



# Ensuring Political Commitment and Appropriate Regulatory Arrangements

Impact Strategy for Accelerating:  
Strengthening Policy and Regulatory Frameworks  
to Enable PPPs and Strengthen Governance on  
PPP Project Bankability

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ROCF-250-SSI-001

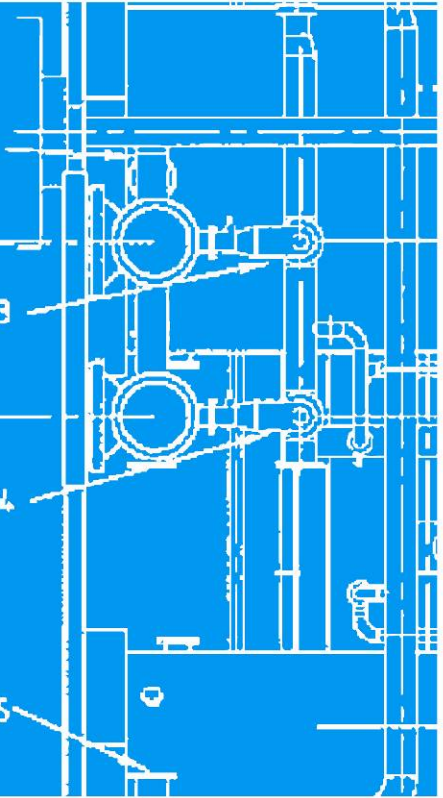
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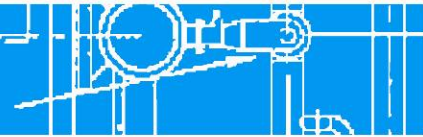
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## Introduction

- PPPs evolving as a genuine procurement option. Viewed as service arrangement rather than alternative means of financing.
- PPPs are a change in thinking, both in the science of procurement but in the way government approaches the services it chooses to delivery
- PPPs are facing a challenge from the current international financial events, and future thought needs to be given to how the PPP model needs to change.
- Institutional arrangements for considering/promoting PPPs a key issue in enabling change.
- Presentation to cover institutional issues of political commitment, adequate legal framework, procurement governance frameworks, public sector capability, PPP pipelines.





## Political Commitment

- Public service nature of PPPs means the “public interest test” is an influencing factor in how governments view the benefits of PPPs
- Need to have a clear and cogent logic map for why PPPs are a better delivery option
- The services nature of a PPP means industrial relations becomes a critical component of the PPP discussion; general approach has been to exclude core services from bundled PPP arrangements.



## Political Commitment (continued)

- Often encounter three recurring (valid) concerns:
  - Private sector profit making
  - Impact on working conditions for current and future public sector employees
  - Erosion of operating standards for public facilities
- Seek government's approval to a PPP framework for when PPPs will be considered, what the process will be, and what is included in a PPP deal – provides clarity and transparency for the private sector.

## Adequate Legal Framework

- Legal framework covers both demand/toll-based PPPs, availability (social) PPPs involving service payments, governance arrangements, and contractual arrangements.
- Demand/toll-based PPPs require specific laws to allow the private sector to charge and collect revenues (which is important to make project bankable) – most commonly known as tolling powers. Need also to consider whether a network tolling policy is also required.



## Adequate Legal Framework (continued)

- In some cases the tolling powers are standalone legislation, or these powers can be stapled to existing legislation (e.g. attached to transport legislation).
- Legal framework for social PPPs tend to be covered by generic financial management frameworks dealing with expenditure/appropriation powers. Key issue for appropriation laws is how to fit expenditure commitments from 30 year service arrangements with yearly/forward estimate appropriation process.





## Adequate Legal Framework (continued)

- Governance arrangements tend to focus on existing powers of procuring agencies/authorities versus establishing special government vehicles (public companies/statutory authorities) to manage procurement and delivery process. Can also use special government vehicles to combine delivery of PPP with planning/development powers.





## Adequate Legal Framework (continued)

- Standard-form PPP contracts possible, based on the UK approach. While can provide benefits for both the public and private parties involved (i.e. transparency, reduced bid costs), they do require a body of PPP history to develop. For state governments, there can be differences between standard contract terms, e.g. the treatment of core services, building designs and codes.





## Procurement Governance Frameworks

- Vital to have a procurement governance framework which treats PPPs as a procurement option to be considered.
- This is best done at the preliminary evaluation stage where the PPP or non-PPP option is being considered. Need to set realistic scope and financial thresholds for when PPPs will be considered.
- Research is showing that irrespective of the delivery model (i.e. PPP or non-PPP), in order to determine value for money there needs to be some form of comparative analysis between delivery models.
- Can achieve the consideration of PPPs through legislation (codified approach) or through approved government policy (collegiate approach).





## Public Sector Capability

- PPPs are a specialist area, requiring specialist knowledge particularly commercial acumen and negotiation skills. Can be a challenge to recruit capable skilled staff when required to use general public sector awards.
- Two resourcing models tend to stand out: (i) a dedicated PPP unit as a standalone unit with a specific charter; or (ii) PPP expertise across government that comes together when projects being formed.





## Public Sector Capability (continued)

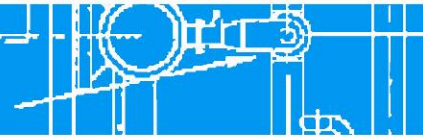
- Irrespective of the resourcing model, need to have a central “champion” – tends to be Treasury/Finance departments (in Queensland, though, the Department of Infrastructure and Planning has the lead PPP role).
- Need to have a pool of consultants available to assist the public sector – challenge here is to manage the use of consultants to ensure value for money. Information and skills retention is a key consideration (e.g. governments retaining intellectual property).



## PPP Pipelines

- Industry/market are keen promoters of PPP pipelines, with a valid reason being the need to form and keep capable bid and advisory teams together. For government, the issue is about retaining the right to make a decision about the best procurement process that delivers value for money.
- In the past, PPP pipelines may have caused heartaches for everyone in that potential projects were announced as potential PPPs without proper consideration of whether those projects satisfied the key value drivers that are typical of a good candidate PPP project.

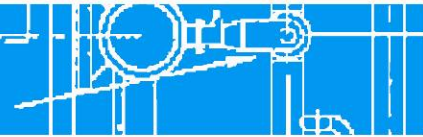




## PPP Pipelines (continued)

- Difficult to legislate per se for PPP pipelines. The budget policy approach is to work from an approved project list authorized by government – these lists require passing two essential criteria of strategic importance and affordability. Projects are then evaluated as whether they should be PPP or non-PPP.
- The above approach overcomes the problems of the past where those projects that didn't win funding support from the Consolidated Fund/Revenue were left to make their way through the PPP process on the chance the private sector would fund them – effectively meant the least suitable of projects were being put through the PPP process with predictable results and a negative impact on the PPP model.





## PPP Pipelines (continued)

- In Queensland, we have a 20 year strategic infrastructure plan for South East Queensland. The projects in this plan have meet the initial test of strategic importance, with the affordability question answered for those projects that appear in the approved budget.





# Thank You

