

# Commercial Case

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### 5.1 Background

The A38 in Bromsgrove is an important corridor on the Major Road Network (MRN). It acts as a key strategic link, providing access to the Strategic Road Network (SRN), as well as offering an important local function as an eastern bypass to Bromsgrove and providing access to housing, services and employment frontages.

This OBC seeks funding to deliver a major upgrade of the A38 corridor, between M5 Junction 4 to the north and the junction of the A38 with Worcester Road to the south which is approximately 7.5 miles (12 km) long. This corridor forms part of the strategic north south spine through Worcestershire, connecting Worcester, Droitwich, Bromsgrove to Birmingham to the North and Gloucester and Bristol to the south as an alternative to the M5 route. The study area is shown in as shown on Figure 5.1.

The A38 corridor is a multi-functional route serving a range of users which contributes to the problems and issues discussed later in this chapter. The key characteristics are:

- The route performs a range of different functions, acting as a link to the Strategic Road Network, as a bypass to Bromsgrove town centre, a distributor road for journeys that have an origin and/or destination in Bromsgrove and a local access route for residents and businesses that have direct frontages on to the corridor.
- The corridor comprises sections with differing speed limits, levels of frontage and access points in addition to varying levels of pedestrian and cyclist provision. In addition, the driving experience along the route varies due to the differing land uses along sections of the A38 from residential, open field to employment and retail.
- Congested corridor due to high levels of car dependency across Bromsgrove.

The A38 Bromsgrove Route Enhancement Programme (A38 BREP Package) comprises a package of schemes delivering targeted improvements to junctions and significant enhancement of facilities for active modes.

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Figure 5.1 – Scheme location



This situation is projected to worsen in the future as new housing and employment planned for the local area are delivered. The planned growth in housing will increase the demand for travel. The following points summarise the planned developments in the area:

- The Bromsgrove District Plan (adopted in 2017) includes major residential development sites around the edge of Bromsgrove, with Perryfields Road and Whitford Road being particularly relevant to the A38. Smaller residential allocations are also found in surrounding areas. In total the Local Plan identifies a need for 7,000 dwellings and 28 Hectares of employment land in the period 2011-2030. However, the adopted local plan only allocated land for 4,700 dwellings to 2023, noting that the remaining 2,300 would be subject to a Green Belt review and then allocated within a Local Plan Review. Subject to the ongoing Local Plan review, the scheme may further support delivery of additional homes and employment land. This review is intended to be completed by 2023.
- The Local Plan review will also identify development allocations for growth targets beyond 2030 and in its Issues and Options consultation put forward various scenarios. The consultation documents published in September 2019 proposed that the new Plan will have a likely start date of 2023 and an end date of 2040. Over this period the Plan will be required to provide for at least 6,443 dwellings and up to 90 Hectares of employment land.
- Within close proximity of the A38 corridor area there are significant cross-boundary allocations within the adopted Local Plan for Redditch. This includes an additional 3,400 dwellings on the border with Redditch but located within Bromsgrove District, to meet Redditch's housing need, as identified in their own Local Plan. The allocation at Foxlydiate is particularly relevant to the A38.
- In addition, there are further allocations within the Redditch Local Plan (and sited within Redditch itself).

Table 2.29 of the Strategic Case shows key development sites in the vicinity of the A38 identified within the adopted 2017 plans. The quantum of proposed development (housing and employment) within the adopted plans

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requires enhancements to transport infrastructure, including the A38. Whilst no individual development site currently has obligations that restrict development in advance of delivery of the A38 schemes, there are planning linkages between the A38 BREP and the delivery of allocations identified in existing Local Plans and this is reflected in the requirement for S106 contributions to the BREP scheme. Worcestershire County Council has identified that the A38 in its current form is a key constraint to additional future development allocations through the District Plan review process. Therefore, in summary, the A38 BREP supports the delivery of 5310 homes and 13.45 Hectares of employment land based on the current plan. Subject to the ongoing District Plan review, the scheme may further support delivery of additional homes.

To effectively support the future development of Bromsgrove and to deliver economic growth, significant improvements are required to the corridor itself, supported by targeted improvements for other modes.

The scheme for which funding is sought through this MRN bid is an important part of the overall approach to transport in Bromsgrove. It would support ongoing work that is aiming to enhance both the major and local road network, as well as encouraging walking, cycling and the use of public transport.

## 5.2 Introduction

The A38 BREP Package is being delivered in three parts as described below:

- Part 1 (funded by WLEP, Greater Birmingham and Solihull Local Economic Partnership (GBSLEP) and Highways England's Growth and Housing Fund (GHF)), provided for capacity upgrades at M5 Junction 4, M42 Junction 1 (completed in 2020/21) and the Barley Mow Lane junction with the A38 (completed in 2019). (Historically, this has been referred to as A38 Package 1, for this OBC submission, this will now be referred to as Part 1).
- Part 2 comprises of the early delivery elements of the A38 BREP Package presented at SOBC stage and submitted in November 2020. The early delivery schemes have been delivered using WLEP local contribution funding, and are referred to as Schemes 2a, 2b and 4. These works are an important part of the overall A38 BREP Package, contributing to the improvement of active mode facilities on the corridor. They have been delivered early to take advantage of the local funding availability.
  - Scheme 2a was identified in the SOBC as Scheme 2 and provides an active mode corridor between Harvington Road and Charford Road, the new scheme 2a also includes the connecting bridge to Charford Road that in the SOBC was included in Scheme C. Leading to an enhanced scheme 2a at an earlier stage.
  - Scheme 2b is a shared active mode corridor along the northern side of Charford Road, to connect scheme 2a to South Bromsgrove High School. This scheme was added further to public engagement in early 2020, and after the SOBC submission.
  - Scheme 4 is a new toucan crossing as outlined in the SOBC, over the A448 Stratford Road and localised path improvements to facilitate walking and cycling.

Schemes have been developed as part of the overall strategic active modes upgrade as part of the A38 BREP Package.

- Part 3 includes a number of active mode, local public transport and highways improvement schemes which were originally included in the SOBC submission to DfT in 2019.

Part 2 and Part 3 form the overall BREP package, with Part 2 being delivered using local contribution, and Part 3 to be delivered with local and MRN funding contributions. The scheme comprises interventions which target all modes, including highway, sustainable mode schemes and public transport schemes. In brief the A38 BREP Package includes:

- Highways schemes, notated as Schemes A to G, targeting key junctions.
- Sustainable/active mode schemes, notated as Schemes 1 to 6.

As indicated above, of these, 3 schemes (schemes 2a, 2b and 4) have been taken forward as early delivery schemes, funded by WLEP which has its own FBC.

Construction of these schemes began on site at the end of 2020 and now have been completed. Schemes 1, 3, 5 and 6 are included within this OBC for MRN funding.

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- Local public transport improvements, notated as schemes 7 (Real time information (RTI)) and 8 (the provision of select vehicle detection at New Road and Charford Road junctions to support buses in crossing the A38 corridor, on the primary routes between the Town Centre and Railway station). This scheme is accommodated within the works of the highway interventions hence not discussed separately.

Figure 5.2 provides an overview of the highway and sustainable elements of the A38 scheme while Figure 5.3 presents the locations of the RTI interventions included in scheme 7.

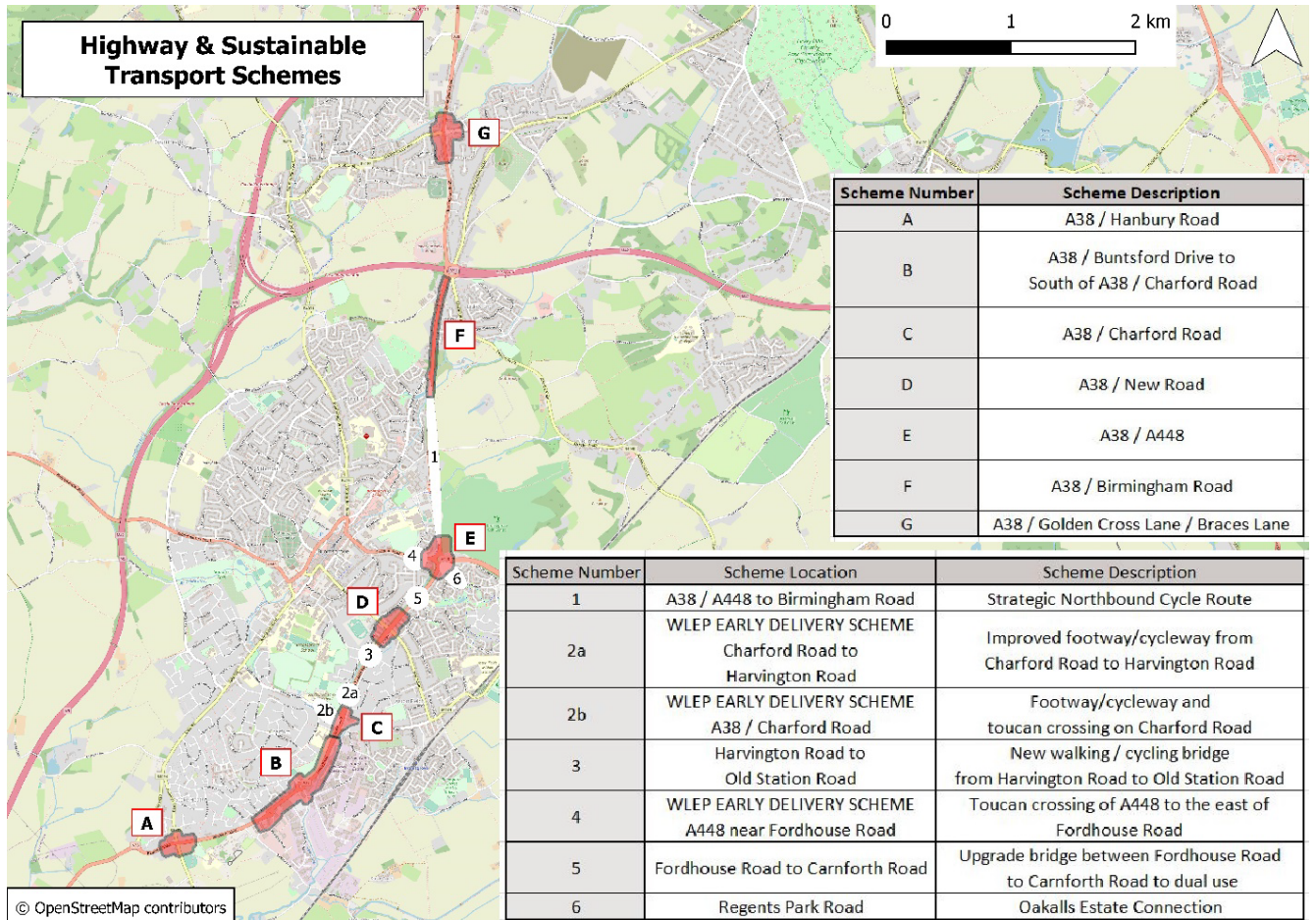
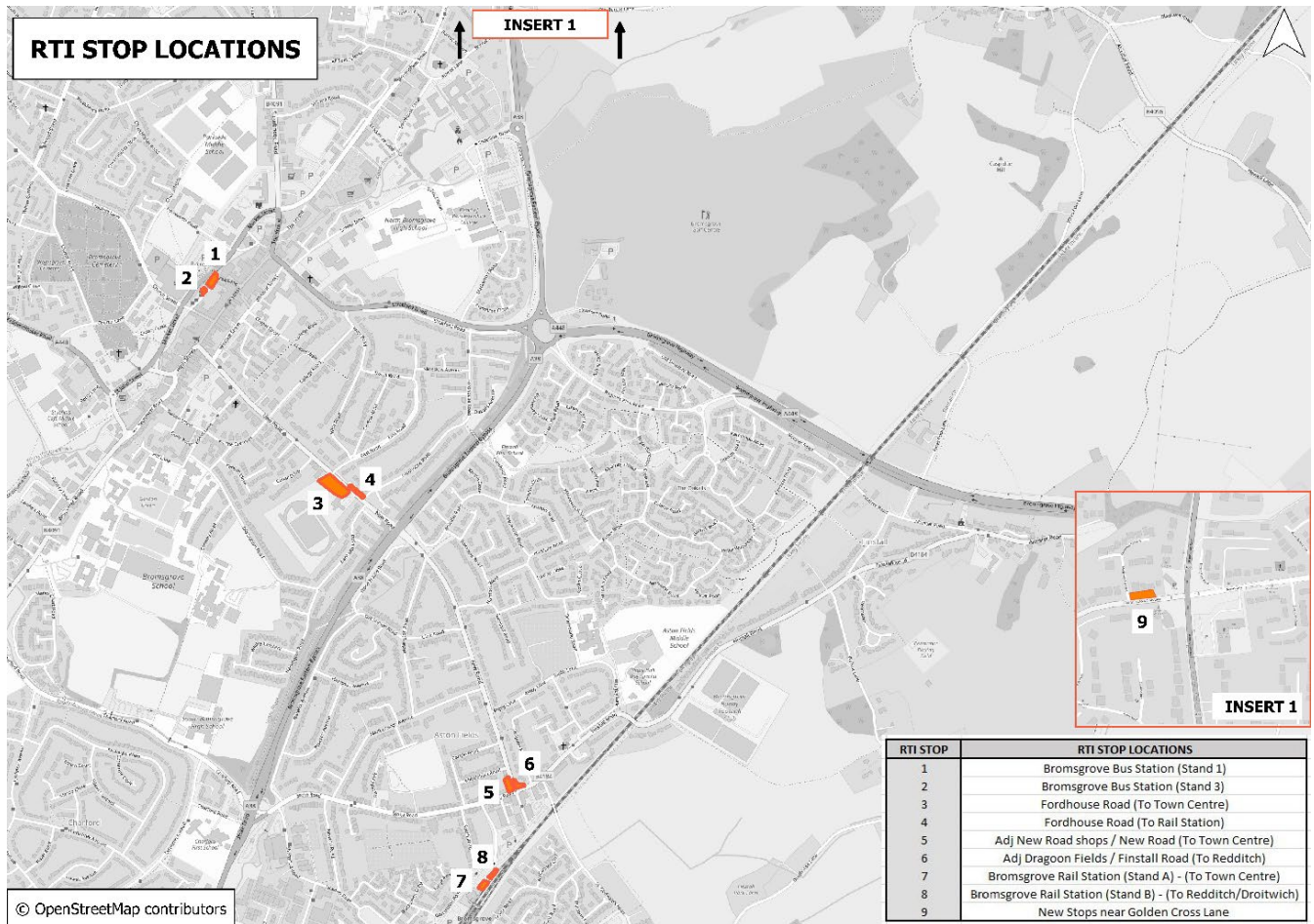


Figure 5.2 – Highway and sustainable transport schemes

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Figure 5.3 – Scheme 7/ RTIS stop locations



The Commercial Case for the project takes into account the resources available to WCC and the risks associated with the project. It then goes on to assess the procurement routes to deliver the project in the most efficient way possible.

The commercial strategy addresses the key project risks and enables the development of the project to programme whilst also ensuring an effective procurement and cost confidence. Key issues affecting the procurement strategy include the funding and its timeline and the multi-disciplinary requirements of the project scope.

### 5.3 Procurement strategy

WCC has extensive in-house strategic and technical procurement expertise and a wealth of knowledge and experience, with a proven track record of delivery, with different types of contracts.

WCC is establishing itself as a strategic commissioning organisation that will only directly provide services where there is no viable alternative. Supporting this WCC has a commercial vision to "drive commercial excellence through developing an open, challenging and pro-active culture and deploying effective commissioning strategies to source the right service from the right provider at the right cost."

Below is a description of the WCC approach to commissioning and procurement and has influenced the choice of the strategic procurement approach for the project:

Figure 5.4 – WCC approach to procurement

#### Evaluate

- Assess needs

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- Establish policy framework and service priorities
- Determine outcomes
- Research the Market
- Engage with the Market
- Capture learning and feedback into process

## Design

- Identify alternative delivery models
- Develop the market
- Engage with the market
- Clarify and design the type of service required
- Appraise alternative delivery models
- Capture learning and feedback into process

## Source

- Agree the appropriate service delivery model
- Manage the outcome-based procurement process
- Select the chosen provider
- Implement
- Capture learning and feedback into process

## Review

- Implementation and Transition
- Confirm the performance management framework
- Recognise achievement and payment by results
- Encourage innovation and creativity
- Build mutually beneficial relationship
- Monitor performance and proactively manage and collaborate with the provider to achieve high performance
- Capture learning and feedback into process

Having recently appointed contractors to deliver several strategic infrastructure projects, including Worcestershire Parkway Railway Station, Kidderminster Railway Station and the Design Development and Construction stages of the Worcester Southern Link Road Phase 4, the Council has recent and relevant market intelligence and commercial data to inform its decision-making and procurement plan. This is complemented by technical expertise from our term professional services supplier providing the breadth of both commercial and technical expertise required to prepare for and deliver the right contractual arrangements for the project. Market engagement specifically focused on this project will be included in the procurement programme.

## 5.4 Sourcing options

A number of options are available to WCC to procure the project. In deciding the preferred option there are a number of key considerations, these being:

- **Price Certainty** - ensuring WCC secures best value throughout the project and not just at tender award.
- **Whole Life Cost** - balancing investment cost with future maintenance costs to achieve best value over the life of the project.
- **Innovation** - improving value and reducing overall cost.
- **Incentives** - encouraging the supply chain to seek continuous improvement and cost down initiatives throughout delivery of the project.
- **Supply Chain Integration** - reducing potential for project delays with all suppliers working to one plan.
- **On Time Delivery** - ensuring that disruption to road users and local communities is kept to a minimum.
- **Lean Contract Management** - minimising project resource requirements through effective and efficient contract management with single points of contact.
- **Risk Sharing** - ensuring the ownership of risk is apportioned in line with securing best value.

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- **Social Value** - optimising content against WCC's corporate priorities.

### 5.4.1 Approach to delivery

Given these considerations, the delivery options that have been taken into account to deliver the services necessary to develop and realise the design and undertake construction of this type of project are:

- Traditional Approach - Client undertakes or commissions design and appoints contractor.
- Traditional Approach Plus - Client undertakes / commissions design and appoints contractor with early contractor involvement (ECI).
- Design and Build Single stage - Single Award to Single Supplier for detailed design and construction post planning and development.
- Design and Build Two stage - Two stage award to Single Supplier for project development (Inc. ECI) and then detailed design and construction.
- Use of the Midlands Highway Alliance Framework.
- Use of WCC's existing Infrastructure Engineering Term Contract. Services available: Highway improvements and structures projects.

### 5.4.2 Approach to procurement

Procurement analysis has been used to provide a critique of the internal and external environment in procuring the project via the options, as shown in Figure 5.5. The analysis has helped to inform how best to match the resources, capabilities and market conditions to the strategic options and selection of best strategic approach, in line with the following model:

Figure 5.5– Procurement analysis

## Procurement Strategy

### Internal Factors

#### Strengths

- Good Reputation with suppliers
- High profile account for suppliers
- Purchasing power
- Experienced & skilled procurement resources

#### Weaknesses

- Limited exposure to suppliers of major road schemes
- Limited design resources
- Restricted access to procurement resources
- Limited project experience on major road schemes

### External Factors

#### Opportunities

- Unfulfilled supplier need
- Supply market willingness to be involved early
- Design builds out cost
- Market uncertainty following Brexit decision



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### Threats

- Lack of competition through tightening of market
- Capacity and capability of local supply market
- Environmental considerations especially water levels
- Design builds in cost

### 5.4.3 Procurement options analysis

Having considered the approach to procurement, a more detailed consideration of the ability to deliver the commercial objectives was undertaken through options to outcomes analysis; the results of this are contained at Appendix C.1 and captures the various procurement routes.

The options to outcomes analysis undertaken at this stage in the scheme development was based upon the following considerations:

- The overall works cost is estimated to be £49.8 million.
- The 2 cycle bridges account for approximately £11.3 million of the works; leaving approximately £38.5 million for the cost of highway works.
- The overall scheme would be to deliver a series of link and junction improvements as defined in the OBC. How the work would be delivered, and the order of delivery would be at the discretion of the contractor in order to minimise cost and impact of the works and maximise benefits to the traveling public.
- Funding sources for the scheme are anticipated to be:
  - The DfT; and
  - Local contributions are based on S106 contributions of £5.3 million with a further local contribution of £1.3 million from WLEP. In addition, WCC have also committed £0.74 million for Part 1 & Monitoring & Evaluation, and a further £2.28 million of WLEP funding for early delivery schemes (schemes 2a, 2b and 4).
- Use of WCC's Infrastructure Engineering Term Contract is not feasible because the works cost would exceed the headroom still available on this contract.
- Use of the Midlands Highway Alliance Framework was considered. For this scheme the main advantage of this procurement route is the ability to procure a supplier quickly. With autumn 2022 proposed construction start this option does not provide an advantage and is therefore discounted.

### 5.4.4 Recommended procurement strategy

The recommended procurement strategy is:

- The 2 cycle bridges to be procured via design and build through WCC's Infrastructure Engineering Term Contract. Bridge design and construction is a specialised discipline, and this procurement route has successfully delivered several bridges successfully.
- The remaining highways works to be procured through open tender with Early Contractor Involvement (ECI). The highway works will involve significant traffic management and programming to ensure the least negative impact on road users; ECI will maximise the contractor's expertise within the planning stages.

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### 5.5 Form of contract

The recommended form of contract is NEC4 Engineering and Construction Contract Option C: Target contract with activity schedule.

A method of payment allowing for monthly assessments of the costs accrued will be adopted as this allows for optimal cash flow for the supplier, the supply chain and The Council. Similarly, quality and standard of final construction will be managed through retention clauses and performance management.

Clauses requiring fair payment terms throughout the supply chain along with measures to audit this in contract form an integral part of the terms and conditions.

Incentives to optimise the price will be included in the contract, along with other mechanisms to share the benefits of ECI and innovation during the project development and design processes.

### 5.6 Risk allocation and transfer

An initial assessment has been undertaken on how the types of risk might be apportioned or shared, with risks allocated to the party best placed to manage them, subject to achieving value for money. The contract will include clauses to facilitate the transfer of appropriate risks from The Council to the contractor.

The risk of costs being higher than currently predicted remains until the tendering process is complete, which is the point that this risk can be transferred to the contractor (on project award). The indicative allocation of risks resulting from the contractual and procurement arrangements is summarised in Table 5.1. At this stage, ticks have been provided to indicate where each risk type rests or whether these risks are shared between the two.

Table 5.1- Risk allocation

Risk Category	The Council	Supplier	Shared
Public engagement/liaison			✓
Sequencing		✓	
Traffic management		✓	
Construction		✓	
Implementation			✓
Operations	✓		
Termination			✓
Financing	✓		
Legislative			✓

### 5.7 Contract length

An indicative programme of contract duration has been developed, as detailed in Appendix C.2.

### 5.8 Human resource issues

No relevant personnel/people management/trade union implications, including Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) regulations have been identified for this project.

### 5.9 Contract management

Essential to the successful running of the contract are high-quality project management skills, complemented by specialist cost control expertise and sufficient support resources. These are required from the outset of project

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development right through to post -completion. WCC as the Client will appoint a Project Manager in accordance with the NEC Conditions of Contract.

This will be supplemented by a project governance structure more fully described in the Management Case.

### 5.10 Summary

The Commercial Case has been subject to review since the production of the SOBC. The key objective of the procurement strategy development has been to review possible procurement routes to establish a method of gaining the expertise of a contractor early in the design process for both the bridge design and highway works. Use of WCC's Infrastructure Engineering Term Contract for the bridge works and open tender with ECI for the highway works will provide the desired contractor involvement.