

# COMPLIANCE

## Key lessons learnt

Business cases should identify the key statutory obligations, policies and standards which apply. The business case should also present strategies for achieving and demonstrating compliance. This will enable better decision making by government through better understanding the requirements in delivering outcomes.

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## Introduction

Business cases for the NSW Government are a critical element within the decision-making process. Fundamental to this decision making is for government to properly understand the key relevant statutory obligations, policies and standards that apply both during project delivery and service provision. A good practice business case should:

- ▶ identify key statutory obligations, policies and standards to which the project must comply
- ▶ identify key policies and standards that have been adopted
- ▶ describe any particular benefits or costs that may apply as a result
- ▶ demonstrate how compliance will be achieved and validated

Identifying these issues in the business case will allow the mitigation of risk through compliance. This will better inform government on some of the likely outcomes and enable better decision making.

## Key considerations

Projects are obliged to comply with a range of local, State and Federal statutory obligations that are relevant to the nature of the infrastructure and/or services being delivered. (Such as Work Health and Safety, Rail Safety National Law, National Heavy Vehicle Law, Industrial Relations, Environment and Planning). In addition, projects are required to comply, or may elect to comply with, range of relevant policies and standards that are set by:

- ▶ the Federal Government (if federal funding is involved), such as the Federal Building Code

- ▶ the NSW Government, such as the NSW Procurement Policy Framework and associated guidelines and policies including:
  - Small and Medium Enterprises framework
  - Policy on Aboriginal Participation in Construction (APIC Policy)
  - Code of Practice for Procurement and associated Implementation Guidelines for Procurement: Building and Construction Industry
- ▶ the department or agency for which the project is being delivered (such as operational and customer performance standards)
- ▶ the department or agency delivering the project (such as sustainability and workforce training and development)
- ▶ Agency, National and/or international organisations – such as the Assets Standards Authority and Standards Australia, including design standards, system engineering, quality assurance and design.

The business case should identify the key requirements that are fundamental to achieving the core outcomes of the project, as well as any additional requirements that add to these outcomes. It should also outline the strategy for achieving and demonstrating compliance, (i.e. who and how) and identify, where practical, any separate component of benefits and/or costs associated with meeting any additional requirements. For example, an agency may impose standards greater than those in national design standards, or require additional workforce training and development that, whilst adding to project costs, may deliver substantial additional downstream benefits.

For a relatively simple business case, the implementation strategy may be by means of allocating responsibility to a future delivery contractor or service provider with governance and compliance validation by the relevant department or agency. However, for more complex projects, obligations may spread across a range of delivery packages with a separate operator/maintainer and the strategy outlined accordingly. In this case, overall compliance may be a result of combined outcome including:

- ▶ complying with Work Health and Safety law where packages are delivered through different contractors, potentially working concurrently on the same site and/or handing sites between entities
- ▶ complying with planning approval conditions (that are yet to be determined) but will likely include cumulative issues such as traffic, noise and vibration

- ▶ achieving rail safety accreditation with the role of Rail Infrastructure Manager(s) and Rolling Stock Operator (RSO) spread across separate entities. Ultimately the RSO must be able to assure itself that the new infrastructure is safe to operate before opening for passenger service
- ▶ using Independent (Third Party) Certification to demonstrate compliance, including for overall compliance/completion and potentially for handover between entities.

The business case cost plan and program should align with the compliance requirements and strategy to ensure consistency. The risk management plan should also identify the risk of non-compliances to the extent that these are considered major risks.

## Source material

Building Code 2013 compliance

AGBC WHS Accreditation Scheme compliance

Australian Industry Participation Plan (AIP)

Austroroads Guide to Traffic Management and Australian Standards AS 1742, 1743 & 2890

### ▶ About the author:

John McLuckie is an independent consultant who has held senior roles in the planning, definition, design, delivery, operation and maintenance of major infrastructure assets. Over the last decade, John has primarily been involved in the definition, procurement and delivery of major rail and road projects for the NSW Government. He was a founding member of both Evans & Peck (1987-1999) and of Everything Infrastructure Group (2006-2017).