



JANUARY 2015

SUBMISSION
TO THE SENATE ECONOMICS AND PUBLIC
ADMINISTRATION COMMITTEE INQUIRY ON THE
PRIVATISATION OF STATE AND TERRITORY
ASSETS AND NEW INFRASTRUCTURE



THIS SUBMISSION HAS BEEN PREPARED WITH THE
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INTRODUCTION

The Australian Logistics Council (ALC) welcomes the opportunity to make this submission to the Senate Economics and Public Administration Committee's Inquiry on the Privatisation of State and Territory Assets and New Infrastructure.

ALC is the peak national body representing the major and national companies participating in the freight logistics industry. ALC has a whole of supply chain focus with membership spanning the major logistics customers, providers, infrastructure owners and suppliers.

GENERAL SUPPORT FOR ASSET RECYCLING

ALC supports the concept of asset recycling as it offers a capacity for governments with constrained balance sheets to unlock capital captured in mature assets.

The idea is not novel.

For instance, the Infrastructure Finance Working Group (established by the previous government in 2011 to provide advice to Infrastructure Australia on infrastructure finance policy) recommended State and Territory governments conduct strategic reviews of 'brownfield assets' to:

identify and monetise suitable candidates so as to allow the freed up capital and avoided debt repayments to be recycled/ invested into infrastructure projects.¹

ALC sees this as one way to fund infrastructure, along with other methods that have been identified such as government debt, taxes, user charges, producer levies, and public-private partnerships² as well as those mechanisms identified in Chapter 6 of the Productivity Commission's 2014 report into Public Infrastructure.³

This is because the budgets of most Australian governments are likely to be in deficit for the foreseeable future, and likely to remain so, with growing demand for recurrent spending on health, education, NDIS etc. It is therefore necessary to identify alternative funding sources for the roads and infrastructure hitherto regarded as public goods funded from consolidated revenue.

ALC generally agrees with the position set out by the Office of the National Infrastructure Coordinator in its submission to the Productivity Commission inquiry into public infrastructure.⁴

However, best practice means that there are a number of preconditions that must be met before a proposed recycling of an asset proceeds.

Publication of rigorous cost benefit analysis

ALC believes that any proposal to either sell, or offer a long-term lease for any piece of infrastructure must possess a net positive benefit.

This benefit should be illustrated in a published cost benefit analysis that is freely available to the public, so the community can be certain that value for money has been achieved

Recent experience across jurisdictions has shown that when governments work to properly inform communities they can gain broad public support for their agenda.

The opposite has also proven to be true. When governments fail to adequately inform the public of the benefits, or are seen to be hiding information, they lose public support for projects that would otherwise be worthy.

This is an important point.

For example, ALC supported in principle the development of the East-West Link in Victoria.

Providing an efficient linkage to the Port of Melbourne, Australia's busiest container port, is critical to coping with the rising freight growth and growing population in Melbourne's west.

However, it can be argued that the East-West Link did not win public favour in Victoria as the public benefits of the proposal were not immediately available to the Victorian electorate.

1 Infrastructure Finance Working Group *Infrastructure Finance and Funding Reform* (2012) p.14, recommendation 2.

2 Methods identified in Productivity Commission *Public Infrastructure Financing An Perspective-Staff Working Paper* (2009).

3 Report No.71, 27 May 2014

4 www.infrastructureaustralia.gov.au/publications/files/PC_Public_Infrastructure_Inquiry_Submission_Infrastructure_Coordinator_FINAL.pdf, accessed 17 January 2015. See pages 7 and 8.

Hypothecation

It is also important that funds raised as a result of the lease or sale of infrastructure is in turn invested in productivity enhancing infrastructure.

A report by ACIL Allen and released during 2014 by ALC, found that a 1% improvement in efficiency will yield a \$2 billion a year benefit.⁵

ALC has always thought that the Restart NSW model⁶, which places the benefits of infrastructure asset sales into a specific account for the purposes of further investment into infrastructure, is the model that should be followed by the States and Territories.

That jurisdiction used the grant of a 99 year lease over Port Botany and Port Kembla (amongst other asset disposals) to create the Restart NSW fund, which will be used to fund new infrastructure such as the WestConnex motorway and upgrades to the Pacific and Princes Highways and Bridges for the Bush.

The use of recycled capital in this manner should lead to improved national productivity outcomes.

Value for money

ALC also believes that any asset that is sold must be sold for the right price and not at any price.

The public must receive an appropriate return – ‘that is, value for money’.

This concept does not only mean whether the sale price represents good value compared to the retention of the asset by Government, but also about the cost of compromises government has to make so the asset is ready for sale in the first place.

To that extent, ALC notes that in the course of the current Queensland election a commitment has been made not to dispose of assets where the proposed transaction would not deliver value for money.⁷

Efficient markets

Finally, ALC believes the sale or long-term lease of an asset should not simply convert a public monopoly to a private monopoly with no improvement to the market.

It follows that any analysis conducted to support either the sale or long-term lease of an infrastructure asset should consider:

- » whether the proposed sale will promote competition and efficiency; and
- » the need as to whether the subsequent operation of the asset should be the subject of economic regulation (and how much), so as to permit the efficient use of the asset to the benefit of the Australian community as a whole.

Of particular concern are:

- » vertical integration - vertical integration will provide any recycled monopoly asset or entity with the ability to leverage its power in monopoly markets into vertically related competitive markets, thus distorting efficient market outcomes; and
- » monopoly pricing – any recycled monopoly asset or entity should have its pricing subject to government review, typically by the ACCC or state based economic regulators, should the privatised entity adopt a monopolistic approach to raising prices.

These two issues must be addressed in any asset recycling program.

⁵ <http://austlogistics.com.au/wp-content/uploads/2014/07/Economic-Significance-of-the-Australian-Logistics-Industry-FINAL.pdf>

⁶ As established by the *Restart NSW Fund Act 2011* (NSW)

⁷ Brisbane Times: *Queensland State Election: LNP won't sell some assets if price is right* 7 January 2015 www.brisbanetimes.com.au/queensland/queensland-state-election-2015/queensland-state-election-lnp-wont-sell-some-assets-if-price-isnt-right-20150108-12k6bf.html accessed 17 January 2015. This will also limit some of the risks identified by the Productivity Commission in its discussion of asset recycling contained in Volume 1 of its report into Public Infrastructure: see pages 258-264.

THE ASSET RECYCLING COAG AGREEMENT

ALC believes the operation of the National Partnership Agreement on Asset Recycling (the **National Partnership**) as well as the Asset Recycling Fund Bill 2014 (**the Bill**) establishes an appropriate administrative structure that supports the policy goal of encouraging the releasing of the value of mature assets for reinvestment into new productivity-enhancing infrastructure.

Political accountability

The relevant assets are under the ownership or control of the States and Territories.

The governments of these jurisdictions should be regarded as trustees for the real owners of the assets – the taxpayer. These governments must be able to prove the disposal of the asset and the subsequent application of capital into new infrastructure will lead to increased community amenity and economic productivity.

To that extent, the perception the previous Bligh Labor Government was defeated (in part) because of a perceived lack of transparency about an intention to dispose of port and railway assets has led to parties in both New South Wales and Queensland to resolve not to dispose of electricity assets until the matter has been considered by the electorate election.

This is only appropriate.

Moreover, because of vertical fiscal imbalance, the Commonwealth has the capacity to encourage the appropriate recycling of capital locked up in mature assets.

However, it does not necessarily follow that a House of the Australian Parliament should have a specific capacity to disallow the payment as an incentive to dispose of a particular asset.⁸

As discussed above, in a federal system it is the State or Territory that bears the political responsibility to its electorate for a decision to recycle a particular asset.

Moreover, under the current federal structure, relationships between Governments are managed through COAG agreements such as the National Partnership.

The National Partnership satisfactorily sets out the preconditions that a State or Territory needs to meet so as to receive federal funding.

Given this, the national interest is not served to create a contingent capacity for the Federal Parliament to effectively disallow a payment for a particular infrastructure disposal. To do so would create an undesirable uncertainty.

The more appropriate role for the Australian Parliament is to use the estimates procedures that considers, as a matter of course, appropriations proposed to be made by the Executive as well as the other forms that are available to the Parliament to review the actions of the Executive.

Ultimately, if a view is taken that the Commonwealth should no longer encourage unlocking value captured by mature assets for reinvestment into new infrastructure, the appropriate action is to deny the preparation of funds for the purpose.

⁸ As proposed by Opposition amendments to the Asset recycling Fund Bill 2014, currently before the Senate.

INFRASTRUCTURE AUSTRALIA

ALC has always supported the role of Infrastructure Australia in ensuring that infrastructure investments made by the Australian Government pass a rigorous cost benefit analysis so as to ensure the Australian taxpayer receives value for money.

ALC notes the contents of the *Infrastructure Australia Amendments (Cost Benefit Analysis and Other Measures) Bill 2014* and the requirement to generally require Infrastructure Australia to evaluate proposals for investment in, or enhancements to, nationally significant infrastructure that involve Commonwealth funding of at least \$100 million.

As discussed in the Parliamentary Library's analysis of the Bill, the proposed legislation does not require Infrastructure Australia to do this for the purposes of the Asset Recycling IGA.

Clause 16 of the IGA requires infrastructure projects to:

- » demonstrate a net positive benefit;
- » enhance long term productivity capacity of the economy; and
- » where possible, provide for enhanced private sector involvement in both the funding and financing of the infrastructure.

ALC would expect the documentation setting out these attributes to be publicly published.

On balance, so the community can be assured that value for money is being received, Infrastructure Australia should also be required to analyse any proposed use of the Asset Recycling Fund before a project is eligible to gain access to the proposed Asset Recycling Fund.⁹ A funding floor for this analysis, like that proposed in the Infrastructure Australia Amendments (Cost Benefit Analysis and Other Measures) Bill 2014, would ensure that IA resources are not tied up reviewing obvious and minor projects suggested by the States.

- a. assessing and determining the eligibility for payments to the States, in consultation with the States and in accordance with the eligibility criteria outlined in this Agreement;

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⁹ Clause 11 (a) of the IGA requires the Commonwealth to assess and determine the eligibility for payments from the Fund to the States. It would be anticipated that Infrastructure Australia would be obliged to provide the Commonwealth with advice for the purposes of this clause.

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