

Project Summary

November 2015

Hopkins Correctional Centre Expansion Project



Prepared by the
Department of Justice and Regulation
in conjunction with the
Department of Treasury and Finance



Justice
and Regulation

Contents

Foreword	3
1 Part One: Project Overview	4
1.1 Hopkins Correctional Centre Expansion Project	4
1.2 A Partnerships Victoria public private partnership	8
1.3 Tender Process	9
1.4 Revised Delivery Strategy	11
1.5 Value for Money	11
1.6 Public Interest Test	12
1.7 Project Milestones	13
2 Part Two: Key Commercial Features	14
2.1 Parties to the Project	14
2.2 Risk Transfer	15
2.3 General Obligations of Aegis	18
2.4 General Obligations of the State	19
2.5 Payment Mechanism and Abatement Regime	20
2.6 Default, Termination and Step-In Regimes	22
2.7 Finance	23
2.8 Use of Prisoner Labour	23
2.9 Energy Volume	23
2.10 Prisoner Damage	24
2.11 Fitness for Purpose	24
2.12 State Rights at Expiry of Contract	24
2.13 Current Version	24
Glossary	25
Appendix 1 Useful references	27
Appendix 2 Key contact details	28
Appendix 3 RFP Evaluation Criteria	29
Appendix 4 Public Interest Issues	31

Foreword

This Project Summary provides information about the contractual and commercial nature of the Hopkins Correctional Centre Expansion Project (Project), formerly the Ararat Prison Project, and is divided into two parts. The first part is an overview of the Project, including the rationale for undertaking it under the Partnerships Victoria framework, and summarises the tender process, the value-for-money calculation, the public interest considerations for the Project and the Project timetable. The second part details the key commercial features of the Project, including the main parties and their general obligations, the broad allocation of risk between the public and private sectors and the treatment of various key Project issues.

Partnerships Victoria forms part of the Victorian Government's strategy for providing better services to all Victorians by expanding and improving Victoria's public infrastructure and service delivery. The Partnerships Victoria framework uses private sector expertise to design, finance, build and maintain infrastructure projects. The framework consists of the National Public Private Partnership Policy and Guidelines and supplementary Partnerships Victoria Requirements. Further information on the Partnerships Victoria framework is available at www.dtf.vic.gov.au.

The Project Summary was first published in August 2010 on the Department of Treasury and Finance Partnerships Victoria website. This updated edition of the Project Summary provides information about the revised contractual arrangements for the Project entered into by the State in November 2012 as part of the Amendment and Restatement Deed.

This summary should not be relied on to completely describe the rights and obligations of the parties in respect of the Project, which are governed by the Ararat Prison Project Agreement as amended and restated under the Amendment and Restatement Deed and associated Project documentation. The Amendment and Restatement Deed including the Project Agreement is available at www.tenders.vic.gov.au.

1 Part One: Project Overview

1.1 Hopkins Correctional Centre Expansion Project

The State of Victoria entered into the Project Agreement with Aegis Correctional Partnership Pty Ltd (Aegis) for the:

- 1) design, construction and finance of a range of new facilities and systems (New Facility), including a new 358-bed medium-security prison expansion of the existing Ararat Prison (Existing Facility)
- 2) provision of a range of facilities management services across the facilities over the Operating Term.

The Precinct

The Project is being delivered within an integrated, multi-purpose correctional precinct comprising the:

- ◆ New Facility
- ◆ Existing Facility
- ◆ Corella Place
- ◆ External Facilities.

The New Facility and Existing Facility together provide 790-bed capacity.

The Precinct is located on a site (Site) off Warrak Road, Ararat, approximately 200 kilometres (km) west of Melbourne and approximately five km east of the centre of Ararat.

Figure 1 represents the location of each component of the Precinct on the Site.

Figure 1 - Site Plan



LEGEND

	EXISTING FACILITY
	CORELLA PLACE
	EXTERNAL FACILITIES
	STAGE 1 FACILITY SITE
	STAGE 2 FACILITY SITE
	STAGE 2B FACILITY SITE

The New Facility

Specifically, the New Facility¹ includes:

- ◆ a 358-bed medium-security expansion, comprising 350 male beds and eight continued detention beds
- ◆ a new secure perimeter that encompasses both the New Facility and Existing Facility
- ◆ associated support and ancillary buildings for the delivery of Services, Precinct Functions and prisoner worker industries
- ◆ the provision of integrated power, fire and communication backbone infrastructure across the Precinct, particularly for the New Facility and Existing Facility
- ◆ provision of furniture, fittings and equipment required to deliver the Services, Precinct Functions and prisoner worker industries.

As detailed further in Section 2.3 (General Obligations of Aegis), the New Facility was delivered in two stages.

¹ Collectively, the Stage 1 Facility, Stage 2 Facility and Stage 2B Facility in the above diagram.

The Existing Facility

The Existing Facility provided accommodation for prisoners with medium-security protection requirements, including a high proportion of sex offenders and protection of special needs prisoners. It comprised a mixture of one, two and three-bed units, with an operational capacity of 382 prisoners, including 32 beds of surge capacity.

Aegis was responsible for undertaking the works (Integration Works) necessary within the Existing Facility to deliver the integration of the New Facility and Existing Facility and achieve common functionality of the New Facility and the Existing Facility. Aegis took operating risk on all Integration Works (including all existing fire, hydraulic and sewer, communications, civil and drainage, security and electrical systems required for the operation and functioning of the Precinct whether or not Aegis performed works on them).

Given the scope of the new infrastructure, a number of buildings within what was the Existing Facility became redundant and needed to be demolished. Further, to better facilitate integration across the Precinct, Aegis demolished and in certain instances made good a number of additional structures across the Precinct. This included works to the existing:

- ◆ education building
- ◆ gatehouse
- ◆ administration areas
- ◆ external waiting area
- ◆ health
- ◆ recreation
- ◆ centre spine
- ◆ visits, kitchen and laundry.

Corella Place

Corella Place, an initiative of the government's Serious Sex Offender Strategy, is a 40-bed transitional facility for persons on supervision orders situated outside the secure perimeter of the Site. Construction was completed in March 2010 under a separate contract with a separate party. However, Aegis is responsible for delivering a range of facilities management services (including whole-of-life maintenance) to this facility throughout the Operating Term.

External Facilities

The External Facilities comprise a range of facilities that provide both support to the Existing Facility and a number of statewide functions. They include stores, car parks, a Security and Emergency Services Group (SESG) office, a dog-training facility and various staff recreational facilities. These facilities are located outside the secure perimeter of the Site. Aegis is responsible for delivering a range of soft facilities management services (but not whole-of-life maintenance) to these facilities throughout the Operating Term.

Project Need and Objectives

Project Need

From early 2006, Victoria experienced a significant growth in male prisoner numbers. An analysis of this growth indicated a correlation with new and emerging State policy directions.

Key drivers, including enhanced police operations, tougher and longer sentences, a sharp rise in short-term confinement of first-time offenders (often for crimes of alcohol-related violence), increased prosecution of sexual assault and a tougher approach to the perpetrators of domestic violence, led to significant growth in the prisoner population.

These policy decisions, aimed at enhancing community safety, placed significant pressure on correctional resources.

Significantly, this growth was of a different nature from that addressed successfully by the Corrections Long Term Management Strategy (CLTMS) 2001-06. It reflected the changed profile of the male prison population compared to five years before, with more prisoners serving longer terms for serious offences including sexual and violent offences. In addition, the continued impact of the CLTMS diversion initiatives resulted in a more 'hardened' prisoner profile, presenting a greater challenge for managing the demand on prison beds.

The continued growth in the number of protection prisoners was projected, in part, due to the increasing number of males expected to be sentenced for sexual offences. Accordingly, in May 2008 the State announced a range of correctional infrastructure initiatives to meet the significant growth in male prisoner numbers and satisfy State policies for prisoner accommodation and treatment, including:

- ◆ funding and construction of a new medium-security prison facility for protection prisoners adjacent to the existing Ararat Prison
- ◆ development of a 40-bed transitional facility for persons subject to extended supervision orders (i.e. Corella Place), also at Ararat.

Project Objectives

The following were the State's objectives for the Project:

Correctional Facility Outcomes

Achieve best practice design that:

- ◆ delivers safe and secure prison facilities for prisoners, staff and visitors
- ◆ maintains community safety
- ◆ supports best practice models of prison management
- ◆ optimises operating efficiencies and innovation
- ◆ supports the Department of Justice (now Justice and Regulation) 'One Justice' vision.

Flexibility

Ensure the facility is adaptable to new technologies and has sufficient flexibility and capacity to cater for short and longer-term fluctuations in prisoner numbers and profiles and changing operational practices.

Whole-of-Life Approach

Deliver efficiencies and overall value for money (VFM) to the State through a whole-of-life approach to design and construction and ongoing asset management.

Improved Facilities Management Delivery

Deliver improved maintenance and other facilities management services over the life of the asset portfolio.

Interface with Precinct Functions

Enhance the ability of Corrections Victoria (CV) to deliver the Precinct Functions and promote a smooth and efficient interface with Aegis' delivered Services.

User Satisfaction

Ensure high levels of satisfaction among users including staff, prisoners and visitors, thereby encouraging staff motivation and performance and enhancing the prison's ability to attract and retain required staff.

Environmental Sustainability

Ensure the facility and its environment is sustainable and has the capability to be managed responsibly.

Business Continuity

Achieve a successful integration with no interruption to the ongoing delivery of services and with minimal impact to the existing prisoner population, Corella Place and the External Facilities.

Stakeholder Relationships

Achieve a constructive relationship with prisoners, staff, visitors, the local community and communities of interest in Ararat and the surrounding region.

1.2 A Partnerships Victoria public private partnership

The Project is being delivered as a public private partnership (PPP). PPPs are designed to capture the best of what government does in delivering core government services, and combine this with the expertise the private sector has in designing, financing, building and maintaining infrastructure projects.

The Victorian Government's PPP framework, Partnerships Victoria, requires compliance with the:

- ◆ National PPP Policy and PPP Guidelines (National PPP Guidelines) that were endorsed by the Council of Australian Governments on 29 November 2008 and apply across all State, Territory and Commonwealth arrangements
- ◆ requirements specific to Victoria as detailed in the Partnerships Victoria Requirements.

Details of the National PPP Guidelines and the Partnerships Victoria Requirements are available at: www.infrastructureaustralia.gov.au and www.dtf.vic.gov.au respectively.

Procurement Assessment

In November 2007, during the business case development phase, the State considered a range of procurement models and identified several delivery methods for detailed assessment, such as:

Unbundled Delivery – The contracts for design and construction are competitively tendered as separate contracts.

Asset Bundled Delivery – The design and construction elements are bundled and the private sector is invited to competitively tender for them as a single contract.

Asset and Service Bundled Delivery – The design, construction, maintenance, ancillary services and, potentially, financing elements are bundled together as a single contract and competitively tendered. (This is representative of the PPP delivery model.)

A range of key procurement drivers considered in evaluating each of the above-mentioned models included ensuring/achieving:

- ◆ timely delivery of the Project
- ◆ optimal whole-of-life costs and value for money
- ◆ optimal risk allocation
- ◆ an efficient and appropriate design (safe and secure)
- ◆ certainty of costs over the life of the asset
- ◆ service and maintenance standards over the life of the asset
- ◆ flexibility in operations over the life of the asset
- ◆ innovation in asset and service delivery
- ◆ a competitive outcome.

After a detailed assessment of the various delivery models, the PPP procurement model (as represented by the Asset and Service Bundled Delivery model) was assessed as the preferred procurement model primarily on the basis that:

- ◆ Asset and Service Bundled Delivery is the only delivery method that transfers maintenance risk, site risk, asset capability risk and interface risk to the private sector.

- ◆ Asset and Service Bundled Delivery will provide optimal whole-of-life costs as the private sector is responsible for long-term maintenance in addition to design and construction, which should drive an optimal whole-of-life outcome.
- ◆ There is evidence of sufficient market depth to allow the (then) Department of Justice to achieve a competitive outcome through this model.

The above assessment was supported by the business case undertaken for the Project.

1.3 Tender Process

The State conducted a competitive tender process to identify the private sector party to deliver the Project. The tender process was implemented in accordance with the Partnerships Victoria framework to ensure that the State received the best value-for-money outcome. The tender process involved a call for registrations of capability from the market (through the issue of the Expressions of Interest (EOI) document), receipt of registrations, issue of a request for proposal (RFP) to shortlisted respondents, submission of proposals, an evaluation and clarification phase, a discrete structured negotiation phase, a preferred bidder phase and finalisation of contractual documentation.

Table 1 shows the key procurement milestones.

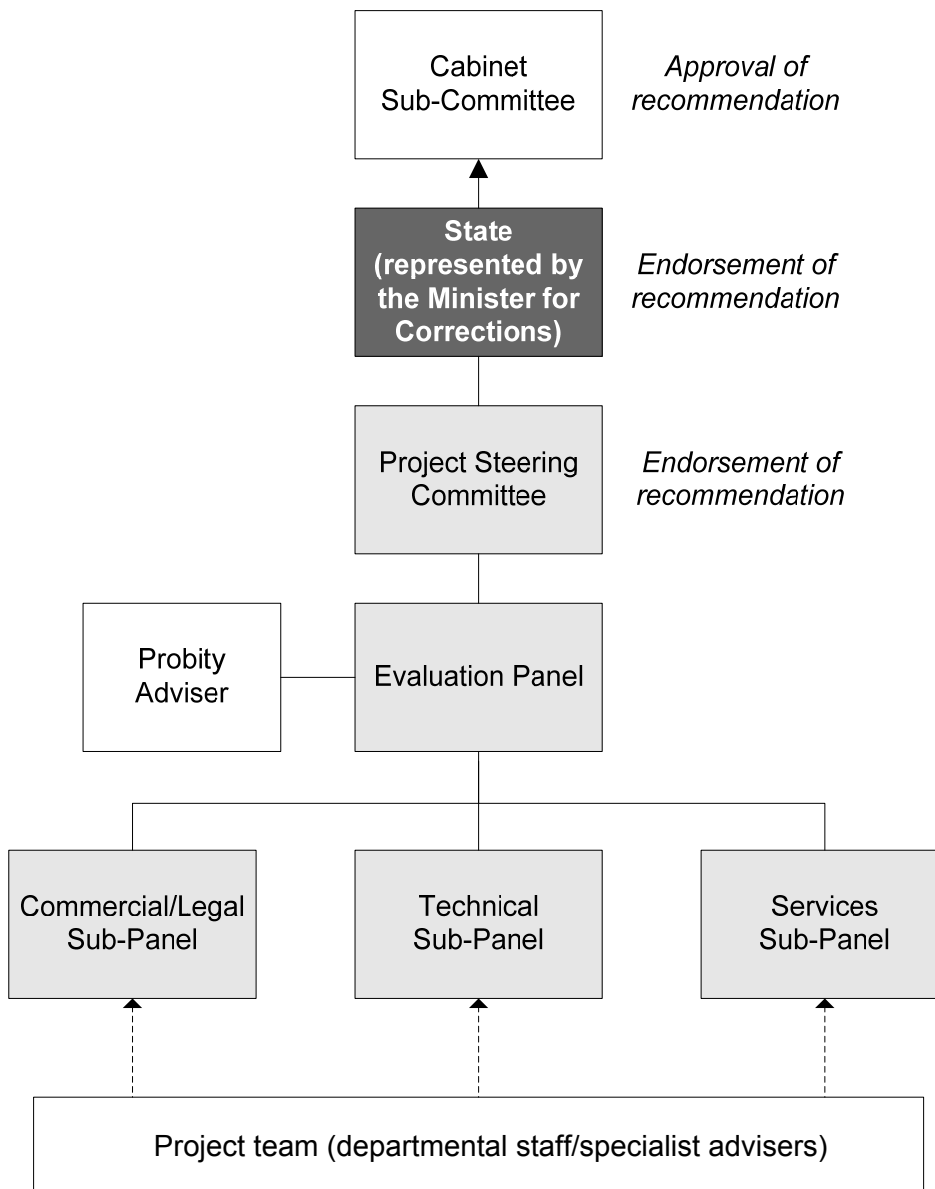
Table 1: Key procurement milestones

Date	Tender Process
4 March 2009	Invitation for EOI issued
23 July 2009	RFP issued
12 November 2009	Proposals submitted
3 May 2010	Contractual Close
27 May 2010	Financial Close

A formal project governance structure was put in place to oversee the tender process, including the evaluation of the detailed RFP proposals. The governance structure is represented diagrammatically in Figure 2.

The RFP Evaluation was led by three evaluation sub-panels: Commercial/Legal, Technical and Services. Each of these sub-panels reported directly to the Evaluation Panel. The panels were assisted by Department of Justice (now Justice and Regulation) staff, specialist advisers and other government departments as required. The key selection criteria used in the assessment of proposals are presented in Appendix 3.

Figure 2: Project Evaluation Structure



Although three respondents were shortlisted to proceed to the RFP stage, one of the shortlisted respondents withdrew from the process in September 2009. Two RFP proposals were received on 12 November 2009.

Following an extensive evaluation process, including a structured negotiation phase undertaken with both respondents, the State invited the Aegis consortium (the Bilfinger Berger and Commonwealth Bank-led consortium) to enter into exclusive negotiations with the State with a view to resolving a number of key issues that needed to be satisfactorily addressed before the State could enter into contractual arrangements with it.

At the completion of the exclusive negotiation period, the State was satisfied that all key issues had been addressed and Aegis' solution continued to represent the best value for money. Accordingly, the State and Aegis proceeded to execute the Project Agreement and ancillary contracts that govern the Project.

The major strengths of the Aegis proposal were:

- ◆ a highly competitive, risk-adjusted, whole-of-life cost
- ◆ a strong funding and commercial solution

- ◆ a strong functional and architectural design solution including good use of redundant spaces, a superior internal functional design solution (which will support effective and efficient operations) and a very strong integration solution between the New Facility and Existing Facility (from both an east–west and north–south perspective)
- ◆ a strong ecologically sustainable development (ESD) solution which incorporated a variety of water-saving and alternative energy initiatives into the design of the new facilities and the Existing Facility. Aegis' ESD solution was in excess of the State's minimum requirements under the Sustainable Prisons Guide
- ◆ a well-balanced and sound service delivery model which demonstrated a clear understanding of the RFP requirements and their applicability to a prison environment, and an appropriate combination of dedicated labour and subcontractor support. Aegis' solution also made good use of Prisoner Labour
- ◆ an appropriate allocation of project risk between parties.

The tender process was undertaken within a robust probity framework, endorsed by the Project's probity adviser, based on the following probity objectives:

- ◆ fairness and impartiality
- ◆ use of a competitive process
- ◆ consistency and transparency
- ◆ security and confidentiality
- ◆ identification and resolution of conflicts of interest
- ◆ compliance with government policies as they apply to tendering.

1.4 Revised Delivery Strategy

In 2011, during the construction phase, the Project began to face significant time and cost overruns. In June 2012, following the earlier collapse of its joint venture builder, St Hilliers Hawkins Joint Venture (H2JV), Aegis Correctional Partnership was placed into voluntary administration.

In August 2012, the State and Aegis' financiers (Financiers) entered into a Project Reimplementation Deed to allow the Financiers to restructure Aegis to deliver the Project under a revised delivery strategy while keeping the risk allocation between parties substantially unchanged.

In November 2012, a revised Project Agreement (the Amendment and Restatement Deed) was executed between the State and Aegis to facilitate the completion of the Project under substantially the same risk allocation as the original agreement. Key features of the revised delivery strategy include:

- ◆ retention of existing general obligations and risk allocation as described in Section 2.2
- ◆ revised Project completion dates (resulting in a truncated Project term and a resultant reduction in access to remaining service payments) as described in Section 1.7
- ◆ a revised approach to Project staging as described in Section 1.7
- ◆ a revised payment approach in respect of the capital component of the Project as described in Sections 1.5 and 2.5.

1.5 Value for Money

The Partnerships Victoria framework seeks to identify and implement the most efficient form of infrastructure delivery. The concept of value for money goes beyond the selection of the cheapest solution, focussing on the true value of each delivery option. This involves a careful analysis of State-managed delivery options and each proposal received from the private sector. The analysis considered quantifiable elements (i.e. items that can be quantified in dollar terms) as well as subjective or qualitative considerations.

The State considered that it would represent value for money for the State if Aegis, in its restructured form guaranteed by the Financiers, completed the Project, thereby leaving the risk allocation largely intact. The alternative scenario involved the State terminating the Project and taking over its delivery, which would have involved taking back numerous significant risks. The unique nature of a

half-completed project presented risks that were difficult to manage and quantify, including new risks crystallising from the neglected condition of the asset.

Revised Payment Arrangements

As part of the Revised Delivery Strategy, the State agreed to accelerate the capital component of the Quarterly Service Payments (QSPs) via two lump sum payments at the completion of Stage 1 and Stage 2 Commercial Acceptance, being \$278 million and \$114 million respectively. The lump sum payments equate to the capital component of the original QSP stream, based on a truncated project term, and allow for liquidated damages owed by Aegis to the State.

In the event of a delay in achieving the revised delivery dates for Commercial Acceptance, the capital payments would be adjusted for such delay (i.e. a reduction in the assumed remaining services payments for the truncated Project term and an allowance for liquidated damages owing from Aegis to the State). As a result of the construction delays under the replacement builder, the capital payments were reduced by a total of \$21.94 million. In other words, the State realised savings under the PPP risk allocation, notwithstanding the revised payment arrangements.

Following the achievement of Commercial Acceptance, the operational component of the QSP remains unchanged and will be paid, subject to any abatement regarding required performance. The Financiers have guaranteed the State's ability to abate beyond the operational component of the QSP if entitled to do so under the performance regime.

The abatement regime (as described in Section 2.5) remains unchanged, with the magnitude of total potential abatement amounts per month consistent with that proposed at Financial Close. Any abatement amount calculated in excess of the revised QSP (after allowing for the removal of the capital component due to the upfront payments), will be an amount owing to the State by Aegis. The Financiers underwrite Aegis' financial obligations arising out of the performance/abatement regime to the State.

Qualitative Benefits

The revised delivery strategy retained the range of additional benefits under the original proposal, including:

- ◆ significantly improved ESD outcomes, including tri-generation and blackwater systems extending to the Existing Facility and the introduction of energy-saving perimeter lighting and solar powered lighting
- ◆ more gross floor area than was briefed in the RFP
- ◆ improved integration between the New and Existing Facilities, including refurbishment of existing vacated spaces, additional treatment to existing facades and provision of emergency lighting and a new cell intercom system throughout the Existing Facility
- ◆ a Site sewer connection upgrade
- ◆ the introduction of a Prisoner Interactive Learning System
- ◆ extensive irrigation to the majority of landscaped areas and additional horticultural areas to those briefed.

1.6 Public Interest Test

At various stages throughout the development of the Project, an assessment was made of the extent to which the Project was in the public interest. The analysis was undertaken in accordance with the Partnerships Victoria guidance on how to evaluate whether a project meets the public interest.

At all stages it was considered that, on balance, the public interest was being protected. The Project scope provided an additional 358 medium-security beds and facilitated the inclusion of programs aimed at reducing recidivism rates among Victorian prisoners. Further, the expanded prison provides continued economic stimulus and jobs for the local Ararat community.

Appendix 4 contains a summary of the final Public Interest Test, which has been reviewed in light of the revised delivery strategy and remains valid.

1.7 Project Milestones

Aegis delivered the facilities using a staged completion approach, with the majority of the New Facility (Stage 1 Works) available for operational use by April 2015. These Stage 1 Works included the program and support facilities such as the education centre, health centre, operational support centre, kitchen and laundry, gatehouse and visits centre, as well as the new accommodation. Stage 2 Works consisted of the integration works into the Existing Facility and were completed in September 2015.

Table 2 shows the Project milestones.

Table 2: Project Milestones

Project milestone	Date
Contractual Close	3 May 2010
Financial Close	27 May 2010
Commercial Acceptance – Stage 1	January 2014 (contractual) April 2015 (actual)
Commercial Acceptance – Stage 2	October 2014 (contractual) September 2015 (actual)
End of Project Term	February 2037

2 Part Two: Key Commercial Features

Part Two of this document outlines the contractual relationships between the parties involved in the Project, including the allocation of risk and the obligations of both Aegis and the State. A brief description of the Aegis arrangements is also provided. In some areas, this Part provides more detail on the issues and topics discussed more generally in Part One.

Notwithstanding the modified payment arrangements and revised delivery dates described in Sections 1.5 and 1.7, the general obligations and overall risk allocation remain unchanged.

2.1 Parties to the Project

On 3 May 2010, the Minister for Corrections, on behalf of the State, executed the Project Agreement and other associated Project documentation with Aegis and other related parties to design, construct and finance the New Facility and provide ongoing maintenance and facilities management services over the Operating Term.

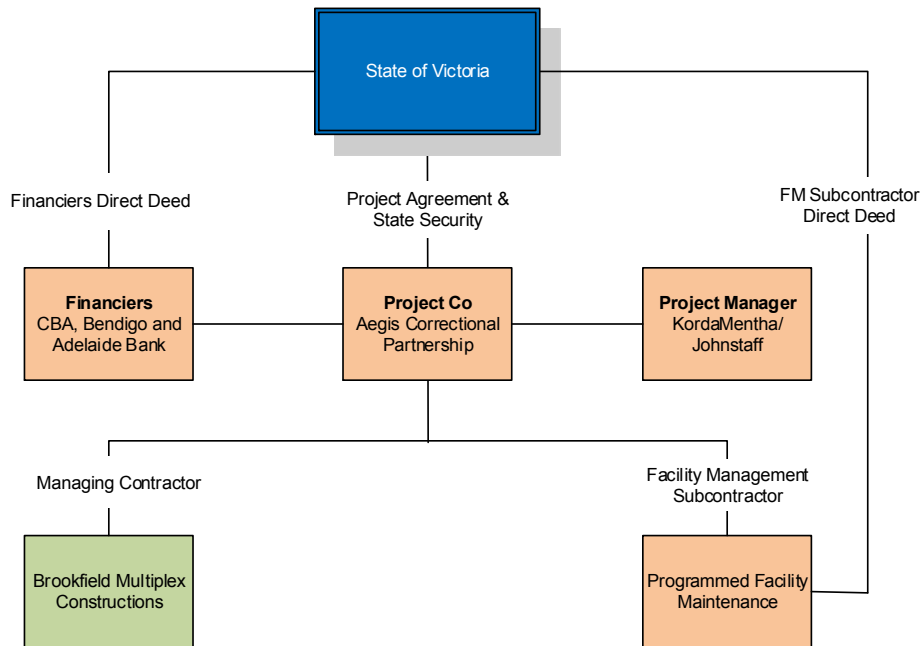
The relevant parties under the original contractual arrangements were:

- ◆ **The State:** The State was a signatory to the Project Agreement and other ancillary Project documents. The Minister for Corrections was the person empowered to execute these contracts on behalf of the State.
- ◆ **Aegis Correctional Partnership Pty Ltd (Aegis):** Aegis was the organisation contracted to deliver the Project, being the counterparty to the Project Agreement and the main contracting entity with the State. Aegis, in turn, entered into a range of contractual relationships with its consortium partners to deliver elements of the Project. Notwithstanding this, Aegis was the organisation ultimately responsible for the delivery of the Project.
- ◆ **Equity Provider:** Bilfinger Berger PI Australia Holding GmbH (BBPI) and Commonwealth Investments Pty Ltd (CIPL) jointly committed to providing the total equity originally required by Aegis.
- ◆ **Financiers:** Commonwealth Bank of Australia, Bendigo and Adelaide Bank and West LB provided the senior debt, contributed by way of a construction facility and intended subsequent term facility. The senior debt was drawn progressively from Financial Close.
- ◆ **Builder:** Hawkins Ararat Pty Limited (Hawkins) and St Hilliers Ararat Pty Ltd (St Hilliers) entered into an unincorporated joint venture agreement for the purpose of undertaking the design, construction and commissioning of each component of the New Facility.
- ◆ **Facilities Management Subcontractor:** Aegis engaged Programmed Maintenance Service Limited (Programmed) to deliver hard and soft facilities management services across the Precinct (as relevant).

Revised contractual arrangements

As described in Section 1.4, on 2 November 2012, following construction difficulties, the State entered into a modified Project Agreement that reflected the revised delivery strategy to facilitate the completion of the Project. The revised contractual relationships are outlined in Figure 3.

Figure 3: Revised Contractual Relationships



2.2 Risk Transfer

The risk allocation in the Project Agreement is consistent with the Partnerships Victoria framework. In Partnerships Victoria projects, the State seeks to achieve best value for money by allocating risks to the party best able to manage them. This process results in various risks being:

- ◆ retained by the State
- ◆ transferred to the private sector, and/or
- ◆ shared between the parties.

The Project Agreement and associated documents establish the obligations of each party in managing these risks.

Table 3 provides a high-level outline of the risk allocation for the Project. Where a risk is allocated to both parties, the parties may not share that allocation equally. All risks are dealt with in detail in the Project Agreement and associated Project documents.

Table 3: Risk Allocation Positions

Risk Category	Description	State	Aegis
Planning Risk			
Obtaining town planning approvals	The State is responsible for ensuring the Site is appropriately zoned for use as a correctional facility Risk that planning permits for the use of the Site are required	✓	✓ (where approval is required solely because of Aegis' misconduct or a change in its proposal)
Site Risks			
Pre-existing contamination	Cost relating to the management and removal of pre-existing contamination in the Site	✓	✓ (New Facility Site In, on or under the Existing Facility, Corella Place or External Facilities only where disturbed by reason of use or occupation of the

Risk Category	Description	State	Aegis
			Precinct by Aegis and was known)
All other contamination	Cost relating to the management and removal of all other contamination on any site	✓ (where caused by the State or migrating from an adjoining site)	✓
Artefacts, Heritage claim	Risk that any site has archaeological and cultural heritage value (above or below ground)	✓	✓ (first 10 business days of delay only)
Native Title	Risk that any site is the subject of a Native Title claim	✓	
Design, Construction and Commissioning Risks			
Design risk	The risk that the design development activities cannot be completed on time and/or to budget and the design does not allow the delivery of the Services to the Services Specification	✓	✓ (only the New Facility including Integration Works)
Construction risk	The risk that construction activities cannot be completed on time and/or to budget		✓
Defects risk	The risk that defects are identified following completion of construction	✓ (Corella Place design and structural defects and prior to the operating phase)	✓ (including Corella Place during the operating phase to the extent not a State risk)
Equipment	Responsibility for the selection, procurement and maintenance of equipment	✓	✓
Fit for purpose (commissioning)	Risk that the New Facility is not constructed so as to be fit for purpose or does not comply with contractual obligations		✓ (in relation to the New Facility only)
Modification	If the State elects to make a significant variation to the facility or the services to be provided by Aegis	✓	
Design, Construction and Commissioning Risks (cont'd)			
Commissioning and Completion	Risk that the New Facility cannot be commissioned in accordance with the agreed commissioning criteria		✓
Operational Risks			
Fit for purpose (operating)	Risk that the facility is not able to deliver the services and/or is not fit for purpose at the required levels	✓ (State retains some risk for the External and Existing Facilities and Corella Place)	✓ (complete transfer for the New Facility; partial transfer for External and Existing Facilities and Corella Place)

Risk Category	Description	State	Aegis
Operational costs (non-reviewable services and facilities management)	Risk that operational costs exceed Aegis' budgeted cost over the operating phase of the Project		✓
Operational costs (reviewable services)	Risk that operational costs exceed budgeted cost over the operating phase of the Project	✓	✓
Lifecycle costs	Risks associated with the replacement and refurbishment of the facility over the operating phase of the Project		✓ (excluding the Existing Facility and External Facilities)
Utility price and volume risk	Risk of change in the price of the utility inputs required by the facilities and energy demand risk	✓ (Price risk retained by the State)	✓ (volume risk transferred except industry workshops)
Change in Law or Policy Risks			
Changes in law and policy (General)	Risk that a change in legislation/regulations or State policy, which applies generally, will impact on the design or construction of the New Facility or provision of the Services	✓	✓
Changes in law and policy (Project Specific)	Risk that a change in legislation/regulations or State policy, which expressly and exclusively applies to the Project, will impact the design or construction of the New Facility or provision of the Services	✓	
Tax risk	Risk of changes in income tax, GST or the introduction of a tax affecting companies generally		✓
Force Majeure			
Force Majeure	Risk that a 'force majeure' or other specified unforeseen event will impact construction or the provision of the Services	✓	✓
Finance Risk			
Shared operating insurance premium risk	Risk of inability to obtain insurance or material increases in insurance premiums (e.g. industrial special risks/ consequential loss, public and products liability and workers' compensation insurance)	✓	✓
Residual condition	Risk that on expiry of the contract term the condition of the asset does not meet the handback requirements in the Project Agreement		✓

2.3 General Obligations of Aegis

Aegis contracted with the State to finance, design and build the New Facility and provide related facility management services to the whole Precinct over the Operating Term. The Project Agreement details the State's minimum design requirements which Aegis was obliged to meet in delivering the New Facility and the minimum service performance requirements (Services Specification) Aegis must achieve throughout the Operating Term. The full array of Aegis' obligations is contained in the Project Agreement and ancillary contracts.

Table 4 summarises the obligations of Aegis over the course of the Project Agreement.

Table 4: Summary of Key Aegis Obligations

Project Element	Description
Design, construction and commissioning	<p>Aegis is responsible for the design, construction and commissioning of the New Facility to ensure that it is fit for its intended use as a correctional facility. The New Facility will comprise:</p> <ul style="list-style-type: none"> ▪ a 350-bed medium-security male prisoner accommodation to be built immediately adjacent to the Existing Facility ▪ eight continued detention beds ▪ a new secure perimeter that encompasses both the New Facility and Existing Facility ▪ associated support and ancillary buildings for the delivery of Services, Precinct Functions and Prisoner Worker Industries ▪ the provision of integrated power, fire, hydraulics and communication backbone infrastructure across the Precinct and particularly for the New Facility and Existing Facility ▪ the provision of furniture, fittings and equipment required to deliver the Services, Precinct Functions and Prisoner Worker Industries. <p>The Project has integrated the various elements of the Precinct (the New Facility, Existing Facility, Corella Place and the External Facilities) to achieve a single, coherent correctional facility. Aegis is responsible for the operational integrity of these systems over the Project term, regardless of whether it has chosen to replace and upgrade them (or any part of them).</p> <p>Aegis will deliver the facilities using a staged completion approach, with the majority of the new buildings available for operational use as part of the Stage 1 Works. These Stage 1 Works include the program and support facilities such as the education centre, health centre, operational support centre, kitchen and laundry, gatehouse, visits centre, industry buildings, recreation and the majority of the new accommodation buildings. The remainder of the facilities including the waste water treatment plant and remaining accommodation unit will be delivered as part of the Stage 2 Works. As part of the Stage 2 Works Aegis will also demolish and make good a number of existing buildings (such as existing visits, kitchen, centre spine and laundry).</p>
	<p>Throughout the construction, commissioning and completion phases of the Project, the wider Precinct shall remain operational. Aegis will deliver and manage the works to ensure the:</p> <ul style="list-style-type: none"> ▪ integrity and performance of security systems is not diminished ▪ operations of the Precinct are not compromised.
Furniture, Fittings and Equipment (FF&E)	<p>Procurement, installation, commissioning and maintenance of all FF&E (other than those items to be procured and maintained by the State). There is a detailed indicative list of required FF&E appended to the Project Agreement, however, Aegis takes the risk that the FF&E provided is adequate and otherwise fit for its intended purpose. The State has some flexibility to comment on the final type and quantity of all FF&E.</p>
Services	<p>Aegis is responsible for the delivery of a range of services (Services) across the Precinct in accordance with the Services Specification from the completion of the Stage 1 Works. These services include:</p> <ul style="list-style-type: none"> ▪ building management (reactive/planned as well as lifecycle replacement) ▪ help desk

Project Element	Description
	<ul style="list-style-type: none"> ▪ utilities management ▪ cleaning (non-prisoner areas and non-resident areas at Corella Place) ▪ security ▪ waste management and disposal ▪ limited grounds maintenance ▪ pest control ▪ minor works. <p>Aegis is responsible for whole-of-life risk associated with the New Facility and Corella Place as well as all scheduled and unscheduled maintenance. In contrast, the State retains building condition and whole-of-life risk on the Existing Facility and External Facilities (other than the Integration Works). However, to safeguard the ongoing maintenance of these facilities, the State has allocated an annual budget to be used for scheduled and unscheduled maintenance to these facilities as agreed between the State and Aegis.</p>
Insurances	Aegis is required to take out a range of insurances in relation to the facilities during both the design and construction and operating phases of the Project.
Finance	Procurement of debt and equity to fund the delivery of the Project to Commercial Acceptance.
Handback	Undertake all necessary tasks to ensure that the facilities and Site are returned to the State in accordance with the end of term requirements set out in the Project Agreement.

2.4 General Obligations of the State

Delivery of custodial/correctional functions

Corrections Victoria (CV) on behalf of the State will be responsible for delivering a range of custodial/correctional functions and services across the Precinct.

Existing Facilities and Corella Place

The State retains:

- ◆ building condition and whole-of-life risk in respect of the Existing Facility and External Facilities (with the exception of any Integration Works which are deemed to form part of the New Facility delivered by Aegis)
- ◆ design risk and, for the pre-operating phase and for structural defects only, defects risk in relation to Corella Place.

Other Project Agreement Obligations

Under the Project Agreement, the State:

- ◆ must (subject always to the State's access requirements for delivery of its correctional and associated functions) provide Aegis with the necessary access to allow it to perform its obligations
- ◆ is required to make quarterly services payments to Aegis during the Operating Term subject to the abatement regime that may apply if services are not delivered to the required standard. See Section 2.5.
- ◆ may review and comment on design documentation and other material that will be submitted by Aegis in accordance with the Project Agreement
- ◆ must pay for any utilities costs other than costs associated with energy volumes that are in excess of the amounts bid by Aegis.

2.5 Payment Mechanism and Abatement Regime

Aegis is required to provide the Services to the Services Specification from completion of the Stage 1 Works. Failure to do so exposes Aegis to abatement in accordance with the abatement regime set out in the Project Agreement.

Under the Revised Delivery Strategy arrangements, the abatement regime will remain unchanged, with abatement amounts calculated as though the capital component of the quarterly services payment (QSP) had not been removed from the operational services payment as a result of the modified lump sum capital payments outlined previously in Section 1.5. Any abatement amount calculated in excess of the revised QSP (after allowing for the removal of the capital component due to the upfront payments) will be an amount owing to the State by Aegis. The Financiers underwrite Aegis' financial obligations arising out of the performance/abatement regime to the State.

Payment for delivery of the Services is made by the State over the Operating Term in the form of a QSP paid in arrears. Payment commenced at completion of the Stage 1 Works, but only for an amount proportionate to the value of the works completed in Stage 1. The full QSP commenced following completion of the Stage 2 Works. The QSP comprises the following components:

- ◆ **Quarterly Service Fee (QSF)** – being the fee bid by Aegis to be paid by the State for the delivery of the Services and which includes an allowance for the capital cost of the New Facility, the cost of delivering the Services and an equity return.²
- ◆ **Pass Through Costs** – reflect reimbursement to Aegis for pass-through costs associated with the supply of Utilities (in accordance with the agreed risk-sharing regime described in Section 2.9 (Energy Volume)) and the appropriate proportion of the agreed annual maintenance budget for the Existing Facility.
- ◆ **Adjustment Amounts** – reflect the adjustment for allowances already made within the QSF for costs associated with insurance premiums and any additional Prisoner Labour hours used in excess of those bid by Aegis in accordance with the regime outlined in Section 2.8 (Use of Prisoner Labour).
- ◆ **Fees** – in addition to abatement for non-performance of Services, fees for prisoner escape, security escort and nuisance fire alarms will also be deducted from the QSF as follows:
 - *Prisoner Escape* – if the escape of a prisoner from the Secured Facility Area is caused or contributed to by Aegis, Aegis will be liable for a Prisoner Escape Fee per prisoner who has escaped (which is capped per escape event).
 - *Service Security Measures* – when Aegis requires an escort because its personnel do not have the required security clearance to operate within the Secured Facility Area independently of CV staff, Aegis will be charged an Escort Fee per eight-hour shift or part thereof for such a service.
 - *Fire Brigade Alarm* – when the Country Fire Authority dispatches fire trucks to the Precinct as a result of a false alarm due to a failure of the fire alarm system or other plant and equipment for which Aegis is responsible, Aegis will be charged the costs of the relevant government agency's attendance.

If the above fees cause the monthly service payment (inclusive of the capital component) to be negative, it will be money owing to the State. For the avoidance of doubt, the value and likelihood of these fees have been taken into consideration in the calibration of the abatement regime.

Abatement regime

Any failure to provide the Services in accordance with the Service Specifications may constitute a 'Service Failure' and result in the abatement of the QSF.

² While the defined QSF continues to include amounts relating to the repayment of capital costs for the purposes of calculating the applicable abatement amount in a given quarter, as described in Section 1.5, the revised payment arrangements include lump sum capital payments at commercial acceptance, with the removal of the capital component from the ongoing service payment to be made by the State to Aegis during the operational phase of the Project.

The Project Agreement categorises each service failure as either a:

- ◆ **Failure Event** – a service failure that affects one or more specific areas of a facility. Where a Failure Event renders the relevant area unavailable for use for its intended function it is deemed to be an 'Availability Failure'; otherwise it is considered to be a 'Failure Incident'; or
- ◆ **Quality Failure** – a service failure that is not referable to a specific area within a facility.

A Failure Event is categorised depending on the severity of its potential consequences, taking into account the significance of the area affected and how important it is that the area be made available. This in turn will determine the response and rectification time that will apply. Where an incident occurs in areas of high importance there will be shorter response and rectification times and potentially greater financial consequences. The abatement regime also recognises smaller failures that do not render a space unusable, but nevertheless impact on the ability to provide the required services (Failure Incident).

The QSF is abated in accordance with a pre-determined formula specified in the Project Agreement.

Aegis is responsible for monitoring the performance of the Services in accordance with the agreed performance monitoring regime. This includes a duty to record all Service Failures. The State will retain the right to audit and dispute any incident that it believes is a Service Failure, as well as the categorisation of the Service Failure.

Changes in costs incurred by Aegis (Modifications and Changes in Law)

The State may, at its sole discretion, request Aegis to implement modifications (to the works/facilities, Services or FF&E it is required to procure) provided the State adequately compensates Aegis. This includes an ability to remove works or services from the Project scope. Under the modifications regime, Aegis must provide an estimate of the cost impact of any modification proposed by the State in a manner which complies with the requirements of the Project Agreement. All costs must be provided on an open book basis.

The State may pay for the modification either by way of a lump sum, milestone payments, or an adjustment to the QSP (where the modification is financed by Aegis). To provide greater transparency and certainty around modification costs, the Project Agreement specifies a range of pre-agreed margins and other on-costs Aegis can claim in such circumstances.

A regime has also been established that will enable the State to request Aegis to perform additional minor works without the need to invoke the modifications regime.

In addition to State-initiated modifications, the State must pay for cost increases arising from certain changes in law and policy above certain dollar thresholds outlined in the Project Agreement.

Aegis is entitled to reimbursement for any costs or expenses it incurs caused by the following events:

- ◆ breach by the State of any Project documentation
- ◆ during the design and construction phase, any act or omission of the State or relevant State-related parties (in their contracting capacities) other than any act or omission which is authorised or permitted under the Project Agreement
- ◆ during the operations phase, a malicious, unlawful or reckless act or omission by the State or relevant State-related parties (in their contracting capacities)
- ◆ damage caused by prisoners during the operations phase subject to those items identified in Section 2.10
- ◆ industrial action which directly affects the Project and which Aegis can demonstrate is a direct result of an act or omission of the State or a State-related party at the Precinct
- ◆ suspension of any works or the delivery of the Services required by law or the State because of a Native Title claim or the discovery of artefacts (following the expiry of the Eligible Claim Period)
- ◆ during the design and construction phase, remediation of contamination for which the State is responsible under the Project Agreement.

2.6 Default, Termination and Step-In Regimes

Default

A default by Aegis under the contractual arrangements will entitle the State to various remedies. Where a default has occurred, the State will in most circumstances be required to give Aegis an opportunity to cure the default. If the default is not cured by Aegis within the allotted cure period, it will escalate to a Major Default.

The Project Agreement also allows for a number of events to fall immediately within the Major Default category (such as when there are persistent breaches or repeated service failures).

In respect of Major Defaults, Aegis will be given the opportunity to agree a cure plan (if the default is capable of cure) or agree a prevention plan to prevent the default from recurring (in circumstances where the default is not capable of cure). Where Aegis fails to cure the major default within the allotted cure period or to comply with an agreed cure or prevention plan (as applicable), this will generally give rise to the State's right to terminate the Project Agreement.

Certain events of default are so severe that they are not subject to a cure regime. They give rise to a State termination right immediately upon their occurrence (for example, insolvency of Aegis or failure to complete the Project by the specified Sunset Date). These events are called Default Termination Events.

Step-In

In addition to termination rights (or potential termination rights), events of Major Default and Default Termination Events may trigger a range of other remedies for the State, including:

- ◆ the right to step-in to remedy the situation (i.e. the right to assume control and management of the Project, the works or the Services)
- ◆ the right to require the replacement of a subcontractor who caused the Major Default or Default Termination Event.

The State can also 'step-in' in cases of emergency.

The Project Agreement also includes step-in rights for the State when:

- ◆ a default (including a default termination event) has occurred
- ◆ the State is of the view that there is an immediate or potential threat to the health or safety of the Facility staff, prisoners, a Facility or a site
- ◆ it may be necessary for the State to discharge its statutory duties and powers
- ◆ there is damage to or destruction of any of the works or Facilities.

The default related step-in right is subject to any step-in rights the Financiers may have. During any step-in associated with a default, the QSP will be abated to the extent that the relevant facility is unavailable and the Services are not being provided.

Termination

The Project Agreement can be terminated:

- ◆ as a result of certain events of default
- ◆ as a result of a Force Majeure Event (including an uninsurable event)
- ◆ voluntarily by the State.

Where the Project Agreement is terminated before the natural expiry of the intended Operating Term, Aegis may be entitled to a termination payment. The basis for the calculation of the termination payment will be determined by the reason for the termination as summarised in Table 5.

Table 5: Termination Options

Event	Trigger	Termination Payments
Default Termination	The State may terminate the Project Agreement if certain events of default have occurred	The facility's fair market value determined by tendering or an independent valuer. An independent valuer must be used in certain circumstances including where there is no liquid market. Post commercial acceptance the unearned value of the accelerated capital component of the QSP will be deducted from the fair market calculation outlined above. Negative amounts will be amounts owing from the Financiers to the State.
Voluntary Termination	The State may at any time, post commercial acceptance, for reasons of its own choosing, unilaterally elect to terminate the Project Agreement	Amounts reasonably and properly incurred by Aegis as a direct result of termination, adjusted for a range of balancing items.
Termination for Force Majeure	The occurrence of a Force Majeure Event or an uninsurable event for which the State does not act as the insurer of last resort	Prior to commercial acceptance, a proportion of the value of the remaining works for which Aegis has not yet received an upfront capital payment less amounts owing such as insurance proceeds. Post commercial acceptance, Aegis will pay the State any insurance proceeds as well as a range of balancing items.

2.7 Finance

Aegis is responsible for the provision of finance for the Project. The Financiers undertake to fund the Project to completion.

2.8 Use of Prisoner Labour

Subject to certain exceptions such as statutory testing and security systems, Aegis must use Prisoner Labour in the delivery of building management services at the Existing Facility and the External Facilities, provided the Prisoner Labour made available to Aegis by CV (as the Precinct Operator) has the necessary skills and is capable and willing to deliver the relevant services.

Aegis has also proposed to use Prisoner Labour for the provision of a range of services across the New Facility.

The QSF bid by Aegis assumes the use of a certain number of hours of Prisoner Labour per quarter (Bid Prisoner Labour Hours). If the number of hours of Prisoner Labour used in a quarter exceeds the Bid Prisoner Labour Hours (Excess), the QSP will be reduced by an amount equal to the Excess multiplied by an agreed hourly rate. If the number of hours of Prisoner Labour actually used is less than the Bid Prisoner Labour Hours, the QSP remains unchanged.

2.9 Energy Volume

Aegis is responsible for energy volume risk associated with electricity and gas consumption at the New Facility, other than consumption in the industry workshop areas, in respect of which the State bears volume risk. The State will retain price risk.

Aegis bid electricity and gas volume targets for the New Facility. These targets will be reset in the third Operating Year to reflect actual usage, when actual usage is less than the bid volumes.

The State will pay the bid volumes (as reset) on a quarterly basis as part of the QSP at the actual average gas/electricity unit price for the relevant quarter. All supply charges (i.e. fixed charges not related to usage) will be for the State's account.

The State will retain electricity and gas risk (both price and volume) for the remaining facilities within the Precinct.

2.10 Prisoner Damage

Although the State will retain responsibility for damage caused by prisoners or Corella Place residents throughout the Precinct, it will not take the risk on damage:

- ◆ for which Aegis is responsible
- ◆ that is caused by an act or omission of Aegis or which could have been prevented had Aegis performed its obligations
- ◆ that is fair wear and tear or the result of reasonable and proper use
- ◆ in respect of the New Facility and Corella Place, which arises because Aegis failed to design, construct or maintain (as relevant) the damaged area or item so as to make it Fit for the Intended Purposes.

In selecting fittings and fixtures, materials and finishes for the New Facility and, as relevant, Corella Place, Aegis is required to have due regard for their respective intended uses.

2.11 Fitness for Purpose

The Project Agreement contains a fitness for purpose test for all of the components of the Precinct. However, the test for Corella Place, the Existing Facility and the External Facilities recognises that Aegis is not designing or constructing these facilities and, in respect of the Existing Facility and the External Facilities, is not taking whole-of-life risk as described in Table 4.

2.12 State Rights at Expiry of Contract

The Project Agreement requires Aegis to hand back the New Facility and Corella Place to the State at the expiry of the Operating Term for nil consideration and in a condition that meets the requirements of the Project Agreement. The State will then resume full control of the Precinct.

To ensure that the assets are in sound working order, the facilities will be independently inspected on an annual basis in the years leading up to handback to ensure that all lifecycle and maintenance works are being completed and that the facilities will meet the relevant handback conditions. The handback conditions are described in the Project Agreement. The Project Agreement requires that, at a minimum, when the New Facility is handed back to the State at the end of the term, it be in such condition that it is reasonable to expect that no major capital expenditure would be required by the State for a period of five years from contract expiry.

In the event that Aegis fails to maintain the relevant facilities to the standard required to satisfy the handback requirements, the State will be entitled to withhold a portion of the QSP to cover the expense of any shortfall.

2.13 Current Version

This document may be updated from time to time. Please check the Partnerships Victoria website at www.dtf.vic.gov.au for the current edition.

Glossary

Terms used in this Project Summary have the meaning given to them in the Project Agreement unless otherwise defined in this Glossary or elsewhere in this document.

Term	Meaning
Aegis	Aegis Correctional Partnership Pty Ltd, the State's counterparty to the Project Agreement and other associated Project documentation.
BBPI	Has the meaning given to it in Section 2.1 (Parties to the Project).
CIPL	Has the meaning given to it in Section 2.1 (Parties to the Project).
Corella Place	Has the meaning given to that term in Section 1.1 (Hopkins Correctional Centre Expansion Project) and as otherwise described in the Project Agreement.
CV	Corrections Victoria
Default Termination Events	Has the meaning given to that term in Section 2.6 (Default, Termination and Step-In Regimes) and as otherwise described in the Project Agreement.
ESD	Ecologically sustainable development
Existing Facility	Has the meaning given to that term in Section 1.1 (Hopkins Correctional Centre Expansion Project) and as otherwise described in the Project Agreement.
External Facilities	Has the meaning given to that term in Section 1.1 (Hopkins Correctional Centre Expansion Project) and as otherwise described in the Project Agreement.
Financiers	Commonwealth Bank of Australia and Bendigo and Adelaide Bank
FF&E	Furniture, fittings and equipment
Hawkins	Has the meaning given to that term in Section 2.1 (Parties to the Project).
Integration Works	Has the meaning given to that term in Section 1.1 (Hopkins Correctional Centre Expansion Project) and as otherwise described in the Project Agreement.
New Facility	Has the meaning given to that term in Section 1.1 (Hopkins Correctional Centre Expansion Project).
PPP	Public private partnership
Precinct	Has the meaning given to that term in Section 1.1 (Hopkins Correctional Centre Expansion Project).
Programmed	Has the meaning given to that term in Section 2.1 (Parties to the Project).
Project	Hopkins Correctional Centre Expansion Project (formerly Ararat Prison Project)
Project Agreement	The Ararat Prison Project Agreement entered into between Aegis and the State and dated 3 May 2010.
Project Co	The private party entity that entered into the Project Agreement and is responsible for delivering the Project (in this instance, Aegis).
PSC	The Public Sector Comparator for the Project, being the risk-adjusted cost of the most likely efficient form of public sector service delivery that could be employed to satisfy all elements of the output specification.
QSF	Has the meaning given to that term in Section 2.5 (Payment Mechanism and Abatement Regime).

Term	Meaning
QSP	Has the meaning given to that term in Section 2.5 (Payment Mechanism and Abatement Regime).
Request for Proposal (RFP)	The document so entitled issued to those parties shortlisted during the Expression of Interest (EOI) phase of the Project and which identified the State's requirements for the Project including design principles/philosophy, space requirements, architectural specifications, technical specifications, service specifications and required furniture, fixtures and equipment.
Services	Has the meaning given to that term in Section 2.3 (General Obligations of Aegis) and as otherwise detailed in the Project Agreement.
Services Specification	Has the meaning given to that term in Section 2.3 (General Obligations of Aegis) and as otherwise detailed in the Project Agreement.
Site	Has the meaning given to that term in Section 1.1 (Hopkins Correctional Centre Expansion Project) and as otherwise described in the Project Agreement.
St Hillers	Has the meaning given to that term in Section 2.1 (Parties to the Project).
Stage 1 Works	Has the meaning given to it in Section 1.7 (Project Milestones) and otherwise as defined in the Project Agreement.
Stage 2 Works	Has the meaning given to it in Section 1.7 (Project Milestones) and otherwise as defined in the Project Agreement.
VFM	Value for money
VIPP	Victorian Industry Participation Policy

Appendix 1 Useful references

- ◆ Project documentation, including the Project Agreement, is available at: www.tenders.vic.gov.au
- ◆ Partnerships Victoria policy guidance and Project information at: www.dtf.vic.gov.au
- ◆ The Department of Justice and Regulation website at: www.justice.vic.gov.au

Appendix 2 Key contact details

Department of Justice and Regulation

Website: www.justice.vic.gov.au

121 Exhibition Street
Melbourne VIC 3000

Phone: (03) 8684 0000

Partnerships Victoria

Website: www.dff.vic.gov.au

Department of Treasury and Finance
1 Treasury Place
East Melbourne VIC 3002

Phone: (03) 9651 5111

Appendix 3 RFP Evaluation Criteria

The State evaluated each Proposal against the following Evaluation Criteria.

Criterion A – Interface Management

The State evaluated the following criteria:

- ◆ **Project Co Management** – the State evaluated the resourcing, staffing structure and experience of Project Co personnel
- ◆ **Partnership approach** – the State evaluated the extent to which it is evident that the Respondent has fully understood the importance of the interface between the State and Project Co. Specifically, the demonstration and commitment to a partnership approach
- ◆ **Intra-consortium relationships** – the State evaluated the proposed intra-consortium relationship management framework and approach
- ◆ **Stakeholder Management and Communications Approach** – the State evaluated the appropriateness of the proposed stakeholder management and communications approach.

Criterion B – Commercial

The State evaluated the following criteria:

- ◆ **Commercial Solution** – the commercial solution including the intra-consortium commercial relationships and financial strength of Project Co, the Builder, the Facility Management Subcontractor, and other key subcontractors (as appropriate)
- ◆ **Commercial Departures** – the nature and extent of the proposed departures from the Draft Contractual Documents.

Criterion C – Financial

The State evaluated the following criteria:

- ◆ **Funding Structure** – the appropriateness, competitiveness and flexibility of the funding structure
- ◆ **Certainty of Funding** – the certainty of funding
- ◆ **Financial Assumptions** – the robustness of the financial assumptions.

Criterion D – Risk-adjusted Cost

The State evaluated the whole-of-life, risk-adjusted cost of the Proposals by taking into account the financial and risk consequences of the Respondent's proposal.

Criterion E – Master Plan and Architectural Design

The State evaluated the following criteria:

- ◆ **Master Plan** – the Master Plan of the Site and the Precinct including the proposed vision and integration of the New Facility into the broader Precinct
- ◆ **Architectural Form** – the external architectural form of the proposed design of the New Facility
- ◆ **Landscape** – the appropriateness of the quality and layout of the external spaces within the Precinct
- ◆ **Site Access and Transport Arrangements** – the appropriateness of the access and transport arrangements on and around the Site for pedestrians, bicycles and vehicles (and the interaction between them).

Criterion F – Functional and Operational Design

The State evaluated the following criteria:

- ◆ **Functionality and Operational Efficiency** – the functionality and operational efficiency of the proposed design

- ◆ **Interior Design** – the appropriateness and quality of the proposed interior design
- ◆ **Whole-of-life design** – the contribution of the proposed design towards an efficient whole-of-life cost for the New Facility
- ◆ **Engineering services** – the appropriateness and quality of the engineering and building infrastructure services
- ◆ **Security Systems** – the appropriateness and quality of the proposed Security systems and equipment
- ◆ **Ecologically Sustainability Development** – how, and the extent to which, the Respondent has met the requirements of the Sustainable Prisons Guide
- ◆ **Departures** – the extent to which the Proposals depart from the requirements of the Output Specification.

Criterion G – Project Management

The State evaluated the following criteria:

- ◆ **Design Development Process** – the Respondent's approach to the Design Development Process, including the coordination and management of user groups and the design team
- ◆ **Master Works Program** – the Respondent's proposed timelines and program
- ◆ **Construction Management** – the construction methodology and management processes
- ◆ **Completion** - the appropriateness of the Respondent's proposed Completion methodology.

Criterion H – Services

The State evaluated the following criteria:

- ◆ **General requirements** – the Respondent's strategy to add value to the services currently provided by the State and the interface and liaison arrangements at the New Facility, the Existing Facility, Corella Place and the External Facilities
- ◆ **Management of the service delivery** – the proposed management structure and solution for Services delivery
- ◆ **Service-specific solutions** – the service-specific solutions including proposed procedures, flexibility and certainty of quality of Services delivery
- ◆ **Lifecycle replacement** – the Respondent's approach to carrying out the lifecycle maintenance while minimising the impact on the delivery of Correctional services.

Criterion I – Furniture, Fittings & Equipment

The State evaluated the process for furniture, fittings and equipment selection and the appropriateness and quality of the selected furniture, fittings and equipment.

Criterion J – Commitment to Victorian Industry Participation Policy (VIPPP)

The State evaluated the Respondent's VIPPP commitments as detailed in the submitted VIPPP Plan.

Other Issues

The State could also consider any or all of the following issues when evaluating Proposals:

- ◆ **Past behaviour** – past conduct, behaviour and corporate history of any Consortium Member
- ◆ **Conformity with the Output Specification** – the extent to which the Proponents have submitted complete Proposals and the extent to which each Proposal complies with the requirements of the Output Specification
- ◆ **Probity investigations** – any matters revealed as a result of its probity and security investigations in evaluating Proposals
- ◆ **Conflict of interest** – the nature of any actual or perceived conflicts of interest and the way in which the Proponent proposes to manage any such conflicts.

Appendix 4 Public Interest Issues

In accordance with Partnerships Victoria policy, the Public Interest Test was re-examined as part of contractual close.

Ararat Prison Project – Public Interest Test – Contractual Close 3 May 2010		
Element	Standard	Assessment
Effectiveness Is the Project effective in meeting government objectives?	1. Output/service delivery requirements for the Project are captured in the Project objectives as set out in the Strategic Alignment section of the Business Case. The Project objectives align with all relevant government policies and, in particular, the following key policies:	<p>The Ararat Prison Project (the Project) is consistent with a number of State Government objectives and policies, including those specifically related to the provision of correctional services.</p> <p>The extent to which the Project meets or otherwise supports the achievement of relevant government objectives and policies is outlined below (and more fully detailed in the Policy Context of the Business Case).</p>
	Growing Victoria Together	<p>A key relevant State Government policy is <i>Growing Victoria Together</i>: 'Building confident and safe communities, a fairer society that reduces disadvantage and respects diversity, and growing and linking all of Victoria'.</p> <p>The Project supports this policy objective by providing sufficient additional prisoner capacity to enable the safe, secure and humane containment of prisoners in the future, and by facilitating improved rehabilitation outcomes. It also contributes to the promotion of growth in regional Victoria.</p>
	Sustaining Our Assets	<p>The Project supports the government's commitment to coordinated asset management as a critical factor in improving prison services to the community. In particular, it is a vital part of the broader Prison Facilities Master Plan capital investment strategy that ensures effective delivery of correctional services to 2012 and into the outlook period.</p>
	<i>Charter of Human Rights and Responsibilities Act 2006</i>	<p>The Project recognises and seeks adherence with the government's obligations under the <i>Charter of Human Rights and Responsibilities Act 2006</i>, which establishes an individual's right to humane treatment when deprived of liberty. In particular, the Project will involve construction of an integrated new prison at Ararat, configured to assist the government in meeting its obligations.</p>
	Moving Forward: Making Provincial Victoria the Best Place to Live, Work and Invest	<p>The Project supports the government's promotion of regional economic development, employment opportunities and infrastructure investment through the development and expansion of prison facilities in a regional Victorian site.</p>
	Government 2006 election policy – use of police cells	<p>The Project supports the government's 2006 election policy commitment to reduce the number of prisoners held in police cells to ensure more police time is spent policing. It will achieve this by assisting in the delivery of sufficient capacity in the prison system to allow the timely movement of prisoners from police cells into the prison system.</p>

Ararat Prison Project – Public Interest Test – Contractual Close 3 May 2010		
Element	Standard	Assessment
	<i>Strategic Priorities 2007</i> – Department of Justice	<p>The <i>Department of Justice Strategic Priorities 2007</i> includes revisiting the <i>Corrections Victoria Master Plan</i> to develop the capacity to meet any increase in prisons and prisoner numbers. In particular, the Project will meet this objective by permanently increasing capacity for male prisoners.</p> <p>The Department of Justice (including Corrections Victoria (CV)) policies require a review of the prison system capacity and CV's ability to meet its operational requirements. The Project supports the achievement of these goals by addressing projected capacity requirements, and by increasing operational flexibility, effectiveness and efficiency within the prison system.</p>
	Corrections Long Term Management Strategy	The Project will build on the developments and achievements of the Corrections Long Term Management Strategy and the <i>10 Year Facilities Master Plan for the Victorian Prison System 2001-2010</i> . It also responds to identified current and future requirements. In particular, the Project will address the requirement for additional capacity to meet forecast bed requirements.
	Correctional Management Standards	The asset investment program set out in the Prison Facilities Master Plan will support the continued achievement of the minimum requirements for correctional services established in the Correctional Management Standards.
	<p>2. In addition, the key government output/service delivery requirements for the Ararat Prison Project are encompassed in the Project Objectives detailed in the Request for Proposal. They include:</p> <p>Correctional Facility Outcomes: achieve best practice design that:</p> <p>(a) delivers safe and secure facilities for prisoners, staff and visitors</p> <p>(b) maintains community safety</p> <p>(c) supports best practice models of prison management</p> <p>(d) optimises operating efficiencies and innovation; and</p> <p>(e) supports the Department of Justice 'One Justice' vision.</p>	<p>The output and other service delivery requirements contained in the Project Agreement and other contractual documentation have been developed to assist in the delivery of the Project Objectives.</p> <p>Contractual mechanisms exist to ensure those output/service delivery requirements can be met. For example:</p> <ul style="list-style-type: none"> ▪ liquidated damages where construction does not meet agreed milestones ▪ performance-based payments for service provision ▪ default regime based on performance ▪ State step-in rights for default.

Ararat Prison Project – Public Interest Test – Contractual Close 3 May 2010		
Element	Standard	Assessment
	<p>Flexibility: ensures the facility is adaptable to new technologies and has sufficient flexibility and capacity to cater for short and longer-term fluctuations in prisoner numbers and profiles and changing operational practices.</p> <p>Interface with Precinct Functions: enhances the ability of CV to deliver the Precinct Functions and promote a smooth and efficient interface with Project Co's delivered Services.</p> <p>Business Continuity: achieves a successful integration with no interruption to the ongoing delivery of services and with minimal impact to the existing prisoner population, Corella Place and the External Facilities.</p>	
<p>Accountability and transparency</p> <p>Do the partnership arrangements ensure that:</p> <ul style="list-style-type: none"> ▪ the community can be well-informed about the obligations of government and the private sector partner ▪ these can be overseen by the Auditor-General? 	<p>The Project is to fully comply with all Victorian Government accountability and transparency policies and obligations (including the Ensuring Openness and Probity in Victorian Government Contracts policy announced on 11 October 2000), and the Department of Justice's annual reporting obligations. All Project documentation is to be fully accessible to the Auditor-General and made public in accordance with Victorian Government policy, including the Partnerships Victoria Public Disclosure Policy (March 2007).</p>	<p>Department of Justice (including CV) obligations to the community are defined through legislation and government policy. The Project will support compliance with these obligations.</p> <p>The community will be well informed about the obligations of both the Victorian Government and any private sector partners through several mechanisms. The Project Agreement and relevant associated Project documents will, subject to commercial-in-confidence considerations, be published in accordance with the Victorian Government policies identified in the corresponding column, with only limited exceptions from disclosure guided by the criteria of the <i>Freedom of Information Act 1982</i>. Further, information on the Project's annual performance will be available in Department of Justice Annual Reports.</p> <p>The <i>Stakeholder Management and Communication Plan</i> has been developed, which will also ensure local communities are provided with an adequate level of transparency of key components of the Project. There will be ongoing consultation with affected communities and relevant user groups.</p> <p>The Freedom of Information Act will apply to the Project. The Project will be fully accessible to the Auditor-General.</p> <p>The probity of process has been overseen by an independent probity adviser.</p>

Ararat Prison Project – Public Interest Test – Contractual Close 3 May 2010

Element	Standard	Assessment
<p>Affected individuals and communities</p> <p>Have those affected been able to contribute effectively at the planning stages, and are their rights protected through fair appeals processes and other conflict resolution mechanisms?</p>	<p>The Project must conduct:</p> <ul style="list-style-type: none"> ▪ an appropriate public consultation process with those individuals/groups identified as being affected by the Project ▪ environmental and other assessments of the site ▪ a social and regional impacts assessment. 	<p>The following individuals/groups were identified as part of the Business Case process as being affected by the Project:</p> <ul style="list-style-type: none"> ▪ government stakeholders ▪ courts system ▪ prison management and staff ▪ prisoner families ▪ local communities. <p>A <i>Stakeholder Management and Communication Plan</i> was developed that incorporates appropriate consultation and communication processes to be undertaken with the above stakeholders in relation to the Project. The Ararat Correctional Precinct Project Community Advisory Group (CAG) was formed in December 2008 to assist in ensuring community engagement in the development and delivery of the Project.</p> <p>The Correctional Precinct Development Plan, a document endorsed by the CAG, aims to enhance community consultation, feedback and transparent communication with the Ararat community.</p> <p>The Project's contractual arrangements allow for the same individual and community rights and policy requirements as regular Department of Justice projects (as relevant) and will put in place appropriate conflict resolution mechanisms.</p> <p>Full site surveys were undertaken to assess environmental and other site issues. A social and regional impacts assessment was undertaken as part of the Business Case.</p> <p>The Project required all Respondents to submit a Victorian Industry Participation Policy (VIPP) Plan that was assessed and used in accordance with the updated 2008 VIPP policy. The VIPP Plan ensures that the Project adequately addresses issues relating to local industry employment and capability.</p>

Ararat Prison Project – Public Interest Test – Contractual Close 3 May 2010		
Element	Standard	Assessment
<p>Equity</p> <p>Are there adequate arrangements to ensure that disadvantaged groups can effectively use the infrastructure or access the related service?</p>	<p>The key disadvantaged groups expected to use the infrastructure and access the services are those with physical impairment, the aged and frail.</p> <p>The Project must comply with all relevant government policies and laws including:</p> <ul style="list-style-type: none"> ▪ <i>Charter of Human Rights and Responsibilities Act 2006</i> ▪ Correctional Management Standards ▪ <i>Disability Act 2006 and the Disability Discrimination Act 1992 (Cth)</i>. <p>The private party must comply with all relevant employment and equity laws and policies.</p>	<p>Initial community consultation occurred during the development of the Business Case to identify and address issues of equity.</p> <p>The Project aims to ensure the safe and secure containment of prisoners, and complies with all relevant equity laws and regulations (e.g. <i>Charter of Human Rights and Responsibilities Act 2006</i> and Correctional Management Standards).</p> <p>The building standards to be met by the private sector will ensure equity is adequately addressed. The Project will implement training for CV staff to enable management of the PPP contract.</p>
<p>Public Access</p> <p>Are there safeguards that ensure ongoing public access to essential infrastructure?</p>	<p>The Project must ensure ongoing public visitor access (as appropriate) and ongoing supply of correctional services in the event of breach of contract.</p>	<p>The design provides for adequate and appropriate public visitor access.</p> <p>The Project Agreement provides the State with step-in rights to secure access to the facility in the event the private party is in breach of its contractual obligations.</p>
<p>Consumer rights</p> <p>Does the Project provide sufficient safeguards for service recipients, particularly those for whom government has a high level of duty of care, and/or the most vulnerable?</p>	<p>Government must ensure the following policies and laws are complied with:</p> <ul style="list-style-type: none"> ▪ <i>Charter of Human Rights and Responsibilities Act 2006</i> ▪ <i>Strategic Priorities 2007</i> ▪ Reviewing Police Cells Management Project. <p>In addition, there are a number of government responsibilities that need to be addressed in relation to:</p> <ul style="list-style-type: none"> ▪ the general prison population ▪ mental health beds ▪ sexual offenders and how they are housed. 	<p>The Project is focused on assisting CV to meet its responsibilities to prisoners by reducing the negative impacts of overcrowding, i.e. providing one person per cell on a permanent basis (where possible) and providing appropriate levels of privacy for prisoners.</p> <p>The Project will ensure compliance with the Charter of Human Rights, which establishes an individual's right to humane treatment when deprived of liberty. This will be achieved by the provision of new prison infrastructure and limiting the use of double-bunk accommodation.</p> <p>The Project allows for appropriate governance and contractual arrangements to be put in place to ensure all other government obligations are met.</p>

Ararat Prison Project – Public Interest Test – Contractual Close 3 May 2010		
Element	Standard	Assessment
<p>Security</p> <p>Does the Project provide assurance that community health and safety will be secured?</p>	<p>The Project needs to ensure:</p> <ul style="list-style-type: none"> ▪ all relevant occupational health and safety standards are met ▪ government can meet its duty of care obligations to prisoners, staff and visitors. 	<p>The Project aims to ensure the safe and secure containment of prisoners and facilitate reduced rates of re-offending, which will promote community health and safety. It will achieve this through the provision of new prison infrastructure and by limiting the use of double-bunk accommodation, which mitigates the successful delivery of the programmatic and rehabilitative aspects of prison.</p> <p>The Project requires compliance (by all contractors involved) with the <i>Occupational Health and Safety Act</i> (the Act) and all relevant codes of practice that establish health and safety guidelines supporting the Act (i.e. covering such issues as demolition, electrical installations and general construction site health and safety).</p> <p>WorkSafe Victoria (as part of the Victorian WorkCover Authority) is the regulatory agency that both facilitates and enforces compliance with health and safety laws. Its framework encourages compliance and a strong deterrence against poor performance.</p> <p>The contractual arrangements will ensure that all health and safety standards are met in the same way as regular Department of Justice capital work projects. Particular attention has been given by the Project to access arrangements.</p>
<p>Privacy</p> <p>Does the Project provide adequate protection of users' rights to privacy?</p>	<p>Applicable privacy standards with which the Project is required to comply are set out in:</p> <ul style="list-style-type: none"> ▪ <i>Freedom of Information Act 1982</i> ▪ <i>Information Privacy Act 2000</i> 	<p>As the responsibility for the provision of custodial and other core services will remain with CV, the Project will ensure the protection of rights to privacy through adherence to the <i>Freedom of Information Act 1982</i> and the <i>Information Privacy Act 2000</i>. Private sector parties are contractually bound to meet the same requirements.</p>