

Submission
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Productivity Commission draft report into public infrastructure

DRAFT REPORT FOR PUBLIC CONSULTATION

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About CME

CME is the peak resources sector representative body in Western Australia (WA) funded by its member companies who generate 95 per cent of the value of all mineral and energy production and employ 80 per cent of the resources sector workforce in the State.

The Western Australian resources sector is diverse and complex covering exploration, processing, downstream value adding and refining of over 50 different types of mineral and energy resources.

In 2012-13, the value of Western Australia's mineral and petroleum production was \$102 billion, accounting for 89 per cent of Western Australia's total merchandise exports and thus representing the majority of Western Australia's 47 per cent contribution to Australian merchandise exports. Furthermore, royalty payments to the state government totalled \$5.3 billion in 2012-13.

Recommendations

Various public and private financing models may have a role to play

- Where a project has broader benefits, but is unlikely to be financially viable for private investors, hybrid and alternative solutions should be considered to support the projects development.
- An unsolicited proposal process should be developed to encourage the private sector to identify and develop innovative solutions to fund infrastructure.

Better institutional and governance arrangements

- Improved institutional and governance arrangements in the delivery of infrastructure can be achieved through:
 - Establishing a state economic infrastructure unit with responsibility for the structuring of the financing and risk sharing models for complex economic infrastructure, and
 - The role of the Office of Strategic Projects should be extended to the delivery of economic or resources sector infrastructure.
- The state government's strategic asset review is supported by CME however, this should be undertaken in consultation with industry.
- The use of capital recycling as a means to develop the state's infrastructure requirements is encouraged.
- The Productivity Commission (PC) should consider the interface of planning and funding of infrastructure between all levels of government and amongst departments.
- A state infrastructure plan should be collaboratively developed by government and the private sector and include prioritisation of the state's economic and infrastructure needs.
- An arm's length body should be established to advise on infrastructure strategies for the state and improve the level of coordination between the private sector and government for longer term infrastructure planning.
- Given variation in jurisdictional planning approaches to protect corridors a national approach may be problematic however, federal support for strengthening the protection of corridors and buffers is welcome.

Planning and tendering arrangements

- The PC should recommend the repeal of the *Australia Jobs Act 2013* due to the cost and time constraints it adds to projects, particularly in the tender process.

Industrial relation reforms

- The PC review of the *Fair Work Act 2009* should take full account of the broad economic and social context in which workplace regulation operates, as well as the need for businesses to be able to adapt in a rapidly changing global economy.

Better data collection and some reviews are required

- The PC should investigate the development of a national apprenticeship program designed for the public infrastructure development based on the program established for resources sector construction.

Context

Various public and private financing models may have a role to play

Where a project has broader benefits, but is unlikely to be financially viable for private investors, hybrid and alternative solutions should be considered to support the projects development.

As considered in CME's Investment in Resources Sector Infrastructure report¹ hybrid models can assist make a project become financially viable, secure private finance and reduce the financial impact to governments. There are also alternative solutions where government packages existing revenues, or delays the transfer of demand risk, that can assist in developing projects without a long-term impact on net debt.

There are four approaches which would enable governments to support resources sector infrastructure that could be structured in a manner that avoids governments being exposed to the full net debt impact over the life of a project. These approaches are:

- Viability gap funding;
- Minimum guarantees;
- Existing revenue streams as a funding source;
- Delaying demand risk transfer.

Need for an unsolicited proposal process

An unsolicited proposal process should be established to encourage the private sector to approach government with innovative solutions to fund infrastructure.

The assessment of unsolicited proposals should be conducted in line with probity principles designed to maintain impartiality, accountability, transparency and confidentiality. The probity principles also relate to managing conflicts of interest and obtaining a value for money outcome.

Better institutional and governance arrangements

CME supports the PC's draft finding the adoption of good practice governance principles and reforms to institutional arrangements would assist in promoting greater efficiencies in long term planning, provision, financing and funding of infrastructure. To improve these arrangements at the state level CME recommends an economic infrastructure unit and blended project delivery teams should be established.

Economic infrastructure unit

Structuring economic infrastructure projects is complex, particularly when seeking to provide access to multiple users and keeping the project off the government's balance sheet. At the state level there is no single team that structures complex economic infrastructure projects, particularly where the private sector takes on the demand risk. Rather, commercial structures are developed by the individual government agency managing the project.

Whilst it is important to have strong involvement from the relevant government agency, who will better understand the industry's strategic and technical issues, a dedicated and centralised economic infrastructure unit should be established to support these agencies given the complexities of these significant projects.

A state economic infrastructure unit should be established with responsibility for the structuring of financing and risk sharing models for complex economic infrastructure. The unit should be equipped with experienced personnel who can administer different financial and commercial structures for economic and resources sector infrastructure and can provide an advisory and oversight role to the project team. The unit should also evaluate and consider a projects financial viability from the perspective of the private sector. This will enable it to identify how projects should be packaged and structured to attract interest from infrastructure investors.

¹ <http://www.cmewa.com/UserDir/CMEPublications/140116-INF-FINAL%20designer%20report-v0602.pdf>

Blended project delivery teams

At present most line agencies either operate or regulate the state's infrastructure rather than structuring the financial model of new investments. When government is both the proponent and project manager, which is often the case where government is developing proposals to build, own and operate economic infrastructure, the agency should have the relevant skills and experience to deliver the project as well as drawing on the skills and expertise of other agencies.

In Western Australia, project specific delivery teams, bringing together key expertise from relevant agencies, are typically established for social infrastructure. This approach should also be extended to economic infrastructure projects where a line agency is responsible for delivering a project.

The Office of Strategic Projects, within the Treasury portfolio, works in collaboration with agencies, using blended project teams to deliver a range of major social infrastructure projects such as Fiona Stanley Hospital (with the Department of Health), the Perth Stadium (with the Department of Sport and Recreation) and the Eastern Goldfields regional prison (with the Department of Corrective Services).

The role of the Office of Strategic Projects should be extended to the delivery of economic or resources sector infrastructure.

A stronger, cross agency project delivery team, beyond existing governance steering committees, would assist to ensure economic infrastructure meets the needs of the end users, who typically fund a project through user fees.

Asset review is necessary

The state government's strategic asset review is supported by CME however, this should be undertaken in consultation with industry.

As part of the review consideration of future long term leasing or privatisation of assets should be accompanied by suitable contractual or legislative frameworks to prevent abuse of any monopolistic position. Timely access for all users at reasonable commercial rates must be enshrined in any lease or privatisation arrangement.

Capital recycling as a means to develop infrastructure

The use of capital recycling as a means to develop the state's infrastructure requirements is encouraged.

Capital recycling can attract competition from a larger pool of capital by offering projects already established and operating. This alleviates narrowing of the investment pool including some infrastructure investors, such as superannuation funds, who don't accept construction risk, but focuses instead on proven projects with an established demand profile.

CME supports the federal Treasurer's announcement on 28 March 2014, of an asset recycling initiative which could see the federal government offer financial incentives to states that sell assets and recycle the proceeds of these sales into new productive infrastructure. This will see a federal incentive of 15 per cent of the assessed value of the proposed asset being sold for capital recycling being provided to the state government. It is encouraging the state government is considering this offer as part of its asset review.

For Western Australia, the benefit of a capital recycling strategy is potentially greater than for other states given investment in other resources sector infrastructure is likely to stimulate additional royalty revenue through the development or expansion of resources sector projects. This will also create benefits at the federal level through increases in taxation and employment opportunities.

Infrastructure planning and a pipeline of projects

CME considers, while the measures proposed in the draft report will assist to constitute a pipeline of projects, the PC should further consider infrastructure planning frameworks as the backbone to addressing the nation's infrastructure requirements.

There are a range of infrastructure planning delivery models within each state and territory jurisdiction as well as at the federal level through Infrastructure Australia. Without appropriate coordinated planning and identification of jurisdictional infrastructure needs ad hoc approaches to infrastructure development and delivery will continue.

The PC should consider the interface of planning and funding of infrastructure between all levels of government and amongst departments.

Long term, coordinated planning around infrastructure requirements can help avoid duplication and delays, ensuring state infrastructure needs are met at an efficient cost. In Western Australia there are recent advances in the state's infrastructure related planning, evidenced by the draft State Planning Strategy, the Regional Freight Network Transport Plan, and draft State Aviation Strategy however, there still remains a shortage of detailed planning across asset classes.

Coordination of planning across all levels of government and amongst agencies needs to be improved. By way of example, in Western Australia there are a number of regional planning and infrastructure documents currently being developed by the state Department of Planning, Regional Development Australia and Development Commissions including regional blueprints, planning and infrastructure frameworks, and strategic plans. There is a lack of clarity on linkages and uses between these documents which appear to duplicate effort, result in conflicting views amongst agencies of the intent of the plans and fail to deliver outcomes over the longer term.

A state infrastructure plan should be collaboratively developed by government and the private sector and include prioritisation of the state's economic and infrastructure needs.

Infrastructure providers have highlighted benefits that could result from the development and maintenance of a pipeline of priority projects, including:

- assisting construction companies and investors to prepare for priority infrastructure projects, thereby ensuring both strong delivery capability and strong competition;
- assisting resources sector companies to include access to shared infrastructure in their planning;
- aligning private sector and local government planning with the state government's priority projects; and
- better positioning the state for commonwealth government support.

An arm's length body should be established to advise on infrastructure strategies for the state and improve the level of coordination between the private sector and government for longer term infrastructure planning.

This body would fill the gap in Western Australia's current planning and budget processes. Whereas projects within the four year government forward estimates period (the state government's budget outlook) receive significant attention from Treasury, projects proposed in five to ten years are typically not subject to detailed central scrutiny and coordination.

Benefits of establishing an independent body, responsible for long term infrastructure planning and coordination include:

- improved collaboration between government and the private sector to deliver strategic infrastructure planning;
- better decision making through a structured, evidence-based assessment of needs and priorities;
- greater sophistication in the way infrastructure is procured, financed and maintained; and
- establishing a clear pipeline of projects to attract private investment.

Protection of corridors and buffers

CME notes the PC has sought information on the merits of a national scheme to protect corridors.

Given variation in jurisdictional planning approaches to protect corridors a national approach may be problematic however, federal support for strengthening the protection of corridors and buffers is welcome.

CME is aware the Western Australian Department of Planning is reviewing approaches to the protection of corridors and industrial buffers. Of high importance to the resources sector is the clear definition, establishment and future protection of transport corridors and their respective buffers that provide priority access to export facilities, as well as industrial estates which provide services to the sector.

State government planning reform should consider how these corridors and buffers can be defined and protected to obviate independent local government decisions which result in the lack of or loss of these strategically important access routes. The protection of strategic corridors and buffers will further contribute to the state and national economy through the efficient and cost effective transportation of resources commodities through to export locations and project development.

By attributing the appropriate level of priority to the strategic and economic importance of these corridors and their buffers within the planning process will ensure future land use and development is appropriately planned and protected in the longer term. This includes defining appropriate buffer zones and protecting areas from encroachment and fragmentation in the long term. By recognising these economic priorities in the planning process will enable government to better manage its social, environmental and economic outcomes as well as providing certainty for resources sector development.

Planning and tendering arrangements

The resources sector finds the current local content planning and reporting arrangements in Western Australia to be functioning well. However, the recently legislated *Australian Jobs Act 2013* (Commonwealth) has not been well received. The Act places an unnecessary administrative burden on projects proponents, duplicating some requirements in state arrangement without any clear benefit.

Currently in Western Australia many project proponents have individually agreed local content plans established and agreed upon in their *State Agreement Acts*. These plans detail how industry will engage local suppliers and how often it will be reviewed. One method through which project proponents advertise contracting and supply opportunities is through the use of the Industry Capability Network (ICN) portal.

This has been a highly successful method. The state Department of Commerce's November 2013 Local Content report shows approximately \$57 billion in value has been awarded to local suppliers since July 2011 (the date of the introduction of the state government's Local Industry Participation Framework). The requirement to have Local Participation Plans in Western Australia as part of State Agreements is successful, efficient, and is achieving the intended outcome of encouraging the use of local suppliers and contractors.

Conversely, the requirement for Australian Industry Participation (AIP) Plans under the *Australian Jobs Act 2013* (Commonwealth) is duplicative, administratively onerous and will not meet its aim in creating greater local content levels. The Act contradicts certain requirements at a state level which leads to excessive administrative records and substantial compliance requirements.

The PC should recommend the repeal of the *Australia Jobs Act 2013* due to the cost and time constraints it adds to projects, particularly in the tender process.

The state local content plan requirements are efficient, successful in achieving increased local content and should remain.

Industrial relation reforms

CME identified declining workforce productivity as a key driver in the high cost of doing business in Western Australia and therefore supports reforms in the industrial relations regime to address cost pressures on resources sector companies.

Australia's workplace relations system has been re-regulated in a way that bolsters the power of trade unions at the expense of employers and employees. The *Fair Work Act 2009* has reduced flexibility and choice in workplace arrangements and created a more adversarial bargaining system.

The PC review of the *Fair Work Act 2009* should take full account of the broad economic and social context in which workplace regulation operates, as well as the need for businesses to be able to adapt in a rapidly changing global economy.

Better data collection and some reviews are required

The National Apprenticeship Program (NAP) was a recommendation in the 2010 National Resources Sector Employment Taskforce (NRSET). In a resources sector context, a range of companies across Australia have utilised the NAP as a mechanism to up-skill experienced workers for occupations during the construction phase. CME considers there would be similar applicability for public infrastructure development given the similar operating environment and skills required. Engagement from industry throughout the development process would be required to ensure recognition of prior learning and gap learning processes are aligned with identified occupational requirements.

A further recommendation of the NRSET report was annual labour supply and demand projections produced by Skills Australia, now the Australian Workforce and Productivity Agency (AWPA). AWPA's work provides a robust evidence base for policymakers to ensure skills development resource allocation is appropriate. Industry consultation throughout the development of these projections and when allocating training resources is crucial, with due consideration of the potential administrative burden for employers.

The PC should investigate the development of a national apprenticeship program designed for the public infrastructure development based on the program established for resources sector construction.

Conclusion

CME welcomes the PC's draft report and looks forward to ongoing engagement. Federal and state governments should better coordinate infrastructure planning and the identification of alternative funding and financing models.

If you have any further queries regarding the above matters, please do not hesitate to contact Andrew Winter, Manager – Infrastructure on (08) 9220 8525 or a.winter@cmewa.com.