



DEBT REDUCTION AND SAVINGS BILL 2021 – REPEAL OF BUILDING QUEENSLAND ACT 2015

SUBMISSION TO THE ECONOMICS AND GOVERNANCE COMMITTEE

DATE APRIL 2021



Repeal of Building Queensland Act 2015

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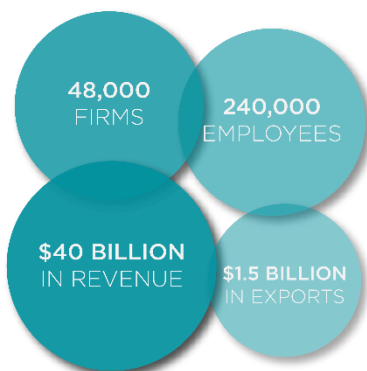
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ABOUT US



Consult Australia is the industry association representing consulting businesses in design, advisory and engineering. Our industry comprises some 48,000 businesses across Australia, ranging from sole practitioners through to some of Australia’s top 500 companies, providing solutions for individual consumers through to major companies in the private sector and across all tiers of government. Our industry is a job creator for the Australian economy, directly employing 240,000 people. The services we provide unlock many more jobs across the construction industry and the broader community.

Some of our members include:



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EXECUTIVE SUMMARY

Our submission relates specifically to the repeal of the Building Queensland Act 2015 and the abolition of Building Queensland. Consult Australia does not support the repeal of the Act nor the abolition of Building Queensland. We urge the Committee to recommend the removal of this part of the Debt Reduction and Savings Bill 2021 (the Bill).

Over half our members work on government funded infrastructure projects. The governance and policies surrounding infrastructure planning and investment is therefore of significant importance to Consult Australia and its membership.

Consult Australia is an advocate for independence in the governance system for infrastructure planning, investment, and prioritisation. We were an active contributor in the case for establishing Building Queensland. In 2018 we published a report into the role of the Infrastructure Bodies 'IBodies' across Australia, which has been recognised in both Australia and internationally as valuable thought leadership on infrastructure governance best practice. Since publishing that report, IBodies have been established in South Australia and Western Australia, following those already established in Queensland (Building Queensland), Victoria, and NSW.

Abolishing Building Queensland and bringing its functions into the Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) will remove the first of the four core components of good infrastructure governance, which is independence.

The Organisation for Economic Co-operation and Development (OECD) has conducted a considerable amount of work into best practice for the governance of infrastructure. Based on this work and best practice in the UK and from within Australia, independent infrastructure bodies such as Building Queensland are essential to realise the benefit from infrastructure investments by:

- Removing the politics from infrastructure development by establishing long-term strategic plans.
- Providing independent and expert advice about current and future infrastructure needs.
- Creating a pipeline for the roll-out of infrastructure projects that will deliver jobs and growth.
- Making infrastructure decision-making transparent and evidence based.

The infrastructure sector, of which our members are a part, is a key contributor to the economic recovery of Queensland. In 2020, the Queensland Government announced a \$13.9B infrastructure investment to unlock economic recovery. The abolishment of Building Queensland and its Board is equating to a saving of little more than \$1M per annum. An annual investment of \$1M to ensure a robust governance structure to support the \$13.9B investment in infrastructure, is a solid investment in the future of the State, and not an area for cost cutting. \$1M savings to the state could easily be achieved by reducing the state's reliance on obtaining external legal advice to amend/revise/bespoke its contracts across its infrastructure portfolio and instead adopting standardised forms of contract for the delivery.

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In summary, Consult Australia does not support the chapter of the Debt Reduction and Savings Bill 2021 (the Bill), which repeals the Building Queensland Act 2015 and abolishes Building Queensland. Consult Australia requests the Bill be amended to ensure Queenslanders continue to have the benefit of an independent infrastructure body.

THE ROLE OF INDEPENDENT IBODIES

In 2018 Consult Australia published our report on infrastructure governance in Australia¹ ('2018 Report'). In reviewing the role and structure of the infrastructure bodies ('Ibodies') that had been established at that time by the Commonwealth and states, including Queensland, we identified the four core components held in common, and international best practice, that make for robust infrastructure governance:

1. Independence
2. Planning
3. Assessment
4. Prioritisation

In the explanatory notes for the Bill, the reasoning given for the abolishing of Building Queensland is to,

*"enhance DSDILGP's infrastructure advice and assurance capability, as well as streamline processes, reduce administrative costs, and provide more coordinated infrastructure advice and assurance to Government"*²

Bringing functions of Building Queensland into DSDILGP's immediately compromises the first component of good infrastructure governance, that being independence. To explain why maintaining Building Queensland is so important to the delivery of infrastructure in Queensland, we have included below the chapter on 'Independence' from our 2018 Report.

¹ January 2018, *ibodies, Infrastructure Governance in Australia*
https://www.consultaustralia.com.au/docs/default-source/pipeline/ibodies-infrastructure-governance.pdf?sfvrsn=fcc04f_4

² Debt Reduction and Savings Bill 2021, Explanatory Notes, Page 4.

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Good infrastructure governance: Independence

Extract from Consult Australia's 2018 Report

In September 2015 the OECD published, 'Towards a Framework for the Governance of Infrastructure'³. The report noted that political and business cycles strongly impact the phases of infrastructure,

"It is difficult to reconcile the short term vs. long term challenges at stake. Infrastructure involves long-term agenda and needs predictability but infrastructure is extremely sensitive to political and economic/business cycles.

The local public investment cycle is for example highly correlated to the local election cycle usually, the level of public investment rises the year that precedes municipal elections, and then declines the first years that follow the election. In the case of France, an analysis of three decades of local mandates (6 terms of 6 years) shows that public Gross Fixed Capital Formation FBCF rises on average by 5.9% on average the year that precedes the election, and declines by 0.5% just after the election, and 1.4% the year after (INSEE, 2002). Public investment is also highly sensitive to the economic cycle: it was for example used as the adjustment variable by many governments in the fiscal consolidation period that followed the crisis (OECD, 2013)."

In the United Kingdom in 2013 Sir John Armitt CBE reviewed the institutional structure that would best support the type of long term strategic decision making that is demanded by infrastructure planning and implementation. The review also considered how cross-party consensus can be achieved, which is fundamental to the delivery of any long-term strategy. The central recommendation from the review was to form a National Infrastructure Commission with statutory independence. It would undertake an evidence-based assessment of the UK's infrastructure needs over a 25-30 year horizon.

The review's recommendation for a National Infrastructure Commission included the statement that, "To prevent any potentially damaging drift in policy, once the Commission has completed its assessment of needs, it would continue to play a key challenge and monitoring role."

The UK's National Infrastructure Commission (NIC) was established in January 2017. Established by Royal Charter as an executive agency of HM Treasury it must operate independently and at arm's length from HM Treasury. Importantly its Charter contains the UK Government's commitment to issue a formal response to all the recommendations contained in the NIC infrastructure reports, stating clearly whether the Government accepts or rejects the recommendations. The UK Government must respond as soon as practicable, which means within 6 months in the vast majority of cases, and never longer than a year.

The NIC reports and the UK Government's response must be put before Parliament as soon after their publication as practicable.

³ Organisation for Economic Co-operation and Development (OECD): <https://www.oecd.org/gov/budgeting/Towards-a-Framework-for-the-Governance-of-Infrastructure.pdf>



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The 'arm's length' nature of NICs relationship with HM Treasury, and the requirement for its reports to be tabled in Parliament, are critical to maintaining its independent status and limiting the impact of changes in policy and political decision-making.

In 2008 Infrastructure Australia was established as an independent statutory body with a mandate to strategically audit Australia's nationally significant infrastructure and develop 15-year rolling Infrastructure Plans that specify national and state level priorities. In 2014, the Infrastructure Australia Act 2008 was amended to give Infrastructure Australia new powers, and to create an independent board with the right to appoint its own Chief Executive Officer. The Board has 12 members bring experience from business, academia, the public and private sectors.

Infrastructure Australia's governance arrangements allow the relevant Government Minister to give written directions to Infrastructure Australia about the performance of its functions. The Minister may have regard to any decisions by the Council of Australian Governments in giving such directions under subsection. Importantly directions given by the Minister must be of a general nature only. Importantly the Minister must not give directions about the content of any audit, list, evaluation, plan or advice to be provided by Infrastructure Australia.

The independent nature of statutory bodies, such as Infrastructure Australia (IA) is a core element of good governance. This principle was reiterated in the findings of the Productivity Commission in their report into Public Infrastructure, regarding final infrastructure project decisions,

"To be useful in the long term, it is important that an independent and capable IA provide public clarity on the quality of those decisions, and hence discipline on the temptation for short-term and politically expedient decision making."

The independence of IA could be enhanced by adopting the UK's 'arms-length' approach from any government agency or minister, and requiring the Government to table the IA reports, and the Government's response in Parliament.

Long-term planning of infrastructure within Australia does not start and finish with IA because the State and Territory governments have a central role in the delivery of infrastructure. The influence of politics and election cycles on infrastructure projects amongst state/territory governments has been an ongoing issue. For example, the Western Australian Economic Regulation Authority has reported that, "Political imperatives often cause projects to be rushed through propose planning processes, with the result that project outcomes are materially compromised."

Some but not all have recognised the value of establishing an independent infrastructure body to assess the needs of the state/territory, and to ameliorate the impact of the political cycle on infrastructure decision making. The approach across jurisdictions varies significantly, even between those jurisdictions where an independent body has been established.

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Independence of the State/Territory statutory infrastructure bodies

	Infrastructure NSW	Infrastructure Victoria	Building Queensland
Statute	Infrastructure NSW Act 2011	Infrastructure Victoria Act 2015	Building Queensland Act 2015
Reporting line	Subject to the control and direction of the Premier in the exercise of its functions	Ministerial Note: The Minister cannot direct or control outside the provisions in the Act	Ministerial
Board make-up	11 Board Members (inc.CEO) 5 from private sector	7 Board Members 4 from outside public service (2 part-time)	8 Board Members 5 from private sector (part-time)

Only Victoria specifies in its legislation that the Minister cannot direct or control the activities of Infrastructure Victoria. In addition, only in Victoria does the legislation require its Strategy and Plan to be published to the Victorian Parliament.

The other jurisdictions in Australia have not established independent infrastructure bodies by statute. There has been notable advocacy to establish independent statutory bodies in Western Australia and South Australia. In Western Australia the Labor Party published a policy paper with the commitment to establish an Infrastructure WA. The South Australian Liberal Party has published a policy paper committing to establish an Infrastructure South Australia, if elected in 2018.

Infrastructure governance in the Northern Territory, Tasmania, and ACT remains at ministerial and departmental level.

Most jurisdictions have recognised the value of having representatives from outside government involved in infrastructure strategy/planning. Infrastructure Australia, Infrastructure NSW, Infrastructure Victoria and Building Queensland all have a balance of government and non-government representatives on their boards.

The Western Australian Planning Commission has 15 members including an independent chair and 4 others with specific expertise in related fields. WA's Infrastructure Coordination Committee however only has 2 independent representatives (recently appointed) out of a total membership of 22.

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The South Australian Planning Commission has 6 members, including the Chairperson, 5 are independent of the Department for Planning, Transport and Infrastructure and one ex officio.

Tasmania, the Northern Territory and the Australian Capital Territory do not make mention of any independent representation within their structures.

It is important that the right mix of skills are represented on the Board, with equal numbers of public and private sector representatives. The Infrastructure NSW Act 2011 specifies that the private sector representatives must skills and experience in infrastructure planning, funding and delivery. Consult Australia has noted that some of the Ibodies have a majority of finance/banking sector expertise from the private sector on their Boards, and therefore lack input from the delivery-side, e.g. design and construction. It is important that the Boards have a good cross-section of skills, with more weight being given to those with working knowledge of planning and project delivery.

RECOMMENDATIONS: INDEPENDENCE

1. All jurisdictions must enact an independent statutory body (note where an Ibody has already been established amendments must be made to adopt these recommendations). Its functions will be set out in legislation, and the Government (via the Premier/Minister) will not be allowed to direct or control its activities.
2. All strategies and plans prepared by the Ibody will be responded to by the Government within a specified period. The strategy, plans, and Government response must be presented to Parliament, thus promoting bipartisan support and accountability to Parliament.
3. If the government wants to deliver an infrastructure project that is not included in the pipeline, or change the order of priority, it must seek parliamentary approval.
4. The Board will be a balance of representatives from the public and private sectors. Private sector representatives must have appropriate skills relevant to infrastructure strategy/planning/delivery, including design and construction.

- Extract ends -

Since the publication of our 2018 Report, independent Ibodies have been established in South Australia⁴ (November 2018) and Western Australia⁵ (July 2019). Abolishing Building Queensland moves away from the leadership shown by the Queensland government and what is best practice.

⁴ Infrastructure South Australia: www.infrastructure.sa.gov.au

⁵ Infrastructure Western Australia: www.infrastructure.wa.gov.au

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Significant consideration also needs to be given to the infrastructure project prioritisation process (the fourth core element of good infrastructure governance), and actual versus perceived independence. Without an independent infrastructure body, the project prioritisation process, interrelationship and coordination with Infrastructure Australia will be unclear to agencies and the infrastructure sector. This has the potential to erode transparency and create uncertainty. Pipeline visibility is a key requirement for the infrastructure sector to ensure the ability to deliver, inform resourcing strategies and skills development, and industry sustainability.

THE CONTRIBUTION OF BUILDING QUEENSLAND

Building Queensland has made a significant and important contribution to good infrastructure governance in Queensland.

Since December 2015, Building Queensland has completed over 30 of the state's detailed business cases for major infrastructure projects and worked closely with industry, including Consult Australia members, in developing the analysis and frameworks that provide for a consistent and robust basis to develop infrastructure priorities. Throughout this period, Building Queensland has made a noticeable improvement to the quality of the investment proposals presented to government for consideration as evidenced by the government's funding commitments and confirmation of national priority project status for numerous detailed business cases positively assessed by Infrastructure Australia.

At a time where there is a desire to fast-track the delivery of projects to help boost the economy, it is important that robust analysis is undertaken for project selection. Business cases are a mechanism to clearly define and understand the underlying problem in order to find the right solution to achieve the required outcomes. Importantly, where Building Queensland business case analysis has determined that a project is not viable, Building Queensland has demonstrated independence in providing advice to government. This independent advice has ensured that funding is directed to projects that enhance the productive capacity of the Queensland economy and achieve sustainable social and environmental outcomes.

In our recent discussion paper, *Considering Social Impacts in Infrastructure Business Cases*⁶, Consult Australia identified good practice examples of the way in which social value have been – or can be – effectively considered as part of the business case development process. We included Building Queensland's Social Impact Evaluation Guide 2020 as an example of good practice guidance material. This guide provides a good example of evaluating issues relating to social impacts and promoting their consideration in the business case phase and as such should be considered a best practice example within Australia.

⁶ Consult Australia, *Considering social impacts and infrastructure business cases*, December 2020
https://www.consultaustralia.com.au/docs/default-source/pipeline/considering-social-impact.pdf?sfvrsn=e40986b8_2

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It is widely acknowledged in the infrastructure assessment approach used by jurisdictions across Australia that Building Queensland has taken the lead in assessing sustainability in business cases.

IN CONCLUSION

Consult Australia congratulates Building Queensland on its achievements and contribution to the infrastructure sector. Building Queensland has positively impacted the state's infrastructure planning processes by ensuring that the advice and analysis supporting infrastructure investment proposals is robust and defensible using best practice approaches. Further, Building Queensland has helped improve capability across government and industry with agencies and the private sector equipped with the right tools.

With the Commonwealth delivering an historic commitment to infrastructure over the forward estimates, project selection must be centred on how projects in Queensland will deliver ongoing value to the economy and the community, and this is best achieved through an independent infrastructure governance structure. A key part of this is a regular review process of its functions and objectives to ensure that it is delivering for the state. As a matter of course the government should embed a review in consultation with stakeholders including Consult Australia.

Consult Australia urges the Queensland Government to continue to follow robust governance and decision-making processes to inform infrastructure investment decisions and retain both the Building Queensland Act 2015 and Building Queensland.

CONTACT

We would welcome any opportunity to further discuss the issues raised in this submission. To do so, please contact:

Nicola Grayson

Chief Executive

[REDACTED]

Kristine Banks

QLD Manager

[REDACTED]