



# Appendix J

## Delivering a Thriving Construction Sector - Engagement Report

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PHASE 2: DELIVERY FINDINGS REPORT

# Appendix J

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## Introduction

In planning a work programme for the second phase of its remit (the delivery of Scotland's infrastructure), the Commission agreed that its approach to stakeholder engagement should be broadly consistent with the strategy it had developed for Phase 1 and set out in Appendix B of the Phase 1 Report. However, given the time available to complete Phase 2, the Commission also agreed that its evidence gathering process should be narrower and more targeted than the wider approach adopted for Phase 1. This would enable the Commission to build on the Phase 1 evidence base by filling in the relevant gaps in its understanding.

As a result, the Commission agreed to the following approach to engagement for Phase 2:

- > Develop a detailed set of issues and range of "questions" with a small advisory group;
- > Identify appropriate, targeted stakeholder group(s) for wider engagement;
- > Hold a series of focused roundtable events in relation to each of the specific issues/questions identified.

However, as the planned engagement timetable coincided with the social distancing and lock-down measures introduced by the UK government and the devolved administrations in response to the Covid-19 pandemic, a reassessment around the practicalities of the above approach was required. This led to on-line video conferencing with either smaller groups of stakeholders or bilaterally with a specific stakeholder, rather than the larger roundtable events originally envisaged. While this presented some logistical challenges, we were able to engage with the majority of the key stakeholders we had identified at the outset. A small number of stakeholders were unable to engage with us, however, due to the reprioritisation of workloads within their own organisations in response to the pandemic. Although the Commission recognises this is unfortunate as it has limited the span of engagement, it also recognises it is understandable under the circumstances. Nevertheless, the Commission is confident that the engagement it has been able to undertake is representative of a wide cross section of views.

## Delivering a Thriving Construction Sector – Identifying the Issues

A major theme of the Phase I report was the need to ensure the adoption of a whole system approach to infrastructure investment decisions. This recognised that the infrastructure we choose to invest in must contribute to wider outcomes that will benefit Scotland as a whole and not just a series of narrow or specific project outcomes; the Phase I recommendation that all new infrastructure investment decisions should be based on their contribution to the delivery of an inclusive net zero carbon economy serves to illustrate the point.

However, this concept of a whole system approach is not limited to only the decision-making or planning aspects of our infrastructure requirements. It also relates to the "hard" delivery of projects – whether this is for refurbished, reprioritised or new infrastructure – which can also be considered as the "market interface" between client and contractor, with outcomes dependent on a combination of many interrelated factors. These include, for example, the respective skills, capacity and competence of both client and contractor – are they right for the particular project; their relationship – is it collaborative or adversarial; and the procurement process chosen – is it appropriate for the particular project and is it being managed correctly. Getting these and other related issues right will have a major impact on the successful delivery of a project. Therefore, the delivery of a thriving construction sector will require the design and implementation of a number of individual process elements that in turn fit together to create a whole system. We developed the following set of issues and questions as the basis for our engagement:

- > What are the right conditions and how do we create them to ensure a whole system, place based approach for Scotland's infrastructure needs and its delivery?
- > What needs to change and why to create greater opportunities for shared outcomes as a way to realising a more effective delivery of Scotland's infrastructure?
- > What improvements would be useful to achieve by the Scottish Government and other public bodies in the development of their investment plans through improvements in, for example a) pipeline transparency, b) market interface, c) geographical recognition, and d) supply chain?

- > What do we need to think about and do to ensure that the construction sector can continue to play a key role in Scotland's economy?
- > How can we deliver Scotland's infrastructure needs in this way?

## Stakeholders Consulted

During its Phase 2 work, the Commission received evidence from the following organisations on the question of delivering a thriving construction sector for Scotland:

Addleshaw Goddard LLP, Civil Engineering Contractors Association (CECA), Construction Industry Training Board (CITB), Construction Scotland, Construction Scotland Innovation Centre, Equate, HubCos, Orkney Builders (Contractors) Ltd, New Zealand Infrastructure Commission, Scape Group, Scottish Futures Trust, Scottish Government, Scottish Heads of Property Services (SHOPS – representing local authorities), Skills Development Scotland (SDS), Scottish Water, Transport Scotland, Zero Waste Scotland.

## Summary of the Evidence Received

Stakeholders with a high level, strategic or policy interest in the construction sector noted its importance to the Scottish economy pointing out that a thriving construction sector will be essential to underpin the delivery of the Commission's Phase 1 recommendations and the National Infrastructure Mission. Although the sector comprises a number of sub-sectors - for example, civil engineering works, construction works and housing construction – a number of contributors noted that while each sub-sector is significant in its own right, they cautioned against looking at them in isolation when taking a strategic overview. In their opinion, the issues and challenges across each sub-sector are very similar and were of the view that looking at the construction sector as a whole would prove to be more helpful than looking at a component part.

One of the key areas of concern raised with us during our discussions with stakeholders centred around the market interface between client and contractor. For example, while current guidance and regulations relating to the procurement of construction works are clear that it should be conducted on the basis of the "most economically advantageous tender" (i.e. taking account of qualitative, technical and sustainable aspects of a tender as well

as price), it was contended that many public sector clients in Scotland still regard lowest price for a tender as representing best value. We were informed that awarding contracts on this basis is unhelpful - it forces contractors into unsustainable pricing in order to secure work, with resultant margins so low (or non-existent) that "risk" cannot be properly managed. This is a damaging false economy and it was argued that we need a more mature and sustainable procurement process.

A number of stakeholders contended that while there are examples of more sustainable procurement approaches being applied in other parts of the UK (Wales & NI) similar practices are not being adopted in Scotland. However, we were also informed that the Scotland-wide hub programme, which is based on a partnership between the public and private sectors to provide new community facilities, is helping to deliver a wide ranging pipeline of best-value, award winning community infrastructure. We were also told of other public sector clients which were beginning to adopt different approaches to their procurement. Nevertheless, there was concern expressed that key public sector decision makers are not always aware of the procurement vehicles open to them. It was contended that too often public sector clients simply do what they have always done, which might not be appropriate or effective for a particular project. Views were expressed that public sector clients need to be better informed about procurement routes available to them – in short, while there is a wide choice available, it is important to use most appropriate route to get best results.

During our discussions with stakeholders, it was clear that there was a large degree of consensus on all sides of the construction market interface that the public and construction sectors need to work together better in the delivery of Scotland's infrastructure. Many recognised a need to move away from an adversarial relationship between parties to a collaborative one that is clearly focussed on delivering shared goals. This is not a new issue and has been discussed for some time by all sides. However, it was noted by some that nothing seems to change, with one stakeholder indicating that we seem to get talked into inertia waiting for the perfect solution. It was put to us that the Commission might be able to create some traction by providing a pathway to make progress in this area.

In our conversations with stakeholders, a number suggested that we need to find innovative ways of using the market interface process between client and contractor to drive positive outcomes that will increase productivity, raise capability, improve resilience, restore public and political confidence in public sector construction procurement and strengthen the reputation of the construction

sector. Ways in which this might be achieved include the wider implementation of framework contracts; having less focus on awarding to lowest cost bids by eliminating unsustainable pricing; developing and implementing more collaborative procurement approaches between client and contractor; and, encouraging the increased use of local subcontractors and supply chains.

With regard to the premise that greater collaboration between client and contractor will lead to better outcomes, one commentator compared two clients they were familiar with – one had a high reputation of working hard to establish a good, trusting relationship with its main contractors to the extent that any approach to the market attracted considerable interest ; in short, contractors were keen to work with this client. The other client was described as having a less enlightened or mature relationship with its contractors, and was often faced with many contractual disputes during the delivery of its projects. As a result, many companies shy away from submitting tenders to this client as they believe any appointment carries too much risk.

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Among the comments we received from a client's perspective, it was noted that we have a great many of public bodies in Scotland, many of which are of a small size. It was contended that for many of these bodies, procuring construction works will be only an occasional event and they do not always have sufficient capacity or capability to undertake such work. Also, there is a lack of consistency of approach in how work to refurbish or construct new assets is procured. As a result, we were told there is a fragmented, disjointed and inefficient approach across Scotland.

With regard to how Scotland's local authorities interface with the market, we were informed that many act "independently" when procuring building works which, in turn, leads to an inconsistent approach towards standards and specifications. It was suggested that there may be some merit in a more centralised approach for managing the delivery larger scale infrastructure investments. However, it was also pointed out that while there needs to be a change of culture overall, it is also important to recognise there is not a one size fits all solution and "foisting" change on local authorities is unlikely to be successful – it will be important that local authorities are included in the debate. That said, we were informed of a number of examples where joint collaboration between authorities had led to successful delivery and also noted that the Hub system was created to specifically address this particular issue.

Those local authority stakeholders we were able to engage with also noted that not all of the issues are evenly weighted and there is a need to prioritise. Moreover, the lack of collaboration is not always due cultural issues but often because of practical matters or reasons. For example, we were informed that achieving collaboration between different sections within a large organisation can be challenging, over and above adopting a more collaborative approach with third party contractors. However, the local authority contributors were clear that, going forward, we need to find ways round these challenges otherwise it is unlikely that a sea change in collaboration among potential partners will materialise.

We were also informed that, from a local authority perspective, the construction sector is not seen as an attractive area of employment at present with fewer young people considering a career in construction. It was further contended that public bodies are finding it difficult to recruit staff with the appropriate skills required to ensure the successful delivery of Scotland's social infrastructure. We were told, in short, that the current level of expertise is spread too thinly across too many separate bodies with the resultant skills shortage adversely impacting on the quality of product being delivered.

We also heard concern expressed from other stakeholders that many public bodies will make significant amendments to standard forms of contract, which have been developed to promote more collaborative relationships between client and contractor based on more equitable risk sharing between parties. It was contended that many clients will amend standard forms of contract in the belief this will "strengthen" their position and reduce their exposure to risk. However, this can be counter-productive as major amendments to standard forms will tend to undermine the benefits and advantages to be realised through a more collaborative approach.

Stakeholders from the construction sector also provided us with their perspective on the skills they believe the industry will require if it is to be able to support the delivery of the recommendations set out in the Commission's Phase 1 Report – this includes a strengthening of skills around longer term planning, collaborative working, significantly increased use of Building Information Modelling (BIM) and associated digital technologies for building management systems. In addition, there is scope to enhance the skills necessary to better balance infrastructure with the environment and lower carbon levels, increase innovation and embrace a stronger circular economy to reduce waste within the construction sector.

The construction sector acknowledged that that considerable effort is already directed at skills development through organisations such as Skills Development Scotland (SDS), the Construction Industry Training Board (CITB) and Scotland's universities and colleges. The sector also noted that while it plays a key part in helping to determine future supply and demand for skills training, the training landscape appears complicated and fragmented. It contends this is due to current funding processes and increased numbers of managing agents, which makes it harder to monitor and control any skills development plan; for example, when apprenticeship numbers are set for new intake, this does not consider the numbers emerging out of pre-apprenticeships the colleges have set up. Moreover, the sector further contends that often training is developed by colleges and universities without enough industry input.

The construction sector also notes the need to increase levels of diversity and inclusion within the industry. It suggests that many schools do not fully understand or appreciate the range of opportunities a career in construction can offer and notes that much of the good STEM work in schools is then undone by teachers and parents misunderstanding construction. The sector contends that there is some evidence to suggest that while there is much good work in schools around My World of Work and STEM Ambassadors, yet it is those considered underachievers who tend to be sent to construction careers talks; it would appear that careers teachers are not sufficiently informed about the range and breadth of construction careers – for both professional and trade roles. In addition, girls tend not see role models in the construction industry given the sector's low profile.

These comments on skills correlate closely with similar comments raised with us in our engagement with a different range of stakeholders in relation to Enabling Sustainable Places (Appendix I).

Other issues raised with us during our engagement with stakeholders centred around the debate about the opportunities afforded by increased modular construction, particular in relation housing. Those advocating this approach contend that prefabricated factory built modular houses can be constructed up to 50% faster than traditional methods of house construction and will be key to meeting Scotland's current housing demand quickly and efficiently. It was argued that modular buildings are more sustainable - there is less waste created during their construction and they can be designed to be highly energy efficient.

There was also a counter argument presented that speed of construction is not necessarily the key to addressing the housing shortage; what would help, however, is creating a more standard approach to house design and specification – it is felt that there are too many variations available and there would be benefits in greater standardisation of housing products.

In conclusion, the overarching message from our engagement with a range of stakeholders (representing clients and contractors) around the issue of delivering a thriving construction sector for Scotland is relatively consistent – there is a need for public and construction sectors to work more closely and collaboratively together in order create the environment necessary to ensure that our future investment on infrastructure will contribute to the delivery of an inclusive net zero carbon economy. This will require significant changes not only at the point of market interface, but also upstream of the interface by public sector clients and downstream by the construction sector. Our wider research has indicated that New Zealand has been facing a very similar set of issues to Scotland about improving the effective delivery of infrastructure and its response – a reset of its construction sector through the creation of a real partnership between the public sector and the industry designed to operate for the mutual benefit of all partners – may help to inform a potential way forward in Scotland and result in a smoother delivery of its National Infrastructure Mission.