

Sensitive



Justice

616/0338

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SCANNED

Mr Lewis Rangott
Executive Director, Corruption Prevention
Independent Commission Against Corruption
GPO Box 500
SYDNEY NSW 2001

- 1 MAY 2018

Dear Mr Rangott,

Plan of action to implement corruption prevention recommendations made in the report: *Investigation into the conduct of a former Department of Justice officer and others*

I refer to my letter dated 7 December 2017 enclosing the NSW Department of Justice's plan of action in response to recommendations made in the Independent Commission Against Corruption's ('ICAC') report into Operation Artek.

I note this action plan has been published on the ICAC's website.

Please find enclosed an amended plan of action and I ask that this version be published on the ICAC's website in place of the version currently available.

If you have any questions please contact Lincoln Chee, Director, Inquests Inquiries & Representation on (02) 8346 1846.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Lida Kaban".

Lida Kaban
General Counsel

Recommendation 1: That the NSW Department of Justice undertakes a review of its systems to identify ways to ensure that Corrective Services NSW (CSNSW)'s minor works program commences at the start of each financial year and that delays are minimised

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

Following the ICAC's report into their Operation Artek, the NSW Department of Justice ('the Department') engaged an independent consultant from the Litmus Group, a division of PPB Advisory, to conduct an in-depth review. A report following this review was provided on 11 October 2017 ('the PPB Report').

The PPB Report identified a number of ways in which not only CSNSW but the Department as a whole could ensure that its minor works programs are commenced on a periodic basis and that delays are reduced. Consideration is being given to the implementation of the following:

- Transition to a 3 year rolling minor capital works program which includes clear objectives and performance measures. This could be implemented once the following occurs:
 - current asset condition assessment process is complete;
 - the Department's short to medium term asset replacement, upgrade and compliance requirements are known; and
 - the next Total Assess Management Strategy has been prepared.
- Establish an approved forward list of priority projects for the next 3 years using the existing prioritisation process and framework. Once approved, projects on this prioritised list can be brought forward or re-phased if required depending on funding availability. This could reduce the need for wholesale changes to the forward list of projects each year.

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

An asset audit programmed for completion by the second quarter of 2018, with the aim to transition to a 3 year rolling minor capital works program by 2019-2020.

Recommendation 2: That the Department reviews its existing minor works scoping practices. This review should identify inefficient project scoping practices that delay the commencement of minor capital works programs. In particular, the practice of scoping minor works projects twice, once by CSNSW and once by Asset Management Services (AMS), should be examined.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

The PPB Report identified a number of ways minor works scoping practices could be improved to avoid inefficiencies and/or delays. Consideration is being given to the implementation of the following:

- Embed the practice of including an allowance each year for undertaking the necessary minor capital works planning, scoping and costing work for more complex projects on the forward minor works program pipeline. This is similar to the approach which is used for major capital works. Property and Assets Services ('PAS') (formally AMS) has already begun to do this together with CSNSW.
- PAS to work with divisions as early as possible in the minor works identification, scoping and prioritisation process to inform the specification and costing of candidate projects, rather than operating divisions doing this in isolation.
- Greater forward planning on a rolling basis for minor capital works projects by strengthening up-front minor capital works scoping, planning and costing activities, and bringing these forward as far as practical to minimise unplanned delays due to inadequate scoping, budgeting and planning.

It is also suggested that scoping could be done at the same time the proposal/business case is written. This should be a collaborative effort between the local business manager (potential asset owner) and PAS's project liaison.

Further, PAS could allocate project liaisons to work with Departmental Business Units during the business case and the program life cycle to ensure that the Departmental Business Units and PAS are on the same page regarding project scope and cost to minimise multiple handlings.

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

Two permanent Client / Project Liaison Manager positions have been filled. An asset audit programmed for completion by the second quarter of 2018, with the aim to transition to a 3 year rolling minor capital works program by 2019-2020.

Recommendation 3: That the Department continues to prioritise its development of accurate and comprehensive asset registers to facilitate detailed project scoping and timely completion of works.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

It is proposed the Department will prepare a business case to implement a suitable Enterprise Asset Management System solution to help manage the physical asset base and create a single source of asset management data. It is anticipated that the development and implementation of this system will commence in 2018.

The development of this system will take into account the following:

- That PAS should work with operating divisions to document and agree a standard way of governing and managing their minor works program and projects, including having formalised communication, reporting and issue escalation protocols.
- Improvement to the quality, timeliness, efficiency and reliability of capital works reporting to the Asset and Technology Committee, Justice Executive and operating divisions.
- Strengthening of the reporting function, as well as implementing less manually intensive central reporting processes and holding project managers accountable for the quality of their forecasting and reporting.
- Provision to divisions with a formal monthly minor capital works program status, performance and expenditure report which includes more detailed data on individual projects.

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

An asset audit commenced in early 2017 to capture data which will assist with planning priorities for works required in the minor capital program. With the impending merge of PAS/ Justice Infrastructure ('JI'), this approach will be reviewed in the third quarter of 2018.

Recommendation 4: That the Department revises its method for awarding minor works projects to include criteria other than cost.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

PAS collaborates with CSNSW and other divisions on the development of multiple criteria when awarding.

The main consideration for the Department when awarding minor works is to ensure that work is in accordance with the Department's priorities. Cost is a consideration that is taken into account but is often secondary to the overarching goal that minor works meet the business need they are required for.

Formalised training will also be implemented for all minor works program and project managers across the Department to ensure greater compliance and consistency in how minor capital works projects are managed, procured and delivered.

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

Method of awarding minor works will be reviewed by consulting with affected business units. Formalised training for minor works projects drafted/established and managed by the second quarter of 2018

Recommendation 5: That the Department analyses minor works expenditure at different levels of aggregation to highlight expenditure patterns, including the volume of work awarded to particular contractors.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

The Department's migration to SAP system has aided in facilitating transparency in respect of expenditure across minor works.

PAS currently undertaking a review of this with the aim of identifying expenditure patterns and volumes of work. It is hopeful this review will be completed by the end of 2017.

Further, the PPB Report identified ways that the financial management and reporting of minor works could be improved. Accordingly, consideration is being given to the implementation of the following:

- Finalise reviews and process improvement activities arising from the 2016 forensic audit of the capital works financial and program management. This could enable the Department to accurately understand its financial position to properly manage/control its capital expenditure.
- Conduct a review into the current approach to planning, prioritising, governing and managing asset maintenance to ensure the Department's minor capital works and maintenance programs are optimally coordinated and achieve the best possible outcomes within the available capital and recurrent funding

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

Refer to the comment on Recommendation 1 above. A full review of the 2016-17 program is underway to identify improvement activities and it is anticipated to be finalised by the second quarter of 2018.

Recommendation 6: That the Department takes steps to ensure competition between members of capital works panels. This could include increasing the number of approved and vetted suppliers that are prepared to compete for work.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

The Department sources and utilises supplies that are on the whole of government pre-qualification panel. This panel is under ProcurePoint which is independent of the Department and is co-ordinated/managed by NSW Procurement.

While the Department has sourced its supplies from this panel in the past, effort is being given to expanding the pool of suppliers used off this panel. The Department is endeavouring to engage new suppliers, thereby increasing the number of approved and vetted suppliers that can be competing for work.

Given the time it takes to approve and vet suppliers, as well as any changes to the pre-qualification panel (removals and additions of suppliers as decided by NSW Procurement), this is an ongoing and continuous process.

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

Proactively engaging suppliers and/or utilising the pre-qualification panel is ongoing.

Recommendation 7: That the Department clarifies its criteria for classifying maintenance, minor works and major capital works, and communicates these criteria to all stakeholders.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

The PPB Report identified a number of ways the criteria for classification of minor/major capital works can be clarified and communicated. Consideration is being given to the implementation of the following:

- Review of the current definition of minor capital works and consider updating it to cater for having discrete minor works sub-programs for particular asset types.
- Confirmation as to whether or not the current \$1m threshold for minor capital works projects remains appropriate.
- Update the existing PAS Procurement Framework with operating divisions to include a summary of roles, responsibilities and accountabilities matrix and explicitly address situations where other non-PAS project managers are used to deliver minor works projects.
- Develop a set of documented capital works and asset management policies, procedures, processes which define roles, responsibilities and accountabilities, as well as setting clear asset and performance standards.
- Complete the process of filling PAS's approved structure as soon as possible to ensure it has the right specialist skills, experience and resources to operate as intended.
- Implement a formalised training program for all minor works program and project managers across the Department to ensure greater compliance and consistency in how minor capital works projects are managed, procured and delivered.

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

Director, Governance PAS has commenced review of processes and update of policies with collaborative consultation with all impacted business units.

Recommendation 8: That the Department develops a service level agreement between AMS and CSNSW in relation to the provision of minor works and maintenance services that details the roles and responsibilities of each. This could include ensuring that both AMS and CSNSW have visibility over expenditure on CSNSW assets.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

The PPB Report identified a number of ways a service level agreement can appropriately and practicably be implemented. Consideration is being given to the implementation of the following:

- Develop an overarching Service Delivery or Partnership Agreement between PAS and operating divisions to clarify the nature of the relationship. Distinguish between PAS's service delivery role assisting divisions, as well as their corporate strategy, policy and compliance roles on behalf of the Department.

Implement a joint awareness raising and education program in partnership with operating divisions. This could be used to brief management teams on PAS's role, responsibilities and relationship with them. It could also brief them on the Department's asset management policies, procedures, processes and delegations for minor capital works. Currently there are monthly liaison meetings between Justice Infrastructure and Assets and CSNSW as an interim measure and with a view to implementing the above.

The migration of CSNSW onto the SAP System will also aid in the visibility over expenditure.

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

Development of Service Level Agreements ('SLAs') will be informed by comment/reviews and in-conjunction with CSNSW SLA development. Anticipated SLA's to be implemented by 30/9/2018

Recommendation 9: That the Department ensures that minor capital works are allocated separate, discrete project codes.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

Discrete codes have been set up in the SAP System. Establishment of these codes are created with the approval of the Secretary of the Department.

CSNSW will have access to these discrete codes once they are migrated to the SAP System. It has been required that these codes will assist in quality/timely reporting as well as forecasting, timelines and governance.

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

With the impending merge of PAS/ Justice Infrastructure ('JI'), this approach will be reviewed in the first quarter of 2018.

Recommendation 10: That the Department develops a performance management system that is used to inform the awarding of minor capital works projects. This should be based on a range of objective measures such as the time, cost and quality of the work performed.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

As discussed at Recommendation 3, it is proposed the Department will prepare a business case to implement a suitable Enterprise Asset Management System solution to help manage the physical asset base and create a single source of asset management data. This could be used to also inform the awarding of capital works.

Further, the Department will continue to enhance its underlying asset data and knowledge base by completing the necessary asset condition surveys and assessments across all physical asset types. This will help ensure a more planned, strategic approach to identifying future capital and maintenance funding needs, and to negotiate a rolling funding envelope with Treasury.

However, in the process of reviewing past performance as a consideration of awarding of minor work projects, the decision will largely be informed by the performance management system that is maintained and organised by NSW Procurement. As discussed at recommendation 6, the Department sources its suppliers from ProcurePoint. This system can also be used to review performance management in respect of measures such as time, costs and quality.

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

An Enterprise Asset Management project team has been established and funding provided. It is anticipated to commence implementation from the third quarter of 2018.

Recommendation 11: That the Department ensures that the performance of minor works and maintenance contractors in NSW correctional centres is appropriately verified. Where relevant, this should include input from the asset owner within CSNSW.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

The PPB Report identified ways that the performance of minor works is appropriately verified. Consideration is being given to the implementation of the following:

- Complete the necessary asset condition surveys and assessments across all physical asset types.
- Developing a set of documented capital works and asset management policies, procedures, processes which define roles, responsibilities and accountabilities, as well as setting clear asset and performance standards.
- Implement a suitable Enterprise Asset Management solution to help manage the Department's physical asset as discussed at Recommendations 3 and 10.

Verification of performance could also be conducted in-house by Justice Infrastructure and Assets or CSNSW or by an independent industry expert, if relevant in-house expertise is not available. For example, an independent quantity surveyor could be engaged from the panel of Government/Department approved quantity surveyors.

In addition, a works completion checklist is completed and signed by the supplier, PAS and CSNSW. The checklist includes elements of recommendation 10 and made available for future use within Justice.

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

Completion subject to pending structure and funding approval including additional resources. With the impending merge of PAS/JI this approach will be reviewed in the first quarter of 2018.

Recommendation 12: That the Department reviews its subcontracting arrangements with facilities maintenance providers with a view to prohibiting “wash through” jobs. Relevant training for contractors and staff should reflect this requirement.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

The PPB Report identified ways that better training could be implemented to avoid a culture being created where ‘wash-through’ jobs occur. It is noted that the scope of the PPB Report did not include an examination of maintenance work, however the Department has incorporated recommendations from the PPB Report into its maintenance work processes. Consideration is being given to the implementation of the following:

- Developing a set of documented capital works and asset management policies, procedures, processes which define roles, responsibilities and accountabilities, as well as setting clear asset and performance standards.
- Complete the process of filling PAS’s approved structure as soon as possible to ensure it has the right specialist skills, experience and resources to operate as intended.
- Implement a formalised training program for all minor works program and project managers across the Department to ensure greater compliance and consistency in how minor capital works projects are managed, procured and delivered.
- Justice Infrastructure and Assets is engaging with CSNSW through greater training

Further, implementation and migration of the SAP System will allow transparency across the Department and maintenance providers.

Responsibility for Implementation:

Deputy Secretary, Justice Infrastructure and Assets.

Timeframes for Implementation:

Refer to previous comments. Development of documentation and implementation of a subsequent formalised training program is subject to pending structure awaiting approval.

Recommendation 13: That the Department amends relevant documents, including its *Code of Ethics and Conduct Policy*, to provide that staff must declare departmental works contractors who are providing goods or services to them in a private capacity, as a potential conflict of interest. Consideration should also be given to prohibiting staff from engaging contractors in a private capacity where they are involved in the selection and management of those contractors.

- ✓ Implement the recommendation as described in the report

Implementation of Recommendation:

The Department's *Code of Ethics and Conduct Policy* has been updated to reflect the above recommendation.

Section 5 to the Police 'Professional and Ethical Decision Making' has been updated to include the following (additions highlighted yellow):

5.1.1. What is a conflict of interest?

Examples of conflict of interests relating to a personal interest may include (but are not limited to) situations where an employee may have:

- *a financial interest or the employee is aware that a family member, relative, friend or associate has a financial interest in a matter they deal with in the course of their work;*
- *a personal relationship that could be seen to unduly affect the employees decision, for instance, when conducting a job selection;*
- *a close personal relationship with another employee;*
- *personal beliefs or attitudes that could influence, or may be perceived to influence, the employees impartiality;*
- *other paid employment which conflicts with the employees duties;*
- *participation in political activities or making political comments that may relate to, or be seen as relating to, the work of the Department;*
- *goods and services provided by Departmental contractors in a private capacity (this must be declared); and*
- *engaged a contractor in a private capacity where the employee is involved in the selection and management of those contractors (this is prohibited).*

Conflicts of interest, whether real or perceived, must be reported to the employees' supervisor and recorded.