

Submission to Productivity Commission Inquiry Public Infrastructure, Provision Funding, Financing and Costs

Dated 22 December 2013

1. Introduction

This submission is made by Menno Henneveld, formerly Commissioner of Main Roads, Western Australia and General Manager in the Water Corporation of Western Australia, representing nearly five decades associated with public infrastructure delivery. I would like to ensure that many of the lessons learnt in the delivery of public infrastructure in Australia, particularly over the last three decades, is taken into account by the Productivity Commission Inquiry when considering the scope for reducing the cost of public infrastructure delivery.

2. Aim of this Submission

This submission deals with the delivery of public, economic infrastructure through major projects, where responsibility for providing, maintaining and operating the infrastructure has resided with the relevant public infrastructure agency. Most of the planning, development, delivery and operations and maintenance of this infrastructure is conducted using private sector resources and a wide range of contracting models.

The objective of this submission to the Productivity Commission Inquiry is to:

- Provide a brief history of the contracting models used in Australia since the 1980's in delivering public infrastructure. This provides a useful background for understanding the reasons for the emergence of the relationship based, collaborative approach to contracting which has been successfully used on major projects in delivering public infrastructure.
- Outline the success of competitive and non-competitive alliance contracts used to deliver public infrastructure over the past two decades; explain under which circumstances these alliance contracts were used and the industry's views of these contracts (client, contractor and consultants). In particular, the improvements in infrastructure delivery and cost reductions that resulted from equitable risk sharing and the additional value-for-money derived from incentivizing high performance in non-price areas.
- Challenge the logic of the Victorian Treasury inspired policy on the use of alliance contracts by governments across Australia, which has resulted in a trend away from the use of alliance contracts, particularly non-competitive alliances. This has the potential to return parts of the industry back to the confrontational, litigious nature of the 1980's with commensurate cost increases. The industry is currently addressing how to develop a new approach to risk allocation within the traditional Design and Construct contracts that will now be used on large and complex projects.
- Provide recommendations for the Commission's consideration as to how the decision to use particular contracting models for public infrastructure delivery can best be made, and possible institutional arrangements that would assist all parts of industry in achieving optimal outcomes in public infrastructure delivery.

It is not the intention that the issues raised in this Submission have been fully evaluated. Rather they are presented to assist the Productivity Commission to increase its awareness with a view to possibly seeking additional information on the issues that warrant further work. The author would be pleased to be part of this ongoing process.

3. Structure of this Submission

The “Productivity Commission Issues Paper November 2013” clearly explains that the Australian Government has asked the Productivity Commission to undertake a broad-ranging inquiry into public infrastructure, comprising two broad streams of work:

- the provision, funding, and financing of major public infrastructure; and
- the scope for reducing the costs associated with such infrastructure.

This Submission addresses the second broad stream of work dealing with public, economic infrastructure where delivery responsibility resides with the relevant public infrastructure agency responsible for “what infrastructure to build and how to deliver it”.

The Submission will outline:

- A brief history of public sector contracting in Australia since the 1980’s, where there has been a trend to minimize costs by focusing on risk minimization, and the emergence of a relationship based, collaborative approach to contracting.
- The reasons why relationship based contracting, particularly alliance style contracts were so well received by all facets of the civil construction industry in Australia and New Zealand.
- The development and introduction of a public policy inspired by the Victorian Treasury, and now required to be used by all government infrastructure agencies and overseen by State Treasury’s on the use of alliance contracts for public infrastructure delivery. Discussion on the philosophy driving the Treasury view, and how it differs from those responsible for delivering the infrastructure.
- The impact of the policy, driving public infrastructure delivery models away from alliancing, particularly non-competitive alliances (or pure alliances). There is some discussion on the potential for a return to the disputation and confrontation of the 1980’s as industry deals with a return to Design and Construct (and Construct only) contracts on large, complex and often high risk major projects.
- Recommendations for possible governance or institutional arrangements that would ensure clear principles to guide those in government determining project delivery models (and other infrastructure matters). Such arrangements to have representation by industry stakeholders to provide the broadest possible cross industry views. There are in place, or have been in place in some jurisdictions, similar models with an integrated approach to innovation in infrastructure delivery across relevant agencies.

4. Submission

4.1 Evolution of Contracting in Australia

The delivery of public infrastructure in Australia since the 1950s has seen many different approaches to contracting. Large public infrastructure projects such as the Snowy Mountain scheme were managed by government using consortia consisting of large American companies like Morrison-Knudson, Utah and McDonald using early Engineering Procurement and Construction (EPC) models. These companies engaged many small Australian contracting companies to carry out construction works.

From then until the 1970s, public infrastructure projects (Capital Works Programs) in Australia were predominantly delivered by large government departments (Public Works Departments, Defence, Australian Construction Services etc.) responsible for infrastructure delivery in each of their jurisdictions. Some of this work was assigned to small Australian contractors, usually as lump sum or schedule of rates works contracts.

From the 1970s onwards, more and more work was contracted out as the construction branches in government departments started reducing in size and significance, with many government departments closing. As a consequence, more and more projects were outsourced to contractors and the projects became larger and more complex. The predominant General Conditions of Contract used by government at this time for delivering public infrastructure were those developed by the National Public Works Committee (NPWC 3) and subsequently AS 2124 -1986.

The 1980's saw the nature of contracting for delivery of public infrastructure changing. General Conditions were modified in each jurisdiction and across government agencies to suit local conditions and specific projects. Special conditions evolved to close down loopholes or gaps for mounting claims. With highly competitive markets and inequitable allocation of risk by clients, tendering strategies developed by contractors were often to tender low to win work and claim high to maintain margin. There were other factors that led to high levels of disputation arising on the contracts used at that time. Large numbers of variations on contracts often arose from deficient specifications and resulted in additional claims and disputes. The highly competitive markets also drove down contract margins heightening the need for aggressive and effective claims management to maintain an acceptable margin.

By the late 1980's claims and disputes arising from contracting of public infrastructure were endemic in Australia. A quotation from the May 1990 report by the National Public Works Conference/National Building and Construction Council Joint Working Party publication "*No Dispute-Strategies for Improvement in the Australian Building and Construction Industry*" sums up the state of the industry at that time:

"This trend towards increased disputation and litigation, and the changes in attitudes which promoted increasingly aggressive and confrontational relationships, was seen as tending to adversely affect the efficiency and well-being of the industry. The result was to put at risk the co-operative attitudes which are necessary to achieve timely and efficient completion of building and construction projects"

This level of claims and disputation resulted in significant cost escalation on projects. Foremost in the findings of the "*No Dispute*" report was that risk allocation should be on the basis that the party best able to manage the risk, should carry the obligation to manage the risk.

Since 1990 the Australian construction industry has endeavoured to develop practices which enabled more effective risk sharing between Owners and Contractors. It was clear that the best way of achieving this was to establish frameworks which supported a collaborative approach to contracting. The key messages in a booklet entitled "*Relationship Contracting – Optimising Project Outcomes*" produced by the Australian Constructors Association in 1999 were:

- *Clients and contractors are best served when the delivery strategy utilised best suits the project requirements.*
- *Many clients still utilise project delivery systems structured to alter the allocation of risk and neglect the opportunities to be gained through improving the relationship between the contracting parties.*
- *For larger projects, where there are many unknowns and uncertainties, the client can better manage its risks through a more cooperative approach where the risk is embraced rather than transferred.*
- *Where an examination of the risk allocation indicates that a risk embrace approach will be more suitable, relationship contracting offers the parties a variety of techniques to ensure that the goals of the client and contractor are closely aligned within a painsharing/painsharing framework that balances risk and reward and focuses both parties on an optimum project outcome.*
- *Relationship contracting requires the parties to become result focused and willing to challenge conventional standards. The focus is on a cooperative endeavour to improve project outcomes rather than establishing a legal regime to penalise non-conformance.*

The principles of relationship contracting were applied to a range of contracting models ranging from partnering on traditional lump sum works contracts and design and construct contracts, to managing contractor arrangements, competitive alliances, non-competitive alliances and early contractor involvement contracts.

This approach enabled a collaborative approach to managing contracts. Most significant was that it ensured an equitable approach to risk allocation which was essential if costs were to be minimised on large complex public infrastructure projects. The less complex, smaller projects still used the traditional master/servant type arrangements, all be it with improved relationship contract management.

4.2 Use of Relationship Contracting

The past decade has seen significant changes in the public infrastructure construction market. Projects have become larger and more complex, there is more uncertainty and more risk. The impact of increased regulation and a demanding and discerning community has led to increased quality of infrastructure, increased service provision expectations and a greater focus on providing non-price initiatives. The latter is often a feature of the strategic and corporate planning requirements to meet government expectations of the infrastructure agencies.

The structure of the industry has also changed significantly, with major contractors undertaking projects in the resources sector to provide wider scope and greater certainty to work availability. There are limited major project opportunities in public infrastructure, and the current duopoly that exists in the Australian market (Leighton Holdings and Lend Lease) makes the entry of foreign players difficult. The remainder of the market consists of the smaller contractors who may be reluctant to bid for the larger major projects in the public infrastructure market.

Relationship contracting has assisted agencies to meet these challenges and alliance contracts have delivered a growing proportion of Australia's public infrastructure with significant success. It has been estimated that nearly one third of the total value of public infrastructure contracts delivered from 2007 to 2010 used alliance contracts. Over the past decade there have been many hundreds of program and project alliances undertaken or underway in delivering public infrastructure in Australia.

There has not been any disputation on these projects needing resolution outside of the alliance framework. This has helped prevent additional cost escalation which otherwise would have suffered from the non-value adding aspects of disputation and confrontation still prevalent on other forms of contract. There is also significant evidence to demonstrate that alliance contracts achieve better time and cost performance than adversarial methods and contribute to improved service delivery and lower lifecycle costs.

Government public infrastructure agencies across Australia, have enjoyed considerable success in delivering public infrastructure worth hundreds of billions of dollars using alliance contracts. Success has been determined by delivering projects on time (many instances of delivering ahead of time); within the budget determined in the government approved business case; the achievement of organizational objectives demanded by government (community engagement and customer service, safety, sustainability, etc.,) and achieving the value-for-money proposition put by the agency in the government approved business case.

In quoting the Melbourne School of Engineering's Department of Infrastructure Engineering in outlining the background to their Alliance Contracting Course:

"Alliance contracting is a common procurement and delivery method that has been used to successfully deliver complex, costly projects in the public and private sectors. Governments across Australia support alliance contracting, which now represents one third of the total value of public sector infrastructure projects delivered in Australia."

The Department of Infrastructure and Planning, Queensland, in outlining its Policy for Alliance Contracts, states:

“The key benefit of alliance contracting is that the parties are incentivised to work co-operatively to complete the project within the time and budget forecasts in the business case to find the best solutions for the project (rather than their own interests) to work quickly and collaboratively to resolve issues as they arise.”

4.3 Concerns with Relationship Contracting

Despite the success of alliance contracting in Australia, there have been concerns with the model from the legal fraternity, central agencies remote from contract management and the traditional elements within the infrastructure agencies responsible for infrastructure delivery. As the introduction of the alliance contracting model is relatively recent, those involved in its early application recognized the need for continual improvement and the processes guiding the use of alliance contracts have continued to evolve. The concerns have generally focused on:

- Whether alliance contracts met public sector governance objectives in the areas of integrity, transparency and accountability, as well as responsibility for stewardship of infrastructure;
- Better demonstration of value for money;
- Some legal aspects of alliance contracts such as the no-disputes clause, a perceived lack of price competition and faith based contracts;
- Questions of alliances hiding other problems of public sector contracting such as poor specification development, poor project planning and management, poor contract drafting, all of which have contributed to disputation on traditional contracts.

In 2009, the Inter-Jurisdictional Alliancing Steering Committee (consisting of the Treasuries of Victoria, Queensland, Western Australia and New South Wales, and, from June 2010, the Commonwealth Department of Infrastructure and Transport) commissioned a study “In Pursuit of Additional Value: A benchmarking study into Alliancing in the Australian Public Sector”.

The study was conducted by Evans and Peck and Melbourne University and was based on a five-year study of 14 projects covering a range of major infrastructure sectors. It was compiled with the aim of making alliance outcomes more transparent and improving government decision-making with respect to project delivery options.

The findings were presented at the Alliancing Association of Australasia 2009 convention in Melbourne in October 2009. The overview of the conclusions from the study, which focused on value for money were:

- *It can be concluded that VfM can be enhanced in the alliance delivery method.*
- *Alliancing has demonstrated its ability to avoid disputes, improve non-cost outcomes and commence projects earlier than by traditional methods.*
- *To extract optimum VfM from alliancing, changes must be made at both the alliance and whole of government levels.*

The study and its recommendations caused concern in the industry, as much from the contracting and consulting sectors as from the infrastructure agencies which had successfully implemented alliance contracts over the previous decade. The concern was not with the overview conclusions as infrastructure agencies had already introduced many improvements which addressed these findings. Some of the key findings of the study were based on erroneous assumptions about the development of business cases and budget provisions that not only varied in jurisdictions but also varied depending on the timing of submissions. The same conclusions may well have been reached if the study had been applied to traditional contracts. A very clear perception had formed in the minds of Treasury officials, strongly led by the Victorian Treasury that the imperative to establish value for money meant the use of alliance contracts had to be justified at the business case level. Such business cases needed the approval of the Treasurer (advised by Treasury officials).

This meant that Treasury officials would determine if alliance contracts are used to deliver public infrastructure. Given the suspicion, disbelief and lack of understanding of the benefits of alliance contracting, the use of alliance contracts, particularly non-competitive or pure alliances has virtually ceased in Australia as it has been made extremely difficult to get approval to use the alliancing contracting model for infrastructure delivery. A perception has spread through the industry that “there is something wrong” with alliance contracts. The responsibility for determining the contracting model to be used for delivering public infrastructure has moved from the infrastructure agency CEO’s, who are accountable to their Minister for the successful delivery of public infrastructure, to Treasury officials.

There is no doubt that the fundamental policy principles of public accountability and public interest, value for money and effective market engagement must underpin sound policy in the use of alliance contracts for delivering public infrastructure in Australia. However, no studies have been undertaken or policy formulated to apply the same considerations to traditional contracts.

There is now a large suite of policy and procedure documentation and five detailed guidance notes for the use of alliance contracts in Australia, but very little for other forms of contract, when other forms of contract make up a far greater proportion of public infrastructure delivery. It is well known that the same issues arise on traditional contracts, and in some instances they are more susceptible to questions of value for money, public accountability and matters of market engagement.

The Inter-Jurisdictional Alliancing Steering Committee implemented the key recommendations of the study “In Pursuit of Additional Value by introducing the National Alliance Contracting Policy and Guidelines with an exposure draft on the 16th September 2010 and publishing the policy on 25th October, 2010. Such a short exposure draft period meant there was little or no opportunity for industry comment. There was no attempt made at meaningful engagement with industry (including government public infrastructure delivery agencies) in helping to develop the policy which would help address some of the issues raised by the Evans and Peck study.

All facets of industry were keen to improve the alliance contracting model which had developed so successfully in Australia, but the Inter-Jurisdictional Alliancing Steering Committee, led by the Victorian Treasury, were intent on implement the findings of the Evans and Peck study as they had interpreted them. This has effectively shut down the use of pure alliance contracts in public infrastructure in Australia and created a perception that alliance contracts are problematic. From the many comments heard from all parts of the industry, a return to traditional contracting on large, complex public infrastructure projects will result in cost increases as contractors address the inequitable risk sharing with increased contingency provisions.

4.4 Focusing on the Right Costs

The Productivity Commission in the November 2013 report ‘Productivity Commission Issues Paper - Section 9 Costs of Infrastructure Projects’ addresses a number of issues with respect to cost. The report advises there are the following five broad categories of construction cost for infrastructure projects:

1. Land costs
2. Labour costs
3. The costs of physical capital
4. Intermediate inputs
5. The cost of financing.

There are two other categories not included in these items, namely

6. The cost of ‘Risk’; and
7. Contractors Corporate Overhead and Profit.

Together these two items can contribute to over 25% of the total final project delivery cost (excluding land costs), depending upon the type of procurement model which is selected. Experience with alliance contracting models clearly demonstrates that the base costs of estimates from industry are within a few percent, it is the risk contingency allocation and profit and overhead rates that play the

major role in determining contractors tendered prices. Therefore a contracting mechanism that allows commercial flexibility to share risk and to jointly manage risk must drive cost reduction on major infrastructure projects.

In collaborative relationship based contracts all seven items listed above are discussed in an “open book” manner with both the Owner and the Client able to participate in cost reduction analysis and implementation.

In traditional style contracts the Owner requires the Contractor to submit a tender price in which items 6 and 7 are not disclosed. Market forces dictate the approach the contractor will take and in times of considerable contracting work availability, the costs for items 6 and 7 will be high. In times of low work volume the Contractor will be tempted to submit low prices, however in the event of ‘price stress’ in delivery there is the risk of disputation and claims and the potential for a reduction in quality. Such quality reduction has the potential to be reflected in higher operating costs.

In the 1980’s an industry evolved with Contractors submitting low prices, and employing full time project personnel, sometimes lawyers, to seek opportunities for claiming additional funds from Owners. The cost of the disputation to both the Owner and the community, when added to the initial and final costs paid to the Contractor were considerable. Cost escalation on contracts using traditional contracting models has the potential to result in rising project costs.

The collaborative or relationship based approach to contracting used in the last decade on major, complex public infrastructure projects has consistently delivered much lower project cost than the use of traditional contracts.

4.5 Australian Contracting Industry

In section 5.1 above a brief history was provided on the evolution of the methods of procurement and contracting in Australia. During this period the Australian Contracting companies have also evolved and their skills have been enhanced. Driven (almost entirely) by government initiatives and certification requirements, contractors are now proficient at quality, safety and environmental management and have robust systems for these. Equally over the period there has been an evolution of sound and proven practices for the analysis of project risk using Monte Carlo simulations. The contracting organizations now are also managed by professional staff, rather than the earlier companies who were started predominantly by tradespersons and plant operators who evolved from small subcontractors to deliverers of major contracts.

Contracting for Public Infrastructure projects in Australia comprises a tiered arrangement as described below:

- Tier One – These are large companies capable of delivering design and construction for projects with values in excess of \$200million. As time has progressed and described in the Productivity Commission Issues Paper, only the Leighton Group and Lend Lease are included in this category. The former has predominantly Spanish ownership now.
- Tier Two - These are large companies capable of delivering design and construction for projects with values in excess of \$100million. Companies such as Laing O’Rourke and McConnell Dowell work predominantly in this sector, however for specialist rail projects they can be considered in the Tier One grouping.
- Tier three – Companies with the capability to deliver construction projects with values up to \$100million.

Below Tier 3 there is a multitude of smaller companies with standalone delivery capability at the lower contract value. Many of these companies work as sub-contractors to the above contractors.

The high risk to contractors associated with the traditional design and construct approach to complex Public Infrastructure projects has impacted on the way the contracting market has developed. Recently one of the main deliverers of public road projects with considerable success in delivering road projects using design and construct contracts, McMahon Civil, had financial difficulties and was sold to the Leighton Group, further reducing the opportunity for competitiveness in public infrastructure project delivery. The design and construct model for complex Public Infrastructure delivery has been used in Australia for over 20 years now and many contractors will

not become involved in this method of delivery because of the cost of tendering and the high risks apportioned to the Contractor.

The use of Australian Contractors in the public private partnership arrangements used by Australian governments also needs review. Without doubt the biggest benefit of PPPs to Government is the provision of funding that appears as recurrent expenditure rather than capital expenditure. On the right projects where the basic economics deliver a sound business case, PPPs are appropriate. Many PPPs have however struggled to pass the value for money test over the long term with high financing costs. Unless a highly compelling social or environmental business case can justify the financial legacy to future generations, PPPs should only be used when the long term economic benefits demonstrate value for money.

The cost of delivering PPP projects is dominated by the effective and innovative delivery of the physical asset being contemplated. However if the construction Contractor does not have a major share in the equity of the delivery vehicle their influence in the final delivery of the asset is diminished. This has the potential for considerable increase in the cost of the delivery of the Public Infrastructure asset.

It is generally agreed by all participants in the Australian Public Infrastructure delivery industry that Australia needs a strong vibrant and competitive group of Contractors. Whilst there are many in Australian public Infrastructure procurement departments who are of the opinion that the Australian Contractors have profited excessively from government projects over the past decade this is not demonstrated by the lack of overall profitability of these companies and the lack of success of publicly listed contracting companies. The lack of international contracting company interested in working in Australia further attests to this fact.

4.6 Attitudes and Skills

The attitudes and skills of the people who work in Public Infrastructure Project Delivery has a significant impact on cost management and cost reduction. Attitudes and skills have improved dramatically in the last 20 years in Australia largely driven by Government infrastructure contracting.

Government contracting has introduced a structured body of knowledge and framework for Project Management along with codified systems for quality, safety, environmental and heritage management and risk and value management. Together with a cultural and practical shift to relationship based contracting, these initiatives have demanded a coinciding increase in skills at all levels along with attitudinal awareness of the reasoning behind them. The reasoning has always been ultimately presented as *“leading to total cost reduction”*; e.g. poor quality passes cost to operations because of breakdown, poor safety increases cost of labor, unmanaged risk delays projects (and adds extra cost).

The concepts of Risk Management and Value Management have driven enormous attitudinal change and competency improvement in Infrastructure Project Delivery. One contributing to the reduction of the extra cost of risks occurring and the other focused on reducing costs through innovation and clever thinking.

Relationship Contracting has created the environment whereby the owner agency’s engineers and staff can work together with contractor’s people to jointly manage risk and look for greater value, thereby reducing costs in very real terms. In the adversarial contracting model, contractors must apply a contingency cost to their tendered price to cover the possibility of risks occurring. Any savings made by this “one-sided” risk management or value engineering, is kept by the contractor as a windfall. More often than not of course, contractors do not apply appropriate risk contingency amounts in an effort to be more competitive to win the contract and when a hazard occurs and extra costs are added, behaviors become driven by cost cutting and damage control.

The attitude and skill development that has taken place over the past 20 years has been hard won and to no small extent been delivered on the back of the move from adversarial contracting to relationship contracting. The benefits have been enjoyed by other sectors in Australia, primarily the mining sector. The impact of attitudes and skill on cost reduction should not be underestimated.

There is still much to be done to continue to improve this important national capability.

4.7 Government Accountability

In Australia there is no clear Government accountability with respect to the manner in which Public Infrastructure and government initiatives are initiated to minimise overall delivery costs.

Currently the Federal government supports the delivery of Public Infrastructure by the States by agreeing to jointly fund some of their projects. The States fund other projects they do not receive Federal Funding for. Where federal Funds are provided, there is a requirement to have accreditation to the Australian Government Building Construction OHS accreditation scheme for projects in excess of \$3million in value. Otherwise the States and their departments are accountable for project delivery.

In 2006 in Western Australia the 'Centre for Excellence and Innovation in Infrastructure Delivery' was established with the objective of "Sharing knowledge, developing leading practice and driving innovation to improve government infrastructure planning, delivery and management." This Centre was sponsored by a number of government project delivery departments and coordinated by the Department of Treasury and Finance, Building Management and Works. It delivered excellent results but the initiative was terminated in 2010 by government Treasury because of budgetary reasons.

The Sustainable Built Environment National Research Centre (SBEnc) was established in 2010 following the closing of the CRC for Construction Innovation in December 2009. The Sustainable Built Environment National Research Centre (SBEnc), has transformed into one of the few successful industry research services independent of Australian CRC Program funding. National industry stakeholders have identified environmental, social and economic sustainability as the key areas that will drive productivity and industry development in this sector over the next decade. The Sustainable Built Environment National Research Centre (SBEnc) collaborates across organisational, state and national boundaries to deliver industry benefits.

The Australian Construction Industry would benefit from having a peak body of Government and cross industry representatives dealing with the development of best practice public infrastructure delivery and management. With clear objectives and an agenda centering on value for money in delivering public infrastructure, such a forum would be of enormous value to the Australian Construction Industry. Coordinated by a central federal government agency, and reporting to the Productivity Commission, such a group would facilitate the development and implementation of productivity improvements in the Australian Construction Industry.

4.8 Conclusions

A review of construction practice in the Australian Construction Industry over the past 30 years will show that the traditional contracting models of the 1980's resulted in an industry with unprecedented disputation and confrontation. This had an adverse impact on the cost of public infrastructure.

Following an industry watershed report entitled "No Dispute" produced in May 1990 there was an industry wide trend towards Relationship Contracting to get away from the adversarial nature of lump sum lowest cost (master servant) contracting which was adding enormous extra cost to projects. There are many forms of Relationship Contracting, with competitive and pure alliance contracting models representing the epitome of relationship contracting. By 2010 nearly one third of all major public infrastructure projects were being delivered as alliance contracts.

Government public infrastructure agencies across Australia, have enjoyed considerable success in delivering public infrastructure worth hundreds of billions of dollars using alliance contracts. Success has been determined by delivering projects on time (many instances of delivering ahead of time); within the budget determined in the government approved business case; the achievement of organizational objectives demanded by government (community engagement and customer service, safety, sustainability, etc.) and achieving the value-for-money proposition put by the agency in the government approved business case.

In 2010, the Inter-Jurisdictional Alliancing Steering Committee introduced a National Policy on the use of alliancing in Australia. The impact of the policy was to virtually rule out the use of alliance

contracts, particularly pure alliance contracts in delivering major, complex public infrastructure projects. This means traditional style contracts such as design and construct will introduce a less equitable way of dealing with risk and draw out higher contingency provisions in tendered prices. This has the potential to return to the confrontation and disputes that occurred in the past, and is currently occurring on this form of contract.

4.9 Recommendations

It is recommended the Productivity Commission consider whether the Australian Construction Industry would benefit from having a peak body of governments and cross industry representatives dealing with the development of best practice public infrastructure delivery and management in Australia. With clear objectives and an agenda centering on value for money and cost reduction in delivering public infrastructure, such a forum would be of value to governments across Australia as well as the Australian Construction Industry.

Coordinated by a central federal government agency, and reporting to the Productivity Commission, such a group would facilitate the development and implementation of productivity improvements in the Australian Construction Industry.

Items which the peak body would address include:

- Examine the appropriateness of the manner in which the National Policy on Alliancing in the Public Sector was developed and implemented by the Inter-Jurisdictional Alliancing Steering Committee, and determine the impact of the policy on costs of public infrastructure;
- Evaluation of the method for including the cost of 'Risk" and Corporate Profit and Overhead in future procurement of Public Infrastructure in Australia with the aim to reduce construction costs;
- Examining the role of attitude and skill in cost control and cost reduction in Public Infrastructure Delivery to assist in determining the best delivery model for fostering continued development.
- The Productivity Commission include an evaluation of the most appropriate method of Public Infrastructure Project Delivery which effectively uses the skills of Contractors and supports a competitive Australian Contracting supplier base, leading to cost effective delivery of public infrastructure.