## Infrastructure Australia review

Disclosure: the author retired from Infrastructure Australia’s secretariat in early 2014.

### The review

The Minister for Infrastructure, Transport, Regional Development and Local Government, recently established a [review](#_top) of Infrastructure Australia to be led by a former Secretary of the Department and a former board member.

It is to: *‘consider Infrastructure Australia’s role as an independent adviser to the Commonwealth on nationally significant infrastructure priorities and advise on what changes may be needed to IA’s focus, priorities and – if necessary – legislation’*

The Minister presumes Infrastructure Australia should continue, with the problem being ‘*the organisation has been allowed to drift with partisan board appointments and a lack of clear direction’*. Apart from a nod to her boss – Mr Albanese – who established a version of Infrastructure Australia fourteen years ago, there is no reason for such presumption.

### The supposed problem

Infrastructure Australia was established in 2008 as part of Labor’s then promise to address claimed infrastructure shortfalls. The assumptions: vastly more revenues from a resources boom; an ‘infrastructure deficit’ adversely affecting economic performance; many shovel-ready projects languished because the Howard Government eschewed ‘infrastructure responsibilities’; Governments determine Commonwealth purposes – criteria for spending.

Initially, it was a statutory authority comprising a chief executive – ‘Coordinator’ – and a twelve-member ‘board’ of industry experts and heads of State and Commonwealth central agencies. The board was advisory as it is inappropriate for Government representatives to be on a governing board.

The reason for an organisation independent of the Government of the day: a perception Departments were unable to provide robust infrastructure advice because they needed to reflect political flux in Commonwealth purposes e.g. drifting between attention to regions (Coalition) and cities (Labor). Yet the very idea of such an organisation – which might advise Commonwealth purposes should be stable - is anathema to Departments.

### The real problem

Infrastructure Australia’s primary task was supposed to be gatekeeping - advising which of many well-thought-out proposals should gain Commonwealth financial support because they would demonstrably contribute to national economic performance by passing tests of: what? why? and worth?

However, that only a handful out of many hundreds of initial project proposals could answer these questions revealed the real problem – an absence of plans and proposals that made sense. The consistent threads of infrastructure ‘policy’ were rent-seeking and vote buying.

It was apparent the national infrastructure problem was not insufficient spending on meritorious proposals benefiting Australians, but meretricious grabs for public funds usually for road building. Proponents – mostly governments - were generally unable to: make a rudimentary case for their ideas; generate reasonable proposals.

Infrastructure Australia sought to address the former by ‘working with proponents’ to improve analyses and focus on economic factors. To save embarrassment, public release of information relating to proposals and assessments was limited.

To address the latter – identification of proposals - Infrastructure Australia published documents on national transport plans – ‘strategies’ – for ports, freight and urban transport. Conformance with these would identify nationally significant proposals. The documents were welcomed by industry and community groups but outraged some bureaucrats – for interdicting monument building and showing up decades-long advisory failures.

Such roles should have been temporary with Infrastructure Australia soon returning to its original task of publishing economic assessments of proposals put to the Commonwealth – rather than helping to generate and write them.

The revelation infrastructure was seen as another way of grabbing public funds and votes meant Infrastructure Australia’s role was more important than perceived. In Australia, elected Governments are entitled to spend public monies as they lawfully choose – whether or not in accord with ‘expert’ views. Then democratic accountability requires public explanation of the why, what and worth of spending proposals. Publication of full details of infrastructure proposals and assessments is important not merely to demonstrate national economic merit, but to support the system of government. Hence Infrastructure Australia’s work to address proponent failings should have been strictly temporary.

### 2014 changes

2014 saw two fundamental changes to context.

First, the new Coalition Government made Infrastructure Australia a corporation with a governing board. That is extremely unusual – and badly mistaken - for an organisation only advising government. The explanation – greater independence from Government - [perverted](#_top) the principle of avoiding conflicts of public duty and private interest.

Second, in mid-2014 the [High Court](#_top) clarified Commonwealth purposes are neither determined by the Government nor in flux. The Government does not determine subjects on which it can spend – rather, the Constitution does. Broadly, spending is legally limited to purposes specified in Constitution s.51 and for which there is legislation.

Beyond that, the Commonwealth can only provide monies to States, possibly with conditions – e.g. to spend on certain projects - set by Parliament (not the Government).

The Court threw out long-standing assumptions projects can be funded by the Government just because of: national significance; economic merit; election promises; convenience; previous practice etc.

If the ruling was followed, the cause of Departmental incapability of providing infrastructure advice – a need to reflect political views – would disappear and any ‘drift’ would stop. If followed, all details of proposals and infrastructure assessments would be presented to Parliament and published.

### Since 2014

While the 2014 changes should have been a watershed for infrastructure policy and Infrastructure Australia, the [drift](#_top) away from underlying purposes accelerated.

On occasion since, the organisation has acted more like a lobbyist than a gatekeeper. Some assessments are [suspect](#_top) – Sydney Metro and WestConnex among them. An integrity commission might wish to investigate them.

Its key practices are not only outmoded but [deleterious](#_top). These include: reliance on proponents for all information; recitation of even implausible proponent claims; behind-closed-doors assessments; publication of only cursory summaries. It fails to update assessments based on information later demonstrated to be false– such as multi-billion-dollar understatements of costs.

Published advice implicitly encourages use of Jack Sparrow’s compass – Governments can spend on whatever they like. Nothing is said about the many projects which are not submitted for review – no matter how stupid. With such views of the national adviser, little wonder politicians feel increasingly [emboldened](#_top) to promise and deliver any infrastructure, disregarding – often wilfully - legality. Community infrastructure and small grants are the least of the concerns – the real money and vote buying is in big projects.

Rather than the tighter focus suggested by the High Court decision, Infrastructure Australia broadened its coverage into aspects of social infrastructure. While that would have some insider support, it looks like [empire building](#_top).

### The future

The problems Infrastructure Australia were supposed to address either don’t exist, or after fifteen years of its existence are too entrenched for it to address. State organisations with similar names are no reason for a Commonwealth counter party.

The risk of continuing an organisation like Infrastructure Australia is further impetus to the democratic decay – of Governments ignoring legality because of the unlikelihood of challenge to their use of your money - described by Professor [Twomey](#_top).

The Minister’s reference to national significance as if it is some basis of Commonwealth policy and not a cause of the ‘drift’ she wants to stop – shows that risk is unlikely to abate with the current mindset. The High Court specifically rejected such circularity: by definition, anything a national Government takes an interest in will be a matter of national significance.

The urgent need to change that mindset is not merely to improve policy, but to avoid overwhelming an integrity commission with questions about consistently [wilful illegality](#_top) in Commonwealth infrastructure funding.

Infrastructure Australia should be abolished.

With Commonwealth purposes defined by the Constitution – no longer by politicians - Departments are now institutionally capable of giving advice about relevant infrastructure, including national plans for those purposes e.g. interstate, international and interoperable transport infrastructure. Any remaining issue on that relates to competence – a matter exacerbated, not remedied, by continuing multiple bureaucracies.

For national economic reasons, there may be a desire for the Commonwealth to support project or program proposals outside Commonwealth purposes. In such cases - where funds must be passed to States - Parliament needs advice on setting conditions for (State) use of funds. That advice should come from a statutory authority, rather than a Department which represents the Government.

Such advice should focus on national costs and benefits. It should be developed in public inquiries and be presented in draft and final reports. That will limit what can be considered and tightly focus work on major projects and programs. That is so much like Productivity Commission practices, if there is such a role the Commission should undertake it.

An implication: there would be no Infrastructure Australia board attracting allegations of partisan appointments. Rather projects and program proposals beyond Commonwealth purposes would be individually assessed, advice on each being the responsibility of a single Productivity Commissioner – a transparent single point of accountability.

Unless there is such a process, clearly demonstrating to the public incontrovertible lawfulness of infrastructure spending, and the what, why and worth of proposals the supposed nation building endeavours of the new Government ought be regarded as a sham - of using your money to buy self-glory and votes.

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