Transport for NSW plan of action in response to recommendations made in *Investigation into the awarding of contracts by employees of the former Roads and Maritime Services* (Operation Ember)

PART A: TfNSW's response to corruption prevention recommendations

Firstly, please indicate the response to be taken for each recommendation made.

Recommendation 1:

That Transport for NSW (TfNSW) updates and reissues its online training and other awareness-raising products relating to conflicts of interest, fraud and corruption prevention and procurement. TfNSW should also consider delivering customised training to staff that manage high-risk programs and budgets.

Please indicate the response the public authority will take in its plan of action:
- ☒ Implement the recommendation as described in the report
- ☐ Implement the intent of the recommendation in an alternative way
- ☐ Partially implement the recommendation
- ☐ Not implement the recommendation

If the action TfNSW intends is other than "implement the recommendation as described in the report", please state the proposed action to be undertaken in the space provided below.

Please explain why the above action is action is proposed rather than the ICAC's published recommendation.

Recommendation 2:

That TfNSW:

- **reviews all supplier panels created or used by the former Compliance and Regulatory Services (CaRS) Division (that remain in existence) with a view to assessing compliance with past and current procurement policy, any undisclosed conflicts of interest or similarities with the conduct identified in this investigation**
- **considers mandating additional oversight or involvement by agency procurement experts in the formation and maintenance of all TfNSW supplier panels.**

Please indicate the response the public authority will take in its plan of action:

☒ Implement the recommendation as described in the report
☐ Implement the intent of the recommendation in an alternative way
☐ Partially implement the recommendation
☐ Not implement the recommendation

If the action TfNSW intends is other than "implement the recommendation as described in the report", please state the proposed action to be undertaken in the space provided below.

Please explain why the above action is action is proposed rather than the ICAC's published recommendation.

Recommendation 3:

That TfNSW considers requiring use of a secure, electronic system for seeking quotations from suppliers. The system should prevent staff from opening RFQ responses before the due date.

Please indicate the response the public authority will take in its plan of action:

☐ Implement the recommendation as described in the report
☐ Implement the intent of the recommendation in an alternative way
☒ Partially implement the recommendation
☐ Not implement the recommendation

If the action TfNSW intends is other than "implement the recommendation as described in the report", please state the proposed action to be undertaken in the space provided below.

> TfNSW proposes to implement this recommendation only in competitive procurement processes and not in single source procurement events.
>
> Additionally, TfNSW currently uses multiple electronic systems for managing different types of procurement. However, the recommendation references the use of a singular electronic system. As such TfNSW intends to adopt the recommendation by considering the use of more than one system (dependent upon the type of procurement being undertaken) to receive secure quotations from suppliers.

Please explain why the above action is action is proposed rather than the ICAC's published recommendation.

> The intent of the recommendation is expressed at page 164 of the final report, which confirms this recommendation seeks to address the risk of collusion between public officials and proponents in a tender process. In a single source procurement event there is no competitor, and accordingly, no competitor information which could be used to the advantage of colluding parties.
>
> Essentially the recommendation is redundant in a single source procurement event.

Recommendation 4:

That TfNSW revises its supplier due diligence procedures. This could include but not be limited to:

- **enhancing the suite of checks that are performed by Transport Shared Services when adding new suppliers to the vendor master file**

- **identifying new suppliers that may not have the necessary credentials, capability or experience**

- **strengthening procedures for conducting referee checks.**

Please indicate the response the public authority will take in its plan of action:

⊠ Implement the recommendation as described in the report
☐ Implement the intent of the recommendation in an alternative way
☐ Partially implement the recommendation
☐ Not implement the recommendation

If the action TfNSW intends is other than "implement the recommendation as described in the report", please state the proposed action to be undertaken in the space provided below.

Please explain why the above action is action is proposed rather than the ICAC's published recommendation.

Recommendation 5:

That TfNSW develops a data analytics program aimed at detecting suspicious conduct including but not necessarily limited to:

- **order-splitting**

- **recently registered suppliers or suppliers that are not registered for GST**

- **consecutively numbered invoices**

- **misuse of delegations**

- **POs associated with budgets not controlled by the approver**

- **goods and services that are receipted shortly after the PO has been raised.**

Please indicate the response the public authority will take in its plan of action:

☒ Implement the recommendation as described in the report
☐ Implement the intent of the recommendation in an alternative way
☐ Partially implement the recommendation
☐ Not implement the recommendation

If the action TfNSW intends is other than "implement the recommendation as described in the report", please state the proposed action to be undertaken in the space provided below.

Please explain why the above action is action is proposed rather than the ICAC's published recommendation.

Recommendation 6:

That TfNSW develops a register of heavy vehicle enforcement assets. This register should be used as the basis for future procurement strategies and decisions to replace or maintain assets.

Please indicate the response the public authority will take in its plan of action:

☒ Implement the recommendation as described in the report
☐ Implement the intent of the recommendation in an alternative way
☐ Partially implement the recommendation
☐ Not implement the recommendation

If the action TfNSW intends is other than "implement the recommendation as described in the report", please state the proposed action to be undertaken in the space provided below.

Please explain why the above action is action is proposed rather than the ICAC's published recommendation.

Recommendation 7:

That TfNSW performs a "lessons learnt" exercise or audit based on the findings from this investigation. This could include an examination of:

- **whether the weaknesses identified in the HVP Unit exist elsewhere in TfNSW**

- **business units that lack adequate supervision**

- **procurement governance and reporting**

- **the need for a new corruption risk assessment**

- **substantial procurements that proceeded without a procurement strategy**

- **whether the scope of responsibility and resourcing of the procurement advisory function is sufficient**

- **whether the devolved procurement framework provides sufficient assurance regarding value for money and compliance.**

Please indicate the response the public authority will take in its plan of action:

☒ Implement the recommendation as described in the report
☐ Implement the intent of the recommendation in an alternative way
☐ Partially implement the recommendation
☐ Not implement the recommendation

If the action TfNSW intends is other than "implement the recommendation as described in the report", please state the proposed action to be undertaken in the space provided below.

Please explain why the above action is action is proposed rather than the ICAC's published recommendation.

PART B: The TFNSW's plan of action

In this section, please provide details of TfNSW's plan of action in relation to the recommendations and/or proposed actions described above.

The scope and scale of recommendations made in investigation reports varies considerably, and the ICAC recognises a single template may not suit every agency or investigation. In view of this, TfNSW is invited to develop a format that is appropriate for the proposed plan of action and subsequent report(s).

The ICAC asks that its corruption prevention representative named in the cover letter is consulted if TfNSW decides to develop its own reporting format. The ICAC corruption prevention representative will advise if the proposed plan or report format has the ICAC's endorsement.

If TfNSW prefers to adhere to an established format, the following may be used as a guide:

Plan of action
Transport for NSW has implemented an electronic system known as the System for Tracking External Assurance Recommendations (STEAR) to manage recommendations issued by the

Independent Commission Against Corruption, as well as recommendations generated by other external agencies and bodies.

STEAR enables the assignment of recommendations to various persons within Transport for NSW and to generate actions associated with those recommendations. STEAR will also enable monitoring and reporting on the implementation status of recommendations.

Recommendation 1:

That Transport for NSW (TfNSW) updates and reissues its online training and other awareness-raising products relating to conflicts of interest, fraud and corruption prevention and procurement. TfNSW should also consider delivering customised training to staff that manage high-risk programs and budgets.

TfNSW has:
- Developed new online training modules which cover conflicts of interest, corruption prevention, professional ethics and probity in procurement, which are now part of a mandatory training framework (Transport Essentials) across the Transport cluster.
- Updated the cluster-wide Procurement Policy Framework for goods and services, which will be launched with a change campaign in October 2022. The Framework includes a procurement training matrix.
- Released a significant refresh of the Fraud and Corruption Control Framework, which now applies to most agencies within the Cluster. As part of the Framework, all TfNSW divisions have developed divisional Fraud and Corruption Control Plans, which include training and communications plans informed by their fraud and corruption risk profiles.
- Developed a Delegations e-learning module and video.

TfNSW will:
- Continue with the current (scheduled review) of all Transport Essentials modules to identify and implement any additional changes needed, including those arising from Operation Ember.
- Undertake a project to analyse gaps and explore options to develop and deliver additional online training in 2023 to staff that manage high risk programs and budgets.

Lead: Director, Fraud and Corruption Prevention

Recommendation 2:

That TfNSW:

- **reviews all supplier panels created or used by the former Compliance and Regulatory Services (CaRS) Division (that remain in existence) with a view to assessing compliance with past and current procurement policy, any**

undisclosed conflicts of interest or similarities with the conduct identified in this investigation

- **considers mandating additional oversight or involvement by agency procurement experts in the formation and maintenance of all TfNSW supplier panels.**

TfNSW has:
- Reviewed and either decommissioned or replaced the supplier panels created or used by the former CaRS division in the course of panel lifecycle management, with robust contract management methodologies incorporated as part of the panel design.
- Replaced the TfNSW and RMS procurement frameworks with a consolidated Goods and Services Standard in 2020, which includes the requirement for TSS oversight in the formation of panel arrangements in strategic sourcing events. This Standard has since been updated with the Transport Procurement Standard for goods and services, which continues to require TSS oversight in the formation of panel arrangements in strategic sourcing events.
- Appointed positions who are accountable for ensuring procurement policies and systems are fit for purpose, understood and achieving their intended outcomes.
- Established a team of dedicated procurement advisors who are responsible for assisting senior management plan and understand procurement activities in an ethical and effective manner.

TfNSW will:
- Implement a new goods and services contract management framework in late 2022, which will include the requirement around the maintenance of established panels.
- Whilst this is not currently mandated, consideration will be given to how this requirement may be expressed within the Infrastructure Procurement Standard (currently under development) prior to completing and implementing the standard within the business.

Leads: Director, Partnerships and Regulatory Assurance and Executive Director, Procurement

Recommendation 3:
- **That TfNSW considers requiring use of a secure, electronic system for seeking quotations from suppliers. The system should prevent staff from opening RFQ responses before the due date.**

TfNSW has:
- Implemented a consolidated Goods and Services Procurement Standard in 2020, which requires all competitive procurement activities to be undertaken via TSS sourcing. TSS sourcing use an electronic system to seek and receive RFQ responses. This Standard has since been updated with the Transport Procurement Standard for goods and services, which continues to require all competitive procurement activities to be undertaken via TSS sourcing.

TfNSW will:

Finalise the development of a new Construction Procurement Standard, replacing the previous TfNSW and RMS procurement frameworks. The new standard will require the use the e-tender/e-quote system to seek and receive RFQ responses. This system will restrict responses from being opened until the due date and will capture audit log data to record the activities users undertake within the system.

Lead: Director, Procurement Excellence

Recommendation 4:

That TfNSW revises its supplier due diligence procedures. This could include but not be limited to:

- **enhancing the suite of checks that are performed by Transport Shared Services when adding new suppliers to the vendor master file**

- **identifying new suppliers that may not have the necessary credentials, capability or experience**

- **strengthening procedures for conducting referee checks.**

TfNSW has already committed to revising its supplier due diligence procedures, including, but not limited to, the matters described. TfNSW reviewed the Vendor Master File Data Procedure in March 2022, and in Q4 2022 will commence a review of Transport supplier sourcing and onboarding risk assessment processes to ensure third party risks are pro-actively identified and managed at the commencement of the procurement lifecycle.

Lead: Executive Director, TSS

Recommendation 5:

That TfNSW develops a data analytics program aimed at detecting suspicious conduct including but not necessarily limited to:

- **order-splitting**

- **recently registered suppliers or suppliers that are not registered for GST**

- **consecutively numbered invoices**

- **misuse of delegations**

- **POs associated with budgets not controlled by the approver**

- **goods and services that are receipted shortly after the PO has been raised.**

TfNSW has:
- Released a significant refresh of the Fraud and Corruption Control Framework. The 3-year framework draws out eight strategic priorities, including Priority 6: "Detection capability is coordinated and risk-based".
- Developed a data analytics capability which performs analysis across Purchasing Card (PCard) usage to identify instances including order splitting , misuse of delegations, non-compliant purchases (alcohol, gift cards etc.).

TfNSW will:
- Explore the expansion of the range of tests applied to PCards, and the potential to apply the range of tests to other procurement types as well as PCard transactions.
- Finalise its draft fraud and corruption detection strategy, which will align with all analytical functions across TfNSW. This will also inform the data analytics methodology.
- Establish a Working Group with key stakeholders to drive an immediate term response to detecting suspected corrupt behaviour through data analytics.

Lead: Director, Fraud and Corruption Prevention

Recommendation 6:

That TfNSW develops a register of heavy vehicle enforcement assets. This register should be used as the basis for future procurement strategies and decisions to replace or maintain assets.

TfNSW has transitioned responsibility for heavy vehicle regulation to the National Heavy Vehicle Regulator (NHVR). In doing so TfNSW transferred ownership of portable assets, leases, and contracts to the NHVR.

In the course of transitioning to the NHVR, TfNSW developed a comprehensive asset register to inform the transfer process which occurred by way of Ministerial vesting. Accordingly TfNSW no longer holds responsibility for the maintenance of portable heavy vehicle regulation assets and accordingly, no longer has a need to manage or procure such assets.

TfNSW still retains ownership of fixed assets associated with heavy vehicle regulation. TfNSW manages the Asset and Services Plan (ASP). A component of the ASP is a detailed asset register which aligns all fixed assets associated with Heavy Vehicle regulation to a specified maintenance schedule, which in turn informs Heavy Vehicle regulation procurement needs based on the maintenance schedule. The ASP is an effective and fit for purpose asset management approach to manage the maintenance and replacement of existing Heavy Vehicle regulation fixed assets.

In the event that a new Heavy Vehicle regulation fixed asset is procured, the new asset will be added to the register to ensure the asset is managed and maintained in a manner consistent with all other Heavy Vehicle regulation fixed assets.

All branches within Regulatory Operations contact its Procurement Advisory team as soon as a requirement to procure is identified. The Procurement Advisory team then assist the business to

define the need and requirements in order to propose a strategy to approach the market. Transport Shared Services Strategic Sourcing then assist Procurement Advisory and the business to follow the prescribed approach to establish a contract/panel to support ongoing delivery. In the case of panel arrangements, a detailed plan is developed to ensure optimal and compliant use of the panel. This segregation of duties across the procurement process ensures no single individual has end-to-end control of the procurement and ensures transparency over the process.

Lead: Director, Partnerships and Regulatory Assurance

Recommendation 7:

That TfNSW performs a "lessons learnt" exercise or audit based on the findings from this investigation. This could include an examination of:

- **whether the weaknesses identified in the HVP Unit exist elsewhere in TfNSW**

- **business units that lack adequate supervision**

- **procurement governance and reporting**

- **the need for a new corruption risk assessment**

- **substantial procurements that proceeded without a procurement strategy**

- **whether the scope of responsibility and resourcing of the procurement advisory function is sufficient**

- **whether the devolved procurement framework provides sufficient assurance regarding value for money and compliance.**

TfNSW will undertake a lessons learnt review of Operation Ember that will include an examination of:

- Procurement governance and reporting
- Current key controls, identifying any opportunities for improvement within impacted areas
- Procurement assurance activity, gaps and capability development.

The review will include the assignment of actions to address any unacceptable risk exposures.

Lead: Director, Fraud and Corruption Prevention