



**CONSTRUCTION
INDUSTRY
FEDERATION**

A&L Goodbody

Early Contractor Involvement

Presentation to the Construction Industry Federation

Overview of the GCCC ECI Model

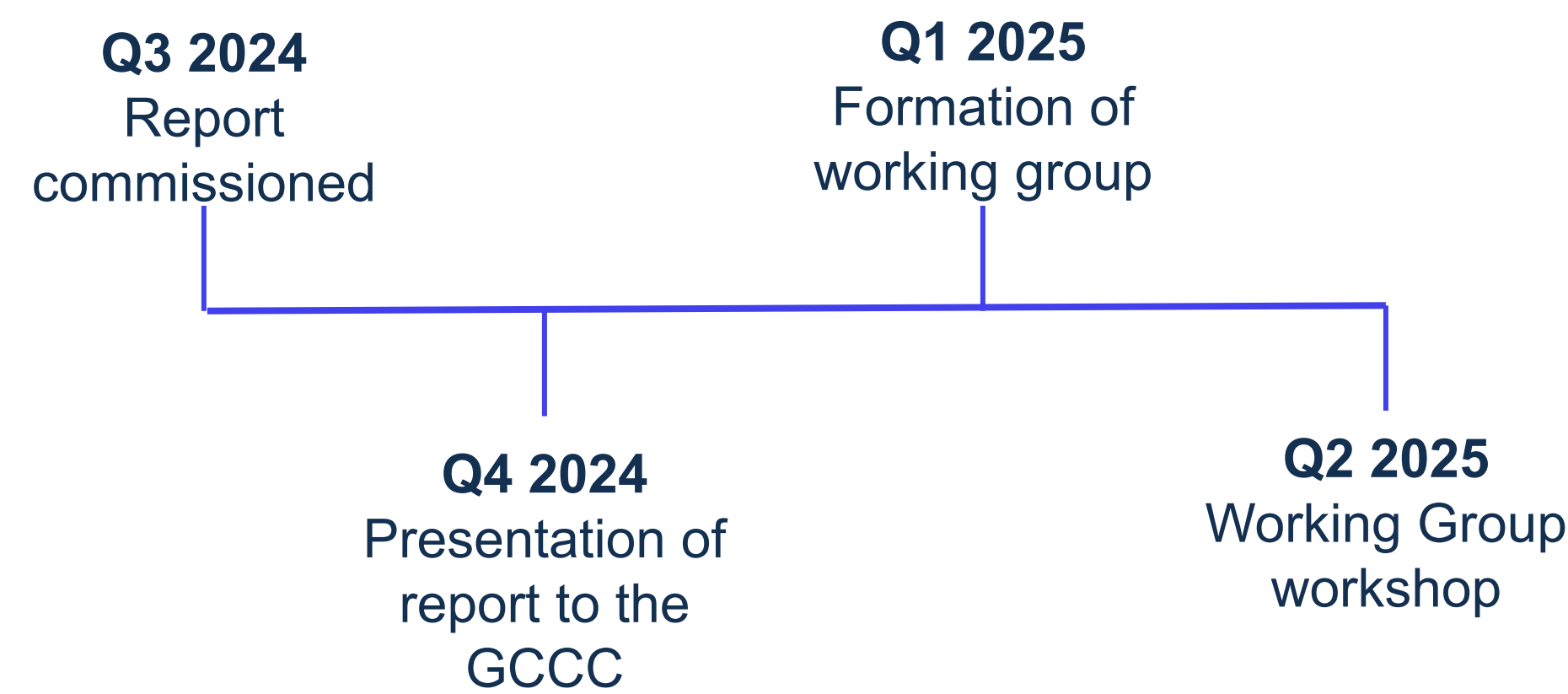
GCCC ECI Model Overview

Objective	To create a project delivery environment that prioritises project outcomes with respect to cost, risk, programme and quality.
Outcome	To provide for early collaboration by key members of the supply chain in the Capital Works Management Framework (CWMF)

An Iterative Approach



Progress to date



GCCC ECI Framework Model, Workstreams, & Next Steps

ECI Model Proposal	Work Streams	Next Steps
➤ Frameworks based: Call off Service Providers/Contractors/Specialists at NDP Programme Level ➤ Individual Projects and Programme Projects: Client/Consultant/Specialist/ Contractor linked by overarching Framework Agreement/Framework Alliance Contract	➤ WS01 – Procurement ➤ WS02 – Contracts ➤ WS03 – Performance Management ➤ WS04 – Project Charter ➤ WS05 – Project Insurance, Vesting, Bonds ➤ WS06 – Project Bank Accounts	➤ Engagement with Private Sector Stakeholders on ECI Model ➤ Narrowing procurement and contract options to optimal number and type that allows flexibility but gives clarity ➤ Emerging options for sectors ➤ Pilot Projects

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Early Contractor Involvement: What is it and why use it?

- Pre-Construction Services
- Cost and programme efficiencies
- Visibility and mitigation of risk
- How is it documented?
 - One Contract vs Two Contract approach.
 - UK forms provide for ECI. Irish forms don't yet provide for ECI (but watch this space)
- Collaboration is central to success

Early Contractor Involvement: Where is it being used?

- In Ireland:
 - Large complex projects where Contractor's expertise are required at early stage, particularly large-scale infrastructure.
 - Data centres and pharmaceutical plants where speed to market is a priority.
 - Success - Irish Water, OPW
- In UK:
 - Broad range - from large and complex to straightforward low value projects. Due to:
 - UK policy of using NEC4 for publicly funded projects.
 - Building Safety Act 2022 - Contractor and designer to be appointed and detailed design submitted before the Regulator will give approval for construction to commence
- Construct only or Design and Build – can use on both, depending on what you want to use it for.

Early Contractor Involvement: From Early Resistance to Wider Use

- Lack of competitive tension.
- Expensive at the outset - doubling up on consultant costs.
- PWC form only allows the use of ECI where the project is high value and specific permission is granted by GCCC.
- PWC form is adversarial in practice (competitive tendering and a claims culture). ECI relies on a more collaborative culture.
- Appetite for change - resistance is falling away. Likely PWC will introduce ECI in near future

Early Contractor Involvement: What to Consider Before Engaging in ECI?

- **When do you bring the Contractor on board?**
- **Budget**
- **Has the client provided a clear set of requirements?**
- **Realistic Timeframe**

Early Contractor Involvement: What to Consider Before Engaging in ECI?

- **What is the pricing strategy?**
- **Approval procedure for submissions**
- **Collaboration**
- **Criteria for moving for Stage Two**

Early Contractor Involvement: Example of ECI Going Wrong

- **Almacantar (Centre Point) Ltd v Sir Robert McAlpine Ltd [2018] EWHC 232 (TCC)**
 - Centre Point Tower Project – London
 - PCSA terminated before construction contract entered
 - McAlpine entitled to only 50% of fee due under PCSA

Early Contractor Involvement: The benefits for a Contractor and an Employer?

- **Contractor**

- Risk mitigation
- Head start on getting Main Contract Works
- Relationship building
- Payment
- Pain/Gain sharing

- **Employer**

- Risk mitigation
- Certainty
- Pain/Gain sharing

Thank You

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