

Transport for NSW

Commercial Principles for support payments arising from the impacts of the construction pause to 30 July 2021 (Payment Support Requests)



Transport for NSW would like to provide our contractors with additional guidance in relation to the reasonable costs it will cover associated with the construction pause between 19 July and 30 July 2021 (Construction Pause).

Transport for NSW's Commitment

- 1) Consistent with the INSW Guidelines, Transport for NSW confirms it is committed to working with contractors in a productive way to ensure projects can recommence following the Construction Pause on 31 July 2021. This program does not provide support after 30 July 2021.

Reasonable Cost Guidance

- 2) Reasonable costs associated with the Construction Pause are anticipated to include:
 - a) demobilisation
 - b) overheads
 - c) site holding / running (i.e power, water)
 - d) insurance
 - e) stand down costs for plant and equipment under hire arrangements from third parties
 - f) security and costs associated with keeping sites safe and secure
 - g) remobilisation
 - h) implementation costs associated with the COVID-19 Safety Plan (<https://www.nsw.gov.au/covid-19/covid-safe>)
 - i) labour (refer to 3) below).
- 3) In relation to labour costs, and respecting the principles in the INSW Guidelines, Transport for NSW will cover up to:
 - a) 100% of the direct employee costs required to perform active site duties
 - b) 50% of the direct employee costs not able to perform active site duties
 - c) 50% of indirect employee costs of subcontractors
 - d) Other reasonable employee costs as agreed.

Any labour costs should be reduced by any other COVID support payments (including COVID-19 disaster payments and pandemic leave disaster payments and any other COVID-19 related payments available from the federal government).

Cost Mitigation Principles

- 4) Reasonable costs will be determined with a pragmatic consideration of contractors' efforts to mitigate costs, noting mitigation needs to align with the INSW Guidelines, in particular to:
 - a) ensure construction can commence by 31 July, in order to provide the best opportunity for recovering program (irrespective of whether on-site activities actually recommence on 31 July 2021 and/or are subject to LGA Restriction in accordance with the Public Health (COVID-19 Temporary Movement and Gathering Restrictions) Order 2021 dated 28 July 2021.
 - b) avoid losses of people, skills, materials and equipment over the Construction Pause period to 30 July 2021 that would undermine recommencement on 31 July 2021.
 - c) assist the supply chain to remain stable and solvent.
 - d) discuss proposed mitigation approaches with their Transport for NSW Representative.
- 5) Contractor mitigation strategies should be built on the principle of no double dipping, so to the extent other forms of NSW and Commonwealth Government support are available to businesses and employees, Transport for NSW will have a focus on net costs incurred.

Payment Support Requests

- 6) For Payment Support Requests (ie claims associated with the Construction Pause), contractors will submit their documentation for payments, setting out all reasonable costs incurred associated with the Construction Pause, as well as any flow on project impacts e.g. program.
- 7) an open book approach will be adopted to verify the reasonable costs incurred associated with the Construction Pause.
- 8) flow on project impacts will be assessed on a project by project basis, but acknowledging a default position that the duration of the Construction Pause has impacted programs and completion dates.
- 9) once the Payment Support Request sum is finalised with Transport, the Contractor will need to provide Transport with a release for the impacts of the Construction Pause before the payment is made.

Ongoing Collaboration

- 10) Contractors should continue to collaborate with their Transport for NSW Representative in the first instance, particularly in relation to:
 - a) reasonable costs associated with the Construction Pause
 - b) cost mitigation strategies
 - c) costs associated with the COVID-19 Safety Plan
 - d) project remobilisation strategies.

TfNSW Liquidity Support Program

Over and above the Payment Support (i.e. financial support offered as a result of impact arising from the Construction Pause to 30 July 2021), Transport developed the Transport Liquidity Support Program.

- 11) The Liquidity Support Program payment is available for contractors to support contractors, suppliers and their subcontractors. This is a cashflow bridge and will be paid on account on an urgent basis to provide contractors with cashflow during the construction pause.
- 12) Note the Liquidity Support Program provides near-term liquidity or contractors to Transport by paying actual and forecast costs to 30 July in advance and on-account. It does however not address the final support Transport will pay for pause impacts, which is addressed by the Payment Support Requests process above
- 13) Payments made under the Transport Liquidity Support Program will be offset from future progress claims.



Transport for NSW

COVID-19 Liquidity Support Program

Immediate support for Transport for NSW's contractors



To provide immediate support to your industry and limit impact during the pause on construction across Greater Sydney (**Construction Pause**), Transport for NSW (**Transport**) has created the COVID-19 Liquidity Support Program (**Program**).

About the COVID-19 Liquidity Support Program

The COVID-19 Liquidity Support Program facilitates cash flow through the construction industry for those who are impacted by the Construction Pause. It aims to ensure the supply chain of staff, equipment and other resources are supported and are ready to recommence work by 31 July.

These arrangements are available now to Transport's contractors and we strongly encourage your participation.

By submitting a claim that meets the terms of participation (below), participants will receive support in the form of expedited payment of certified June work and expedited advance payments of actual and anticipated July works and on site activities impacted by the Construction Pause.

Terms of participation

Payment for work to end of June 2021 (June Claim)

1. Irrespective of whether you opt into the Program payment, certified progress claims will be made on an urgent basis.

Payment for work to 30 July 2021 (July Claim)

2. Current contractors may immediately submit a progress payment claim for July 2021 providing details of:
 - a. activities and works completed up to the time of the pause on construction (12:01am on Monday 19 July 2021);
 - b. a cost estimate of the activities and works that would have been undertaken during the imposed pause (19 July 2021 to 30 July 2021, inclusive) which is consistent with the July forecast and which may include the cost of dealing with the construction pause.
3. Participation in the Program is optional. To opt in, the July Claim and any subsequent progress claim are to reference this Program.
4. Payment of the July Claim will be made as soon as possible on an urgent basis, and in any case no later than the time frame specified in your contract.
5. Payment of the July Claim will be on account. Contractors cannot 'double dip' under the Program and existing contracts. Existing contractual obligations and entitlements will not be affected.
6. Contractors must take reasonable steps to mitigate the impact of the Construction Pause, without compromising recommencement of work on 31 July 2021.
7. Contractors must also be committed to reopening readiness and COVID-19 safety protocols, as set out in the objectives of Infrastructure NSW's "Guidelines to support parties with closure of construction site negotiations".
8. It is a paramount consideration that subcontractors are assisted with cashflow. Evidence that subcontractors have been paid must be submitted in the usual way. Following reconciliation if payments have not passed through to subcontractors, as appropriate, Transport reserves the right to recover them.

Transport has extra resources in place to fast track payments and will work with contractors to resolve contractual claims as quickly as possible.

While we are committed to supporting the industry, Transport has an obligation to spend public funds responsibly and we rely on your cooperation to ensure this.

How to submit a claim

To submit your payment claim for July 2021, please submit the July Claim and reference this letter. The Transport Shared Service Centre can provide regular updates on the progress of your claim. Transport project directors or the representative nominated in your contract will remain your primary contact.

Need more information?

Transport Shared Service Centre **1300 234 987**

8am – 5pm, Monday to Friday