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11 April 2014

Mr Russell Chafer  
Committee Secretary  
House Standing Committee on Infrastructure and Communications  
Inquiry into Infrastructure Planning and Procurement  
Box 6021, Parliament House  
CANBERRA ACT 2600

Dear Mr Chafer,

We write to you providing feedback for the House Standing Committee on Infrastructure and Communications (House Standing Committee) Inquiry into Infrastructure Planning and Procurement.

**Executive Summary:**

There are a number of issues relating to how South Australia's infrastructure is planned for which can be largely attributed to the political considerations driving infrastructure delivery in this State. For these reasons, Business SA has called for an independent statutory authority to advise on infrastructure priorities.

Furthermore, an updated Strategic Infrastructure Plan for South Australia was supposed to be released in late 2011 and while the State Government released an Integrated Transport and Land Use Plan in late 2013, we still do not have a current comprehensive strategic infrastructure plan for the State.

However, the State Government has made some ground on improving procurement processes through its Industry Participation Advocate (IPA). Although the IPA has only been in place since February 2013, it has already had success in helping to simplify procurement processes to encourage small business into the market for Government tenders.

Government procurement is a major driver of infrastructure provision and they must do a better job of engaging the private sector, particularly superannuation funds, to participate in public private partnerships. There is no one size fits all approach for delivering economic infrastructure but only a collaborative approach between Governments and the private sector can result in funding models which appropriately apportion risk and result in sustainable outcomes for all involved. It is Business SA's view that the State Government must be open to all types of infrastructure funding, which includes consideration of how user charging can be utilised to create an income stream for enticing private sector investment.

**Background:**

Business SA is interested in all obstacles preventing both the Government and Private Sectors addressing South Australia's infrastructure requirements, particularly in preparation for Holden and Toyota's closure in 2017. South Australia needs action on economic infrastructure to provide the right environment for small business to grow and fill the expected economic void left by auto-manufacturing and we provide the following comments in support of our position:

*Are Local, State and Federal Governments adequately considering the infrastructure challenges that they face and do they have long term plans in place to deal with those challenges?*

1. Governments are considering the infrastructure challenges they face but not necessarily making decisions based on rigorous cost/benefit analysis. While Governments can usually identify economic infrastructure requirements, prioritising infrastructure needs has becoming increasingly political, particularly in South Australia. For this reason, Business SA has been calling for an independent statutory authority to assess and prioritise South Australia's infrastructure requirements based on cost/benefit analysis. In our recent State pre-election survey of members, 78% of respondents agreed that an independent authority with appropriate expertise should be established to advise the State Government on infrastructure project priorities based on return on investment to the State.

Furthermore, given Infrastructure Australia relies on South Australian Government project proposals to inform its funding priority list, it is even more critical that our State Government is able to provide infrastructure funding proposals which have emanated from an independent statutory authority.

2. Federal Government funding for State and Local Government should be subject to cost/benefit analysis; evidence of net public benefit and evidence that opportunities for user charging have been explored. However, obligations placed on Local Government should be proportionate to the funds provided and the capacity of individual Local Governments to comply. This is particularly important for South Australia's regions which make such a significant contribution to our State's economy.

Notwithstanding our comments above, the ability of many South Australian Councils to manage funding proposals would be significantly enhanced through additional resources attained by having a rationalisation of Local Government.

With 68 metropolitan and regional councils for a population of 1.6 million, the South Australian Local Government sector is ripe for reform. Queensland, with almost triple our population has 73 councils while Victoria, with approximately three and half times our population, has only 79 councils. In Business SA's pre-State election survey, 68% of respondents agreed that the number of councils should be reduced through amalgamation.

More than 35% of the Local Government areas in South Australia have a population of less than 5,000 people and more than 50% have a population of less than 10,000. Smaller councils do not often have the financial capacity to undertake necessary infrastructure investments and to provide the range of services of larger councils.

In Metropolitan Adelaide which only has a population of approximately 1.1 million people and an area of 1,596 square kilometres, there are 18 local councils. This can be contrasted with Brisbane which has a single council, Brisbane City Council, responsible for the provision of services across a similar population and area to Metropolitan Adelaide.

*For Governments that are engaging in long term planning for future infrastructure investment, are they taking steps to protect the land and corridors that are needed to deliver those infrastructure projects into the future?*

3. We support land corridor and site preservation strategies for strategic infrastructure provision, particularly on the basis that they can provide a low cost alternative to funding infrastructure that is either not affordable in the current fiscal climate or not supported by sufficient demand at present.

Business SA was pleased that the recently released South Australian Integrated Transport and Land Use Plan makes provisions for future rail corridors in areas where Adelaide is likely to experience population growth. This is an important step given the issues experienced in Mt Barker where development has been severely compromised due to a lack of consideration of the required infrastructure when the State Government approved the town expansion via a Ministerial Development Plan Amendment.

Preserving land for future infrastructure also sends a clear message to the community, including developers, regarding the Government's long term intentions and ensures that any development on adjoining land is appropriate to adjoin such future infrastructure.

*What is industry seeking to reduce the regulatory and other costs that it faces in competing for infrastructure projects?*

4. From an infrastructure delivery perspective, there are many issues pertaining to how risk is managed between Governments and the private sector which seem to indicate the market is failing to strike the right balance. One of the reasons why construction costs are so high is that contractors are forced to factor in too high a risk premium to allow for the fact that they are subject to cost overruns from risks that are beyond their control.

For example, where land acquisition is required for an infrastructure project and the risks associated with any delays are beyond the control of a private sector partner, the Government should be responsible for any cost overruns as a result. On the contrary, the private sector partner should be better placed to manage any costs resulting from labour issues and as such should shoulder that risk.

5. The current provisions in the *Fair Work Act 2009* are adding unnecessary costs to businesses commencing new infrastructure projects given the requirement that Greenfield Agreements must be negotiated and agreed to by a union/s. Businesses should be able to have a Greenfield Agreement for new projects without having to negotiate with a union(s) and be pressured to agree to inflated wage and condition claims (which was allowed under the *Workplace Relations Act 1996*).

Greenfield Agreements by their very nature have also diminished the right of employers to manage their own projects. An example of this being provisions in Greenfield Agreements whereby employers must pay contractors wage rates commensurate with rates they pay their direct employees. These types of arrangements completely obstruct the rights of employers to derive economic efficiencies from the way in which they structure their contracting arrangements. How can Australia expect to realise efficiencies in the delivery of public infrastructure when the very foundations on which projects are delivered is subject to market manipulation?

The *Fair Work Act 2009* must be amended as per the previous provisions in the *Workplace Relations Act 1996* to allow employers the option of a non-union Greenfield Agreement that would be tested against the relevant modern award, minimum standards and a 'no disadvantage test'. In this way when workers are employed, they are not disadvantaged.

6. Business SA was a key driver behind the recent formation of South Australia's Industry Participation Advocate (IPA) in order to open up opportunities for local small businesses to participate in the almost \$4 billion worth of State Government tenders let annually.

Although only formed in February 2013, the IPA has already had significant success with its 'Meet the Buyer' events, bringing hundreds of local businesses and government procurers together to discuss opportunities for Government tenders. Not only do these forums help smaller businesses better understand how to participate in the tender process, but they showcase local business capabilities and emerging technologies to inform Government procurers about innovative possibilities to address their purchasing and contracting needs.

The IPA has also been successful in achieving practical change to open up tender opportunities to small businesses by reducing the following red tape through:

- Setting limits of liability for low-risk contracts valued up to \$1 million at 5 times contract value;
- Removing prequalification fees from 1 July 2014;
- Streamlining prequalification to ensure that a business who prequalifies for one agency is to be prequalified across other agencies in key categories of supply – to commence 1 July 2014.

Although we acknowledge that industry participation plans can add to tendering costs, we have been quite clear in directing South Australia's IPA not to place onerous requirements on tenderers to prove the extent to which they will engage local businesses as subcontractors.

However, the whole premise of Industry Participation Plans across Australia is to actually get more businesses competing for Government tenders to help break down the oligopoly nature of markets for Government projects which the Productivity Commission has identified through its analysis of the major infrastructure construction market dominated by Leighton Holdings and Lend Lease.

Business SA suggests the House Standing Committee examine South Australia's Industry Participation Advocate Office more closely to understand how it is working to equally accommodate businesses of all sizes in the market for Government tenders on the premise of boosting competition.

*How can Australia increase or deepen the competitive market for infrastructure provision and funding in Australia?*

Feedback from Business SA's members regarding what is required to increase private sector (including superannuation) investment in greenfield infrastructure confirms that there is no one size fits all model in terms of how infrastructure should be funded. What is clear however is that the market seems to be failing to produce infrastructure delivery models which appropriately apportion risks to the party best able to manage them. It is not a lack of desire preventing the private sector from being more involved with financing and/or funding infrastructure, but they can realistically only bear a certain level of risk given their responsibilities to either shareholders, or in the case of superannuation funds, future retirees.

7. Although there may be an existing reluctance on behalf of superannuation funds to finance or fund greenfield infrastructure due to some well documented toll road failures such as Sydney's Lane Cove & Cross City Tunnels and Brisbane's Airport Link, Governments should be doing more to pilot innovative models which encourage these funds to become more directly involved in getting infrastructure off the ground.

Arguably superannuation funds may be better placed as a long term owner rather than developer of infrastructure, but there is too significant a pool of funds not to keep trying to engage the superannuation sector to resolve their issues regarding risk allocation.

Fundamentally there is a willingness of superannuation funds to invest in Australia's economic infrastructure but both State and Federal Governments must become smarter about how they engage the sector to provide models which suit the investment characteristics of a superannuation fund.

Superannuation and other private sector funds also need adequate returns to invest in infrastructure and all tiers of Government must be open to infrastructure funding models which allow for user charges to provide potential investors a revenue stream. User charges do not have to entirely fund new infrastructure, but it is not unreasonable that users make a co-contribution towards infrastructure which will ultimately save them time and money. Furthermore, business is open to such an idea with 72% of respondents to Business SA's pre-election survey agreeing the State Government should give proper consideration to all types of infrastructure funding models, including user charges, which may result in the cost of infrastructure being shared by Government and users.

8. Business SA supports measures to cut red tape and make it easier for all businesses, including small businesses, to compete in the market for infrastructure provision. However, the House Standing Committee should be careful in considering measures which advantage international companies over local businesses in an attempt to deepen the competitive market for infrastructure provision.

Local businesses should be on an equal footing with international companies and regulation should not be structured such that it advantages businesses who can for example, pre-qualify for OHS accreditation in an international jurisdiction.

Australia should be focused on having OHS legislation which is world class in terms of outcomes for employees and employers and any move to accommodate international companies on the basis of their compliance with international laws only serves to abrogate the responsibility of Australian Governments to ensure their legislation is as efficient and effective as possible.

International firms operating in Australia must comply with a myriad of local laws, including taxation law, and we see no difference in applying the same OHS standards to any business operating locally, regardless of where it is domiciled.

### **Who We Are**

As South Australia's peak Chamber of Commerce and Industry, Business SA is South Australia's leading business membership organisation. We represent thousands of businesses through direct membership and affiliated industry associations. These businesses come from all industry sectors, ranging in size from micro-business to multi-national companies. Business SA advocates on behalf of business to propose legislative, regulatory and policy reforms and programs for sustainable economic growth in South Australia.

Should you require any further information or have any questions, please contact Rick Cairney, Director of Policy, Business SA on (08) 8300 0000.

Yours sincerely

**Rick Cairney**  
**Director of Policy**