

**EXAMINATION OF THE AUDITOR-GENERAL'S
PERFORMANCE AUDIT REPORTS FEBRUARY 2016
– SEPTEMBER 2016**

Organisation: Department of Premier and Cabinet

Name: Mr Simon Draper

Date Received: 13 April 2017

received 13.4.2017



Premier & Cabinet

Reference: A2046321

Mr Bruce Notley-Smith MP
Chair
Public Accounts Committee
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Mr Notley-Smith

I refer to your letter of 9 March 2017 to the Secretary requesting a response to the Performance Audit 'Managing Unsolicited Proposals in NSW'. The Secretary has asked me to respond on his behalf.

The Department of Premier and Cabinet (DPC) supports the majority of the recommendations made and intends to update the *Unsolicited Proposals Guide for Submission and Assessment* (February 2014) (the "Guide") accordingly. I have attached DPC's response to the audit in the format requested – 'Implementation of Recommendations.'

DPC has prepared a draft updated Guide for Cabinet consideration. In order to update the Guide, the approval of the Cabinet Infrastructure Committee (CIC) is required. Before CIC approval is sought, DPC considers it prudent to wait for the findings/recommendations of the NorthConnex Performance Audit to see whether any other amendments to the Guide are suggested. NorthConnex was an unsolicited proposal and therefore evaluated in accordance with the Guide.

I am pleased to advise that DPC will be publishing the status of implementing performance audit recommendations in its 2016-2017 Annual Report.

If you have any queries, please contact Mr Con Kargas, State Economy Branch on tel: 9228 5407 or email: con.kargas@dpc.nsw.gov.au

Yours sincerely

Simon Draper
Deputy Secretary
Economic Policy Group

5 April 2017

IMPLEMENTATION OF RECOMMENDATIONS

Department of Premier and Cabinet

Managing Unsolicited Proposals in NSW

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DUE DATE	STATUS (completed, on track, delayed) and COMMENT	RESPONSIBILITY (Section of agency responsible for implementation)
1 Revise the 'Unsolicited Proposals: Guide for Submission and Assessment' to address matters of detail, including: 1.1 clarify the intended scope and meaning of the 'oversight' provided by DPC over the unsolicited proposal assessment	Accepted (subject to Cabinet Infrastructure Committee (CIC) approval)	Seek CIC approval of updated Guide	July 2017	On track. DPC has prepared a draft updated Guide. However, DPC considers it prudent to wait for findings/recommendations of the NorthConnex Performance Audit to see whether any other amendments to the Guide are suggested before seeking CIC approval for the updated Guide.	State Economy Branch, DPC

	process 1.2 clarify the application of the term 'government' 1.3 better explain how 'value for money' is addressed as one of five probity fundamentals, including the role of probity advisers in reviewing this probity fundamental 1.4 require probity advisers be appointed for unsolicited proposals that progress beyond Stage 1, except where a proposal satisfies prescribed criteria 1.5 clarify options for unsolicited proposals that are found not to meet the criteria for direct dealing.					
2	Facilitate whole-of-government understanding of the unsolicited proposals process and related matters by releasing a Premier's Memorandum on this topic.	Accepted (subject to CIC approval)	Seek CIC approval of updated Guide before seeking the Premier's approval to issue a Memorandum	August 2017	On-track. DPC has prepared a draft updated Guide. However, DPC considers it prudent to wait for findings/recommendations of the NorthConnex Performance Audit to see whether any other amendments to the Guide are suggested before seeking CIC approval for the updated Guide. A Premier's Memorandum will be developed once CIC has considered the updated Guide.	State Economy Branch, DPC
3	Expand the existing scheme of public reporting for unsolicited proposals	Partly accepted (subject to CIC approval)	Seek CIC approval of updated Guide	July 2017		State Economy Branch, DPC

received by government by: 3.1 publishing aggregate data about all proposals that are received, including reasons for being declined 3.2 publishing more detailed information for proposals that proceed beyond Stage 1 to reassure the public that governance and probity processes have been followed	3.1 Accepted 3.2 Not accepted			3.1 Completed 3.2 Stage 2 of the process enables development of the proposal to a level of detail necessary for Government to enter into an agreement, and will generally contain commercially sensitive information and intellectual property. Maintaining this confidentiality encourages the submission of proposals. In addition, the Government is not committed prior to accepting a proponent's Final Binding Offer at the end of Stage 3 and therefore the only relevant detailed information on a proposal would be available at the end of Stage 3. DPC will continue to disclose brief details of proposals that proceed to Stage 2 (and 3) and the Government will publish further information as appropriate, consistent with the Crown Sydney Resort (assessment reports and other information published) and NorthConnex (web site established) projects. 3.3 Subject to the nature of the proposal, the relevant agency will comply with the Government's standard public disclosure requirements, such as those described in the <i>Government Information (Public Access) Act 2009 (NSW)</i> .
3.3 publishing an audited contract summary for successful unsolicited proposals greater than \$100 million.	3.3 Accepted – refer to Comment (subject to CIC approval)			

4	<p>Clarify the requirement that government 'have regard to relevant processes and approval requirements' related policy documents' (as set out in section 3.7 of in 'Unsolicited Proposals: Guide for Submission and Assessment') including clarifying:</p> <p>4.1 the policy intent of the expression 'have regard to'</p> <p>4.2 who is responsible for giving regard to other relevant processes and approval requirements</p> <p>4.3 at what stage in the unsolicited proposal process regard should be given to other relevant processes and approval requirements</p> <p>4.4 how consideration of these matters is documented.</p>	Accepted (subject to CIC approval)	Seek CIC approval of updated Guide	July 2017	<p>On-track.</p> <p>DPC has prepared a draft updated Guide. However, DPC considers it prudent to wait for findings/recommendations of the NorthConnex Performance Audit to see whether any other amendments to the Guide are suggested before seeking CIC approval for the updated Guide.</p> <p>4.4 DPC has updated its template Governance Plan and Assessment Reports to include a section on the consideration of other procurement policy documents (e.g. NSW PPP Guidelines) and/or project assurance frameworks (e.g. Infrastructure Investor Assurance Framework).</p>	State Economy Branch, DPC
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