

Partnerships Victoria **Project Summary**

The new Royal Children's Hospital Project

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in conjunction with
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Foreword

This Project Summary series provides information about the contractual nature of *Partnerships Victoria* projects in practice.

Partnerships Victoria is part of the Victorian Government's strategy to provide better services to all Victorians by expanding and improving Victoria's public infrastructure. The policy is designed to tap into private sector expertise in designing, financing and building large infrastructure projects.

Victoria has taken the lead in developing a public private partnerships market in Australia. Since 2000, 18 *Partnerships Victoria* projects have been contracted. They equate almost \$5.5 billion of capital investment. This figure includes the \$1 billion new Royal Children's Hospital (RCH) Project.

This Project Summary does not alter or replace any of the existing *Partnerships Victoria* guidance material. A comprehensive set of policy guidelines is available at www.partnerships.vic.gov.au. It covers matters from the procurement process and risk allocation to detailed financial benchmark case studies. Further information on the *Partnerships Victoria* policy and guidelines is also available at this website address.

The summary is divided into two parts. The first part provides a broad overview of the RCH Project, including the rationale for undertaking it under the *Partnerships Victoria* policy, a summary of the tender process, the value for money calculation, the public interest considerations for the Project and the Project timetable. The second part focuses in more detail on 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, the treatment of various key project issues including the payment mechanism and the finance and security arrangements.

NB: This Project Summary should not be relied on as a complete description of the rights and obligations of the parties to the project and is not intended for use as a substitute for the contracts.

Part One: Project overview

1.1 The new Royal Children's Hospital Project

The Project

The new \$1billion RCH Project is the largest hospital redevelopment to be undertaken by the State. The Project involves the construction of a new facility adjacent to the north-western boundary of the existing site, with retention of the existing Research Precinct Building and Front Entry Building.

The outcomes of the Project will have a major impact on the quality of tertiary health services to be delivered to children in both metropolitan Melbourne and rural / regional Victoria, reaching to Tasmania and South Australia.

The current RCH buildings were designed when most hospital care was provided at the bedside and parents could only visit during designated visiting hours. Although the RCH continues to deliver high quality tertiary health services, its buildings have become unsuitable for the complex high technology multidisciplinary care now provided for children. The facilities do not support families in the manner expected of a world-class children's facility and have failed to keep pace with the rapid expansion of sameday and ambulatory care services.

The site to be used for the Project (including the retained buildings) will be less than the existing site area of 4.1ha. The State has put in place legislation that requires the final size of the new hospital site to be less than that currently occupied by the existing site – resulting in an increase in parkland after construction activities are completed.

Figure 1 is a representation of the existing RCH site, with the Front Entry Building and Research Precinct Building highlighted in yellow. Figure 2 provides an artist's impression of the new facility.

Figure 1: Existing RCH facility



Figure 2: Artist's impression of the new RCH



Project Goals and Objectives

To assist in achieving the RCH vision, the following project specific goals and objectives were developed to guide the development of the Project.

Project Goals

To provide a modern facility that:

- supports the delivery of accessible, cost effective and high quality patient services to Victorian children and their families;
- is a physical expression of the values and philosophy of care of the RCH and is uniquely Victorian;
- uses innovative and evidence-based design principles to reflect changing health care practices, workplace patterns, user expectations, community aspirations and environmental responsibility; and
- is managed throughout the life of the contract as a constructive partnership between the consortium, the RCH and the State.

Project Objectives

The new RCH will deliver a modern facility and physical environment which:

Service Delivery and Care

- supports access and family-centred care which is culturally and spiritually sensitive, and respects the dignity and developmental needs of children of all ages;
- maximises its design and location in the park to provide a healing environment for patients, families and staff, and community users of the park;

- is operationally efficient, optimising the use of people and resources, capable of achieving service plan targets and sustaining service levels into the future;
- harnesses evidence-based design to create an environment that enhances patient safety and clinical excellence;

People

- supports attraction and retention of high quality, committed and inspired staff;

Future Proof and Flexible

- has flexible design and infrastructure capable of adapting to new technologies (clinical and information) and emerging trends in paediatric healthcare, changes in clinical practice and models of care, and changes in government policy, legislation and standards;

Teaching and Research

- engenders an active learning environment, providing appropriate facilities for teaching and research within clinical areas and between the RCH and its key education and research partners, the Murdoch Children's Research Institute (MCRI) and The University of Melbourne Department of Paediatrics;

Business Continuity

- achieves a successful relocation with no interruption to the ongoing delivery of services with minimal impact on the surrounding community and parkland during construction;

Stakeholder Relationships

- is achieved through a constructive relationship with users, staff, the local community and communities of interest in Royal Park;

Government Commitment, Policy and Objectives

- is procured, completed and maintained in a manner which delivers value for money to the State and within the budget and other parameters agreed by the State; and
- is an internationally acclaimed "green hospital" which achieves State sustainability policies/objectives including greenhouse gas and peak energy reduction, water conservation and waste minimisation.

Key Project features

As part of its Business Case, the State examined the future trends in RCH hospital demand to assist in defining the core clinical requirements of the new hospital, such as the number of beds and operating theatres. This investigation looked at a range of considerations, including historical hospital usage data, demographic trends and projections as well as the impact of emerging clinical practices.

The section below contains a snapshot of some of the key features of the Project. Please refer to the Project website (www.newrch.vic.gov.au) for further information regarding many aspects of the Project.

Feature	Measure
Size of the new RCH	
Hospital facility	154,000m ²
Carpark	<u>77,000m²</u>
Total	231,000m ²
Size of final site	Less than 4.1 ha
Additional patient capacity	Additional 35,000 patients pa
Total beds	353

Feature	Measure
Percentage of single bed rooms	85%
Number of underground carparks	2165
Number of bike spaces	Over 500
Target Green Star rating (using Healthcare Pilot Rating Tool)	5 star
Reduction of greenhouse emissions in the new facility	45%
Reduction in water demand in the new facility	20%

Legislative framework

Legislation has been enacted which enshrines the Government's commitment that there will be no net loss of parkland as a result of building the new hospital in Royal Park. Although a larger area will be annexed to facilitate safe construction practices during the construction phase, the *Royal Children's Hospital (Land) Act 2007* ensures that the final site for the new hospital will be less than 4.1 ha when fully complete (which is less than the size of the existing hospital site).

The Act also puts in place the necessary legal changes to the status of the new hospital site to enable the new hospital to be built and gives the Committee of Management (in this case the RCH) the ability to enter into long term leases or licences (up to 30 years) for purposes consistent with the hospital reservation.

The site of the old hospital, together with any surplus construction site land, will be returned to Royal Park following construction and demolition activities. The reinstatement of the old site does not form a part of the *Partnerships Victoria* Project. Rather, the State (in consultation with the City of Melbourne and the community) will be responsible for the reinstatement of these areas.

1.2 Partnerships Victoria - A public private partnership

The new RCH is being delivered as a Public Private Partnership (PPP) in accordance with the State Government's *Partnerships Victoria* policy. The *Partnerships Victoria* policy is designed to capture the best of what Government does, and combine this with the expertise the private sector has in designing, financing, building and maintaining large infrastructure projects. The parties the State has contracted with to deliver the project are identified in Part Two of this document.

The State undertook a detailed assessment of the PPP delivery model and three alternative models to deliver the Project. These models are described briefly below:

- **Fixed Price:** the State engages a design team to develop the design documentation then engages a builder to deliver the works at the fixed price tendered.
- **Managing Contractor:** the State engages a private sector contractor to manage some or all aspects of the design, documentation and build phases of a project on behalf of the State for an agreed lump sum.
- **Alliancing:** the State shares risks with a private sector builder in a relationship culture which encourages a "no blame" approach for issues and instead seeks to foster a "solutions" based culture.
- **PPP:** the State engages a private sector consortium to design and build the project, finance it and assume responsibility for facilities maintenance and asset replacement over a defined period (typically around 25 - 30 years).

After a detailed assessment, the PPP structure was selected as the preferred procurement method for the Project. Several issues were considered to be key to the procurement decision and these are summarised below:

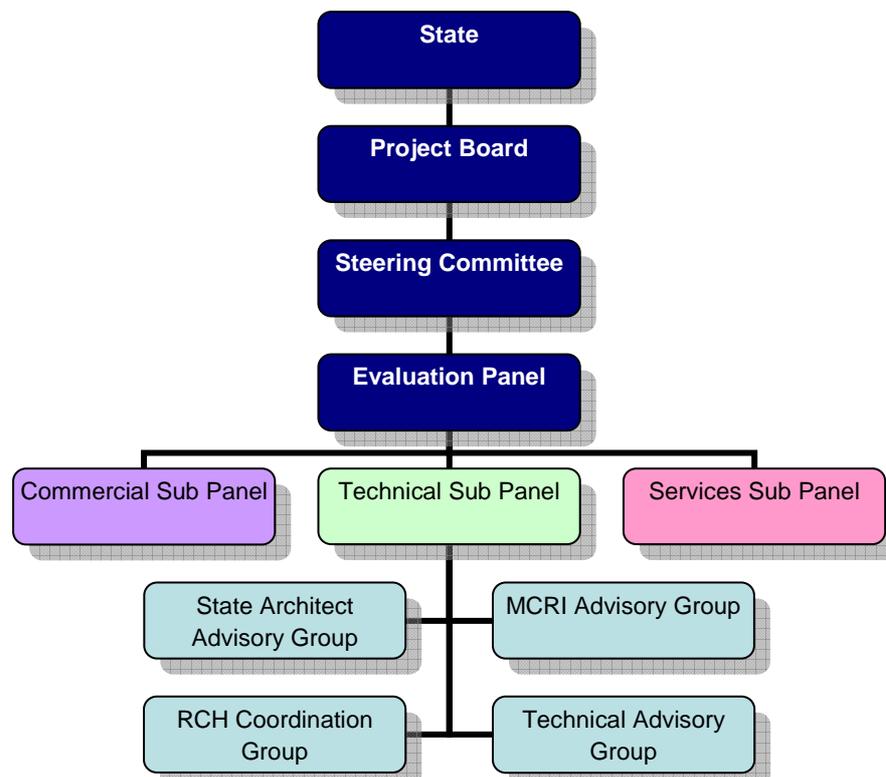
- **Reduced whole of life costs:** the *Partnerships Victoria* delivery model encourages bidders to take a whole of life approach to evaluating costs and to optimise the trade-off between increased capital costs and lower maintenance / lifecycle costs.
- **Effective risk transfer:** the *Partnerships Victoria* delivery model effectively transfers design, construction, commissioning and whole of life facilities based risks to the private sector in an efficient manner.
- **Improved hospital maintenance:** PPP structures effectively “lock-in” 25 years of funding to ensure that the facility is always maintained to a high standard over the operating phase of the Project.
- **Achievement of design innovation:** the PPP procurement process maximises the opportunity for design innovation by engaging the private sector in a highly competitive tendering process and providing bidders with significant scope to explore new design alternatives and facility configurations.

1.3 Tender process

The State conducted a competitive tender process to identify the preferred private sector party to deliver the RCH Project. The tender process was implemented in accordance with *Partnerships Victoria* principles to ensure that the State received the best value for money outcome.

A formal project governance structure was put in place to oversee the tender process, including the evaluation of Expressions of Interest (EOI) proposals, the Project Brief proposals and the Revised Offers received as part of the structured negotiation phase. The base evaluation structure is represented diagrammatically below.

RCH Evaluation Structure



Final proposals from a shortlist of three proponents were received on 15 March 2007. On 27 July 2007, after an extensive evaluation process, the State announced that two proponents, Children's Health Partnership (CHP) and Plenary Health, were selected to participate in a structured negotiation phase.

At the completion of the structured negotiation phase, CHP was selected as the preferred proponent as its proposal was assessed as providing the best value for money solution to deliver the Project. Its major advantages are:

- a very competitive whole of life cost;
- a strong master-planning solution focusing on an integrated "street" concept;
- an excellent functional and architectural design solution;
- a high degree of funding and contractual certainty;
- a suitable allocation of risk between parties;
- a sound services solution; and
- a high degree of certainty regarding the delivery of the commercial elements of the proposal.

The tender process was undertaken within a robust probity framework based on the following probity objectives:

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

1.4 Value for money

The State's *Partnerships Victoria* policy seeks to identify and implement the most efficient form of infrastructure delivery. The concept of value for money goes well beyond the selection of the cheapest solution but instead, focuses 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 (ie. items that can be quantified in dollar terms) as well as subjective or qualitative considerations.

Public Sector Comparator (PSC)

The PSC is an estimate of the risk-adjusted cost of the project if delivered by the State. The PSC is developed according to the same output specifications included in the Project Brief and assumes the most likely and efficient form of conventional (i.e. non - PPP) delivery by the State.

The PSC is expressed in terms of the net present cost to the State, calculated by a discounted cash flow analysis and takes full account of the costs and risks that would be encountered by following that style of procurement. The PSC includes amounts to cover both the construction costs and the maintenance and facilities management costs during the 25 year operating phase of the project.

The net present cost (NPC) of the service payments to be paid to CHP is compared with the PSC. If it is lower than the PSC, it is an indication that the bid represents value for money.

The PSC is made up of a number of elements as indicated in the table below:

Public Sector Comparator (PSC)	Net Present Cost \$m
Capital Costs	683
Operating Costs (25 years)	225
Other Costs	0
Raw PSC	908
Transferred Risks	107
Competitive Neutrality	1
PSC	\$1,016m

Note: The assumptions used to formulate the PSC include:

- the budgeted \$850m nominal capital cost of the project is included within the capital costs and transferred risks figures stated in NPC terms above (as are the capital costs of the expanded MCRI and The University of Melbourne research and educational facilities)
- a discount rate of 5.5% real
- the base date of the PSC calculation is 30 June 2007
- the transferred risk calculation of \$107m refers only to the risks transferred to the private sector under the Partnerships Victoria arrangements (i.e. those risks that the State would otherwise assume) and excludes the State's estimates of its retained risks
- the competitive neutrality adjustment removes any net competitive advantages that accrue to a government business by virtue of its public ownership

Quantitative Value for Money Comparison between Public Sector Delivery and Private Sector Delivery

Public Sector Comparator (PSC)	Net Present Cost of CHP's winning proposal	Savings
\$1016 million	\$946 million	6.9%

It should be noted that the original budget capital commitment of \$850m (nominal) is not directly comparable with the total project cost of \$946m (NPC). The \$946m includes both construction costs and facilities maintenance costs (over 25 years). Moreover, the construction costs included within the \$946m incorporate additional research and educational facilities that will be paid for by MCRI and The University of Melbourne.

Additional value for money benefits

The net present cost of the project is approximately 7% below the PSC, which is a key indicator that the project delivers value for money for the State. However, this comparison does not recognise a range of other significant value for money benefits provided by the CHP proposal.

These additional benefits include:

- enhanced amenity from expanded food and retail operations, gymnasium, hotel, childcare facilities, consulting suites. These additional facilities will also be transferred back to the State for nil consideration at the expiry of the Project;
- significantly larger gross building area for the hospital compared with that assumed by the State in its Reference Project, including additional shell space;
- approximately \$35m in underwritten donations to the RCH Foundation;
- world class, 'iconic' design (both exterior façade and interior design);

- capital and recurrent funding for the 25 year operating phase to be used to fund extensive distraction / entertainment programs such as the feature aquarium, ongoing programs with Melbourne Zoo, Scienceworks, Melbourne Aquarium and a children's cinema;
- a significant annual guaranteed payment to RCH from the retail precinct plus upside sharing if actual retail performance exceeds forecast; and
- various Environmentally Sustainable Development (ESD) initiatives that go significantly beyond the State's minimum requirements as set out in the Project Brief (and assumed in the Reference Project) including CO2 reduction initiatives, 2.8MW trigeneration plant providing base load electricity, heating and cooling and a blackwater treatment plant that will provide approximately 100,000 litres of water per day in excess of that required for the hospital that may be used for irrigation on Royal Park and Melbourne Zoo.

1.5 Public interest test

At various stages throughout the development of the Project, an assessment was made of the extent to which the new RCH Project was in the public interest. The analysis took specific account of *Partnership Victoria* guidelines that outline certain categories for evaluating whether a project meets the public interest.

At all stages, it was considered that, on balance, the public interest was being protected. The Project will make a wide range of services and facilities more accessible to all, and relate well to surrounding development land uses and landscapes. It will enable RCH to provide a world-class medical and health facility for all Victorians, particularly children and their families and will be a vibrant research centre focusing on children's health research and education.

Appendix 3 contains a summary of the final Public Interest Test.

1.6 Project milestones

CHP is required to meet a number of construction and operational milestones over the duration of the Project. The table below contains key Project dates.

Project Milestones	Date
Contractual close	20 November 2007
Financial close	4 December 2007
Completion of the construction of the new hospital and commencement of operations (Stage 1 – refer to table below)	December 2011
Handback of existing site to the State for reinstatement as parkland following demolition of the existing hospital buildings	August 2013
Completion of all Stage 2 construction activities (Stage 2 – refer to table below)	December 2014
Completion of the operating phase	December 2036

Construction will occur in two stages as described in the table below.

Construction Phase	Construction Activities
Stage 1	<ul style="list-style-type: none"> ▪ Construction of all elements of the hospital ▪ Full transition of the hospital functions to the new facility
Stage 2	<ul style="list-style-type: none"> ▪ Demolition of the existing buildings that are not being retained ▪ Further work on MCRI space ▪ Commercial precinct construction – services/fitout works to retail areas including gym, hotel, childcare and retail elements not included in Stage 1 ▪ Reinstatement of the existing site for handback to the State

Part Two: Key commercial features

Part Two of the Project Summary outlines the contractual relationships between the parties involved in the Project, including the allocation of risks and the obligations of both CHP and the State. In some areas, it provides more detail on the issues and topics discussed more generally in Part One.

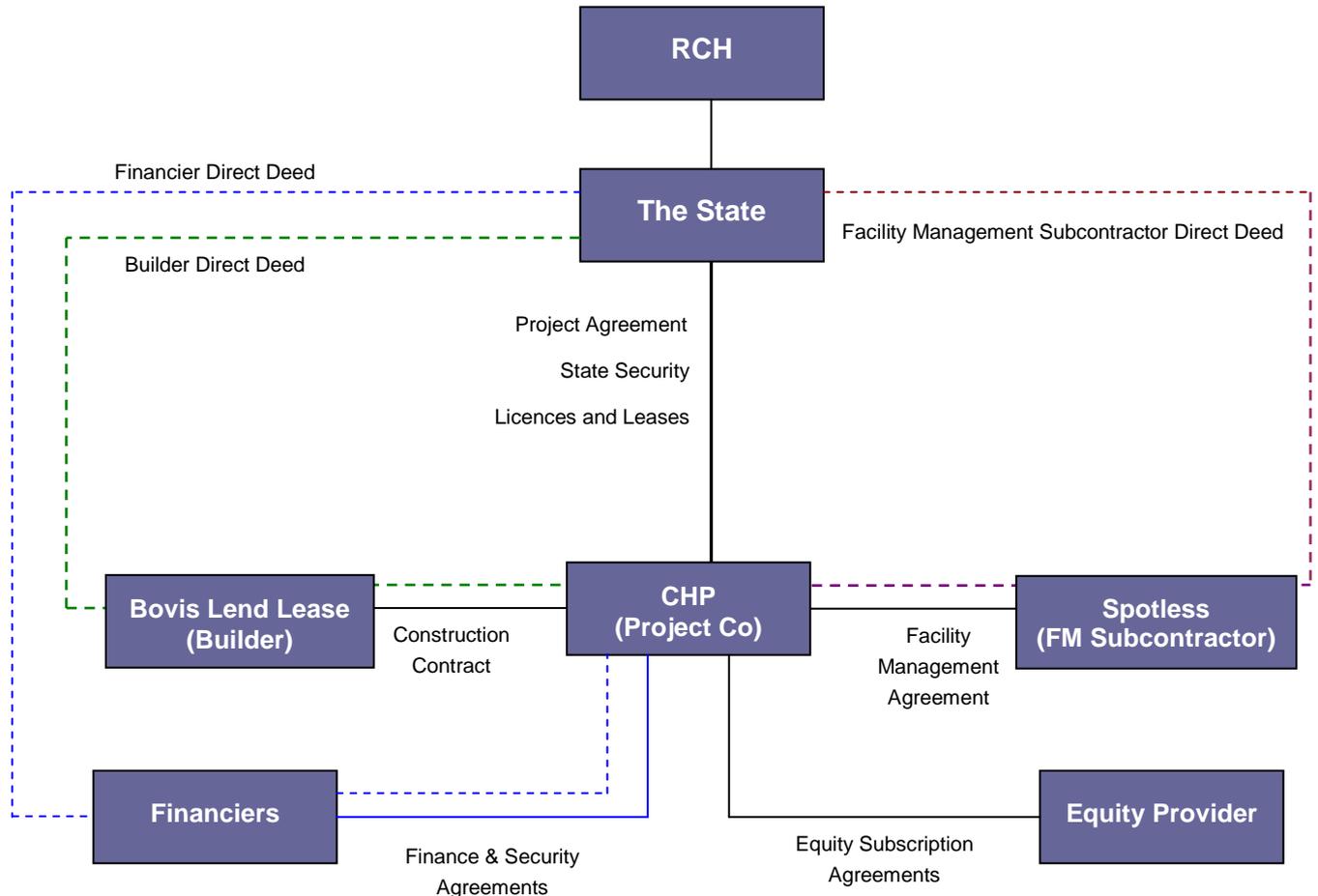
2.1 Parties to the Project

On 20 November 2007, the Minister for Health, on behalf of the State executed contracts with the Children's Health Partnership Pty Ltd (as trustee for CHP Unit Trust) to design, build and finance the Project and provide facility management services over a 25 year period.

- **RCH:** The RCH is a body corporate established under the *Health Services Act 1988 (Vic)*. The RCH is not a party to the Project Agreement, but has formally been nominated by the State as the organisation that will deliver the hospital services and functions.
- **The State:** The State is the contracting entity for the Project and is a signatory to the Project Agreement and other ancillary documents involving the State. The Minister for Health is the person empowered to execute these contracts on behalf of the State.
- **CHP:** CHP is the entity that has contracted to deliver the Project. CHP is the counterparty to Project Agreement and is the main contracting entity with the State. CHP in turn has entered into a range of contractual relationship with its consortium partners to deliver elements of the Project. Notwithstanding this, CHP will be the organisation ultimately responsible for the delivery of the Project and will, amongst other things, provide strong "hands on" management over the duration of the Project.
- **Equity Provider:** Babcock & Brown International Pty Ltd will underwrite the equity requirement for CHP.
- **Financiers:** CHP has arranged for the involvement of a number of financiers to raise funds to pay for the construction of the hospital and other associated costs. A majority of the funding for the Project will be raised from the issue of bonds into the capital market. Proceeds raised will be placed in a deposit account managed by CHP until required.
- **Builder:** CHP has engaged Bovis Lend Lease Pty Ltd to design, construct and commission the new facility, and to demolish and remediate that part of the existing site that will be repatriated with Royal Park.
- **Facility Management Subcontractor:** Spotless P&F Pty Ltd is an experienced service company. CHP has engaged Spotless to provide a range of facility management related services over the operating phase of the Project.

Project contractual relationships

The State has contracted with a single party (CHP) to deliver all aspects of the Project. The relationship between the State, the RCH, CHP and other related parties is detailed in the Project Agreement and associated documentation. The structure and principal agreements required for the delivery of the Project are outlined below.



2.2 Risk transfer

The risk allocation in the Project Agreement is consistent with *Partnerships Victoria* policy. In *Partnerships Victoria* projects, the State seeks to achieve best value for money by allocating particular 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.

The table below outlines the risk allocation for the Project. Where a risk is allocated to both parties, they may not share that allocation equally. All risks are dealt with in detail in the Project Agreement and associated documents.

Risk Category	Description	State	CHP
Legislation and Planning Risks			
Obtaining enabling legislation	Risk that legislation will not be passed in time to facilitate construction activities in Royal Park	✓	
Obtaining town planning approvals	Risk that planning permits for the use of the site will be refused or granted with onerous conditions	✓	
Complying with town planning framework	Risk of obtaining further town planning approvals and undertaking the construction task within the approved town planning framework		✓
Site Risks			
Stage 1 site Known pre-existing contamination	Cost relating to the management and removal of identified known pre-existing contamination on the stage 1 site		✓
Stage 1 site Unknown pre-existing contamination	Cost relating to the management and removal of contamination that is not known pre-existing contamination on the stage 1 site	✓	✓
Stage 2 site contamination	Cost relating to the management and removal of any in-ground contamination from the stage 2 site	✓	
Heritage claim (unknown)	Risk that the RCH site has archaeological and cultural heritage value (above or below ground) that was not known at the time of entering contract	✓	
Heritage claim (known)	Cost of managing a heritage claim that was known at the time of entering the contract	✓	✓
Native Title	Risk that the RCH site is the subject of a Native Title claim	✓	
Restoration of site	Risk that restoring and remediating that part of the existing site that is not required for the new hospital to a condition suitable for conversion into parkland (excluding contamination)		✓
Park reinstatement	Risk and responsibilities for transforming the existing site (as remediated by CHP) into parkland	✓	
Design, Construction and Commissioning Risks			
Design risk	The risk that the design development activities cannot be completed on time and/or to budget		✓

Risk Category	Description	State	CHP
Construction risk	The risk that construction activities cannot be completed on time and/or to budget		✓
Equipment	Responsibility for the selection, procurement and maintenance of equipment	✓	✓
Fit for purpose (commissioning)	Risk that the final constructed design of the Project is not fit for purpose or does not comply with contractual obligations		✓
Modification	The State elects to make a significant variation to the facility or the services to be provided by CHP	✓	
Commissioning	Risk that the facility cannot be commissioned in accordance with the agreed commissioning criteria		✓
Operational Risks			
Clinical services demand	Risk that the operating costs of running the clinical services (such as doctor and nurse costs) are greater or less than anticipated	✓	
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		✓
Maintenance costs	Risk that maintenance costs exceed CHP's budgeted cost over the operating phase of the Project.		✓
Operational costs (non-reviewable services)	Risk that operational costs exceed CHP's 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 (including plant and finishes) over the operating phase of the Project.		✓
Utility unit prices	Risk of change in the price of the utility inputs required by the hospital	✓	
Energy volume risk	Risk that actual energy consumed in the facility (that are controlled by CHP) exceeds pre agreed energy volume targets	✓	✓
Change in Law or Policy Risks			
Changes in law and policy (General)	Risk that general changes in law and legislation will impact on the construction or operations of the hospital	✓	✓

Risk Category	Description	State	CHP
Changes in law and policy (Project Specific)	Risk that project specific changes in law and legislation will impact on the construction or operations of the hospital	✓	
Tax risk	Risk of changes in general tax law		✓
Commercial Activities			
Commercial risk (excl. retail and carpark elements)	Risk that the performance for all non-retail elements are above or below forecast		✓
Revenue risk (carpark)	Risk that revenues generated by the carpark are above or below expectations	✓	
Downside commercial risk (retail elements only)	Risk that the actual performance of the retail elements are below forecast		✓
Upside commercial risk (retail elements only)	The benefit that the actual performance of the retail elements are above forecast	✓	✓
Tenancy occupation risk	Risk that the retail operator cannot lease out some or any of the commercial areas		✓
Construction of retail elements	The risk associated with the construction of the Project's retail elements		✓
Force Majeure			
Force Majeure	Risk that construction or hospital operations are prevented due to a 'force majeure' event	✓	✓
Finance Risk			
Interest rate risk after Financial Close	Risk of movements in interest rates after financial close		✓
Shared operating insurance premium risk	Risk of price movements in policy renewals over the operating period in relation to the shared insurances	✓	✓
Residual value	Risk that on expiry of the contract term the condition of the asset is less than that required by the Project Agreement		✓

2.3 General obligations of CHP

In its simplest terms, CHP has contracted with the State to finance, design and build the Project and provide facility management services over the 25 year operating phase. The full array of CHP's obligations are contained in the Project Agreement and ancillary contracts. The table below further summarises the obligations of CHP over the course of the Project.

Project Element	Description
Design and construct	Responsible for all aspects of design, construction and commissioning of the facility, including: <ul style="list-style-type: none"> ▪ refurbishment works in relation to the Retained Buildings; ▪ the design, construction and commissioning of research and education areas, including the MCRI and the University of Melbourne; ▪ equipment procurement, installation, commissioning and where appropriate, relocation from the existing facility; ▪ coordination and management of the design development process to finalise the design aspects of all elements of the facility; and ▪ implementing an appropriate communications strategy, in conjunction with DHS and RCH, to engage with the community and various stakeholder groups.
Transition	Management, coordination and execution of activities (excluding some core clinical functions) to relocate the operations of RCH from the existing facility to the new facility and to train employees in relation to the operation of the facility.
Demolition and site remediation	Decommissioning and demolition of the existing buildings and reinstatement of the existing site to a standard that enables the State to subsequently reinstate to parkland.
Services	Provision of various services throughout the 25 year operating phase of the Project in accordance with the services specifications. The services will include: <ul style="list-style-type: none"> ▪ facility related training; ▪ help desk services; ▪ building management services; ▪ provision of utilities and medical gases management services; ▪ waste services; ▪ security; ▪ carparking services (NB: carpark revenues will be collected by CHP but paid to the RCH at regular intervals); ▪ grounds and gardens maintenance; ▪ minor works; and ▪ pest control.
Insurances	CHP is required to take out a range of insurances in relation to the facility.
Commercial elements	The provision and operation of the agreed commercial opportunities (as defined in the Project Agreement) comprising a food court, retail precinct, 90 room hotel, gymnasium, office accommodation and consulting suites, child care facility (in addition to the RCH childcare facility) and approved vending machines.
Finance	Procurement of senior debt, subordinated debt and equity to fund the delivery of the Project.
Handback	Undertaking all necessary tasks to ensure that the facility and site are returned to the State in accordance with CHP's contractual requirements at the end of the contract.

2.4 General obligations of the State

Delivery of Clinical Services

As described in Part One of this document, the RCH is responsible for the provision of specialist paediatric services to the State of Victoria. Its operating scope includes tertiary, secondary and primary infant, child and adolescent health services. The transition of hospital operations to the new facility will not alter this mandate in any way. The RCH will continue to manage, coordinate and directly provide all clinical functions and services for the duration of the project.

Obligations under the Project Agreement

Under the terms of the Project Agreement, the State is required to:

- make payments to CHP during the operating phase of the Project (subject to any abatement that may apply if services are not delivered to the required standard);
- put in place a legislative regime and a town planning regime to enable the timely commencement of construction activities on the nominated site for the Project;
- review and endorse design documentation and other material that will be submitted by CHP in accordance with the Project Agreement; and
- undertake various tasks identified in the Design Development Plan, Transition Plan, the Business Continuity Plan and Training Plan.

Park reinstatement

The reinstatement of the majority of the existing site to parkland will be the responsibility of the State. CHP's contractual responsibilities extend only to the full remediation of the existing site to a standard suitable for park reinstatement.

The development of the design for the new parkland, which will incorporate a new 'gateway' to Royal Park, will be a collaborative effort involving consultation with a range of stakeholders including the City of Melbourne (as the future park manager) and the local community. The project budget includes funding for park reinstatement.

2.5 State contributions

The new RCH will at all times be owned by the State. However, CHP will be granted a non exclusive construction license during the design and construction phase of the Project and a lease over the 25 year operating phase of the Project. The State is not required to make any payment to CHP until the new hospital has been certified as having been fully constructed and commissioned.

Under the terms of the Project Agreement, CHP is entitled to pursue certain agreed commercial activities in defined areas within the facility. The revenue streams from these opportunities have been valued by CHP and have defrayed the cost of the payments the State is required to make to CHP. The leasing arrangements with CHP will not interfere with the delivery of clinical services.

2.6 Payment mechanism and abatement regime

CHP will not receive any payment for the Project until the facility is operational. Payment is made over the operating phase of the Project in the form of a Quarterly Service Payment (QSP). Each QSP includes an allowance for the capital cost of the facility and the facilities maintenance and ancillary services to be delivered by CHP over the 25 year operating phase.

The payment mechanism contains formulae detailing the calculations for payment by the State. It provides strong incentive for CHP to perform its contractual obligations, as a failure to meet the agreed minimum performance standards may result in an abatement of the QSP.

The QSP will be indexed on a quarterly basis (the majority at CPI, with a labour cost index applied to labour related elements).

Abatement regime

Any failure to provide the services in accordance with the service specifications may constitute a "service failure" and may result in the abatement of the QSP.

The following general principles apply to the abatement regime:

- deductions will be made for sub-standard performance of the services reflecting the severity of the performance failure by CHP; and
- service failures consist of two different categories being those that have the potential to impact the availability or use of the facility by the State (failure events), and those that relate to process and procedural requirements of the contract (quality failures).

CHP is responsible for monitoring the performance of the services in accordance with the 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.

Each area in the hospital has been allocated into various categories to provide appropriate incentives for CHP to ensure the facility is at all times available for use and maintained to the required standards. For example, the abatement regime recognises that the availability of an operating theatre is of much higher importance than the availability of a meeting room.

Where an incident occurs in areas of high importance there will be shorter response and rectification times and potentially greater financial penalties. The abatement regime also recognises smaller failures that do not render a space unusable, but nevertheless impact on the ability to provide hospital services.

2.7 Default, termination and step-in regimes

Default

A breach of the Project Agreement by CHP entitles the State to various remedies. Should CHP not remedy the default within a set time period it will escalate to a major default. In addition to this, the Project Agreement allows for a number of events to fall immediately within the major default category, such as a failure to complete the facility in accordance with the agreed date or where there are repeated service failures.

If a default or major default occurs, the State must either give CHP an opportunity to cure the default or, if the default is not capable of being cured, give directions to CHP of its requirements.

If a major default is not cured by CHP within the allotted cure period, it will escalate to a default termination event. A default termination event can also arise by the occurrence of a single event, such as CHP becoming insolvent or abandoning the works. This is a very serious situation that would trigger a range of options for the State, including:

- the right to step-in to remedy the situation;
- the right to require the replacement of a subcontractor that caused the default termination event; and
- termination of the Project Agreement.

Step-In

The State has reserved the right to 'step-in' and remedy or mitigate the effects of an event of default in an emergency situation or after the occurrence of a default termination event. During any step-in, the QSP will be abated to the extent that the facility is unavailable and the services are not being provided.

Termination

The Project Agreement can be terminated under a number of scenarios. Where the Project Agreement is terminated before the natural expiry of the intended 25 year operating period, CHP 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 below.

Event	Trigger	Method of calculating CHP's termination payment
Default termination	The State may terminate the Project Agreement if a default termination event is not cured.	The 'fair market value' less costs reasonably incurred by the State.
Voluntary termination	The State may at any time, for reasons of its own choosing, unilaterally elect to terminate the Project Agreement	The outstanding debt as at termination date plus the net present value of forecast equity cashflows and other reasonable costs.
Termination for Force Majeure	The occurrence of a force majeure event	The debt as at the termination date plus other agreed costs.

2.8 Finance and security arrangements

The private sector financing requirements for the project comprises senior debt, subordinated debt, preferred equity and equity:

- Senior debt is comprised of underwritten CPI Indexed Annuity Bonds;
- Preferred equity is expected to be refinanced 13 years from financial close;
- Subordinated debt is an underwritten inflation linked indexed annuity; and
- Equity is fully underwritten by the Project sponsor.

The State has security (a fixed and floating charge) over the Project's assets in order to secure CHP's obligations under the contract. The security enables the State to appoint a receiver over all or part of the secured assets.

The Project's financiers hold, via a Security Trustee, a suite of securities in relation to the project including a fixed and floating charge over the assets of CHP. The rights and priorities as between the State and the Security Trustee are detailed in the Financier Direct Deed.

The sources and uses of funds for the Project are disclosed below.

Sources of Funds		Uses of Funds	
Senior debt	71.0%	Construction costs	69.6%
Preferred equity	16.3%	Operating costs	7.1%
Subordinated debt	3.8%	Net capital servicing	19.2%
Ordinary equity	4.3%	Finance and establishment costs	4.1%
Stage 1 QSPs	4.6%		
Total Sources	100.0%	Total Uses	100.0%

2.9 State rights at expiry of contract

CHP is required to hand back the facility (including all of the commercial elements) to the State at the expiry of the operating phase for nil consideration and in a condition that meets the requirements of the Project Agreement.

The facility will be independently inspected on an annual basis in the years leading up to the end of the contract to ensure that all lifecycle and maintenance works are being completed and that the facility will meet the handback condition. The handback condition is described in the Project Agreement and it requires that the State will not have to undertake and major maintenance or refurbishment work in relation to any major items of plant, equipment or finishes for a period of five years.

If CHP is not maintaining the facility to the standard required to satisfy the handback requirements, the State is entitled to withhold a portion of the QSP sufficient in amount to bring the facility back to the prescribed handback condition.

2.10 Modification and minor works regime

Modification regime

The State may modify the facility and/or the services at any time during the contract term. The agreed capital and recurrent costs associated with a modification requested by the State will be borne by the State in accordance with the detailed regime contained in the Project Agreement. There is a separate regime governing equipment modifications.

In response to a modification request, CHP must give the State a notice containing its proposal for carrying out the requested modification. The notice will include details of any effect the modification will have on the facility and the delivery of the services.

The State may accept (with or without conditions) or reject the proposal contained in the notice or withdraw its modification request. Where the State and CHP fail to agree the cost of the modification, and the State still wishes to proceed with the modification, the cost will be determined by an independent expert. During the operating phase, the State retains the right to deliver the modification itself or via an alternate third party provider.

To provide greater transparency and certainty into the costing of modifications, the Project Agreement locks down a range of pre-agreed margins and other on-costs (referred to as modification allowances). In addition to the base costs of the modification, CHP will be subject to capped amounts for margins and management fees

Minor Works regime

A regime has been established that will enable RCH to request the Facility Management Subcontractor to perform additional minor works without the need to invoke the modifications regime.

2.11 Current Version

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

Appendix 1: Useful references

- Project documentation, including the Project Agreement, is available at www.contracts.vic.gov.au
- *Partnerships Victoria* policy guidance and project information www.partnerships.vic.gov.au
- The RCH Project website is periodically updated and contains a range of useful information relating to the Project - www.newrch.vic.gov.au.
- Details of the amendment refer to the Melbourne Planning Scheme refer to www.gazette.vic.gov.au/pub_archives.cfm. (Special Gazette number S298 dated 23 Nov 2007)
- *The Royal Children's Hospital (Land) Act 2007* can be viewed or downloaded from www.dms.dpc.vic.gov.au. Click on the "Victorian Law Today" icon. On the new screen, select the "Acts" button then click on the letter "R" from the alphabetic menu. This will bring up a link to the Act.

Appendix 2: Key contact details

Department of Human Services

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Melbourne VIC 3000

Email: anthony.lubofsky@dhs.vic.gov.au

Children's Health Partnership Pty Ltd

Level 51, Rialto South Tower

Melbourne VIC 3000

Email: Tom.Kirkland@babcockbrown.com

Partnerships Victoria

Website: www.partnerships.vic.gov.au

Department of Treasury and Finance

Commercial Division

1 Treasury Place

Melbourne VIC 3002

Phone: (03) 9651 5111

Appendix 3: Public Interest Issues

The *Partnerships Victoria* Guidelines require that the public interest be considered from the early stages of the options appraisal process and reviewed at key stages of the procurement stage through to the approval to enter into the Project Agreement.

As part of the finalisation of the tendering process, the public interest test has been reviewed to ensure that the Project continues to comply. This review included a review of the Project against the following eight elements of public interest:

- effectiveness;
- accountability and transparency;
- affected individuals and communities;
- equity;
- consumer rights;
- public access;
- security; and
- privacy.

Summary of Public Interest Test

The public interest test identifies each constituent element of the test, the Government standard to apply for each element and an assessment of whether appropriate mechanisms are available to provide an adequate level of protection. The conclusions reached from the assessment are:

- the Project is consistent with a number of State objectives and policies, including those specifically related to health services, and will help to facilitate the RCH in meeting its objectives;
- the contractual arrangements are transparent and ensure that the community can be well informed about the responsibilities of the parties. In particular, Victorian Government Purchasing Board Probity Policy and Best Practice Probity Advice guidelines were followed including the appointment of a Probity Auditor. The Project Agreements will be published subject to confidentiality provisions of the FOI Act and the Auditor-General will have full access to any information relating to the Project;
- an extensive list of stakeholders was identified in the business case and a range of stakeholders were consulted throughout the procurement process. CHP has submitted a communications strategy that outlines strategies and initiatives for continued State and stakeholder engagement during the delivery stage of the Project;
- the Project will comply with the relevant equity laws and regulations. The specifications of the State and the ongoing provision of services by both the public and private sectors will need to recognise the requirements of disadvantaged groups;
- public access is protected through the *Health Services Act 1988* and, under *Partnerships Victoria* procurement guidelines, the State will have contractual remedies if public access is compromised;
- consumer rights are safeguarded through a number of legislative procedures and the Office of the Health Services Commissioner protects access to health information;
- Victorian legislation, enforced by WorkSafe Victoria, in conjunction with DHS and RCH policy guidelines ensure that community health and safety will be secured; and
- user's rights to privacy are protected by a number of Acts, with specific legislation and DHS guidelines for health services information.

Appendix 4: Project Brief Evaluation Criteria

The following criteria were used by the State to critically evaluate proponent responses throughout the tendering phase.

Criterion A - Interface Management

The State will evaluate the extent to which it is evident that the Proponent has fully considered and understood the importance of the interface between the State and CHP. Specifically the:

- resourcing and staffing structure and experience of CHP personnel;
- demonstration and commitment to a partnership approach;
- proposed stakeholder management framework and approach;
- proposed intra-consortium relationship management framework and approach; and
- appropriateness of the proposed communications strategy.

Criterion B - Commercial

The State will evaluate:

- the Proponent's commercial solution including the legal and commercial relationships between the:
- the Project sponsors, equity and debt providers; and
- CHP, the Builder, the Facility Management Subcontractor, the main Services subcontractors (i.e. maintenance, security, and carparking) and any other contractors (as appropriate).
- the nature and extent of the proposed commercial departures.

Criterion C(i) - Financial

The State will evaluate the:

- appropriateness, competitiveness and flexibility of the funding structure;
- financial strength of the party(s) that would contract with the State (or party(s) providing financial support for the party that would contract with the State) for the Project;
- certainty of the funding structure; and
- robustness of the financial assumptions.

Criterion C(ii) - Risk Adjusted Cost

The State will evaluate the whole of life, risk-adjusted cost of the Proposals by taking into account the financial and risk consequences of the Proponent's Proposal.

Criterion D - Commercial Opportunities

The State will evaluate the Commercial Opportunities with regard to the:

- synergistic and/or complementary nature of the proposed Commercial Opportunities;
- compliance with the Retail Principles and commercial terms;
- legal and commercial relationships including the extent to which the Services are protected from non-performance of the Commercial Opportunities; and
- value provided by the Commercial Opportunities Proposal.

Criterion E - Master Plan

The State will evaluate the:

- proposed vision and integration of the master plan;
- Site circulation and provision of appropriate traffic management;
- urban architectural form and fit and relationship to the built and natural environment; and
- the quality and layout of the Site.

Criterion F - Design

The State will evaluate the:

- extent to which the Proposal reflects the Design Principles;
- functionality and operational efficiency of the proposed design;
- contribution of the proposed design towards an efficient whole life cost for the Facility;
- architectural quality of the proposed design;
- process for Equipment selection and appropriateness and quality of the selected Equipment;
- flexibility and expansion capability of the Facility;
- appropriateness and quality of the engineering and building infrastructure services;
- ecological sustainability of the design;
- extent to which the Proposals demonstrate innovation;
- design of any Commercial Opportunities;
- extent to which Proposals consider and respond to the planning framework; and
- extent of Departures from the requirements of the Design Brief.

Criterion G - Project Management

The State will evaluate the:

- Proponent's approach to the Design Development Process, including the co-ordination and management of User Groups and the design team;
- proposed timelines and program;
- construction methodology and management processes;
- appropriateness of the proposed Completion methodology;
- strategies for working with the State and RCH to ensure a seamless transition into the new Facility;
- appropriateness of the demolition and reinstatement methodology; and
- proposed methodologies, and approach to minimising any impact on the business continuity of the Hospital Functions and surrounding community.

Criterion H - Service Delivery

The State will evaluate the ability of the Proponent to support and enhance the delivery of the Hospital Functions through the provision of the Services including the:

- proposed management structure and solution for Services delivery;
- service specific solutions (excluding Building Management Services) including proposed procedures, flexibility and certainty of quality; and

- proposed Building Management Services solution including asset management strategy for maintenance, lifecycle and sustainability management plans.

Other Issues

- Past Behavior: The State may consider past conduct, behavior and corporate history of any consortium member.
- Conformity with the Project Brief: The State will consider the extent to which the Proponents have submitted complete Proposals and the extent to which each Proposal complies with the requirements of the Project Brief.
- Compliance with the VIPP: The Victorian Industry Participation Policy Statement completed by each Proponent will be assessed and used in accordance with the guidelines issued under this policy.
- Probity Investigations: The State reserves the right to evaluate any matters revealed as a result of its probity and security investigations in evaluating Proposals.
- Conflict of Interest: The State will consider the nature of any actual or perceived conflicts of interest and the way in which the Proponent proposes to manage.