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Driving Business Success for Consulting Firms in the Built and Natural Environment

10 April 2014

Committee Secretary
House of Representatives Standing Committee on Infrastructure and Communications
Inquiry into Infrastructure Planning and Procurement
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Committee Secretary,

Consult Australia is pleased to provide some comments in response to the Inquiry into Infrastructure Planning and Procurement.

Consult Australia is the industry association representing consulting firms operating in the built and natural environment sectors. These services include design, engineering, architecture, technology, survey, legal and management solutions for individual consumers through to major companies in the private and public sector including local, state and federal governments. We represent an industry comprising some 48,000 firms across Australia, ranging from sole practitioners through to some of Australia's top 500 firms with combined revenue exceeding \$40 billion a year.

Please note that this submission draws heavily on our submission to the Productivity Commission's inquiry on Public Infrastructure, which has similar terms of reference dealing with issues of importance to our industry. We would be please to discuss any of these issues in further detail with the Committee.

Furthermore, given the relatively short timeframe available to us to produce a submission, we will focus on raising issues worth further consideration by the Committee, without fully exploring the implications of each.

1. Infrastructure Funding, Financing and Provision

Infrastructure provision has lagged population growth in Australia for three decades. If we are to seize an advantage in what is the fastest growing region of the world's economy, obstacles to the development and delivery of infrastructure must be overcome.

Since 2004, Australia's strong economy, supported by the mining boom and AusLink investments, together with an increase in private financing has seen some improvements in the delivery of infrastructure projects that have helped to manage congestion costs and supply constraints. The benefits of this investment to our productivity are clear, as is the growth in a world-class domestic professional services sector supporting these developments. However, while positive, these improvements are against a growing infrastructure deficit that puts at risk our ability to maintain economic prosperity in the longer term. Alongside this, a more recent decline in state and territory government investment in infrastructure has seen significant redundancies across those industries that support the delivery of major projects.

Without a sustained baseline of infrastructure investment by every sphere of government, we risk losing the best part of an industry fifteen years in the making, and the envy of advanced economies across the world.¹

In this environment it is critical that we capitalise on our investments to date, support local industry and invest in productivity for the medium and long-term. With targeted intervention, there is an opportunity for governments to enhance productivity and moderate the extremes of the boom/bust cycle that has characterised infrastructure investment in years past. In the longer-term this will lower construction costs for future investment when an upswing in demand will require skills lost in the downturn.

An integrated approach to funding & financing

Consult Australia's 2010 Report *Transporting Australia's Future* canvases a range of infrastructure funding and financing mechanisms emerging around the world that can provide sound and proven revenue streams to support infrastructure delivery.

As was noted in the Issues Paper informing the Productivity Commission's inquiry, though not always well articulated in broader public debate, infrastructure will either be funded through public finance (taxes/debt), or user charges. This might be supported by asset sales, or asset sweating, but ultimately it is the tax-payer that foots the bill in either scenario. Alongside effective funding streams, innovative financing mechanisms should be structured to support infrastructure projects and to deliver more equitable, value-for-money outcomes for governments. Public Private Partnerships, including for example value capture and bond banks, provide new opportunities to leverage greater private sector investment across a range of projects. Consult Australia does not consider any single financing or funding policy will by itself provide a stand-alone solution to the substantial challenge for governments, however all options present opportunities for reform. To that end, some key issues for further consideration are outlined below:

Leveraging government balance sheets to drive productivity

Increasingly challenging for governments of all stripes, where budget bottom-lines have become more politicised, is the identification of projects worthy of public financing. In this context governments must reconsider the extent to which surplus-driven budgets and unquestioning dedication to AAA credit ratings limit opportunities to invest in long-term productivity-enhancing infrastructure. The 'fiscal populism' that now characterises governments' approach to debt is at the expense of much-needed infrastructure investment.

Nicholas Gruen of Lateral Economics characterises much of the opposition to government debt as a 'faux economic rationalism': 'Australian governments have embraced the notion that all debt is bad, but most of the time debt is only bad if it's used to fund recurrent expenditure. [...] there is a particular perversity in arbitrarily constraining the borrowing of the entity that enjoys the lowest borrowing cost — the government — especially at a time when our largest cities groan under the weight of a widely recognised infrastructure crisis.'²

In past years Queensland's significant investment in infrastructure has been funded in part by a willingness to sacrifice their AAA credit rating: moving to a AA+ rating by Standard & Poors in February 2009 following the Global Financial Crisis (GFC). This was a decision that brought disproportionate criticism given the significant capital works program supporting the Queensland economy and likely boosting productivity in the longer-term.³

¹ Consult Australia. 2013. *Queensland Services Industry in Crisis*, www.consultaustralia.com.au

² Gruen, Nicholas. 23 November 2010. *Paying for Australia's infrastructure deficit*. www.inside.org.au

³ Barbeler, David. 21 February 2009. *Qld loses AAA credit rating after budget blow-out*. www.brisbanetimes.com.au

The connection between decision making supporting infrastructure investment and the willingness for governments to leverage their credit rating should not be underestimated. Ultimately a bi-partisan approach to public infrastructure investment, supported by transparent, independent, expert advice, is essential to support a more sophisticated debate about budget policy. This approach will deepen the public's understanding of the benefits of government debt in funding public infrastructure, and apply a high level of rigour, accountability and transparency to the decision making process.

Overcoming institutional resistance: Value capture

Overcoming institutional resistance to more innovative policy solutions will be critical to delivering new financing mechanisms. It is important to realise that not every tool available to governments will be appropriate for every project. Nonetheless steps should be taken to ensure all options are available so they can be used where appropriate.

In the case of Value Capture, institutional resistance, and/or a lack of awareness of potential benefits may be one of the major barriers to implementation. Consult Australia has identified numerous opportunities and lessons that can be learned from overseas experience in successfully implementing value capture mechanisms. Our report, *Capturing Value*, published jointly with Sinclair Knight Merz in September 2013, sets out the ten success factors for value capture in Australia establishing a new reference point for a whole of government approach.⁴

Recycling capital and supporting hypothecation: Asset sales

Consult Australia has long argued for asset sales to release government funds for new infrastructure investment. Recent announcements by the Commonwealth Government providing tax incentives supporting assets sales by state governments are a positive step. The creation of Restart NSW from funds hypothecated from the lease of Port Botany and Port Kembla is an important model that can be replicated across jurisdictions (it was encouraging to see Victorian Labor adopt this model in their recently announced Project 10,000 transport infrastructure plan). While traditionally treasuries have not been in favour of hypothecation, it is clear that where public assets are concerned this is an important tool through which projects can be delivered with broad public support. The subsequent model for capital recycling through the delivery of the Westconnex projects continues this principal which should be encouraged as governments access some of the more than \$100 billion sitting on their balance sheets (as identified by Infrastructure Australia in 2012).

Fostering a more informed public debate: Road user charging

A comprehensive debate regarding the full application of road user charging, including the development of a national scheme, is long overdue in Australia. Reliance on traditional fuel excise as the key revenue tool to fund infrastructure is internationally recognised as having limited longevity, with diminishing reserves and increased fuel efficiency curtailing revenues. An infrastructure funding regime based on fuel taxes has no sustainable future.

Confusion in public debate about the difference between funding and financing limits governments' ability to make a persuasive case for an funding framework that supports an efficient equitable approach to user charging. Recent debate in South Australia following the announcement of this Inquiry is a case in point.⁵

There is no doubt the implementation of any systemic approach to user charging is a long-term goal, and again one contingent on the hypothecation of revenues to infrastructure projects. But achieving that goal is reliant on governments considering international experience, understanding the barriers to implementation and developing pilot schemes to support community engagement and understanding. The establishment of the Transport Reform Network⁶, in 2012 bringing together over 35 key

⁴ Consult Australia & Sinclair Knight Merz, *Capturing Value*, November 2010, www.consultaustralia.com.au

⁵ Consult Australia, *Media Release: Let's get smarter about tolls*, November 2013, consultaustralia.com.au

⁶ www.transportreform.org.au

organisations with a united message, is an important step towards delivering the consensus necessary to support more ambitious policy for new funding and financing approaches.

Creating new markets for private investment

In 2013 Consult Australia, as part of the Urban Coalition⁷, released *A New Deal for Urban Australia*⁸ outlining how a new infrastructure investment asset class could be developed offering lower risk, credit enhanced returns for both institutional and retail investors. *A New Deal* outlines how funds raised would capitalise a special purpose statutory investment vehicle to provide attractive seed finance to qualifying projects. The goal is to develop long-dated investment products that deliver guaranteed total returns more attractive than standard government bond rates: Credit enhancement through a tax rebate of 10 per cent and a capped government guarantee are proposed.

A New Deal represents the type of innovative thinking urgently required to better leverage public and private investment in infrastructure across urban and regional Australia. As the Committee undertakes this Inquiry, the Urban Coalition is currently building on the recommendations outlined in *A New Deal* with a view to developing a more comprehensive approach to infrastructure funding that draws on the experience of the United Kingdom's City Deals⁹ policy initiatives. This approach will propose new financing mechanisms delivered through a better understanding of the value and breadth of productivity benefits that flow, not just from individual projects, but from packages of projects and initiatives. This approach better reflects the true value of infrastructure investment supporting jobs and more liveable, productive and sustainable communities.

2. Improved Decision Making

An independent, expert & transparent approach

A robust, independent and transparent process and governance model for the evaluation, prioritisation and decision-making supporting infrastructure delivery is essential for every sphere of government.

Across Australia there are a number of models now implemented supporting greater independence in the selection and prioritisation of infrastructure projects. Infrastructure Australia, Infrastructure NSW and Infrastructure Queensland are just some of the approaches now employed.

A long-term approach to the prioritisation of infrastructure is essential. While many infrastructure projects are prioritised through clear and rational assessment, in some cases decision making risks being misconstrued, and may appear to be driven by political exigency where no clear process or guidelines for assessment have been developed. When communities are competing for scarce dollars, clear processes are essential to assess, rank and prioritise projects. Decisions must be robust and stand the test of changing political and economic circumstances.

At a state, territory and federal level Consult Australia advocates the establishment and/or preservation of independent statutory authorities to provide expert and transparent advice to governments and industry supporting an interagency focus on transport, water, energy and communications infrastructure.

These agencies and their interaction should facilitate a more informed debate across industry and the community about government priorities, supported by strong evidence, research and public advice to government published independently. Delivering an integrated strategic approach to infrastructure

⁷ Comprising: Consult Australia, Association of Building Sustainability Assessors, Australian Conservation Foundation, Australian Institute of Architects, Green Building Council of Australia, National Growth Areas Alliance, Planning Institute of Australia, Property Council of Australia, Urban Development Institute of Australia

⁸ Urban Coalition, April 2013, *A New Deal for Urban Australia*, www.consultaustralia.com.au

⁹ <https://www.gov.uk/government/policies/giving-more-power-back-to-cities-through-city-deals>

planning and prioritisation, they will facilitate better urban and regional development through support for a long-term pipeline of coordinated infrastructure projects supporting productivity and jobs growth.

Successive governments must serve to strengthen the independence and authority of these agencies. Any moves that compromise their independence or advice will be to the detriment of the community and industry where certainty in a long-term pipeline, across electoral cycles, is critical to strategic planning and investment decisions.

Broader, Stronger Cost Benefit Analysis

Critical in assessing the merits of public investment in infrastructure is the application of broad cost-benefit analysis. Increasingly infrastructure projects are assessed individually, over relatively short time-frames and viewed as 'ready to proceed' only where utilisation is close to capacity. The benefits of a longer-term view of infrastructure investment, and governments' vital role in facilitating those longer-term benefits as part of a vision for our cities and regions, needs to be re-established.

Governments need to consider less easily quantified benefits that come with some forms of infrastructure investment. The transformation achieved in Bilbao through the construction of the Guggenheim Museum is often quoted and in some cases poorly emulated. Similarly, the Sydney Opera House demanded unforeseen investment by the governments of the time. But there is no doubt that this is a similarly 'transformational investment' that has been recouped both economically and culturally in the decades that have followed—though this would not likely have been reflected in any cost-benefit analysis.

The criteria governing cost benefit analysis are generally not well understood by the public and are also subject to change and influence. Good governance is critical to resolving this issue, as outlined above. Equally, as already noted, where appropriate, cost benefit analysis should be conducted across multiple projects, and have regard to wider economic benefits that come through agglomeration, jobs growth, and the delivery of more sustainable and liveable communities. It is this approach that has been successfully applied overseas, for example in London through the delivery of the Crossrail project, and which has resulted in significant new private sector investment.

3. Better Procurement for Better Outcomes

Consult Australia is in the process of developing a thought leadership document in response to our industry's concerns with existing procurement policy and practice. Our Better Procurement Project (born out of Consult Australia's Infrastructure Roundtable following their reflections on Infrastructure Australia's own *Efficiencies in Major Project Procurement* project) aims to improve the knowledge and understanding of what constitutes best practice procurement policy and practice, and lead to better project outcomes for both industry and their clients.

While we are not yet in a position to present a final report, we are able to share some interim findings from our research:

Quality of project brief and scoping

The most frequently raised concern is that a poor quality project brief/ scope is a major roadblock to successful project delivery. Vast sums of money are spent reviewing information provided by the client, or developing options to account for the inadequacy of the brief. Many of our members cite poor quality project documentation as a leading cause for disputation, and accordingly a major driver of cost blowouts.

Other firms cite that clients need to be able to verify the data they provide, and often these documents follow a template approach rather than being designed as appropriate for the project in question. This

finding is not new—the 2008 edition in the *Scope for Improvement* series of reports¹⁰ found that the quality of documentation was a major pressure point in the Australian construction industry.

The quality of tender documents has an impact on innovation, which in turn may lead to cost savings. Innovation is stifled when clients ask for the wrong thing, and then exclude bids that suggest a solution for what the client actually wants (rather than what the documentation suggests they might want). Excluding non-conforming bids is a major issue in stifling innovation, as these might provide a cheaper solution to a problem.

Clients need to respect that innovation might cost additional money to a basic solution, and that variations to a project throughout its life may cost additional fees to the original price, although will also yield a better outcome, including potentially saving money over the whole life of the project.

Another oft cited issue is that better project outcomes result from working with an informed and engaged client. A good client is one who understands the project, from both a technical and procurement viewpoint, and one who liaises closely with consultants and others on the project as required, rather than taking a “tick the boxes” approach to following process. An informed client also understands the risks facing the project, and participates in addressing or mitigating these risks, to the overall benefit of the project.

Understanding cost vs. value

A newer issue that has arisen in the course of this research is the evaluation of bids with regard to cost as opposed to value, particularly when seen in the context of claims that assets are “gold plated”. Where the cheapest bid is accepted for a project, analysis is needed as to why that bid is cheaper than others. Sometimes it may have failed to take into account an important risk, whose treatment will lead to that option costing more than a rival bid, once project variations are factored into the final price. In other cases, only the cost of construction is taken into account, ignoring the cost of running or maintaining the infrastructure.

Another pitfall is that policy makers choose the cheapest of several options to build, which may have inadequate specifications, and requires an upgrade shortly after, which also costs more than building to the more appropriate specification in the first place. An example of this last scenario is the M5 East tunnel in Sydney, which was originally built as two lanes without ventilation, as that was the cheapest option at the time of construction. Only 15 years after its opening, there is already a crucial need for the tunnel to be widened and ventilated, with the combined cost of the upgrade and the original cost being significantly greater than if it had been built as a three lane road with ventilation in the first place.

In each of these three situations, better decisions about infrastructure are made when projects and bids are made with consideration to “whole of life” factors. It follows therefore, that government should take a “whole of life” approach to procurement decisions and bid evaluation as a means to save money in providing vital public infrastructure.

Dealing with risk

The final of our main interim findings is the inadequate handling of project risk, including its allocation through the contract terms and conditions. While this submission will deal with the issue of risk in greater detail in the section on risk and contracting (see Section 5), it is important that clients understand the impact of certain contractual issues on the project. Furthermore, often risk is inadequately addressed due to cultural issues within an agency, including that a particular approach is how things might have always been done previously, with new approaches to the benefit of the client resisted within that organisation.

¹⁰ http://www.ashurst.com/expertise-detail.aspx?id_Content=6580&pageNo=1

4. Procurement Skills Issues

As mentioned in the previous section, the procurement skills of the client have a large bearing on the success of the project. A consequence of government outsourcing has been an ongoing critical shortage of staff with skills in procurement at all levels of government. An erosion in governments' skills base in those aspects of engineering and construction critical to successful project management and procurement means that the standard of procurement and value for money outcomes are reduced. This is demonstrated in our members' ongoing concerns in relation to:

- Poor quality tender and project scope documentation;
- Poor risk management; and
- Poor quality contractual terms and conditions and undue reliance on external legal advice.

These are evident throughout government indicating a systemic procurement skills shortage at all levels. Our members often cite that procurement professionals in public sector agencies they work with might have a technical background, or a legal/ accounting background, but seldom understand both—something of crucial importance to the project's successful delivery. This issue is increasingly of concern to state and territory governments. For example, this is being addressed as part of the current NSW Government Review of Procurement. However, a national response is necessary to support and catalyse action at a state and territory level.

The Australasian Procurement and Construction Council (APCC) as part of their guide, *Developing the Procurement Professional*, acknowledge that:

"Until now, procurement professionalism in Australia has not been clearly recognised or defined. Public procurement too often is undertaken without professional support which results in sub-optimal value for money decisions and unnecessary high prices being paid for goods and services."

The guide aims to raise the profile of procurement. It sets out the three main pathways to becoming a procurement professional and describes the characteristics of such a professional based on four levels of progression. It is also important for procurement officers to learn how to apply procurement principles efficiently—to avoid creating unnecessary administrative requirements for engineering and other built environment service providers. Consult Australia believes that the guide is a useful tool in raising awareness about procurement in terms of it being a career within the public service.

Consult Australia has recently called for the creation of a Centre for Procurement Excellence¹¹ as a possible solution to this issue. Regardless of whether or not the Commonwealth Government chooses to endorse this proposal, the issue remains that there is a critical shortage of procurement skills in the public sector.

5. Risk Allocation, Contracting Practices and Their Effect on Costs

Improper risk allocation is a major driver of increased costs in the provision of public infrastructure. It is common practice for public sector agencies to offer contracts where all risk is transferred to other parties irrespective of who is best able to manage that risk. Because these contracts are offered on a "take it or leave it" basis, there is seldom opportunity for service providers to negotiate appropriate risk allocation. While at face value that might seem a prudent move on behalf of taxpayers, it actually leads to greater risk and increases the cost of work for a number of reasons:

¹¹ Consult Australia, Federal Election Platform 2013, www.consultaustralia.com.au

Potentially invalidates insurance cover

The recovery of losses suffered by a claimant is best achieved when there is a valid professional indemnity (PI) insurance policy in place to enable the payment of damages. PI insurance providers will not cover a consultant where their liability under the contract goes beyond their common law liability, including the contractual taking of responsibility for another party's risks. Should the client wish to recover monies from the consultant for any damages, the consultant will need to directly cover the damages without the use of insurance. Given that the consulting industry in the built environment sector is generally asset-poor, this might mean drawing on the personal assets of business owners. In some situations where the consultant does not have cover, they could go bankrupt and the client has no recourse to recover monies owed. In this situation both parties are considerably worse off.

The additional risk will be factored into bids

Professionals tendering for work where there is increased risk placed on them will generally factor that risk into their bid price. Accordingly, the transfer of risk is illusory and actually results in the client paying more for the project.

Reduced incentive for parties to work together to address risk

Contractual allocation of risk to other parties may lead to a client believing that they have properly addressed project risk by allocating it to others. The experience of a number of our members working under contracts where the entire risk was placed on one party was that the other party was easily able to "pass the buck" when they could have managed a risk. When risks were properly evaluated, allocated between the parties and better managed, a more collaborative approach was taken as each party had an interest in seeing the risks properly dealt with. This in turn led to better project outcomes, including better and more efficient delivery of the deliverables, including reduced cost, time and disputation.

These issues arise in response to a range of contractual practices relating to risk, as well as placing a range of other onerous requirements on consultants in the built environment sector. Many of these contracting practices result from the relevant officers of the procuring agency not being fully aware of the ramifications of their actions, while in some other cases, external legal advisors without a stake in the project outcome have produced contracts more aggressive than is necessary.

One related issue is the use of standard contracts in the construction sector. While we recognise that there are projects that will require a bespoke contract from time to time, greater use of standard form contracts can save a project large sums of money by avoiding additional legal fees, and the cost of negotiating a new agreement, when a standard form might be perfectly appropriate.

Consult Australia has canvassed these issues more broadly in a range of other submissions, and would be pleased to further elaborate on our concerns with contracting practices, and how reforms in this area can reduce costs for clients.

6. Technical Skills Shortages¹²

Skills shortages are often cyclical, and that has been the case for engineering. However, they are now exacerbated by systemic issues. Privatisation of public services since the 1990s has led to a loss of public sector engineering expertise, which has had a negative impact on the efficiency of public sector procurement. Importantly, the transfer of training responsibility from the public sector engineering-

¹² For more information on this issue see: Education, Employment and Workplace Relations References Committee, July 2012, *The shortage of engineering and related employment skills*. Available at: www.aph.gov.au

related agencies to private sector engineering providers has not been fully acknowledged by government, nor allowed for in procurement practices. This has led to an under-development of skills over the past two decades.

There is also a reducing pool of engineers. Fewer school students study maths and science, arguably because those subjects and the careers that rely on them have lost prestige in Australia. Workforce diversity, most notably with regard to gender, must also be addressed to ensure that more people are attracted to and retained in engineering and technical careers.

In light of the recent easing in demand for engineers and related professionals, it is important to note that the skills in question take a long time to develop. An engineer, for example, must study for four years at university and undergo well-structured development programs for several years in the workforce before reaching competence as independently operating professionals. Engineering drafters must go through a minimum two-year vocational education course and on-the-job training. A long-term view of workforce development is therefore essential. Periods of relatively good skills supply should not lead to a halt in action to boost skills supply.

Skilled migration will continue to be important to the supply of engineers and its efficient use will ensure that it continues to meet much of the demand. The use of workers on temporary skilled migration visas like the subclass 457 visa close the gap between skill supply and demand, but do not otherwise help to reduce wages. This is because the visa system requires employers to pay such workers at least the same as an equivalent Australian worker, and employers must also in effect pay a premium for their employment in terms of incentives to bring them to Australia, relocation costs, and visa administration costs. Other than through increasing skills supply, any suggestion that subclass 457 visa workers are being used to reduce wages in the professional services sector that supports public infrastructure is entirely false.

There is strong evidence that wage rises in Australia, especially within the professional, scientific and professional services sector, has driven up the cost of public infrastructure. Consult Australia surveys its members each year to measure wage trends. Over 2011, the average increase of total remuneration cost for same incumbent movements was 6.8 per cent. Over 2012 it was 5.4 per cent (figures for 2013 will be available in April 2014). The Australian Bureau of Statistics' Wage Price Index indicates that the economy-wide figures were 3.7 per cent in the year to December 2011, and 3.4 per cent for the year to December 2012.

More use of engineering technologists who complete a three year degree could enable more professional engineers to focus on tasks that demand their advanced skills. Technologies like Building Information Modelling (BIM) are revolutionising the industry, enabling design work to be completed by international teams across time zones, and helps to dramatically reduce the time required for design, and increases the accuracy of the design process.

Addressing skills shortages will require a range of policy initiatives to be implemented. Prime among these are improving engineering and technical capability within Government, reforming the procurement process so that employers can make better workforce plans and invest more in staff development, and promoting engineering and other STEM-based (Science Technology Engineering and Maths) careers.

7. Conclusion and Next Steps

Thank you for the opportunity to contribute to the work of this inquiry into infrastructure. This submission has highlighted a range of issues of concern to Consult Australia and our membership, including suggestions to improve outcomes for the Government as a provider of vital infrastructure.

Consult Australia Submission

We would be pleased to provide further information to the Committee in person or through other consultation mechanisms. Such an opportunity would be used to provide greater in-depth information about the issues raised in this document, and to share our expertise on the provision of infrastructure.

If you would like to further discuss any issue raised in this submission, please contact our Director of Policy & Government Relations, Jonathan Cartledge, on (02) 9922 4711 or by email at jonathan@consultaustalia.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Megan Motto', written in a cursive style.

Megan Motto
Chief Executive Officer