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## 4 PLANNING AND APPROVALS

**One of the key issues for infrastructure procurement is the need to obtain the key approvals, such as planning, environment and cultural heritage approvals. Obtaining these approvals takes time. They typically need to be obtained so that the conditions attached to the approvals can be fed into the bid process and taken into account by bidders in preparing their submissions to government. At the latest, they need to be locked away before financial close of the project to provide the parties involved with the certainty required to commit to a fixed completion date, fixed price and, if applicable, financing.**

Government typically takes the running on this and is able to seek approvals based on a reasonably detailed understanding of the nature of the infrastructure to be delivered. While the final winning design may differ from this initial reference design, the differences typically fall within the scope of the approvals obtained so that no revisions are required to the approvals (of if they are, they are minimal so that the revision process can be fast-tracked).

For commercial opportunities, it is a different story. Often, it is not until the winning bidder is selected that there is sufficient design information to inform approval applications. Therefore, for a commercial development, the order is reversed. The commercial development bid is prepared and selected and then the approval is applied for. This, in turn, requires flexibility as to the completion date for the commercial development (to take account of delays in the approval process) and flexibility to change the design of the commercial development, the approach to construction or the amount paid to government to accommodate any unusual conditions which may be attached to the approvals. In the extreme, the parties seek to preserve the right to walk away from the deal if the approval cannot be obtained or the approval restriction fundamentally changes what can be delivered.

This inherent uncertainty does not integrate well with the certainty government typically seeks to enable it to evaluate bids for the infrastructure component of the project nor does it help lock in the certainty required for the infrastructure delivery and financing to the extent there are any construction or financing interdependencies between the infrastructure and the commercial development components.