

4.5 CORRECTIONAL INDUSTRIES CONSULTATIVE COUNCIL

1. Primary Role:

The primary role of the Correctional Industries Consultative Council (CICC) is:

- To provide confidence to the community at large that Correctional Industries in NSW do not unreasonably adversely impact upon other businesses in any Australian state or territory, in particular, jobs. This is by ensuring Correctional Industries operating in the public and privately run Correctional Centres focus their business development activities on:
 - replacing imports by the private sector and or Government Agencies,
 - self-sufficiency (this relates to any products, construction or services required by Department of Communities and Justice which the Commissioner deems suitable for CSI to provide),
 - emergency situations in the private sector and Government Agencies,
 - where there is a demonstrated skill shortage in a particular employment field,
 - new work that is not being performed by other Australian businesses.
- To monitor the operations of Correctional Industries to ensure that the work environment for all inmates meets contemporary expectations in relation to Work Health and Safety standards.
- To monitor, encourage and facilitate as far as practicable, inmates acquiring knowledge, skill and basic work competence which will improve their chances of finding employment when they are released back into the community and to encourage and facilitate, where practicable, the certification of inmate skills in accredited programs.
- To encourage, where practicable, post release job placement opportunities to inmates particularly within private sector businesses who utilise Correctional Industries for the production of products and services.

This is achieved by monitoring and reporting upon the development and operation of Correctional Industries including the maintenance of an effective grievance handling mechanism. **CICC meetings are considered to be confidential and only nominated Council members and appointed observers are to participate in these meetings apart from those occasions where Council requests the presence of people making specific representation or people providing advice on specific matters.**

2. Composition:

Member / Chairperson	Deputy Commissioner, Strategy & Governance
Member	Deputy Commissioner, Community Industry & Capacity
Member	Australian Industry Group
Member	Business NSW
Member	Unions NSW
Member	Unions NSW
Proxy Member	Unions NSW
Member	Community Representative
Member	Community Representative

Member/Secretary	Assistant Commissioner Work & Education
Observer	Director Work Readiness CI&C
Observer	Director Business Engagement CI&C
Observer	GEO Representative
Observer	MTC Representative
Observer	Serco Representative

3. Appointment:

- i) The Deputy Commissioner Strategy & Governance, Deputy Commissioner Community, Industry & Capacity and Assistant Commissioner Work & Education are ex-officio Members of the Council. The Deputy Commissioner Strategy & Governance and Assistant Commissioner Work & Education fulfil the roles of Chairperson and Secretary of the Council respectively.
- ii) Representatives of the Australian Industry Group, Business NSW and Unions NSW are subject to nomination by the organisations concerned and appointment approved by the Minister. These are appointed on a staggered basis i.e. 2 appointments each 18 months enabling each representative to serve a term of 3 years.
- iii) The Community representatives are appointed by the Minister following public advertisement or as directed by Chairperson.
- iv) The Director Work Readiness and Director Business Engagement maintain observer status to respond to specific requests of the Council. Director Work Readiness is responsible for WHS inspection results including action items and responses by Industry Managers. Director Business Engagement is responsible for convening the Inmate Development Committee meeting including agenda, minutes, action items and responses to action items.
- v) The Private Sector Correctional Observers are nominated by their respective General Manager and approved by the Deputy Commissioner Strategy & Governance. These members will be Observers for their correctional centres.

4. Term of Appointment:

The term of appointment, for other than ex-officio members, is for a period of 3 years or such other period approved by the Minister.

5. Qualifications of Appointees:

- i) Members of the Council must have a commitment to Correctional Industry philosophy and to the broader implications to the community of effective Correctional Industry programs.

- ii) Members must have an extensive understanding of and experience in Industry and related industrial issues and an understanding of the likely impact, if any, of Correctional Industry market decisions.
- iii) Members must maintain professional standards of integrity and not engage in any activities which might provide a conflict of interest to their Council responsibilities. All Council members must comply with the Code of Ethical Conduct. A copy will be provided to each member on an annual basis.

6. Frequency of Meetings and Quorum:

Meetings will be held each 2 months or of such other duration approved by the Minister.

Quorum

At least one member from peak employer bodies, one member from Unions NSW and one Community Representative must be present in person or via conferencing technology for the meeting to proceed.

7. Fees

Fees payable to members of the Council or Representative Organisation are those set by the Premier's Department relevant to members of Statutory Authorities, Consultative Committees and Councils.

8. Reporting Role:

- i) The Council reports directly to the Minister.
- ii) The Council provides minutes of all meetings and, where necessary, recommendations to the Minister.
- iii) Members of the Council have a responsibility to establish lines of communication within their relevant forums in order that the community at large can be apprised of council deliberations.
- iv) The Council provides an annual resume of activities, which forms part of the Annual Report of Corrective Services NSW, to the Minister.
- v) The Council to report on an agreed range of key performance measures linked to the primary role of the CICC.

9. Detailed Role of Council:

- i) Reviews Correctional Industry operations by scrutinising forward business

development plans and generic contract opportunities with an annual value of \$250,000. This \$250,000 threshold is to include the costs of any raw materials/consumables supplied by the customer. This threshold does not apply to commercialised service type industries where the potential labour may be more than 70% of the total value. The threshold applied to these industries is \$100,000. Thresholds are to be reviewed annually.

- ii) Reviews Correctional Industry operations through the inspection of industries in Correctional Centres and the review of reports and documents prepared by staff of CSI Corporate, CSNSW Head Office, Regions and Private Sector Institutions covering marketing, sales and Work Health & Safety in the workplace and promotes the continued importance of Correctional Industry programs.
- iii) Where the Council is of the view that a current or proposed business activity will significantly impact upon other Australian businesses the Council shall make appropriate recommendations to the Minister.
- iv) In the case of major business development proposals, embracing private sector involvement, an Industry Impact Statement will be provided to the Council. The questions contained in this Industry Impact Statement are listed under point 12 on pages 7, 8 and 9 of this policy document.

If Correctional Industries responds to a tender involving the private sector, the CICC Chairperson will nominate a CICC representative to participate in these discussions to ensure Correctional Industry involvement does not unreasonably adversely impact upon other businesses in any Australian state or territory.

- v) In the case of Government Agencies accessing Correctional Industry services in emergency or one-off situations, an Industry Impact Statement is not required up to a sales value of \$250,000. If the request is repeated the Government Agency must go through the formal CICC business approval process.

In relation to the private sector where there is a demonstrated need to access the services of Correctional Industries in situations when the private sector business unit has lost the ability to produce its goods and services because of a fire or a flood for example, the private sector business unit in question will have the ability to seek assistance from Correctional Industries without going through the formal CICC business approval process.

- vi) In the case where CSI, GEO, Serco or MTC seek approval from the CICC to run a trial on a potential business opportunity to establish if they have the capability to meet the customer's needs, the framework contained in point 11 of this policy must be completed and provided to the CICC for consideration. The requirements for an Industry Impact Statement is contained in point 12.

The mechanism for Correctional Industries to engage with the Correctional Industries Consultative Council of NSW re discussions over Request for Trials and Industry Impact Statements is contained in point 13.

- vii) The Council may invite or second individual representatives to the Council for the purpose of gaining specific Industry input on relevant issues.
- viii) In relation to a privately managed Correctional Industry engaging with a Government Agency for a business opportunity where the product or service is being imported an Industry Impact Statement is not required if the business development opportunity does not involve other private sector businesses. However, the privately managed Correctional Industry is required to provide Council with a document from the Government Agency involved confirming that the product or service is currently being imported, should the business development opportunity proceed.
If the Government Agency intends to go to tender for that product or service and it includes the market share that the privately managed Correctional Industry has, an Industry Impact Statement is required should the privately managed Correctional Industry seek to respond to the tender.

- ix) When CSI engages with a Government Agency for a business development opportunity an Industry Impact Statement is not required, However, Council will be notified of pending and held business development opportunities implemented in accordance with NSW Government Procurement Board Direction (**PBD 2019-04**) as follows:

PBD-2019-05: Enforceable Procurement Provisions

Supply by Government entities

An agency may obtain goods or services directly from any government entity that provides those goods or services in the exercise of its principal functions consistent with the competitive neutrality principles in the Treasury Policy and Guidelines Paper TPP02-1 Policy Statement on the Application of Competitive Neutrality.

- x) Industry Impact Statements will be held in one location within CSI and monitored every twelve months by CSI Corporate staff to ensure that they still reflect the original intent. Proponents will be required to notify the Council immediately if there is any significant change to the context or content of the original information provided to, and approved by, the Council. Refer to point 12 of this policy for the content of the Industry Impact Statement.
- xi) Proponents will be advised by CSI Corporate staff and representatives from privately operated Correctional Industries if Council has not been notified of significant changes to the Industry Impact Statement. Termination of the agreement is a possible

sanction for this breach.

- xii) In relation to CSI activities Council reviews the development and implementation of CSI's pricing model by ensuring a Competitive Neutrality Review is conducted by CSI every 4 to 5 years. This aims to confirm that CSI and privately operated Correctional Industries do not operate at an unfair competitive advantage in relation to inmate labour and overhead charges when they compete in open markets.
- xiii) The CICC Secretary reviews all complaints referred from CSI and privately managed Correctional Industries in accord with the grievance handling mechanism. The Council will make recommendations in relation to any specific findings of that review.
- xiv) Reviews at each meeting that the formal grievance handling mechanism is operating effectively.
- xv) The Commissioner or Minister may refer, for the consideration of the Council, appeals lodged against responses provided by the CICC Secretary from CSI or privately operated Correctional Centres.
- xvi) Reviews the operation of Community Employment Programs in terms of the primary role charter.
- xvii) Monitors and reviews the development and operation of Correctional Industry programs within privatised Correctional Centres.

10. Grievance Handling Mechanism

- i) All complaints/representations concerning Correctional Industries are to be directed to the Secretary, Correctional Industries Consultative Council in writing to PO Box 1036, Windsor NSW 2756 for consideration. Complaints can be made directly to any member of the Correctional Industries Consultative Council who will provide details of the complaint to the Secretary for action. The Secretary of the CICC, will either deal with the matter directly or refer it to the CICC for consideration and determination. The Secretary must respond in writing to the complainant advising them of the outcome or if necessary, arrange a meeting to discuss the issues in more detail prior to making a determination.
- ii) Every effort is to be made to resolve issues arising under 10. i) above through direct contact involving the Chairperson, Secretary and/or representative of the privately operated Correctional Centre and the complainant.
- iii) All matters arising under i) and ii) above are to be reported to the Council at its next meeting.

- iv) If the complainant is not satisfied with the outcome they may appeal to either the Minister or the Commissioner in writing seeking a further determination.

11. Framework for CSI to seek approval from the CICC to commence a trial relating to a potential business opportunity prior to submitting an Industry Impact Statement

1. Name of Company / Organisation / Business Owner
2. Background check on the above.
3. Brief outline of the business proposal. For a singular project proposal (non-continuous work), the total cost of the trial must be included, and compared to the estimated overall sales market for that industry if this information is obtainable.
4. Reason for requesting the trial.

In relation to this question the proponent requests a trial with CSI based on their inability to source suitable staff, this statement must be evidenced.

5. How will the trial operate.
6. How long is the trial proposed to run for and why?
All trials are approved to run for 12 months.
7. Are there any known possible adverse impacts on other businesses in the community if the trial was to proceed? If so, please describe these impacts. Can these adverse impacts be successfully managed? If so, how?
8. Are there any known adverse impacts on staff working in the company / organisation / business owner that the proposed trial is being conducted for if the trial was to proceed. If so, please describe these impacts. Can these adverse impacts be successfully managed? If so, how?

In considering these adverse impacts specific reference must be made to any recent organisational changes affecting staff or planned organisational changes affecting staff relating to company / organisation / business owner.

12. Requirements for Industry Impact Statement

The proponent and or CSI/GEO/ MTC and Serco representative must ensure that all fields within the Industry Impact Statement are completed and accurate. A CSI/GEO/MTC and Serco representative can assist the proponent in this process.

1. Background to Industry Impact Statement.
2. Name of sole trader; partnership; company, ABN number.
3. Name of principal/s, director/s.
4. Address of proponent.
5. If a proponent is a member of employer association/s, please nominate which employer association.
6. What is the nature of the proponent's business?
7. What is the nature of the Correctional Industry business proposed? Does it service internal (Corrections)/external markets?

8. Does the proposal embrace an import replacement or off-shore manufacturing prevention endeavour and if so, how is this achieved?
9. What is the motivation for utilising a Correctional Industry opportunity?
10. Does the business proposal align with the core business of the proponent and if so, how is this achieved?
11. Who are the competitors of the business proposed (name and nature of businesses)?
12. What effect will the proposed business have on your competitors:
 - a) Market share?
 - b) Employment levels?
13. To the best of your knowledge will this proposal infringe on a competitors patent?
14. A) Profile the local workforce currently undertaking the activity proposed in Question 1. List by:
 - i) Function of role (e.g. operational, manufacturing, admin)
 - ii) Number of permanent employees
 - iii) Number of temporary or casual employees
 - iv) Number of employees on a work related visa (e.g 190, 457, 489)
 - v) Is the local work force employed by proponent or hired by a contractor

i) Function of role	ii) No. permanent workers	iii) No. temporary / casual workers	iv) No. work visas	v) Employed or Contractor
e.g manufacturing				employed

B) Will this proposal have an effect on the number of workers and/or hours of work?

15. A) What trade unions provide coverage to the industry?

(Where the appropriate Trade Union is not known, the proponent is to contact the Secretary of the CICC on (02) 4582 2401 who will seek this information from Unions NSW to determine if there are any affiliated Trade Unions which would cover the proponents existing business activity)

B) Are the proponents existing employees being correctly remunerated under the applicable Industrial Award?

C) If industry award not in use, provide details of mechanism for remunerating employees?

D) Employers are to confirm that the Australian Government Fair Work Ombudsman's Fair Work Information Statement (refer website <https://www.fairwork.gov.au/employee-entitlements/national-employment-standards/fair-work-information-statement>) is given to new employees when they start work. This is a requirement by law.

16. Has the proposal been discussed with employees/trade union (provide formal documentation of dialogue covering these discussions). In a business activity where a

Trade Union is represented, correspondence from the Trade Union covering these discussions on the proponents proposed business activity with Correctional Industries is required.

In relation to this question the proponent is to allow Correctional Industries Consultative Council members to meet with staff of the proponent. The purpose of the meeting is to test the veracity of the Industry Impact Statement re employment matters and to ensure that staff are not going to lose their employment because of the business activity with CSI and to advise staff of the grievance handling mechanism developed by the CICC should they believe that their positions were being threatened because of the activity with CSI. The CICC members will include a representative nominated by Unions NSW and may include a representative from AIG, Business NSW or Community Representative depending on the proponent and CICC's requirements.

17. How many full time equivalent employment opportunities will the proposed activity provide to inmates?
18. What vocational skills does the proposed business endeavour provide to inmates? Do these skills provide relevance to post release employment?
19. What level of capital structure is required?
20. Are there any other matters which are drawn to the attention of the Correctional Industries Consultative Council which may elicit adverse representations from the community/business or employee groups?
21. Does the proponent agree to notify the Council (through the Secretary) of any significant changes to the business (i.e. employee numbers, market price, competitors, subcontractors, suppliers)?
22. Does the proponent understand that if the Council is not notified of significant changes then termination of the agreement / operation is a potential sanction?
23. An updated impact statement will be required every 12 months or at an interval deemed necessary by Council.
24. Name, Position and Signature of proponent.

13. **Mechanism for Correctional Industries to engage with the Correctional Industries Consultative Council of NSW**

- a) In relation to the Business Engagement Reports, all reports are to follow the same format as those currently provided by Corrective Services Industries. These documents are to be forwarded to the Executive Assistant, Community Industry and Capacity 3.5 weeks prior to the next meeting.

- b) In relation to Requests for Trials and Industry Impact Statements, these documents are to be forwarded to the Secretary of the CICC for review prior to being included in the CICC agenda papers. This information is to be provided at least 3.5 weeks prior to the next meeting. CSI will work with the private sector Correctional Industries staff to ensure that Requests for Trial and Industry Impact Statements are completed as per the format.

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