



18 August 2022

Attn: Ms Nicole Lockwood and Mr Mike Mrdak AO
Independent Reviewers of Infrastructure Australia
c/o Director – Engagement, Advisory and Projects Section
Department of Infrastructure, Transport, Regional Development, Communications and the Arts
GPO Box 594
CANBERRA ACT 2601

By email: IA.Review@infrastructure.gov.au

Dear Mr Mrdak and Ms Lockwood

Thank-you for the opportunity to respond to your review of Infrastructure Australia on behalf of Australian Owned Contractors (AOC).

As you are aware, AOC is a representative association of seventeen Australian owned and controlled Mid-Tier civil contractors and we exist to increase the participation of Mid-Tier contractors in the head contracts of major public infrastructure projects across Australia; and to advocate for the benefits of growing genuine Australian businesses to be the best that they can be in contributing to our local economies and national reconstruction.

AOC is a thinly resourced industry body and does not enjoy the scope or resources to comment or respond to the breadth of issues apparent in Australia's civil construction industry. However, AOC has engaged, and will continue to engage with, Infrastructure Australia both now and into the future and as such we pleased to respond in summary to some of the guiding questions within the consultation process.

1. Infrastructure Australia's (IA) role

IA enjoys a unique role as both as an Australian taxpayer-funded body that is at the same time independent of the (Executive) Government of the day. Whilst it is appropriate that a body such as IA continue to act as the independent "examiner" of infrastructure policy advice and maintains its safeguards within IA's charter to remain independent in doing so, IA's public funding affords it a special responsibility to do what it does to with the principal interests of Australians in mind – whether they be Australian owned companies or through developing our domestic industry and sovereign capabilities to maximise a "return on investment" to Australian taxpayers for the funding they enjoy.

IA need not do so at the expense of foreign owned industry players, but should always ensure that the primacy of their infrastructure policy advice does not merely satisfy "place and space" economic or environmental benefits, but also in industry development and social policy outcomes - particularly in Australian regions.



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Certainly, IA's evidence-based infrastructure policy commentary and recommendations will further reinforce IA's ability to grow Australia's infrastructure industry through promoting excellence within each component part or in the case of civil construction, tiers of contractors. This will then flow through to benefit the industry as a whole.

AOC sees IA's role as an independent body expanding to be a trusted repository of Federal (and State and Territory) funding data for (publicly) infrastructure projects that takes account of the market players (contractors) that received public money in which to contractually deliver these projects. Whilst other forms of data sets exist to inform a complete picture, they are disparate and deliberately hard to access through public sources. IA's distinct independence could only strengthen the public policy debate through increased visibility, accountability and project-by-project understanding from their unique viewpoint. This may have the added benefit of allowing further peer review from inside and outside industry, from both a small and larger scale of interest. It will also help with comprehension of the various forms of Cities Deals, Federation Funding Agreements and Budget Papers the Commonwealth rely on to account for these spends. Other informative industry bodies that rely on project data, such as Infrastructure Partnerships Australia would also value from this.

In terms of industry development and sovereign capability – two emerging and urgent priorities of the Commonwealth - AOC see a role for IA to support best practice in enhancing and supporting a level playing field for the nation's civil construction marketplace through an evidence-based focus on improving the participation of Mid-Tier contractors in the head contracts of Australia's major public infrastructure. This focus should be especially so for projects above \$500m. Initial recognition of an imbalanced contractor marketplace for major projects by IA would have immediate benefits in and of itself.

It is hoped that including a focus on industry sustainability and development of Australian contractors to become larger ones, rather than merely monitoring and noting these as an industry observation, would place the Commonwealth and State Governments with a fact-based policy platform in which to seek to reform procurement outcomes to correct these market failures. IA could then move to a more proactive role in achieving a better balance of industry sustainability and in doing so, support the stated policy intentions of the Albanese Government.

AOC also reflects here on two examples of where other countries (either through public or private resources) have used their polity to enhance their domestic best interests by way of allowing pathways to growth for their domestic infrastructure contractors. This has led to international success, something IA could seek to champion as an objective to Australian governments. Through a deliberative focus on industry leadership, the availability of publicly and understandable infrastructure data sets and a collective will to enhance the outcomes for their ultimate constituents, Spain's [SEOPAN](#) and the European Union's [European construction sector observatory \(ECSO\)](#) stand out as models for contemplation.

2. Effectiveness

IA is very proficient at releasing a range of products, including the Australian Infrastructure Audit; the Australian Infrastructure Plan; the Infrastructure Priority List; Infrastructure Market Capacity reports; business case evaluation summaries; and other research reports as requested by the Government.



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AOC observes that whilst valuable to those with the day-to-day resources in which to comprehend them, these reports tend to be more observational rather than advocacy documents; and their content does not tend to influence individual procurement outcomes beyond who might be expected to progress to a shortlist stage for major taxpayer-funded infrastructure. Put another way, AOC submit that IA presents a snapshot of important industry insights for the future of Australia's infrastructure industry, but rarely impacts on the outcomes of ultimate market transactions, in our case – civil contract tenders. IA's reports pay scant attention to issues of market consolidation, contraction and domination by very large foreign owned contractors that AOC and successive Cabinet Ministers have highlighted publicly as issues of public policy alarm.

IA's reports are lengthy and may have (understandably) limited the 'policy imagination' of IA contributors in meeting deadlines for the next report and in managing the expectations of stakeholders in delivering the reports. A limited scope for looking at additional market issues may be due to the very comprehensive nature of what each regular report provides, or a lack of resources or limits on staff capacity to analyse other market developments, or a combination of these (assumptions). This was evidenced in the recent House of Representatives Committee on Infrastructure, Transport and Cities written submission by IA (available [here](#)) which arguably relied summarising IA's recently published, and upcoming, reports in avoiding the Committee's terms of reference.

With respect to IA's threshold funding level for review of projects receiving Commonwealth funding, AOC makes two points:

1. AOC alongside many others in the industry reflect that \$500m is about the right level to fairly represent where Mid-Tier civil contractors simply cannot successfully bid a major project above this level as a head contractor; and without Government-led insistence on industry sustainability criteria in procurement design restricts competition, domestic industry growth and Australian involvement at the prime contract.
2. In an effort to collect as much data as possible on government-funded infrastructure, and in support of the development of a competitive marketplace and level playing field within a potential business case, AOC is supportive of a revision to the current threshold to achieve these aims.

3. Governance

As mentioned previously, AOC is of the view that IA has an appropriate role in infrastructure policy development, analysis and setting recommendations. IA's independence allows it the scope to be more of an advocate (player) than a passive observer (scorekeeper) and therefore allow for more contestability in the public policy debate. A renewed IA charter should allow for this and is sure to strengthen the debate around IA's ultimate advice to the Government. IA should have strict rules and declare transparently when they are briefing media on proposed industry policy approaches they support and should not seek to "pick winners" outside their own evidence-based published reports.

AOC has raised additional areas that should be core to IA's renewed charter into the future and has given suggestions on how these can be incorporated. The fact that other jurisdictions have created their own infrastructure bodies should not reflect, positively or negatively, on IA's worthiness as the Commonwealth's independent infrastructure policy body. That said, through more of an advocate role,



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IA could better promote consistency across the States and Territories in procurement and industry sustainability through a carrot and stick approach; in praising positive development and calling out policy failure. The model of the Australian Small Business and Family Enterprise Ombudsman, the Hon Bruce Billson, is a particularly effective model for advocacy across his wide purview.

AOC does not propose to reflect on the composition of the Board of IA other than to say the IA Board should be represented by a Mid-Tier Australian Owned business leader and preferably a civil contractor, to ensure that this segment of the market is appropriately represented to acknowledge and help meet the policy aspirations of the Albanese Government through IA's strategic framework.

4. Other functions

AOC supports the creation of an Australian Cities and Suburbs Unit (CSU) within IA, noting that this allows for regional Australia to receive equal or greater compensatory focus in separate areas of IA's advice. We offer no advice on the structure and location for the CSU, other than [to say a similar policy implemented](#) by a former Commonwealth Government was well respected across the industry.

The expansion of CSU's policy focus outside of transport and utilities infrastructure may well be warranted, and should include a focus on domestic supply chains and local content as much as civil construction. Indeed, sovereign capability to meet the needs of these critical infrastructures should mirror the need for the growth of smaller Australian companies in leveraging public spending on major infrastructure projects to deliver additional domestic benefits.

Lastly, IA should ensure that it's charter and areas of priority focus reflect the recommendations of a recent **bipartisan** inquiry report of the House of Representatives Standing Committee on Infrastructure, Transport and Cities. The report titled [Government Procurement: A sovereign security imperative](#) is self-explanatory and highly relevant to independent advice informing public policy.

On behalf of all AOC members, I would welcome the opportunity to discuss these matters further with you and provide further context to our policy approach as you see fit.

Yours Sincerely

Brent Crockford
Chief Executive Officer
Australian Owned Contractors