# Infrastructure priorities

*Priority: a thing that is regarded as more important than others.[[1]](#endnote-1)*

The ‘Government News’ recently stated the new chair of Infrastructure Australia is open to new ideas and is seeking priorities from the public.[[2]](#endnote-2)

As a member of the public, here goes:

## Overall

The priority for Infrastructure Australia is to improve its reputation as a Commonwealth adviser. There are three things it needs to do now.

### Revisit some recent advice

Some advice published by Infrastructure Australia this year is dubious. It suffered from internal contradictions, poor research and woefully inadequate explanations.

Examples of deficient advice include: public transport franchising; corridor protection; project evaluations such as Westconnex, Perth Freightlink and the Maldon-Dombarton rail line.[[3]](#endnote-3)

Infrastructure Australia should revisit such advice.

It should look carefully at what general advice – not specific to projects – it gives.

There is also a fundamental gap in its advice; on the Commonwealth’s role.

### Set out the Commonwealth’s role

Infrastructure Australia advises the Commonwealth; it is nonsense to think it advises others.

The critical matter is for it to understand and say what the Commonwealth - the Government and Parliament – should do.

It has not done so despite fundamental changes in understandings of the lawful role of the Government and Parliament since 2014.[[4]](#endnote-4)

Until it does it risks being a cat’s-paw for mendacious mendicants including some States. This negates its usefulness.

### Be independent

Former Minister, the Hon. Warren Truss, had an odd view: Infrastructure Australia only needs to be independent of the Commonwealth Government. Others adopted his error.[[5]](#endnote-5)

Infrastructure Australia needs to be independent, and be seen to be independent, of those who benefit from decisions on its advice. It needs to be independent of project proponents, lobby groups/infrastructure industry associations and State governments.

There are doubts about whether this is presently the case. For example, it is unduly reliant on project proponents for information and fact checking despite several cases of being given false or misleading information.[[6]](#endnote-6)

## Actions

Since the 2013 election some conservative commentators have fallen silent about the need for Infrastructure Australia to be ‘transparent’. Yet the evidence is that issues about transparency and independence have become more pressing.

The types of problems outlined above can be avoided if Infrastructure Australia changes the way its conducts its affairs.

It should act more like a statutory authority than the corporate form mistakenly adopted on the back of apparently private - and bad - proposals given to the coalition *before* it took Government in 2013.[[7]](#endnote-7)

Its office, via the chief executive, should publish draft reports – on all policy issues and on all projects – inviting public comment. This will enable factual mistakes to be corrected and ensure the reports are of a substance fitting to the issues under discussion.

Some projects are of such importance that Infrastructure Australia should hold public hearings and take evidence prior to making a draft report. Westconnex is an example. Such a process would reduce proponent incentives to mislead Infrastructure Australia; without need to invoke the Commonwealth Criminal Code.[[8]](#endnote-8)

This also would signal an intention to inquire into projects where proponents go around its back and lobby the Government or Departments.

The board, via the chair, should consider comments on drafts and publish its views as a final piece of advice. Among other things this will remove the current ambiguity about the purpose of and responsibility for Infrastructure Australia’s publications.[[9]](#endnote-9)

## Finally

The most important physical infrastructure issue in Australia at present, and possibly since World War 2, is the Sydney Metro.[[10]](#endnote-10)

Infrastructure Australia’s published evaluation on this was so grossly inadequate the matter needs to be taken from its hands. A public inquiry should be instituted at which Infrastructure Australia should take the opportunity of explaining how it came to its views.[[11]](#endnote-11)

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1. <https://www.google.com.au/search?q=priority&rlz=1C1CHBF_enAU754AU754&oq=priority&aqs=chrome..69i57j69i60.2478j0j7&sourceid=chrome&ie=UTF-8> [↑](#endnote-ref-1)
2. <https://governmentnews.com.au/2017/09/infrastructure-australia-open-new-ideas/> [↑](#endnote-ref-2)
3. <http://www.thejadebeagle.com/earth-to-canberra.html>

   <http://www.thejadebeagle.com/weird-scenes.html>

   <http://www.thejadebeagle.com/sideshow-alley.html>

   <http://www.thejadebeagle.com/earth-to-canberra-2.html>

   <http://www.thejadebeagle.com/wonderland-glory-and-evaluation.html>

   <http://www.thejadebeagle.com/the-dog-that-didnt-bark.html>

   <https://johnmenadue.com/john-austen-and-luke-fraser-urbane-transport-police-part-3-of-3/> [↑](#endnote-ref-3)
4. <http://www.thejadebeagle.com/williams-case.html>, and more recently the Marriage Act case <http://eresources.hcourt.gov.au/downloadPdf/2017/HCA/40> [↑](#endnote-ref-4)
5. <http://www.thejadebeagle.com/governance.html> [↑](#endnote-ref-5)
6. Fact checking with proponent; see <http://infrastructureaustralia.gov.au/projects/project-assessments.aspx>. [↑](#endnote-ref-6)
7. See note (v) above. [↑](#endnote-ref-7)
8. While the Commonwealth Criminal Code is used to prosecute people who defraud the Commonwealth thousands of dollars in social security payments, it has not been used in relation to false or misleading statements by project proponents involving or seeking billions of dollars of Commonwealth public funds. To activate this provision, the Commonwealth – or Infrastructure Australia - would need to inform proponents that false etc. statements are serious criminal offences. The relevant Division of the Criminal Code is set out below:

   ***Division 137—False or misleading information or documents***

   ***137.1  False or misleading information***

   *(1)  A person is guilty of an offence if:*

   *(a)  the person gives information to another person; and*

   *(b)  the person does so knowing that the information:*

   *(i)  is false or misleading; or*

   *(ii)  omits any matter or thing without which the information is misleading; and*

   *(c)  any of the following subparagraphs applies:*

   *(i)  the information is given to a Commonwealth entity;*

   *(ii)  the information is given to a person who is exercising powers or performing functions under, or in connection with, a law of the Commonwealth;*

   *(iii)  the information is given in compliance or purported compliance with a law of the Commonwealth.*

   *Penalty:  Imprisonment for 12 months…….*

   *(4)  Subsection (1) does not apply as a result of subparagraph (1)(c)(i) if, before the information was given by a person to the Commonwealth entity, the Commonwealth entity did not take reasonable steps to inform the person of the existence of the offence against subsection (1).*

   *(6)  For the purposes of subsections (4) and (5), it is sufficient if the following form of words is used:*

   *“Giving false or misleading information is a serious offence”.*

   ***137.2  False or misleading documents***

   *(1)  A person is guilty of an offence if:*

   *(a)  the person produces a document to another person; and*

   *(b)  the person does so knowing that the document is false or misleading; and*

   *(c)  the document is produced in compliance or purported compliance with a law of the Commonwealth.*

   *Penalty:  Imprisonment for 12 months.*

   See: <https://www.legislation.gov.au/Details/C2012C00547> [↑](#endnote-ref-8)
9. An example of ambiguity is project evaluations; it is unclear whether these are (summaries) of advice given to the Infrastructure Australia Board or reasons for decisions of the Board. It is unclear whether the Board agrees with the evaluations – which could be implied by publication - or whether its members take into account other reasons for their decisions. [↑](#endnote-ref-9)
10. <http://www.thejadebeagle.com/sydney-2-exhibit-2-toucheth-not-the-monorail.html> [↑](#endnote-ref-10)
11. <https://johnmenadue.com/john-menadue-it-is-scandalous-how-infrastructure-spending-escapes-proper-scrutiny/> [↑](#endnote-ref-11)