# Infrastructure Decision-making Principles

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## Summary

Infrastructure Australia’s *Infrastructure Decision-making Principles* publication is superficial and beside the point.

Its 11 proposed principles should be replaced by three: the public should be given an authoritative explanation of:

1. ‘Needs’ that give rise to infrastructure requirements;
2. Reasons for each significant infrastructure proposal;

iii. Merit of each significant infrastructure proposal.

To do so requires public inquiries and draft reports for infrastructure proposals.

If Infrastructure Australia is to play a role it needs to be ‘re-reformed’ from an organisation with a corporate board to an advisory council.

## Introduction

Infrastructure Australia recently released a publication *Infrastructure Decision-making Principles*. <http://infrastructureaustralia.gov.au/policy-publications/publications/infrastructure-decision-making-principles.aspx>.

The publication posits 11 principles to apply to public infrastructure – infrastructure determined by government outside of general regulatory processes:

1. Governments should quantify infrastructure problems and opportunities.

2. Proponents should identify potential infrastructure needs in response.

3. Proponents should invest in development studies to scope potential responses.

4. Governments should take steps to ensure potential responses can be delivered efficiently.

5. Governments should not announce a preferred option before undertaking detailed analysis involving multiple options.

6. Proponents should assess the viability of alternative funding sources for potential projects.

7. Project proposals should be independently assessed by a third party. All nationally significant proposals should be submitted to Infrastructure Australia.

8. Governments and proponents should undertake meaningful stakeholder engagement at each stage, from problem identification and option development to project delivery.

9. Governments and proponents should publicly release all information for their decisions.

10. Governments should commit to and release post-completion reviews.

11. Where projects are funded as part of a broader program, the corresponding decision-making processes should be robust, transparent and prioritise value for money.

Along with calls for ‘clear lines’ of responsibility and accountability, these are unexceptional to infrastructure bureaucrats and not done in practice.

Despite some praise from the critics <http://www.rossgittins.com/2018/07/why-so-much-spending-on-infrastructure.html>, the publication will be seen as a pro-forma upholding of orthodoxy i.e. harmless at worst, increasing the power of the infrastructure club at best.

The beagle makes 3 comments on the publication:

1. The principles are needlessly long and complex;
2. The principles are not what Infrastructure Australia recently practiced;
3. It misses the essential point.

## 1. Complexity

The 11 principles should be simplified and reduced to three - the public should be given an authoritative explanation of:

1. ‘Needs’ that give rise to infrastructure requirements;
2. The reasons for each significant infrastructure proposal;
3. The merit, in engineering and economic terms, of each significant infrastructure proposal.

### 1.a ‘Needs’

This point covers Infrastructure Australia’s principles 1-6 and concerns long term planning.

Long term planning for infrastructure should be split into three components – as demonstrated in two of Australia’s best infrastructure plans for Gladstone and Newcastle ports:

* Under what circumstances will a response be needed? – an engineering question;
* What are the drivers of those circumstances? – a location specific question;
* How likely are those drivers to eventuate in a particular timeframe? – a forecasting question.

These raise matters not identified by Infrastructure Australia’s principles:

* Responses lacking merit now might be worthwhile later;
* The sequence of responses is important;
* Three different skill sets are required for planning and assessment.

They also show the irrelevance of Infrastructure Australia’s distinction between governments and proponents. In most cases, the (State) Government is the proponent.

### 1.b Reasons

That the public should be given reasons for each significant infrastructure proposal deals with most of Infrastructure Australia’s principles 7-12. However, Infrastructure Australia does not properly explain this.

Reasons – economic or not – for government policies and projects are essential public information for a properly functioning democracy. This is especially the case for infrastructure projects which often extend beyond an election cycle and whose effects can be hidden until after election day.

The purpose is not to constrain politicians to projects approved by the bureaucracy. The public may wish to elect a government to undertake projects that do not get bureaucratic approval or are uneconomic. Rather the purpose is to underpin democratic accountability and avoid corruption.

This is done by the public being authoritatively informed of:

* The opportunity cost of a project. Normally this is in terms of financial cost but, in some cases - such as Sydney Metro – it may include the forestalling of other opportunities;
* The purposes of a project – which often include non-economic matters.

Assessments of opportunity cost and purposes may be informed by, but cannot rely on, proponent – i.e. government of the day - claims.

To ascertain project purposes – consistent with principles of natural justice - an open public hearing is needed. Government representatives can state their case and be required to answer questions at such a hearing. <https://johnmenadue.com/john-austen-revolving-doors-at-the-infrastructure-club/>

The issue of reasons demonstrates other problems in Infrastructure Australia’s principles.

One problem lies in the proposition that Governments and proponents are different parties. Contrary to this view, Executive Government – the Government of the day - initiates projects.

The system of responsible government sees Executive Government account to Parliament, with Parliamentarians accounting to the people. This system indicates assessments of projects etc. should be done on behalf of Parliament. <https://www.thejadebeagle.com/governance.html>

Infrastructure Australia correctly intimated that Governments have become adept at claiming ‘confidentiality’ on e.g. commercial grounds, to preclude external review. The answer is not for some (easily ignored) call for Governments to voluntarily submit to the bureaucracy - as in Infrastructure Australia’s principles. Rather it is for Parliaments to be more assertive and not permit Executive Government to initiate infrastructure projects until certain requirements are fulfilled.

This leads to a second problem with Infrastructure Australia’s formulation – it ignores the fact that Oppositions make infrastructure promises.

Oppositions do not have the bureaucratic support enjoyed by Governments and can be subject to less scrutinised lobbying, misinformation and barrow pushing by those who seek favour in expectation of a change in Government. In some jurisdictions parts of these activities would be considered corruption. <https://www.thejadebeagle.com/roads-3-htfu.html>. Some of the most contentious projects – such as the North West Rail Link in Sydney, and the East-West Link and Westconnex Motorways – have garnered support from Oppositions.

### 1.c Merit

Most commentary about infrastructure proposals focuses on ‘merit’, including benefit cost analyses.

Suggestions are frequently made for more technical economic assessments – better mouse traps.

However, there is no reflection on two serious deficiencies with current infrastructure assessments:

* Economic assessments are entirely reliant on the physical or engineering attributes;
* Economic assessments relate to economic welfare rather than (just) economic performance as indicated, for example by GDP or productivity.

Infrastructure Australia’s principles continue that neglect via items 6, 7, 10 and 11.

Any economic merit test should demonstrate a high probability that:

* The project will ‘work’. Yet a surprisingly high proportion of projects cannot work – examples include roads that are unable to accommodate break-even traffic e.g. Sydney Cross City Tunnel;
* Economic performance, not just economic welfare, will improve. An implication is most claimed ‘travel time savings’ and ‘agglomeration benefits’ should be ignored for road projects.

## 2. Infrastructure Australia’s recent practice

Infrastructure Australia’s view about infrastructure principles – especially its call to be at the centre of the assessment of nationally significant proposals - would be more persuasive if it:

a. Reviewed its own assessments;

b. Reviewed its own assessment processes;

c. Showed better understanding of its proper role.

### 2.a Infrastructure Australia’s own assessments

Some of Infrastructure Australia’s published assessments are so strange as to warrant investigation – Sydney Metro is an example. <https://www.thejadebeagle.com/earth-to-canberra-2.html>

Others defy the spirit of what it now puts forward. What is the point of a post completion review (principle 10 above) when Infrastructure Australia does not re-consider assessments after fundamental changes in project scope? As is the case for Westconnex. <https://www.thejadebeagle.com/macro-micro-westconnex-and-westies.html>

Infrastructure Australia says the principles are not part of its assessments. Then why have them?[[1]](#footnote-1)

There should be some review of recent Infrastructure Australia assessments.

### 2.b Assessment processes

The principles have an ‘independent’ third party assessing projects. While this may have merit, to date Infrastructure Australia has not showed an appropriate understanding of independence.

Relevant independence is from project proponents – and opponents. An independent party would not work with a proponent to advance a project. Nor would it rely on information from the proponent. However, Infrastructure Australia does both.

Moreover, Infrastructure Australia had claimed some joint efforts with a proponent ‘think tank’ – some say lobby group – Infrastructure Partnerships Australia on contentious and badly researched material such as public transport franchising <https://www.thejadebeagle.com/weird-scenes.html>.[[2]](#footnote-2)

The independence principle is similar to natural justice – that there is and there is seen to be independence. Yet it is not possible to for Infrastructure Australia to be seen to be independent while assessments are conducted behind closed doors and while it is governed by a corporate Board.

Change is needed to make the claim of ‘independent’ credible.

### 2.c Infrastructure Australia’s role

Principle 7 asks for all nationally significant projects to be submitted to Infrastructure Australia. This implies Infrastructure Australia has some potential role in all nationally significant projects.

This is ill-founded for two reasons. First, Infrastructure Australia is an emanation of the Commonwealth. Yet the Commonwealth’s power does not extend over nationally significant infrastructure. <https://www.thejadebeagle.com/williams-case.html>.

In 2014, the High Court specifically ruled national significance does not bring a matter within Commonwealth powers, including powers of funding. It similarly ruled mere agreement between the Commonwealth and (a) State Governments does not bring a matter within the Commonwealth’s powers, least of all the Commonwealth Government’s powers.[[3]](#footnote-3)

Hence Infrastructure Australia’s suggestion to include the principles in national partnership agreements and be a condition of Commonwealth funding is mistaken. Inclusion, or not, is a matter for Parliaments not the Council of Australian Governments.

The second reason (the suggestion that all proposals be submitted to Infrastructure Australia is ill-founded) arises from the question: who is to submit proposals to Infrastructure Australia?

The expectation appears to be State Governments submit proposals. However, this may undermine Infrastructure Australia’s independence, limit its purview and does not address the fact it is a Commonwealth body. Hence the suggestion does not sit well with responsibility and accountability.

A proper process would have the Commonwealth Parliament refer matters – including project proposals - to Infrastructure Australia. Among the implications are changes to current practice:

* States would not determine which projects get assessed by Infrastructure Australia;
* Infrastructure Australia would in practice be forced to seek information other than from State project proponents, implying assessment processes would be more public.

It would require Infrastructure Australia to be ‘reformed’ again – to move away from a corporate board to an advisory Council.

## The point?

The above shows the essential point of infrastructure assessment to be improving the functioning of our system of Government. Assessment processes – transparency, merit tests, etc. – are merely means to this end.

As Infrastructure Australia is yet to demonstrate an understanding of the basics of the system of Government, it is not surprising its proposed principles are lengthy, ambiguous and mistaken.

It has followed the familiar path of a proposal for technocratic rule – duly elected Governments should do what the bureaucracy says. <https://www.thejadebeagle.com/a-better-mousetrap-the-grattan-institute-on-transport-projects.html>, <https://www.thejadebeagle.com/mousetrap-2.html>

This would cheer the infrastructure club. Members could continue ‘virtue signalling’ by blaming Governments while moaning about an infrastructure deficit safe in the comfort that Governments will keep spending on infrastructure for their benefit.

The idea of infrastructure principles may be good, but Infrastructure Australia’s publication does this idea a disservice.

J Austen

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1. This is not the first case of assessments ignoring principles. In 2014 Infrastructure Australia said urban transport projects should be identified and assessed as if there was efficient road pricing. It advocates road pricing but does not assess projects on that basis. [↑](#footnote-ref-1)
2. See for example: http://infrastructureaustralia.gov.au/news-media/speeches-presentations/IPA-Reform-Series-310517.aspx [↑](#footnote-ref-2)
3. There is a mechanism of Commonwealth funding outside its specific and implied powers – s.96 conditional grants to the States. These could be used for infrastructure. However, these conditional grants are to be made by Parliament – not just the Government. [↑](#footnote-ref-3)