Improving Access through Direct Private Investment in Public Road Infrastructure

Checklists

These checklists have been extracted from the Austroads Report *Improving Access through Direct Private Investment in Public Road Infrastructure* (AP-R490-15). The report should be read before using the checklists.

The purpose of the checklist is to assist the public sector and private industry in applying the requirements of the proposed framework.

The checklist is structured to move through the three phases of the framework and step through the detailed processes that are involved within each phase. This checklist should be used as an indicative guide and should not be relied upon as a fully robust and all inclusive checklist; requirements will vary depending on the jurisdiction and type of project and will be informed by agreement between the parties as a project is progressed.

For consideration by proponents in implementing the framework:

Prior to initiating the detailed guidance below, proponents should consider the nature of the proposed project and exercise judgement in applying each step of the checklist. The guidance is provided for each step of the framework, some of which may not be necessary for many smaller, less complex projects where steps can be combined or omitted where not relevant. Judgement should be exercised in combining or omitting steps and the reasons for doing this should be documented in order to maintain the transparency and accountability provided by the framework.

Proponents should also consider whether specialist resources are required to assist with the development of various key documents, including contractual documents such as the In-Principle Agreement and Final Agreement.

Proponents should refer to Appendix B in the report which outlines several significant commercial issues that have been identified by key stakeholders, across both government and private industry. While these issues may not be applicable for all situations, given the impact some of these issues may pose on the process, proponents should be aware of them and be prepared to address them should they arise.

Proponents should consider whether there are any existing agreements or binding arrangements between the parties that may be affected and therefore impact the proposal process. Proponents should also consider whether an agreement made under this framework will affect any other agreements that either party may have with a third party, such as access agreements, project agreements or development agreements.

Checklist Phase 1: Project Identification and Initial Assessment

Phase 1: Project Identification and Initial Assessment			
Private Sector Proponent	Public Sector Proponent (as per Private Sector Proponent unless otherwise indicated below)	Check (Y/N)	
Identification of Project Need			
Do the heavy vehicles contemplated to be used as approval under the National Heavy Vehicle Law or regulation?			
Are there any applicable legislative or regulatory redevelopments at the site require approvals under legislative or regulatory redevelopments.			
Who is the initial point of contact? Is this a local road (ALGA) or state road (State road authority)? Consideration of Commercial Issue #3 – is an independent assessor required to avoid any potential bias or conflict of interests?	Who is the initial point of contact? Who are the identified beneficiaries for the project?		
	Are there jurisdictional approvals that must be sought prior to approaching the private sector (e.g. council approval, CEO approval?)		
Stakeholder Identification			
 Who are the broader stakeholders that should be considered? Local communities (schools, sporting clubs, local interest groups) Local businesses Finance providers Board of Directors / CEO Parent Company Other private entities that may potentially 	 For a public sector proponent who are the stakeholders which should be considered: Local communities (schools, sporting clubs, local interest groups) Local businesses Other jurisdictions (state or local government, other state government departments (e.g. Department of Treasury, Water Authorities, state development) Other private entities that may potentially 		
benefit or be affected by the project (Consideration of Commercial Issue #2)	benefit or be affected by the project (Consideration of Commercial Issue #2)		

Private Sector Proponent	Public Sector Proponent	Check
	(as per Private Sector Proponent unless otherwise indicated below)	(Y/N)
Initial Information Requirements		
Does the initial submission include the fo	ollowing:	
Proponent Details - Information detailing the proponent name, organisation type, key personnel and other contact details.		
	e scope of the project, indicative timing and cost. ties should also be outlined where available.	
Anticipated project benefits – Objectives (inconsequent benefits to all interested parties	cluding expected productivity benefits), outcomes and .	
Anticipated project impacts - Measurable imenvironmental and disruption impacts.	npacts of the project including safety, amenity,	
Method of Approach - Details concerning where sponsible for funding and building the ass	hich of the interested parties is proposed to be et.	
Has the following information been provi	ided where appropriate?	
Description of vehicle type being considered	d for improved access	
Description of the freight task (i.e. commodi	ty, average volumes)	
Access approval requirements under the He	eavy Vehicle National Law and status of any application	
Number of heavy vehicle trips proposed for benefits provided by the improved access	the route over an average week and the productivity	
Potential stakeholders affected by the change	ge in heavy vehicle trips on proposed route	
Other information appropriate to the comple #4 from Appendix B relating to consideration	exity of the project (e.g. consideration of commercial issue n of route completeness)	
Initial Assessment		
Does the proposal as presented meet the	e following minimum requirements?	
Does the proposal include a complete or substantive component of private funding?		
Does the proposal demonstrate an improve	ment in productivity for heavy vehicles?	
Does the proposal as presented meet the	e following objectives?	
Does the project align with government police	cy and priorities?	
Does the project represent Value for Money	?	
Does the project demonstrate a benefit for t	he public?	
Is the project feasible from a social and env	ironmental perspective?	
If there is risk sharing between parties, is it	an acceptable and optimal arrangement?	
What is the level of private sector contribution	on of the project?	
What is the extent of public sector funds rec	quired for delivery, if any?	
What is the capacity and capability of the pr	oponent to provide financial investment and undertake	

Private Sector Proponent	Public Sector Proponent	Check
Trivate decici i reponent	(as per Private Sector Proponent unless	(Y/N)
	otherwise indicated below)	
 The public sector may take into account the following considerations when undertaking an initial assessment of a project proposal: Are there any restrictions to be placed on the use of the upgraded road on other heavy vehicles? Are there any requirements relating to ongoing asset management, including road or bridge maintenance or operations requirements? Are there other potential beneficiaries of the project and is there feasibility of working out a solution for charging, investment and use of the associated infrastructure that is acceptable to all potential beneficiaries Any requirement for public funding that requires a business case and/or extraordinary approvals For further discussion around the above points, please refer to Appendix B. The relevant 	The private sector may take into account the following considerations when undertaking an initial assessment of a project proposal: • Approvals process within entity • Financial capacity of entity • Capital expenditure plans and timing of contributions • Impact on year end reporting • Budget and forecasts for the year	
commercial issues are #2, #5, #6		
Agreement to Proceed		
Any agreement to proceed should consider the		
Description of the scope of the proposed project	ct	
2. Have dates been agreed for the next phase of	the project?	
3. Probity, conflict of interest and confidentiality particles (Consideration around the need for an independent of the confidence of the		
4. Commercial principles that have been or need in the next phase	to be agreed for the development of the proposals	
5. Evaluation criteria that will be applied to determ	nine if project will reach final phase	
Understanding of the level of detail required for costing accuracy).	the next stage of development (detailed design,	
7. Relevant design standards for the project		
Process or governance requirements that will governance next phase.	guide engagement between the parties during the	

Checklist Phase 2: Detailed Proposal and In-Principle Agreement

Phase 2: Detailed Proposal and In-Principle Agreement

Development of Detailed Proposal and Negotiations

Where your agreement to proceed included a negotiation process and governance requirements, ensure relevant procedures are in place to confirm compliance with these requirements.

Key items to consider:

- Dates for the next phase of the process to be finalised
- Any probity, conflict of interest or confidentiality protocols
- Evaluation criteria and process
- Progress meetings / Steering committee(s)
- Design development approvals
- Information sharing protocols / correspondence
- Negotiation protocols

Where your agreement to proceed included relevant design standards for the project and a level of detail required for the next stage of development, ensure that there are procedures in place and a program to ensure compliance with these requirements.

Key items to consider:

- Does the project solution meet the design standards as agreed in the agreement to proceed or within the preliminary negotiations?
- Have all impacts on surrounding networks and environment been identified? (e.g. drainage networks, land acquisition requirements, safety standards)
- Has the cost of the project, including risk and contingency allowances been determined to an agreed level of accuracy?
- Does the developed solution include a proposed program of implementation, including planning, construction and commissioning requirements?

Where your agreement to proceed included any commercial principles ensure that there are procedures in place to confirm compliance with these requirements.

Items to consider:

- Level of government funding required?
- Does the proposed risk sharing arrangements for design, construction and financing meet the requirements in the agreed to proceed?
- Does the proposed solution provide confirmation of financial feasibility?
- Have the proposed funding arrangements, including if relevant, the proportion of shared funds to be allocated between the parties been agreed upon as per preliminary negotiations?
- Does the proposed solution include details of the proposed procurement strategy as agreed?

Other things to consider if government funding is proposed to be provided:

- Development of a business case to consider economic merits of the project
- Stakeholder engagement requirements
- · Other relevant approvals that may be required, including planning or environmental approvals

Assessment of detailed proposal

A formal assessment should be undertaken against evaluation criteria that were outlined in in point 5 of the Agreed to Proceed document, where appropriate.

Ensure all requirements under the agreement to proceed are met

Have relevant approvals processes been followed prior to entering into any agreement, by appropriately authorised and delegated representatives of both parties?

Phase 2: Detailed Proposal and In-Principle Agreement

In-principle agreement		
Does the In-principle agreement cover the following areas where appropriate?		
1. Process for identifying and treating Intellectual Property developed during the process;		
2. Process for determining the final project costs (for example, open book approach)		
3. Timeframes for completion of the negotiation		
4. Rights and obligations of each of the parties		
5. Information requirements		
6. Compensation arrangements including the potential purchase of Intellectual Property by government and/or cost-sharing arrangements between government and private party for costs incurred during the development phase of the proposal.		
7. Confidentiality and approval requirements		
8. Management of conflict of interest		
9. Probity, process and protocols for negotiation		
10. Schedule of items and issues to be negotiated		
11. Any conditions placed on the further development of the detailed proposal by the governance framework of either party.		
12. Any process or governance requirements that will govern engagement between the parties during the next stage of development of the project solution		

Checklist Phase 3: Negotiation and Agreement

Phase 3: Negotiation and Agreement

Development of final proposal offer and detailed negotiations

Consideration should be given to the administrative and governance arrangements outlined in the In-Principle Agreement, and processes should be put in place to ensure compliance with these requirements.

Where the In-Principle Agreement outlined a schedule of items for negotiation, have they been developed and provided in line with the agreement?

Where the In-Principle Agreement outlined conditions to be placed on the further development of the detailed proposal, ensure that appropriate procedures are put in place to confirm compliance.

The following items may be considered appropriate developments:

- · Final solution may include refinement of costing accuracy, in line with In-principle agreement
- Confirmation of design detail should be produced for the final solution in line with In principle agreement
- Finalisation of commercial approach, including confirmation of procurement process, risk sharing and cost-sharing arrangements (if any) for final solution

Where the In-Principle Agreement outlines the process for determining final project costs, ensure there are procedures in place to confirm compliance.

Final Agreement

Ensure the final agreement meets the relevant requirements for contracting within your jurisdiction

Ensure final agreement incorporate all outcomes agreed during negotiations.

For example:

- Delivery Time Frames
- Project Scope
- · Key commercial principles
- Delivery requirements
- · Government approvals
- Risk allocation and payment mechanisms
- Value for Money

Implementation and Reporting

Protocols and procedures should be put in place to ensure the obligations under the agreement are fulfilled, regardless of which party is responsible for project implementation.

The following key controls should be considered during the design development and project planning process

A project program that defines key dates and interdependencies for design, approvals and key construction activities.

A design management plan that includes any requirements for document control, design review and audit, design verification and design approvals.

An approvals management plan that includes a listing of the relevant project approvals that may be required

A stakeholder engagement plan that includes a listing of key stakeholders and responsibility and timeframes for engaging with those stakeholders

Phase 3: Negotiation and Agreement

The following key controls should be considered during project construction

A project program that defines key dates and interdependencies for each key activity and construction package of work

A tender management program that includes requirements for tender preparation, approvals, advertising and award.

A construction or contract management plan that includes a management structure showing roles and responsibilities, effective quality and safety assurance requirements, any approvals or controls on works that impact utilities or near sensitive areas

The following key controls should be considered during project handover to the relevant road manager

A completion management plan that includes collation of all relevant quality control records, approvals obtained, defects identified and a process for rectifying them, and 'as-built' drawings

A commissioning plan that includes any commissioning tests that may be required to certify the asset for use

The following requirements should be considered during maintenance of the project

An operations and/or maintenance management plan that includes roles and responsibilities, key operation or maintenance standards that apply to the asset, any specific asset management requirements including relevant operation or maintenance procedures, a forecast maintenance program for the period of the agreement and any key performance indicators that may be relevant. (Consideration of Commercial Issue #5)