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Mr Lyndon Rowe  
Chairman  
Economic Regulation Authority  
PO Box 8469  
Perth BC WA 6849

Dear Mr Rowe

Thank you for the opportunity to respond to the Inquiry into Microeconomic Reform in Western Australia Draft Report.

CCFWA congratulates the ERA for the detailed analysis in the Draft Report. The recommendations contained in the report constitute a roadmap for microeconomic reform in WA.

While we broadly endorse the Report and its recommendations, we urge the ERA to reconsider its opposition to the creation of an independent infrastructure advisory body. Our reasons are outlined in the attached submission.

Please do not hesitate to contact me if you have any further queries.

Yours sincerely,

Jeff Miller  
Chief Executive Officer



**CIVIL CONTRACTORS  
FEDERATION**

# Inquiry into Microeconomic Reform in Western Australia



Submission in response to the Economic Regulation Authority's Draft Report.  
Civil Contractors Federation WA, May 2014.

## Introduction

The Civil Contractors Federation WA welcomes the opportunity to comment on the Economic Regulation Authority's Draft Report for its Inquiry into Microeconomic Reform in Western Australia. This submission addresses a number of recommendations in the Report, with particular focus on the recommendations in Chapter 4, Infrastructure.

CCF WA generally supports the ERA's recommendations relating to infrastructure and we strongly endorse its comments that:

*“The provision of public infrastructure is essential for an economy to function effectively and that factors that prevent the Government from delivering sound infrastructure projects are likely to have a detrimental effect on the economy.”*

*“Public infrastructure could be improved in Western Australia through better application of infrastructure planning processes and selecting infrastructure projects more carefully to get better value for money.”*

Our main point of difference with the Draft Report is in regard to the need for an independent, stand-alone State Infrastructure Agency. As well as making specific comment on recommendations in the Draft Report, we have also highlighted areas where an independent infrastructure advisory body would serve a vital role.

The Draft Report makes a number of references to Government departments and agencies failing to follow existing disclosure requirements. This lack of regard for due process and transparency seems to be an ongoing theme, and has reinforced our conviction that relying on the current arrangements for infrastructure planning and provision is likely to result in continued dysfunction.

There is no question that a lot of good work is being done by State Government departments, including Transport, Planning, Finance and Treasury and by agencies such as Main Roads WA and Water Corporation. What is needed is the strong leadership and oversight that would be provided by a stand-alone, independent statutory body. As similar bodies such as the ERA and the Office of the Auditor-General have demonstrated, a relatively small organisation can have a far-reaching positive impact. If an independent advisory body can produce even a marginal improvement in the quality of the State's infrastructure planning, procurement and delivery, such an improvement could be worth hundreds of millions of dollars per year.

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## Comment on Recommendations

### Infrastructure

**Recommendation 1.** *Apply project evaluation processes, including cost-benefit analysis, consistently and rigorously to all major infrastructure projects.* **SUPPORT**

**Recommendation 2.** *Subject all election commitments to rigorous project evaluation processes before being included in the State Budget.* **SUPPORT**

**Recommendation 3.** *Publish the outcomes of all major project evaluations.* **SUPPORT**

CCFWA strongly endorses the view in the Draft Report that “the potential of infrastructure expenditure to raise economic growth depends largely upon the ability of government to implement good infrastructure investment evaluation processes”. Accordingly we support the Draft Report’s first three recommendations, all of which will lead to improvements in the current processes.

**Recommendation 4.** *Repeal the Royalties for Regions legislation, or restrict regional funding to an amount determined annually as part of the Budget process and guided by appropriate cost benefit analysis on a project-by-project basis.* **SUPPORT**

CCFWA endorses the ERA’s view that regional projects should compete for funding like all other projects, with the funding decisions based on cost benefit analysis. If, however, Government policy is to encourage regional development, this could be reflected in a weighting given to the cost benefit analysis of regional projects.

**Recommendation 5.** *Trial a congestion charge for entering the CBD during morning and afternoon peak periods. In order to implement this, further investigation will be required in order to determine the borders of the charging area, the fee structure, the charging and management system and the capacity of the public transport system to handle the likely increase in patronage.* **QUALIFIED SUPPORT**

CCFWA supports further investigation into a CBD congestion charge during peak periods. We also endorse ERA’s view that any such scheme should only be introduced after ensuring that Perth’s public transport system is geared to cope with extra patronage – including greatly increased park’n’ride facilities at suburban train stations. However given the substantial capital investment that would be required, we question the practicality of trialling a congestion charge.

**Recommendation 6.** *Progress be made towards implementing fully cost-reflective electricity tariffs for households and small businesses.* **7.** *Investigate the feasibility of introducing flexible electricity charging schemes such as time-of-use and critical peak pricing.* **SUPPORT**

CCFWA supports ERA’s view that pricing of utility services including power, gas, water and telecommunications should reflect the cost of providing these services.

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**Recommendation 8.** *Expand the use and scope of PPPs to procure public infrastructure, particularly in cases that will result in core services being delivered for better value for money.*

**QUALIFIED SUPPORT**

CCFWA supports all initiatives that can help address what former Infrastructure Australia (IA) Chairman Sir Rod Eddington has described as the “*fundamental disconnect between the infrastructure we want and our willingness to pay for it*”<sup>1</sup>. PPPs are a proven way for Governments to deliver infrastructure without providing up-front financing. The private sector can play an increasingly important role (although ultimately all public infrastructure is paid for by taxpayers or users).

However we draw ERA’s attention to a submission to the PC inquiry by Industry Super Funds: “*The current PPP bid process produces a major misalignment of interests between the bid sponsors, who are short-term financiers and contractors and the equity investors who are brought into a deal by them. Industry Super Funds believe that there is a better procurement process that satisfies both governments’ need for a competitive process and value for money outcome, as well as investors’ risk/return appetite*”<sup>2</sup>

With this in mind, it is important that the State Government investigates all options to attract private financing, not just PPPs. In this regard, strong, apolitical, evidence-based advice is vital, which is another reason we recommend a proposed State Infrastructure Agency be tasked with providing independent advice to the State Government on funding strategy and financing models, including any policy reforms that could encourage private investment.

**Recommendation 9.** *Develop a process and guidelines for unsolicited infrastructure proposals from the private sector.* **QUALIFIED SUPPORT**

CCFWA agrees that WA should follow the lead of other states and develop a clear set of guidelines for unsolicited project proposals, as it could encourage innovation in infrastructure delivery.

Our key concern is the level of exclusivity offered to proponents under some other states’ existing guidelines. In this respect we endorse the Victorian Government’s guidelines which, in the second stage of a five-stage process, considers whether the unsolicited proposal “*has a degree of uniqueness that justifies exclusive negotiation*”; and if there is a “*competitive market for the solution*”<sup>3</sup>.

While innovative ideas from the private sector are to be encouraged, the Government’s overriding concern should be value for money, which is most likely to be achieved through competition.

CCFWA notes that this is an area in which a State Infrastructure Agency can play a key advisory and oversight role in developing and implementing such guidelines – for example in providing independent advice on whether the proposal provides value for money.

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1. June 2013 Report to COAG. *Infrastructure Australia, June 2013.*

2. *Submission to Productivity Commission Inquiry into Public Infrastructure. Industry Super Funds, March 2014*

3. *Unsolicited proposal guideline. Victorian Department of Treasury and Finance, February 2014*

**Recommendation 10.** *Conduct a full investigation into the divestment of assets that pass the threshold criteria for private ownership.* **SUPPORT**

CCFWA congratulates the ERA for its detailed analysis of this issue, which can provide a framework for the State Government to adopt to strengthen its decision-making in this area. We endorse the ERA's view that the private sector is always better placed to meet consumer needs than Government. This holds true even where some form of intervention is required due to a lack of competition caused by monopolies or market failure.

**“Infrastructure WA”**

While CCFWA broadly supports the ERA's analysis and recommendations relating to infrastructure, we disagree with its conclusion that: *“the benefits to infrastructure outcomes from Government focusing on following good process and utilising the sources of advice already in place, such as the Auditor General and Infrastructure Australia, will likely exceed any marginal benefits to be gained from changing the structure, source or governance of infrastructure advice to the State Government.”*

We believe that far from being of marginal benefit, guidance of the type that would be provided by an independent statutory State Infrastructure Agency would lead to greatly increased rigour and transparency around infrastructure project planning, procurement and delivery. The resulting benefits, both indirect (such as increased productivity) and direct (such as greater value for money), would far outweigh the relatively small cost of maintaining the agency.

CCFWA questions the validity of ERA's comparison of the role of an independent infrastructure advisory board to the advisory function carried out by the Reserve Bank of Australia on monetary policy. We would contend that monetary policy is not sensibly comparable to the complexities of infrastructure provision. We accept both have a far-reaching effect on economic growth and productivity, and both are likely to be compromised by short-term political interests, but further comparisons are unhelpful.

The fact that infrastructure planning and provision is complex would seem to be a worthy justification for an independent agency able to provide advice and oversight to help ensure the Government has the best advice to guide its multi-billion dollar decisions – and that it is held to account when it decides to ignore that advice.

The Draft Report notes that the RBA's *“clear objective allows for transparency and accountability in decision making”*. These values are no less imperative in infrastructure planning and provision. The Draft Report suggests that infrastructure decisions are impossible to de-politicise, so any attempt to introduce a transparent, accountable, evidence-based process is pointless. While a political element in infrastructure decisions may be regarded as inevitable, it is nevertheless imperative that processes are in place that de-politicise infrastructure decision making as much as is possible.

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The Draft Report goes on to say: *“The argument against independent infrastructure advice is thus that politicians are the ones best placed to exercise the degree of judgement required to balance multiple, competing and often conflicting objectives of infrastructure investments.”* Recent experience in WA shows that politicians tend to lack sound judgment, especially near elections (although the competing and often conflicting advice they receive may be a factor). Nowhere was the need for an overhaul of the way infrastructure planning is approached in this State more evident than during last year’s State Election, as the Government and Opposition competed for votes with promises of multi-billion dollar infrastructure projects, none of them which had been subject to rigorous analysis.

The Draft Report notes that *“Ideally Government projects would be ranked and prioritised according to Benefit Cost Ratios (BCRs). Projects that deliver the highest benefit per dollar invested would then be undertaken first, maximising societal benefit. However, governments do not, and are at times unable to, rank all projects according to BCR.”* If governments are unable to rank all projects according to BCR, then this is a failure that must be addressed. Infrastructure decision making must always be evidence-based – and if not, a transparent process should hold the decision makers accountable for choosing to ignore the evidence. While individual departments and agencies would be expected to rank and prioritise the projects they propose, an independent advisory body would perform the crucial role of advising government on the relative merits of each project.

The Draft Report notes: *“In the annual budget round, agencies and Government Trading Entities (GTEs) compete for the limited funding pool available for government projects. In the absence of competitive markets for its goods and services, this process serves a vital role in allocating funding to those projects that provide the greatest benefit.”* CCFWA argues that the agency-by-agency bidding process as described above is deeply flawed and cannot lead to effective and efficient infrastructure provision. Nor can it ensure projects that provide the greatest benefit will be preferred. As evidenced by the State’s recent huge spending on education and health infrastructure, the current process may lead to disproportionate investment in social infrastructure, which is more likely to win voter approval. The Draft Report also comments on a recent trend *“for Government to provide infrastructure at a level that is beyond what is necessary”*. While this statement may be true in some circumstances, for example the Fiona Stanley case study referred to in the Draft Report, CCFWA would argue the opposite is true in most sectors. This is further evidence that the current bidding process results in “winners and losers” – with the ultimate losers being the State’s taxpayers, who receive poor value for the money invested on their behalf in infrastructure.

The strength of any project selection process is only as good as the quality of the research that informs the decisions that are made. It is vital that funding decisions are rigorously evidence-based and as ‘de-politicised’ as possible. An independent advisory body can provide this function. The ERA’s Draft Report notes the political reality that *“it is natural that a new government will bring with it a new set of infrastructure priorities”*, and that previous attempts to develop a State Infrastructure Strategy have stalled after a

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change of government. Unfortunately, issues around infrastructure provision have become increasingly politicised in recent decades. However this situation should not be accepted as inevitable or unchangeable. We cannot accept that infrastructure planning and decision-making must always be tied to the electoral cycle.

State Government departments already acknowledge the necessity for a longer-term view: The Department of Transport, for example, recently published a Regional Freight Transport Network Plan which it says “*articulates strategic planning, policy and capital project priorities to meet the freight transport demands of regional Western Australia to 2031*”<sup>4</sup>. We praise such initiatives but also question the Government’s inconsistency in developing and endorsing such sector-specific plans while rejecting the need for a State Infrastructure Plan to serve the same purpose on a broader scale – articulate strategic planning, policy and capital project priorities to meet the infrastructure demands of Western Australia to 2031.

The Draft Report quotes the Productivity Commission (PC) on the issue of long-term planning and endorses its view that: “*The Commission does not see merit at this stage in the Australian Government publishing a list of projects into the future. Publishing such a list would not address the fundamental impediments to achieving the efficient provision of public infrastructure in Australia.*”<sup>5</sup>

However it is important to note that the PC immediately goes on to say: “*However, the package of reforms advocated in this report should naturally lead to the disclosure of considerable information, such that funders and constructors would have a reasonable indication of the general nature of future public infrastructure. This would constitute an effective ‘pipeline.’*”<sup>5</sup>

While it is not convinced of the need for a published “pipeline”, the PC repeatedly makes the point that our current processes are flawed and there is a need for greater coordination, rigour and transparency – the type of coordination, rigour and transparency we believe is best achieved by a well-resourced, independent agency. The detailed, long-term analysis of the State’s infrastructure needs conducted by such an agency would, as the PC notes, constitute an effective pipeline.

The Draft Report notes: “*There are a series of strong institutional and governance arrangements and processes in place in Western Australia to guide the provision and delivery of the State’s public infrastructure. However their application in practice remains at the discretion of the government of the day and evidence reviewed in the course of the inquiry shows that these arrangements and processes are not always followed.*”

CCFWA notes ERA’s analysis of the existing processes including the Strategic Asset Management Framework but questions the conclusion that the existing processes are strong. The current dysfunctional state of infrastructure planning and provision in WA suggests that the current processes are failing. In its recent Draft Report on Public Infrastructure the PC noted “*the need for a comprehensive overhaul of processes in the assessment and development of public infrastructure projects*”.<sup>5</sup>

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4. *Regional Freight Transport Network Plan*. Department of Transport, April, 2014.

5. *Inquiry into Public Infrastructure Draft Report*. Productivity Commission, March 2014

Commenting on the local situation, the Property Council of Australia has said: *“Infrastructure in WA is loosely planned and no single agency is responsible for its coordination ... Currently, the only group with oversight of infrastructure provisioning in Western Australia is the Infrastructure Coordinating Committee (ICC) of the WAPC.”*<sup>6</sup> While it is difficult to gauge the effectiveness of the ICC due to the lack of transparency around its operation, its track record, composition and lack of executive support would suggest that it cannot fulfil the vital coordinating role needed, or provide independent advice and review functions.

### State-Federal issues

Infrastructure Australia (IA) is the Federal Government’s independent advisor on infrastructure issues. The new Federal Government has tasked IA to develop a 15-year pipeline of projects. While this is not in itself a compelling reason for the States to follow suit, it does put States at risk of being seen as “out of step” with Federal plans. As CCF WA noted in its initial submission: *“[T]he Federal Government’s recent decision to develop a 15-year pipeline of major infrastructure projects ... means states such as WA without a similar evidence-based pipeline will be at a disadvantage.”*

One of IA’s roles is to broadly consult with the States on issues affecting infrastructure funding, planning, procurement, and provision. An independent agency can play a valuable role in being the central point of contact for IA.

The ERA Draft Report suggests that the creation of an independent state-based advisory body would create unnecessary duplication: *“A primary benefit of an independent advisory body, access to an external peer-review process for project evaluation, has recently been made available to WA by Infrastructure Australia, which provides external expertise and scrutiny to State agencies’ proposals.”* CCF WA believes IA’s project evaluation role is inefficient, unnecessary, and should not be relied on as a central part of the State’s planning and review processes. In support of this we draw ERA’s attention to the recent Draft Report by the National Commission of Audit, which made some key recommendations for reforming the Federation, based on the following principles:

*“Under the principle of subsidiarity, policy and service delivery should, as far as practicable, be devolved to the level of government closest to the people receiving the services. This recognises sub-national governments are likely to have greater knowledge of the needs of citizens affected by their policies. It allows programmes to be tailored to meet community needs and recognises the significant differences across the nation.*

*“Under the principle of sovereignty, as far as practicable, each level of government should be sovereign in its own sphere. When reviewing roles and responsibilities, government activities should be allocated to one level of government where possible. This provides greater clarity and accountability.”*<sup>7</sup>

The current infrastructure project funding arrangements between the Commonwealth

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6. WA Infrastructure Planning & Coordination. Property Council of Australia, December 2012

7. Towards Responsible Government. National Commission of Audit, February 2014.

and the States run counter to these principles. CCFWA argues that the Federal Government should embrace these principles, as endorsed by the NCoA, and give the States sole decision-making power over allocation of infrastructure funds. In effect, this would dramatically reduce the potential scope of IA's activities and leave the prioritisation of infrastructure spending to the governments best placed to make these decisions – the States.

While this is the long-term goal, in the shorter term the State Government should not abrogate independent review responsibilities to IA. This will only reinforce the current perception that the States benefit from Federal guidance and intervention. The State Government needs to demonstrate that it has its own robust processes in place.

In this regard, the New South Wales government's independent statutory agency, Infrastructure NSW (INSW), provides a worthy model for WA to examine and adapt.

While INSW's role in developing a 20 Year State Infrastructure Strategy and Five Year Infrastructure Plans is important, it is also important not to overlook the other important functions it undertakes. These functions include:

- *Review and evaluate proposed major infrastructure projects by government agencies or the private sector and other proposed infrastructure projects;*
- *Assess the risks involved in planning, funding, delivering and maintaining infrastructure, and the management of those risks;*
- *Provide advice to the Premier on economic or regulatory impediments to the efficient delivery of specific infrastructure projects or infrastructure projects in specific sectors;*
- *Provide advice to the Premier on appropriate funding models for infrastructure.*<sup>8</sup>

CCFWA believes a similar body is needed in WA to provide the review, assessment, and advisory functions listed above. While it is still early days for INSW, we note the recent comments from its Chairman Graham Bradley and CEO Jim Betts: *"It is clear from our discussions across government and the private sector since taking on our roles at Infrastructure NSW in mid-2013 that there is a high regard for the added value that this agency provides."*<sup>9</sup>

## **Reducing the cost of complying with regulation**

### **Recommendations 11-25 – SUPPORT ALL**

The ERA's analysis in its Draft Report highlights the current over-regulation of WA businesses, and makes the crucial point that overhauling processes to prevent the introduction of more poor regulation is as important as tackling existing problems.

Of particular concern is the almost routine lack of transparency and accountability outlined in the Report, underlining the need for some form of independent oversight of regulatory issues.

CCFWA endorses all of the recommendations contained in sections 5.3 and 5.4 of the Report.

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8. *Infrastructure NSW Act 2011*. New South Wales Government

9. *Annual Report 2012/13*. Infrastructure NSW

## State taxes

CCFWA supports the WA Chamber of Commerce and Industry's call for the payroll tax threshold to be raised to \$1.5 million, meaning small businesses would be removed from paying payroll tax. We also support the Master Builders Association's view that payroll tax should ultimately be abolished as it is a disincentive to providing employment.

The ERA is correct to note that: "*Reforming State taxes will also do little to address the imbalance between the Western Australian and Federal Government in revenue raising capacities and expenditure obligations.*" In this regard, we are encouraged by the recommendations for Reforming the Federation contained in the National Commission of Audit's First Report, which if adopted would directly address this imbalance and potentially increase the State's GST revenue and reduce its reliance on other taxes on business.

## Domestic gas reservation policy

**Recommendation 30.** Rescind the domestic gas reservation policy as soon as possible.  
**SUPPORT**

CCFWA endorses the ERA's view that this policy is in effect a tax on production, and a disincentive for gas producers to invest in new infrastructure. Accordingly we support its removal.

*For more information please contact:*

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## About CCF

The Civil Contractors Federation is the member-based body representing the Australian civil construction industry, providing assistance and expertise in contractor development and industry issues. Nationally, we represent more than 1,550 civil contractors and a further 770 suppliers to industry.

CCFWA members are involved in a variety of projects and activities including the development and maintenance of civil or “horizontal” infrastructure such as roads, bridges, railways, sewer, water and drainage pipelines, dams, wharves, and commercial and housing land development.

In the 2012/13 financial year, a record \$15.5 billion was invested in civil infrastructure construction in Western Australia – a six-fold increase in just over a decade, due in part to works directly related to the state’s “resources boom”, as well as an increased appreciation by governments of the economic benefits of infrastructure investment.

This remarkable growth in infrastructure meant that during the 2011/12 financial year, total civil construction activity in WA exceeded building construction for the first time. While civil construction activity is expected to moderate from the current peak, the sector will remain about equal in size to the building industry – a dramatic turnaround from little more than a decade ago, when the building sector was double the size of civil.



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