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Victorian construction industry Royal Commission: What it means for project participants

The Victorian Government's announcement of a Royal Commission into the Integrity of Major Public and Civil Infrastructure Construction Projects marks a significant development for Australia's construction sector.

While the inquiry is focused on Victoria's major public infrastructure projects, the issues it will examine are not unique to any one state or project. The Commission will scrutinise allegations of corruption, criminal conduct and serious misconduct across major construction projects, while also examining procurement practices, labour hire arrangements, subcontracting models, supply chains, project governance and government oversight.

The Letters Patent establishing the Royal Commission expressly note that in a national context, the allegations of corruption, criminal conduct and serious misconduct indicate that there may be further cross-border and systemic issues that have compromised the effectiveness of the legal, regulatory and licensing frameworks and the contractual practices that apply to the construction sector in Victoria.

A broad and far-reaching Inquiry

The Terms of Reference require the Commission to inquire into and report on:

- The extent of corruption, criminal conduct and serious misconduct on major construction projects.
- Whether government agencies adequately exercised oversight and governance responsibilities.
- The causes and contributing factors that may have enabled misconduct.
- The impact of misconduct on project delivery, construction costs, worker safety, competition and productivity.
- The adequacy of existing compliance, reporting and regulatory frameworks.
- Reforms that may be required to prevent future misconduct and measures that could be taken to recover misappropriated funds.

Importantly, the inquiry's focus is not limited to unlawful conduct by a particular organisation or group. It extends to the systems, controls and governance frameworks that may have allowed misconduct to occur or remain undetected.

Unlike other Royal Commissions or Inquiries, this Royal Commission is not limited to conduct within a defined time period. However, given the Terms of Reference expressly refer to the "Big Build period", affected organisations and individuals will naturally focus on those projects as a first priority.

Of note, the Letters Patent make no reference to property developers. However, the term "Contracting Entities" is given a particularly broad definition and means head-contractors and consortia, sub-contractors, labour-hire companies, third parties who offer mediation or other dispute resolution services and other commercial entities materially involved in Major Construction Projects.

The relevance of Contracting Entities is that the inquiry is expressly required to inquire into the actions (and their adequacy) of Contracting Entities to respond to or to mitigate the risk of corruption, criminal conduct or serious misconduct occurring on or in relation to any Major Construction Projects, including immediately responding to emerging risks or allegations.

This means that from a private sector perspective, the Commission will be inquiring into the adequacy of governance measures to respond to the risks of corrupt conduct.

Why businesses should pay attention

Royal Commissions often have consequences that extend well beyond their immediate terms of reference. Findings and recommendations frequently influence regulatory reform, compliance expectations and industry standards.

Businesses involved in government-funded infrastructure projects should expect increased scrutiny of areas such as:

- Procurement and tendering processes.
- Contract administration and variation management.
- Labour hire and workforce arrangements.
- Supplier engagement and due diligence.
- Governance and board oversight.
- Whistleblower and complaints processes.
- Record management and document retention.
- Workplace conduct and reporting systems.

Even organisations that have not been directly involved in any alleged misconduct may find themselves responding to requests for information, producing documents or reviewing historical project decisions.

The importance of Royal Commission Readiness

One of the consistent lessons from major inquiries across Australia is that organisations rarely receive significant notice before being required to produce large volumes of documents or explain historical decision-making.

Businesses should use the announcement of this Commission as an opportunity to assess their readiness. Key questions include:

- Can we quickly locate project records, contracts and correspondence?
- Are governance decisions adequately documented?
- Do we have clear escalation pathways for compliance concerns?
- Have allegations or complaints been investigated appropriately?
- Are our subcontractor and supplier due diligence processes fit for purpose?
- Do our executives and project leaders understand their obligations if approached by an inquiry?

The ability to demonstrate strong governance can be as important as the underlying conduct itself.

Governance will be a key theme

The Commission's Terms of Reference repeatedly focus on oversight, accountability and the adequacy of systems designed to prevent misconduct. This suggests that the effectiveness of governance frameworks may become as important as identifying individual wrongdoing.

Boards and executive teams should consider whether their current governance arrangements provide sufficient visibility over high-risk activities across projects, supply chains and workforce arrangements.

This is particularly important for organisations operating across multiple jurisdictions, where differing regulatory regimes and project delivery models can create compliance complexity.

Looking ahead

The Commission is required to report within 12 months and may provide interim recommendations where urgent action is required.

Regardless of the eventual findings, the direction is clear. Governments, regulators and project owners are increasingly focused on integrity, transparency and accountability across major projects.

For industry participants, now is an appropriate time to review governance frameworks, assess potential areas of exposure and ensure the organisation is prepared to respond effectively should regulatory scrutiny arise.

Organisations that proactively strengthen governance, compliance and project oversight today will be better placed to manage both the risks and opportunities that emerge as the Commission progresses.

How Piper Alderman can assist

Piper Alderman advises contractors, project owners, consultants and suppliers on governance, regulatory investigations, procurement integrity, document management, compliance reviews, Royal Commission readiness and responding to requests from regulators and inquiry bodies. Our team can assist organisations to assess potential risks, strengthen governance frameworks and prepare for heightened scrutiny arising from major public inquiries.

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