

26 January 2014

The Secretary
Rural and Regional Affairs and Transport Committee
Australian Senate
Canberra

Dear Secretary

I write to make a submission to the current Inquiry into the *Infrastructure Australia Bill 2013*.

I understand that the published deadline for lodgement of submissions has passed, but the Committee's website, under the heading of "Inquiry Status", indicates that it is "Accepting Submissions" so I seek the Committee's indulgence in accepting this late submission.

I am agreeable to appearing in person before the Committee if it so desires, such as to elaborate on the concept of "the public interest" which ought to be the reason for existence of any body giving advice to the Commonwealth.

Please note that I write in the capacity indicated in the signature block below, independently of any of my other public and professional roles.

Yours faithfully

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Keywords

public interest, independent, analytical capacity, pro-industry orientation

INFRASTRUCTURE AUSTRALIA AMENDMENT BILL 2013
Submission by Geoff Edwards, Independent Scholar

Preamble

In preparing this submission to assist the Senate in its Inquiry into the proposed legislation, I have drawn upon not only the proposed legislation but also the most recent substantive document produced by Infrastructure Australia, *June 2013 National Infrastructure Plan*. The weaknesses in that document offer some pointers on what might be done to improve the institutional arrangements to underpin national infrastructure planning.

Issue 1: “Independence”: Is a separate authority necessary?

It is not immediately obvious why an “independent” authority is necessary to give advice to the Minister about the priorities for federal funding of infrastructure projects.

Given that the proposed Infrastructure Australia will (properly) not have decision-making authority over Commonwealth funds, it remains advisory but with a serious shortcoming compared with traditional advice from the public service.

Traditionally advice of this kind, requiring coordination across jurisdictions, disciplines and sectors, has been provided by the public service, supplemented by advice from advisory committees which the Minister can appoint under prerogative powers without the need for legislation.

No separate body with modest staff can possibly replace the wide range of perspectives available within the public service from line and central departments, across all fields of national public policy. It can only be sectoral in outlook and its advice therefore is more vulnerable to being narrow and misguided.

This viewpoint is not negated by the notable inclusion of some senior public servants on the Council/Board of the body, especially if they are from the central agencies with limited day-by-day dialogue with the in-depth experts in the line agencies.

Infrastructure planning is a complex task that requires analysts to be cognisant of a wide range of challenges facing a modern industrialised society: environmental disturbance, energy supply and demand, greenhouse gases, land use and town planning, growth management, public finance and comparative uses of public funds to mention only a few. It also requires dialogue across levels of government.

The Australian Public Service ought to be competent to produce comprehensive infrastructure plans crossing these disciplinary, jurisdictional, time-based and portfolio boundaries. If its analytical and coordination skills are not up to that task, the public service ought to be reformed so that it is.

Reversion of national infrastructure planning back into the public service would also help to avoid confining analysis to the narrow definition of infrastructure that is built into the

legislation, current and proposed¹. If infrastructure planning were brought back into the public service, it would be unnecessary to exclude large classes of infrastructure such as information, human capital, environmental assets and so on from the definition. The definition could be as broad or as narrow as required for a particular publication or budget submission. Having a separate Act with a separate body charged with analysing the subject, the definition is ossified and the horizons of the analysts employed there are necessarily blinkered.

Evidence that Infrastructure Australia's focus is a narrow range of built (civil engineering) projects lies in the June 2013 report's weak treatment of Indigenous infrastructure.

Another dimension of this narrowness is the restriction to "nationally important" infrastructure. This squeezes out consideration of a large range of local projects which could remove bottlenecks and enhance the efficiency of existing networks of infrastructure. The States and local governments are in a better position to evaluate the merits of local projects than the Commonwealth, but the status given to Infrastructure Australia's role and reports inevitably will suck funds and analytical attention towards the grand projects and away from local ones.

"Independence"

The June 2013 report includes text that demonstrates that the body has nothing original to contribute:

This plan therefore is in-step with the work of other advisers such as the Productivity Commission, the Business Council of Australia, and the Council of Australian Governments' Reform Council, who have each called for big reforms to achieve big aspirations for our country: productivity, economic growth, and social wellbeing.

(page 3).

The text of the report does indeed confirm the truth of this statement: there is nothing original in the document and it merely parrots a position that is common ground within the economic policy community: we need more economic growth, economic infrastructure is essential for economic growth, governments must take hard decisions (implying, override public opinion and/or sell public assets), more money should be directed to the private sector, etc.

Infrastructure Australia reveals its sympathies by improperly including the Business Council of Australia within this list. This body is a lobby group and should not be included in a list of "advisers" to government in the same way that the Government's own agencies are advisers.

Indeed, this language, and other evidence such as the appointment of a business person like Sir Rod Eddington as chair, reveals Infrastructure Australia to be not "independent" at all. Certainly it may be politically non-partisan, but it is not

¹ "**nationally significant infrastructure** includes:

- (a) transport infrastructure; and
- (b) energy infrastructure; and
- (c) communications infrastructure; and
- (d) water infrastructure;

in which investment or further investment will materially improve national productivity." 2008 Act, s.3.

independent of the views of the business or construction sectors and this is a fatal flaw in its constitution.

This point is evidenced by the inclusion of Oakajee Port in its list of threshold projects at a cost of \$5.4 billion. Even from its own description the project seems to be a gift to the iron ore export industry, and carries a cost benefit-cost of only 1.2, well within the margin of error of this type of assessment.

The point is also evidenced in the Minister's Second Reading speech. The Minister referred to the need to "build strong relationships with state and territory governments and *industry*", emphasis added to point out the danger of creating an entity "that is both legally and financially separate from the Commonwealth". This separation in effect denies the opportunity for expert public servants to inform the work on a day-to-day basis. Industry is not charged with advancing the public interest. Corporations are required under corporations law to advance their own interests. The proposed legislation moves this body closer to industry.

The Minister in his Second Reading speech reports on consultation with State governments and *industry*. There is no reference to consultation with the community sector or academe.

It is vital that governments receive advice that is partisan-neutral, but this is only one dimension of "independence." It is just as vital that governments receive advice that is independent of lobby groups, rent seekers, mainstream media and even expressed community opinion such as via social media. A body that aligns with any opinionated sectoral group is not "independent". The primary contemporary institution that is purposely dedicated to the public interest and not the partisan or sectoral interest is the public service.

Issue 2: Inability of the Minister to direct

Section 6 of the new Bill provides that the Minister may not give directions in regard to the content of advice from this body. While I acknowledge that language of this kind is common nowadays, from an independent external perspective, it is really rather ridiculous. Yes, it may prevent the Minister from overtly directing the body to give politically tainted advice on pet projects, but it also prevents the Minister from giving directions in the public interest. The Minister has the benefit of information and analysis from the entire body of the Australian Public Service, but is not permitted to build this into the decision-making framework of the new body.

It would be far better to include in the legislation a few principles that constitute a public interest test which its analysis and advice must satisfy. For example:

"In evaluating projects, Infrastructure Australia must consider whether they are in the public interest, including whether:

- the primary beneficiaries are business or commercial corporations;
- the community has expressed support for or opposition to the project;
- the project facilitates consumption of fossil fuels;

- the project will impose tolls or charges on the public users;
- the project will result in avoidable costs through reduced competition between tenderers (a scheduling question) or through taking on private sector partners (a public finance question);
- the project can demonstrate high economic benefits compared with costs;
- etc.

A set of principles like these would properly show that economic benefit is only one of a suite of attributes that constitute public interest.

Issue 4: “Rigorous” evaluation

The Minister has called for “transparent and rigorous cost-benefit assessment” of projects and Infrastructure Australia itself has claimed that “Proposals submitted for inclusion on the infrastructure priority list are rigorously assessed against Infrastructure Australia’s reform and investment framework.” (page 96).

If the cost-benefit assessments are as rigorous as the body claims, then only a tiny handful of the projects in the “Ready to proceed” and “Threshold” categories deserve funding.

The benefits of the Brisbane Cross River Rail tunnel are estimated to outweigh costs by a factor of only 1.34, barely scraping over the threshold at which benefits exceed costs. This project shared top billing with New South Wales’ Pacific Highway upgrade, \$6.4 billion – benefit cost 1.2. Not far behind these in priority appear Melbourne Metro for \$9-11 billion, ratio 1.2 and Western Australia’s Oakajee port expansion, mainly to facilitate exports of iron ore – \$5.4 billion, ratio 1.2.

Benefit-cost analysis is of value-laden exercise replete with assumptions and approximations. The second decimal point is false precision and the margin of error is such that we cannot be confident that any project with a benefit cost of less than two is even positive.

Inclusion of these enormously expensive projects with marginal benefit cost ratios is evidence of Infrastructure Australia’s pro-industry bias. There is no evidence from the Bill or the Minister’s speech that this structural weakness will be remedied in the new arrangements.

Issue 5: Analytical capacity of Infrastructure Australia

The June 2013 report on national priorities is a shallow document full of waffle and generalities with little evidence of thoughtful multi-sectoral policy analysis or original insights about Australia’s economic condition. I make this claim by way of advising the Senate Committee to ensure that the new institutional arrangements terminate the existence of any body that can’t do better than this report.

I will identify just one major structural analytical weakness.

The predominance of petroleum-fuelled infrastructure

The great majority of the projects listed facilitate or anticipate a growth in the movement of goods and people using petroleum-fuelled vehicles. There is no evidence that Infrastructure Australia recognises the damage to Australia's competitiveness caused by a steadily rising deficit in our trade in petroleum. It is not necessary to resort to concerns about climate change or to the well-attested phenomenon of "peak oil" to be concerned at Australia's strategic reliance upon imports of petroleum to power its economy. Or its financial vulnerability to any rise in the internationally traded price of oil. Oil production in Australia, Indonesia and Vietnam have all peaked and Australia is at the end of a long supply line from the Middle East. No body that purports to be planning national infrastructure should present a report that does not deal with this question.

The new institutional arrangements should embed scenario planning, city planning and population management into its modus operandi. This will be aided by bringing the body closer to the Commonwealth not despatching it closer to industry.

Summary

Infrastructure Australia's most recent itemisation of nationally important "hard" infrastructure is a shallow document with a pro-industry orientation, presenting a work program of expensive projects with dubious economic benefits entrenching Australia's reliance upon fossil fuels.

Any new institutional arrangements should improve on this. This cannot be aided by restructuring the body away from the Australian Public Service and closer to industry, which appears to be the likely consequence of the proposed reforms.

The case has not been made that a body whose primary task is to prioritise hard infrastructure projects across the nation should even exist. Coordination across jurisdictions and portfolios is an enduring responsibility of the Commonwealth public service which is also charged with advancing the public interest. The "public interest" does not appear in the Bill. Under the new structure, Infrastructure Australia will be more vulnerable to pressure to represent industry's interest rather than the public interest. This is not in the public interest.

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