

December
2022

2022 Progress Report

Tracking progress against the
NSW Government 10 Point Commitment
to the construction sector

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1 Introduction

Over the past decade, the NSW Government has delivered a suite of transformational infrastructure projects across both metropolitan and regional areas. Many large, complex projects are currently in delivery. The State's transport, hospitals, schools, correctional facilities, sporting complexes and cultural assets have all benefitted from strong levels of investment. In the 2022–23 Budget, the NSW Government announced infrastructure investment of \$112.7 billion over the forward estimate period.

In this context, the construction industry has continued to face headwinds over the past 12 months, including long-tail impacts from the COVID-19 pandemic, a decline in skilled migration, geopolitical tensions, supply chain constraints leading to materials shortages, increased competition for labour and increasing inflation leading to double digit cost escalation for some key building materials such as timber, glass and steel.

In May 2022, Infrastructure NSW released *Staying Ahead: State Infrastructure Strategy 2022–2042* (SIS), a 20-year strategy setting out infrastructure priorities to meet the future needs of NSW. The SIS recognised that the working relationship between Government and the construction industry is beyond transactional, and that there is a public interest in embedding good procurement practice and supporting a sustainable, innovative, and competitive construction industry.

The NSW Government can only achieve its ambitious infrastructure objectives in partnership with the private sector. Recognising the importance of this partnership, the Construction Leadership Group (CLG) tracks progress against commitments. The *NSW Government Action Plan: A ten-point commitment to the construction sector* (10 Point Commitment) produced in 2018 set out initial actions for NSW Government agencies to improve the capability and capacity of the construction sector.

Since 2019, many elements in the 10 Point Commitment have been embedded and it has since been extensively complemented by a body of Premier's Memoranda and Commercial Guidelines that press further into procurement and delivery practice.

This report sets out progress made over the period 1 July 2021 to 30 June 2022 by NSW Government agencies in embedding commitments. The report is compiled using data from 'Implementation Statements' which NSW Government infrastructure delivery agencies are required to prepare at key project milestones for projects with a contract value over \$50 million.

Peak construction industry bodies including the Australian Contractors Association (ACA), Civil Contractors Federation (CCF), Master Builders Association, Consult Australia, and Engineers Australia were provided opportunity to provide feedback and input into the content of this report prior to publication.

In addition to good progress at the major project level, the CLG has proudly continued to advance initiatives to embed the Government commitments across the entire NSW Government infrastructure portfolio.

Key activities since July 2021 include:

- ▶ Release of the [*2022 State Infrastructure Strategy*](#) including specific recommendations to Government to ensure a sustainable industry in which the construction market has the capacity, capability, and productivity to meet increasing demands.
- ▶ Promoting transparency by regularly updating the interactive [*NSW Major Project Pipeline*](#) hosted on the INSW website, and by regular industry briefings at an agency level by Transport for NSW, Sydney Metro, School Infrastructure NSW and Health Infrastructure to brief industry on the upcoming pipeline of work.
- ▶ Updating and upgrading the policy on [*Information on Infrastructure Projects*](#) as a Premier's Memorandum. This policy seeks to avoid premature and counter-productive determination of project budgets and timelines, which can provide unproductive behaviour on projects.
- ▶ Release of a [*Premier's Memorandum on Procurement of Large, Complex Infrastructure Projects*](#). This policy places an "if not, why not" obligation on NSW agencies delivering motorways, rail projects and dams to take prescribed approaches to de-risking projects, better procurement approaches and reducing costs and improving time frames in procurement.
- ▶ Development of [*Commercial Principles for Infrastructure Projects*](#), in consultation with industry, as guidance to NSW Government delivery agencies to provide a consistent, reasonable, and equitable approach to developing contractual terms for capital projects on issues such as reliance, cost escalation and liability arrangements. The Commercial Principles address issues identified by industry as high priority issues.
- ▶ Launch of [*Principles for Decarbonising Infrastructure Delivery*](#) for public infrastructure across the planning, design, and construction phases by reducing embodied carbon emissions.

- ▶ Development of a digital reporting dashboard to streamline reporting requirements and capture the Outcomes Framework outlined in the 2021 Progress Report. The dashboard is now live and will be used to track and measure performance against current priorities for the 2023 Progress Report.
- ▶ Regular engagement with industry on key issues including commercial procurement, environmental sustainability, and culture & diversity.

We look forward to continuing our partnership with industry as we deliver the ambitious infrastructure pipeline for the people of NSW.

More information on recent NSW Government major infrastructure projects and policy initiatives is available on the [*Infrastructure NSW website*](#).



Castle Hill Tunnel, Sydney Metro

2 Executive Summary

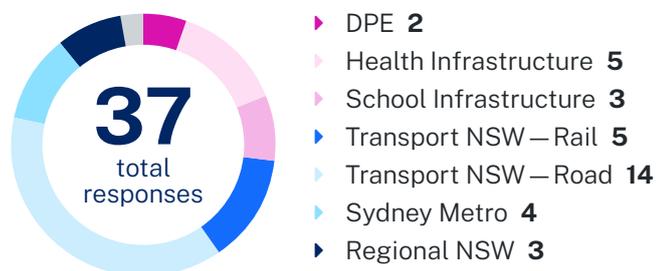
General Statement on Progress

The purpose of this report is to provide an update on progress made by NSW Government to embed the Commitments throughout the project lifecycle for major infrastructure projects and associated enabling actions. This report draws on data provided in Implementation Statements from NSW Government delivery agencies across 37 NSW Major Infrastructure projects between 1 July 2021 and 30 June 2022. These projects represent a total capital value of over \$30.9 billion.

Implementation Statements

Implementation Statements are completed for NSW Government infrastructure projects and contracts with a capital value over \$50 million at Investor Assurance Gateway Approval **Gates 2, 3, 4 and 6** (or agency equivalent).

Statements received by Agency



Progress in 2021/22

While the NSW Government remains committed to continuous improvement in all areas, we are proud of the progress that has been made to date. We acknowledge that there are some areas in which we need to do better and have identified these as areas for focus in 2023.

Good progress continues...

Commitment 1: procuring and managing projects in a more collaborative way

- ▶ Early contractor involvement and interactive market engagement processes are becoming business as usual for major infrastructure projects.

Commitment 2: adopting partnership-based approaches to risk allocation

- ▶ Agency and contractor risk allocation has improved, with increasing use of risk sharing arrangements to incentivise both parties and not put contractor viability at risk.

Commitment 5: reducing the cost of bidding

- ▶ More projects are using a streamlined prequalification scheme to reduce credential requirements for bidders.

Commitment 8: improve the security and timeliness of contract payments

- ▶ Agencies are continuing to use securitised procedures for contractor payments and provide transparent proof of payments across all contractor levels.

Additional progress has been made...

Commitment 5: reducing the cost of bidding

- ▶ Most projects used a streamlined prequalification scheme to reduce credential requirements for bidders. Projects are also consistently making sure to only shortlist contractors for the Expression of Interest (EOI) process that can demonstrate an ability to deliver the project.
- ▶ Projects saw an all-round improvement in the use of full electronic lodgement to reduce documentation requirements.

Commitment 7: monitor and reward high performance

- ▶ A bidder's commitment to collaborative behaviour is also being consistently weighted in the tender evaluation process.
- ▶ Consideration of Contractor Performance Reports by agencies in assessing performance is now standard practice.

Commitment 10: increasing industry diversity

- ▶ There has been improvement in identifying, measuring and reporting on workforce diversity.
- ▶ Bidders that commit to or exceed various diversity targets are being rewarded in tender processes.

Areas of focus for 2023...

Commitment 2: adopting partnership-based approaches to risk allocation

- ▶ Although good progress has been made to date, industry has still expressed concern with some behaviours and risk allocation positions submitted in tender processes.
- ▶ In 2023, the CLG will focus on increasing very early market interaction processes to help identify project risks early and allocate risks as appropriate to the party which is best placed to manage them.

Commitment 7: monitor and reward high performance

- ▶ In 2023, the CLG will update the NSW Government Contractor Performance Reporting process, to improve the portfolio view of contractor performance and help incentivise desired behaviours with an evidence-based approach.

Commitment 10: increasing industry diversity

- ▶ The NSW Government recognises that there is still work that needs to be done to improve culture and diversity in the construction sector. Infrastructure NSW, in close collaboration with the Department of Education and NSW Government infrastructure delivery agencies, is leading the Women in Construction program. This initiative will aim to identify issues and barriers to increasing participation of women in construction, pilot increased targets for women in trades and introduce a new target for women in non-traditional roles. This program involves close collaboration with industry via an Industry Advisory Group comprised of industry associations, trade unions, contractors, and sub-contractors.
- ▶ The NSW Government is also piloting the draft Construction Industry Culture Standard and increased workplace flexibility on major government infrastructure projects to promote an inclusive, flexible, and positive workplace culture.

We look forward to further collaboration with industry on areas for focus in 2023.

The remainder of this report outlines progress against each of the 10 Point Commitments, using data from previous years to track progress over time. Examples of good practice are showcased and areas for improvement are highlighted. All KPI data for 2022 is sourced from the 37 project level implementation statements received over the reporting period.

3 2021/22 Progress

Commitment 1: Procure and manage projects in a more collaborative way

Performance has been good against Commitment 1. Over the past 3 years there has been a steady increase in the number of projects using early contractor involvement processes and this is now business as usual for most major infrastructure projects.

Key Performance Indicators:

KPI	2020	2021	2022
Number of projects that used early market engagement to elicit industry views on either project and/or work packages. ¹	69%	75%	91%
Number of projects that used expedited engagement processes such as Early Contractor Involvement	92%	93%	100%
Number of projects that used agency guidelines on best practice procurement where available	100%	100%	100%

Exemplars

▶ **Transport for NSW, Belford to Golden Highway Upgrade:** On the Belford to Golden Highway upgrade, Transport for NSW aimed to take a more integrated team approach to managing and delivering the project. This was promoted on site by co-locating Transport for NSW and contractor staff in the same site compound. The use of shared amenities, meeting rooms and common areas allowed for an increase in collaborative relationships on site. Cooperative contracting, start-up workshops and team charters are in place on several projects, including the Nowra Bridge, the Pacific Highway (City Road) at Kahibah Road and Northcott Drive and the future Coffs Harbour Bypass projects. This

has promoted collaborative relationships between Transport for NSW and contractors from the project outset.

▶ **Sydney Metro Eastern Tunnelling Package (ETP):** In October 2021, Sydney Metro adjusted the contract model for the Eastern Tunnelling Package (ETP) from a lump sum Design and Construct to an Incentivised Target Cost (ITC). The key driver for this change was delivery partner feedback received during several rounds of early market engagement. Industry feedback noted that the complex risks and challenges associated with the contract package required a more collaborative approach, considering the two harbour crossings, proximity to surrounding structures and delivery in the congested CBD

¹ Note that percentages listed are only based on the project level implementation statements received over the reporting period. It is likely that even more early market engagement that is happening across all agencies and projects that would not be captured via individual project implementation statements.

environment. The Sydney Metro team incorporated extensive lessons learned from other ITC projects under procurement and delivery in NSW, Queensland, and Victoria to develop innovative commercial mechanisms to reduce the administrative burden of ITC contracts for all parties and foster a greater level of collaboration between Sydney Metro and the delivery partner.

- ▶ **Health Infrastructure’s John Hunter Hospital Innovation Precinct’s** Early Contractor Involvement (ECI) process has yielded several tangible design, commercial and program benefits for the project. Above all, the strong relationship developed through the ECI process provided a good platform for a successful and collaborative delivery phase.
- ▶ **Health Infrastructure’s** Statement of Participation (SoP) process provides industry with good visibility of its upcoming procurement pipeline. This enables industry to plan and select preferred tendering opportunities for upcoming work packages.

- ▶ **NSW Public Works** engaged with tenderers to enable the rapid procurement of the Flood Property Assessment Program contract in the aftermath of the 2022 Northern Rivers flood event. Pricing structures and contract risk allocations were developed in collaboration with tenderers, noting the uncertainties regarding scope and quantum of works required. A normally complex and competitive procurement process was significantly compressed, and the tender was completed within one week. The collaborative partnership approach established during the tender phase has carried through to the delivery phase.
- ▶ **Land and Housing Corporation** undertook a market sounding process to ascertain feedback for the housing renewal project at 14–18 Phillip Street, St Marys. Open briefings were held during the tender phase, followed by a halfway review to assist with any queries or concerns raised by tenderers. The outcome of such a collaborative procurement process led to the adoption of a partnership-based risk allocation approach.



Tunnelling works at The Bays, Sydney Metro

Commitment 2: Adopt partnership-based approaches to risk allocation

Good progress against Commitment 2 has continued. Of the projects surveyed in 2022, there was an increase in number of projects requiring the best placed party to manage the risk, as well as those using risk sharing mechanisms to incentivise both parties and not put the contractor's viability at risk. It is positive to note that the percentage of projects incorporating a senior level dispute resolution process has remained consistent at 100%.

Key Performance Indicators

KPI	2020	2021	2022
Number of projects that required the best placed party to manage risk or shared risk when necessary.	88%	95%	97%
Number of projects that used risksharing mechanisms to incentivise both parties and not put the contractor's viability at risk.	71%	85%	88%
Number of projects that incorporated a senior level 'dispute resolution' process in the contract to identify and resolve issues before they escalated.	92%	100%	100%

Exemplars

- ▶ **Transport for NSW, M1 to Raymond Terrace Project:** An interactive tender process was designed and implemented for M1 to Raymond Terrace Project. This has specific mechanisms for tenderers to input and request collaborative risk sharing mechanisms in respect of specific risks, such as contamination, geotechnical conditions, inclement weather, and the rise and fall of the cost of materials.
- ▶ **Health Infrastructure:** In line with the COVID-19 Commercial Guidelines for Construction Contracts, Health Infrastructure developed a framework to assess and settle claims arising from mandatory construction shutdowns during the pandemic. In doing so, Health Infrastructure was able to settle all claims in a transparent, collaborative, and timely manner.
- ▶ **Sydney Metro, Stations, Systems, Trains, Operations and Maintenance (SSTOM):** The Western Sydney Airport contract package for SSTOM includes a cost risk sharing mechanism which provides an incentivised target cost for specified scope elements within the PPP structure. This cost risk sharing mechanism supports greater collaboration between Sydney Metro and the operating company (OpCo) on those elements of scope which require greater flexibility. It has also enabled greater focus and extensive engagement up front between Sydney Metro and the tenderers on those areas which are not subject to the cost risk sharing mechanism.
- ▶ **Land and Housing Corporation:** The housing renewal project at 4–6 Bigge Street, Warwick Farm saw a collaborative approach between Land and Housing Corporation and the contractor. The project was tendered with an open scope of works which allowed greater development yield and maximum value for money. This collaborative approach facilitated transparent discussions between Land and Housing Corporation and the contractor, reducing the risk of delays and thus allowing for the timely commencement of the project.

- ▶ **Land and Housing Corporation:** The housing renewal project at 14–18 Phillip Street, St Marys included a cost risk adjustment mechanism from pre-agreed benchmark. This supported collaboration between Land and Housing Corporation and the contractor on specific risks which were subject to change, including alterations in gross floor area after planning consent, or time risks associated to planning consent approval.

Areas for focus

- ▶ There are still areas for improvement regarding Commitment 2. Feedback from industry suggests that although the general approach regarding risk allocation has improved, implementation across the portfolio of projects is inconsistent. Improving consistency of collaborative behaviours regarding allocation of risk will be an area of focus in 2023 and Infrastructure NSW will seek specific examples where industry has found that the Commitment has not been applied.



Kyeemagh Public School's nature-based playground, School Infrastructure NSW

Commitment 3: Standardise contracts and procurement methods

Among the projects surveyed in 2022, there was an increased number of ‘collaborative’ contracting models (such as Incentivised Target Cost and Alliance contracts) and a decline in use of Traditional Contracting models such as Design & Construct (D&C) or Construct Only (CO).

It is important to note that while some contract models are commonly considered more collaborative than other ‘traditional’ models, genuine collaboration can be achieved under any contract model. This is possible when project governance is structured in a way which promotes a culture of trust, when steps are taken to de-risk projects prior to main works through early industry engagement and early works, and when risk is allocated to the best party able to mitigate and manage that risk.

Key Performance Indicators

KPI	2020	2021	2022
Number of projects that used Collaborative Contracts	48%	18%	30%
Number of projects that used Traditional Contracts	46%	77%	63%
Number of projects that used PPP Contracts	6%	5%	7%

Exemplars

- ▶ **Transport for NSW** piloted a standard Professional Service Contract suite through Project Streamline, which was developed with input from industry. The pilot was successful, replacing multiple contracts in the market with three standard templates that are being used across the portfolio.
- ▶ **Health Infrastructure** continues to champion the use of the NSW Health version of the GC21 form of contract. Close collaboration with Public Works, administrators of the Whole of Government standard form, has ensured that emergent amendments are updated in a standardised manner. This has enabled consistency for agencies and industry alike.
- ▶ **Land and Housing Corporation:** 14–18 Phillip Street, St Marys used the standard GC21 Edition 2 contract to partner with industry. This form of contract is applicable to Design and Construct, ‘Design Finalisation and Construct’ and ‘Construct Only’ processes alike, which has allowed Land and Housing Corporation to minimise project specific amendments and establish consistency in risk allocations.
- ▶ **Land and Housing Corporation:** The housing renewal project at Jersey Street, Blackett, used a standardised procurement process and form of contract, which Land and Housing Corporation keeps consistent for all ‘Construct Only’ projects.

Areas for focus

- ▶ As recognised in 2021, movement towards standardised contracting models across the NSW Government still needs to be accelerated. This will need to be supported by an upskilling of staff to ensure sufficient capability in management of collaboration and contracting models.

Commitment 4: Develop and promote a transparent pipeline of projects

The NSW Infrastructure Pipeline brings together all the NSW Government infrastructure projects expected to come to market with a minimum capital value of over \$50 million over the next 3–5 years.

The pipeline includes projects for which funding has been fully committed ('pipeline' list) and projects that have been allocated funding for planning ('planning' list). The NSW Government recognises that it is important to provide industry with the best possible information to enable planning and resourcing. This highlights the collaborative partnership between government and industry required to deliver infrastructure projects for the people of NSW.

Producing the pipeline requires significant cross-agency collaboration for each 6 monthly update cycle. These efforts promote transparency for the entire construction sector supply chain, from Tier 1 builders, through to smaller contractor firms, subcontractors, suppliers of equipment, materials, and consultants.

The NSW Government is committed to the continued transparency of its project pipeline, to attract investment and early participation in the design, construction, management, and operation of major infrastructure projects across the whole of NSW.

NSW MAJOR PROJECTS INFRASTRUCTURE PIPELINE

The NSW Infrastructure Pipeline provides a forward view of infrastructure under development by the NSW Government. It includes infrastructure projects with a minimum capital value of \$50 million.

Search for keyword

Sort By
Sector ▼

Procurement starts in or after
Any ▼

Construction starts in or after
Any ▼

Filter by sector
Any ▼

Filter by estimated value
Any ▼

Filter by current phase
Any ▼

FILTER

CLEAR

Sector	Project Name	Estimated Value	Procurement	Current Phase	Procurement Start Date (est.)	Construction Start Date (est.)
Arts & Culture	Powerhouse Ultimo Renewal	\$\$\$	TBA	Construction Procurement	TBA	TBA
Commercial	Advanced Manufacturing Research Facility in Bradfield City Centre	\$\$	ECI, D&C	Design	Q3 2024	Q3 2025
Commercial	Bradfield City Centre Stage 1 Enabling Works	\$\$\$\$	CO, D&C	Rolling Program	Ongoing	Ongoing
Commercial	Jindabyne Utility Upgrades	\$	TBA	Design	TBA	TBA
Commercial	Moree Special Activation Precinct	\$\$	TBA	Design	Q4 2022	Q3 2023

INSW pipeline portal preview, Infrastructure NSW, November 2022

Commitment 4: Case Study

Transport for NSW Industry Pipeline Briefings

Transport for NSW is committed to providing the construction industry with timely and transparent updates on its capital plan. In 2022, Transport for NSW held a Transport Infrastructure Pipeline event in Western Sydney to launch its capital program to industry and foster strong relationships between industry and Transport.

The event was themed “Partnering for NSW” and included:

- ▶ A key address from The Hon. Rob Stokes MP, Minister for Infrastructure, Cities and Active Transport;
- ▶ Panel discussion on collaborating for success, with members from Transport and industry;
- ▶ Project presentations focused on desired project outcomes and opportunities for industry involvement; and

- ▶ A trade-show style event featuring 12 projects from around Greater Sydney, enabling the opportunity for industry participants to meet the Transport for NSW project teams.
- ▶ The hybrid event had:
 - ▶ **Over 250** in-person attendees
 - ▶ **>1,200** online attendees from across Australia and internationally
 - ▶ **90%** of industry partners found the event informative or very informative, in a post event survey.

Transport for NSW has also conducted three Regional Industry Engagement events in Dubbo, Wollongong, and the Hunter Valley to provide targeted engagement for regional areas. The events attracted over 630 in-person attendees and an additional 255 online. All up, there were 32 projects showcased and 20 detailed project presentations to inform industry of the regional pipeline work.



Pipeline event interaction, Transport for NSW

► **Health Infrastructure** continues to facilitate regular communications with industry, including industry briefings, Statement of Participation and Partner forums. These are opportunities to share updates on the Health Infrastructure pipeline and requirements, align with industry on key government priorities and unpack current challenges. Information is also promoted via the Health Infrastructure website, social media and the eTender portal.

► **NSW Public Works** has conducted a research project to map the current and future pipeline of infrastructure development in regional NSW. The first of its kind in research, the Regional NSW Market Capacity Report provides an analysis on the construction pipeline with forecast project expenditure by activity types at a local level. The report covers the five major NSW economic regions which encompass 38 smaller functional economic regions.

► **School Infrastructure NSW** released their annual Delivery Strategy to industry partners in August 2022. It provides detailed insight into the School Infrastructure NSW pipeline for projects announced in the 2021–22 and 2022–23 NSW Budgets. Some projects are grouped into clusters to drive efficiencies for both suppliers and the NSW Government and to streamline the tendering process, with the aim of reducing costs for suppliers by appointing a single supplier for each of the disciplines.

Areas for focus

► The next area for focus is to elicit market views on packaging of projects to create more accessible packages for small and mid-tier firms.



Campbelltown Hospital, Health Infrastructure

Commitment 5: Reduce the cost of bidding

Performance has been good against Commitment 5, with most projects using a streamlined prequalification scheme to reduce credential requirements for bidders. 100% of projects surveyed only shortlisted bidders with a demonstrated capability to deliver. This year, 89% of projects closed the loop with unsuccessful bidders in less than 12 weeks.

The number of projects that used full electronic lodgement to reduce documentation requirements has remained constant, at 97%.

Key Performance Indicators

KPI	2020	2021	2022
Number of projects that used a streamlined prequalification scheme to reduce credential requirements for bidders where available.	84%	77%	95%
Number of projects that only shortlisted contractors for the Expression of Interest process who could demonstrate an ability to deliver the project.	83%	85%	100%
Number of projects that used full electronic lodgement to reduce documentation requirements.	91%	97%	97%
Number of projects where unsuccessful bidders were kept on 'Hot Standby' for less than 12 weeks.	100%	75%	89%

Exemplars

- ▶ **Transport for NSW:** To ease the burden on contractors, Transport for NSW conducted an interactive commercial and technical tender session for The Coffs Harbour Bypass project. The number of management plans and design deliverables required as part of the Request for Tender (RfT) process were also reduced, streamlining the tender process.
- ▶ **Health Infrastructure** continuously reviews its tender return schedules to ensure that only information required for assessment is requested and does not impose any design completion requirements as part of its standard tendering requirements.

Areas for focus:

- ▶ There are still some projects keeping bidders on 'hot standby' for more than 12 weeks. Work in 2023 should continue to focus on closing the loop with bidders as fast as possible.

Commitment 6: Establish a consistent NSW Government policy on bid cost contributions

The NSW Government implemented the *NSW Bid Cost Contributions Policy* in 2018 to address some of the financial barriers to bidding, by reimbursing a portion of the expenses borne by the unsuccessful proponent to partially offset the cost of bidding for infrastructure projects in NSW during the procurement stage.

Commencing late 2021, NSW Treasury conducted a review of the effectiveness of the Bid Cost Policy to determine whether it remains fit for purpose, accomplishing the policy's objective to achieve contestability and value for money during the procurement of major infrastructure projects.

The review identified that that whilst the existing policy was supporting contestability and value-for-money outcomes, there were still opportunities for refinement. This includes further analysis of the costs which tenderers incur during the bidding process with a view to supporting agencies to continuously improve their procurement processes to reduce the cost of bidding.

During 2022, NSW Government agencies identified their intention to make contributions to tenderer bid costs in accordance with the policy, on 11 projects.

Date	No of new projects with payable bid cost contributions	Range of estimated contract value	Range of bid cost contributions payable (per unsuccessful bidder)
FY 19/20	5	\$200M–\$5B	\$950K–\$8M
FY 20/21	23	\$100M–\$5B	\$350K–\$20M
FY 21/22	11	\$100M–\$5B	\$100K–\$55M

Areas for focus:

- ▶ In 2023, contractors can expect agencies to have an increased focus on the collection of bid cost data from unsuccessful tenderers. This data will help inform any future refinements in the existing policy and assist agencies to identify opportunity areas to minimise the cost of bidding.



Bigge Street, Warwick Farm — External high-rise, Land and Housing Corporation

Commitment 7: Monitor and reward high performance

Good performance against Commitment 7 has continued in 2022, with projects considering Contractor Performance Reports in assessing performance becoming commonplace.

100% of surveyed projects continued to report that weight was given to a bidder's past collaborative behaviour and used standardised approaches to dispute resolution.

Key Performance Indicators

KPI	2020	2021	2022
Considered Contractor Performance Reports to assess performance.	89%	94%	100%
Gave weight in the tender evaluation to a bidder's commitment to collaborative behaviour based on their proven track record.	100%	100%	100%
Used standardised contractual approaches to dispute avoidance and resolution.	100%	100%	100%

Exemplars

- ▶ **Sydney Metro Contractor Collaboration and Performance Management (CCPM):** Sydney Metro has successfully launched and completed a proof-of-concept trial of a new program to drive increased collaboration with contractors. During 2022, the Contractor Collaboration and Performance Management (CCPM) solution was trialled across 15 major contracts across the Sydney Metro City & Southwest and West projects and gained strong engagement with delivery partners. Following this successful trial, the solution is now being rolled out across the Sydney Metro portfolio. Implementation is underway for the remaining major construction contracts on West and Western Sydney Airport and anticipated to be completed by December 2022. The solution assesses and drives performance and collaboration between parties, including 360-degree performance assessments which evaluate the delivery partner's and Sydney Metro's performance.

Performance is evaluated at multiple levels and is based on delivery, behavioural and overall performance with results reviewed and shared jointly, and solution development sessions facilitated by a behavioural coach.

Areas for focus:

- ▶ In 2023, the CLG will update the NSW Government Contractor Performance Reporting process, to improve the portfolio view of contractor performance and help incentivise desired behaviours with an evidence-based approach.

Commitment 8: Improve the security and timeliness of contractor payments

Performance against Commitment 8 remained steady in 2022, with 100% of projects surveyed continuing to require transparent proof of payments at all levels of the subcontracting chain (where applicable).

It is positive to note that agencies are continuing to prioritise timeliness of payments, including agreed contract variations.

Key Performance Indicators

KPI	2020	2021	2022
Number of projects that provided transparent proof of payments across all contractor levels.	79%	100%	100%

Exemplars

- ▶ During the COVID-19 pandemic, contractual payments were made 'on account' on an extensive number of projects to ease upfront cashflow pressures and to keep subcontractors and suppliers engaged and afloat.
- ▶ **Transport for NSW, The Coffs Harbour Bypass Project:** Industry was engaged prior to commencement of the Tender process to understand their concerns associated to the project. Additional support was provided to the contractor via a 4% initial payment to assist with cashflow.
- ▶ In securing temporary housing for flood affected residents of the **NSW Northern Rivers, NSW Public Works** modified standard payment terms in response to feedback from modular housing suppliers. This approach reduced cashflow risks to suppliers and provided greater supply chain certainty, meaning earlier availability of housing to support the community recovery.



Coraki temporary housing village under construction, NSW Public Works

Commitment 9: Improve skills and training

The Infrastructure Skills and Legacy Program (ISLP), led by Training Services NSW aims to capitalise on the NSW Government's record levels of infrastructure investment to boost the number of skilled construction workers and create additional pathways to employment. The program was developed through consultation with the construction industry and as of 1 July 2020

mandates skills, training, and employment targets on major infrastructure projects to increase diversity in the workplace.

There are 19 projects that have reported on skills training via the ISLP. To date, there have been 20,634 learning workers and 1,748 apprentices engaged through this Program. All ISLP projects exceeded the targets for skills training.

Key Performance Indicators

KPI	2020	2021	2022
Number of projects that include tender evaluation criteria or other incentive arrangements to credit bidders who exceeded apprentice and learning worker targets.	78%	63%	88%
Number of projects where contracts require at least 20% of 'learning workers' for their labour force.	72%	72%	97%
Number of projects that require onsite training for learning workers in the contract or promoted it using other methods.	79%	82%	100%

The ISLP targets are mandated via a NSW Procurement Board Direction which sets out the following skills, training, and diversity targets for major construction projects:

Target	Contract Value \$7.5–\$10 million	Contract Value \$10–100 million	Contract Value > \$100 million
Apply Aboriginal Procurement Policy	✓	✓	✓
20% of the Trades Workforce to be Apprentices		✓	✓
20% of the Project Workforce to be Learning Workers			✓
2% of the Trades Workforce to be Women			✓
8% of the Project Workforce to be Young People			✓
Report on Local Employment Outcomes			✓

Agencies or Contractors may also adopt additional targets on the project to support disadvantaged and underrepresented groups into employment including: people with a disability, long-term unemployed people, Refugees and Asylum Seekers or returned service men and women.

Exemplars

- ▶ **Transport for NSW** coordinates pre-employment programs in partnership with government and industry. These programs provide entry level technical and employability training to local people, developed to industry and employer needs. Examples include Albion Park Bypass and the Regional Rail projects. In the regional pre-employment programs, 72% of pre-employment graduates were subsequently employed (67 people across 6 recent programs) including 48 Aboriginal people, 19 women and 6 asylum seekers.
- ▶ **On Sydney Metro** more than 12,593 workers (21.7% of the total project workforce) have completed additional skills development training above BAU compliance and licensing requirements.
- ▶ The **Sydney Metro** pre-employment program was launched in 2014 which supports long term unemployed and other under-represented groups in the workforce. During COVID-19, the pre-employment programs ceased to operate, which saw the respective workforce reduced and a fall in the number of under-represented groups. The program was reintroduced in 2021 and the analysis of subsequent data revealed a direct relationship between the successful delivery of pre-employment programs and increased diversity within the workforce.
- ▶ **Sydney Metro** hosts the Skills and Employment Advisory Group, a forum which brings together key stakeholders to support the workforce upskilling, local employment and promote diversity and inclusion on Sydney Metro projects. Forum members include representatives from NSW and Federal Governments, industry bodies, employers, and training bodies.



Western Sydney Airport Terminal Station Artists Impression, Sydney Metro

Commitment 10: Increase industry diversity

The NSW Government recognises that more work needs to be done to increase diversity in the construction industry workforce and is taking active steps to make the construction industry a more diverse, inclusive, and safe workplace. This will be a key area of focus for 2023.

As part of the FY22–23 Budget, the NSW Government announced an investment of funds to attract more women into the construction industry, setting an ambitious goal of women occupying 15 per cent of trade and non-traditional roles by 2030.

Infrastructure NSW is leading this initiative in close partnership with the Department of Education (DoE), infrastructure delivery agencies and industry representatives including trade unions, subcontractors, head contractors and industry associations. One

part of this program will pilot increased targets for women in trades, from 2% to 4%, and introducing a new target of 7% of the project workforce to be women in non-traditional roles on major government infrastructure projects. Additionally, the program will support innovative industry initiatives and a communications and engagement strategy to promote dialogue on the key messages and initiative.

The ISLP also mandates other targets to address industry diversity and has reported positive outcomes for Aboriginal people engaged on government infrastructure projects, now representing approximately 8% of total project workforce on average for ISLP projects. Aboriginal women in the Built for Women program represent 14% of the total number of women participating in short course and full qualification training.

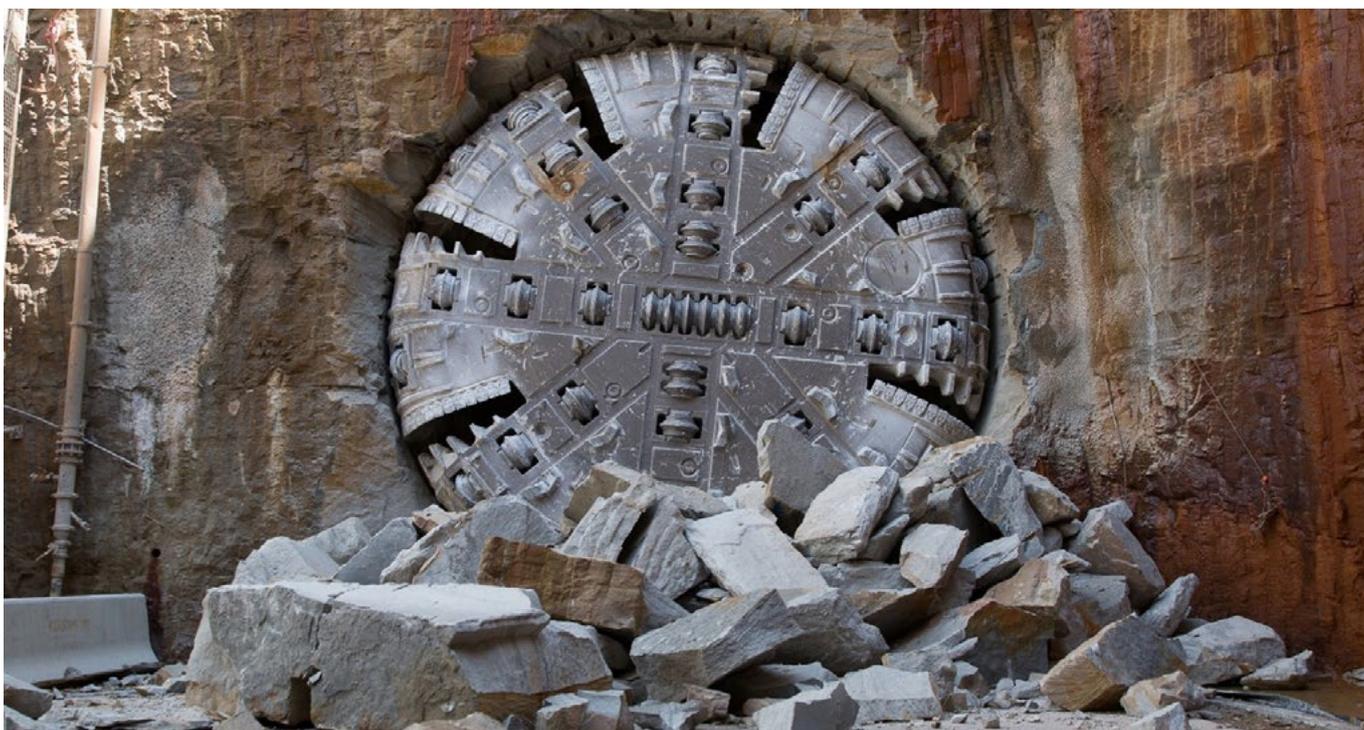
Key Performance Indicators

KPI	2020	2021	2022
Number of projects where contracts require contractors to contribute to doubling the number of women in trade work.	83%	66%	100%
Number of projects where agencies worked with contractors to measure and report on workforce diversity.	89%	92%	100%
Number of projects that required the contractor to meet or exceed Aboriginal participation requirements.	91%	92%	97%

Exemplars

- ▶ **Paramatta Light Rail Stage 1 (Transport for NSW)** won the Infrastructure Sustainability Council's 'Leading As-Built' Rating. The project has achieved greater workforce diversity, upskilling of workers, engagement with social enterprises and aboriginal businesses, and provided opportunities for local communities.
- ▶ On the **Sydney Gateway Project**, around 10% of the workforce are women in non-traditional roles. The Project also has a crew of female Moxy drivers and hosted 30 students to showcase careers in construction.

- ▶ **The Regional Rail Project** is exceeding the national average of women in construction, sitting at 14% (12% national average). Focused women initiatives include a school-based apprenticeship and traineeship program that has seen five local Aboriginal women successfully engaged with regional businesses.
- ▶ **Transport for NSW** is proactively working with industry to upskill and engage a more diverse workforce through attracting small and diverse businesses into the supply chain. This includes local industry networking events and business capability workshops (e.g., tender writing workshops and videos), designed and delivered with industry and government partners.
- ▶ **Sydney Metro's** minimum contract requirements, collaborative forums and client led programs have supported the achievement of the following workforce diversity outcomes: 2.7% Aboriginal Participation (1,553 people); 4.9% Women in non-traditional trades and occupations (1,085 women); 16.2% Young Workers (under 25 years) (9,382 young people)
- ▶ **Sydney Metro** has delivered 7 Aboriginal business forums to date, which have been successful in having over 250 Aboriginal businesses in attendance. The forum provides opportunities for Aboriginal businesses to gain insights from Sydney Metro's delivery partners and their supply chain regarding upcoming procurement opportunities. The most recent 7th forum saw the highest level of participation to date, with 90 attendees representing 70 Aboriginal businesses.
- ▶ The NSW Government Infrastructure Traineeship, coordinated by **School Infrastructure NSW**, is set to see more than 70 young people graduate and be ready to enter the construction infrastructure industry in early 2023. The two-year traineeship program is a collaboration between NSW Government infrastructure agencies and industry partners, offering Year 12 school leavers a rounded experience in the infrastructure sector.



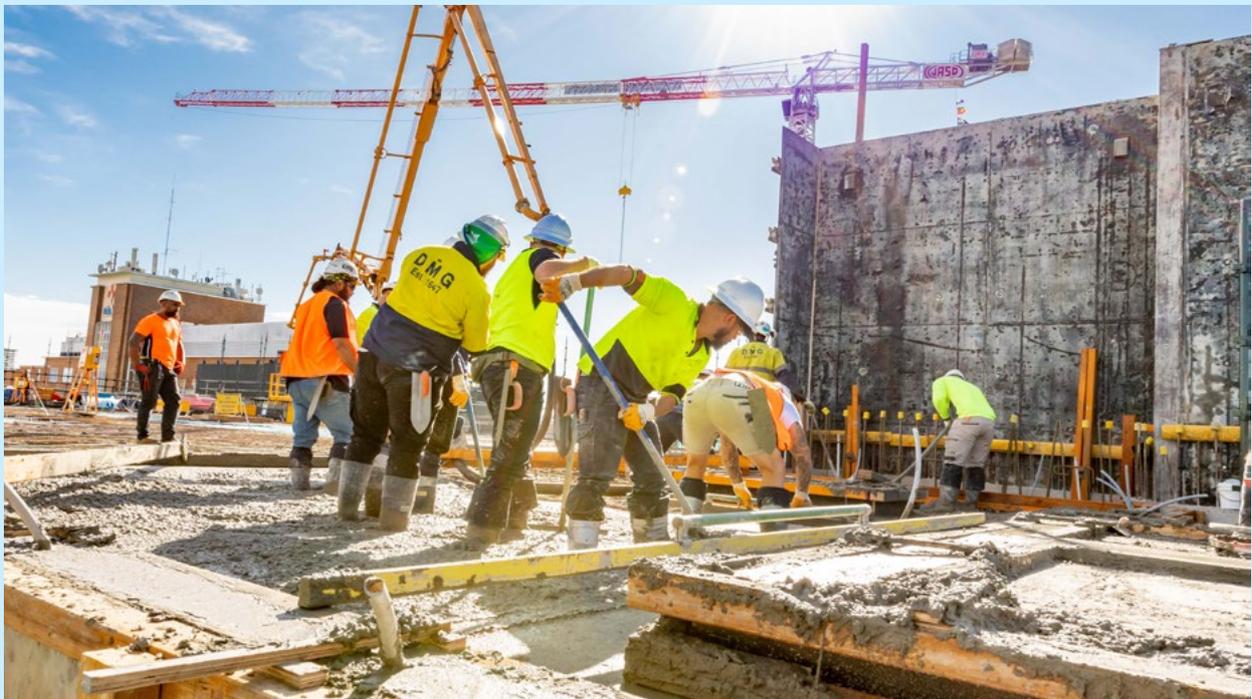
Maria Breakthrough Epping, Sydney Metro

Commitment 10: Case Study

Health Infrastructure

To address workforce diversity imbalances across the construction industry, Health Infrastructure is committed to collaborating with industry partners to pilot and champion innovative project delivery initiatives such as 'Project 5' on its Concord Hospital Redevelopment project. 'Project 5' challenged the status quo of constructing over a traditional six-day work week and demonstrated that working a five-day (Monday to Friday) work week had no increase to variable costs and only marginal cost impacts to project preliminary costs. Crucially, 'Project 5' found a positive links between working five-day weeks to increased quality of life and worker wellbeing.

Following the successful delivery of the Concord Hospital Redevelopment project through 'Project 5', Health Infrastructure has procured several recent projects, which will be delivered under a five-day work week including Westmead Children's Hospital, Randwick Children's Hospital and Griffith Base Hospital Redevelopment projects. Through these projects Health Infrastructure, in collaboration with its industry partners and the Construction Industry Culture Taskforce (CICT), will co-develop and implement innovative strategies in line with the broader Culture Standard to increase participation rates of women and other under-represented groups to support a sustainable and diverse construction workforce.



Concord Hospital Redevelopment, Health Infrastructure

Contact

For enquiries regarding this report contact
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Disclaimer

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For enquiries please contact CLG@infrastructure.nsw.gov.au

Addendum to the 2022 Progress Report: Comments from the Australian Constructors Association

The Australian Constructors Association (ACA) provided extensive feedback which is replicated below for the sake of transparency.

Comments from the Australian Constructors Association (verbatim):

Commitment 1 – Procure and Manage Projects in a More Collaborative Way

The focus here is entirely on the procurement process. We believe that this is the appropriate commitment to track use of more collaborative forms of contract (not Commitment # 3) but more importantly, we believe there should be an equal or greater focus on improving how projects are managed. This could include a focus on increased use of integrated/agile project teams and independent Dispute Resolution Boards to manage disputes. In terms of the former, ACA and TfNSW are looking to collaborate on this matter.

Infrastructure NSW Observations

Noted. NSW has advanced in both policy and practice in procuring and managing projects in a more collaborative way. This is seen in a number of areas and has been acknowledged by industry on several occasions:

- Routine use of early works packages to de-risk main works packages;
- Early engagement and soundings on forms of project delivery, including type of procurement, often leading to a decision to change delivery strategy;
- Frequent use of incentivised target cost and similar forms of procurement;
- Conscious packaging of projects to reduce contract size and allow wider participation by tier 2 and tier 3 firms, either in their own right or joint ventures;
- Changes to requirements around liability caps, professional indemnity insurance, joint and several liability arrangements;
- Use of payment on account arrangements where there have been interruptions to works beyond the control of contractors (such as during the COVID shutdown).

In the progress report (Commitment 3) Infrastructure NSW recognises that an upskilling of staff to ensure sufficient capability in management of collaboration and contracting models will be an area of focus for 2023. We commend positive collaboration between TfNSW and ACA on this matter.

Recommendation 57 of the State Infrastructure Strategy also includes several recommendations to develop new skills and capabilities required for management of infrastructure projects. This has now been supported in the NSW Government Response to the SIS which was recently released on 22 November 2022, so will be an area of focus for 2023.

Comments from the Australian Constructors Association (verbatim):

Commitment 2 – Adopt a Partnership Based Approach to Risk Allocation

The assessment criteria for this commitment is subjective, and we contend that industry takes a different view of the progress achieved in this area especially given the government’s unwillingness to date in (not) compensating industry for the impact of material price escalation on already awarded projects where no contractual provision exists to do so. In many instances, government will pay less than what it has cost contractors to deliver projects through no fault of the contractor which cannot be considered to be a partnership approach.

This point aside, we believe that there needs to be clarity around when it is appropriate for a contractor to be expected to be liable for a risk. The oft quoted mantra of ‘the party best able to manage the risk....’ is too simple and guidance needs to reflect the ability of the contractor to quantify the risk and bear the financial consequences if the risk eventuates.

We would also like to see an increased focus on trials of innovative approaches to risk such as those being trialled on Sydney Metro and where appropriate those approaches being documented in government guidance notes and used more extensively.

Infrastructure NSW Observations

As set out above and in the progress report, policy and practice have developed to reduce risk as far as practicable and allocate risk in a way that is manageable for industry participants.

Government must balance its desire to foster a sustainable and competitive industry with a prudent approach to managing public expenditure. This will likely always mean that risks will be shared to some degree and Government will need to rely on the contracts into which it enters.

Escalation is a case in point. The NSW Government published *Commercial principles on escalation risk for infrastructure projects* on 1 September in 2022. The principles were developed with input from NSW Government infrastructure delivery agencies and industry. It provided guidance for how to manage escalation for projects in procurement. We note industry feedback regarding projects in delivery, and have invited project specific discussions regarding issues with particular projects in delivery. The principles will be reviewed in February 2023.

Industry has suggested that there are many good examples and the policy is good, but that application is not consistent across all projects. Improving consistency of collaborative behaviours regarding allocation of risk has been listed as an area of focus in 2023, and Infrastructure NSW has invited the ACA to provide examples of projects where practice has not met expectations.

Comments from the Australian Constructors Association (verbatim):

Infrastructure NSW Observations

Commitment 3 – Standardise Contracts and Procurement Methods

Performance against this commitment is entirely based on standardising procurement processes and, whilst some progress has been achieved, we still see significant variations and believe there should be flexibility to use different models to suit different situations.

There has been negligible progress where it really matters in terms of standardising contracts and we believe this must be a significant focus for the year ahead. We also believe that there needs to be a consistent approach taken towards Value for Money (VFM) in terms of the different components of VFM, their weighting (at tender) and transparency of tender assessments in respect of the different areas of VFM. In fact, we would go so far as to suggest the creation of a new commitment to procure based on best value not lowest cost.

Noted. Continued work on standardising contracts is listed as an area of focus for 2023, as agreed at a recent forum with industry hosted by Infrastructure NSW.

There is a common misconception that price is the only criterion for selecting a preferred bidder. That is not correct. NSW tenders generally involve a range of non-price criteria against which bids are ranked before price is even considered.

Commitment 4 – Develop and Promote a Transparent pipeline of Projects

Noted.

We acknowledge and congratulate the NSW Government on the significant progress in this area.

Comments from the Australian Constructors Association (verbatim):

Infrastructure NSW Observations

Commitment 5 – Reduce the Cost of Bidding

The areas of progress identified in the report are not major contributors to the cost of bidding. ACA would like to see a focus on smaller bidder lists, greater use of enterprise delivery models, increased direct negotiation where appropriate e.g. Sydney Harbour Tunnel, streamlined tenders (no need for things like draft management plans and CVs in a particular format), reliance information being able to be relied upon and early shortlisting/award.

Noted. *Commercial Principles for Infrastructure Projects*, were developed in consultation with NSW Government infrastructure agencies and industry and released in May 2022. These principles encourage agencies to provide contractors with a level of reliance on baseline information and agree a contractual framework to manage change.

In 2021, NSW introduced a *Premier’s Memorandum for Procurement of Large, Complex Projects*. That document specifically prescribed steps to reduce duplication, delays and inefficiency in bidding, and introduced an “if not, why not” policy for applying those approaches. Departures from the practices require specific approval by the relevant Department Secretary and industry is encouraged to identify cases that can be remedied.

Under Commitment 6, the Progress Report identifies a future focus on assisting agencies to identify opportunity areas to minimise the cost of bidding.

Commitment 6 – Establish a Consistent Policy on Bid Cost Contributions

ACA would welcome increased uniformity of bid cost contributions both in respect of amount and projects on which reimbursement will be provided.

The *NSW Bid Cost Contribution Policy* is intended to advise the market about the circumstances in which bid cost contributions will be considered and provide additional clarity and standardise the application of bid cost contributions.

The bid cost contribution amount is project specific and is calculated based on the agency’s genuine estimate of the cost of bidding, having regard to the extent of tendering effort required (for example, tender design development, complexity of documentation requirements).

Comments from the Australian Constructors Association (verbatim):

Infrastructure NSW Observations

Commitment 7 – Monitor and Reward High Performance

ACA agrees with the proposed area of focus for 2023 but requests that, in order to drive significant change in behaviours, consideration be given to providing increased transparency of assessment criteria, weightings and evaluations. ACA would also like to work with iNSW to develop a 360 degree feedback process that builds on reports that review government performance to include government feedback on industry's progress in reforming how projects are undertaken.

Noted. We are happy to discuss a 360 feedback model with industry, and note the success of this model at Sydney Metro as outlined in the 'Exemplar' for Commitment 7.

Commitment 8 – Improve the Security and Timeliness of Payments

ACA requests that consideration be given to changing the focus of this commitment to addressing broader industry liquidity issues as detailed in ACA's 'Credit Where Credit's Due Report (<https://www.constructors.com.au/advocacy/submissions/security-of-payment-and-liquidity/>)

We recognise that a stable and sustainable infrastructure sector is in the public interest. Cash flow and security of payment are important factors in achieving this outcome for all participants in the supply chain.

Exemplars listed in Commitment 8 highlight these factors, and we will continue to engage with contractors on a project basis to determine the best arrangements for each project. We note the NSW has collaborated with the Victorian Government and the ACA to draft the [CILF Practice Note on cash neutrality](#) which provides guidance to support the contractor and its supply chain to access and attain a sustainable cash flow position from project commencement.

Commitment 9 – Improve Skills and Training

We acknowledge and congratulate the NSW Government on the significant progress in this area.

Noted.

Commitment 10 – Increase Industry Diversity

We agree that much more work is needed to increase industry diversity and we believe that iNSW and all other partners in the Construction Industry Taskforce (CICT) need to increase the support given to CICT and the trials being undertaken.

The NSW Government is committed to increasing industry diversity and is actioning this through the Women in Construction Program (detailed under Commitment 10), and through the Construction Industry Culture Taskforce, of which the NSW Government is a founding member and active contributor. We look forward to further collaboration with industry on these and other industry diversity initiatives.

Comments from the Australian Constructors Association (verbatim):

Infrastructure NSW Observations

General comment

In addition to the above, we would like to see a commitment from INSW to build on the 10 Commitments and draw together all subsequent guidance into an overarching Playbook that makes it easier for government delivery agencies to make informed decisions and for industry to hold government delivery agencies to account.

Infrastructure NSW agreed to consolidating policy into a “playbook” after a recent industry forum. This will be a focus in 2023.