

20 January 2014

Committee Secretary

Senate Standing Committees on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary,

RE: Infrastructure Australia Amendment Bill 2013

The Australian Sustainable Built Environment Council (ASBEC) welcomes the opportunity to provide this submission to the Committee's Inquiry considering the Infrastructure Australia Amendment Bill 2013.

ASBEC's membership consists of industry and professional associations, non-government organisations and government observers who are involved in the planning, design, delivery and operation of our built environment, and are concerned with the social and environmental impacts of this sector.

ASBEC has been a strong supporter of Infrastructure Australia (IA) as a valuable mechanism to deliver greater independence, transparency and a stronger evidence base to support infrastructure decision making and policy development. ASBEC's policy platform advocates a broadened role for IA particularly as it is able to support more productive, sustainable and liveable communities.

Decisions regarding infrastructure investment and prioritisation must be robust and stand the test of changing political and economic circumstances. Bipartisan support for IA is critical to build certainty in a pipeline of projects supporting private sector investment, and build trust with the community that the infrastructure being considered will meet their needs. ASBEC's comments on the Bill outline the amendments that are necessary for it to meet those objectives.

For ease of reference, our areas of support, concern and recommendations are highlighted in bold.

Establishing IA as a body corporate

ASBEC welcomes the establishment of IA as a body corporate under the *Commonwealth Authorities and Companies Act 1997* alongside the associated creation of a Chief Executive and Board reporting directly to the Minister. This change represents an important symbolic shift in the status of IA that should reflect and reinforce its critical role in providing independent, expert and transparent advice to governments.

Additional funding for IA should be made available to support the reporting and administrative responsibilities that will be required as a consequence of this change.



Delivering fifteen year infrastructure plans

ASBEC supports those functions established in Section 5 requiring that IA deliver fifteen year plans to be reviewed every five years specifying infrastructure priorities for all spheres of government. The specification in subsection 5B(1) that IA also consider any complementary infrastructure required to maximise productivity gains from proposals is also an important development. It is often through a suite of projects, or a regionally-based approach that the greatest benefits will be realised from an investment. This expansion in the functions of IA should help support business confidence and plan for the delivery of infrastructure with greater certainty. **The creation of even longer-term plans should also be seriously considered given the long gestation period often required for nation-building mega-projects** like high speed rail and a Western Sydney Airport.

Supporting infrastructure resilience

ASBEC strongly advocates for policy to improve the resilience of the built environment in the face of climate variability. The changes to the functions of IA in Section 5 (explored in more detail below) include the repeal of IA's specific function 'to provide advice on infrastructure policy issues arising from climate change.' ASBEC would strongly advocate that the issues of resilience and sustainability must be captured in any full consideration of the functions provided in Section 5 as set out in the Bill. However, **given the critical importance of infrastructure resilience in any evaluation of productivity, ASBEC recommends consideration of these issues be specified as a stand-alone function in Section 5C.**

Safeguarding independence and transparency

The reconstitution of IA as a body corporate does not in itself safeguard the independence and transparency of the expert advice it provides. Of far greater importance to IA being able to achieve the Bill's stated objectives is the preservation of a governance and reporting structure that enables IA to provide transparent, expert advice independent of perceived, potential or actual political influence. This is critical to IA's credibility both in the eyes of the public and for decision makers. This is also crucial for those businesses planning long-term investment looking for certainty in the infrastructure pipeline across political cycles and party politics.

To that end, **the changes this Bill introduces to the functions of IA (Section 5) and the conditions under which the Minister may give directions to IA (Section 6) are of greatest concern to ASBEC.**

Section 5A(2) empowers the Minister to exclude any 'class of proposals' from IA's remit for evaluation. What constitutes a 'class of proposals', on what basis this decision would be made, and whether and how such a decision would be published is not clear.

This power undermines the ability for IA to fulfill many of its general functions as set out in the Bill. In particular, it could compromise the exploration of impediments to infrastructure delivery, as well as the evaluation and prioritisation of infrastructure needs.

As it has done to date, the advice provided by IA helps support a more informed and confident public policy debate regarding the infrastructure that governments choose to fund. IA's advice also supports a stronger evidence base for use by governments (only as they see fit) when making decisions regarding infrastructure investment. The decisions made, and the quality of the policy debate will only be as good as the quality of the advice received.

In forming this advice it is critical that IA has absolute freedom to consider *all* options and *all* classes of proposals available to meet the infrastructure needs of the nation. Just the possibility that some options

might be excluded from evaluation serves only to diminish the credibility of the organisation and the advice it provides. This is further exacerbated by the potential lack of transparency where the publication of any directive by the Minister excluding a class of projects from assessment is not compulsory, but is itself dependent on a direction by the Minister (Section 5D).

Assuming the advice provided by IA evaluates and prioritises projects that will offer the greatest value for money for tax-payers against those criteria, including their contribution to productivity as determined through the Act, then it is difficult to foresee a good reason to exclude any class of proposals from consideration. **ASBEC strongly recommends that Section 5A(2) be removed from the Bill.**

Also critical to the success of IA in meeting the objectives of the Bill is the perceived and actual transparency of the advice it provides. Section 5D of the Bill (alongside the repeal of subsections 6(3) and 6(4), and the repeal of the requirement for IA to submit an annual report for presentation to Parliament) introduces new wide-ranging powers for the Minister to direct and influence the publication of the advice developed by IA. Under this Section, the consequent dependence by IA on Ministerial direction to publish its advice effectively removes transparency as a distinguishing feature of IA's work, and which has been a welcome characteristic of those annual reports published to date. Again this feature is critical insofar as it builds public and business confidence in the integrity of the advice provided, and supports a stronger evidence base for informed policy debate and governments' decision making. **ASBEC does not support the introduction of Section 5D, and consequential amendments because it compromises the transparency of the advice provided by IA and its independence.**

The additional powers introduced through the substitution of subsections 6(3) and (4)—providing the Minister with the ability to direct the scope, matters and manner of IA functions—further compromise IA's independence from perceived or actual political influence. The intent of the substituted subsection 6(4) to remove Ministerial influence in relation to the content of the advice provided remains, but with the expanded powers introduced under subsection 6(3) there is minimal scope to preserve full independence. **ASBEC does not support the substitution of subsections 6(3) and (4) and recommends the preservation of these subsections as written in the existing Act.**

I look forward to your consideration of these important issues as you continue to review this Bill. If you would like to further discuss any issue raised in this submission, please contact Acting Executive Officer, Julie-Anne Richards

Yours Sincerely

The Hon Tom Roper
President