



REPORT FROM THE PATHFINDER PUBLIC PRIVATE PARTNERSHIP (PPP) REVIEW WORKSHOP

MAY 2013

INTRODUCTION

This document reports on the Pathfinder PPP Review Workshop held in November 2012, where over 100 industry leaders and senior government officials met to provide feedback on the bid processes employed for the two New Zealand Public Private Partnership (PPP) projects released to date, namely the Hobsonville Schools PPP and the Prison at Wiri PPP.

Facilitated by the NZ Council for Infrastructure Development (NZCID), the one day workshop commenced with reflections from Treasury, the Department of Corrections and the Ministry of Education on the PPP bid process from market release to financial close utilised for the two PPP projects. Representatives from the private sector consortia also offered their perspectives, and shared lessons and potential process enhancements to consider for future PPPs in New Zealand. Workshop participants contributed their views through two facilitated workshop sessions, which comprised individual reflection, group discussion and a plenary session.

Subsequent to the Workshop, the Department of Corrections released 'Public Private Partnership Project for a New Men's Prison at Wiri: Lessons Learned Report'.¹ As one would expect, many of the lessons documented in the report (see Appendix for a summary of the recommendations) are common to those of the Workshop, giving credence to the findings of both reviews, and providing vital input to the rollout of future PPPs in New Zealand.

NZCID would like to acknowledge sponsors Fletcher, Hawkins Construction and Mainzeal, the Workshop speakers and breakout group facilitators, the industry participants from winning and losing PPP consortia, government officials and other stakeholders who contributed to the day. The outcomes from this body of expertise will make a valuable contribution to the future of infrastructure procurement in New Zealand.



¹ http://www.corrections.govt.nz/__data/assets/pdf_file/0009/640593/PPP-Lessons-Learned-FINAL_11Dec2012.pdf

SUMMARY OF FINDINGS

The PPP environment in New Zealand is developing rapidly, and with new PPPs coming on stream, it is imperative that the lessons learnt through the Hobsonville Schools and Prison at Wiri PPP are embedded into the new projects.

From the outset, the Prison at Wiri Pathfinder PPP was designed to 'encourage collaboration, and provide the private sector with the freedom and incentives needed to deliver different and innovative solutions... and, have the potential to significantly lift the overall performance of the Department' (Lessons Learned Report, Department of Corrections). Although the results have yet to be seen on the ground, the innovative outcome focus, with minimum constraints, the publication of bid evaluation criteria, disclosure of an affordability threshold and the incorporation of an interactive process represent procurement best practice, and should be adopted by future PPPs in New Zealand.

One of the most significant benefits of the Prison at Wiri PPP was the focus on achieving reduced rates of recidivism as the over-arching, long term outcome. Future PPPs in New Zealand must build on this

outcomes-focussed approach. PPPs should not deliver assets, they should deliver better service outcomes for less cost than alternative procurement options.

Ensuring the procurement processes are fair and contestable, and that the iterative learning is harnessed by all stakeholders for the benefit of future infrastructure projects is imperative. A greater degree of transparency and evaluation must be mandated prior to, during and post the procurement phase, and the publication of major public sector capex, the reasons for selecting a particular procurement methodology, the PSC case and performance reviews post procurement must all become mandatory.

Parallel to these refinements must be the requisite investment in developing the skill base of the industry. There are significant opportunities for the private sector to improve (e.g. listen to client needs, focus on outcomes sought and enhance project management, team cohesion and PPP expertise), and the private sector would do well to use the down time between projects to upskill, build or acquire capacity. Equally, educating the public on the pros and cons of PPPs is an important task which also requires attention.

All the conclusions to be drawn, we think, are not rocket science, and are readily implementable and achievable. More importantly, we feel that, with Christchurch deserving of the best, now is the time to act with pace, and put these lessons into practise.

The following list provides a summary of the critical success factors proposed by the workshop attendees:

1. Government departments and local bodies to:

Market Development:

- Publish rolling 5 year major capex project pipelines
- Sequence PPPs to suit market capacity and promote competition
- Upskill staff in the full suite of best practice procurement processes and encourage regular flow of private sector personnel into the public sector and vice versa

- Consider full or partial bid cost reimbursement in return for acquiring intellectual property rights
- Ensure agreements are tailor made for New Zealand, especially in relation to smaller value PPP deals
- Consider early reduction to two bidders

Bid Process:

- Strive for early and enhanced engagement with the private sector
- Provide clarity to the market about the high level service outcomes that are sought from any potential PPP project
- Publish the reasons for selecting a particular procurement methodology (it may be within the business case)

- Publish the major public sector capex preliminary and detailed business cases well before the EOI
- Publish the PSC case (not just the number) at the point of EOI
- Review probity requirements to foster the interactive bidding process whilst ensuring inter-bid confidentiality and commercial competition

- Adhere to published project timeframes
- Ensure that payment mechanisms incentivise the delivery of the outcomes

Transparency and Education:

- Review each PPP and publicise the results
- Similarly, ensure all major public sector capex projects undergo an ex post review of decision business case compared to the total out turn cost

- Undertake a review of the public sector ex ante cost of capital in comparison to the private sector's cost of capital and what credit support charge to the public sector's balance sheet should be taken into account when it borrows to fund capex
- Ensure that this transparency of information is applied to educating the public on PPPs

2. Private sector stakeholders to:

- Team up early
- Focus on new thinking and innovation
- Ensure bid responses are tailored to key outcomes sought
- Invest in enhanced project management, consortium management and cohesion
- Develop PPP expertise
- Resource projects appropriately

SUMMARY OF PRESENTATIONS

3. A working party consisting of public and private stakeholders should be facilitated by the National Infrastructure Unit to fine tune the bid process, focusing in particular on probity requirements, the ITP process, bid costs, the number of bidding parties, information requirements and document and process standardisation. The working party should also develop partnership models suitable for lower value projects that might also benefit from private sector financing, risk transfer and innovation.

Greg Pritchard, GM Fletcher Construction, Building and Interiors opened the Pathfinder Review Workshop.

Stephen Selwood, CEO, NZ Council for Infrastructure Development, provided an introduction to the Workshop programme and the structure of the day.

Fiona Mules, Head of PPP Programme, Treasury reflected on the bid processes employed by the two PPP projects to date, voicing satisfaction with the general processes, the key drivers, the standardisation, the deadline compliance and the speed of the transactions to financial close. On the other hand, she thought that consortia needed to bring more innovative thinking to the table and focus on new and better ways to deliver the specified project outcomes. The Interactive Tender Process (ITP), the issue of probity, and the lack of cohesion and project management skills of the private sector consortia were noted as areas requiring fine-tuning for future projects. In closing, Fiona outlined the international interest and academic attention which New Zealand's innovative approach to PPPs had generated, and acknowledged the private sector for its support of the PPP projects.

Jeremy Lightfoot, General Manager, Finance, Technology and Commercial, Department of Corrections presented a client-side perspective of the PPP at Wiri project. Driven by a commitment to reduce re-offending whilst retaining public safety, the Prison project sought enhanced operational outcomes, through appropriately designed, built and financed assets. In using a PPP, the Department was looking to leverage private sector innovation and expertise to both lift the performance of the prison network, thus raising the bar for custodial services across the country, and, as a precedent setting project, 'to provide insight for future large projects, both PPP and traditional procurement in New Zealand'.





Rob Campbell, Manager, Major Programmes, Ministry of Education outlined the condensed timeline of the Hobsonville Schools project, New Zealand's first PPP, which reached financial close 10 months after the EOI was issued. A flagship project, this PPP used output specification which led to good design outcomes, risk transfer and a whole of life strategy for the Ministry of Education. Enhanced by market testing which generated strong interest and a competitive bidding process, the Hobsonville Schools' Project was delivered on time against a demanding timetable. The international PPP experience of the team, combined with streamlined probity, best practice procurement, clear delegated authority and tight project management received praise from the private sector. Future projects would do well to consider enhancements to the ITP process, a fine tuning of the bid process and a lengthened RFP period.

Duncan Olde, Division Director, Macquarie, provided a private sector perspective of the PPP at Wiri Project through the experiences of the large, diverse SecureFuture consortium which consisted of over 30 parties. Key strengths of the process were summarised as the early engagement of the strong public sector team with the market, and the adherence to the timetable and targeted clarifications. Opportunities for enhancement included providing early clarity on probity and conflicts, commercial engagement in ITPs/RFP phase and the use of a partnering approach to the Preferred Bidder phase.

Steven Proctor, Executive Director PIP Fund, Morrison and Co, was complimentary of the Hobsonville Schools PPP process and procurement team, from the perspective of the private sector, commenting that it was 'about right' for a project of its size. Some key lessons Steven felt were worth considering for future projects included: enhancements to the ITP processes, reduced probity requirements, flagging of the project to the market and the short-listing of two parties earlier in the process.

Peter Gomm, CEO Mainzeal, advocated for the creation of a unique hybrid PPP for New Zealand, where the drivers of both public and private sectors are more closely aligned. Peter suggested enhancements to New Zealand's current PPP process including the publication of a 5 year PPP pipeline, earlier public-private engagement, the compensation/reimbursement for losing bidders and the adoption of a more transparent, communicative, partnership approach.

Carl Munkowits, CFO Construction Group, Fletcher Building and Nigel Varcoe, Commercial and Business Systems Manager, Fletcher Construction took a NZ Inc perspective and provided a macro framework for the development of a more efficient/effective market. The suggested preconditions required for New Zealand to build capacity, stimulate the market and be able to withstand the boom/bust cycle in the lean times included: the consistency of deal flow (co-ordination, early warnings of projects, PPP lite to allow broader participation), a consistent approach/process, greater depth in the market, reduction in and reimbursement of bid costs, and a reduction in the length of time before cash flows.

Dan Ashby, Executive GM, Hawkins Construction drew the attention of the Workshop participants to NZCID's PPP lite paper and the 2011 Auditor General's Overview (Managing the Implications of Public Private Partnerships), the contents of both, he felt, if actioned, would address the challenges currently faced by New Zealand, in regard to PPPs. Dan expressed some reservations about the term 'PPP lite' and challenged the expert audience in attendance to ensure whatever enhancements were made to the process were implementable, appropriate for Christchurch and were able to carry risk.

At the conclusion of the day, a plenary session comprising **Fiona Mules, Carl Munkowits, Gary Walker (Hawkins), Peter Gomm, Grant Hodges (EY), Steven Proctor, Jason Wozniack (Aurecon) and Duncan Olde** then addressed the 'thorny issues'. Key points raised during this session included the importance of clarity around outcomes, joined up thinking across government departments, the bundling of services to offset cost differentials, and the possibility of reduced involvement by banks. Caution was expressed about rushing into PPP projects at all costs, especially in Christchurch, where what is required is a pipeline of projects underpinned by robust, appropriate procurement discipline. Participants were quick to acknowledge how far New Zealand had come in such a short time in regard to PPPs and felt that 'evolution' and 'refinement' of the current model, rather than a wholesale 'revolution', were the order of the day.

"How do we advance best practise in procurement, and transfer the learnings across sectors?"

FINDINGS OF PATHFINDER PPP REVIEW WORKSHOP

Two breakout workshop sessions held during the day captured the views and experience of over 100 senior industry experts and government officials, all of whom had been involved in one or both of the New Zealand Pathfinder PPPs. Many participants also brought significant international PPP experience to the table.

BREAKOUT WORKSHOP 1

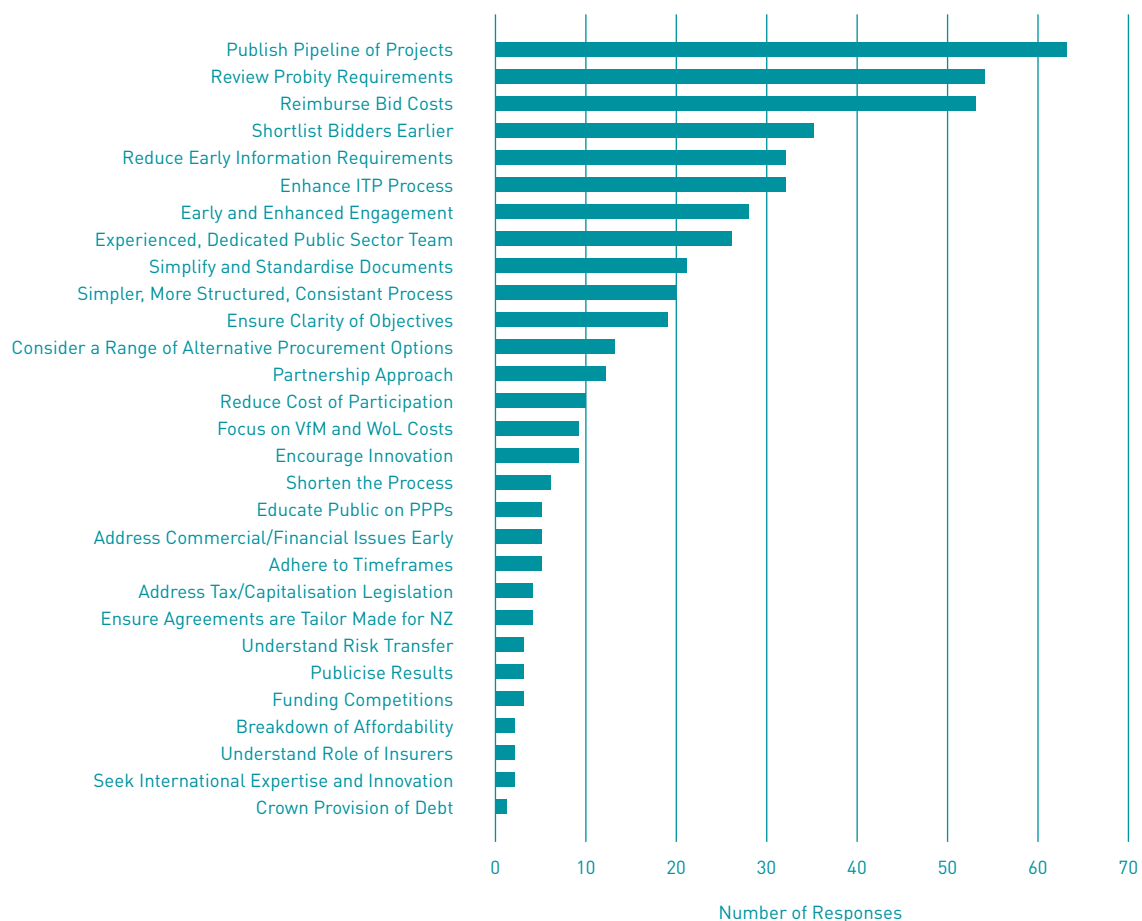
This session posed two questions to the participants, which they firstly considered individually, then as a group, distilling the feedback into key themes.

Figure 1. depicts the responses, both in issue and frequency to the question:

What lessons should the public sector take from the first NZ PPPs? What could it do differently?

FIGURE 1

PPP PROCESS ENHANCEMENTS FOR THE PUBLIC SECTOR TO CONSIDER



As depicted in Figure 1, the **publication and sequencing of a pipeline of projects** was noted by two thirds of the workshop attendees as the most critical enhancement to the current process. Early communication of prospective projects creates confidence about investing in capability, allows early market engagement and consortium formation, encourages meaningful bids where risks have been quantified, and provides the time for effective resource planning. Having clarity about the pipeline also allows consortia to apply lessons learned from previous projects, thus enhancing the outcome for the client. Sequencing of projects is key to ensuring that the market has the necessary capacity to respond. This recognises that PPP expertise in New Zealand is still comparatively shallow. Too many projects at one time will be detrimental to competition and may also over extend public sector capacity.

Reviewing probity requirements was also seen as vital by over half the workshop participants. Publishing probity guidelines that were appropriate for the small, shallow NZ market and working with greater trust and transparency would go far

in addressing the negative effect that overzealous probity conditions have had on the Interactive Tender Process (ITP) to date. A balance needs to be struck to enable a truly interactive engagement whilst ensuring probity requirements are efficient; facilitate accountability; encourage commercial competition during any competitive tender process (so that all bids are assessed on the same basis); and preserve public and private sector confidence in the bid process.

The current PPP bidding process results in high bidding costs, which, without a pipeline of projects on the horizon, are prohibitive for smaller organisations and difficult to recoup for unsuccessful parties. Over half the workshop participants sought some form of **bid cost reimbursement** or reduction, which could be achieved by **reducing the design component required, short-listing to two parties early in the process**, the client purchasing the IP or paying a percentage fee to the losing consortia.





Enhancing the ITPs through publishing guidelines and expectations, fostering a more transparent and collaborative process, providing full and frank feedback and addressing the commercial issues was also seen as an important enhancement to the current process.

The public sector was encouraged to **engage early and meaningfully** with the private sector in a collaborative, partnering spirit. Through early, consistent market soundings, the private sector can achieve clarity on the desired outcomes, leading to a higher quality of bid document and lower costs.

Ensuring capability is developed and retained in an **expert, dedicated, centralised procurement body** is also seen as vital for the future of PPPs in New Zealand. This body must be informed by international best practice, and be able to deliver a consistent strategy and transfer lessons to other PPPs, as well as upskilling local government in the alternative procurement space. The importance of **tailor making agreements for the NZ environment** was stressed, rather than simply importing or relying on international models.

Simplifying documents and standardising the bid process by incorporating lessons from the last two projects will assist in removing uncertainty and provide a more transparent, streamlined and consistent process.

Although there was general satisfaction around the **adherence to timeframes**, some people felt tighter deadlines and the possibility of **shorter time tables** would be worth considering.

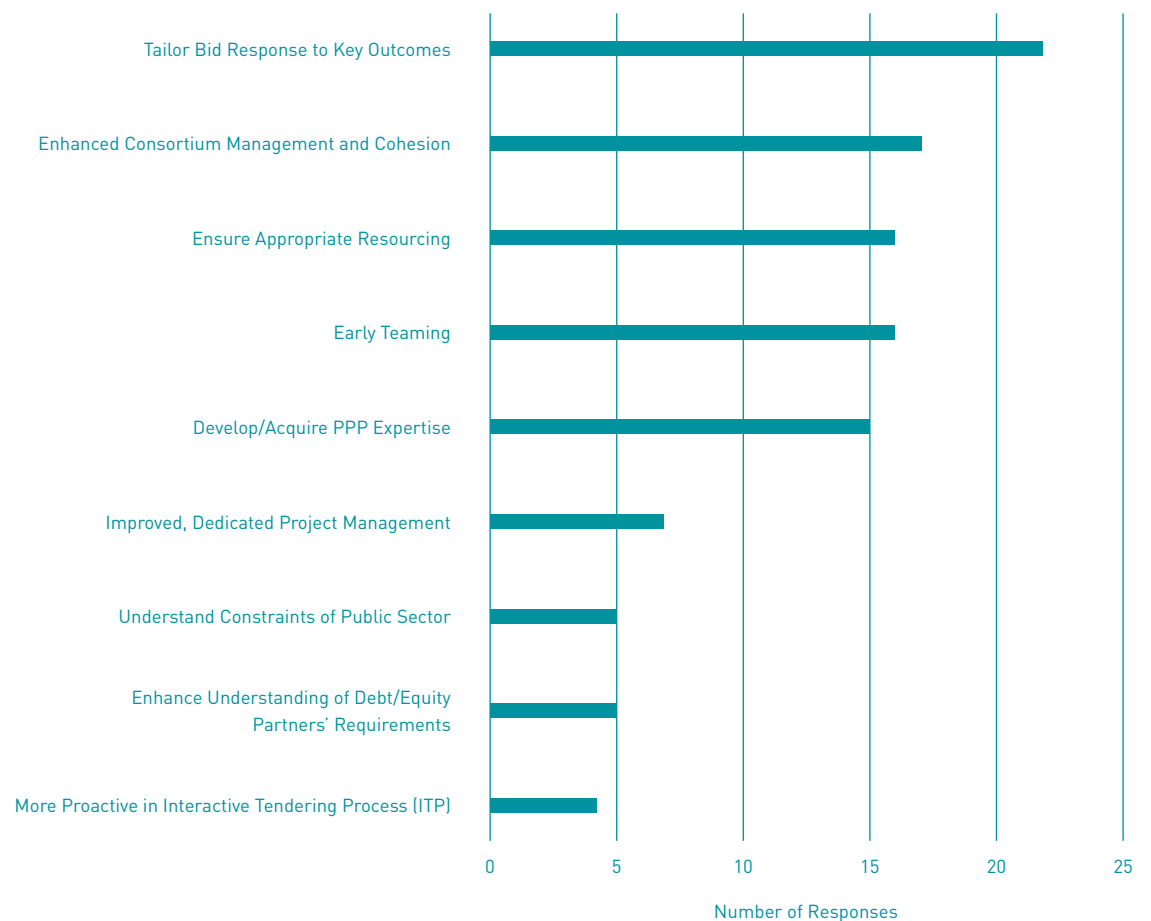
Participants felt that there was a low level of public understanding of PPPs, and in order to create an informed voter base and 'get projects across the line' there was a need to **publicise the results** and **educate the public on PPPs**, especially in regard to **Value for Money, Innovation and Whole of Life Costs**. Not only did delegates feel the public needed education, but that an **enhanced understanding around the role of insurers, risk transfer and tax/capitalisation legislation** by the public sector would pay dividends. Finally, workshop participants also felt further work needed to be undertaken in regard to **Crown provision of debt, a breakdown of affordability and funding competitions**.

Figure 2 depicts the responses both in issue and frequency to the second question of the first breakout session:

What lessons should the private sector take from the first NZ PPPs? What could it do differently?

FIGURE 2

PPP PROCESS ENHANCEMENTS FOR THE PRIVATE SECTOR TO CONSIDER



The most frequently cited lesson the private sector could take from the first two PPP projects, was the need to innovate and **tailor the bid response to key outcomes**. Listening to the client, fully understanding the key drivers, and delivering on the specific outcomes sought (rather than those assumed) were seen as vital ingredients for delivering a comprehensive bid. Reading the material provided, answering every component of the output specification and fully interacting in the ITPs were also actions that were more likely to deliver a successful bid. A helpful suggestion from several of the presenters was to *listen, listen, listen* to what the client was saying they required, rather than making assumptions.

Enhanced consortium management and cohesion along with improved, dedicated project management would also raise the bar as far as the private sector response to PPPs was concerned. A higher degree of co-ordination and more liberal doses of 'consortium glue' would serve to create a more joined up, cohesive team, rather than a 'group of disparate entities'. Overlaying this with **early teaming**, to establish credible consortia, and dedicated project management that is appropriately resourced will create a winning formula.

As was the case for the public sector, **acquiring, investing in and developing expert team members** who have a robust understanding of PPPs is vital. Ensuring that the 'A team' is on board at all times, and that the different skillsets required during the different phases are mobilised accordingly, is key.

Understanding the constraints of the public sector, i.e. the small pool of advisors and the politics which must be managed, along with the **requirements of the debt/equity partners**, were also seen as important lessons for the private sector to take from the two Pathfinder PPPs.

It should be noted that private sector participants outnumbered public sector client representatives four to one. Inevitably therefore there were many more suggestions for improvements to the public sector process from the private sector. This does not diminish in any way the significance of the client side feedback. Public sector representatives were strongly consistent in the message that critical success factors for future bids must include: a strong focus on innovation; tailoring the bid response to key outcomes; improving consortium project

management and cohesion; early teaming comprising "A" team participants; and understanding client side processes and the requirements of both debt and equity partners.

For full workshop participant responses to these questions, please refer to the Appendix. A review of the detailed feedback of the workshop recipients provides many insights.

BREAKOUT WORKSHOP 2

The second workshop session of the day focused on the following three questions:

1. **Do you agree with the recommendations from the PPP Lite paper? If not, why not?**
2. **From today's presentations and lessons, should there be any additional recommendations?**
3. **What implications are there for Christchurch?**

In summary, there was general support for the PPP Lite report², which included the following recommendations:

- Two Bidders in Competition
- Post Bid Involvement of Lenders
- Publish the Evaluation Criteria

- Publish the Affordability Range
- Concept Design Approach
- Interactive Tendering Process
- Bidding Templates
- Avoid Best and Final Offer Processes
- Simplify the Services and Payment Mechanisms
- Clear Hand Back Conditions
- Project Pipeline
- Bundled Projects
- Standardised Processes
- Public Sector Finance and/or Guarantees

However, the concept of PPP Lite was felt by some to be inconsistent with the over arching use of PPPs in New Zealand to date, that is, to deliver enhanced outcomes, innovation and value for money. Therefore, some projects may not be able to be reduced to a "Lite" basis while still maintaining integrity of process and certainty of delivery.

The areas which workshop participants identified as differing from the recommendations in the PPP Lite report included:

- Concern about **reducing to two bidders** too early in the process, thereby reducing funding competition and providing insufficient stability for the long term market
- Ensuring that the **involvement of post bid lenders** is only undertaken in a mature market, where there is a lower project risk profile
- Concern around the ability of a **concept design approach** to adequately reduce risk and provide enough certainty around delivery and cost for banks, equity operators and government

² http://www.nzcid.org.nz/Category?Action=View&Category_id=106

- Although there was general agreement around the **standardisation of documentation**, some felt that given the diverse and complex natures of the projects, this could be difficult to achieve
- Public sector finance/guarantees were felt to be inappropriate for small, privately funded projects

There was considerable discussion as to whether or not “PPP Lite” was an appropriate concept, given its limitations. Proponents felt it to be ‘another useful tool in the toolbox’. Critics however were wary of watering down the PPP process to suit smaller projects, suggesting instead to make use of other procurement models more appropriate to the reduced scale, for example Alliances, Special Purpose Vehicles (SPV), Sale and Lease-Back, the LIFT (Local Improvement Finance Trust) model³, standard government leases with approved KPIs etc. In the end the discussion underlined the critical importance of undertaking robust and detailed evaluation of the best procurement tool for each and every project.

At the second workshop, participants were also asked to consider the question ‘**From today’s presentations and lessons, should there be any additional recommendations?**’

Summarised key themes included:

1. Reduce/reimburse bid costs
2. Consider how it can work for smaller projects
3. Ensure optimum risk transfer, not maximum risk transfer
4. Upskill central and local government procuring agencies

Finally, participants were requested to turn their minds to ‘**What implications are there for Christchurch?**’

The following list summarises the key themes:

- Early engagement with the private sector on the pipeline of projects
- Transparency of process
- Centralised support agency to make the process easier
- Needs NIU involvement to drive knowledge sharing in local authority
- Must access a range of procurement tools
- Programme approach to development
- Access to appropriate resources, that are co-ordinated
- Recognition of skill and expertise gaps
- Consider third party income opportunities
- Considering using a LIFT model for multiple projects.

³ For further information see http://www.localpartnerships.org.uk/UserFiles/File/Publications/Map_of_the_LIFT_Process.pdf

APPENDICES

NZCID PATHFINDER PPP REVIEW WORKSHOP PROGRAMME

CLICK HERE TO DOWNLOAD A PDF OF THE WORKSHOP PRESENTATIONS



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8.30-9am REGISTRATION AND COFFEE

9am	Sponsor Welcome - Fletchers	Greg Pritchard	General Manager, Fletcher Construction, Building and Interiors
9.05am	Introduction and Scene Setting	Stephen Selwood	CEO, NZCID
9.15am	Treasury Reflection	Fiona Mules	Head of PPP Programme, The Treasury
9.30am	Lessons from the PPP at Wiri Project	Jeremy Lightfoot	General Manager, Finance, Technology and Commercial, Dept of Corrections
9.45am	Strengths and Weaknesses of the Hobsonville Schools PPP Process – Client side	Rob Campbell	Manager, Major Programmes, Ministry of Education
10.00am	Lessons from the PPP at Wiri Project - Private Sector Perspective	Duncan Olde	Division Director, Macquarie
10.15am	Hobsonville Schools PPP	Steven Proctor	Executive Director PIP Fund, Morrison and Co.

10.30am MORNING TEA

11.00am	PPP – An Effective Partnership?	Peter Gomm	CEO, Mainzeal
11.20am	PPP – A Fletcher Perspective	Carl Munkowits Nigel Varcoe	Chief Financial Officer, Construction Group, Fletcher Building Commercial & Business Systems Manager, Fletcher Construction
11.40pm	Workshop Session 1 – Capturing lessons from the PPP bid process, from market release to financial close	Stephen Selwood - intro	CEO, NZCID
12.45pm	Report Back		

1.15pm LUNCH

2.00pm	What could 'PPP Lite' mean in NZ?	Dan Ashby	Executive GM, Hawkins Construction
2.20pm	Workshop Session 2 - How can the lessons from the Pathfinder PPPs be used to create an enhanced process moving forward? Where does PPP Lite fit? How can these lessons be applied to Christchurch?	Stephen Selwood - intro	CEO, NZCID
3.15pm	Report back		

3.45pm AFTERNOON TEA

4.00pm	Addressing the Thorny Issues - Panel Interpretation/Questions and Answers	Fiona Mules, Carl Munkowits, Gary Walker, Peter Gomm, Grant Hodges, Steven Proctor, Jason Wozniack, Duncan Olde	
4.45pm	Wrap up and conclusions	Stephen Selwood	CEO, NZCID

5-7pm NETWORKING, DRINKS AND CANAPÉS

SUMMARY OF RECOMMENDATIONS FROM THE DEPARTMENT OF CORRECTIONS 'LESSONS LEARNED REPORT'

Full results of the comprehensive review conducted by the Department of Corrections in regard to the Prison at Wiri PPP project may be found in the 'Lessons Learned Report', however the recommendations are summarised here:

- (i) A PPP Project should ensure that it has a Project Team with the necessary skills and experience, supported by organisational commitment to good project and risk management practice;
- (ii) A PPP Project needs clear governance arrangements which ensure ongoing management of delivery and of risks – ministerial and senior management ownership and leadership is critical;
- (iii) PPP Projects come with additional probity risks.

Careful management of these risks is required, but not so that this overshadows the procurement and evaluation processes; and

- (iv) It is important to ensure that the market is educated, and understands the expectations of the procurement and negotiation phases. Private sector parties may come to the procurement and negotiation with experience of other markets outside New Zealand. They need to fully understand the New Zealand context, and must be able to transition appropriately from bid team to ProjectCo.

Opportunities for improvement

Phase 1 – Detailed Business Case Lessons learned include:

1. Early engagement with stakeholders. It is important to communicate the difference between PPP and conventional procurement, particularly in relation to the specification of outcomes, performance and risk transference.

2. The development of a Public Sector Comparator (PSC) can be a challenge when attempting to map expected PPP outcomes to baseline costs. Future PPPs should consider whether investment in a Reference Project for input into a PSC should be at the level of a conventional asset procurement, or whether there are alternative means to establishing construction costs.
3. Risk quantification requires expert facilitation, checking, challenge, and validation in order to minimise any bias towards public or private sector options.
4. Market Sounding is a necessary and positive engagement with the market in order to determine the achievability of a PPP.

Phase 2 – Procurement Lessons learned include:

5. The Request For Proposal (RFP) should reflect the requirements for evaluation of bids, for the selection of a Preferred Bidder and for negotiation with that Preferred Bidder. It should steer bidders to what is most important in their

response. The RFP response requirements should include clear instructions as to what constitutes a compliant bid, including a process for identifying derogations, not just in response to the draft Project Agreement.

6. Careful consideration should be given to the conduct of the interaction with bidders. It is important to weigh up probity considerations against the aim of obtaining quality proposals.
7. The evaluation process is a significant logistical undertaking. It should be well supported. It is preferable for all evaluation activity to take place at a single secure site.
8. Clarification of bids following final proposal submission was an important and valuable step, allowing clarification of assumptions. Where the bids are too close to call and a Preferred Bidder is unable to be selected, a further step to clarify critical issues may be required. The possibility of this interim step prior to final Preferred Bidder selection as part of the procurement process should be expressly contemplated in the RFP

documentation.

9. The level of support required for bidder engagement, clarification questions, the issuing of RFP amendments, and provision of information is significant, and should not be underestimated.

Phase 3 – Negotiation Lessons learned include:

10. Ensure that all bidders understand what will be expected of them when they (if selected as Preferred Bidder) transition from bid team to negotiation team.
11. It is important that the Negotiation Process is well supported; this includes embedding legal advisors within individual workstreams, tracking issues, and ensuring good document management. The parties should consider opportunities for minimising the time to be spent on negotiation; these include identifying issues early, an efficient turnaround of documents and conduct of meetings, and parallel tracking of negotiation activities.

RMA Phase Lessons learned include:

12. Treasury guidance states that obtaining RMA approvals should occur prior to commencing the PPP procurement; eliminating the risk that part way through a PPP procurement, the Project as envisaged cannot proceed due to non-approval or application of conditions that cannot be met. The Department's lessons reflect a less than ideal situation in which RMA approval was being sought at the same time as the procurement. Defining physical RMA parameters in this context can be challenging; particularly, where the procurement seeks not to unduly constrain the bidders in their development of a solution aimed at meeting required outcomes.
13. Predicting other (non physical) RMA issues early on in the procurement process – seeking information on these matters from all bidders will help significantly in the Board of Inquiry's understanding and acceptance of the proposed activity.
14. There should be good integration between

the Project's RMA work and the specification, evaluation and negotiation of design and construction aspects of the Project.

Critical Success factors

A number of critical success factors were identified for the Project:

- Good management of the Project Team, achieved through strong leadership and clear lines of communication;
- Sufficient high quality resource across the Project Team (both internally and through the use of contractors and consultants);
- Good relationship with Treasury and incorporation of their PPP Programme staff as key members of the Project and Core Negotiating Team and Steering Committee throughout all phases of the Project
- Support of good governance;

- An outcomes-focused PPP;
- Commitment from bidders to the Project; and
- Appointing skilled legal and financial advisors with relevant PPP experience.

Source: Public Private Partnership Project for a New Men's Prison at Wiri: Lessons Learned Report
http://www.corrections.govt.nz/__data/assets/pdf_file/0009/640593/PPP-Lessons-Learned-FINAL_11Dec2012.pdf

WORKSHOP 1 FINDINGS

1. What lessons should the public sector take from the first NZ PPPs? What could it do differently, that would make the most difference?

KEY THEMES

Publish Pipeline of Projects

- Pipeline of PPP projects identified to enable bidders to quantify risk
- Need a more certain pipeline to build the PPP capability
- Public sector to be more transparent about a pipeline of projects to allow early market engagement
- Clarity of pipeline
- Visible 5 year pipeline
- 10 year schools pipeline
- Communicate the pipeline
- Coordinated and published pipeline
- Need transparency in the pipeline – to create confidence
- The pipeline is integral to growing depth in the

NZ market, people need to be confident about investing in capability

- Early communication of prospective projects
- Pipeline of opportunities
- Allow enough time up front to plan for procurement
- Only a steady pipeline of projects will encourage meaningful bids – fits and starts at present
- Pipeline – greater certainty of value to participants
- Bid costs are important but pipeline will always justify the expense
- Early announcement of PPP Projects – pipeline
- Signal pipeline
- Pipeline, communication, spread of projects
- Private sector PPP participants need a transparent, medium term potential PPP pipeline
- The need for a clear pipeline of PPP projects
- Signal intent to procure PPP well in advance
- Pipeline certainty
- Clarity in communication now/pipeline
- Public sector to produce and maintain forward looking procurement schedule 2-5 years
- Private lessons – investment in resources? Subject to pipeline

- Public lessons: greater publicity on deal flow
- Public: to get well organised, true consortia (rather than coalition of willing) then private sector needs clarity of pipeline
- Clarity on pipeline – effective resource planning
- PPP/PFI – spectrum of future pipeline and options
- Public sector – pipeline of projects clearly identified
- More detail/transparency around pipeline of projects
- Public: create certainty around pipeline – as this will make it possible for private sector to put best foot forward
- Provide a pipeline of work
- Planning re projects – first two overlapping
- Early communication of intent enables consortiums to form
- Communicate pipeline very early, allow consortia to form
- Provide more information on pipeline of projects
- Develop and communicate pipeline of projects
- A well defined pipeline of projects
- Need for scale and deal flow to attract private investment

- Overall pipeline of projects (coordinated from all agencies)
- Public sector provide timeline, two year confirmed, three year pipeline
- Deal flow – publish 5 year pipeline (delivers certainty and depth of market)
- Programme of committed PPPs (2-5 years) to ensure deal flow is understood
- A pipeline of PPP projects (rolling programme) is only part of an infrastructure plan
- Need to have a pipeline of PPPs so you know you can apply the lessons learned
- Produce a realistic pipeline for potential work
- Publish pipeline
- Rolling programme/pipeline essential
- Visibility of timeline and problem envisaged – what's coming up, when, likely style of PPP
- Programme of work important
- Make pipeline potential deal flow more visible
- Establish forecast pipeline
- Pipeline of deals to allow players opportunity to plan and prepare (including international)
- Engagement with the market on the pipeline timing of bringing these projects to market
- Clear pipeline with probability of success

- Visible pipeline
- Pipeline should be published but must be real
- NZ Government to provide a coordinated programme/pipeline of likely PPP projects
- Public coordinated signalling of prospective projects/pipeline
- Signalling of upcoming projects
- Manage expectations

Reduce Probity Requirements

- Relax probity requirements
- Less restrictive probity ITP
- Relax probity for better ITP
- Improve ITP and streamline probity
- ITP process improvements. Better engagement within for outcomes. Within probity and process.
- Less restrictive probity – currently reflects NZ environment – small and people don't want to burn bridges
- Probity is a negative effect on ITP
- Consider depth of market – allow flexibility to extract capability
- Resources within the market
- Establish gateway/milestone deliverables

- NZ too small for full and complex probity, must simplify
- More useful interactive tender process
- Set clear probity rules
- Probity an issue/challenge, need to make it easier
- Probity rules need to be very clear and properly written down
- The ITP process must be configured to maximise value to sides, open and no limitation commercial discussion
- “No comment”
- Probity, while important can detract from delivering the best outcome; it doesn't need to be a significant bid process factor
- Public lessons – deal to probity, clarity; greater openness for frank discussion ITP
- More interactive sessions – less probity
- The conflict/probity rules could be relaxed where appropriate ethical dividers (e.g. geographic separation) are in place
- Probity requirement to be sensible for New Zealand market
- Cut down on probity – keep it simple
- Deconstruct probity rules into essential elements

(equal treatment and Crown not sharing ideas)

- Probity requirements
- Interactive dialogue is brought forward into business case development
- Private sector would like more interaction during RFP stage
- Openness required
- Public sector should take confidence from first bids around probity issues and reassess stringent guidelines
- Limit requirement for confidentiality so that additional team members can be sourced or consulted
- Less restrictive probity process
- Relaxation of probity rules by public sector; permit Chinese walls for advisors (especially technical); shallow market so need to use effectively
- Respect professional standards, and balance probity accordingly – e.g. don't assume people will breach probity
- Agree early probity requirements that are not over the top
- Balance of openness/probity/conflicts
- Clarity of probity/conflicts – limited pool of

advisors (technical, financial, legal etc); Chinese walls should be allowed

- Realistic probity requirements
- Be very clear on probity rules from the outset
- Establish weighable probity protocols
- Public: within ITP process can be more effective tool; need to find balance between probity requirements of Crown versus desire for full and frank conversation from the private sector
- Trust individual's professional integrity when enforcing probity
- Streamline probity requirements
- The public sector needs to examine probity and ITP
- Resolving probity versus transparency
- Less probity, more trust and transparency
- Interactive tender process – open up; professionalism; lose fear of probity
- Probity doesn't need to mean secrecy. Probity shouldn't paralyse communication
- Clearer engagement and earlier engagement on the probity framework for the project – publish probity guidelines
- Less probity restrictions early in the process
- Deal with probity commercially; communicate,

communicate, communicate

- Balance legal probity and process obligations with cost, behaviours should align
- Trust private sector to be professional
- Private sector need to consider what probity risk they are prepared to take in such high cost bid situations

Reimburse Bid Costs

- Reimburse the bid costs (part)
- Refund/underwrite bid costs – cost support during PB stage
- Reimburse bid costs
- Reimbursement
- Pay a percentage of bid cost to the loser
- Shortlist to two teams and pay the loser's costs
- Client to make contribution to bid costs for the loser – buy their IP
- Pay second bidder
- Adjust win/loss ratio
- Fully banked bids?
- What's the answer to bid costs? There has to be some risk to the private sector
- All people who input significantly must be

reimbursed

- Reimbursement of costs of losing bidders would assist in participation
- IP from all designs paid for and available to preferred bid team
- Reimburse bid costs – and to successful bidder
- Reimbursement of bid costs
- Pay part of bid costs at each stage e.g. when last three selected and when preferred bidder selected
- Fund under bidders
- Consider payment of bid costs to losing consortia
- Reimburse some bid costs for unsuccessful bidder
- Model for (partial) recoup of costs for unsuccessful bidders
- Reimburse bid costs to losers
- Commit to cost recovery
- Bid cost recovery essential pre-requisite for active involvement
- Provide some reimbursement of bid costs to ensure a full well resourced response to RFP
- Consider reimbursement of bid costs
- Reimbursement – partial of bid costs
- Refund of bid costs for losing bidder
- Provide contribution of bid costs not only to preferred bidder status – but also during financial close stage
- Reimbursement of bid costs
- Pay for unsuccessful bids
- Some form of bid compensation
- Costs of bidding are high across the board so contribution to losing bidders welcome
- Appreciate cost of participation
- More equitable sharing of bid costs
- International view on bid costs
- Bid costs – reduce, reimbursement to non successful
- Make it attractive to bidders to compete: - pay losing bidders, reduce design costs
- Managing costs to get best outcomes for public sector – cost refund mechanism
- Reimbursement of bid costs
- Refunding loser bid costs
- Bid costs to be partly covered to increase competitive process and enable smaller participants
- Funding timing to reduce costs of business (smaller projects)
- Public sector to cover design costs of preferred bidder between preferred and financial close
- Bid cost recovery for a minimum losing bid with maximum of two bidders going through RFP process
- Reimburse bid costs to ensure cost relates to win ratio
- Reimbursement of bid costs is a client driver to improve process
- Compensation for participating
- Reimburse bid costs
- Public sector – reimburse bid costs
- Cost/win: loss ratio – how do we put parameters around reimbursing bid costs?
- Fully underwritten bids unnecessary but bankers must sign off on PA derogations at rep response

Enhance ITP Process

- ITP, open engagement to develop solutions
- Consider use of a “competitive negotiation” phase during an advanced ITP between two bidders
- Greater engagement and commercial and legal issues during ITP phase
- Public sector put emphasis on I in ITP

- Encourage greater interaction during ITP process
- ITP – more transparency, more free and frank and direct feedback
- Interactive tender process
- Open up commercial discussions during interactive sessions
- Don't be afraid of derogations – some/many will be useful
- Maximising value of ITP including early commercial discussions
- More collaborative ITP process, with transparency around client view/expectations
- Make ITP sessions cover commercial issues
- Improve interactions during bid phase
- Improve use of ITP process with more engagements/feedback
- Use the ITP session well
- Greater level of engagement through ITP
- Fuller and franker ITP process
- Greater discussion of commercial issues during RFP will streamline process thereafter and reduce legal costs
- Upskill for ITPs – ensure the right people at table and lead
- Fuller engagement at ITP process
- Improve the ITP process to enable it to be more open and interactive
- Engage commercial issues in ITP
- Interactive ITP workshop process
- More feedback in ITPs, particularly on the commercials
- Be prepared to discuss commercial terms during the ITP process
- Fair rules for ITPs that are more than no object but do not level the playing field and publish these
- Improved ITP process which enables deeper debate on key issues
- Providing guidelines/expectations for the ITP
- ITPs can be done better on both sides
- Strong ability through ITP for open/honest discussion
- Test the process and parameters, don't assume boundaries exist when they don't – ITP process
- Better bid phase interaction
- Shortlist early to 2
- Reduce to two bidders quickly
- Short-list to two bidders when appropriate
- One team, private and public
- Short list early
- Need to get to 1 of 2 very quickly
- Exclude bidders that can't win early – better for all
- 2 bidders for RFP
- Select and work with preferred bidder from earlier on
- Shortlist to 2 strong teams as early as possible
- Consider for small scale project only taking two parties forward
- Public: limit number of bidders to 2 consortia
- Incentivise future participation – 2 bidders sufficient, fund costs
- 2 bidders – exclude losers early
- Reduce bid costs shortlist to 2 early
- Get rid of losing bids quicker
- Public sector to consider less bidders, more discussion with faster timelines; less cost tied up
- Protocol for number of bidders and process
- Shortlist at earliest reasonable points (to reduce bid costs and motivate shortlisted few)

Shortlist Bidders Earlier

- * RFP 2 bidders
- Shortlist 2 bidders only

- Qualitative selection to 2 bidders reimburse losing bidder
- Cut loser tenders early to avoid further costs
- Is the operator market deep enough? Should the client select a preferred operator that then inputs into bid
- Small number of partners due to RFP stage; early identification of preferred bidder
- Notify losers early
- Reduction to 2 bidders – cost
- Limit to 2 bidders only
- 2 bidders + no BAFO means: - a lower bid cost – higher quality bids – sufficient competition
- Early notification to non preferred bidders – 2 bidders?
- Kick consortia out of the process when it is clear they won't win
- Shortlists of two projects over a certain value
- Increased focus on preferred bidder to financial close required to perform effectively
- Prequalifying teams, consortia to fast track bid process
- Greater value re commercial issues during interactive sessions, pre-preferred bidder

Early and Enhanced Engagement

- Earlier appointment of the preferred private partner
- Early meaningful engagement
- Engage with bidders early to enable them to get the most out of ITP phase
- Public sector be more interactive early on
- Market soundings, early, consistent
- Start commercial discussion earlier in the process
- Engagement between public and private sectors needs to be early and meaningful
- ITP/engagement, promote early and open engagement
- Early engagement with potential bidders
- Strong bidder engagement early assists consortium development to deliver the best outcome pre IBC
- Early engagement with lenders
- Bring in the funders early
- Early agreement to participate on key elements of risk transfer e.g. insurance risk (risks taken where they best lie for VFM)
- Early involvement by industry participants in

market sounding process

- Early meaningful engagement by the public sector – clarity on desired outcomes, efficient EOI and bid process
- Ensure that a greater range of people are encouraged to engage in market soundings prior to call for EOIs
- Public sector shouldn't be scared of early presentation of projects
- Market sounding process invaluable
- Adversarial – partnering/collaboration – earlier in the process
- Commercial engagement as early as possible: - makes process more efficient – means lower costs – means no surprises when bid comes in – Crown gets what it wants
- Early engagement with private sector to inform private sector of public sector outcomes
- Public sector should engage much earlier in process of identifying potential PPPs with private sector
- Avoid fishing trips disguised as formal EOIs for ideas. Conduct open market sessions instead
- Bid phase interaction will: - allow public sector to ensure proposal meets expectations/

requirements/objectives – allow public sector to make decisions between competing objectives with full information

- Early soundings and engagement of the private sector

Reduce Early Information Requirements

- Limit design to concept
- Work towards reduction in RFP bid requirements
- Reduce the extent of design detail required at RFP
- Take as low as possible a hurdle at competitive stage for design
- Public sector – reduce requirement for detailed design process before close
- Consider the minimum information required to make a decision
- Bidders required to obtain RMA approvals or client's responsibility?
- Don't be too detailed in bid requirements
- RFP tender does not require developed design
- RFP – clear messages, not too prescriptive, less detail
- Less demanding RFP requirements – focus on

the key outcomes

- Extent of information required at RFP and understanding of same
- Work up conceptual design with some relevant detailed component at RFP stage
- Set page limits on responses
- Each submission page costs money to produce and review – don't ask for what you don't need to evaluate
- Less prescriptive bid requirements may lead to greater innovation
- Limit the documentation/design at bid
- Separate funding from design
- Reduce the info demands at tenders, allow concept design info
- Keep design requirements to a minimum during pre-short listing phase
- Limit design required to reduce design costs and therefore bid costs
- Submission – design; how far do you go; ensure in NZ context
- Refine requirements for bid submission – reduce costs, reduce time
- Conceptual design only prior to selection of preferred bidder

- Aim for minimum level of documentation required to close a deal
- Reduce bid costs – modify expectation of design
- Clear requirements of EOI and RFP documentation; page limits
- Concept of design at RFP
- Risk of reduced design input to both costs and ability to meet brief
- Don't require fully underwritten bids once risk allocation is more understood (for the right projects)
- Investigate how funding commitment can be provided later on via a separate process

Reduce Cost of Participation

- Public: investigate ways to mitigate bid costs
- Cost of participation high – barriers to participation in the future
- Cost to bid, design, legal
- High bid costs could be problematic in creating competition in future projects
- Public sector – procure projects of sufficient scale/\$ value to support bid costs and resource properly

- Cost of bidding
- Manage cost inputs – selection of bidders – selection of preferred bidder
- Bid costs and bid risks: how many players, fees for a submission, legal cost and therefore ways to reduce it
- Focus on how bid requirements can be focused/ streamlined to reduce bid costs
- Bid costs can be reduced by using advisers with depth of PPP experience

Communicate a Simpler, More Structured, Consistent Process

- Create a process that is consistent (e.g. same phases) albeit with different lengths of time for different projects
- Process around PPP is structured – better decision making
- Where possible the process needs to be simple and transparent as early as possible, removing as much uncertainty as it can
- Keep process as simple as possible
- Understand the process - it is critical
- Consistent process in terms of each stage of PPP

process across projects so private sector knows what to expect

- Consistent approach from the public sector is critical - the process needs to be predictable
- Consistency of bid processes
- Industry group to establish streamlined process
- Signal process on selected projects – compete on quality
- More guidance in original RFP stage
- Engage fairly
- Public sector – clearly identify basis for competition and selection
- Early communication/signalling tax changes, consultation
- Managing and simplifying the procurement process
- Consistency of approach
- Consistent approach to project development
- Develop consistency of process
- Make the process easier – identifying the outcomes earlier i.e. market sounding or EOI stage
- Consistent approach across the sectors will be good for NZ Inc

Ensure Clarity of Objectives

- Be clear in objectives from the outset
- Clear consistent expression of the outcomes sought
- Clarity of purpose
- Clarity around process
- Continuity of purpose
- Objectives and motivation of public sector
- Clear expression of outcomes
- Know what key outcomes are
- Need alignment of drivers – but some aspects of the process are asymmetric e.g. probity vs. transparency
- Clear expression of outcomes required from procurement
- Very clear and readily transferrable outcomes' based specification
- Outline clear objectives and outcomes
- Focus on outcomes
- Clear messaging regarding outputs required
- Clearly communicate the problem the PPP is seeking to solve
- Clear process expectations: EOI – volume required, skills: RFP – number of participants,

level of details, reimbursement model

- Consistent messaging
- Greater clarity around key commercial view of PA by client
- Clarity of expectations from project, facilities, service

Work Towards a Partnership Approach

- Manage preferred bidder to partnership
- Partnering approach on preferred bidder
- Work more as partners rather than competitors
- Shifting from a competitive process between bidders to a collaborative partnership with government works better with transparency and honesty at the negotiating table
- Act as one team and invest in creating coordinated information flows, particularly during negotiations when agreeing PA
- Be willing to be interactive and collaborative within the consortia and with government departments
- Collaboration is key
- Public sector to participate in process working to engage with preferred bidder on issues re

negotiation

- Collaboration - quality of communication between partners key to good/better outcomes
- Facilitate workshops early on in the PB phase – encourage partnership approach
- How can a collaborative/partnering approach work in the closing phase when price and terms are being negotiated?
- Move from 'adversarial interaction' to 'collaborative team' (public /private)

Develop an Experienced, Dedicated Central Government Team

- Use international experience to develop local capability
- Use fewer British people
- Ensure experience of PPPs is contained within public sector project team
- Dedicated team from bid stages through to FC
- Public: must deliver strong teams and capacity to manage transition from bid process to delivery, stick to milestones
- Quality, centralised procurement experts with shared learnings. Keep them – risk

- Centralised consistent procurement body; coherent strategy (e.g. standardised documents)
- Improve public sector capability including local government
- Develop centre of excellence
- Learning lessons and sharing
- Access international best practice
- Public sector PPP expertise is critical
- Public sector resource with PPP procurement specialists, gives clarity and consistence of process
- Lessons learned from the first 2 to be transferred to other agencies considering PPP projects
- Centre of excellence of PPPs that can assist clients wishing to purchase PPPs
- Engagement across government/ministers to understand PPP model
- Has the public sector got the talent? And if so will it retain it?
- Need for education on PPP benefits at local government level
- Building local government capability to manage PPPs
- Growing government expertise – fee basis for advisors; some pooling of resource [would

contract early; SME hard]

- Joined up government approach – PPP achieve wide range of outcomes
- Dataset to support PPP investment
- Regional approach to infrastructure development an enabler
- Share knowledge across PPPs
- Public sector resources with PPP/relevant experience
- Procuring agency needs to invest and understand process – can't rely on advisors

Simplify and Standardise Documents

- Standardise the documents
- Continue to improve/standardise commercial contract
- The current standard form contract is too unclear and overly complicated – simplify and tailor to NZ
- Simplify contract
- Standardise documentation and start new projects on basis of previously closed projects
- Ongoing refinement of commercial contract and general use across all PPPs
- Refine standard form PPP contracts

- Establish standard documentation
- More certainty re docs as starting point
- Public sector: use simplified, similar PA for all projects, reduce complexity
- With a standard form agreement "120" derogation is too much, too negative, price the bid
- Deliver up a revised version of the project agreement; share the learnings with the market to reduce bid costs
- Legal fees can be made substantially lower by updating the standard form contract in line with the deals to date
- Incorporating learnings from the first 2 PPPs into "project agreement" – cost of derogations amongst bidders, client, lawyers etc extreme
- Iteration of concession agreement. Evolution of process.
- Standardised contracts, minimise constraints
- Provide example of best practice RFP/ submissions etc from both public and private (international examples)
- Training of bidders so consistency of proposals and quality (NZ wide)
- Public service comparator – provide details

- Develop a framework for unsolicited bids that doesn't require a fully competitive process
- Framework for unsolicited bids

Adhere to Timeframes

- Stick to timeframes of the various phases
- Timeframes
- Process needs to become more efficient – need to stick to an understood timetable
- Project timeline will drive -
 - Early notice for consortia formation
 - Cost incurred
 - Risk premium to be covered
 - Bid quality BU Fm
- Stick to procurement timetable

Address Commercial/Financial Issues Early

- Address commercial/financial issues early
- Commercial issues negotiation equal in process (rather than last 3 months)
- Second iteration of concession agreement to be issued during RFP phase
- Commercial negotiations at RFP stage

- Allow early disclosure of financials

Ensure Agreements are Tailor Made for New Zealand Conditions

- Understand and recognise local conditions in agreements
- Outcomes – international best practice but in NZ context
- Too much emphasis on Australian precedent where the projects are of a different scale
- Public sector: discussion of commercial issues at early stage, not being afraid to learn from other countries' models

Encourage Innovation

- Encourage innovation – don't be too prescriptive
- Innovation is core
- Very hard to get innovation without outcome guarantees and risks
- Competition vs. innovation, don't let 'process' take over
- Allow innovation; can't be achieved within stringent bid guidelines

- Innovation: research into where innovation comes from, DC or DBOMF
- Desire from the market for PPPs with an outcome focus – keep it un-prescriptive
- Risk/opportunity: don't close down opportunity for innovation, it can be the strongest case for PPP
- Don't make project agreement too prescriptive – remain open to other models

Focus on Value for Money (VfM) and Whole of Life (WoL) Costs

- Understanding "value for money" across different parties
- Focus on value for money – not saving dollars. We want best outcomes for the affordability threshold
- Quality not price
- Trust the private sector – more outcomes for the same costs; not same outcome for lower cost
- WOL costs – better integration of FM and earlier
- Capture whole of life costs/benefits
- Don't look for "horse-trade" – look for best outcome on each issue

- Select based on the team experience and key value adds
- The RFP brief to include qualitative attributes to be achieved to shortlist

Shorten the Process

- Attempt to shorten the process
- The time period before EOI could be shorter
- Speed up the process RFP/bid/award
- Reduce time between RFP and FC by greater commitment and detail at RFP stage
- Keep period from bid to appointment of preferred tight; keeps costs down and maintains private sector momentum
- Adequate time available for EOI submissions with more than just capability summary

Seek International Expertise and Innovation

- Do we need more international resources to create a truly competitive market?
- Contractor options for large scale projects are very narrow. Increase international interest or reduce project size

Consider a Range of Alternative

Procurement Options

- Treasury believe process has gone well to date – also don't believe PPP to be main procurement approach
- Consider different approaches to achieve best for project outcomes
- Mixed messages as to what projects may be PPPs reduces credibility – pick a procurement path and stick to it
- PPP Lite should be considered – less cost and faster
- PPP is but one of a number of procurement models – why change PPP? – Why not just create another model altogether?
- Lurching too quickly to PPP lite has potential downsides that could lose the good stuff created so far
- Evolution versus change – bugs are already being ironed out, is change needed?
- Use aspects of PPP Lite for larger projects
- Be willing to stick with PPP
- Procurement process: to allow for lack of depth

in NZ market

- PPP lite
- PPP is one of the tools, there are other models
- There continue to be significant risks around NZ taking a “world leading” approach

Address Tax/Capitalisation Legislation

- The tax legislation needs to recognise designated infrastructure projects (thin cap/loss carry forward)
- Structures that incentivise – tax losses and capitalisation help
- Fix thin capitalisation rules so it is a level playing field for international investors
- Fix thin capitalisation rules

Funding Competitions

- Funding competitions
- Use of a single lead arranger for senior debt per consortium and then holding a funding competition
- Debt competition post RFP

Crown Provision of Debt

- Consider crown provision of debt into very large projects

Publicise Results

- Projects over a certain value must have pre commitment business case made publicly available and post delivery assessment made public
- There is currently no reporting on conventional project performance so we do not know whether projects are being delivered on time, on budget and to specification.
- Publish PSC – better outcome, reduce costs

Educate the Public on PPPs

- Education on PPPs
- PPP education: are PPPs understood by the public? What are the benefits/opportunities?
- Promote success – show what can be achieved
- Show that PPPs can work in New Zealand
- The first PPPs have proven capable, enthusiastic and driven private sector bidders

Understand Role of Insurers

- Understand role of insurers and early input
- Consider the role of the insurers during the market testing process

Breakdown of Affordability

- Breakdown of affordability
- Provide a breakdown of the affordability threshold into its key components

Understand Risk Transfer

- Different participants have different views on what constitutes risk, value, etc
- Private sector to consider risk transference re D&C. Doesn't want to cover them all pre-financing close or post
- Ownership of risk

2. What lessons should the private sector take from the first NZ PPPs? What could it do differently, that would make the most difference?

Tailor Bid Responses to Key Outcomes

- Tailor bid responses to the key outcomes
- Listen to the client; do not assume you know what they want
- Understand client requirement and drivers
- Remember the key drivers and do not take the view 'this is how we always do it'. It defies the point of PPP
- Private sector needs to be very clear about objectives and requirements. Communicate these well.
- Ensure you answer every aspect of the output spec fully (marks deducted if you don't)
- Read the material provided – ensure accuracy of RFP to other material
- Get the basics right
- Focus on desired outcomes and affordability
- Clearly understanding project outcomes and objectives – both client and bidder

- Private sector to listen to the key messages and processes and respond accordingly
- Understand what the public sector is after
- Greater alignment between parties and understanding of each parties' drivers
- Take time to better understand requirements and process
- Listen to the client: big effort to understand requirements early is worthwhile
- Understand the outcomes from clients
- ITPs – learn how to extract maximum. Listen and pick up messages
- Focus on critical requirements of RFP documents – listen and understand public requirements
- Don't assume outcomes or client objectives
- Ensure end users' views are being retained throughout the bidding and construction process
- Consortium focus on operator led solutions in the bid process
- Operators – does the client have a short list of preferred operators and/or should they (the client) do more advance homework?

Enhanced Consortium Management and Cohesion

- Strong consortium glue required
- Do not lose sight of a properly managed consortium
- Need experienced CBD consortia lead to maintain focus
- Resource intensive and requires appropriate management throughout
- Have buy in from your entire consortium during negotiations
- Consortia need to focus on acting and presenting as a cohesive team
- Joined up thinking within consortia is vital, could save time and money
- Formation of a real consortium rather than a group of disparate entities
- Need for true consortia rather than separate entities
- Need for private sector to back itself
- Need for coordination – sometimes it felt like disparate partners not a true consortium
- Consortium is a partnership not individual members

- Private sector needs to understand the collective consortia drivers
- Cohesive consortium needed to give public sector confidence of delivery across all disciplines
- Joined up thinking within SPU teams will lessen the pain for bidders
- More cohesive consortia
- Moving from separate disparate organisations to one team

Early Teaming

- Ensure consortium is aligned/has buy in, formed early
- Be ready to hit the ground running (at all phases)
- Early teaming
- Start the process early on the private side
- Private: elevate concept of partnership earlier in process
- Need early formation of consortium to be successful
- Private: early formation of consortia and development of a fully functional team
- Needs a 1 team focus from consortium
- Earlier formation of credible consortia

- Early establishment of teams
- Private sector should select and engage with each other earlier
- Build truly collaborative consortia early in process
- Earlier involvement: forming of team; matching right people on the bus
- Ensure consortium is in partnership before EOI
- Be ready to hit the ground running at preferred bidder stage
- Private sector – select consortia early on in the project

Ensure Appropriate Resourcing/Skills Allocated for a PPP Project

- Private: understand that PPP is a specific procurement model not a benchmark – invest in building capacity to deliver PPPs
- Private: The level of resources required to play in a successful PPP game
- Upscale resources to suit PPP environment
- Capability and extent of resources
- Commitment of resource at critical stages

- Private sector: Ensuring adequate resource and skill is provided in New Zealand; broadening of skills, greater investment in skills
- Be properly resourced
- Ensure consistent resource and capability through bidding
- Gearing up for the transition from bidding to negotiating
- Bid team needs to transition to negotiation more efficiently
- Enable cash flow within the model
- Plan resources all the way through to financial close
- Internal bid management is a huge function, big picture, very important – resource this adequately
- Private sector resources with PPP/relevant experience
- Understanding what is required if selected as preferred bidder
- Sponsorship resources are important for process management sponsorship

Improved and Dedicated Project Management

- Strong project management (specialist provider?)
- Improve private side project management
- Private sector project management
- Private sector appoint dedicated project management team through negotiations phase
- Understand that PPPs are resource hungry and needs dedicated project manager
- Make sure leader has knowledge when project delivery commences
- Utilise robust PM during negotiation phase

More Proactive In ITP

- Private sector more proactive in ITP and drive openness/honesty
- The private sector could take more of a proactive role in ITPs rather than letting it happen
- Greater commercial engagement during ITP phase
- Private sector – consider whether it really wants to give away its competitive advantage on the ITPs – by providing more feedback to all given an outcome approach

Enhance Understanding of Debt/Equity Partners' Requirements

- Consortium understand needs of debt/equity partners at financial close
- Private: need to engage capital providers in key discussion on risk; technical, design, capital, pricing and transfer of risk
- Private – a clear understanding of the equity debt provider's perception or design and construct risks
- Be aware of what the key members of the consortium require including debt and equity at financial close, not just the agency
- Better understanding of the DD needs of debt and equity provides (by Govt and private sector)

Develop/Acquire PPP Expertise

- Remember this is a new way of business not business as usual
- Understand PPP
- Private sector – ensure all advisors to consortium/counter parties have sufficient expertise/experience

- Ensure consortium members provide their A team to a project
- Ensure a 'A' team available at all times
- Private sector needs to understand what PPP is – still a vague concept for some and a lot of misunderstandings
- Private sector PPP expertise is critical
- Private sector as consortium - all members to understand upfront the nature of PPP; what is expected, cost and risk
- Get a better understanding of what the PPP process means; up skill
- Need best senior designers very involved not just managers
- Understand own limitations and appetite – money spent on filling knowledge gaps may increase chances of success
- Depth of discussions (financial, technical, legal etc) an issue in NZ
- Keep existing knowledge post FC especially at the GM level
- Different skill sets for different projects
- Moving from bid phase into partnership phase – needs to be planned early and implemented as early as possible

Understand the Constraints of the Public Sector

- Private sector needs to recognise the workload and resourcing specifically required for the SPV/ PPP process
- Improve knowledge across all sectors
- Understand that government officials have to manage the politics
- Need greater flexibility to make best use of a small pool of advisers
- Lead the partnership with public sector, drag them in rather than wait for invite

WORKSHOP 2 FINDINGS - RECOMMENDATIONS FROM PPP LITE PAPER

1. Do you agree with the recommendations from the PPP lite paper? If not, why not?
2. From today's presentations and lessons, should there be any additional recommendations?
3. What implications are there for Christchurch?

Recommendations from PPP Lite Report	Delegate Feedback - Agree	Delegate Feedback - Disagree/Additional Comments and Recommendations
Two Bidders in Competition	<ul style="list-style-type: none"> • 3 down to 1 bidder quick • 2 bidders – yes • 2 bidders • 2 bidders • Two bidders • Reducing bidders 2-3 prequalify • Reducing bidders • Pre-qualification, two bidders 	<ul style="list-style-type: none"> • 2 bidders – how do you manage one bidder dropping out? • 3 bidders max ok, 2 bidders doesn't usually work • Not convinced need to go to two • Does it mitigate the cost? \$\$ at EOI greater \$ by two to get certainty • Does this reduce funding competition? • Does this affect the long term market?
Post Bid Involvement of Lenders	<ul style="list-style-type: none"> • Post bid tenders • Post bid involvement of lenders • Post bid lender involvement 	<ul style="list-style-type: none"> • How do you know if it is bankable? • Only for the right projects; lower risk profile; where risk allocation & appetite are well understood. • Funding competitions are difficult without a deep, established market • If the lenders are separated out where does the discipline come from? • Deliverability? • Price focused? • Only if you have a mature market

Recommendations from PPP Lite Report	Delegate Feedback - Agree	Delegate Feedback - Disagree/Additional Comments and Recommendations
Publish the Evaluation Criteria	<ul style="list-style-type: none"> • Publish evaluation critical: yes transparency is good • Publish criteria • Evaluation criteria • Evaluation criteria • Transparency is key • Government to identify outcomes – clearly stated interaction between that and innovation 	
Publish the Affordability Range	<ul style="list-style-type: none"> • Publish affordability range – yes • Fixed affordability level should be used • Affordability range – full PSC • Publish affordability • Affordability range 	<ul style="list-style-type: none"> • Publish affordability range – no
Concept Design Approach	<ul style="list-style-type: none"> • Concept design & data sheets (DD) • More design, less risk vs less design more risk • Conceptual design • Concept design • Conceptual design approach • Pushing lenders to offer design solution will reduce a lot of process cost • Particularly design re concept and data sheets. Don't just ask what we asked for last time. Look at what we need and how we minimise risk 	<ul style="list-style-type: none"> • Concept design won't work. Banks, equity, operator and government will want to eliminate design risk • Is concept design enough to satisfy that outcomes are met? • Concept design – can we get certainty, delivery and cost? • Concept design – how far? • Concept design approach. Disagreement impacts more on consortia versus client. • Do not have a prescriptive model
Interactive Tendering Process	<ul style="list-style-type: none"> • ITP is interactive • Interactive tendering • ITPs vs. probity • Proposer looks for protection of IP • Probity issues may be more concerning during pre procurement entry • ITP yes, greater engagement 	<ul style="list-style-type: none"> • If there is an un-interactive preferred bidder process, who covers the scope/cost creep?

Recommendations from PPP Lite Report	Delegate Feedback - Agree	Delegate Feedback - Disagree/Additional Comments and Recommendations
Bidding Templates	<ul style="list-style-type: none"> • Bidding templates/standardised process • Standard documents • Bid templates, process documents • Standardised documentation • Briefing packs • Template process • Doc Lite; agreement with sub contractors • Documents • Bidding templates • Reference project • Involvement of the banks late in the process relies on standardised contracts – generic base contract • Targeted clarification needed 	<ul style="list-style-type: none"> • Stifles innovation
Avoid BAFO	<ul style="list-style-type: none"> • BAFO is a waste of time and money • No BAFO • No BAFO • Avoid BAFO 	
Simplify the Services and Payment Mechanisms	<ul style="list-style-type: none"> • Simplify spec/payments • Simple payment mechanism • Simplify pay mechanisms • Services & pay mechanism • Simple services • Simple pay mechanism • Simple services • Pay mechanism – not outcomes 	<ul style="list-style-type: none"> • Not the answer as they are the fundamental value drivers for PPP • Funding – horses for courses • Reduced innovation?

Recommendations from PPP Lite Report	Delegate Feedback - Agree	Delegate Feedback - Disagree/Additional Comments and Recommendations
Clear Hand Back Conditions	<ul style="list-style-type: none"> • Handover condition is important element of design requirement – asset handover is key for government client • Hand back requirement must be included for political purposes if nothing else • Agree appropriate to project • Simple hand back conditions • Reduced hand back • Whole of life doesn't require 25-35 years • Reduced concession period – separate from finance 	
Project Pipeline	<ul style="list-style-type: none"> • Certainty • Lack of certainty • Long term view • Commoditised programme • Decision made with risk, legal issues, and funder issues as lack of certainty 	

Recommendations from PPP Lite Report	Delegate Feedback - Agree	Delegate Feedback - Disagree/Additional Comments and Recommendations
<p>Bundled Projects</p>	<ul style="list-style-type: none"> • Batch smaller projects to maximise value. No geographical restrictions • Bundled projects: yes – particularly where economies of scale / efficiencies can be realised in operations i.e. geographical issues • Project bundling – already • Drive efficiencies across government (non PPP) procurement • Agree - batch small projects • Bundled projects • Bundle projects • Bundle • Bundle of similar projects – benchmark • The question may be more about bundling – don't repeat procurement pain unnecessarily • Upskill the public "bundle" projection in sector or region • Bid once, procure twice • Replicability – LIFT • Joint procurement • Centralised procurement • Centralised procurement body • Joined up procurement • If replicability • First rights of refusal • Compete once, procure twice • Justice Precinct is in effect a bundling exercise 	<ul style="list-style-type: none"> • Panels for re-qual consortium were used by NHS in UK, worked in part but raised resentment when work was unevenly distributed
<p>Standardised Processes</p>	<ul style="list-style-type: none"> • Standard documentation assists • Standard document definitely of benefit 	<ul style="list-style-type: none"> • All documentation can be made simpler but drafting standard versions that try to apply to everything goes the other way • Standardised documents takes time for positions to settle • How "standard" can documents be for delivering projects?

Recommendations from PPP Lite Report	Delegate Feedback - Agree	Delegate Feedback - Disagree/Additional Comments and Recommendations
Public Sector Finance and/or Guarantees	<ul style="list-style-type: none"> Public debt hybrid Subsidise the project through 3rd party revenue/development 	<ul style="list-style-type: none"> If privately funded, small projects will not benefit from co-funding by government Small projects not appropriate for government guarantees Financing threshold – justification? Channels for application of capital from diverse sources
PPP lite	<ul style="list-style-type: none"> PPP Lite would be another tool in the procurement tool kit PPP Lite - some of the recommendations are ok some are not Really PPP Lite is best practice (across forms that already exist... DBO, BOOT) Operational focussed PPPs provide for greater opportunities to amort costs. Small DBFM are going to be difficult to justify Use PPP methodologies & disciplines Agree for PPP + PPP Lite Make it attractive Agree regardless of scale = best practice? 80% are good and apply to all PPP Evolution etc Vanilla PPP – should be doing anyway 8/10 good anyway How do we move PPP programme into action? Simpler model relies on a different risk model. Transfer less risk I think we've already got PPP Lite PPP Continued refinement of PPP model 	<ul style="list-style-type: none"> Do not agree – use other procurement means more appropriate for the size of the development/outcome Why PPP? Project specific; hurdle before the use of PPP Reducing bid costs is a different conversation than PPP Lite Decide what 'you' want to achieve from PPP Lite and then design a process accordingly. Don't try to recut PPP to fit smaller projects Standard PPP process difficult in Christchurch given scale and time Leasing? – don't call that PPP! Local government – DBO – BOO – BOOT Purchase of IP is not straight forward for operational PPPs For smaller, simpler projects take a different approach: standard government lease and KPIs; well understood simpler documents and cheaper to bid; more attractive for developers; gets around cultural issues Use the most efficient pricing and risk allocation model for proposed project Range of options depending on complexity: <ul style="list-style-type: none"> Alliance Sale and lease back

Recommendations from PPP Lite Report	Delegate Feedback - Agree	Delegate Feedback - Disagree/Additional Comments and Recommendations
<p>PPP lite</p>		<ul style="list-style-type: none"> • New models that take the best aspect of the PPP • What problem is being solved? • Cost of legal doesn't change with PPP value • Procure a solution • Can be separated (if this works?) • NZ Procurement • Lift • Key issues is to retain "whole of life" value mentality • Do we need PPP Lite as such? Alternative model • Can the operational model be scaled down to a small project? • Recommendations: leave PPP for large capital projects where innovation or services is required • Look at whole of product: - design – build – operate – maintain – fund. Complex = PPP • Getting finance into the deal is the challenge – banks will push back on any meaningful risk transfer (especially for smaller deals) • Affordability threshold; PSC versus business case versus PPP lite • Business case includes procurement • Project specific SPV format – long run alliance? • It's not about size, it's about complexity (although very small deals won't be VFM due to bid costs) • Project specifics determine the procurement process from Wiri/5 months, Hobsonville/3 months; risk • Be very clear on the VFM driver – best price for given outcome – best outcome for price • Capacity/capability with local government to deal with this • Local government letting go? Privatisation? • Banks' role is important in PPP efficiency: is the price right; programme is sufficient; risk is priced

Recommendations from PPP Lite Report	Delegate Feedback - Agree	Delegate Feedback - Disagree/Additional Comments and Recommendations
<p>PPP lite</p>		<ul style="list-style-type: none"> • Million dollar project, transaction cost, financing costs? • The discipline of the process is the driver, key is the banker/equity; how do you reduce the transaction cost without compromising the discipline? • "big scale" (Wiri exemplar) > D&L is a commodity; "small scale" > funding is a commodity • SPV – actions to implement – Christchurch, geotech; project selection • Banking/equity drives the discipline • Question on how much time and money is saved? What's saved at RFP elongates preferred stage • HNZ have a procurement model that fulfils a number of criteria – pre qualification etc

WORKSHOP 2 FINDINGS CONTINUED

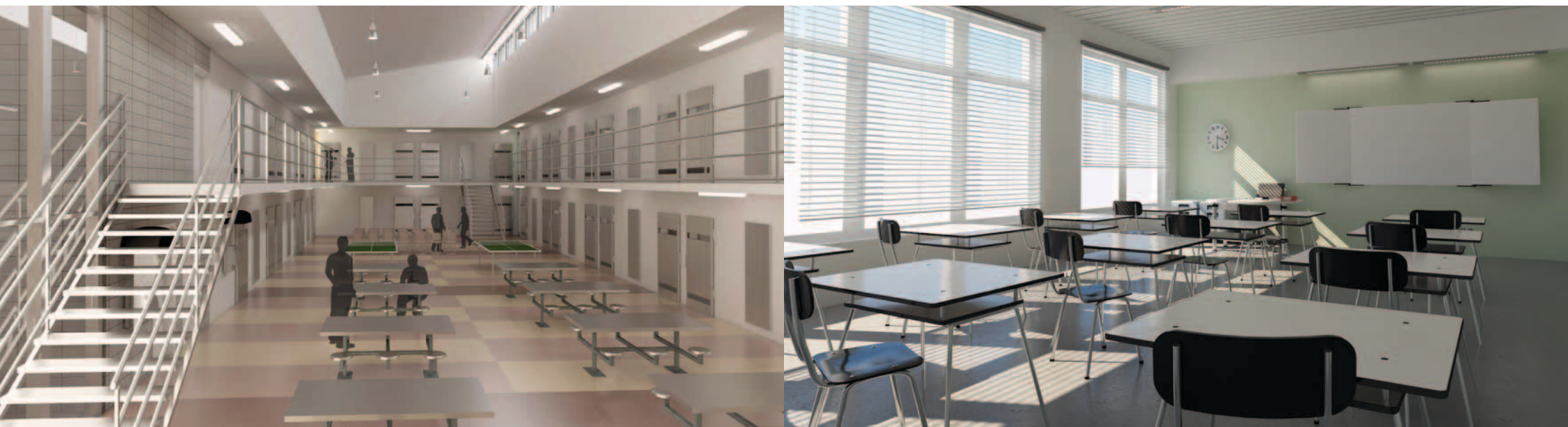
2. From today's presentations and lessons, should there be any additional recommendations?

- Does reimbursement of bid costs drive the right incentives?
- Have to show value: public sector
- Have to incentivise continued participation – private sector
- Is the right question then an issue of a 'thin' market?
- Is the answer building of services across government departments - to address the market?
- Reduce bid costs
- How do you make it work for smaller projects?
- Optimum risk transfer, not maximum risk transfer
- Take the best of the private sector and embed them into the public team
- If the issue is cash flow, then options exist
- Bid cost reimbursement

- Pay for bid costs
- If finance can be decoupled then it should be
- Upskill the public sector – smarter/better general procurement capability > NIU, PPP
- Enhanced central government PPP team that can leverage commercial/procurement expertise into a tailored process – that doesn't include finance
- Operator led to get social outcomes
- Creating contestable environment for public sector provision

3. What implications are there for Christchurch?

- Centralised support agency to make the process easier
- Needs NIU involvement to drive knowledge sharing in local authority
- Must access a range of procurement tools
- Programme approach to development
- Access to appropriate resources, that are co-ordinated, recognition of gaps
- Consider third party income opportunities
- Use a LIFT model for multiple projects
- Scope for unsolicited bid



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