What is the future of alliance contracting in light of the new ‘Project Alliancing’ policy implemented by the Victorian Department of Treasury and Finance?

This was the question considered at Consult Australia’s Alliance Contracting Forum, held in Melbourne on the 14 April 2011. The Forum provided an opportunity for industry and government agencies to meet and discuss the future of alliance contracting and the practical implications of compliance with new Project Alliancing policy and guidelines (the Policy) released late last year by the Victorian Department of Treasury and Finance (DTF).

Alliance contracting has grown over the past ten years to successfully deliver some of Australia’s largest and most complex infrastructure projects. Alliance contracting is unique in that it requires a collaborative approach built on good faith, trust, transparency and the equitable sharing of risk and reward between all contracting parties.

As a mode of contracting, alliancing is vulnerable to manipulation of its defining principles, and erosion of its utility as a genuine alternative to other traditional contracting methods. Consult Australia is concerned that many of the benefits created through alliance contracting will be eroded by the approach taken in the new Policy.

Many infrastructure projects have been delivered under alliances that would no longer be possible under the Policy. These projects were successful alliances because they adopted collaborative processes which promoted openness, trust, and risk and responsibility sharing through the alignment of interests between clients, designers and constructors.

Consult Australia is of the view that the new Policy puts at risk the significant gains made in the last decade towards increasingly efficient delivery of infrastructure projects in Australia. This will not only impact industry, but will also be to the detriment of the broader community increasingly demanding a swift resolution to Australia’s substantial infrastructure backlog.

Consult Australia’s Forum panel included representatives from industry, government delivery agencies, constructors, and consultants. Panellists engaged with wide range of industry and government attendees to debate the future of alliance contracting in light of the DTF’s Policy and how it might be applied by government departments and agencies. The panel were strong advocates for the key principles of alliance contracting and discussed in detail the range of projects successfully delivered under this method. A range of concerns were discussed in relation to the new Policy:

**The Policy undermines the principles that make alliancing successful**

The panel broadly supported a number of the principles set out in the Project Alliancing policy statement, but noted that the guidelines and supporting documentation, in particular the Model Project Alliancing Agreement (Model PAA), did not support or deliver on these principles. The panel noted that the Model PAA as drafted read more like a unilateral contract.
Collaboration is a key to success in alliancing, but is at risk

The panel observed that alliance contracting relied on a collaborative culture as the engine of performance and was concerned that DTF had not sought to preserve this culture in the development of the Policy. However, with the Policy has changed the alliance model to the point where collaboration will not be possible putting the benefits of alliance contracting at risk.

Implications for infrastructure delivery

The panel expressed confidence that there will always be a role for alliance contracting, as there will always be projects requiring an alliance solution and parties that embrace the principles that make it successful. However, they also agreed that under the Policy will be difficult, if not impossible, to deliver infrastructure projects as alliances, and that this policy if followed in Victoria would have implications for the Victorian capital works program. The panel also had some concerns that government agencies may not use alliance contracting at all as a direct result of the Policy, or that at the very least government could not continue to deliver the same successful outcomes common under more principled alliance contracting.

A default dual TOC approach unnecessarily restrictive

Reflecting on the detail of the DTF policy and guidelines, the panel did not agree that a dual TOC (Target Outturn Cost) approach should be the default position for alliances as they may be unnecessarily resource intensive for all parties involved. The panel did acknowledge that a dual TOC could work, but would not be appropriate in all circumstances. The panel noted that there are alternative mechanisms to ensure value for money has been demonstrated without driving up costs to both parties as is the case with a dual TOC. The panel agreed that adherence to the principles that support best-practice alliance contracting will often deliver better value for money with superior outcomes that encourage more innovative solutions.

Next steps

The Policy was developed with the support of the treasuries of Victoria, Western Australia, Queensland and New South Wales. Consult Australia will continue to engage these treasuries, their ministers and relevant government agencies to highlight our concerns and urge their adoption of these recommendations seeking to preserve the principles of successful alliancing.