Government of **Western Australia**
Department of **Treasury**

Eastern Goldfields Regional Prison Redevelopment Project

Project Summary

June 2013

Eastern Goldfields Regional Prison Redevelopment Project

Project Number: BMW213419/11

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Contents

Foreword

This Project Summary provides an overview of the commercial and contractual arrangements for the delivery of the Eastern Goldfields Regional Prison Redevelopment Project (the EGRP Project).

This Project Summary is divided into two parts. Part One provides a broad overview of the Project, including the rationale to deliver it under a public-private partnership model, a summary of the procurement process, the value for money outcome, the public interest considerations and the timetable for the EGRP Project. Part Two focuses in more detail on the key commercial features of the EGRP Project, including the main parties and their respective obligations, the broad allocation of risk between the public and private sectors and the treatment of various key project issues.

This summary should not be relied on as a complete description of the rights and obligations of the parties to the EGRP Project and is not intended for use as a substitute for the Eastern Goldfields Regional Prisoner Redevelopment Project Agreement and associated EGRP Project documentation.

1. Project Overview

1.1 Background

On 14 May 2009, the State Government of Western Australia (the State) announced a new custodial infrastructure program to deliver 1,657 additional beds across the prison system. This program included the replacement of the existing 100-bed Eastern Goldfields Regional Prison (the Existing Facility) with a new 350-bed facility (the New EGRP) to cater for both genders across minimum, medium and maximum security ratings.

The Existing Facility was built in 1980 to replace the Kalgoorlie Regional Prison and was originally designed to house 96 male minimum security prisoners. Since it was commissioned, the Existing Facility has been retrofitted to meet modern custodial needs. The Existing Facility has the capacity to manage both genders and also higher-security male and female prisoners for a short time, generally to allow for visits or court appearances in the Goldfields. However, the current population is primarily minimum security.

The target population is predominately (about 85 per cent) Aboriginal men and women from the Goldfields region of Western Australia, on minimum and medium security levels currently held in secure metropolitan facilities and the existing prison. The New EGRP will be located adjacent to and on the site of the Existing Facility. This will allow more offenders from the Goldfields region to serve their sentences close to their families and communities.

1.2 The Project

In November 2009, the Treasurer approved the business case for the redevelopment of the Eastern Goldfields Regional Prison (the EGRP Project). The New EGRP will comprise:

- 200-bed male medium security sector with capacity to accommodate 20 maximum security prisoners.
- 60-bed male minimum security sector.
- 40-bed male open minimum security sector.
- 50-bed female maximum, medium and minimum sector including a 6-bed mothers and children unit.

In March 2011, Cabinet approved the delivery of the EGRP Project as a Public Private Partnership (PPP) whereby the private sector will design build, finance and maintain the New EGRP. The State will retain responsibility, through the Department of Corrective Services (DCS), for the delivery of custodial services and ancillary services.

In October 2012, following an open and competitive procurement process, the State appointed the Assure Partners Consortium (Assure Partners) as the preferred respondent to proceed to an exclusive negotiations period after which the State executed the EGRP Project documents on 14 December 2012. Financial close was achieved by Assure Partners on 18 December 2012.

Construction of the New EGRP will be undertaken by John Holland Pty Ltd (John Holland) and Pindan Contracting Pty Ltd (Pindan) under an unincorporated joint venture arrangement with joint and several liability. To minimise disruption to operations of the Existing Facility, construction will be completed in two stages (the Design and Construction Phase) as detailed below:

- Stage One comprises design, construction and commissioning of the New EGRP and is due for completion by July 2015.
- Stage Two comprises demolition of the Existing Facility and site remediation due to be completed by the end of November 2015. In addition, during Stage Two, Assure Partners will relocate two significant wall murals painted by Aboriginal artists from the Existing Facility to the education/programs precinct in the New EGRP. The relocated wall murals will have a plaque installed to recognise the artists and the works. The wall murals will be protected from the weather to ensure longevity of the artwork.

Following commissioning of the New EGRP, facilities maintenance services (FM Services) will be provided over a 25 year operating term (the Operating Phase) by Honeywell Limited (Honeywell).

Table 1 provides a summary of the key members of the Assure Partners Consortium involved in delivery of the EGRP Project and other key project facts.

Table 1: Key Project Facts

EASTERN GOLDFIELDS REGIONAL PRISON REDEVELOPMENT PROJECT	
CONTRACTING ENTITY	Assure Partners (EGRP) 1 Pty Ltd as trustee for the Assure Partners (EGRP) Unit Trust 1 for and on behalf of the Assure Partners (EGRP) Partnerships; and Assure Partners (EGRP) 2 Pty Ltd as trustee for the Assure Partners (EGRP) Unit Trust 2 for and on behalf of the Assure Partners (EGRP) Partnership: together (Assure Project Co)
KEY MEMBERS OF THE ASSURE PARTNERS CONSORTIUM	
Lead Sponsor	Capella Capital Pty Ltd as agent for the Capella Capital Partnership
Manager of Assure Project Co	Capella Management Services Pty Ltd (Capella)
Sponsors and Construction Contractors	John Holland and Pindan – under an unincorporated joint and several, joint venture arrangement guaranteed by Leighton Holdings Limited and Pindan Pty Ltd
Sponsor, Facilities Management Subcontractor and Security Subcontractor	Honeywell guaranteed by Honeywell Inc.
Architect	Cox Howlett & Bailey Woodland
EQUITY AND DEBT PROVIDERS	
Equity Investors	Lend Lease Infrastructure Investments; and MLC Limited
Debt Providers	Commonwealth Bank of Australia; and Mizuho Corporate Bank together (the Financiers)
PROJECT DURATION	
Design and Construction Phase	January 2013 to November 2015
Operating Phase (Facilities Maintenance)	25 years from 31 July 2015
SITE DETAILS	
Location	150 Vivian Street, Boulder, 1.5km south of the Boulder town centre and 596 km east of Perth. The Kalgoorlie-Boulder Airport is located at the rear of the south-eastern perimeter.
Area	17.2 hectares

DESIGN AND CONSTRUCTION	
Prisoner Accommodation	200-bed male medium security sector with capacity to accommodate 20 maximum security prisoners. 60-bed male minimum security sector. 40-bed male open security sector. 50-bed female maximum, medium and minimum sector.
Stage One Completion	31 July 2015
Stage Two Completion	27 November 2015
FACILITIES MAINTENANCE SERVICES PROVIDED	
Services Provided	Building maintenance services including reactive/preventative maintenance and lifecycle replacement. Limited grounds maintenance services. Furniture, fittings and equipment maintenance services and whole-of-life lifecycle replacement of selected items. Security systems maintenance services and lifecycle replacement including the secure perimeter fence. Key and lock management services. Cleaning services (non-prisoner areas only). Waste management services (non-prisoner areas only). Pest control services. Utility management services. Help desk services.

1.3 Project Objectives

At the commencement of planning for the ERGP Project a suite of the objectives were developed and agreed to guide project management and procurement activity. The EGRP Project is intended to achieve the following objectives:

- Replace the Existing Facility, which is significantly overcrowded and no longer fit for purpose.
- Reduce overcrowding in metropolitan prisons.
- Provide sufficient prison beds at the facility for local prisoners to remain close to family and remain 'in country' thus enabling the State to meet the recommendations of the Royal Commission into Aboriginal Deaths in Custody (1991) and other inquiries.
- Provide safe, secure and contemporary custodial facilities that contribute to community safety and reduce long-term recidivism.
- Develop modern secure facilities and a technologically supported perimeter security system.

1.4 Delivery Model

The State approved the delivery of the EGRP Project as a design, build, and finance and maintain (DBFM) procurement model.

As part of a procurement options analysis, the State analysed various delivery models as detailed in Table 2. Each option is considered with reference to either the public or private sector delivery of components of the EGRP Project.

After a careful analysis, Option 2 was selected as the model best suited to achieve the EGRP Project objectives. Further assessment was undertaken regarding the financing of the EGRP Project, with the decision that the private sector should also provide finance. This model represents a traditional DBFM PPP structure, whereby the State enters into a contract with a private sector entity that will be required to:

- Design, construct and commission the New EGRP and associated infrastructure.
- Provide FM Services over the Operating Phase.
- Finance the EGRP Project for the duration of the project term.

The State will retain responsibility, through DCS, for the full delivery of custodial services and the following ancillary services:

- Canteen.
- Kitchen.
- Cleaning (prisoner areas only).
- Education and vocational training.
- Program delivery.
- Grounds maintenance (partial).
- Health services.
- Laundry.
- Prisoner industries.
- Prisoner visits.
- Waste Management (prisoner areas only).

The benefits of this approach are:

- An alignment of incentives that can approve the efficiency and durability of the asset. As one party is responsible for the design, construction and maintenance, the whole of life performance of the asset is taken into consideration when designing and constructing the asset. The approach also ensures whole of life maintenance of State infrastructure. The private provider is responsible for maintaining and managing the infrastructure to specified standards over the contract terms within the agreed price.

- The provision of private finance provides an increased incentive for on-time delivery of the construction.
- Accountability and performance measures are put in place to ensure that service outcomes for the community meet the high standards specified by Government. If the private operator fails to meet these high standards, payments to the private partners are reduced and the agreement can ultimately be terminated.
- • A focus on output specifications and a competitive bidding process for each project provide an incentive for private providers to develop innovative solutions in DBFM projects that can then be adopted across the public sector to delivery better and cheaper services more broadly.
- The DBFM model delivers value for money to the tax payer through effective risk transfer by allocating the specific project risks to the party that is best able to manage them.

Table 2: Procurement Option Analysis

OPTION	DELIVERY MODEL
Option 1	Public sector full provision of design, construction, commissioning and maintenance of the facility plus the full provision of custodial and ancillary services.
Option 2	Private sector full provision of design, construction, commissioning and maintenance of the facility. Public sector full provision of custodial and ancillary services.
Option 3	Private sector full provision of design, construction, commissioning and maintenance of the facility plus the partial provision of ancillary services. Private sector full provision of custodial services and partial provision of ancillary services.
Options 4 and 5	Private sector full provision of design, construction, commissioning and maintenance of the facility plus partial provision of custodial and ancillary services. Public sector partial provision of custodial and ancillary services. Each option analysed a different range of custodial and ancillary services.
Option 6	Private sector full provision of design, construction and commissioning of the facility and partial delivery of custodial and ancillary services. Public sector full provision of maintenance of the facility and partial provision of custodial and ancillary services.
Option 7	Private sector full provision of maintenance of the facility and partial provision of custodial and ancillary services. Public sector full provision of design, construction and commissioning of the facility and partial provision of custodial and ancillary services.
Option 8	Private sector full provision of maintenance of the facility and partial services of custodial services. Public sector full provision of design, construction and commissioning of the facility, full provision of ancillary services and partial provision of custodial services.
Option 9	Private sector partial provision of ancillary services and custodial services. Public sector full provision of design, construction, commissioning and maintenance of the facility and partial provision of custodial services and ancillary services.

1.5 Project Governance

The EGRP Project is managed in accordance with the governance arrangements for a designated major custodial infrastructure project. An Inter-Agency Steering Committee (the Steering Committee) provides overarching governance of designated major custodial infrastructure projects.

The Steering Committee is comprised of members of DCS, the Department of Treasury (Treasury), the Department of Premier and Cabinet and the State Solicitor's Office (SSO). The Steering Committee provides:

- Leadership and oversight on major Custodial Infrastructure projects as designated by the Minister for Corrective Services and the Treasurer.
- Strategic, cross agency guidance and advice to ensure that the projects are developed in accordance with agreed scope, time, cost and quality parameters.

A Project Control Group was established to manage the process required to deliver the project. The Project Control Group is responsible to the Steering Committee. Treasury's Strategic Projects business unit appointed a Principal Project Director to lead a dedicated project team, assembled to undertake project development work. The project team is comprised of government representatives from relevant agencies (DCS, Treasury and SSO) with expertise in corrective services, infrastructure and commercial aspects of the project.

1.6 Procurement Process

The State undertook an open and competitive procurement process to appoint Assure Partners as the preferred respondent. The procurement process was implemented in accordance with relevant State tendering guidelines and undertaken in three stages as described below.

1.6.1 Expressions of Interest Phase

The procurement process commenced with the public release of the Invitation for Expressions of Interest (EOI) on 29 April 2011. The purpose of this document was to invite suitably skilled and qualified organisations to submit expressions of interest to deliver the EGRP Project. It also contained information concerning the EGRP Project and set out the information that respondents were to provide in their submissions and the criteria against which submissions would be assessed.

After a detailed evaluation of the EOI submissions, the State invited the following three short-listed respondents to progress to the Request for Proposal (RFP) phase of the procurement process:

- Assure Partners comprised of Capella, John Holland, Pindan and Honeywell.
- The Aurum Partnership Consortium comprised of Leighton Contractors Pty Limited, Broad Construction Services (WA) Pty Ltd, Programmed Facility Management Pty Ltd and Bilfinger Berger Project Investment Pty Ltd.
- EG Pathways Consortium comprised of McConnell Dowell Corporation Limited, Spotless Facility Services Pty Ltd, Bank of Tokyo-Mitsubishi and John Laing Investments Limited.

1.6.2 Request for Proposal Phase

The second phase of the procurement process commenced with the release of the RFP document to short listed respondents on 18 January 2012. The RFP contained the detailed technical, service and commercial requirements for the EGRP Project. The RFP requested the short-listed respondents to submit fully costed and complete proposals based on the requirements set out in the RFP document.

From January 2012 to June 2012, the State conducted an interactive tendering process (ITP) between the State and each of the short listed respondents. The intention of the ITP was to provide timely and meaningful feedback on the concept design and other aspects of the RFP to assist short-listed respondents understanding of the State's requirements and increase the quality of the final proposals.

Proposals were received on 13 July 2012 and evaluated against a range of qualitative and quantitative criteria that considered the following:

- Organisation structure, resourcing and operations.
- Stakeholder relationship management.
- Design solution.
- Design and build project management.
- Delivery of FM Services.
- Commercial and financial solution including risk and value for money to the State.

In accordance with the State's evaluation structure (detailed in Figure 1), senior State representatives were involved in the evaluation of the proposals and the recommendation of the preferred respondent. On 12 October 2012, the State appointed Assure Partners as preferred respondent to proceed to exclusive contract negotiations.

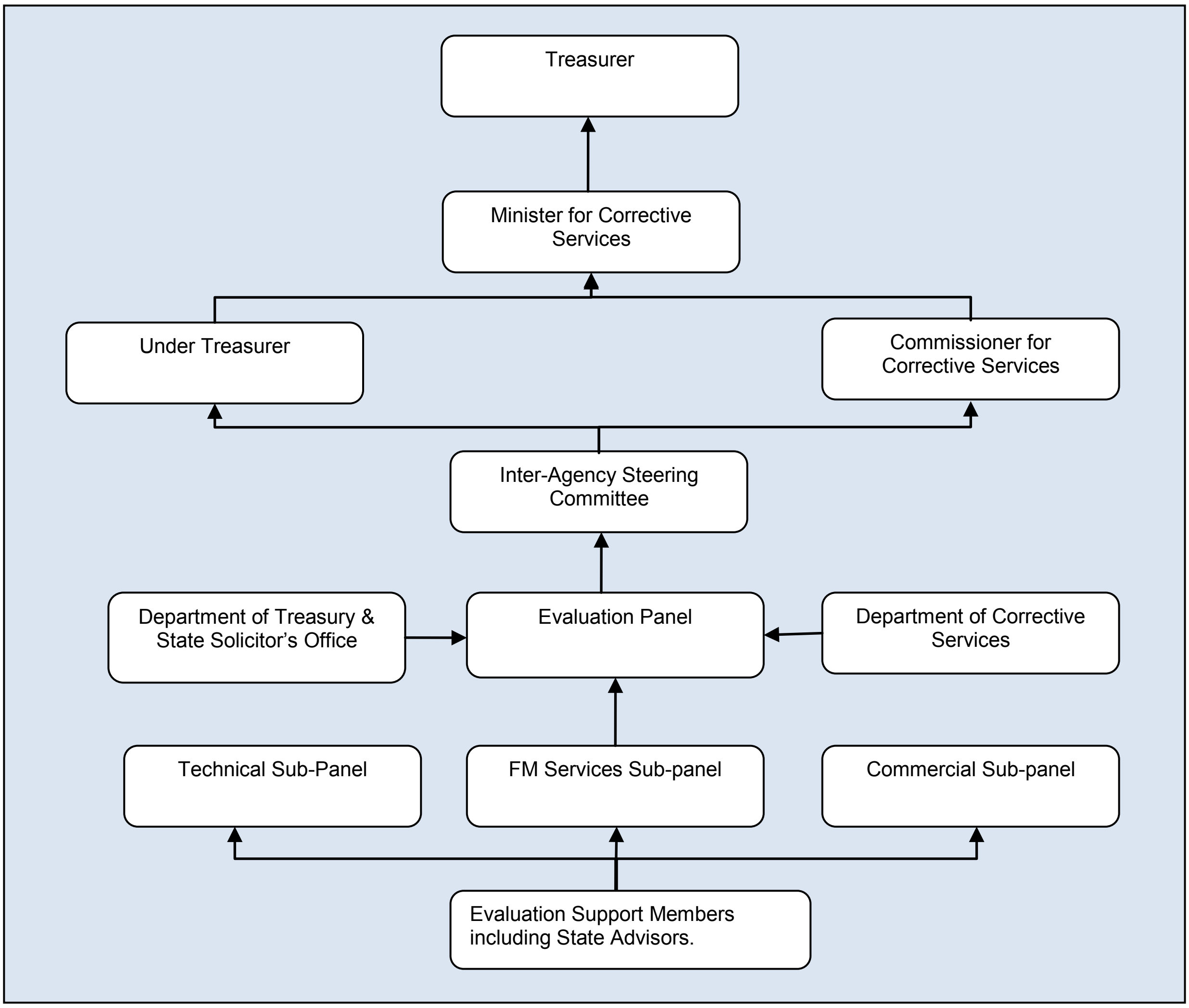
The evaluation panel viewed the major advantages of the Assure Partners' proposal as:

- A highly competitive, risk-adjusted whole-of-life cost that represents significant value for money to the State.
- A strong financing proposal and robust commercial solution with appropriate risk allocation between parties.
- A very strong, functional design solution that is innovative and fit-for-purpose and which includes:
  - A side-by-side bed cell design that is sensitive to the needs of the local Aboriginal prisoners.
  - Accommodation that is adjacent to open spaces granting views of external lands.

  - A design approach which is sensitive to the local climatic conditions and revolves around people, landscape, activity, process which is context focussed rather than 'building design'.
  - A master-plan that maximises casual surveillance lines with alternative paths of travel for prisoners and provides sightlines from multiple officer posts making prison operations more efficient.
  - Environmentally sustainable design concepts that are integrated from the inception of the EGRP Project through design, construction, operation and decommissioning, and offer the opportunity to demonstrate whole of life benefits for the facility and reduced running costs for the State. Initiatives included in design are energy efficient air conditioning with heat recovery, ventilation with CO_2 sensors, variable speed drives, water efficient fixtures and fittings and energy/water monitoring and regulating.

- A very strong FM Service delivery model which includes integrated building and security systems maintenance solutions provided by Honeywell.
- A demonstrated clear understanding of the RFP requirements including the specific requirements for the delivery of FM Services in a remote, regional prison environment.
- A preventative maintenance strategy that is designed to maximise the availability, reliability and maintainability of the systems which minimises disruptions to prison operations.
- A strong partnership approach with a robust approach to dispute resolution and a strong approach to stakeholder management.

Figure 1: State Evaluation Structure



1.6.3 Negotiation Phase

During the negotiation phase, the State worked with Assure Partners to address all outstanding issues and develop the final project documents. At the completion of an exclusive negotiation period, the State was satisfied that all key issues had been addressed and the Assure Partners solution continued to represent best value for money. Accordingly, the State and Assure Project Co (the Assure Partners contracting entity) executed the Project Agreement and ancillary contracts that govern the EGRP Project on 14 December 2012. Financial close was achieved by Assure Project Co on 18 December 2012.

1.7 Timetable

Details of the timing of the procurement process and the EGRP Project generally are provided in the timetable below.

Table 3: EGRP Project Timetable

EVENT	TARGET DATE
Expression of Interest Phase	
Release of Invitation for EOI	29 April 2011
Closing date for EOI submissions	27 May 2011
EOI evaluation and short-listing of Short-listed Respondents	15 August 2011
Request for Proposal Phase	
Release of RFP	18 January 2012
Closing date for RFP proposals	13 July 2012
RFP Evaluation and appointment of preferred respondent	12 October 2012
Contract Negotiation Phase	
Contract close	14 December 2012
Financial close	18 December 2012
Design, Construction & Commissioning Phase	
Commence construction	August 2013
Stage One works completion	31 July 2015
Stage Two works completion	27 November 2015
Facilities Maintenance Operational Phase	
Commence Operational Phase	31 July 2015

1.8 Probity

The procurement process was undertaken within a robust probity framework in accordance with the following probity principles:

- Fairness and impartiality.
- Use of a competitive process.
- Consistency and transparency of process.
- Security and confidentiality.
- Identification and resolution of conflicts of interest.
- Compliance with State policies as they apply to tendering.

Key evaluation activities were monitored by an independent probity practitioner from Braxford Consultancy in accordance with a probity plan and were supported by individual evaluation plans for each stage of the procurement process.

1.9 Value for Money

The State's evaluation framework for the EGRP Project sought to identify and deliver the best overall value for money solution. The concept of value for money goes beyond the selection of the cheapest solution, focusing on the overall value of each delivery option. This involves a careful comparison of the State-managed delivery option against each proposal received from the short-listed respondents. The analysis considered quantifiable elements (i.e. items that can be quantified in dollar terms) as well as subjective or qualitative considerations.

1.9.1 Public Sector Comparator

The Public Sector Comparator (PSC) is an estimate of the risk-adjusted, whole-of-life cost of the EGRP Project if delivered by the State. The PSC is developed according to the same output specifications included in the RFP documentation and assumes the most likely and efficient form of conventional (i.e. traditional, non-PPP) delivery.

The PSC for the EGRP Project was developed in collaboration by the State's EGRP Project team and its commercial advisor, Pricewaterhouse Coopers, in accordance with the National PPP Guidelines.

The PSC contained estimates for the costs and risk of State managed delivery option consisting of:

- The State designing, constructing and commissioning the New EGRP under a traditional design and construct contract.
- DCS being responsible for ongoing maintenance and refurbishment of the prison including furniture, fittings and equipment for the Operating Phase.
- DCS being responsible for the full provision of pest control, cleaning, grounds maintenance and waste management services for the Operating Phase.

The estimated cash flows over the life of the EGRP Project are discounted at the discount rate estimated in accordance with the National PPP Guidelines to obtain the net present cost of the PSC. The net present cost of the PSC is then compared to the net present costs of the bids received to determine the quantitative aspect of the value for money analysis. The value for money estimate for the Assure Partners proposal at financial close is contained in the table below:

Table 4: Quantitative Value for Money Assessment – Net Present Cost

State's Risk Adjusted PSC ($'000)	Assure Partners' Risk Adjusted Proposal ($'000)	Savings ($'000)	Savings (%)
$452,590	$372,312	$80,278	17.7%

As shown in the table above, contracting with Assure Partners for the EGRP Project represents an $80.3 million net present cost saving or in percentage terms a saving of 17.7% in comparison to the PSC.

This saving was driven by:

- A competitive design and construction cost that represents significant savings over the State cost of delivery.
- Competitive whole-of-life maintenance and refurbishment costs during the Operating Phase that represent significant savings over the State cost of delivery of these services.

Although these savings indicate value for money for the State, it does not recognise a range of other significant value for money benefits provided by the Assure Partners proposal. These benefits exceed the specifications detailed in the RFP (that form the basis of the PSC) and include:

- The provision of a commercial laundry that will provide additional prisoner employment and revenue generation opportunities for the New EGRP.
- Additional education and training facilities, including a training kitchen for male prisoners.
- Additional program facilities that will allow more prisoners to attend personal development, offending behaviour and release preparation programs to help them adjust to prison life and enable a successful transition into the community on release.
- Additional operational and administration facilities that will improve amenity for staff at the New EGRP.

1.10 Public Interest Considerations

Public interest matters were considered and addressed throughout the procurement phase of the EGRP Project to ensure that the public interest is protected throughout the contract term. Public interest assessments were conducted at two key phases of the procurement process. The first public interest assessment was conducted prior to the release of the Invitation for EOI and the second assessment was conducted immediately prior to contractual close.

Key points include:

- **Effectiveness in meeting Government Objectives**
  - The RFP Evaluation Panel considered the Assure Partners design innovative, fit-for-purpose and containing a number of value added benefits for the State.

  - The security solution proposed meets the requirement to provide a safe and secure facility.
  - The location of the New EGRP will give the local prisoners a greater opportunity to maintain and improve their relationships with families and friends. This is accommodated by facilities such as family visit facilities, improved audio visual visits, as well as program interventions targeted at improving relationships.
  - The New EGRP will include one main health facility in the main open area and satellite health posts at the sector offices of each security classification. These satellite health posts will enable nursing staff to administer medications securely in each sector, and also coordinate appointments to the main health facility. These facilities will enable targeted health messages for groups of prisoners and improved 'normalisation' of activities through use of an 'appointments' system.

- **Achieving Value for Money for the State**
  - The contract offers significant value for money to the State both in quantitative and qualitative terms as detailed in Section 1.9 above.

- **Impact on Stakeholders**
  - The Goldfields Custodial Plan reported that the practice of holding prisoners in the metropolitan region was having negative social impacts on local Aboriginal Communities. These communities reported that being unable to visit relatives and friends resulted in a loss of culture, respect and community functioning. Providing more beds in the Goldfields region will re-connect these families and allow prisoners and their communities to remain connected to each other.
  - Additional economic benefits to the region will emanate from the larger facility, with additional staff residing in and around Kalgoorlie/Boulder. The vast majority of the additional operating cost will be spent on salaries for those staff and services procured from the region, which with economic multiplier effects will result in substantial economic benefits for local businesses.
  - The New EGRP will allow the State to further focus on developing basic work skills (numeracy and literacy) as well as targeting employment skills in high demand areas such as hospitality and metal work. Research shows there are a number of benefits in providing prisoners with skills in these areas and developing industry links to provide meaningful employment. Employment is a key factor in reducing recidivism, and employment in high demand areas in the Goldfields region will also assist the local economy by addressing skill shortages prevalent in local industries
  - The prison design will create a facility is energy efficient and provides an improved living environment for its inmates and staff.

2. Key Commercial Features

Part Two of this document outlines the contractual relationships between the parties involved in the EGRP Project, including the allocation of risk and the obligations of both Assure Project Co and the State. A brief description of Assure Project Co's arrangements with its consortium members is also provided. In some areas, this Part provides more detail on the issues and topics discussed in Part One.

2.1 Parties to the Project Documentation

On 14 December 2012, the Minister for Works and the Minister for Corrective Services, on behalf of the State of Western Australia, jointly executed the Project Agreement and other associated contract documentation with Assure Project Co and other related parties to design, construct, finance and maintain the New EGRP.

The relevant parties under the contract documentation are described below:

State and Statutory Entities

The State: The State is a signatory to the Project Agreement and other ancillary contract documents. The Minister for Works and the Minister for Corrective Services, in accordance with their executive powers, are empowered to execute the contract documentation on behalf of the State.

Private Sector Parties

Contracting Entity – Assure Project Co: Assure Partners (EGRP) 1 Pty Ltd as trustee for the Assure Partners (EGRP) Unit Trust 1 for and on behalf of the Assure Partners (EGRP) Partnership and Assure Partners (EGRP) 2 Pty Ltd as trustee for the Assure Partners (EGRP) Unit Trust 2 for and on behalf of the Assure Partners (EGRP) Partnership, together 'Assure Project Co'.

Assure Project Co is a special purpose legal entity that has been contracted to deliver the EGRP Project. Assure Project Co is the counterparty to the Project Agreement and is the main contracting entity with the State. Assure Project Co, in turn, has entered into a range of contractual relationships with members of the Assure Partners Consortium to deliver elements of the EGRP Project. However, Assure Project Co is the legal entity that is ultimately responsible for delivery of the EGRP Project.

Management Services Provider: Capella will manage the day-to-day activities of Assure Project Co and provide strong hands-on management of the EGRP Project over both the Construction and Operating Phases.

Equity Provider: Lend Lease Infrastructure Investments and MLC Limited has jointly committed to provide equity funding to the EGRP Project.

Financiers: Commonwealth Bank of Australia and Mizuho Commercial Bank will provide the senior debt for the EGRP Project in the form of a construction facility that will be converted to a term loan at commencement of the Operating Phase. Senior debt will be progressively drawn during the Construction Phase to pay the Builder Subcontractors in accordance with a construction drawdown schedule.

Builder Subcontractors: John Holland and Pindan entered into a joint venture agreement for the purpose of undertaking the design, construction and commissioning of the New EGRP. Their liability is joint and several so that each party is liable to the State for the conduct of the other.

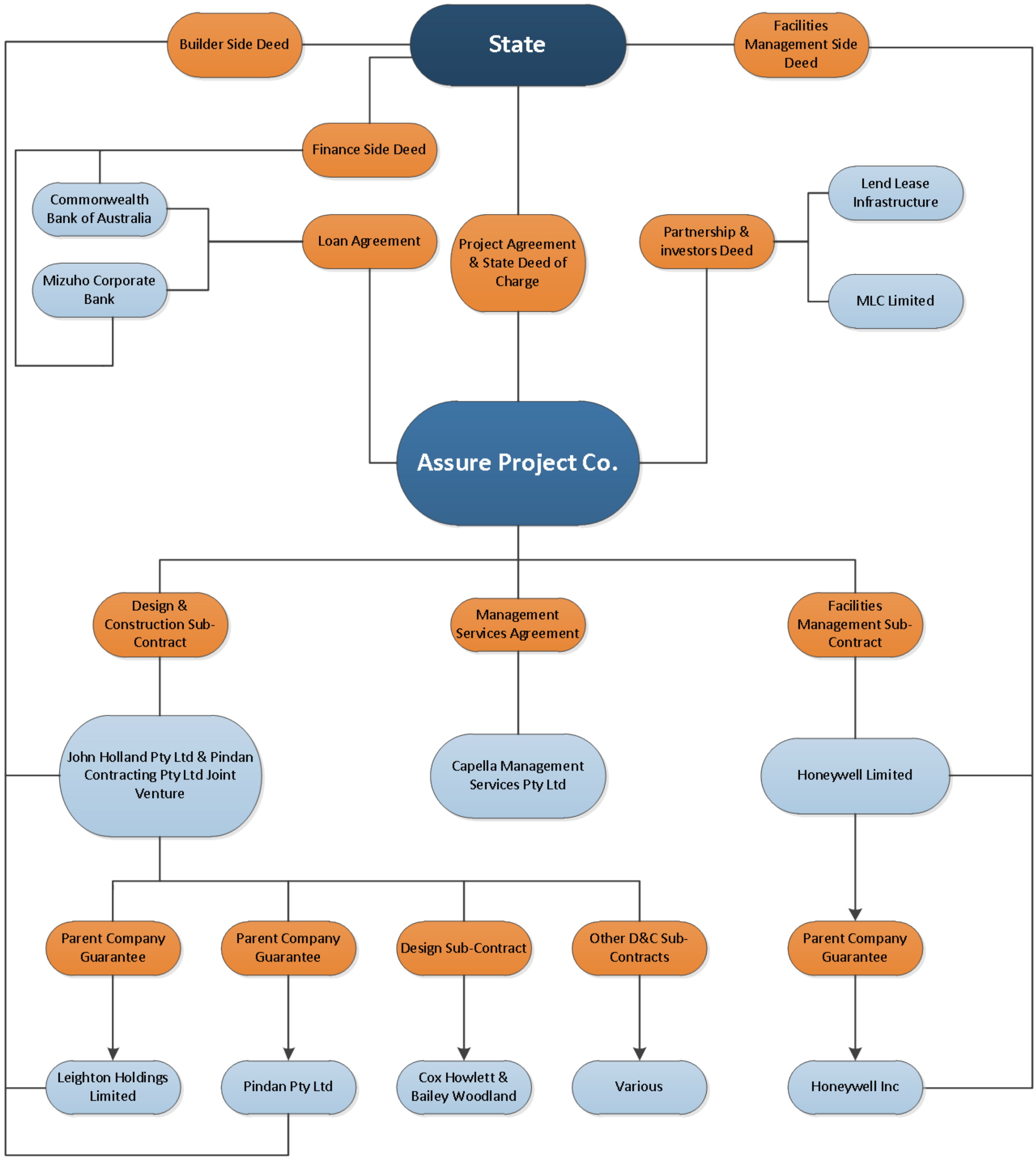
Builder Guarantors: The joint and several obligations of John Holland and Pindan are guaranteed by the parent companies, Leighton Holdings Limited and Pindan Pty Ltd.

Facilities Management Subcontractor: Honeywell Ltd has been engaged to deliver the FM Services for the New EGRP.

Facilities Management Subcontractor Guarantor: The obligations of Honeywell are guaranteed by its parent company, Honeywell Inc.

The contractual structure between the State, Assure Project Co and the private sector parties is summarised in Figure 2.

Figure 2: Contractual Structure



2.2 State Project Documentation and Related Agreements

The contractual arrangements associated with a DBFM delivery model are complex due to the involvement of private sector finance and long term FM Services agreement. The section below identifies the suite of contracts that the State entered into with Assure Project Co and a range of other EGRP Project parties to secure appropriate land tenure arrangements and for the delivery of the EGRP Project itself.

Project Agreement

The Project Agreement between Assure Project Co and the State is the primary legal document that sets out the rights and obligations of each party for the delivery of the EGRP Project. It covers both the Construction and Operating Phases of the EGRP Project. It has been developed in accordance with the National PPP Guidelines for social infrastructure, subject to Western Australian specific requirements.

Finance Side Deed

This deed governs the relationship between the State, Assure Project Co and the Financiers sets out the security arrangements between the parties and facilitates the State's rights to step-in and take over the EGRP Project if required.

Builder Side Deed

This deed governs the relationship between the State, Assure Project Co, the Builder Guarantors and the Builder and enables the State to step into the D&C Subcontract and Builder Guarantees should Assure Project Co default under the D&C Subcontract.

FM Side Deed

This deed governs the relationship between the State, Assure Project Co, the FM Subcontractor Guarantor and the FM Subcontractor and enable the State to step into the FM Subcontract and the FM Subcontract Guarantees should Assure Project Co default under the FM Subcontract.

State Deed of Charge

In accordance with this document, Assure Project Co grants to the State a first ranking, fixed and floating charge over the assets and undertakings of Assure Project Co including its obligations under the Project Agreement and other EGRP Project contracts.

Other State Project Documents

The following documents are also State EGRP Project documents but are not illustrated in the Figure 2 above:

- Independent Certifier Deed of Appointment: This document sets out the terms and conditions on which the State and Assure Project Co jointly appoint Donald Cant Watts Corke as the Independent Certifier for the EGRP Project.
- Operating Phase Licence: This document sets out the terms and conditions by which the State grants to Assure Project Co a non-exclusive licence to provide maintenance services

at the New EGRP during the Operating Phase. This document is not executed until the end of the Construction Phase.

2.3 Key Commercial Principles

Set out below is a general summary of a number of the key commercial principles that apply to the EGRP Project. These were developed in accordance with the National PPP guidelines for social infrastructure, subject to Western Australian specific requirements.

2.3.1 Design, Construction and Commissioning

Assure Project Co is responsible for the design, construction and commissioning (subject to certain State specific commissioning requirements) of the New EGRP to ensure that it is fit for its intended use as a correctional facility. The New EGRP will be built adjacent to and on the site of the Existing Facility. To minimise disruptions to the operations of the Existing Facility, the New EGRP will be built in two stages. Stage One will comprise the design, construction and commissioning of a new 350-bed facility that is due to be completed by July 2015 and some off site works such as roads, footpaths and drainage works. Stage Two is comprised of the demolition of the Existing Facility and site remediation that is due for completion by the end of November 2015. The New EGRP will comprise:

- 200-bed male medium security sector comprised of 1 x 80-bed cell block, 1 x 60-bed cell block and 6 x 10-bed cottages. The 1 x 60-bed cell block includes a 20-bed orientation wing able accommodate maximum security prisoners.
- 60-bed male minimum security sector comprised of 6 x 10-bed cottages.
- 40-bed male open minimum security sector comprised of 4 x 10-bed cottages.
- 50-bed female maximum, medium and minimum sector comprised of 2 x 10-bed cottages, 3 x 8-bed cottages and 1 x 6-bed mothers and children cottage.
- Associated support and ancillary buildings for the delivery of custodial and ancillary services to be provided by DCS. These buildings will deliver the following services: prisoner reception and discharge, health, prisoner and professional visits, education and vocational training, program delivery, prisoner industries, kitchen, commercial laundry, recreation, goods storage, gatehouse, operational management and administration.
- A new secure perimeter that encompasses the secure area of the New EGRP and all security systems.
- Technical infrastructure services (power, water, gas and communications).
- Staff and visitor car-parks.
- Landscaped outdoor areas including paths, internal roads, vegetation and the provision of public art which includes the relocation of two significant Aboriginal art wall murals from the Existing Facility to the education/programs precinct of the New EGRP.
- Selection, provision and installation of selected furniture, fittings and equipment.

2.3.2 Facilities Maintenance Services

Assure Project Co is responsible for the delivery of a range of FM Services for the New EGRP in accordance with the Service Specifications for a period of 25 years from completion of the Stage One Works. These services include:

- Reactive and planned building maintenance services including lifecycle replacement.
- Reactive and planned maintenance (including lifecycle replacement) of hard landscaping, signage, irrigation systems, roads, pavements, storm water drainage,car park, ovals, recreational facilities and fire detection and prevention systems.
- Maintenance and lifecycle replacement of selected items of furniture, fittings and equipment.
- Maintenance and lifecycle replacement of security systems including the secure perimeter.
- Key and lock management services.
- Pest control services.
- Cleaning services in non-prisoner areas plus forensic health cleans, chemical spills and cleaning in prisoner areas above a specified height.
- Waste management services limited to the provision of bins and specialist equipment, collection of all waste from non-prisoner areas, collection of biohazard waste from all areas and waste disposal.
- Utility management services including energy supply, monitoring and reporting.
- Help desk services.

2.3.3 Payment Mechanism

Payment for delivery of the FM Services and design and construction of the New EGRP is made by the State over the Operating Phase in the form of a quarterly service payment (QSP) paid in arrears. Payment will commence at the end of Stage Two, however the State is able to abate for poor performance from completion of Stage One construction with such abatements being accumulated and set off against the QSP once payment of the QSP commences at the end of Stage Two.

The QSP comprises the following components:

- Quarterly Service Fee (QSF) – being the fee bid by Assure Partners to be paid by the State for the delivery of the FM Services and which includes an allowance for the capital cost of the New EGRP, an equity return and the cost of delivering the FM Services.
- Pass-Through Costs – reflect reimbursement to Assure Project Co for pass-through associated costs with the supply of utilities, waste disposal, prisoner cleaning consumables and insurance premiums (in accordance with the insurance premium sharing regime set out in the Project Agreement).

Assure Project Co is required to provide the FM Services to performance standards set out in the Service Specifications for the duration of the Operating Phase. Failure to do so exposes Assure Project Co to abatement of the QSP in accordance with the abatement regime set out in the Project Agreement. In addition to abatement for non-performance of FM Services, Assure Project Co is liable to pay the State a charge for prisoner escape, security escort and nuisance fire alarms as follows:

- Prisoner Escape – if the escape of a prisoner from the secure area of the New EGRP is caused or contributed to by Assure Project Co, Assure Project Co or any of its subcontractors will be liable for a fee per prisoner who has escaped (which is capped per escape event).
- Security Escort – when Assure Project Co requires an escort because its personnel do not have the required security clearance to operate within the secure area of the New EGRP independently of DCS staff, it will be charged a fee.
- Nuisance Fire Alarms – when the fire brigade dispatches fire trucks to the New EGRP as a result of a false fire alarm due to a failure of the fire alarm system or other plant and equipment for which Assure Project Co is responsible, it will be charged the costs of the fire brigade attendance.

2.3.3.1 Abatement Regime

Specified failures to provide the FM Services in accordance with the Service Specifications may constitute a 'service failure' and result in the abatement of the QSF. The abatement is calculated in accordance with a pre-determined formula specified in the Project Agreement.

The Project Agreement categorises each service failure as either a:

- Availability Failure – where a specified area of the New EGRP (i.e. rooms of buildings) is not available for use for its intended purpose as it fails to meet the 'availability conditions' and such failure has not been rectified within the applicable time frame.
- Performance Failures – specified failures to provide the FM Services as described in Annexure E to the Payment Mechanism.

A service failure that affects one or more specific areas is categorised depending on the severity of its potential consequences, taking into consideration the significance of the area affected and how important it is that area be made available. This in turn determines the response and rectification time that will apply. Where an incident occurs in an area of high importance there is a shorter response and rectification time and greater financial consequences.

2.3.4 Modifications

The State may give Assure Project Co a modification order directing it to undertake a modification relating to the building works or FM Services. This includes the ability to remove works or FM Services from the EGRP Project scope. Assure Project Co may also propose modifications however such modifications will be subject to obtaining the State's approval.

Under the modification regime, Assure Project Co must provide an estimate of the cost impact of each modification proposed by the State in a manner which complies with the requirements of the Project Agreement. All costs must be provided on an open book basis.

Where a modification directed by the State results in:

- A cost to Assure Project Co the State may pay for the modification either by way of a lump sum or an adjustment to the QSP.
- A saving to Assure Project Co, the amount payable will be a debt due and owing to the State.

To provide greater transparency and certainty around modification costs, the Project Agreement specifies a range of pre-agreed margins and other on-costs, which limit the amount Assure Project Co may claim in such circumstances.

2.3.5 Default, Termination and Step-in Regimes

2.3.5.2 Default

A default by Assure Project Co under the contractual arrangements will entitle the State to various remedies. Where a default has occurred, the State will in most circumstances be required to give Assure Project Co an opportunity to cure the default.

Where Assure Project Co or its Financiers fail (in accordance with the Finance Side Deed) to cure a default within the agreed cure periods or to comply with an agreed cure or prevention plans (as applicable), this will generally give the State a right to terminate the Project Agreement and as discussed further in section 2.3.5.3 below. The State's rights in this respect are regulated by the Project Agreement and the Finance Side Deed. Certain events of default are so severe that they are not subject to a cure regime and will give rise to a State termination right immediately upon their occurrence (e.g. insolvency of Assure Project Co). These events are called 'immediate termination events'.

2.3.5.2 Step-In

In addition to termination rights, events of default and immediate termination events may trigger a range of other remedies for the State, including (subject to the Finance Side Deed) the right to step-in to remedy the situation (i.e. the right to assume control and management of the EGRP Project, the works or the FM Services)

The Project Agreement includes step-in rights for the State, when:

An emergency has occurred.

An immediate termination event has occurred.

A State cure notice has been issued by the Builder Subcontractor or the FM Subcontractor (as applicable).

The State or its delegate is required to take action by law.

- Depending on the cause of the step-in event, the State may reduce the QSP if Assure Project Co is not providing certain services. During the step-in, Assure Project Co must also pay the State's costs in excess of any savings made by the State for any reduction in the QSP during step-in.

2.3.5.3 Termination

The Project Agreement can be terminated:

As a result of certain events of default.

As a result of an immediate termination event.

As a result of a force majeure events such natural disasters (e.g. earthquakes, landslides, cyclones) that significantly impact the New EGRP.

Voluntarily by the State.

Where the Project Agreement is terminated before the natural expiry of its term, Assure Project Co may be entitled to a termination payment. The basis for the calculation of the termination payment will be determined according to the reason for the termination.

2.3.6 Finance

Assure Project Co is responsible for the provision of debt and equity finance for the capital component of the EGRP Project. Its funding structure comprises senior debt drawn down progressively from financial close and during construction and equity committed at financial close by way of an equity letter of credit, with 100% of equity funding being contributed prior to the completion of construction activities.

The State will not share in any losses that may occur upon refinancing of the debt but will be entitled to 50 per cent of the benefit of any refinancing gain over and above that anticipated in the financial model (and to the extent that Assure Project Co has recovered any losses on previous refinancing).

2.3.7 State Rights at Expiry of the Project

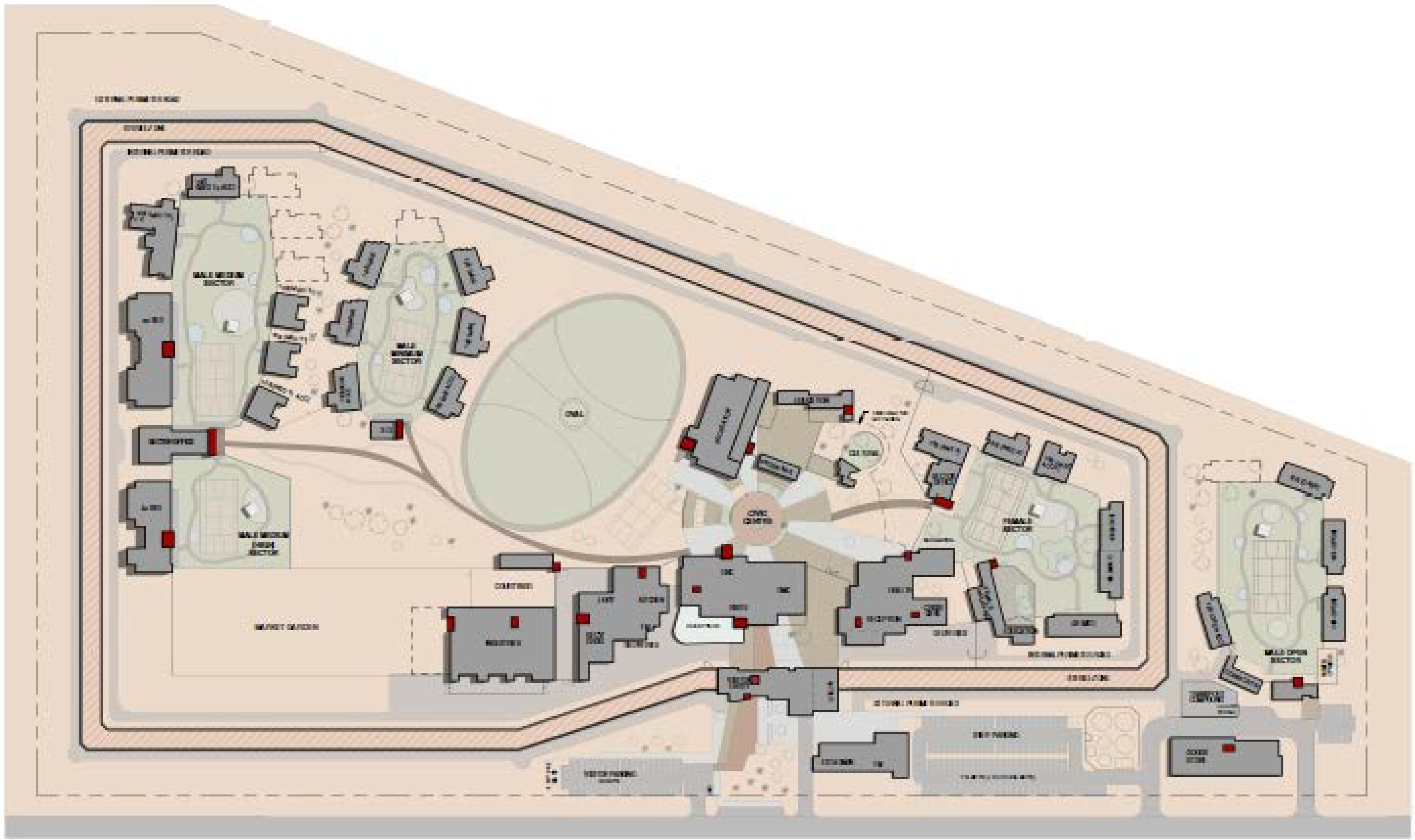
The Project Agreement requires Assure Project Co to handover the New EGRP to the State at the expiry of the EGRP Project term for nil consideration.

To ensure that the assets are in sound working order, the New EGRP will be independently inspected on an annual basis in the years leading up to handover to ensure that all lifecycle and maintenance works are being completed and that the facility will meet the relevant handover conditions. The handover conditions are described in the Project Agreement.

The Project Agreement requires that, at a minimum, when the New EGRP is handed back to the State at the end of the term, it be in such a condition that it is reasonable to expect that no major maintenance or refurbishment works (other than normal routine maintenance) would be required for a period of five years from contract expiry.

In the event that Assure Project Co fails to maintain the New EGRP to the standard required to satisfy the handover requirements, the State will be entitled to compensation for any works undertaken by the State to fulfil the handover requirements.

2.4 Site Master Plan Diagram



VIVIAN STREET