

COPY



Government of South Australia

Department of Planning,
Transport and Infrastructure

In reply please quote 2009/04202
Enquiries to Michael Whitford
Telephone (08) 8343 2729

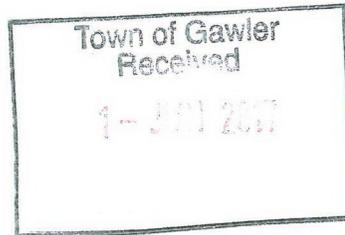
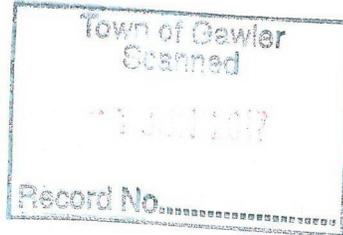
**PEOPLE AND BUSINESS
DIVISION**

77 Grenfell Street
Adelaide SA 5000

GPO Box 1533
Adelaide SA 5001

Telephone: 08 8343 2222
Facsimile: 08 8343 2768

ABN 92 366 288 135



Mr Henry Inat
Chief Executive
Town of Gawler
PO Box 130
GAWLER SA 5118

Henry
Dear Mr Inat

GAWLER EAST LINK ROAD

I refer to the Gawler East Link Road Deed and the Project Governance Deed delivered to this office on 11 May 2017.

I am pleased to advise that both deeds were fully executed on 25 May 2017 by the Minister for Transport and Infrastructure. Attached is one fully executed copy of both Deeds for your records.

I wish to take this opportunity to thank you and your staff for the professional and collaborative engagement with the Department of Planning, Transport and Infrastructure in the preparation of these agreements.

Yours sincerely

Don Hogben
General Manager, Planning and Transport Policy

31 May 2017

DATED 25th DAY OF May 2017

Project Governance Deed

Minister for Transport and Infrastructure (**Minister**)

Town of Gawler (**Council**)

Gawler East Link Road Project

THIS DEED is made the 25th

day of May

2017

BETWEEN:

MINISTER FOR TRANSPORT AND INFRASTRUCTURE a body corporate under the *Administrative Arrangements Act 1994* of Level 11, 45 Pirie Street, Adelaide, South Australia 5000 ("**Minister**")

AND

TOWN OF GAWLER of 43 High Street, Gawler SA 5118 ("**Council**")

BACKGROUND

- A. The Minister and Council wish to work collaboratively to deliver the Link Road Works.
- B. By entering into this Deed the Parties wish to set out the Parties' respective roles and responsibilities in relation to the delivery of the Link Road Works.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed unless the contrary intention appears:

- 1.1.1 "**ANTS GST Act**" means the A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- 1.1.2 "**Base Link Road Works**" has the same meaning as in clause 2 of the Gawler East Link Road Deed;
- 1.1.3 "**Business Day**" means any day that is not a Saturday, Sunday or public holiday in South Australia;
- 1.1.4 "**Commencement Date**" means the date specified in Item 1 of the Schedule;
- 1.1.5 "**Completion Date**" means the date specified in Item 2 of the Schedule;
- 1.1.6 "**Contingency Pool**" means the funds set aside by the Minister for the purpose of managing delivery risk, and, at the Minister's discretion, use to fund Deferred Infrastructure items or Potts Road (Lower) Option 2 or both;
- 1.1.7 "**Contract**" means the contract to be entered into between the Minister (or the Commissioner of Highways on behalf of the Minister) to construct the Link Road Works;
- 1.1.8 "**Contractor**" means the person appointed by the Minister to undertake any component of the Project;

- 1.1.9 **"Council's Representative"** means the representative of the Council specified in Item 3 of the Schedule;
- 1.1.10 **"Date for Practical Completion"** means the anticipated date for Practical Completion of the Link Road Works;
- 1.1.11 **"Deed"** means this Deed between the Parties and includes the Schedules and Annexures;
- 1.1.12 **"Defect"** means the defects as defined in the Contract;
- 1.1.13 **"Defects Liability Period"** means the period of not less than twenty four months (24) months from Practical Completion of the Link Road Works under the Contract;
- 1.1.14 **"Deferred Infrastructure"** means any road and verge-side infrastructure that is not required at the time when the Base Link Road Works are first operational and currently identified as:
- 1.1.14.1 for that portion of the Gawler East Link Road from Potts Road to the western side of the Springwood Development Land:
- (a) 1.8m wide asphalt footpath (on one side only);
 - (b) on-street parking bays to approximately 60% of the link road alignment from Potts Road to the interface with the boundary of the Springwood Development Land; and
 - (c) full street lighting;
- 1.1.14.2 for that portion of Gawler East Link Road through the Springwood Development Land from the western boundary of the Springwood Development Land to Calton Road via the Village Centre:
- (a) 1.8m wide asphalt footpath (on one side only);
 - (b) installation of a continuous common service trench (CST) on one side only;
 - (c) road flaring for left and right turning as required;
 - (d) intersection treatments to future road connection to Cheek Avenue;
 - (e) intersection treatments to future road connection to Balmoral Road;
 - (f) sewer to 40% of road length;

- 1.1.15 “**DPTI**” means the Department of Planning, Transport and Infrastructure;
- 1.1.16 “**Gawler East Development Area**” has the meaning given to it in the Gawler East Link Road Deed;
- 1.1.17 “**Gawler East Link Road**” means that portion of the Link Road Works between Potts Road and Calton Road;
- 1.1.18 “**Gawler East Link Road Deed**” means the deed entered into by the Parties on or around the date of this Deed setting out (amongst other things) the Minister’s obligations to fund and construct the Link Road Works and the Council’s obligations to repay a portion of that amount to the Minister;
- 1.1.19 “**GST**” means the tax imposed by the GST Law;
- 1.1.20 “**GST Law**” has the meaning attributed in the ANTS GST Act;
- 1.1.21 “**Intellectual Property Rights**” means any patent, copyright, trademark, tradename, design, trade secret, know how or other form of confidential information, or any right to registration of such rights and any other form of intellectual property right whether arising before or after the execution of this Deed;
- 1.1.22 “**Link Road Works**” means the various collector roads and road treatments between Calton Road and One Tree Hill Road, between One Tree Hill Road and Potts Road, and the upgrade of Potts Road, and its intersection with Main North Road more particularly specified in the Link Road Works Schedule (and which may or may not include Deferred Infrastructure as determined in accordance with this Deed) and which will be constructed on the area marked ‘ECKERMAN ALIGNMENT’ on the plan attached as Annexure 5 to the Gawler East Link Road Deed;
- 1.1.23 “**Minister**” means the Minister for Transport and Infrastructure;
- 1.1.24 “**Minister’s Representative**” means the representative of the Minister specified in Item 3 of the Schedule;
- 1.1.25 “**Parties**” means the parties to this Deed and “**Party**” means either one of them;
- 1.1.26 “**Potts Road (Lower) Options**” means the upgrade to Potts Road as part of the Base Link Road Works, currently defined as either:
- 1.2.26.1 the section of Potts Road from Main North Road to Muller Road (Option 1); or
- 1.2.26.2 the section of Potts Road from Main North Road to Mueller Road including a separate service road on the northern side (Option 2).

- 1.1.27 **“Potts Road (Upper)”** means the upgrade to Potts Road as part of the Base Link Road Works from Mueller Road to the Gawler East Link Road.
- 1.1.28 **“Practical Completion”** means the date at which the Link Road Works are practically completed in accordance with the Contract, excluding minor outstanding defects;
- 1.1.29 **“Project”** means the design and construction of the Link Road Works;
- 1.1.30 **“Project Executive Governance Group”** means the group established by the parties to manage the strategic direction, of the Project as specified in Annexure B;
- 1.1.31 **“Project Delivery Attributes”** has the meaning given to it in clause 6;
- 1.1.32 **“Project Management Group”** means the project management group set up by the Minister the purpose, membership and responsibilities of which are specified in Annexure C;
- 1.1.33 **“Project Objectives”** has the meaning given to it in clause 4.2;
- 1.1.34 **“Project Scope”** has the meaning given to it in clause 5.1;
- 1.1.35 **“Reference Design”** means the reference design which must be completed during the Project Development Phase (inclusive of design(s), reports and supporting documentation) in accordance with the requirements set out in clause 7;
- 1.1.36 **“Springwood Communities”** means Springwood Development Nominees Pty Ltd, the other party to a deed with the Council referred to as the ‘Land Deed’ in the Gawler East Link Road Deed;
- 1.1.37 **“Stakeholder Representative Group”** means the Stakeholder Representative Group set up by Council, the purpose, membership and responsibilities of which are specified in Annexure D;
- 1.1.38 **“State”** means the State of South Australia;
- 1.1.39 **“Tax Invoice”** has the meaning attributed in the GST Law;
- 1.1.40 **“Taxable Supply”** has the meaning attributed to that expression in the GST Law.

1.2 Interpretation

In this Deed unless the contrary intention appears:

- 1.2.1 a reference to this Deed is a reference to this Deed as amended, varied, novated or substituted from time to time;

- 1.2.2 a reference to any legislation or to any provision of any legislation includes:
- 1.2.3 all legislation, regulations, proclamations, ordinances, by-laws and instruments issued under that legislation or provision; and
- 1.2.4 any modification, consolidation, amendment, re-enactment or substitution of that legislation or provision;
- 1.2.5 a word importing:
 - 1.2.5.1 the singular includes the plural;
 - 1.2.5.2 the plural includes the singular; and
 - 1.2.5.3 a gender includes every other gender;
- 1.2.6 a reference to a person includes a corporation;
- 1.2.7 headings do not affect the interpretation or construction; and
- 1.2.8 a reference to a clause, Schedule or Item in a Schedule is a reference to a clause, Schedule or Item in a Schedule of this Deed.
- 1.2.9 a reference to a clause number is a reference to all of its sub-clauses;
- 1.2.10 a reference to dollars is to Australian dollars;
- 1.2.11 a reference to a party includes that party's administrators, successors and permitted assigns;
- 1.2.12 if any act pursuant to this Deed would otherwise be required to be done on a day which is not a Business Day then that act may be done on the next Business Day;
- 1.2.13 where a word or phrase is given a defined meaning, any other part of speech or grammatical form in respect of that word or phrase has a corresponding meaning;
- 1.2.14 where general words are associated with specific words which define a class, the general words are not limited by reference to that class;
- 1.2.15 the word "or" is not exclusive;
- 1.2.16 the clause headings are for convenient reference only and they do not form part of this Deed; and
- 1.2.17 in resolving inconsistencies in this Deed:
 - 1.2.17.1 this Deed (excluding the schedules and the annexures); and
 - 1.2.17.2 the annexures,

shall have priority in that order; and

- 1.2.18 in resolving inconsistencies between the Gawler East Link Road Deed and this Deed, the Gawler East Link Road Deed shall have priority.

1.3 **Background Information**

The parties acknowledge and agree that the Background is true and correct in every particular, and shall be read with and form part of this Deed.

1.4 **Good Faith and Cooperation**

Each Party agrees to cooperate with and to act in good faith in its dealings with the other Party, to facilitate the successful achievement of the Project Objectives and the performance of the Parties' respective obligations under this Deed.

2. **PRINCIPLES**

The relationship between the Parties will be characterised by:

- 2.1 *Understanding and Respect:* the Parties will, at all times, seek to understand each other's needs and treat each other's priorities and perspectives with professional respect;
- 2.2 *Open, Honest and Transparent Communication:* the Parties will keep each other informed of events, activities, plans and projects that are of interest, relevance or significance to this Deed;
- 2.3 *Best for Project Outcomes & Value for Money:* the Parties agree to undertake design-development, procurement, community and stakeholder consultation, and construction in accordance with the Project Delivery Attributes to deliver best project outcomes and value for money; and
- 2.4 *Project Objectives & Project Scope:* the Parties agree to undertake the Project to meet the Project Objectives and deliver the Project Scope.
- 2.5 *Appropriate Risk Management:* the Parties agree that the delivery of the Project will require ongoing monitoring and management of project risks to aim to reduce the risk profile and ensure the total Maximum Amount as defined in the Gawler East Link Road Deed is not exceeded.

3. **PROJECT GOVERNANCE STRUCTURE**

- 3.1 The parties will establish the Project Executive Governance Group to manage and make recommendations regarding the strategic direction of the Project as specified in Annexure B.
- 3.2 The Minister will have regard to the recommendations of the Project Executive Governance Group.

- 3.3 Resolution of any issues of conflict arising under this Deed or with other key stakeholders will, in the first instance, be referred to the Project Executive Governance Group.
- 3.4 In the event that the Project Executive Governance Group cannot satisfactorily resolve a conflict or dispute that may arise, the Project Executive Governance Group will escalate the matter to the Chief Executive of the Department of Planning, Transport and Infrastructure and Chief Executive of the Town of Gawler for resolution.
- 3.5 In the event that the Chief Executive of the Department of Planning, Transport and Infrastructure and Chief Executive of the Town of Gawler cannot satisfactorily resolve the conflict in accordance with clause 3.4, the Minister will decide on a suitable resolution.
- 3.6 The Minister will establish the Project Management Group in accordance with Annexure C.
- 3.7 The Council will establish the Stakeholder Representative Group to support and work with the Project Management Group in accordance with Annexure D.

4. **PROJECT OBJECTIVES**

- 4.1 Once constructed the Gawler East Link Road will play an integral part in servicing both the existing and future communities of the Gawler East Development Area and beyond, as well as reduce the impact of traffic generated from growth in our region on the Gawler Town Centre. It will also allow Council to meet its long term strategic objective of a future direct extension of the Link Road to the intersection of Tiver Road/Main North Road.
- 4.2 The objectives of the Project ("**Project Objectives**") are to:
 - 4.2.1 Support planned residential development in the Gawler East Development Area, as identified in the 30-Year Plan for Greater Adelaide and the *Gawler Growth Areas Transport Framework 2009* and the *Town of Gawler Development Plan*;
 - 4.2.2 Provide traffic with direct access to Main North Road without travelling through the Gawler town centre, reducing travel times, reducing the likelihood of crashes and cutting the vehicle emissions caused by travel delays;
 - 4.2.3 Provide economic and social benefits for Town of Gawler residents and support local jobs over the life of the project; and
 - 4.2.4 Meet the long term strategic objective of a future direct extension of the Gawler East Link Road to the intersection of Tiver Road/Main North Road.

5. **PROJECT SCOPE**

- 5.1 The scope of works for the Link Road Works includes the design and construction of:

- 5.1.1 Gawler East Link Road (endorsed Revised Eckerman alignment);
- 5.1.2 Gawler East Link Road through the Springwood Communities (developer) land to the north, connecting to Calton Road;
- 5.1.3 Upgrade of Potts Road between Main North Road and the Gawler East Link Road; and
- 5.1.4 Upgrade of Potts Road intersection with Main North Road and Para Road,

(**"Project Scope"**).

- 5.2 The Council's and Springwood Communities concept and feasibility work undertaken prior to entering into this Deed is referenced in Annexure F and will inform the Stakeholder Representative Group's position with respect to the design of the Project Scope.

6. **PROJECT DELIVERY ATTRIBUTES**

The Project's delivery shall be characterised by the following attributes (**"Project Delivery Attributes"**):

- 6.1 undertake the Project in a manner which minimises the risk of causing injury or death to personnel or the public;
- 6.2 deliver high quality transport infrastructure and related services (through design and construction) that meets the Project Objectives and Project Scope;
- 6.3 encourage innovative thinking and deliver value for money outcomes within budget (including whole of life costs to maximise value for money in capital and maintenance costs);
- 6.4 meet or better all agreed milestones and finish the Project ahead of the publicly announced completion date;
- 6.5 identify and mitigate risks due to design and construction throughout the Project;
- 6.6 minimise traffic delays, impacts and disruptions to adjacent residents, businesses and the wider community;
- 6.7 ensure the community and stakeholders are adequately consulted and informed about the Project (including outcomes, processes, progress);
- 6.8 ensure any property acquisition is undertaken in accordance with applicable law, policies and guidelines, whilst being sympathetic to property owner impacts and emotional well-being;
- 6.9 identify potential environmental impacts and determine solutions to minimise impacts;
- 6.10 encourage collaboration with honest and open communication, ensuring both appropriate allocation of responsibilities and accountability; and

- 6.11 provide a satisfying work environment and culture by ensuring that all personnel work together as a team, have an adequate opportunity to contribute and a willingness to listen and learn, and enhances the reputation of all parties involved in the Project.

7. PROJECT DEVELOPMENT PHASE

- 7.1 DPTI will facilitate design scope workshops including the development of relevant documentation, involving the Stakeholder Representative Group for the purpose of:
- 7.1.1 identifying the key risks, issues, constraints and opportunities as they relate to the Project;
 - 7.1.2 developing the Reference Design (and accompanying design report(s)) and the Project Scope in accordance with DPTI's Contract Scope & Technical Requirements document ("CSTR"), to allow finalisation and approval of:
 - 7.1.2.1 design cross-section and infrastructure requirements (inclusive of Deferred Infrastructure) for the Link Road Works;
 - 7.1.2.2 the extent of scope of the Deferred Infrastructure;
 - 7.1.2.3 the design cross-section and infrastructure requirements for the Potts Road (Upper) section;
 - 7.1.2.4 the design cross-section and infrastructure requirements for the Potts Road (Lower) Options ; and
 - 7.1.2.5 the design of the Main North Road / Potts Road intersection and which considers the current broader network and traffic issues in the vicinity of the intersection;
 - 7.1.3 undertaking an updated cost estimate on the Reference Design and accompanying CSTR;
 - 7.1.4 identification of the funds that may need to be set aside by the Minister for the Contingency Pool;
 - 7.1.5 advancing land acquisition requirements;
 - 7.1.6 advancing community and stakeholder consultation for the Reference Design;
 - 7.1.7 facilitating the development of contract documentation for the procurement and contract; and
 - 7.1.8 reporting of the Reference Design (during its development and on completion of the final Reference Design) to the Project Executive Governance Group.

- 7.1.9 reporting of the Reference Design (during its development) to Council and Springwood Communities as required by the Project Executive Governance Group.
- 7.2 The Parties acknowledge and agree that:
- 7.2.1 the Reference Design shall be advanced to a sufficient level whereby critical and or high risk items have been identified and mitigated; and
- 7.2.2 the Reference Design and accompanying Design Report shall be independently reviewed by a suitably qualified and accredited consultant.
- 7.3 During the development of the Reference Design and when sufficient design-development has been completed, a consultation workshop shall be held with Council.
- 7.4 At the conclusion of the scope development specified in clauses 7.1 to 7.3 (inclusive) subject to acceptance of the design and cost estimates by the Project Executive Governance Group (including without limitation agreement by the Project Executive Governance Group of sufficient project contingency), the Council will give notice in writing to the Minister that it endorses the scope of the Link Road Works.

8. PROJECT DELIVERY PHASE

The Project shall be managed by DPTI and the Project Management Group in accordance with this Deed and the following requirements:

- 8.1 to the established DPTI Project Management, Procurement Management and Contract Management systems to deliver projects;
- 8.2 developing and implementing a project management and delivery framework for the duration of the Deed that verifies the suitability of the design and construction to the Project Executive Governance Group on progress and issues;
- 8.3 reviewing all concept feasibility planning investigation and any other information, and arranging for any additional investigations and project specific planning and the development of the Reference Design;
- 8.4 using value management processes to identify, develop and evaluate potential improvements to the concept design(s) that have been developed;
- 8.5 developing communications strategies, processes and materials for the project and for the acquisition of properties, and proactively engaging with the public and key stakeholders;
- 8.6 undertaking risk management, which includes identification and assessment of risks and opportunities, and analyses of risk and opportunity treatment options;

- 8.7 identifying and minimise the impact of the project on the environment and ensuring all aspects of the project comply with approval conditions;
- 8.8 completing the design and relevant reports, for the purposes of defining the works, describing how the objectives and brief have been achieved, design evolution, and design assumptions, parameters and criteria adopted;
- 8.9 ensuring that design independent verification, proof engineering and road safety audits are undertaken;
- 8.10 identifying, developing and evaluating potential improvements to construction processes, and preparing appropriate construction specifications;
- 8.11 preparing detailed programmes for design and construction of the works;
- 8.12 completing total project cost estimates and permitting scrutiny by an independent reviewer at key stages; and
- 8.13 preparing the relevant contract documentation, undertaking procurement and administration of the Contract.
- 8.14 The Parties acknowledge and agree that DPTI is responsible for the overall management and delivery of the Link Road Works, under the governance of the Project Executive Governance Group in accordance with this Deed. The Parties will work together to facilitate the establishment of the design and specifications in accordance with Annexure A and by doing the tasks and activities in accordance with the Principles set out at clause 2.
- 8.15 The Parties acknowledge the importance of the Commencement Date and Completion Date for the Link Road Works, and will use all reasonable efforts and cooperate with each other to achieve that end.
- 8.16 The Council will give timely and due consideration to any statutory or Council approvals required of the Council relating to the planning, design and construction of the Link Road Works.

9. PROCUREMENT AND CONTRACT MANAGEMENT

- 9.1 The Minister will contract as principal with contractors.
- 9.2 The recommended procurement model for the Link Road Works shall be developed by a collaborative approach between the Parties as illustrated in Appendix B Figure 2 Procurement Model – Decision Making and Approval Framework. The procurement model will require initial approval by the Project Executive Governance Group and final approval by the Minister.
- 9.3 The Project Executive Governance Group, Project Management Group and the Stakeholder Representative Group will provide recommendations in accordance with the procurement model in Figure

2 of Annexure B or the procurement model approved by the Minister in accordance with clause 9.2.

- 9.4 The Minister will undertake all necessary procurement processes to enable the design and construction of the Link Road Works in accordance with any State Government procurement requirements and policies (including without limitation the State Government's Industry Participation Policy).
- 9.5 The Minister will issue for tender on the basis that:
 - 9.5.1 the design for the construction of the Link Road Works will include both the design for the Base Link Road Works, Deferred Infrastructure, and upgrades to Potts Road (as part of the Base Link Road Works);
 - 9.5.2 the procurement will need to include separate costings for the Base Link Road Works, Deferred Infrastructure (within and outside of the Springwood Communities land) and the Potts Road (Lower) Options.
- 9.6 Following receipt of tenders and prior to Contract award, the Project Executive Governance Group will consider and advise the Minister of the Project Executive Governance Group's recommendations (as applicable) as to:
 - 9.6.1 which treatments or components of the Link Road Works (including Deferred Infrastructure items) could be appropriately varied or removed from the Link Road Works for the purposes of clause 4.2 of the Gawler East Link Road Deed; or
 - 9.6.2 which items of the Deferred Infrastructure will be delivered as part of the Link Road Works for the purposes of clause 4.3.5 of the Gawler East Link Road Deed;
 - 9.6.3 which Potts Road (Lower) Options will be delivered as part of the Link Road Works for the purposes of clause 4.3.5 of the Gawler East Link Road Deed; and
 - 9.6.4 the recommended Contingency Pool at the commencement of the Contract.
- 9.7 The Minister will consider the recommendation of the Project Executive Governance Group and decide:

- 9.7.1 which treatments or components of the Link Road Works (including Deferred Infrastructure items) could be appropriately varied or removed from the Link Road Works;
- 9.7.2 which items of the Deferred Infrastructure will be delivered as part of the Link Road Works;
- 9.7.3 whether and which of either the Potts Road (Lower) Options will be delivered as part of the Link Road Works;
- 9.7.4 the Contingency Pool at the commencement of the Contract.
- 9.8 The Project Executive Governance Group may request that the Minister considers releasing further funds from the Contingency Pool during the Contract for the purposes of delivering Deferred Infrastructure items.

10. PROJECT COMPLETION

- 10.1 Following Practical Completion, the Minister must provide the Council with a copy of any certificates of completion for the Link Road Works.
- 10.2 Following Practical Completion Council will be responsible for the maintenance of those components of the Link Road Works that will vest in Council (other than Main North Road).
- 10.3 The Minister must within 28 days of Practical Completion:
 - 10.3.1 procure from the Contractor all warranties, undertakings and guarantees from subcontractors, suppliers, manufacturers and consultants required to be provided to the Minister under the Contract ("**Warranties**") relating to the Link Road Works; and
 - 10.3.2 submit the Warranties to the Council or where that is not permitted under the Contract, the Minister will advise Council of that fact and clause 10.5 (below) will then apply to those Warranties.
- 10.4 The Minister must, within 28 days of Practical Completion:
 - 10.4.1 assign to the Council (at no cost to the Council) all of the Minister's right, title and interest and benefit of all Warranties, which have been issued in respect of the Link Road Works (including but not limited to the benefit of the Defects Liability Period); and
 - 10.4.2 execute in favour of Council any document reasonably necessary to give effect to the assignments referred to in clause 10.4.1.
- 10.5 If any document referred to in clause 10.3.1 is not capable of assignment or if any assignment is not permitted or is ineffective at law or equity, the Minister must hold the right, title, interest and benefit of the Minister under the documents referred to in clause 10.3.1 on trust and for the benefit of the Council and, at the cost of the Minister, do any

act or matter or thing reasonably required by the Council in connection with the enforcement of rights and remedies under those documents.

10.6 The Minister will following Practical Completion or at the time stipulated in the Contract):

10.6.1 provide copies of all final "as built" documents to the Council to retain (for the Council's benefit) in PDF and DWG formats, including but not limited to design drawings, reports, approvals, authorisations and certificates (as specified to be delivered within the Contract);

10.6.2 procure for the benefit of the Council a licence (for no fee) to use the material of the Intellectual Property Rights in the design documents and any other documentation created by the Contractor for the Link Road Works;

10.6.3 provide copies of all relevant certificates of compliance (including electrical works) to the Council to retain (for the Council's benefit);

10.6.4 provide copies of all maintenance manuals, owner's manuals, and warranty documents; and

10.6.5 provide an accurate cost breakdown by asset class.

10.7 **Minister and Contractor**

The Minister acknowledges:

10.7.1 during the course of the Link Road Works and throughout the Defects Liability Period, the Minister is responsible for monitoring the progress of the Contractor (including monitoring Defects) and enforcing the Minister's rights against the Contractor; and

10.7.2 the Minister must keep the Council informed of any formal dispute under the Contract that relates to the Link Road Works.

10.8 **Inspections**

Subject to the site safety protocols applying to the Link Road Works and the reasonable direction of the Minister and the Contractor, at any time during the course of construction of the Link Road Works or as specified within the contract documentation (including during the Defects Liability Period) the Council or any of its representatives (acting reasonably) may inspect:

10.8.1 the Link Road Works and

10.8.2 any materials before, during and after fabrication for incorporation into the Link Road Works.

10.9 Handover of Link Road Works

- 10.9.1 The Council and the Minister must arrange for a joint inspection of the Link Road Works 4 weeks before the anticipated Date for Practical Completion for the Minister to identify any Defect (if Any) required to be made good by the Contractor.
- 10.9.2 The Minister must complete a practical completion handover report and send it to the Council within 10 Business Days following the joint inspection in clause 10.9.1.
- 10.9.3 The Council and the Minister must arrange for a joint inspection of the Link Road Works, no later than 4 weeks prior to the expiry of the Defects Liability Period, for the Minister to identify any Defect (if any) required to be made good by the Contractor under the Contract.
- 10.9.4 The Minister must complete a final handover report and send it to the Council within 10 Business Days following the joint inspection in clause 10.9.3.
- 10.9.5 At the end of the Defects Liability Period, the Minister will require a Handover Letter from Council outlining its acceptance of the care, control and ownership of the Link Road Works (other than Main North Road) following, or subject to, the completion of all outstanding Defects
- 10.9.6 In the event an extraordinary or complex defect occurs following handover of the Link Road Works in accordance with clause 10.9.5 (for those elements which vest with the Council), the Minister will provide reasonable assistance (not monetary) to assist the Council in resolving the matter.

11. INTELLECTUAL PROPERTY RIGHTS

Each Party warrants that in undertaking the Link Road Works that it is not infringing the Intellectual Property Rights of any person.

12. AUTHORISATION AND APPROVALS

- 12.1 The Minister may authorise any person whom he/she selects to exercise any of his/her powers or rights under this Deed and may vary or revoke an authorisation at will.
- 12.2 The Minister may conditionally or unconditionally give or withhold his/her approval or consent in his/her absolute discretion unless this Deed expressly provides otherwise.

13. PUBLICITY

- 13.1 The Project Executive Governance Group must endorse any community and stakeholder consultation strategy, public statement and the publication of information in any form in relation to the Link Road Works,

except where a Party is required by law or convention to disclose the information.

13.2 Each Party must ensure that any media release or publicity material issued in relation to the Project acknowledges the contribution made by the other Party.

13.3 Each Party shall consult the other Party before initiating any publicity, such as an official opening or similar ceremony and the content of any signage or other written publication must acknowledge the contribution of the other Party in the manner specified by the other Party.

14. **GOODWILL**

The Parties will, at all times, act with goodwill towards each other. Each Party will take all action necessary to ensure that the other Party's reputation, good standing and image is not prejudiced in any way by it carrying out the Link Road Works.

15. **GENERAL**

15.1 **No Assignment by the Council**

The Parties' rights and obligations under this Deed are not assignable.

15.2 **Entire Agreement**

This Deed contains the entire agreement between the Parties with respect to its subject matter (in addition to the Gawler East Link Road Deed) and it supersedes any prior agreement or understanding of the parties on the subject matter.

15.3 **Governing Law**

15.3.1 This Deed is governed by the laws in the State.

15.3.2 The courts of the State have exclusive jurisdiction in connection with this Deed.

15.4 **No Waivers**

A Party waives a right under this Deed only by written notice to that effect. Nothing else done or omitted to be done by either Party in relation to that Party's rights under this Deed will have the effect of a waiver.

15.5 **Modification**

15.5.1 It is acknowledged by the Parties that the terms and conditions of this Deed may by agreement of the Parties be modified.

15.5.2 Any modification of this Deed must be in writing and signed by each Party.

15.6 Severability

If any part of this Deed is or becomes void or unenforceable or if this Deed would, if any part were not omitted, be or become void or unenforceable then:

15.6.1 that part will be severable without affecting the remainder of this Deed and this Deed will then be read as if that part were not contained in it; and

15.6.2 the parties will attempt to renegotiate that part in good faith.

15.7 Costs

Each party will bear its own costs of and incidental to the negotiation, preparation and execution of this Deed.

15.8 No Mutual Liability

Nothing in this Deed constitutes a partnership under the *Partnership Act* (SA) 1891, joint venture or association of any kind between the Council and the Minister or renders them liable for the debts or liabilities incurred by each other.

15.9 Notice

15.9.1 Notice must be in writing and signed either by the Party or by the agent of that Party.

15.9.2 Notice can be given to a party:

15.9.2.1 personally;

15.9.2.2 by pre-paid post to the recipient's address set out in this Deed, in which case the notice is deemed to be received at the time at which it would be delivered in the ordinary course of the post;

15.9.2.3 by email transmission to the recipient's email address shown in this Deed, in which case the transmission is deemed to be received when the sending machine confirms notice that it has been sent; or

15.9.2.4 as permitted by the *Corporations Act 2001* or any other statute or regulation.

15.9.3 The addresses and numbers for service are set out in Item 3 of the Schedule.

15.9.4 A Party may from time to time change its address or number for service by notice to the other party.

15.10 Comply with Laws

15.10.1 When carrying out any activity in connection with the Project, each Party must comply with all applicable laws relating to that activity, including (but not limited to) laws requiring the obtaining of approvals, consents, licences and registrations.

15.10.2 Where a Party becomes aware of any breach by it of any law or laws in force in the State which breach arises out of or occurs or in respect of any activity carried out by that Party in connection with the Project, the Party must forthwith notify the Party's Representative in writing of the occurrence of that breach and as to the particulars of that breach.

15.11 Insurance

15.11.1 The Minister warrants that the Minister is entitled to the benefits of the South Australian Government Insurance and Risk Management arrangements administered by SAICORP, the insurance division of the South Australian Government Financing Authority in respect of the operations under this Deed.

15.11.2 The Council warrants that it is a member of the Local Government Association Mutual Liability Scheme ("the Scheme") and is bound by the rules of the Scheme pursuant to Section 142 and Schedule 1, Part 1, 2 of the *Local Government Act 1999* ("the Act") and in the event that the Council ceases to be a member of the Scheme it will forthwith, pursuant to Section 142 (1) of the Act and the Regulations Under the Act, take out and maintain insurance to cover its civil liabilities at a minimum level of cover of \$50 million.

15.12 Auditor-General

Nothing in this Deed derogates from the powers of the Auditor-General under the *Public Finance and Audit Act 1987 (South Australia)*.

EXECUTED AS A DEED

THE COMMON SEAL of the)
MINISTER FOR TRANSPORT)
AND INFRASTRUCTURE)
was hereunto affixed by the)
Authorised Officer of the Minister)
in the presence of:)



S. Swalling
.....
Witness

STEPHEN MULLIGHAN MP
.....
Full name of Authorised Officer

SANDRA KAY SWALLING
.....
Full Name of Witness

MINISTER
.....
Office Held

THE COMMON SEAL of
TOWN OF GAWLER
was affixed in the presence of:



[Signature]
.....
Signature of Mayor

[Signature]
.....
Signature of Chief Executive
Officer

SCHEDULE

Item 1

Commencement Date

Upon execution of this Deed or such other date as is mutually agreed in writing by the Parties. The Parties will use reasonable endeavours to commence works on the Link Road Works before 1 January 2018.

Item 2

Completion Date

The Parties will use reasonable endeavours to complete the works on the Link Road by 30 June 2019

Item 3

Minister's Representative

Jon Whelan
General Manager, Infrastructure Delivery Directorate
Department of Planning, Transport and Infrastructure
GPO BOX 1533
Adelaide SA 5001

Council's Representative

Sam Dilena
Manager, Infrastructure & Engineering Services
Town of Gawler
PO Box 130
Gawler SA 5118

ANNEXURE A – DESIGN & CONSTRUCTION DOCUMENTS DEVELOPMENT

Purpose

The Project shall be designed and constructed to meet the Project Objectives and Project Scope, and in accordance with DPTI's Master Specifications and any other relevant or applicable Standard or Guideline.

https://www.dpti.sa.gov.au/contractor_documents/specifications

<https://www.dpti.sa.gov.au/standards>

During the development of the Contract specifications for design and construction, modifications and refinements to the Contract Scope and Technical Requirements (CSTR) and Construction Specific Requirements (CSR) (inclusive of any additional clauses) for the purposes of incorporating into the Contract, shall be undertaken in collaboration with Stakeholder Representative Group.

ANNEXURE B – PROJECT EXECUTIVE GOVERNANCE GROUP

Project Executive Governance Group

Purpose

The purpose of the Project Executive Governance Group (PEGG) is to establish an executive forum to manage the strategic direction of the Project. In particular, it is the mechanism to:

- Ensure the deliverables meet the objectives and scope;
- Ensure delivery of the Link Road Works is effectively managed and meets appropriate accountability and prudential management;
- Ensure the financial management of the project as outlined in the Gawler East Link Road Deed;
- Review and endorse/reject recommendations and provide broad guidance to the Project Management Group as required;
- Receive and comment upon regular progress and financial reports from the Project Management Group;
- Comment on and endorse major project documents, as appropriate;
- Provide leadership for the design-development and construction of the Link Road Works;
- Deal with emerging higher level project issues;

The PEGG will be convened on a monthly basis (unless otherwise agreed) until the Completion Date taking the project through the design and documentation phases, construction, final utilisation and project close out phases. The Parties agree to jointly resource minute taking and the distribution of minutes.

Membership

Town of Gawler (Chair)	-	Sam Dilena
Springwood Communities	-	Warwick Mittiga
DPTI Executive	-	Don Hogben
DPTI Executive	-	Jon Whelan

In attendance from the Project Management Group (but not part of the PEGG), as required

DPTI Project Manager	-	Matthew Hogan
----------------------	---	---------------

In attendance from the Stakeholder Representative Group (but not part of the PEGG), as required

Stakeholder Representative	-	Angelo Lanzilli
----------------------------	---	-----------------

Terms of Reference

The PEGG has an executive advisory role representing the Parties in providing strategic oversight of the Link Road Works .

Voting and Decision Making

The members of the PEGG will each have one vote.

Formal and recorded approvals will be required in the following circumstances:

- a. on procurement processes engaged.
 - b. on the award of the Contract.
 - c. on the final scope of the Link Road Works
 - d. on the recommendation and use of the Contingency Pool
 - e. on any substantial changes to scope to ensure the project remains within the available budget.
 - f. other operational matters and design.
- Parties may send a 'Proxy' representative to PEGG meetings who will have the same voting rights as long as the alternative representative does not frustrate the passage of timely decision making.

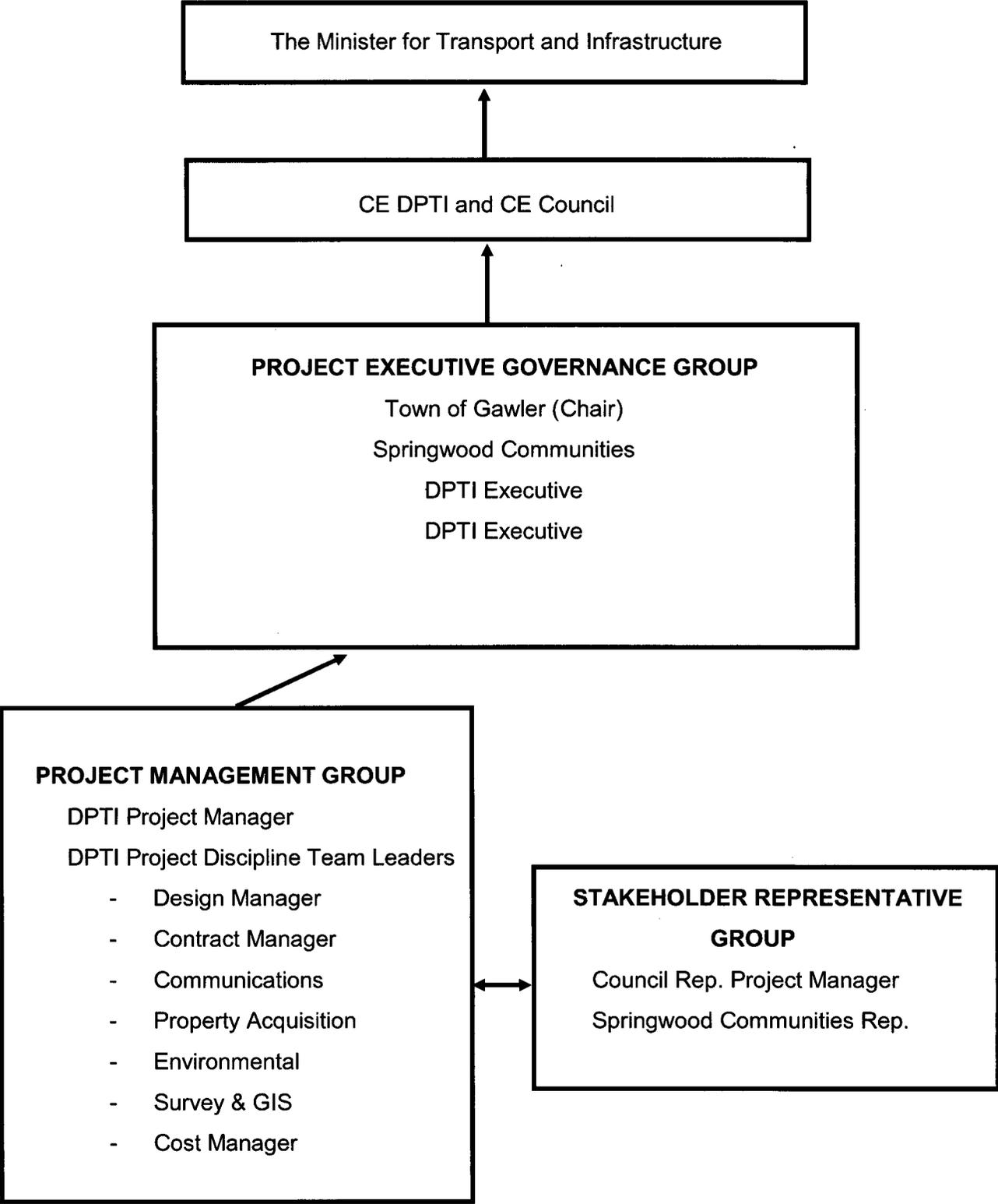
Decision Making Resolution

In any event the four voting members of the PEGG do not unanimously agree on any matter, and are unable to resolve the matter within 7 days of first meeting; the PEGG must forthwith refer the dispute to the Chief Executive, DPTI, and Chief Executive, Council. The Parties must meet and in good faith seek to resolve the dispute within 7 days of the date of referral of the dispute. If the Chief Executive, DPTI, and Chief Executive, Council cannot resolve the dispute the matter will be referred to the Minister whose decision on the matter will be final.

Flying Minute Decision Making

It is acknowledged that due to Link Road Works time constraints the voting members of the PEGG may be required to make urgent decisions to avoid delays to the schedule (for example, responsiveness to a contractor request for information or change proposal). The Parties agree that the voting members may make flying decisions documented via email.

Figure 1. Project Governance Structure



Note: Some decisions will need to be referred to the Minister or Council in accordance with existing delegations.

Figure 2. Procurement Model – Decision Making and Approval Framework

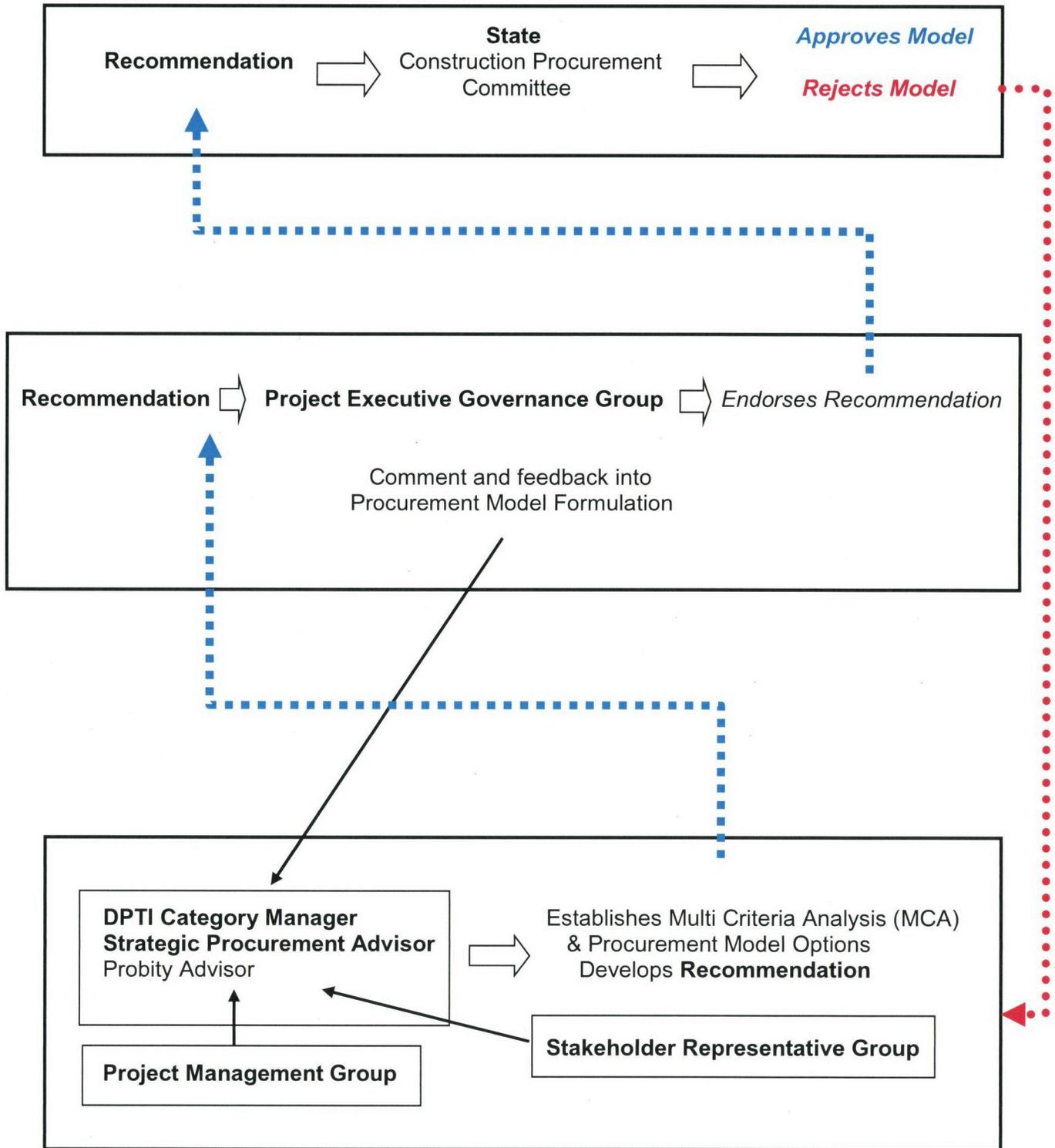
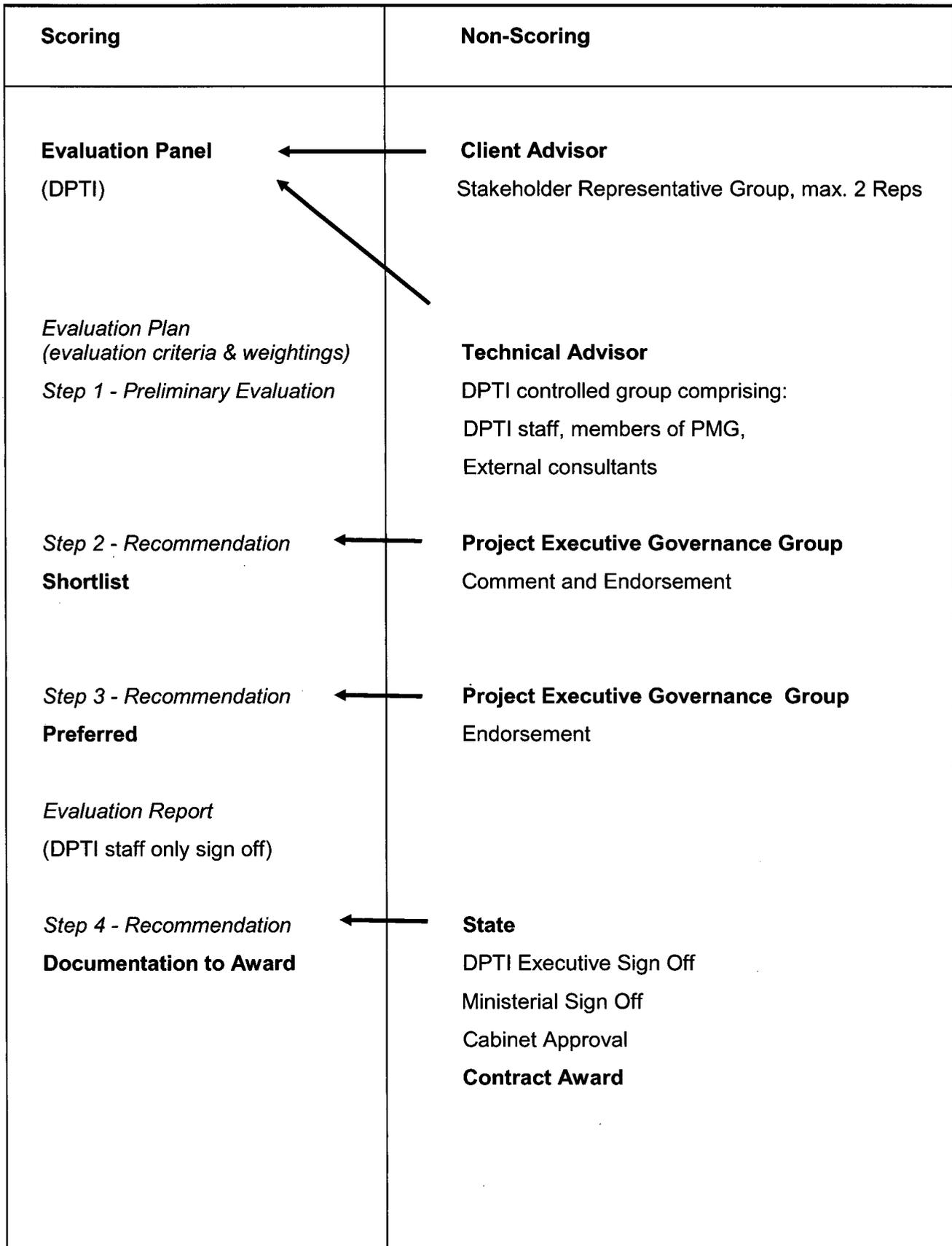


Figure 3. Procurement – Tender Evaluation Framework



ANNEXURE C – PROJECT MANAGEMENT GROUP

Project Management Group

Purpose

The purpose of the Project Management Group (PMG) is to manage and administer the 'day to day' project activities. The PMG reports through the Project Manager to the PCG and is responsible for:

- Co-ordinating early investigations contracts (as required) to inform design;
- Managing the development of the design and specifications in collaboration with the Stakeholder Representative Group;
- Advancing the procurement process, including attaining the necessary approvals (ex. Public Works Committee);
- Attaining all approvals necessary to deliver the project (ex. Environmental);
- Managing the Property Acquisition process;
- Managing project community and stakeholder communications, and liaising with the Stakeholder Representative Group in the establishment of strategies, processes and materials;
- Ensure the financial management of the project with respect to receiving updated cost estimates and the management of cost overruns or savings as outlined in the Gawler East Link Road Deed;
- Monitor the operations to ensure that the necessary approvals are in place and the prescribed processes and policies of the State and Council are adhered to;
- Managing the Contractor and contract administration;
- Managing the construction of the Link Road Works and dealing with emerging issues;
- Monitoring the program and budget of the Link Road Works;
- Ensuring the Project meets the Project Objectives and Project Scope for the Link Road Works;
- Ensuring appropriate resources are provided for the Link Road Works;
- The provision of reports to the PCG in accordance with Annexure E.

The PMG will be convened on a weekly basis (unless otherwise agreed) until the Completion Date taking the project through the design and documentation, construction and project close out phases.

Membership

DPTI Project Manager	-	Matthew Hogan
DPTI Design Manager	-	TBA
DPTI Communications Officer	-	Aaron Glossop
DPTI Disciplines (as required)	-	various

ANNEXURE D – STAKEHOLDER REPRESENTATIVE GROUP

Stakeholder Representative Group

Purpose

The purpose of the Stakeholder Representative Group (SRG) is to collaboratively work with the Project Management Group and to represent the Council and Springwood Communities' interests, in particular regarding development of the Reference Design.

Key functions of the Stakeholder Representative Group include:

- assist in the development of the design and contract specifications in collaboration with the Project Management Group;
- assist in the review of community and stakeholder communications strategies, processes and materials in collaboration with the Project Management Group;
- participate in the procurement in accordance with Annexure B Figure 2
- facilitate Council documentation sign off in a timely matter, including (where relevant) ensuring that Council design review and sign off turnaround timeframes meet DPTI's contractual requirements with the Contractor and CSTR requirements.
- have operational oversight of Council and Springwood Communities processes and resources to support the delivery of the Link Road Works;
- attend and participate in key meetings and workshops as they relate to the development of the design and undertaking of construction, and handover

Clarification: the SRG has no contractual authority with the Contractor in accordance with Clause 9.1.

- attend and participate (where required) in reporting to the Project Executive Governance Group on progress and issues that require direction.

Membership

The Stakeholder Representative Group will be led by an appointed Representative from Council in consultation with an appointed project manager from Springwood Communities (or equivalent position) and may be represented by other nominated staff from time-to-time through the performance of the Project (e.g. subject matter or discipline specialists).

Council Representative	-	Angelo Lanzilli
Springwood Communities Representative	-	TBA

ANNEXURE E – PROJECT REPORTING

Written project reports will be provided by the Project Management Group to the PEGG at each PEGG meeting. These reports may include a presentation (if requested by the PCG).

Reports will comply with the PEGG's requirements as to format and content. Their purpose will, in part, be to inform internal reporting requirements within Council, Springwood Communities and the Minister and the other formal reporting requirements of the Minister.

Reports

At a minimum, the monthly project report will include;

- a) Project status against the Approved Project Program;
- b) Services status against the Approved Project Program;
- c) Project Cost to Date compared with the Approved Project Budget;
- d) risk management issues status and recommended actions;
- e) the forecast effect of design changes on progress;
- f) updated anticipated cash flow;
- g) expenditure of contingency allowance;
- h) decisions affecting or likely to affect the Project;
- i) summary of delays claimed, recommended and/or approved in relation to the Deed and the Contracts;
- j) summary of approved variations and claims;
- k) summary of potential variations and claims;
- l) industrial disputes affecting progress;
- m) photographs showing progress;
- n) any other significant matters, including potential claims, delays and disputes, with recommended action to keep the Project on time and budget;

ANNEXURE F – COUNCIL CONCEPT & FEASIBILITY DEVELOPMENT WORK

Further details regarding the Gawler East Link Road's feasibility and concept design(s), community and stakeholder engagement, property acquisition, technical analyses, desk-top and field investigations, can be found in the following Council Agenda Reports (<http://www.gawler.sa.gov.au/page.aspx?u=779>) and as list below:

June 2015

- Council Report & Minutes
- Attachment 1 - Ministerial Gawler East DPA
- Attachment 2 - Submission to The Development Policy Advisory Committee
- Attachment 3 - Gawler Growth Areas Transport Framework
- Attachment 4 - Gawler East DPA Traffic Assessment
- Attachment 5 - Gawler East Traffic Analysis Review
- Attachment 6 - Independent Review of Gawler East MASTEM Modelling
- Attachment 7 - Draft Link Road Concept Design Report
- Attachment 8 - SA Power Network 66KV Plans
- Attachment 9 - Draft Gawler East Precinct Plan Infrastructure Funding Paper

September 2015

- Council Report & Minutes

October 2015

- Council Report & Minutes

December 2015

- Council Report & Minutes
- Attachment 1 - Minister For Transport Letter Dated 16 December 2015
- Attachment 2 - Lend Lease Letter Dated 7 December 2015
- Attachment 3 - Gawler East Infrastructure Provision Case Study

February 2016

- Council Report & Minutes
- Attachment 1 - Road Classification Review (Tonkin)

April 2016

- Council Report & Minutes
- Attachment 1 - Multi Criteria Assessment Initial Report
- Attachment 2 - Ecological Assessment Report (EBS)
- Attachment 3 - Additional Investigation Report (Tonkin)

July 2016

- Council Report & Minutes
- Attachment 1 - Engagement Report (engagement in May/June 16) (URPS)
- Attachment 2 - Invitation to Submitters
- Attachment 3 - Determination of Road Classification - Gawler East Link Road

August 2016

- Council Report & Minutes
- Attachment 1 - Concept Designs: Preferred Alignments
- Attachment 2 - Multi Criteria Analysis (MCA) Report*
- Attachment 3 - Consultation Information Brochure
- Attachment 4 - Concept Designs: Design Refinements
- Attachment 5 - Proposed Preferred Eastern Alignment Alternative
- Attachment 6 - State Government (DPTI) Review Of Council Preferred Alignments
- Attachment 7 - Legal Advice On Local Roads Advisory Committee (LRAC)
- Attachment 8 - State Government (DPTI Property Acquisition Guideline)

*The MCA Report also contains the following Technical Investigations & Analyses;

- Appendix A - Heritage Investigation Report
- Appendix B - Noise Investigation Report
- Appendix C - Air Quality Investigation Report
- Appendix D - Flora And Fauna Investigation Report
- Appendix E - Land and Property Investigation Report
- Appendix F - Plans of Eastern Alignment
- Appendix G - Plans of Eckerman Avenue Alignment
- Appendix H - Specialist Presentations
- Appendix I - Community Consultation Summary

October 2016

- Council Report & Minutes
- Attachment 1 - Community & Stakeholder Engagement Report (engagement in September 16)
- Attachment 2 - Potts Road Upgrade Intervention Report
- Attachment 3 - Letter from Transport Minister
- Attachment 4 - Letter from Springwood Communities
- Community Engagement Feedback Forms
- Council Feedback on Draft Updater to 30 Year Plan for Greater Adelaide 2016

November 2016

- Council Report & Minutes

February 2017

- Council Report & Minutes
- Attachment 1 – Draft Tonkin Consulting Traffic Interventions Report

April 2017

- Council Report & Minutes (4 April & 18 April)
- Attachment 1 - Tonkin Consulting Traffic Interventions Report (4 April 2017)
- Attachment 1 - Tonkin Consulting Potts Road Service Road Report (18 April 2017)

SPRINGWOOD COMMUNITY - CONCEPT & FEASIBILITY DEVELOPMENT WORK

- Cost Estimate by Sempac
- Design Alignment within Springwood from Springwood Western Boundary and Calton Road by Wallbridge & Gilbert Consulting Engineers.