

4 November 2010

National Infrastructure Unit
The Treasury
Level 5, 1 The Terrace
PO Box 3724
Wellington 6140
New Zealand
per email: infrastructure@treasury.govt.nz

Re: Submission on the Draft Public Private Partnership (PPP) Standard Contract

Dear Sir/Madam,

Thank you for the opportunity to submit on the Draft PPP Contract. This is a joint submission from New Zealand Council for Infrastructure Development (NZCID) and Roothing New Zealand. Each of our organisations has provided the opportunity for members to provide input to us on the draft contract. We consider it forms a very useful foundation for forming PPP contracts in New Zealand. A number of our members will be making individual submissions on detailed aspects.

One general issue that has been raised in feedback from members has been that the contract is seen to be weighted more heavily in favour of the public sector. While this is understandable given its gestation as a public sector document, the concern is that inflexible application of contract terms may inappropriately transfer risk to the private sector, potentially at greater cost and a lower value for money outcome.

For this reason we submit that the approach taken in the implementation of the generic contract form is that it must be flexible in its adaptation on a contract by contract basis. We note for example that the model that has been adopted is more suitable for social infrastructure projects and most probably will need to be amended to accommodate economic infrastructure projects.

We also consider there will be need, in the future, to contemplate a contract form which enables a more collaborative approach to traditional PPP bidding and contracting methods for lower value contracts. This might potentially include a hybrid of Alliance, Early Contractor Involvement and PPP contracting methods designed to reduce the overhead bid-costs traditionally associated with competitive PPP bid processes. For example, this might involve the selection of a preferred contractor arrangement and a PPP bid process which enables comparison against a public sector comparator, thereby providing a semi-competitive environment, replacing full competitive bid processes for lower value, i.e. sub \$50M projects. We are aware that more flexible contracting methods have been used successfully in Scotland.

For each of these reasons our members consider that the generic contract form should be a continuous "work in progress" and not applied as a rigid and inflexible contract form for the progression of PPPs in New Zealand. Both NZCID and Rozing New Zealand would welcome the opportunity to work collaboratively with the National Infrastructure Unit to help develop alternative forms of PPP contracting that might potentially be more suitable to the smaller projects in the New Zealand situation.

Yours faithfully,



Stephen Selwood
Chief Executive
NZCID



Chris Olsen
Chief Executive
Rozing New Zealand