

## Digital Train Radio System Proposal – Proponents: Nokia and Vodafone Hutchison Australia (Vodafone)

### Probity Plan for Stage Four Assessment – *Market-led Proposals Guideline 2015*

The Government received a market-led proposal to upgrade the Digital Train Radio System (DTRS) from Nokia and Vodafone Hutchison Australia (Vodafone) (the Proponents) in April 2015. The proposal has been considered at Stage One and Two under the *Market-led Proposals Guideline* (the Guideline). The Government progressed the proposal to Stage Four of the Guideline in November 2016.

The Proponents are seeking to instal a new Long-Term Evolution (LTE) 4G network on VicTrack assets to provide an option for the State to transition to a state-of-the-art communication system for Metro Trains, Public Transport Victoria (PTV) and VicTrack. The upgraded network will also improve Vodafone’s mobile phone coverage in metropolitan Melbourne.

If the proposal is successful, the upgraded network will provide the core components for a future 4G Digital Train Radio System (DTRS), and has the potential to enable other rail network projects to be deployed onto a 4G network.

The proposal will be further developed and assessed at Stage Four and at conclusion advice will be provided to Government on;

- any negotiated final offer that satisfies VicTracks requirements;
- the proposed terms and conditions achieved, and;
- if a mutually agreed negotiated position with the Proponent can be reached that provides value to the State.

The market-led proposal process is designed to ensure transparency, and to maintain the highest level of probity and public accountability in receiving and assessing market-led proposals.

This Probity Plan sets out the principles and practices for engaging with the Proponents during the Stage Four assessment in accordance with the Guideline.

The objectives of a Probity Plan are to:

- ensure prescribed processes have been identified and can be followed or adhered to;
- ensure the processes designed are equitable and conducted with integrity;
- clarify accountability;
- preserve public and Proponents confidence in government processes; and
- improve defensibility of process to potential legal challenge or other external scrutiny.

A Probity Advisor is to be engaged to provide oversight and advice as appropriate during Stage Four.

### Probity principles

Organisations and officers undertaking or contributing to this Stage Three assessment must ensure:

- compliance with legal and policy requirements;
- consideration of competitive requirements;
- fairness and impartiality;
- consistency and transparency of process;

- security and confidentiality; and
- identification and declaration of conflicts of interest.

Responsible officers participating in the assessment process are accountable for ensuring that systems, policies and procedures are adhered to ensure integrity of the assessment process and compliance with this Probity Plan. The key requirements are outlined in Table 1 below.

**Table 1: Probity requirements**

Requirements	Recommended actions
<b>Compliance with legal and policy requirements</b>	<p>Officers should ensure compliance with government legislation and codes, including:</p> <ul style="list-style-type: none"> <li>• <i>Public Administration Act 2004</i>;</li> <li>• <i>Freedom of Information Act 1982</i>;</li> <li>• Code of Conduct for Victorian Public Sector Employees;</li> <li>• State Services Authority (SSA) Ethics Framework;</li> <li>• SSA Conflict of Interest Policy Framework;</li> <li>• SSA Gifts, Benefits and Hospitality Policy Framework, and</li> <li>• Commonwealth legislation and relevant trade agreements.</li> </ul>
<b>Consideration of competitive requirements</b>	<p>Organisations and officers must:</p> <ul style="list-style-type: none"> <li>• ensure appropriate consideration and implementation of competitive processes to deliver a value for money outcome to the State in accordance with the Market-led Proposals Guideline.</li> </ul>
<b>Ensuring fairness and impartiality</b>	<p>Organisations and officers must:</p> <ul style="list-style-type: none"> <li>• be honest, open and transparent in their dealings;</li> <li>• use powers responsibly;</li> <li>• address improper conduct;</li> <li>• manage any real or apparent conflicts of interest; and</li> <li>• strive to earn and sustain a high level of public trust.</li> </ul> <p>Officers must demonstrate impartiality by:</p> <ul style="list-style-type: none"> <li>• making decisions and providing advice based on merit—without bias, caprice, favouritism or self-interest, and</li> <li>• acting fairly by objectively considering all relevant facts and fair criteria.</li> </ul>
<b>Consistent and transparent processes</b>	<p>Organisations and officers should:</p> <ul style="list-style-type: none"> <li>• apply transparency and fairness throughout the assessment process;</li> <li>• maintain records throughout the process, providing enough information to enable independent review; and</li> <li>• ensure any change or variation to process does not unfairly disadvantage the Proponents and minimises additional costs.</li> </ul>
<b>Secure and confidential proposal information</b>	<p>Organisations and officers should:</p> <ul style="list-style-type: none"> <li>• set up processes to ensure that information from the Proponents, in particular intellectual property (if relevant), remains confidential.</li> </ul>
<b>Identifying and resolving conflicts of interest</b>	<p>Organisations and officers should:</p> <ul style="list-style-type: none"> <li>• identify and address actual and perceived conflicts of interest; and</li> <li>• record all actions taken to address any actual or perceived conflict of interest.</li> </ul>

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## Compliance with Probity Plan

Organisations and officers should:

- ensure the Stage Four advice records compliance with this Probity Plan.
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## Declarations of Conflict of Interest and Confidentiality Declarations

Officers (including those contracted by Government to assist with the evaluation) are required to:

- complete relevant confidentiality declarations (as required) as a condition of participating in the assessment process;
- declare any potential or perceived conflicts of interest to the Chair of the Project/Negotiation team;
- only Project Members that have completed a Confidentiality Deed acknowledging their confidentiality requirements may access Project information;
- a register of Project Members who have signed the confidentiality and conflict of interest documents is to be maintained by the Chair of the Project/Negotiation team or an expressed delegate;
- all new members or persons supporting the Project/Negotiation team must complete the necessary documentation to be included in the Project and have access to the Proponent or Project related information; and
- the conflict check process should be conducted at each phase of the Project.

The Chair of the Project/Negotiation team will consider any declarations, seek external probity advice as necessary, and implement necessary controls to manage the conflict. Where there are declared conflicts and/or relationships, assessment or treatment plans must be developed and signed off by the Project/Negotiation Chair.

## Interaction with Proponents at Stage Four

As part of the Stage Four process, the Proponents will be asked to enter into a structured, time limited negotiation so that the Project/Negotiation team can provide the necessary information and parameters to form advice to Government at the end of Stage Three.

The parameters for this exchange will be pre-agreed with the Proponents through a Probity and Process Deed, including the treatment of intellectual property (if relevant). An interaction and negotiations protocol will be developed prior to commencing negotiations.

The Chair of all negotiation meetings (being the Project/Negotiation team lead) will reinforce the confidentiality and conflict of interest protocols for those attending the meetings and participating in this process.

Any meetings held with the Proponents must adhere to the following requirements:

- meetings must be structured around an agenda;
- at least two Project Members must be in attendance at any such meeting;
- there must be a record of the meeting; and
- the Probity Advisor may choose to attend any meeting if deemed appropriate.

At the end of the Stage Four assessment there will be written communication to the Proponents of the assessment outcome.

## Debriefs

If a proposal does not proceed past Stage Four, the Proponents will be offered a debrief, either over the phone or at a meeting. Officers conducting the debrief will prepare for the discussion based on the

outcomes of the assessment process. Where a debrief meeting is held with Proponents, two officers will be present at the meeting.

## Secure and confidential proposal information

Proposal information will be managed to maintain confidentiality and access and distribution limited to those officials involved in the Stage Four assessment and for other purposes under the Guideline.

The State Representative, as defined in the Probity and Process Deed between the State and Proponents will serve as the key contact channel with the Proponents for documentation. Access to information exchanged between the parties will be governed by the terms of the Probity and Process Deed.

Electronic documents will be stored securely and will have access controls in place to limit access to only authorised Project team members. Key documents such as recommendations and assessment reports will be protected. Specifically:

- common drive sub-directories being used to store project information will only have access enabled for approved Project Members;
- TRIM containers and documents will have appropriate access controls put in place;
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Documents will be managed in accordance with VicTrack's records management policy as appropriate.

## Records

Records will be maintained throughout the process to provide sufficient information to enable independent review and consistent with the applicable records management policy requirements.

## Governance

VicTrack will manage the Stage Four process, including managing the overall work streams, providing advice to Government and managing all interaction and negotiation with the Proponents.

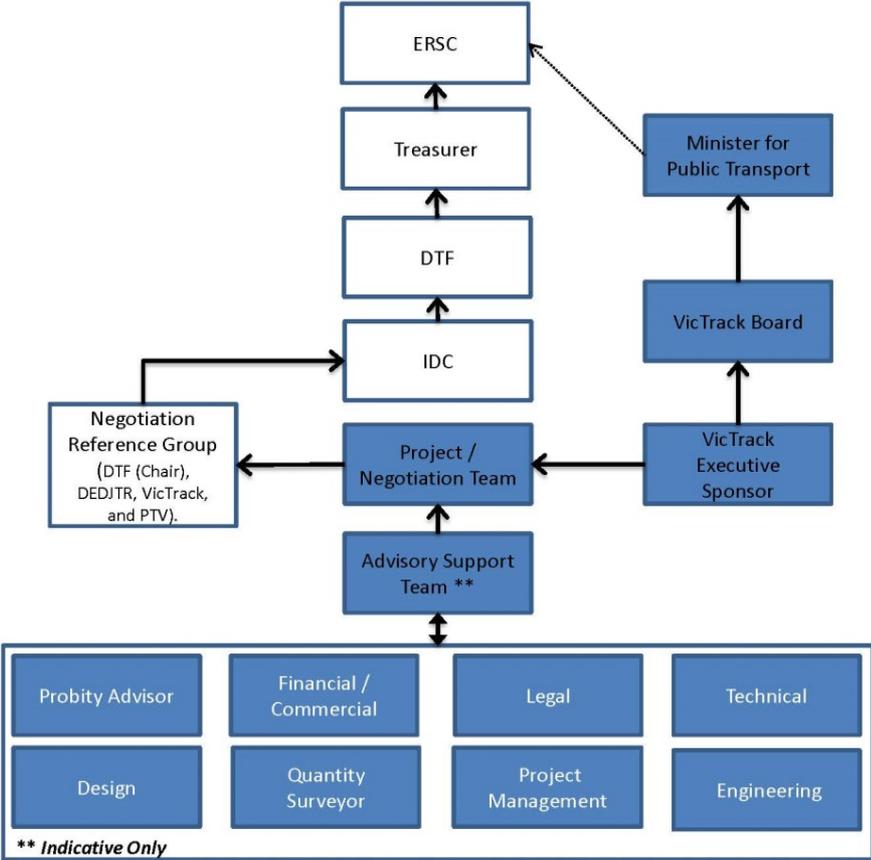
The Expenditure Review Sub-committee of Cabinet (ERSC) is responsible for the decision as to whether, and in what form, the Proposal may proceed to Stage Five under the Guideline.

The assessment will be overseen by an Inter Departmental Committee (IDC). This will be the senior oversight body responsible for delivering the final Stage Four advice.

The accountabilities and responsibilities of the various governance entities are set out below. A Probity Advisor will be engaged to provide probity advice and oversight, as well as process assurance to the Government in relation to the Stage Four activities.

The proposed governance arrangements are outlined below.

**Project Organisation**



Accountabilities and Responsibilities

Role	Accountability / Responsibilities
IDC	<ul style="list-style-type: none"> <li>• Oversee and implement the market-led proposal process (for all proposals)</li> <li>• Endorse the Stage Three work plan including negotiation parameters, for each proposal</li> <li>• Endorse Stage Three Probity Plan</li> <li>• Brief the Treasurer</li> </ul>
Negotiation Reference Group (NRG)	<ul style="list-style-type: none"> <li>• Oversee, direct and provide advice to the Project/Negotiation team consistent with agreed proposal assessment and negotiation parameters</li> <li>• Brief the IDC as required, including recommending the Stage Three Work Plan and Stage 3 assessment criteria.</li> </ul>
Project/Negotiation Team  (resourced within VicTrack with support from DTF, PTV and DEDJTR)	<ul style="list-style-type: none"> <li>• Establish user needs and project requirements</li> <li>• Coordinate project development activities to support the negotiation process</li> <li>• Undertake direct negotiations with the proponent in accordance with the parameters agreed to by the IDC (as recommended by the NRG), and the VicTrack Executive Sponsor</li> <li>• Provide briefings as required to all stakeholders</li> <li>• Document the negotiation progress and outcomes</li> <li>• Provide advice and recommendations to the IDC (through the NRG) and VicTrack Executive Sponsor</li> <li>• Develop alternative strategies in the event negotiations do not meet agreed parameters</li> </ul>
VicTrack Executive Sponsor	<ul style="list-style-type: none"> <li>• Endorse the negotiation parameters</li> <li>• Provide resources to the project</li> <li>• Provide VicTrack direction to the project</li> <li>• Brief VicTrack Board</li> <li>• Brief the Minister for Public Transport (through the DEDJTR representative)</li> </ul>
Advisory Support Team	<ul style="list-style-type: none"> <li>• As necessary, provide specialist advice to the Project/Negotiation team as required</li> </ul>

## Management of this Probity Plan

The IDC will have overall responsibility for managing and implementing the requirements of this Probity Plan. The Stage Four advice will record compliance with this Probity Plan.

This plan and any changes made to it, are to be approved by the IDC.

## Probity issues and queries

During any process, it is possible that probity issues will arise. In these circumstances, Project Members should bring the matter to the attention of the Chair of the Project / Negotiation team or Probity Advisor for timely advice and resolution. In case of doubts, it is preferred that the matter is preliminary discussed with the Chair of the Project / Negotiation team and the Probity Advisor to agree on a position on the probity issue.

Dealings with the Probity Advisor on a probity issue are done so on the understanding that any such matter will be treated in confidence.

Probity issues will need to be documented and detailed in a Probity Issue File Note – see **Appendix A**, and record of individuals involved and actions undertaken to resolve the issue should be reported to enable appropriate documentation and escalation.

## Probity Breaches

If a breach of this plan occurs, it is essential that the breach is identified, reported, documented and investigated. A breach does not necessarily lead to a compromise of the entire process. However, all breaches must be managed according to their risk to the process.

Where appropriate, reliance is placed on legal advice where enabling legislation exists.

## Probity Advisor/Auditor

The Probity Advisor for the Project will be appointed. The Probity Advisor is available to any Project Member to discuss any probity issues or concerns in relation to the Project.

# Appendix A – Probity issue file note

Ref	Number: (From Project Issue Register)	Date:	
	Issue		
Notifications	Position	Person	Date
	Project Director		
	Probity Practitioner		
	Legal Advisor (optional)		
Advice/Options	Probity:		
	Legal:		
Action/Resolution	Date	Comment	
Process changes			
Proponent informed (If deemed necessary)	Company	Position/Person	Date