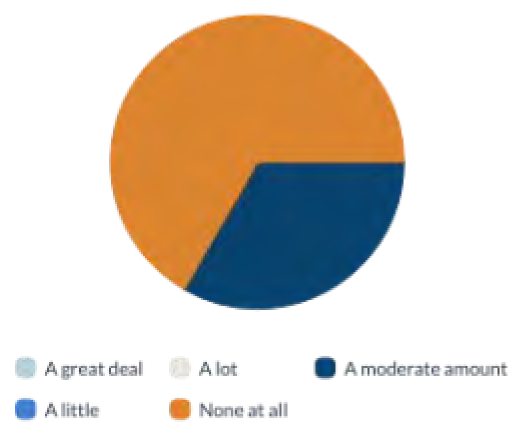
The BPIC applying to your Project has assisted in the Project's need to use supplementary labour (i.e. labour hire)



The BPIC applying to your Project has assisted in the employment of Aboriginal and Torres Islander people



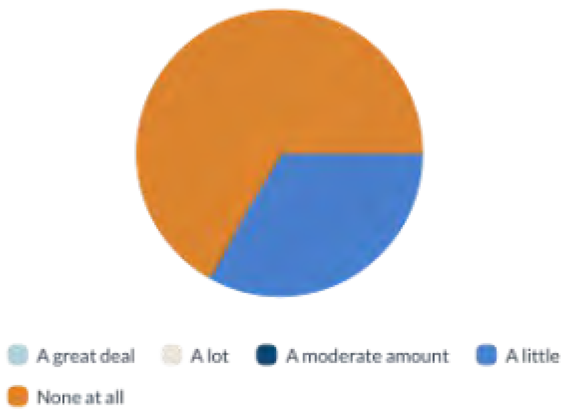
The BPIC applying to your Project has assisted in the employment of women



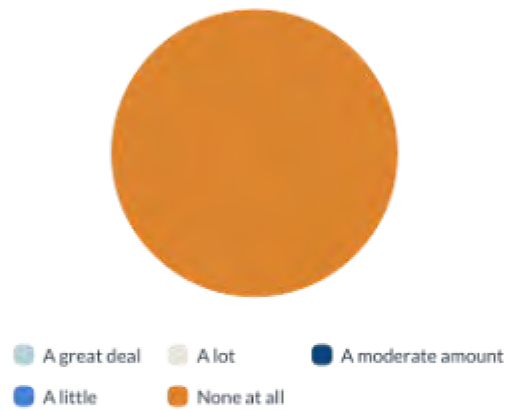
APPENDIX 1 (CONT)

KEY PRE-INTERVIEW SURVEY RESULTS

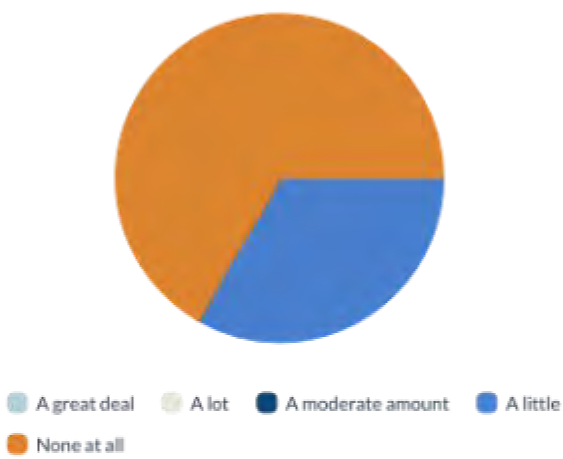
The BPIC applying to your Project has assisted in the employment of apprentices and trainees



The BPIC applying to your Project has assisted in the employment of mature aged workers

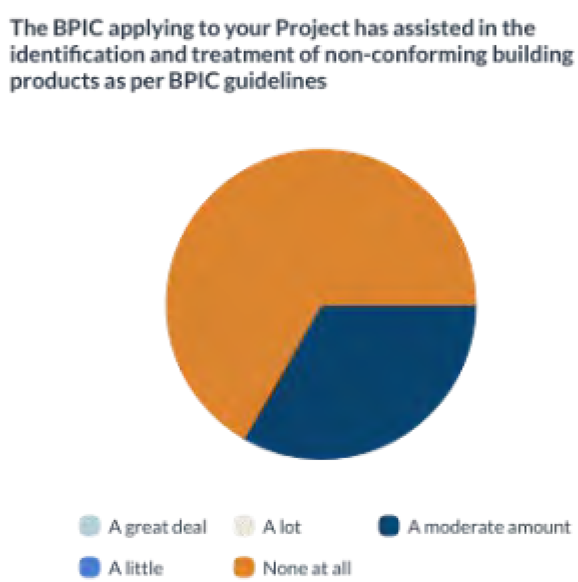


The BPIC applying to your Project has assisted in the identification and treatment of sham contracting as per BPIC guidelines



APPENDIX 1 (CONT)

KEY PRE-INTERVIEW SURVEY RESULTS



APPENDIX 2
INTERVIEW SUMMARIES

Project: Coomera Connector
Respondent: AGJV
Date: 21 September 2023

Key Points

- There have been challenges with subcontractors on the Project signing up to union agreements that have application beyond the Project and which apply throughout the State, creating flow-on effects into non-Project markets
- Some contractors have refused to price for tenders on the Project
- The pool of subcontractors is now more limited and the administrative costs for them are burdensome
- There are hidden costs, but particularly around safety compliance and retaining "Project knowledge" with subcontractor crews that may rotate in and out of the Project
- There is a higher IR risk environment
- Procurement processes are slower and additional resources are required for BPIC monitoring and compliance
- Policies are being doubled-up through BPIC – for example, there is already a Government Training Policy in place
- BPIC and BPP are two completely different things

Noted Comments

"Some unions have been going to subcontractors saying "hey, you need to sign up with us and pay these rates, otherwise you're not getting onto these Projects". And some subcontractors believe that. And now some unions are pushing those subcontractors for state-wide agreements, which then flow through elsewhere, whether that be work for TMR or a local council."

"Some contractors have refused to price, so our pool of subcontractors has diminished as a result of it because they just don't want a bar of it. It is too big an issue across their broader business."

"There are administrative costs on those subcontracting businesses in managing multiple agreements across different projects. They might have crews A, B, C, and D and they are now struggling to figure out how to make it fair for those different workers. So the business thinks "maybe we have to rotate our employees through the BPIC Project", which then adds a safety concern because instead of getting consistency of crews and that learning on the Project, you're now swapping people around all of the time and having to induct additional people to the Project."

"Other costs that are hidden are now being added, including safety risks."

"BPIC and BPP are two completely different things."

"BPIC is slowing down our procurement process and we are less efficient because of it."

"We have now got additional people resources to manage BPIC. That's costing us more in that regard."

"An intent-style document which is broader would give flexibility for people and businesses to respond how they see fit to achieve that intent. And don't forget, a lot of the policies being put into BPIC already exist through other government policies and contractual obligations."

"The other thing is just the astronomical increase in rates of pay for some trades. You know, like pay rates for Traffic Controllers are increasing by 80% to $160,000 a year. And for a two-day course, that's not bad going."

"The significant increase in rates of pay for blue-collar labour is forcing us to increase salaries for our supervision staff. In a lot of cases, a leading hand is now earning more money than their salaried supervisor. This is increasing our costs."

"There is a significant misunderstanding of BPIC from unions and the industry, particularly in regard to how different BPICs apply based on project value and version date, in addition to when BPIC applies to a contractors supply-chain. There is also misunderstanding from unions and the industry on the enforceability of the BPIC document as a policy. The misinformation is causing confusion in the industry."

APPENDIX 2 (CONT)

INTERVIEW SUMMARIES

Project: GCLR3
Respondent: John Holland
Date: 25 September 2023

Key Points

- Not seeing much disputation from the union
- The greater consultation requirements under BPIC have created delays in some aspects of the business
- There has been an increase in risks associated with subcontractors: (1) an increase in costs for subcontractors; (2) subcontractors struggling with dual pay rate regimes for Project and non-Project work; (3) procurement processes for subcontractors to the Project have been challenged
- John Holland has a highly sophisticated Safety Management System and there have been no IR issues manifesting as safety concerns on the Project
- BPP principles are almost baked into John Holland's DNA – BPP does enough on its own without a BPIC overlay
- BPIC has had a real impact on secure employment – previously a labour hire approach in the industry, but now more direct hire of employees

Noted Comments

"The process of implementing BPIC to the Project was a bit clunky the whole way through because there was a lot of stuff missing in the document."

"The whole policy drives greater levels of consultation which has the potential to sort of delay and frustrate the implementation of certain things."

"The bigger challenge has been the subcontract market and their willingness to take up opportunity, especially from a cost point of view. Procurement is very much challenged. We've struggled to tap in to the broad range of SME subcontractors that we would normally get to because from an implementation perspective, people didn't really know what the impact would be on their day-to-day business."

"If you're a subcontractor that is big enough and ugly enough, you can probably have a resource pool that's just servicing the Project and you can try and demarc the Project from other work, but a lot of smaller subcontractors don't have that luxury. They will be floating people in and out – a day here, a day there, which makes it hard."

"We've got a highly sophisticated Safety Management System and we haven't seen industrial relations manifesting as safety concerns. We occasionally get a bit of friction, but overall it's a low level and it's nothing too bad."

"During the process we did explain to TMR that they were effectively changing the whole model of how things are done from an infrastructure perspective here in Queensland. And it's making it look a lot more like Victoria, where we have had some experience in a highly unionised environment. There's a range of less tangible things that will impact time and cost."

"BPP does enough on its own with respect to indigenous, diversity and local engagement targets. As a tier 1 contractor, it is almost baked into our DNA these days anyway. The Best Practice Principles were already kind of doing the stuff that BPIC is trying to do now."

"The real impact of BPIC has been driving direct engagement on projects. From an industry perspective, it was very much a labour hire approach previously. BPIC has definitely driven some change where labour hire is not really as readily utilised and it is more direct workforce, more secure long-term engagement as opposed to labour hire and casuals."

APPENDIX 2 (CONT)
INTERVIEW SUMMARIES

Project: Centenary Bridge
Respondent: GBJV
Date: 8 September 2023

Noted Comments

"A more insightful measure for TMR would be to report the number of entities that are either declining to quote or participate in a Project on the basis of it being a 'BPIC job'. In this measure, anecdotally 5-10% of business we approach are choosing not to participate in CBU on the basis of BPIC being implemented here."

"GBJV has not engaged any labour hire firms, because we are "incentivised" via our Envelope #3 to minimise the involvement of labour hire."

"GBJV does not employ anyone at this early stage who identifies as Aboriginal and Torres Strait Islander peoples. However, we have had 12% of project hours completed by persons who indicated in their induction information that they identify as ATSI persons."

"GBJV has twelve (out of 29) female staff members listed on our Project's Organisation Chart as at 31-Aug-23. GBJV has not employed any females under our CBU Greenfield Agreement at this early stage."

"GBJV is not collating statistics in respect of mature aged workers on the Project."

"GBJV does not have any apprentices and trainees on the Project thus far, again recognising that the project is <5% complete by value."

"GBJV intends to increase the quantum of its workforce in Q1 2024 which will involve the further engagement of trainees and apprentices both directly and indirectly."

"GBJV has converted one casual employee – a cleaner."

"GBJV has not, and does intend to, use any temporary foreign labour."

"The Centenary Bridge Upgrade project has not experienced a Lost-Time Injury (LTI) and therefore has a Zero Lost-Time Injury Frequency Rate (LTIFR)."

"GBJV on the Centenary Bridge Upgrade project does not and will not engage in Sham Contracting."

"GBJV received one query from a group of employees engaged by a service provider to the Project, regarding their BPIC entitlements. GBJV exercised its rights under that particular subcontract to conduct a Payroll Audit for approximately 19 employees whom had been present on our Project for at least one shift. No significant non-compliance with that organisations Industrial Instrument were found but, three improvement opportunities were identified."

"The number of incidences where non-conforming building products have been identified and treated on the Project is Zero."

"The number of incidences where legislation breaches have been identified and treated on the Project is Zero."

APPENDIX 2 (CONT)
INTERVIEW SUMMARIES

Project: Cooroy to Curra (Stage D)
Respondent: CPB Contractors
Date: 19 September 2023

Key points

- The project was not originally tendered under BPIC, and BPIC had to be retrofitted
- The Project did not go back to market to all of the lower tier subcontractors after BPIC was retrospectively applied
- Not all BPIC conditions were applied. For example, hot weather (35c) would have added another 56 days' lost time to the Project. In another example, the EBA fixed 6 RDOs per year as non-working time (rather than 13). The other RDOs would be paid off to employees.
- Directly employed 107 employees in a few months.

Noted Comments

"The mechanics of implementing BPIC was a bit clunky, given that we had tendered for the Project without a clear understanding that BPIC would be part of it and then we had to try and quickly mobilize to retrofit BPIC to the Project"

"BPIC is an admirable approach in encouraging contractors to employ people directly and to avoid a race to the bottom. But BPIC is trying to do a little too much. It is not having any effect on training, because there is already a government training policy in place. If you wanted a better outcome for training, put a hard figure in the pay schedule for meeting training targets. Just put it up front. Tell everyone you want 15 trainees over two years of the Project. Then every contractor would price in the employment of those 15 trainees under the contract. Use concrete targets for what is being sought, rather than using some wishy-washy words in a document that does not translate to an actual outcome."

"We needed a minimum of two extra roles on the Project, including a workforce manager and a payroll administrator. "

"The greenfields agreement is available on the Fair Work Australia website and on our noticeboards, so people know what rates are being applied. People talk. BPIC has been a part of the reason why subcontractors have had to justify increasing their rates to their people on the Project, and our Company has had to come to the party and help support that in order to keep harmony on the Project. We did not seek to recover that extra cost from TMR."

"There's definitely been some concerns from subcontractors who have raised questions about BPIC, especially, for instance, more transient specialist contractors who may not be doing exclusive work for our Company. They might only come to the Project for 1 or 2 days and suddenly they have to pay everyone a higher rate and then they go off our Project – how do they balance this in-house regarding who is going to get paid what within their own company? There are concerns about that."

"It feels as if BPIC is being merged in the BPP policy and it is becoming less clear rather than more clear. The framework needs to be very clear, concise, and needs to express what government actually wants to achieve."

"We are doubling up with other legislation for no benefit. We are better off mandating clearer targets, which we can then tender on. And then we will deliver it."

"Having a self-perform workforce on the Project definitely had some benefits because we could be more flexible in our delivery approach, rather than having a subcontractor and labour hire approach. But it also comes with some higher dollars and conditions, which you need to be aware of."

"Having a certain set of conditions is admirable, so long as it is not doubling up with existing legislation."

"BPIC does not make the job safer, because we still have to operate under the work health and safety legislation."

From:	Julie Mitchell[redacted]
Sent:	Mon 06/11/2023 2:33:24 AM (UTC)
To:	Gavin G Allen[redacted]Deanne M Hawkswood[redacted] Benjamin J Donovan[redacted]
Subject:	FW: Rocky Ring Road Project - EBA consultation and outcomes
Attachment:	BBJV - RRR - EBA - Signed.pdf
Attachment:	CFMMEU Rockhampton Ring Road Letter - 20231016.pdf
Attachment:	AFHJV RRR EBA - AG2023_4018.pdf

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
MBA MEM GAICD
Deputy Director-General
Infrastructure Management & Delivery | Department of Transport and Main Roads
[redacted]
www.tmr.qld.gov.au

Transport and Main Roads offers flexible work arrangements for staff. I am sending this message now because it suits my working arrangements. I don't expect you to read, action or respond out of your normal work hours.

For more information on Queensland's Zero Emissions Vehicle Strategy, please visit
https://www.qld.gov.au/zevstrategy

From: Balmer, David [redacted]
Sent: Monday, 6 November 2023 9:53 AM
To: Sally Z Stannard [redacted]Adam Edwards [redacted]
Rob.Pickard[redacted]IDE, David [redacted]>; Julie Mitchell
[redacted]; Peter A Papantoniou [redacted]
Deanne M Hawkswood [redacted]; ryan [redacted]
Peter T Trim [redacted]
Cc: Greg Power - Draytons Workplace Consulting [redacted]
Subject: FW: Rocky Ring Road Project - EBA consultation and outcomes
Importance: High

Sally

We suspect your team has kept you updated, however we wanted to confirm that binding industrial

instruments in the form of single Union Project Agreements have been lodged with Fair Work for the respective Rockhampton Ring Road projects (North and South Packages). See attached.
A simplified summary of the consultation and negotiation process that have occurred is:

- Written correspondence encouraging engagement to all BPIC Unions notwithstanding limited relevancy in some cases to the project scope
- Consideration of responses received from the AWU and the CFMMEU
- Commencement of negotiations with the AWU
- Further correspondence to the CFMMEU inviting additional information, noting that the proposed project was predominantly civil construction scope and that the AWU negotiations had progressed
    - noting that the CFMMEU did not respond to this additional correspondence, a copy of which is attached for your information
- Ongoing negotiations with the AWU that resulted in agreed provisions that meet the intent of BPIC, achieve a best for project outcome, deliver value for money and flexibility and mutual commitment to meeting and exceeding the local content objectives of the QPP, BPP and BPIC

We believe the outcome achieved will enable the collaborative project team to have greater confidence in the cost of constructing the projects, and will provide greater clarity and confidence for the local market to engage with the project through the procurement and delivery phase. This results from a simpler, more flexible approach to meeting the intent of BPIC for small and medium subcontractors who may better understand the industrial arrangements the direct hire workforce will be secured under. This will give the best chance for local companies to consider how they too can meet the BPIC policy objectives without jeopardising their relationships with existing, long-term employees and clients.
We remained open to approaches and interactions with all Unions throughout this process, however as noted above, only the AWU provided us with clear details on the ability to reach an industrial instrument outcome under the Fair Work Act. To that end on Friday the CFMMEU contacted our representative Greg Power (Draytons) reiterating the CFMMEU's expectation that the BPIC policy mandated a multi-union EBA that expressly mirrors the BPIC Guidance documents. The position that the CFMMEU continues to hold is that the negotiations between the Union and government representatives in forming the BPIC Guidance documentation takes some form of precedence over negotiations between actual Employers and the majority coverage Employee representatives as required under the Fair Work Act for green field deal making.
If you have an questions or concerns in regards to the above please do not hesitate in calling.
Regards,

David Balmer

Regional Manager

ACCIONA Construction

ACCIONA

[redacted]

WWW.ACCIONA.COM.AU

From:	Julie Mitchell[redacted]
Sent:	Wed 31/01/2024 5:16:15 AM (UTC)
To:	Deanne M Hawkswood[redacted] Leah Rogash[redacted] Christina M Heffner[redacted]
Cc:	Christopher F Lunson[redacted] Ann-Maree Knox[redacted]
Subject:	Minister meeting with CFMEU- second hand advice from Tracy on outcomes

1. RT/ union oursourcing committte

    Status of this?
    outsourcing of traffic management was raised
    Sally keen for Dean to own relationship (I said to Tracy fine – but only the RT relationship not the Contractor one – Dee and Peter Pap need to won this

    Wanta meeting within next bit with herself, Dean and Ravbar- presumably for introduction

    Denn you need to goet over the issues- cl 4.2 in EBA – has several prongs incl- labour hire
    Whats oursourced
    Relay of info and new clauses in contracts for subbie (incl illegality/ otheerise)- legal advice re this/ and letter Sally to Ravbar

2. Centenary bridge- don't deliver whats said would- Sally said best endeavours (Dee)
3. CMFEU advised CRR Industrial action 12-14feb fyi only

……………………………………..

After meeting

Minister interested in the actual working conditions of our people cf across the country (wages, conditions and safety)-
Wants for us in mins presso on priorities to address - Safety in the RT and client sideareas ****
(Christina and Leah- very succinct- Sally liked the BN on client side)
Minister interested in Female apprentices- numbers (and any other traininees is good Construct techs))
Wants WHS stats- building vs civil and stats used (Peter pap) **(Tracy- and IMD) Christina – can we have a go at this- I assume Ravbar is saying its pitiful**

Julie Mitchell PSM
BEng RPEQ MIEAust CPEng
MBA MEM GAICD
Deputy Director-General
Infrastructure Management & Delivery | Department of Transport and Main Roads