

2023 - 2024 Budget Estimates

Rural and Regional Affairs and Transport

Lead/Support contact: Andreas Bleich/ s22(1)(a)(ii)

SB23-000681

SUBJECT: Infrastructure Australia Review and Implementation**Talking Points**

- On 7 December 2022 the Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government (Minister) announced the Australian Government was making changes to strengthen Infrastructure Australia (IA) in response to recommendations from the independent review of IA.
 - On 8 December 2022 the Minister released the reviewers' report and the Government's response, and presented key outcomes of the review at the Boomtown! Property and Infrastructure Summit.
- The Government supports most of the recommendations, including:
 - giving IA a clearer purpose with a legislated mandate
 - replacing IA's 12-member board with three commissioners supported by an Advisory Board that will include up to three senior Australian Public Service officials
 - refining IA's products, including a smaller, more targeted Infrastructure Priority List
 - facilitating greater collaboration with state and territory infrastructure bodies.
- Some of the agreed changes to IA will require amendments to the *Infrastructure Australia Act 2008* (IA Act).
 - The Infrastructure Australia Amendment (Independent Review) Bill 2023 was introduced into Parliament on 22 March 2023 to implement elements of the Government's response to the Independent Review of IA.
- The remaining changes will be implemented through an updated Statement of Expectations (SoE) and the Infrastructure Policy Statement that the Minister has committed to develop.
- On 15 December 2022 the Minister put in place interim arrangements for the IA Board, making five appointments to take the IA Board to eight members, ensuring there is a quorum to carry out IA's core functions while the Government implements the agreed recommendations from the independent review of IA.
- The Minister made five appointments as part of interim arrangements for the IA Board for 12 months:
 - Ms Gabrielle Trainor AO was appointed as the interim Chair of IA
 - Ms Clare Gardiner-Barnes was appointed as an acting board member

Contact: Andreas Bleich**Cleared by First Assistant Secretary:** Andrew Bourne**Phone:** (02) 6274 7934**Version Number:** 01**Date:** 12/05/2023

2023 - 2024 Budget Estimates

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SB23-000681

- the three state and territory nominees, Mr Mark Balnaves, Mr John Fitzgerald and Ms Marion Fulker AM, were reappointed as acting board members.
- These five appointments take the IA Board's membership to eight, ensuring there is a quorum to carry out IA's core functions as IA transitions to the new governance model. Four positions on the IA Board remain vacant.

Key IssuesIndependent Review of Infrastructure Australia

- On 22 July 2022 the Government announced it had appointed Ms Nicole Lockwood and Mr Mike Mrdak AO to lead an independent review of IA.
 - The review examined IA's role as an independent advisor to the Commonwealth on nationally significant infrastructure priorities, and IA's capacity to deliver on this role.
 - The department established a secretariat to support the reviewers.
- The reviewers held consultations through August and September 2022, meeting with over 140 stakeholders (including industry, state and territory government agencies and infrastructure bodies), and received 59 submissions to the review.
- On 5 October 2022 the reviewers submitted their report to the Minister with their findings and recommendations.
- Information relating to the review is available on the department's website. A summary of the independent review recommendations and Australian Government response is at **Attachment A**.
- All costs associated with the review have been absorbed by the department, including remuneration for the reviewers, departmental ASL for the review secretariat, and travel and disbursement costs for the reviewers to conduct consultations. s47C
s47C
- The reviewers were engaged by the department through a standard Commonwealth contract, using maximum daily rates from the Remuneration Tribunal's determination for part-time office holders. s47C
No further invoices are expected.

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SB23-000681

Infrastructure Australia Board Appointments

- The Minister issued a media release on 18 December 2022 to announce the five appointments and noted that these appointments are for a period of up to 12 months, to enable a transition to the new governance arrangements.
- The Minister selected Ms Gabrielle Trainor AO and Ms Clare Gardiner-Barnes from a short list of potential candidates prepared by the Department of Infrastructure, Transport, Regional Development, Communication and the Arts.
 - The reappointment of the three state and territory nominees was recommended to provide continuity on the IA Board during the period of change following the review. This was discussed with jurisdictions at the Infrastructure and Transport Ministers' Meetings and Infrastructure and Transport Senior Officials' Committee.
- On 4 August 2022 the department received a Freedom of Information (FOI) request from Senator Matthew Canavan, seeking all documents on or after 22 May 2022 relating to board appointments and board members of IA. The department released the requested documents on 4 November 2022. Affected parties with personal information in the FOI package were consulted prior to the release of the FOI.
- On 6 December 2022 documents from the Minister's office relating to board appointments and board members for Infrastructure Australia were released in response to a FOI request issued to the Minister.
- The IA Board did not have a quorum from 1 October 2022 to 14 December 2022.

Background

- IA was established in 2008 by the IA Act to provide independent advice to all levels of government on Australia's future infrastructure needs and related infrastructure matters.
- Under the IA Act, the IA Board comprises 12 members (including the Chair) appointed by the responsible Minister by written instrument:
 - nine are nominated by the Government
 - three are nominated by the states and territories
 - eight members constitute a quorum for board meetings.
- Consistent with the Cabinet Handbook:
 - the responsible Minister must seek the Prime Minister's or, at his discretion, Cabinet's approval of these significant appointments

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2023 - 2024 Budget Estimates

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SB23-000681

- an initial acting appointment for up to three months can be made without seeking the Prime Minister's approval, but any further extension requires the formal approval of the Prime Minister.
- The IA Act requires:
 - Board members to have knowledge of, or experience in, a field relevant to IA's functions (transport, water, energy, and communications)
 - at least five members, including the Chair, to have relevant private sector experience
 - at least one member to have acquired experience in local government.
- The functions of the IA Board are:
 - to decide the objectives, strategies and policies to be followed by IA
 - to ensure the proper, efficient and effective performance of IA's functions and
 - any other functions conferred on the Board by the IA Act.
- The Chair may be appointed on a full-time or part-time basis. Other members must be appointed on a part-time basis. Remuneration for IA Board members is determined by the Remuneration Tribunal.
- Under the IA Act, the Minister may only terminate the appointment of an IA Board member or the IA Chair for specific reasons. This includes misbehaviour, mental or financial incapacity, or sustained absence from duties or meetings. The appointment of an IA Board member may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013*.
- Seven new board members, including a new Chair, were appointed to the IA Board in November and December 2021 due to expiring positions. Five of these members resigned in 2022:

s47F

- Information about current IA Board members and their terms is at **Attachment B**.

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SB23-000681

Attachments

- Attachment A: Recommendations and Government response to the Independent Review of Infrastructure Australia
- Attachment B: Infrastructure Australia - Board Members

Contact: Andreas Bleich**Cleared by First Assistant Secretary:** Andrew Bourne**Phone:** (02) 6274 7934**Version Number:** 01**Date:** 12/05/2023

ATTACHMENT A: Independent Review of Infrastructure Australia – Review Recommendations and Australian Government Response summary

Recommendation	Government response (summary)
<p>Recommendation 1</p> <p>The Review recommends Infrastructure Australia's (IA) mandate be defined as 'the Australian Government's national advisor on national infrastructure investment planning and project prioritisation'. This should include advising the Australian Government on its strategies and priorities to invest in transport, water, communications, energy, social and economic infrastructure.</p> <p>The Review recommends this mandate be defined in the IA Act.</p>	<p>Support in principle</p> <p>The Government supports the need for a defined mandate for Infrastructure Australia.</p> <p>The Government considers IA's focus should remain on nationally significant projects relating to transport, water, communications and energy infrastructure. IA may examine other infrastructure sectors such as social and economic infrastructure as appropriate, where it is embedded as part of broader strategic and place-based planning considerations associated with transport, water, communications and energy infrastructure</p>
<p>Recommendation 2</p> <p>The Review recommends that to support Infrastructure Australia's mandate, the Australian Government formally issues a Charter of Infrastructure Investment Objectives, which outlines the Government's national infrastructure investment objectives and intended performance standards. To provide long-term certainty and guidance, the Review recommends this Charter be issued on a five yearly basis ahead of the refresh of the Infrastructure Plan.</p> <p>The Review recommends the requirement for this Charter be formalised in the IA Act.</p>	<p>Support in principle</p> <p>The Government intends to issue an Infrastructure Policy Statement, which will set out the Government's infrastructure investment objectives. IA will use the Government's Infrastructure Policy Statement to guide its advice to the Government.</p> <p>The Government will also continue to issue a Statement of Expectations to Infrastructure Australia. The SoE will be used to provide guidance to IA on how it can support delivery of the Government's immediate priorities, including those set out in the Infrastructure Policy Statement.</p>
<p>Recommendation 3</p> <p>The Review recommends that Infrastructure Australia's existing product suite be refined to better support government infrastructure investment objectives and to inform the budget process.</p>	<p>Support</p> <p>The Government will require a targeted and streamlined product suite, in line with the Government's policy objectives, and provide solutions-focused advice and recommendations.</p>

Recommendation	Government response (summary)
<p>Recommendation 4</p> <p>The Review recommends that Infrastructure Australia also provides two new annual statements to the Australian Government to inform the annual budget process on infrastructure investment, and report on the performance outcomes being achieved from the investment program and the existing project initiatives.</p> <p>The Review recommends that the Government consider tabling these annual products in the interests of transparency and accountability.</p>	<p>Support in part</p> <p>The Government supports the recommendation that Infrastructure Australia provide annual statements to the Government.</p> <p>The Government does not support tabling these annual products if they will likely inform deliberations of the Cabinet. However, the Government is committed to increasing the transparency of the infrastructure investment pipeline and will consider the best means to do this as part of the infrastructure policy statement.</p>
<p>Recommendation 5</p> <p>The Review recommends that there is a requirement within the IA Act that the Australian Government must formally, and publicly, respond to Infrastructure Australia's advice, findings and recommendations within six months.</p>	<p>Support in principle</p> <p>The consideration of IA's advice, in a budget context, may be the subject of Cabinet deliberations, and therefore not appropriate for formal release, or response.</p> <p>Where the Government commissions IA to provide advice that may benefit from a wider public discourse ahead of final decisions, such as an Infrastructure Plan, the Government may consider that a formal response is warranted</p>
<p>Recommendation 6</p> <p>The Review recommends that Infrastructure Australia's remit be expanded to include social infrastructure (where it is relevant to the infrastructure investment project, or place and precinct in question) as well as future investment challenges where Infrastructure Australia's position as the national advisor best enables it to incorporate those challenges in its advice and analysis.</p>	<p>Support in part</p> <p>The Government considers IA's focus should be on nationally significant projects relating to transport, water, communications and energy infrastructure.</p> <p>From time to time, it may be appropriate for Infrastructure Australia to consider social infrastructure implications where it is part of broader network analysis or place-based project advice. Where required, the Government can request this work through the Statement of Expectations.</p>

Recommendation	Government response (summary)
<p>Recommendation 7</p> <p>The Review recommends that Infrastructure Australia develops a national planning and assessment framework, providing uniform guidelines based on best practice to support national consistency and coordination in infrastructure assessment. This work must have regard to and build in the broader government infrastructure objectives as outlined in the Charter and the Plan.</p>	<p>Support</p> <p>The Government supports the recommendation that IA develops a national Infrastructure planning and assessment framework and will include it in the Statement of Expectations issued to Infrastructure Australia. The Government notes that it will be important for Infrastructure Australia to work with the states and territories to encourage alignment of jurisdictional frameworks.</p>
<p>Recommendation 8</p> <p>The Review recommends that Infrastructure Australia's role in the project assessment context becomes one of accreditation or peer-review, acknowledging that many state and territories have developed their own project assessment capabilities. Such arrangements should apply across all projects, including those involving Commonwealth investments of over \$250 million or recognised as 'nationally significant'.</p> <p>Where a state or territory framework does not provide the necessary assurance or have not been accredited and the project involves Commonwealth investments of over \$250 million or is recognised as 'nationally significant', Infrastructure Australia will undertake a full assessment. Infrastructure Australia's assessment must be against the Charter objectives and strategies as outlined in the Plan.</p>	<p>Support</p> <p>The Government supports the recommendation that IA's role in the project assessment context becomes one of accreditation or peer-review in support of state and territory processes and capabilities. A collaborative approach with the states and territories will be necessary to achieve this, and the Government will explore opportunities to harmonise the business case/project review approach where possible. Where IA can use its assessment capabilities to supplement the work of a jurisdiction, it will have the flexibility to do so.</p>

Recommendation	Government response (summary)
<p>Recommendation 9</p> <p>The Review also recommends that, reflecting Infrastructure Australia's role as the national advisor, it adopts a much more active role in the post-completion stage through having a clear national evaluation and assurance role against the Charter and Plan.</p>	<p>Support</p> <p>The Government agrees that IA should have responsibilities in the post-completion stage, and will use the Statement of Expectations to implement this recommendation.</p> <p>The Government notes that a framework for this type of evaluation and assessment will need to be developed, in consultation with relevant stakeholders, including state and territory governments.</p>
<p>Recommendation 10</p> <p>The Review recommends the formation of an I-bodies council to enable better collaboration and coordination between Infrastructure Australia and state and territories. This formation could be formalised in the IA Act or be made a sub-committee of the Board.</p>	<p>Support in principle</p> <p>The Government supports enhanced collaboration and coordination between IA and state and territory infrastructure bodies. As well as ensuring good relations across the Federation, such collaboration also informs a harmonised, uniform approach on key infrastructure matters.</p>

Recommendation	Government response (summary)
<p>Recommendation 11</p> <p>The Review recommends the definition of 'national significance', in the context of project assessment, is revised to include both the \$250 million monetary threshold figure as well as a list of non-monetary metrics, including factors as outlined in the five yearly Charter and/or a supplementary Statement of Expectations.</p>	<p>Support in principle</p> <p>For project assurance and assessment as part of the Australian Government project funding approvals process, the National Partnership Agreement on Land Transport Infrastructure Projects and associated Notes on Administration, and other intergovernmental funding agreements, require Infrastructure Australia to assess projects seeking \$250 million or more in Commonwealth funding. The Government will retain the existing threshold of \$250 million, and will reinforce this through the Statement of Expectations, but also include flexibility for IA to consider projects under this threshold which are nationally significant.</p> <p>For the purposes of identifying national infrastructure needs and priorities, the Government notes the current definition of 'nationally significant infrastructure' in the IA Act as including transport, energy, communications and water in which investment or further investment will materially improve national productivity.</p>

Recommendation	Government response (summary)
<p>Recommendation 12</p> <p>The Review recommends that Infrastructure Australia be provided powers to undertake formal inquiries into national infrastructure investment topics, and supporting powers to enable it to carry out such inquiries. Matters may be referred by the Minister or may be undertaken by Infrastructure Australia, on its own initiative and in line with its Charter.</p> <p>The IA Act should be amended to include similar provisions such as those in Parts 2, 3 and 4 of the Productivity Commission Act 1998 (Cth) outlining the formal inquiry role and necessary functions and powers required perform this function.</p> <p>In performing its commission and inquiry functions, Infrastructure Australia should have regard to matters including 'national significance', infrastructure investment, collaboration and coordination with state and territory projects and I-bodies, and engagement with the private sector.</p> <p>A copy of the Infrastructure Australia inquiry report should be tabled in each House of Parliament within 25 sitting days of that House, and after the day the Minister has received the report.</p> <p>The Government must formally respond to the report and findings of Infrastructure Australia.</p>	<p>Support in part</p> <p>The Government does not support Infrastructure Australia undertaking formal inquiries; rather it will continue with research projects in alignment with the Government's Infrastructure Policy Statement, and/or in consultation with the Government.</p>

Recommendation	Government response (summary)
<p>Recommendation 13</p> <p>The Review recommends the Government consider the three structure governance model options as discussed above to strengthen the role and influence of Infrastructure Australia through its governance framework. The Review notes its preferred model is that of a commission model (option 2). The commission would be formed to lead the agency as well as have power to undertake inquiries on topics.</p>	<p>Support – favouring in principle option 2</p> <p>The Government’s intended governance arrangement would be to have three commissioners (or equivalents). A Chief commissioner would be supported by two commissioners in the delivery of Infrastructure Australia’s mandate.</p> <p>IA would continue to have a CEO responsible for the day-to-day administration of IA.</p> <p>An advisory board would provide additional expertise in support of the commissioners. The advisory board would comprise of three or four experts from the infrastructure and related sectors and up to three senior Australian Public Service officials.</p>
<p>Recommendation 14</p> <p>The Review recommends the establishment of a Cities and Suburbs Unit within the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA).</p>	<p>Support</p> <p>The Government supports the establishment of a Cities and Suburbs Unit (CSU) within DITRDCA. The Government acknowledges that to support the operations and functions of the CSU, IA should continue to focus on data, analysis and evidence, consistent with its advisory.</p>
<p>Recommendation 15</p> <p>The Review recommends that the Government clearly delineate the roles and responsibilities of Infrastructure Australia vis-a-vis other Commonwealth infrastructure bodies, including Infrastructure and Commercial Advisory Office and DITRDCA (Infrastructure Investment Division and Significant Projects Investment Delivery Office). This should include investigating options for closer collaboration to provide each other mutual support in carrying out their respective roles, as advisors on infrastructure matters to the Australian Government.</p>	<p>Support</p> <p>The Government supports the delineation of roles and responsibilities for Infrastructure Australia and other Commonwealth agencies with infrastructure responsibilities, including DITRDCA and Treasury.</p>

Recommendation	Government response (summary)
<p>Recommendation 16</p> <p>The Review recommends that Infrastructure Australia be placed within either Department of Prime Minister and Cabinet or the Department of Treasury, through changes to the Administrative Arrangements Order.</p> <p>Should the Government decide not to support Recommendation 16, the Review strongly urges the Government to consider the option of including the Secretaries of these two central agencies on the Infrastructure Australia Board as ex officio members.</p>	<p>Support in part</p> <p>The Government does not support movement of IA to a central agency.</p> <p>The Government considers that strengthening the linkages between IA and senior officials from the Department of the Prime Minister and Cabinet, Treasury and DITRDCA, for instance by including Secretaries as members of the advisory board, could help improve IA's interactions with government investment and decision-making processes and quality of advice.</p>
<p>For government consideration</p> <p>The Review urges the Australian Government consider, especially from the asset maintenance, management and resilience building perspective, how to utilise the existing Regional Development Australia structure to enhance coordination and collaboration with local government and support their program delivery responsibilities</p>	<p>Noted</p>

ATTACHMENT B: Infrastructure Australia Board Members

Name	Relevant experience	Term start (Previous terms start in italics)	Term end (Previous terms end in italics)	Field				Discipline					Sector	State	Gender
				Transport	Water	Energy	Communications	Economics	Finance	Planning	Engineering	Law			
Gabrielle Trainor AO Chair	Previous IA Board member which expired in 2021. Chair, Construction Industry Culture Taskforce, Director of the Western Parkland City Authority, the ACT City Renewal Authority and the Major Transport Infrastructure Authority (Vic). Commissioner of the Australian Football League and former Churchill Fellow and a Fellow of the Australian Institute of Company Directors.	s47F													
Clare Gardiner-Barnes	Director CGB Consulting Pty Ltd, Board member Women's and Girls Emergency Centre, and Companion of Engineers Australia. Former head of Strategy, Planning and Innovation at Infrastructure NSW, former Deputy Secretary at Transport for NSW, former board member for NSW Telco Authority.														
Mark Balnaves	Current IA Board Member – nominated by state/territory ; Chair, Celsus Pty Ltd (the management company of the Royal Adelaide Hospital); Executive Chairman, Austofix Group Limited; Director; Evans+Ayers Pty Ltd (a corporate advisory firm); Director and former Chairman, MedTEC SA.														
John Fitzgerald	Current IA Board Member – nominated by state/territory ; Chair, ACT Suburban Land Agency; Chair, Evolution Rail Pty Ltd (delivering the Melbourne High Capacity Metro Trains project); Chair, Infranexus Management Pty Ltd (an IFM Investors subsidiary); Former Chair, Canberra Light Rail Project Board; Former Interim CEO, IA; Former Deputy Secretary, Victorian Treasury.														
Marion Fulker AM	Current IA Board Member – nominated by state/territory ; Chair, Perth Zoo; CEO, Committee for Perth; Adjunct Associate Professor, University of WA; Former Chair, Heritage Council of WA; Former Chair, Conservation and														

Name	Relevant experience	Term start (Previous terms start in italics)	Term end (Previous terms end in italics)	Field				Discipline					Sector	State	Gender
				Transport	Water	Energy	Communications	Economics	Finance	Planning	Engineering	Law			
	Parks Commission (WA); Former Executive Director; Urban Development Institute of Australia WA Division.	s47F													
Dr Vanessa Guthrie AO	Current IA Board Member – nominated by Commonwealth ; Non-Executive Director, Santos Ltd; Non-Executive Director, Tronox Holdings plc; Non-Executive Director, AdBri Limited; Non-Executive Director, Cricket Australia; Former non-Executive Director, Australian Broadcasting Corporation; Pro Chancellor, Curtin University; Former Deputy Chair, Western Australian Cricket Association; Former Chairman of the Board, Minerals Council of Australia; Former executive general manager of Toro Energy's Wiluna uranium project.														
Robert Moffat	Current IA Board Member – nominated by Commonwealth ; CEO, Australasian Centre for Rail Innovation; Vice-Chair, International Railway Research Board; Former Rail Interface Manager, Cross River Rail Delivery Authority; GM, National Trunk Rail; National Strategic Development Manager Rail, Theiss; Independent Safety Consultant, DuPont Sustainable Solutions; Group GM, SEQ Qld Rail.														
John McGee	Current IA Board Member – nominated by Commonwealth ; Director, Climate Change Authority; Director Sydney Local Health District; formerly Managing Director Bank of New York Australia; director Air Services Australia; Non-executive director Private Health Insurance Administrative Council; Non-executive director Westpac Funds Management; Non-executive director, Delhi Petroleum; Non-executive director Bluestone Mortgages; Non-executive director, Progenix.														
Vacancy															

Name	Relevant experience	Term start (Previous terms start in italics)	Term end (Previous terms end in italics)	Field				Discipline					Sector	State	Gender
				Transport	Water	Energy	Communications	Economics	Finance	Planning	Engineering	Law			
Vacancy															
Vacancy															
Vacancy															

Groups	Key
New appointees and re-appointees	
Current Board Members expiring beyond next 12 months	
Vacant positions	
Private sector	Pri
Public sector	Pub
Local Government	Local

PROTECTED CABINET

MS23-003113



Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

s47C

To: The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government for decision

Subject: Implementing the Australian Government's response to the independent review of Infrastructure Australia (IA) through the *Infrastructure Australia Amendment (Independent Review) Bill 2023 (the Bill)* and s47C

Critical Date: s47C
s47C

Recommendations:

1. That you **approve** the Bill, explanatory memorandum and second reading speech at **Attachments A, B and C** to be lodged in Parliament for introduction in the week beginning 20 March 2023.

Approved / Not Approved

s47C

The Hon Catherine King MP

Date: 15.3.23

Comments:

Key Points:

1. During the 2022 election the Australian Government committed to an independent review of IA to consider its role as an independent adviser to the Commonwealth on nationally significant infrastructure (the Review).
2. On 5 October 2022 the reviewers submitted their report to the Government with the Review's findings and recommendations. On 8 December 2022 you released the report and the Government response (**Attachment E**).
3. s47C provided policy authority to progress amendments to the *Infrastructure Australia Act 2008* (IA Act) to implement changes to IA's mandate, product

PROTECTED CABINET

suite, and governance arrangements. ^{s47C}

4. The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (Department) has worked with your Office, the Office of Parliamentary Counsel, legal services and central agencies to prepare the proposed Bill. The Bill provides the necessary legislative amendments to the IA Act to implement the relevant recommendations of the Government response to the report.
5. Passage of the legislative amendments to the IA Act should occur in 2023 to give effect to IA's revised mandate, its functions and the new governance structure to mitigate uncertainty for IA.
6. ^{s47C}
7. The Bill provides for Part 1, in relation to the functions and mandate of IA, to commence on or the day after the Act receives Royal Assent, and Part 2, which relates to governance arrangements, to commence six months and one day after the Bill receives Royal Assent. This will provide time for the Department to undertake a merit-based selection process, prior to you appointing the Commissioners.
8. Your approval is required for the Bill, explanatory memorandum, and second reading speech to be lodged for introduction into Parliament for introduction in the week beginning 20 March 2023, ^{s47C}
9. The implementation of other aspects of the Government response to the report will be achieved through a new Statement of Expectations to issue to IA. ^{s47C}
10. ^{s47C}

Financial impacts:

11. Nil in relation to the introduction of legislation. ^{s47C}

Legal/Legislative impacts:

12. Legislation to implement the Government's response to the IA review is required ^{s47C}
Advice was also sought on specific clauses of the Bill to ensure that it is constitutionally supported.
13. There are nil regulatory impacts.

Stakeholder Implications:

14. ^{s47C}
15. Should the Bill pass, IA's mandate and product suite will be updated and its governance arrangements changed, which will impact on the organisation and its staff. The Department has engaged with IA throughout the process to mitigate any potential negative impacts.

Consultation:

16. s47C [REDACTED]

Media Opportunities:

17. The Department will work with your Office on any media opportunities once legislation is introduced into the Parliament.

Attachments:

Attachment A: *Infrastructure Australia Amendment (Independent Review) Bill 2023*

Attachment B: Explanatory Memorandum

Attachment C: Second Reading Speech

Attachment D: s47C [REDACTED]

Attachment E: Australian Government Response to the Independent Review of IA

Attachment F: s47C [REDACTED]

Cleared By: Andreas Bleich

Position: Assistant Secretary

Division: Infrastructure Investment Division

Ph: (02) 6274 7934

Mob: s22(1)(a)(ii) [REDACTED]

Cleared Date: 11 March 2023

Contact Officer: s22(1)(a)(ii) [REDACTED]

Section: Engagement, Advisory and Projects

Ph: s22(1)(a)(ii) [REDACTED]

Mob: s22(1)(a)(ii) [REDACTED]

Instructions for MPS: Nil

Responsible Adviser: s22(1)(a)(ii) [REDACTED]

PDMS Distribution List: Jim Betts, David Hallinan, Andrew Bourne, Andreas Bleich, s22(1)(a)(ii) [REDACTED]

2022-2023

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Infrastructure Australia Amendment (Independent Review) Bill 2023

No. , 2023

(Infrastructure, Transport, Regional Development, Communications and the Arts)

**A Bill for an Act to amend the *Infrastructure
Australia Act 2008*, and for related purposes**

B23QW132.v55.docx 8/3/2023 2:10 PM

Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedules.....	2
Schedule 1—Amendments		3
Part 1—Functions		3
	<i>Infrastructure Australia Act 2008</i>	3
Part 2—Governance		10
	<i>Infrastructure Australia Act 2008</i>	10

OPC drafter to complete	
1. Does this Bill need a message? (See H of R Practice, sixth ed, pp. 423-427, and OGC advice.) If yes: <ul style="list-style-type: none"> List relevant clauses/items—[clause 11 remuneration of Commissioners] Prepare message advice (see Drafting Direction 4.9) Give a copy of the message advice to the Legislation area. 	Yes
2. Does this Bill need a notice? (See H of R Standing Order 178 and Drafting Direction 3.2.) If no list relevant clauses/items—	Yes
3. Is there any constitutional reason why this Bill should not be introduced in the Senate? (See Constitution sections 53 and 55 and Drafting Direction 3.2.)	Yes

A Bill for an Act to amend the *Infrastructure Australia Act 2008*, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Infrastructure Australia Amendment (Independent Review) Act 2023*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information**Column 1****Column 2****Column 3****Provisions****Commencement****Date/Details**

1. Sections 1 to 3
and anything in
this Act not
elsewhere covered
by this table

The day this Act receives the Royal Assent.

2. Schedule 1,
Part 1

The day after this Act receives the Royal Assent.

3. Schedule 1,
Part 2

A single day to be fixed by Proclamation.
However, if the provisions do not commence
within the period of 6 months beginning on
the day this Act receives the Royal Assent,
they commence on the day after the end of
that period.

Note:

This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments**Part 1—Functions*****Infrastructure Australia Act 2008*****1 After section 2**

Insert:

2A Object

The object of this Act is to establish Infrastructure Australia as the Commonwealth Government's independent adviser on nationally significant infrastructure investment planning and project prioritisation.

2 Section 3 (definition of COAG)

Repeal the definition.

3 Paragraphs 5(a) to (gb)

Repeal the paragraphs, substitute:

- (a) to conduct audits in accordance with section 5A;
- (aa) to conduct or endorse evaluations in accordance with section 5B;
- (b) to develop lists (to be known as Infrastructure Priority Lists) and plans (to be known as Infrastructure Plans) in accordance with section 5C;
- (c) the functions mentioned in section 5D (providing advice on infrastructure matters);

4 Sections 5A to 5C

Repeal the sections, substitute:

5A Functions—conducting audits

- (1) For the purposes of paragraph 5(a), Infrastructure Australia has the function of conducting audits to determine the adequacy, capacity

Schedule 1 Amendments**Part 1** Functions

- 1 and condition of nationally significant infrastructure, taking into
 2 account:
 3 (a) forecast economic and population growth; and
 4 (b) economic, social and environmental sustainability; and
 5 (c) Australia's greenhouse gas emissions reduction targets.
- 6 (2) An audit must be prepared under this section at such intervals as
 7 the Board determines.
- 8 (3) In performing this function, Infrastructure Australia may consider
 9 State, Territory or local government reports on the adequacy,
 10 capacity and condition of nationally significant infrastructure.

5B Functions—evaluating infrastructure proposals*National planning and assessment framework*

- 13 (1) Infrastructure Australia must develop a national planning and
 14 assessment framework to promote national consistency and
 15 coordination in infrastructure evaluations.
- 16 (2) The framework is not a legislative instrument.
- 17 (3) Infrastructure Australia must give the framework to the Minister
 18 and publish the framework on Infrastructure Australia's website.
- 19 (4) Infrastructure Australia must review the framework at least every 5
 20 years.
- 21 (5) In developing and reviewing the framework, Infrastructure
 22 Australia must consult with States and Territories.

Evaluations

- 24 (6) For the purposes of paragraph 5(aa), Infrastructure Australia has
 25 the function of evaluating, or endorsing evaluations conducted by
 26 or for States or Territories of, proposals covered by subsection (7)
 27 that are submitted by any of the following:
 28 (a) the Commonwealth;
 29 (b) a Commonwealth entity (within the meaning of the *Public*
 30 *Governance, Performance and Accountability Act 2013*);
 31 (c) a Commonwealth company (within the meaning of that Act);

-
- 1 (d) a State;
- 2 (e) a Territory.
- 3 (7) For the purposes of subsection (6), this subsection covers proposals
- 4 for investment in, or enhancements to, the following infrastructure:
- 5 (a) nationally significant infrastructure;
- 6 (b) other infrastructure determined by the Minister.
- 7 (8) A determination made by the Minister under paragraph (7)(b) is a
- 8 legislative instrument.
- 9 (9) As soon as practicable after the end of each quarter, Infrastructure
- 10 Australia must make available on its website:
- 11 (a) a summary of each proposal evaluated by Infrastructure
- 12 Australia during the quarter; and
- 13 (b) a summary of each proposal for which Infrastructure
- 14 Australia endorsed an evaluation during the quarter.

15 **5C Functions—developing Infrastructure Priority Lists and**

16 **Infrastructure Plans**

17 *Infrastructure Priority Lists*

- 18 (1) For the purposes of paragraph 5(b), Infrastructure Australia has the
- 19 function of developing targeted Infrastructure Priority Lists that:
- 20 (a) specify priorities for Commonwealth investment in nationally
- 21 significant infrastructure across Australia; and
- 22 (b) take into account:
- 23 (i) audits mentioned in section 5A; and
- 24 (ii) evaluations conducted or endorsed by Infrastructure
- 25 Australia in accordance with section 5B; and
- 26 (iii) consultations with Commonwealth, State and Territory
- 27 governments; and
- 28 (iv) any other matters Infrastructure Australia considers
- 29 relevant.
- 30 (2) Infrastructure Australia must develop Infrastructure Priority Lists
- 31 at such intervals as the Board determines. Infrastructure Australia
- 32 must also develop an Infrastructure Priority List if the Minister
- 33 requests.

Schedule 1 Amendments**Part 1** Functions*Infrastructure Plans*

- (3) For the purposes of paragraph 5(b), Infrastructure Australia has the function of developing Infrastructure Plans specifying priorities for nationally significant infrastructure across Australia.
- (4) An Infrastructure Plan:
 - (a) must be developed at the request of the Minister; and
 - (b) may be developed on Infrastructure Australia's own initiative after consultation with the Minister.
- (5) An Infrastructure Plan must cover the period determined by the Board after consultation with the Minister.
- (6) Infrastructure Australia must make an Infrastructure Plan available on Infrastructure Australia's website within 14 days after it is developed.

5D Functions—providing advice on infrastructure matters

- (1) For the purposes of paragraph 5(c), Infrastructure Australia has the following functions:
 - (a) to identify any impediments to investment in nationally significant infrastructure and identify strategies to remove any impediments identified;
 - (b) to promote the timely and efficient delivery of nationally significant infrastructure projects, consistent with considerations of social and environmental sustainability;
 - (c) to identify and promote best practice in the planning and procurement of nationally significant infrastructure projects;
 - (d) to review and provide advice on proposals to facilitate the harmonisation of policies, and laws, relating to development of, and investment in, infrastructure;
 - (e) to review Commonwealth infrastructure funding programs and their alignment with Infrastructure Plans:
 - (i) at the request of the Minister; or
 - (ii) after consultation with the Minister;
 - (f) to inquire into and report on matters relating to nationally significant infrastructure:
 - (i) at the request of the Minister; or

- 1 (ii) after consultation with the Minister.
- 2 (2) For the purposes of paragraph 5(c), Infrastructure Australia has the
- 3 function of providing advice to the Minister and the
- 4 Commonwealth on matters relating to infrastructure, including in
- 5 relation to the following:
- 6 (a) Australia's current and future needs and priorities relating to
- 7 nationally significant infrastructure;
- 8 (b) policy, pricing and regulatory issues that may impact on the
- 9 utilisation of infrastructure;
- 10 (c) policy issues arising from climate change, including the
- 11 achievement of Australia's greenhouse gas emissions
- 12 reduction targets;
- 13 (d) impediments to the efficient utilisation of national
- 14 infrastructure networks;
- 15 (e) options and reforms, including regulatory reforms, to make
- 16 the utilisation of national infrastructure networks more
- 17 efficient;
- 18 (f) the needs of users of infrastructure;
- 19 (g) mechanisms for financing investment in infrastructure;
- 20 (h) the delivery of infrastructure projects.
- 21 (3) For the purposes of paragraph (2)(h), Infrastructure Australia may
- 22 evaluate the delivery of an infrastructure project, including
- 23 evaluating:
- 24 (a) the delivery against any targets set before or during delivery;
- 25 and
- 26 (b) any relevant assumptions made before or during delivery.
- 27 (4) Infrastructure Australia also has the function of promoting public
- 28 awareness of the matters mentioned in subsections (2) and (3),
- 29 including by publishing information on its website.

30 **5E Infrastructure Australia must have regard to policies**

31 In performing its functions and exercising its powers,

32 Infrastructure Australia must have regard to the policies of the

33 Commonwealth Government in relation to infrastructure.

Schedule 1 Amendments**Part 1** Functions**5 Subsection 6(2)**

Repeal the subsection, substitute:

- (2) In giving directions under subsection (1), the Minister may have regard to any relevant decisions of a body (however described) that consists only of, or that includes, the following:
- (a) the Prime Minister;
 - (b) the Premiers of each State;
 - (c) the Chief Ministers of the Australian Capital Territory and Northern Territory.

6 After subsection 6E(2)

Insert:

- (2A) In performing its functions and exercising its powers, the Board must have regard to the policies of the Commonwealth Government in relation to infrastructure.

7 Section 39C

Omit all the words after “must also”, substitute “include details of any directions given to Infrastructure Australia by the Minister under subsection 6(1) of this Act during the period”.

8 Application, saving and transitional provisions*Existing Infrastructure Priority Lists*

- (1) Despite the amendments made by this Part, paragraph 5(b) of the *Infrastructure Australia Act 2008* continues to apply, as if those amendments had not been made, in relation to any list developed for the purposes of that paragraph before the commencement of this item.

Existing evaluations and Infrastructure Plans

- (2) An evaluation of an infrastructure proposal conducted before the commencement of this item under subsection 5A(1) of the *Infrastructure Australia Act 2008* as in force before that commencement has effect after that commencement as if it had been conducted under subsection 5B(6) of that Act as amended by this Part.

- 1 (3) A plan developed before the commencement of this item under
 2 subsection 5B(1) of the *Infrastructure Australia Act 2008* as in force
 3 before that commencement has effect after that commencement as if it
 4 had been developed under subsection 5C(3) of that Act as amended by
 5 this Part.

6 *Ministerial directions*

- 7 (4) The amendments of section 6 of the *Infrastructure Australia Act 2008*
 8 made by this Part do not affect the continuity of a direction given under
 9 that section before the commencement of this item.

10 *Reporting requirements*

- 11 (5) Subsection 5B(9) of the *Infrastructure Australia Act 2008*, as inserted
 12 by this Part, applies in relation to any quarter ending on or after the
 13 commencement of this item.
- 14 (6) The amendments of section 39C of the *Infrastructure Australia Act*
 15 *2008* made by this Part apply in relation to any reporting period (within
 16 the meaning of the *Public Governance, Performance and*
 17 *Accountability Act 2013*) of Infrastructure Australia starting at or after
 18 the commencement of this item.

Schedule 1 Amendments

Part 2 Governance

Part 2—Governance***Infrastructure Australia Act 2008*****9 Section 3 (definition of *Board*)**

Repeal the definition.

10 Section 3 (definition of *Chair*)

Repeal the definition.

11 Section 3

Insert:

Chief Commissioner means the Chief Commissioner appointed under section 8.

Commissioner means a Commissioner appointed under section 8 and includes the Chief Commissioner.

12 Section 3 (definition of *full-time Chair*)

Repeal the definition.

13 Section 3

Insert:

full-time Commissioner means a Commissioner appointed on a full-time basis.

14 Section 3 (definition of *member*)

Repeal the definition.

15 Section 3 (definition of *part-time Chair*)

Repeal the definition.

16 Section 3

Insert:

part-time Commissioner means a Commissioner appointed on a part-time basis.

17 Subsection 4(3)

Omit “Board directs”, substitute “Commissioners direct”.

18 Subsection 4(3)

Omit “by the Board”, substitute “by the Commissioners”.

19 Subsection 5A(2)

Omit “Board determines”, substitute “Commissioners determine”.

20 Subsection 5C(2)

Omit “Board determines”, substitute “Commissioners determine”.

21 Subsection 5C(5)

Omit “Board”, substitute “Commissioners”.

22 Part 2A

Repeal the Part, substitute:

Part 2A—Commissioners**Division 1—Functions****6E Functions**

- (1) The functions of the Commissioners are:
 - (a) to decide the objectives, strategies and policies to be followed by Infrastructure Australia; and
 - (b) to ensure the proper, efficient and effective performance of Infrastructure Australia’s functions; and
 - (c) any other functions conferred on the Commissioners by this Act.
- (2) The Commissioners have the power to do all things necessary or convenient to be done for or in connection with the performance of their functions.

Schedule 1 Amendments**Part 2** Governance

- 1 (3) In performing their functions and exercising their powers, the
 2 Commissioners must have regard to the policies of the
 3 Commonwealth Government in relation to infrastructure.
- 4 (4) Anything done in the name of, or on behalf of, Infrastructure
 5 Australia by the Commissioners, or with the authority of the
 6 Commissioners, is taken to have been done by Infrastructure
 7 Australia.
- 8 (5) If a function or power of Infrastructure Australia is dependent on
 9 the opinion, belief or state of mind of Infrastructure Australia in
 10 relation to a matter, the function or power may be exercised upon
 11 the opinion, belief or state of mind of a person or body acting as
 12 mentioned in subsection (4) in relation to that matter.

Division 2—Constitution and appointment**7 Constitution**

15 Infrastructure Australia consists of:

- 16 (a) the Chief Commissioner; and
 17 (b) 2 other Commissioners.

18 Note: The Commissioners are the accountable authority of Infrastructure
 19 Australia: see section 12 of the *Public Governance, Performance and*
 20 *Accountability Act 2013*.

8 Appointment of Commissioners

- 22 (1) Commissioners (including the Chief Commissioner) are to be
 23 appointed by the Minister by written instrument.
- 24 (2) A Commissioner may be appointed on a full-time or part-time
 25 basis.
- 26 (3) A person must not be appointed as a Commissioner unless the
 27 Minister is satisfied that:
 28 (a) the person has appropriate qualifications, knowledge, skills
 29 or experience; and
 30 (b) the selection of the person for the appointment is the result of
 31 a process that:
 32 (i) was merit-based; and

(ii) included public advertising of the position.

(4) Paragraph (3)(b) does not prevent the Minister:

(a) taking affirmative action in relation to the appointment of women to positions; or

(b) taking into consideration appropriate representation among States, Territories and local government areas in relation to appointments to positions.

(5) Paragraph (3)(b) does not apply in relation to the reappointment of a person who, immediately before the start of the period of reappointment, holds office as a Commissioner under a previous appointment under subsection (1).

9 Term of appointment

A Commissioner holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

Note: A Commissioner is eligible for reappointment: see section 33AA of the *Acts Interpretation Act 1901*.

10 Acting appointments

(1) The Minister may appoint a Commissioner to act as the Chief Commissioner:

(a) during a vacancy in the office of Chief Commissioner (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the Chief Commissioner is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

(2) The Minister may appoint a person to act as a Commissioner:

(a) during a vacancy in the office of a Commissioner (whether or not an appointment has previously been made to the office); or

or

Schedule 1 Amendments**Part 2** Governance

- 1 (b) during any period, or during all periods, when a
 2 Commissioner is absent from duty or from Australia, or is,
 3 for any reason, unable to perform the duties of the office.

4 Note: For rules that apply to acting appointments, see section 33A of the
 5 *Acts Interpretation Act 1901*.

11 Remuneration

- 7 (1) A Commissioner is to be paid the remuneration that is determined
 8 by the Remuneration Tribunal. If no determination of that
 9 remuneration by the Tribunal is in operation, the Commissioner is
 10 to be paid the remuneration that is prescribed.
- 11 (2) A Commissioner is to be paid the allowances that are prescribed.
- 12 (3) This section has effect subject to the *Remuneration Tribunal Act*
 13 *1973*.

12 Leave of absence*Full-time Commissioner*

- 16 (1) A full-time Commissioner has the recreation leave entitlements
 17 that are determined by the Remuneration Tribunal.
- 18 (2) If the Chief Commissioner is a full-time Commissioner, the
 19 Minister may grant the Chief Commissioner leave of absence,
 20 other than recreation leave, on the terms and conditions as to
 21 remuneration or otherwise that the Minister determines.
- 22 (3) The Chief Commissioner may grant a full-time Commissioner
 23 (other than the Chief Commissioner) leave of absence, other than
 24 recreation leave, on the terms and conditions as to remuneration or
 25 otherwise that the Chief Commissioner determines.

Part-time Commissioner

- 27 (4) If the Chief Commissioner is a part-time Commissioner, the
 28 Minister may grant leave of absence to the Chief Commissioner on
 29 the terms and conditions that the Minister determines.

- 1 (5) The Chief Commissioner may grant leave of absence to a part-time
 2 Commissioner (other than the Chief Commissioner) on the terms
 3 and conditions that the Chief Commissioner determines.

4 **15 Outside employment**

- 5 A full-time Commissioner must not engage in paid employment
 6 outside the duties of the Commissioner's office without the
 7 Minister's approval.

8 **16 Other terms and conditions**

- 9 A Commissioner holds office on the terms and conditions (if any)
 10 in relation to matters not covered by this Act that are determined
 11 by the Minister.

12 **17 Resignation of Commissioners**

- 13 (1) A Commissioner may resign the Commissioner's appointment by
 14 giving the Minister a written resignation.
- 15 (2) The resignation takes effect on the day it is received by the
 16 Minister or, if a later day is specified in the resignation, on that
 17 later day.

18 **18 Termination of appointment**

19 *All Commissioners*

- 20 (1) The Minister may terminate the appointment of a Commissioner:
 21 (a) for misbehaviour; or
 22 (b) if the Commissioner is unable to perform the duties of the
 23 Commissioner's office because of physical or mental
 24 incapacity.
- 25 (2) The Minister may terminate the appointment of a Commissioner if
 26 the Commissioner:
 27 (a) becomes bankrupt; or
 28 (b) takes steps to take the benefit of any law for the relief of
 29 bankrupt or insolvent debtors; or

Schedule 1 Amendments**Part 2** Governance

- 1 (c) compounds with one or more of the Commissioner's
 2 creditors; or
 3 (d) makes an assignment of the Commissioner's remuneration
 4 for the benefit of one or more of the Commissioner's
 5 creditors.

6 Note: The appointment of a Commissioner may also be terminated under
 7 section 30 of the *Public Governance, Performance and Accountability*
 8 *Act 2013* (which deals with terminating the appointment of an
 9 accountable authority, or a member of an accountable authority, for
 10 contravening general duties of officials).

11 *Additional grounds for full-time Commissioner*

- 12 (3) The Minister may terminate the appointment of a full-time
 13 Commissioner if:
 14 (a) the Commissioner is absent, except on leave of absence, for
 15 14 consecutive days or for 28 days in any 12 months; or
 16 (b) the Commissioner engages, except with the Minister's
 17 approval, in paid employment outside the duties of the
 18 Commissioner's office (see section 15).

19 *Additional ground for part-time Commissioner*

- 20 (4) The Minister may terminate the appointment of a part-time
 21 Commissioner if the Commissioner is absent, except on leave of
 22 absence, from 3 consecutive meetings of Infrastructure Australia.

23 **Division 3—Meetings**

24 **19 Convening meetings**

- 25 (1) The Commissioners must hold the meetings that are necessary for
 26 the efficient performance of their functions.
 27 (2) Meetings are to be held at the times and places that the
 28 Commissioners determine.
 29 (3) The Chief Commissioner:
 30 (a) may convene a meeting; and
 31 (b) must convene at least 4 meetings each calendar year; and
 32 (c) must convene a meeting if requested in writing by:

- (i) another Commissioner; or
(ii) the Minister.

20 Presiding at meetings

- (1) The Chief Commissioner must preside at all meetings at which the Chief Commissioner is present.
- (2) If the Chief Commissioner is not present at a meeting, the other Commissioners present must appoint one of themselves to preside.

21 Quorum

- (1) At a meeting of the Commissioners, 2 Commissioners constitute a quorum.
- (2) However, if:
- (a) a Commissioner is required by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* not to be present during the deliberations, or to take part in any decision, of the Commissioners with respect to a particular matter; and
 - (b) when the Commissioner leaves the meeting concerned there is no longer a quorum present;
- the remaining Commissioners at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

22 Voting at meetings

- (1) A question arising at a meeting is to be determined by a majority of the votes of the Commissioners present and voting.
- (2) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, a casting vote.

23 Conduct of meetings

The Commissioners may regulate proceedings at their meetings as they consider appropriate.

Part 2 Governance

25 Subsection 29(1)

Omit “Board”, substitute “Commissioners”.

26 Section 31

Omit “Board”, substitute “Commissioners”.

27 Subsection 33(2)

Omit “Chair” (wherever occurring), substitute “Chief Commissioner”.

28 Subsection 34(1)

Omit “Board”, substitute “Commissioners”.

29 Section 35

Omit “Chair’s”, substitute “Chief Commissioner’s”.

30 Section 36

Omit “Board”, substitute “Commissioners”.

31 Subsections 37(1) and (2)

Omit “Chair”, substitute “Chief Commissioner”.

32 Section 38

Omit “Board”, substitute “Commissioners”.

33 Section 39B

Omit “Board”, substitute “Commissioners”.

34 Paragraph 39B(b)

Omit “it considers”, substitute “the Commissioners consider”.

35 Section 39C

Omit “Board”, substitute “Commissioners”.

36 Paragraph 40A(1)(a)

Omit “member of the Board”, substitute “Commissioner”.

Schedule 1 Amendments**Part 2** Governance**37 Section 40B (heading)**

Omit “**Board**”, substitute “**Commissioners**”.

38 Subsection 40B(1)

Omit “Board may, in writing, delegate any or all of its powers”,
substitute “Commissioners may, in writing, delegate any or all of the
Commissioners’ powers”.

39 Paragraph 40B(1)(a)

Omit “member of the Board”, substitute “Commissioner”.

40 Subsection 40B(2)

Omit “Board”, substitute “Commissioners”.

41 Subsection 40C(2)

Omit “the Infrastructure Australia or the Board delegates”, substitute
“Infrastructure Australia or the Commissioners delegate”.

42 Application, saving and transitional provisions

Things done by or in relation to Board before commencement

- (1) A thing done before the commencement of this item under the
Infrastructure Australia Act 2008 by, or in relation to, the Board (within
the meaning of that Act immediately before that commencement) is
taken, after that commencement, to have been done by, or in relation to,
the Commissioners.

Things done by or in relation to Chair before commencement

- (2) A thing done before the commencement of this item under the
Infrastructure Australia Act 2008 by, or in relation to, the Chair (within
the meaning of that Act immediately before that commencement) is
taken, after that commencement, to have been done by, or in relation to,
the Chief Commissioner.

2022-2023

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**INFRASTRUCTURE AUSTRALIA AMENDMENT (INDEPENDENT REVIEW) BILL
2023**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Infrastructure, Transport, Regional Development
and Local Government, the Hon Catherine King MP)

INFRASTRUCTURE AUSTRALIA AMENDMENT (INDEPENDENT REVIEW) BILL 2023

OUTLINE

The Infrastructure Australia Amendment (Independent Review) Bill 2023 (the Bill) will amend the *Infrastructure Australia Act 2008* (IA Act).

The Bill will make Infrastructure Australia (IA) a stronger, more focused expert adviser to the Australian Government by implementing aspects of the Australian Government response to the independent review of IA, announced by the Government on 8 December 2022.

The Bill will make amendments to the IA Act to:

- clearly articulate IA's role
- redefine IA's functions and products
- establish a new governance structure.

Amendments relating to clearly articulate IA's role

The Bill would amend Part 1 of the IA Act to insert an object clause that provides guidance on the intended role of IA to advise the Australian Government. This amendment implements recommendation 1 of the independent review, to provide IA with a clear mandate.

Amendments to redefine IA's functions and products

The Bill would amend Part 1 of the IA Act to redefine IA's primary functions around:

- conducting audits or assessments of nationally significant infrastructure to determine adequacy and needs;
- conducting or endorsing evaluations of infrastructure projects;
- developing targeted infrastructure lists and plans; and
- providing advice on nationally significant infrastructure matters.

IA's infrastructure audits will ensure that IA considers the work of state and territory infrastructure bodies, who undertake assessments of the infrastructure within their jurisdiction, to identify nationally significant needs and identify any gaps. IA will also be able to endorse the work of state and territory infrastructure bodies for project evaluations, reducing duplication and uplifting jurisdictions to a nationally consistent approach.

IA's infrastructure priority lists would be smaller, more targeted and linked to its audits and Australian Government priorities, with a focus on nationally-significant infrastructure investment proposals put forward by the Commonwealth, states and territories. IA's advice function would be enhanced by providing a specific power to inquire into matters relating to nationally-significant infrastructure.

IA's functions are intended to be guided by the Australian Government's infrastructure investment objectives and strategic priorities, which may be directed in a public statement.

These amendments implement recommendations from the independent review of IA, which require legislative changes.

To ensure these amendments do not remove the validity of IA's previous work, the Bill also includes application and transitional provisions that preserve products published by IA before the commencement of the relevant provisions of the Bill.

Amendments for a new governance structure

The Bill would amend Part 2 of the IA Act to replace the IA Board with three Commissioners who would become responsible for ensuring the performance of IA's functions. IA would remain a corporate Commonwealth entity, however the Commissioners will be able to undertake formal inquiries into national infrastructure investment topics. This would formalise a role to develop clear and structured inquiry processes when dealing with the complex infrastructure ecosystem for nationally significant infrastructure in an integrated way.

Financial impact statement

The Bill will have no financial impact as any financial impact will be met from existing appropriations.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Infrastructure Australia Amendment (Independent Review) Bill 2023

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

The Bill gives legislative authority to an Act to amend the functions and governance structure of the corporate Commonwealth entity IA.

The objective of the amendments is to clearly articulate IA's role, redefine IA's functions and products, and establish a new governance structure.

The Bill will replace the existing 12-member IA Board with three Commissioners as the Accountable Authority and with responsibility for the performance of the functions of IA.

The Bill incorporates a new provision to apply a merit-based selection process to candidates for appointment as Commissioners of IA following public advertising. The provision is similar to the Merit and Transparency policy that applies in the selection of most Australian Public Service (APS) agency heads and other statutory office holders working in, or in conjunction with, APS agencies. The provision further allows the Minister to take affirmative action in relation to the appointment of women to the Commissioner positions.

Human rights implications

The Bill engages the following rights:

- promoting gender equality with respect to article 4 of the *Convention on the Elimination of All Discrimination Against Women (CEDAW)*

Article 4 states that adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention.

The Bill would positively effect gender equality by permitting the Minister to consider the outcomes of a merit selection process and the number of women represented among the Commissioners and take affirmative action in making an appointment.

Although the Commissioners will not be referred to as a board, the affirmative action provision would be broadly consistent with the policy underlying the Australian Government's target for women's representation on government boards. Since 2016 the Australian Government has committed to a target of women holding 50 per cent of Government board positions in each portfolio. In addition, there was a target for men and women to each hold at least 40 per cent of positions on individual boards. As there would be

three Commissioners, strict compliance with the board gender balance commitment will not be possible.

Conclusion

The Bill is compatible with human rights as, to the extent that it engages human rights issues, it does so in a positive way.

**Minister for Infrastructure, Transport, Regional Development and Local Government,
the Hon Catherine King MP**

NOTES ON CLAUSES

Clause 1: Short Title

1. Clause 1 provides that the Bill, when enacted, may be cited as the *Infrastructure Australia Amendment (Independent Review) Act 2023*.

Clause 2: Commencement

2. The table in this clause sets out the commencement date for the provisions in the Bill once it is enacted.
3. Sections 1 to 3, and anything in this Act not elsewhere covered by the table will commence on Royal Assent and Schedule 1, Part 1 will commence on the day after the Act receives Royal Assent.
4. Schedule 1, Part 2 will commence on a day to be fixed by Proclamation or six months and one day after Royal Assent if no Proclamation is made. The commencement by proclamation of Schedule 1 Part 2 will allow statutory appointments to be put in place to commence with the new governance framework.

Clause 3: Schedules

5. The amendments set out in Schedule 1 to the Bill are intended to provide IA with a clear mandate, to streamline its legislated functions and align these with the Australian Government's needs for infrastructure advice, and to establish a new governance structure for IA.

SCHEDULE 1 - Amendments

Part 1—Functions

Infrastructure Australia Act 2008

Item 1- After section 2

6. Item 1 inserts a new Object to the Act to define the principal purpose of IA. The intention is to guide the interpretation of the other provisions of the IA Act.
7. The amendments focus IA to provide advice to the Commonwealth. IA will also avoid duplication of the work of state and territory infrastructure planning and advisory bodies that have been established.

Item 2 - Section 3 (definition of COAG)

8. Item 2 repeals the outdated definition of the Council of Australian Governments (COAG).

Item 3 - Paragraphs 5(a) to (gb)

9. Item 3 restructures and revises the functions of IA set out in paragraphs 5(a) to 5(gb) of the IA Act, by repealing these and substituting new paragraphs 5(a) to 5(c).

10. The numbering of paragraph 5(b) is to be retained to maintain linkages between division 415 of the *Income Tax Assessment Act 1997* and the IA Act.

Item 4 - Section 5A to 5C

11. Item 4 repeals existing sections 5A to 5C of the IA Act and inserts new sections 5A to 5E that provide further detail around the functions identified in section 5.
12. 5A details the amended function of conducting audits to determine the adequacy, capacity and condition of nationally-significant infrastructure. Amendments included in paragraph 5A(1)(a) make clear that *growth* means both economic and population growth. New subsection 5A(2) would give discretion to the IA Board (subsequently to become the Commissioners) over the frequency of audits. New subsection 5A(3) is intended to remove duplication and guide IA to consider any reports prepared by state, territory and local governments that may inform a national audit, including, but not restricted to, state and territory infrastructure strategies and plans, as recommended by the independent review. These amendments will ensure that IA considers previous work undertaken by state, territory and local governments.
13. 5B details the amended provisions for IA to evaluate infrastructure proposals from or through state and territory governments or the Commonwealth. This would ensure proposals have a proponent that is able to progress nationally significant projects, and avoid IA expending unnecessary resources.
14. 5B provides for IA to develop and promote a national planning and assessment framework, in consultation with the states and territories, as best practice guidance to enhance national consistency and coordination of infrastructure evaluations. Further, it enables IA to endorse an evaluation conducted by a state or territory government entity, in place of conducting its own evaluation. This amendment will permit IA to apply the accreditation model envisaged by the independent review to enable IA to focus on providing a nationally consistent approach to evaluations and reduce duplication of work.
15. Subsection 5B(2) is explanatory and not intended to provide a new substantive legislative instrument exemption.
16. 5C details the amended function of developing targeted Infrastructure Priority Lists and Infrastructure Plans. The new lists would prioritise nationally-significant infrastructure investment proposals from Australian, state or territory governments, that are ready for Commonwealth investment and linked to IA's audits and Australian Government priorities. This provision does not require IA to rank each individual project on a list, but rather identify projects which should be prioritised in the short, medium and long term based on the Commonwealth's infrastructure investment principles.
17. The complementary provision in section 5C to develop infrastructure plans may provide for the identification of longer term nationally-significant infrastructure needs. To ensure plans are appropriately targeted to the Australian Government's decision-making needs, plans would be developed at the request of, or after consultation with, the responsible Minister.
18. 5D provides detail on the function of providing advice on infrastructure matters not covered by the project planning and prioritisation advice provisions in new sections 5A to 5C. The function includes a new provision for IA to inquire into matters relating to nationally-significant infrastructure at the request of the Minister or after consulting with the Minister, as suggested by the independent review.

19. 5E specifies that IA must have regard to the policies of the Commonwealth Government in performing its function. This is intended to ensure IA is directing its resources and framing its products and advice to the Commonwealth's information needs. The provision is not intended to direct the specific content of any audit, evaluation, list, plan or advice to be provided by IA.

Item 5 - Subsection 6(2)

20. Item 5 replaces the previous reference to relevant decisions of COAG. It provides that the responsible Minister may have regard to any relevant decisions of a body which consists only of, or includes, the Prime Minister; the Premiers of each State; and the Chief Ministers of the Australian Capital Territory and Northern Territory.

Item 6 - After subsection 6E(2)

21. Item 6 inserts a transitional provision, to apply pending the commencement of the amendments at item 22, to require the IA Board to have regard to the policies of the Commonwealth Government in relation to infrastructure.

Item 7 - Section 39C

22. Item 7 repeals the requirement for IA to include in its annual report details of the approved cost benefit analysis methods in force during the period of the annual report. IA's assessment framework, published on its website, provides information on cost benefit analysis methods applied.

Item 8 - Application, saving and transitional provisions

23. Item 8 inserts a provision to preserve the requirements, as they applied, for an Infrastructure Priority List developed before the commencement of these amendments. Projects on the list as it stood before commencement of the amendments would not be automatically carried forward to a new list, but might be reviewed by IA for their suitability to be included under the new list requirements or alternatively in another IA product.
24. Provisions are also included to preserve existing evaluations done by IA before commencement of the amendments and Infrastructure Plans prepared by IA.
25. Item 8 further inserts a provision to ensure any ministerial directions issued to IA before commencement of the amendments would continue to be valid.
26. Item 8 further inserts provisions to identify the transition to new reporting arrangements in section 39C.

Part 2—Governance

Infrastructure Australia Act 2008

Item 9 - Section 3 (definition of *Board*)

27. Item 9 repeals the definition of *Board* consequential to introducing Commissioners to replace the Board.

Item 10 - Section 3 (definition of *Chair*)

28. Item 10 repeals the definition of *Chair*, consequential to the change in governance structure and terminology.

Item 11 - Section 3

29. Item 12 inserts definitions for the *Chief Commissioner* and *Commissioner*.

Item 12 and 13 - Section 3 (definition of *full-time Chair*)

30. Items 12 and 13 repeal the definition of *full-time Chair*, and replace it with a definition for *full-time Commissioner*, consequential to the change in governance structure and terminology.

Item 14 - Section 3 (definition of *member*)

31. Item 14 repeals the definition of *member*, consequential to the change in governance structure and terminology.

Item 15 and 16 - Section 3 (definition of *part-time Chair*)

32. Items 15 and 16 repeal the definition of *part-time Chair*, and replaces it with a definition for *part-time Commissioner*, consequential to the change in governance structure and terminology.

Item 17 and 18 - Subsection 4(3)

33. Items 17 and 18 amend subsection 4(3) to provide that the Commissioners will become responsible for the IA seal. This is consequential to the change in governance structure and terminology.

Item 19 - Subsection 5A(2)

34. Item 19 amends subsection 5A(2), inserted by item 4, to provide that the Commissioners would become responsible for determining the frequency with which infrastructure audits are prepared by IA. This is consequential to the change in governance structure and terminology.

Item 20 - Subsection 5C(2)

35. Item 20 amends subsection 5C(2), inserted by item 4, to provide that the Commissioners would become responsible for determining the frequency with which Infrastructure Priority Lists are updated. This is consequential to the change in governance structure and terminology.

Item 21 - Subsection 5C(5)

36. Item 21 amends subsection 5C(5), inserted by item 4, to replace the reference to the Board, consequential to the change in governance structure and terminology.

Item 22 - Part 2A

37. Item 22 repeals the entirety of Part 2A in relation to the Board of IA and substitutes a new Part 2A in relation to Commissioners.
38. This amendment will implement a new governance structure for IA proposed by the independent review. The 12-member Board, including the Chair, would be replaced with three Commissioners, including a Chief Commissioner.
39. Responsibilities and other arrangements covered by the part would be mostly carried over unchanged. A new provision, subsection 6E(3), would require the Commissioners to have regard to the policies of the Commonwealth Government in relation to infrastructure. Two Commissioners would generally constitute a quorum.
40. Commissioners (including the Chief Commissioner) may be appointed on a full-time or part-time basis. The maximum term of appointment for Commissioners would be 5 years, in recognition that frequent turnover of the small number of Commissioners will be disruptive to IA and because the Commissioners are expected to bring to IA considerable subject matter expertise.
41. A merit-based selection process would apply to identify the most suitable candidates for appointment as Commissioners (noting this does not apply to the reappointment, if they were currently holding office). At the same time, provision is made for the Minister to take affirmative action to apply the Government's gender equality targets for government boards. The Minister may also take into consideration appropriate geographical representation among the Commissioners so they reflect IA's national remit.
42. An instrument of appointment is not a legislative instrument – see item 8 of the table in subsection 6(1) of the Legislation (Exemptions and Other Matters) Regulation 2015.

Item 23 - Section 28A (heading)

43. Item 23 replaces the term *Board* with the term *Commissioners* in the heading of section 28A, consequential to the change in governance structure and terminology.

Item 24 - Subsections 28A(1) and (2)

44. Item 24 replaces the term *Board* with the term *Commissioners* in subsections 28A(1) and (2), consequential to the change in governance structure and terminology.

Item 25 - Subsection 29(1)

45. Item 25 replaces the term *Board* with the term *Commissioners* in subsection 29(1), consequential to the change in governance structure and terminology.

Item 26 - Section 31

46. Item 26 replaces the term *Board* with the term *Commissioners* in section 31, consequential to the change in governance structure and terminology.

Item 27 - Subsection 33(2)

47. Item 27 omits all references to *Chair* within subsection 33(2) and substitutes the term *Chief Commissioner*. This is consequential to the change in structure and terminology.

Item 28 - Subsection 34(1)

48. Item 28 replaces the term *Board* with the term *Commissioners* in subsection 34(1).

Item 29 - Section 35

49. Item 29 replaces the term *Chair's* with the term *Chief Commissioner's* in section 35.

Item 30 - Section 36

50. Item 30 replaces the term *Board* with the term *Commissioners* in section 36.

Item 31 - Subsections 37(1) and (2)

51. Item 31 replaces the term *Chair* with the term *Chief Commissioner* in subsections 37(1) and (2).

Item 32 and 33 - Section 38 and Section 39B

52. Items 32 and 33 replace the term *Board* with the term *Commissioners* in sections 38 and 39B.

Item 34 - Paragraph 39B(b)

53. Item 34 replaces the words *it considers*, in relation to the Board, with the words *the Commissioners consider* in paragraph 39B(b).

Item 35 - Section 39C

54. Item 35 replaces the term *Board* with the term *Commissioners* in section 39C.

Item 36 - Paragraph 40A(1)(a)

55. Item 36 replaces the words *member of the Board* with *Commissioner* in paragraph 40A(1)(a).

Item 37 - Section 40B (heading)

56. Item 37 replaces the term *Board* with the term *Commissioners* in the heading of section 40B.

Item 38 - Subsection 40B(1)

57. Item 38 omits the words *Board may, in writing, delegate any or all of its powers* and substitutes the words *to Commissioners may, in writing, delegate any or all of the Commissioners' powers* in subsection 40B(1). This would carry over the existing delegation provision that applies for the Board to the Commissioners.

Item 39 - Paragraph 40B(1)(a)

58. Item 39 replaces the words *member of the Board* with *Commissioner* in paragraph 40B(1)(a).

Item 40 - Subsection 40B(2)

59. Item 40 replaces the term *Board* with the term *Commissioners* in subsection 40B(2).

Item 41 - Subsection 40C(2)

60. Item 41 omits the words *the Infrastructure Australia or the Board delegates* and substitutes the words to *Infrastructure Australia or the Commissioners delegate* in subsection 40C(2).

Item 42 - Application, saving and transitional provisions

61. Item 42 inserts application, saving and transitional provisions to ensure that anything done by, or in relation to, the Board or Chair before the commencement of the amendments which abolish the Board and Chair position and replace these with Commissioners and a Chief Commissioner remains valid and continues to apply after commencement.

INFRASTRUCTURE AUSTRALIA AMENDMENT (INDEPENDENT REVIEW) BILL 2023

SECOND READING SPEECH

The Australian Government makes substantial investments in infrastructure across the nation including in transport infrastructure, through the Infrastructure Investment Program; in communications infrastructure, through the National Broadband Network and mobile connectivity; in energy infrastructure, by supporting rebuilding the electricity grid; and in water infrastructure, to build essential water supplies across Australia. Good investment in infrastructure creates significant opportunities by creating jobs, building communities and unlocking economic growth and productivity.

Infrastructure Australia was established by the current Prime Minister in the last Labor Government to provide independent, expert advice to the Australian Government on infrastructure investment that Australians need. Since then, Infrastructure Australia has been sidelined with a lack of genuine influence. It has been stretched too far and too thin without a proper focus. These amendments ensure that Infrastructure Australia is the adviser to the Australian Government and that it is evaluating proposals submitted by the Australian Government, States and Territories.

The infrastructure environment has also changed significantly since its establishment, which is why this Government commissioned an independent review to identify the changes needed to restore Infrastructure Australia and refocus its priorities.

This bill responds to the recommendations of the independent review of Infrastructure Australia, conducted by Nicole Lockwood and Mike Mrdak AO.

The review recommendations will position Infrastructure Australia to achieve its core purpose – to provide quality, independent advice to the Australian Government on infrastructure that supports the economy, builds the nation and addresses the challenges and opportunities of the future.

This bill makes important changes to the Infrastructure Australia Act to provide the framework for implementing the government's response to the review's recommendations.

The bill's amendments will provide for greater alignment between Infrastructure Australia's work program and the advice the government needs to make informed infrastructure investment decisions.

This Government intends to clearly set out its infrastructure policy objectives, which will inform Infrastructure Australia in carrying out its work.

Infrastructure Australia's focus will continue to be on transport, water, energy, and communications infrastructure, the nationally-significant infrastructure that connects our cities and our regions, and is an enabler of the economy.

Infrastructure Australia will be strengthened as an adviser on project merits and priorities, and will deliver a smaller, more refined and targeted infrastructure priority

list linked to its audit, Government priorities and Australian needs. These changes will remove duplication and build on the strong relationships with the jurisdictions, harmonising processes and leading to better targeted advice to appropriately inform Australian Government decision-making.

Importantly, Infrastructure Australia will retain its statutory independence, which will ensure it continues to provide impartial advice to the Australian Government, particularly on infrastructure project selection and prioritisation, for investment in projects where it matters the most.

The new governance model put forward for Infrastructure Australia, will ensure it has the eminence, authority and standing to be a national leader and coordinator among infrastructure advisory bodies. The three commissioners will collectively have strong and relevant expertise and be responsible for the delivery of Infrastructure Australia's functions.

The Government expects the commissioners will be engaged in delivering the work of Infrastructure Australia, rather than being merely an oversight body. Persons appointed to the Commissioner roles will have been identified through a merit-based process and will be highly experienced members of the infrastructure sector.

Infrastructure Australia is now providing advice on infrastructure proposals through the Budget process and will support the slimmed-down governance structure with an advisory council consisting of infrastructure sector experts and Commonwealth agency senior officials.

The advisory council will provide strategic advice to the commissioners and help improve Infrastructure Australia's interactions with Government investment and decision-making processes.

Whilst the bill implements the recommendations of the review requiring legislative changes, the Statement of Expectations will implement the remaining recommendations, ensuring that Infrastructure Australia is restored as a respected adviser to the Australian Government.

Together, these changes will set Infrastructure Australia up to once again be the Commonwealth's expert adviser on infrastructure.

Document 2 – Attachment D

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Australian Government

**Department of Infrastructure, Transport,
Regional Development, Communications and the Arts**

Australian Government response to the independent review of Infrastructure Australia

December 2022

Released under the Freedom of Information Act 1982 by the Department of
Infrastructure, Transport, Regional Development, Communications and the Arts

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ISBN 978-1-922521-83-5
December 2022 / INFRASTRUCTURE 2022

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Australian Government Response

The Australian Government thanks Ms Lockwood and Mr Mrdak for their time in conducting the independent review of Infrastructure Australia (the Review), their insightful views and comprehensive report to the Government.

The Government believes its response to the Review will reinstate Infrastructure Australia's position as the expert advisor to the Commonwealth on nationally significant infrastructure – to build the nation's future economic, environmental and social prosperity.

Recommendation 1

The Review recommends Infrastructure Australia's mandate be defined as 'the Australian Government's national advisor on national infrastructure investment planning and project prioritisation'. This should include advising the Australian Government on its strategies and priorities to invest in transport, water, communications, energy, social and economic infrastructure.

The Review recommends this mandate be defined in the *Infrastructure Australia Act 2008* (IA Act).

Support in-principle

The Government supports the need for a defined mandate for Infrastructure Australia. A clear mandate will empower Infrastructure Australia, reinvigorate its purpose, and clarify Infrastructure Australia's standing in the Australian infrastructure ecosystem.

This will be achieved by clearly articulating the role of Infrastructure Australia in the IA Act.

The role of Infrastructure Australia is to provide independent and expert advice to the Australian Government about Australia's current and future nationally significant infrastructure needs and priorities to support improved social, economic and environmental outcomes for the nation. Infrastructure Australia's role will also involve advising the Australian Government on its strategies and priorities to invest in transport, water, communications, and other nation building infrastructure as appropriate.

The Government considers Infrastructure Australia's focus should remain on considering nationally significant projects relating to transport, water, communications and energy infrastructure (see also Recommendation 6). Infrastructure Australia may examine other infrastructure sectors such as social and economic infrastructure as appropriate, where it is embedded as part of broader strategic and place-based planning considerations associated with transport, water, communications and energy infrastructure.

Recommendation 2

The Review recommends that to support Infrastructure Australia's mandate, the Australian Government formally issues a Charter of Infrastructure Investment Objectives, which outlines the Government's national infrastructure investment objectives and intended performance standards. To provide long-term certainty and guidance, the Review recommends this Charter be issued on a five yearly basis ahead of the refresh of the Infrastructure Plan.

The Review recommends the requirement for this Charter be formalised in the IA Act.

Support in principle

The Government supports the view that there would be universal benefit, including for Infrastructure Australia as well as the states and territories and the Australian community, in articulating the Government's infrastructure objectives and priorities. This would allow Infrastructure Australia to focus its activities on advice which is aligned with these investments' objectives. The Government further supports providing longer term guidance to Infrastructure Australia to provide it with greater planning certainty.

The Government intends to issue an Infrastructure Policy Statement, which will set out the Government's infrastructure investment objectives. Infrastructure Australia will use the Government's Infrastructure Policy Statement to guide its advice to the Government.

The Government will also continue to issue a Statement of Expectations to Infrastructure Australia. The Statement of Expectations will be used to provide guidance to Infrastructure Australia on how it can support delivery of the Government's immediate priorities, including those set out in the Infrastructure Policy Statement. Infrastructure Australia will be expected to respond to the Statement of Expectation through a Statement of Intent, which will be made available to the public.

Recommendation 3

The Review recommends that Infrastructure Australia's existing product suite be refined to better support government infrastructure investment objectives and to inform the budget process.

Support

The Government will require a targeted Infrastructure Priority List, informed by the Government's investment objectives and aligned with the budget process. The Government will require a streamlined Australian Infrastructure Plan, in line with the Government's policy objectives, and provide solutions-focused advice and recommendations.

A targeted Infrastructure Priority List and suite of products will enable Infrastructure Australia to focus on targeted advice that informs Government decision making.

Noting the states and territories undertake considerable work to identify infrastructure needs and priorities within their respective jurisdictions, and reflecting the Government's commitment to work in partnership with the states and territories. The updated Infrastructure Australia product suite will be informed by consultation with state and territory governments. For instance, the Infrastructure Australia audit could review and collate state and territory audits through a national outcomes lens.

Recommendation 4

The Review recommends that Infrastructure Australia also provides two new annual statements to the Australian Government to inform the annual budget process on infrastructure investment, and report on the performance outcomes being achieved from the investment program and the existing project initiatives.

The Review recommends that the Government consider tabling these annual products in the interests of transparency and accountability.

Support in part

The Government supports the recommendation that Infrastructure Australia provide annual statements to the Government. An annual statement could present the Government with enhanced information to inform infrastructure investment decisions in the budget process, including performance and updates on existing projects.

The Government does not support tabling these annual products as they will likely inform deliberations of the Cabinet. However, the Government is committed to increasing the transparency of the infrastructure investment pipeline and will consider the best means to do this as part of the infrastructure policy statement. The Government is also working with jurisdictions to publish regular updates on the delivery status of infrastructure projects to improve accountability and communication on infrastructure investments and their benefits.

Recommendation 5

The Review recommends that there is a requirement within the IA Act that the Australian Government must formally, and publicly, respond to Infrastructure Australia's advice, findings and recommendations within six months.

Support in-principle

Infrastructure Australia's strengthened role will include providing advice to Government that is intended to inform specific decisions as part of the budget process. The consideration of this advice, in a budget context, may be the subject of Cabinet deliberations, and therefore not appropriate for formal release, or response. The outcomes of Cabinet's deliberations, including consideration of Infrastructure Australia's advice, will be reflected in the budget.

Where the Government commissions Infrastructure Australia to produce recommendations that may benefit from a wider public discourse ahead of final decisions, such as an Infrastructure Plan, the Government may consider that a formal response is warranted.

Recommendation 6

The Review recommends that Infrastructure Australia's remit be expanded to include social infrastructure (where it is relevant to the infrastructure investment project, or place and precinct in question) as well as future investment challenges where Infrastructure Australia's position as the national advisor best enables it to incorporate those challenges in its advice and analysis.

Support in part

The Government considers Infrastructure Australia's focus should be on nationally significant projects relating to transport, water, communications and energy infrastructure, in support of Australian Government functions.

From time to time, it may be appropriate for Infrastructure Australia to consider social infrastructure implications where it is part of broader network analysis or place-based project advice. Where required, the Government can request this work through the Statement of Expectations.

The Government notes that this approach minimises any duplication with regional and urban policy and program functions within the Australian Government, including the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) – see Recommendation 14.

Recommendation 7

The Review recommends that Infrastructure Australia develops a national planning and assessment framework, providing uniform guidelines based on best practice to support national consistency and coordination in infrastructure assessment. This work must have regard to and build in the broader government infrastructure objectives as outlined in the Charter and the Plan.

Support

The Government supports the recommendation that Infrastructure Australia develops a national Infrastructure planning and assessment framework and will include it in the Statement of Expectations issued to Infrastructure Australia. The Government notes that it will be important for Infrastructure Australia to work with the states and territories to encourage alignment of jurisdictional frameworks.

Recommendation 8

The Review recommends that Infrastructure Australia's role in the project assessment context becomes one of accreditation or peer-review, acknowledging that many state and territories have developed their own project assessment capabilities. Such arrangements should apply across all projects, including those involving Commonwealth investments of over \$250 million or recognised as 'nationally significant'.

Where a state or territory framework does not provide the necessary assurance or have not been accredited and the project involves Commonwealth investments of over \$250 million or is recognised as 'nationally significant', Infrastructure Australia will undertake a full assessment. Infrastructure Australia's assessment must be against the Charter objectives and strategies as outlined in the Plan.

Support

The Government supports the recommendation that Infrastructure Australia's role in the project assessment context becomes one of accreditation or peer-review in support of state and territory processes and capabilities. A collaborative approach with the states and territories will be necessary to achieve this, and the Government will explore opportunities to harmonise the business case/project review approach where possible. Where Infrastructure Australia can use its assessment capabilities to supplement the work of a jurisdiction, it will have the flexibility to do so.

The evolution of the role of Infrastructure Australia in project assessment acknowledges state and territory infrastructure agency expertise and capacities, and removes duplication of assessment processes. This enhanced clarity will also provide certainty to proponents and industry about division of assessment responsibilities between the Commonwealth and states and territories. This approach will reinforce Infrastructure Australia's role as a national advisor, and allow it to focus on national infrastructure priorities.

Recommendation 9

The Review also recommends that, reflecting Infrastructure Australia's role as the national advisor, it adopts a much more active role in the post-completion stage through having a clear national evaluation and assurance role against the Charter and Plan.

Support

The Government agrees that Infrastructure Australia should have responsibilities in the post-completion stage, and will use the Statement of Expectations to implement this recommendation.

Noting that the purpose of a post-completion review would be to ensure that government infrastructure objectives are met, Infrastructure Australia could carry out this responsibility by reviewing a selection of significant projects each year. This review could assess project outcomes against initial expectations and identify potential enhancements to project selection and assessment methodologies. This function will provide greater evidence that projects are achieving their outcomes and demonstrate the impacts from these investments.

The Government notes that a framework for this type of evaluation and assessment will need to be developed, in consultation with relevant stakeholders, including state and territory governments. A collaborative approach would facilitate the sharing of lessons learnt across jurisdictions.

Recommendation 10

The Review recommends the formation of an I-bodies council to enable better collaboration and coordination between Infrastructure Australia and state and territories. This formation could be formalised in the IA Act or be made a sub-committee of the Board.

Support in-principle

The Government supports enhanced collaboration and coordination between Infrastructure Australia and state and territory infrastructure bodies. As well as ensuring good relations across the Federation, such collaboration also informs a harmonised, uniform approach on key infrastructure matters.

The Government notes that similar arrangements already occur through cross-jurisdictional meetings and that legislative amendments are not required to give effect to the recommendation.

Recommendation 11

The Review recommends the definition of 'national significance', in the context of project assessment, is revised to include both the \$250 million monetary threshold figure as well as a list of non-monetary metrics, including factors as outlined in the five yearly Charter and/or a supplementary Statement of Expectations.

Support in-principle

For project assurance and assessment as part of the Australian Government project funding approvals process, the *National Partnership Agreement on Land Transport Infrastructure Projects* and associated Notes on Administration, and other intergovernmental funding agreements, require Infrastructure Australia to assess projects seeking \$250 million or more in Commonwealth funding. The Government will retain the existing threshold of \$250 million, and will reinforce this through the Statement of Expectations, but also include flexibility for Infrastructure Australia to consider projects under this threshold which are nationally significant.

For the purposes of identifying national infrastructure needs and priorities, the Government notes the current definition of 'nationally significant infrastructure' in the IA Act as including transport, energy, communications and water in which investment or further investment will materially improve national productivity.

Recommendation 12

The Review recommends that Infrastructure Australia be provided powers to undertake formal inquiries into national infrastructure investment topics, and supporting powers to enable it to carry out such inquiries. Matters may be referred by the Minister or may be undertaken by Infrastructure Australia, on its own initiative and in line with its Charter.

The IA Act should be amended to include similar provisions such as those in Parts 2, 3 and 4 of the *Productivity Commission Act 1998* (Cth) outlining the formal inquiry role and necessary functions and powers required perform this function.

In performing its commission and inquiry functions, Infrastructure Australia should have regard to matters including 'national significance', infrastructure investment, collaboration and coordination with state and territory projects and I-bodies, and engagement with the private sector.

A copy of the Infrastructure Australia inquiry report should be tabled in each House of Parliament within 25 sitting days of that House, and after the day the Minister has received the report.

The Government must formally respond to the report and findings of Infrastructure Australia.

Support in part

The Government notes that earlier recommendations will ensure that Infrastructure Australia focuses on its core role of providing independent and expert advice about nationally significant infrastructure, informed by Australian Government investment objectives. The Government's view is that these arrangements will be sufficient to reinstate Infrastructure Australia's role as the expert infrastructure advisor. The Government acknowledges that greater direction could be provided by outlining specific topics of interest to the Government in the Statement of Expectations.

The Government is supportive of Infrastructure Australia performing specific inquiries in alignment with the Government's Infrastructure Policy Statement. Accordingly, the Government supports the notion of Infrastructure Australia proposing inquiries, but expects that it would consult with the Government prior to initiating such inquiries. This would ensure that inquiries are relevant to Infrastructure Australia's mandate, can be productively used by the Government, and are able to be achieved within existing resourcing levels.

Inquiries that require a greater level of consultation and consideration of contested issues can be performed by the Productivity Commission.

Recommendation 13

The Review recommends the Government consider the three structure governance model options as discussed above to strengthen the role and influence of Infrastructure Australia through its governance framework. The Review notes its preferred model is that of a **commission model** (option 2). The commission would be formed to lead the agency as well as have power to undertake inquiries on topics.

Support – favouring in principle option 2

The Government supports the Review's preferred model to replace the Infrastructure Australia Board with a commissioner-like governance model, but supports Infrastructure Australia undertaking formal inquiries in line with the response to recommendation 12 above.

The Government's intended governance arrangement would be to have three commissioners (or equivalents). A Chief commissioner would be supported by two commissioners in the delivery of Infrastructure Australia's mandate.

Infrastructure Australia would continue to have a Chief Executive Officer who is responsible for the day-to-day administration of Infrastructure Australia.

It is envisaged an advisory board would provide additional expertise in support of the commissioners. The advisory board would comprise of three or four experts from the infrastructure and related sectors and up to three senior Australian Public Service officials. Having senior public service officials on the advisory board will ensure that the work of Infrastructure Australia is undertaken with an understanding of government processes – see Recommendation 16.

Recommendation 14

The Review recommends the establishment of a Cities and Suburbs Unit within the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA).

Support

The Government supports the establishment of a Cities and Suburbs Unit (CSU) within DITRDCA. The Government acknowledges that to support the operations and functions of the CSU, Infrastructure Australia should continue to focus on data, analysis and evidence, consistent with its advisory

responsibilities. This will ensure that Infrastructure Australia's advisory role supports DITRDCA's policy and implementation responsibilities.

Recommendation 15

The Review recommends that the Government clearly delineate the roles and responsibilities of Infrastructure Australia vis-a-vis other Commonwealth infrastructure bodies, including Infrastructure and Commercial Advisory Office and DITRDCA (Infrastructure Investment Division and Significant Projects Investment Delivery Office). This should include investigating options for closer collaboration to provide each other mutual support in carrying out their respective roles, as advisors on infrastructure matters to the Australian Government.

Support

The Government supports the delineation of roles and responsibilities for Infrastructure Australia and other Commonwealth agencies with infrastructure responsibilities, including DITRDCA and Treasury.

The Government will continue to ensure clarity of roles and responsibilities across Government departments.

Recommendation 16

The Review recommends that Infrastructure Australia be placed within either Department of Prime Minister and Cabinet or the Department of Treasury, through changes to the Administrative Arrangements Order.

Should the Government decide not to support Recommendation 16, the Review strongly urges the Government to consider the option of including the Secretaries of these two central agencies on the Infrastructure Australia Board as ex officio members.

Support in part

The Government recognises the arguments both for and against Infrastructure Australia remaining within the Infrastructure portfolio as opposed to being placed within a central portfolio. However, the Government's view is that the response to the other Review recommendations will sufficiently strengthen the role of Infrastructure Australia and reinforce its status as the national advisor to the Australian Government on infrastructure investment matters. Retaining Infrastructure Australia's place within the Infrastructure portfolio will also help retain the expertise and deep working links between the Commonwealth and jurisdictions insofar as investment decisions are required. Accordingly, the Government does not support the movement of IA to a central agency.

The Government considers that strengthening the linkages between Infrastructure Australia and senior officials from the Department of the Prime Minister and Cabinet, Treasury and DITRDCA, for instance by including Secretaries as members of the advisory board, could help improve Infrastructure Australia's interactions with government investment and decision-making processes and quality of advice.

The Government agrees that creating an ex-officio observer role for the Secretaries of the Department of the Prime Minister and Cabinet, Treasury and DITRDCA could help improve Infrastructure Australia's interactions with government investment and decision-making processes.

For government consideration

The Review urges the Australian Government consider, especially from the asset maintenance, management and resilience building perspective, how to utilise the existing Regional Development Australia structure to enhance coordination and collaboration with local government and support their program delivery responsibilities.

Noted

The Government has already commenced work in this area in the context of designing the new regional programs announced in the 2022-23 Budget (the regional Precincts and Partnerships Program, and the Growing Regions Program). Work is underway to consider options to support the role of Regional Development Australia (RDA) in enhancing regional development and investment in regional Australia. The RDA network can support the Government's commitment to work in genuine partnerships with regional communities, and to develop a purposeful, targeted and coordinated approach to regional development.

Document 2 – Attachment F
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Contents

INFRASTRUCTURE AUSTRALIA AMENDMENT BILL CLAUSE BY CLAUSE GUIDE	2
Schedule 1 - Amendments.....	2
Part 1 - Functions	2
Part 2 - Governance	4

INFRASTRUCTURE AUSTRALIA AMENDMENT BILL CLAUSE BY CLAUSE GUIDE

Clause 1: Short Title

1. This clause provides the title cited as the *Infrastructure Australia Amendment (Independent Review) Act 2023* (Act).

Clause 2: Commencement

2. Schedule 1, Part 1 (Functions) of the Act will commence the day after the Act receives Royal Assent.
Schedule 1, Part 2 (Governance) of the Act will commence upon proclamation by the Governor-General. If no proclamation is made, this provision of the Act will automatically commence the day after 6 months have lapsed.

Clause 3: Schedules

3. This clause provides that any legislation specified a Schedule of this Act is to be amended or repealed as set out in the items of the Schedule.

Schedule 1 - Amendments

Part 1 - Functions

Item 1: After section 2

4. This item inserts a new Object to the Act which defines the principal purpose of IA and its role as the Commonwealth Government's independent adviser on nationally significant infrastructure investment planning and project prioritisation. This implements Recommendation 1 of the independent review of Infrastructure Australia (IA) (the Review) to define a mandate for IA.

Item 2: Section 3 (definition of COAG)

5. This item repeals the definition of the Council of Australian Governments (COAG), as an administrative tidy-up because the body COAG no longer exists.

Item 3: Paragraphs 5(a) to (gb)

6. This item repeals subclauses 5(a) to 5(gb) of the act and substitute it with subclauses 5(a) to 5(c). These subclauses provide for the main functions of IA with regards to conducting audits, conducting or endorsing evaluations, developing lists and plans, and providing advice on infrastructure matters. These functions are expanded in detail in newly inserted Sections 5A to 5E in the next item (Item 4).

Item 4: Sections 5A to 5C

7. This item repeals sections 5A to 5C of the Act and substitutes it with:
8. 5A Functions – conducting audits
 - a. 5A details the amended function of conducting audits of nationally significant infrastructure. It specifies that audits take into account forecast economic and

population growth, economic, social and environmental sustainability, and Australia's greenhouse gas emissions reduction targets. It allows for the Board to prepare audits at such intervals as they determine, and identifies that IA may consider reports by State, Territory or local governments on the adequacy, capacity and condition of nationally significant infrastructure to remove any duplication of work.

9. 5B Functions – evaluating infrastructure proposals
 - a. 5B provides for IA to develop a national planning and assessment framework in consultation with States and Territories. The framework must be given to the Minister, published on IA's website, and reviewed at least every 5 years. This clause also enables IA to endorse an evaluation conducted by or for a state, territory and Commonwealth entity, rather than conducting its own evaluations. In addition to publishing a summary of each evaluated proposal on IA's website every quarter, this clause requires IA to publish a summary of each proposal it has endorsed during the quarter. Further this provision limits IA to only assess evaluations submitted by the Commonwealth (including entities), State or Territories.
10. 5C Functions – developing Infrastructure Priority Lists and Infrastructure Plans
 - a. 5C details the amended function of developing targeted Infrastructure Priority Lists (IPL) and Infrastructure Plans. The IPLs must be developed at the Minister's request or at any interval that the Board determines. Infrastructure Plans must be developed at the request of the Minister or at IA's own initiative after consultation with the Minister. The Infrastructure Plan must be published on IA's website within 14 days after it is developed.
11. 5D Functions – providing advice on infrastructure matters
 - a. 5D provides for the provision of advice on infrastructure matters not covered by the previous Sections. 5D includes the functions to promote timely and efficient delivery of nationally significant infrastructure projects, identify and promote best practice in the planning and procurement of projects. Further, this section provides for IA to inquire into matters relating to nationally significant infrastructure at the request of the Minister or after consultation with the Minister.
12. 5E - IA must have regard to Australian Government policies.
 - a. 5E specifies that IA must have regard to the policies of the Commonwealth Government in performing its functions.
13. This 5A, 5B and 5C implements recommendations 3, 7, 8 of the Review to refine IA's product suite in respect of its audits, Infrastructure Priority Lists and Infrastructure Plans; IA to develop a national planning and assessment framework; and IA to provide accreditation or peer-review of projects submitted by states and territories. 5D implements recommendation 12 of the Review to provide IA with the ability to continue research projects in alignment with Australian Government Policies, or new inquiries in consultation with the Government. 5E implements recommendation 2 of the Review for the Government to set out its infrastructure investment objectives to guide IA's advice.

Item 5: Subsection 6(2)

14. This item repeals the subclause that the Minister, in giving directions to IA, may have regard to decisions by COAG, and substitutes it with a subclause that the Minister may have regard to

relevant decisions of a body that consists of the Prime Minister, State Premiers and Chief Ministers of Territories. This tidy-up is because the body COAG no longer exists.

Item 6: After subsection 6E(2)

15. This item specifies that the Board of IA must have regard to the policies of the Commonwealth Government in performing its functions.

Item 7: Section 39C

16. This item removes the requirement of the annual reports prepared by the Board to include details of cost benefit analysis methodology. IA's assessment framework, published on its website, provides information on cost benefit analysis methods applied.

Item 8: Application, saving and transitional provisions

17. This item preserves the validity of any ministerial directions and Infrastructure Priority Lists, Infrastructure Plans and evaluations completed before the commencement of these amendments. It also provides for the transitional arrangements of annual reports.

Part 2 - Governance

Item 9: Section 3 (definition of Board)

18. Definition of Board is repealed from Section 3 of the Act, due to the new governance arrangements.

Item 10: Section 3 (definition of Chair)

19. Definition of Chair is repealed from Section 3 of the Act, due to the new governance arrangements.

Item 11: Section 3

20. Inserts new definition of Chief Commissioner and Commissioner to Section 3 of the Act.

Item 12: Section 3 (definition of full-time Chair)

21. Definition of full-time Chair is repealed from Section 3 of the Act.

Item 13: Section 3

22. Inserts new definition of full-time Commissioner to Section 3 of the Act.

Item 14: Section 3 (definition of member)

23. Definition of member is repealed from Section 3 of the Act.

Item 15: Section 3 (definition of part-time Chair)

24. Definition of part-time Chair is repealed from Section 3 of the Act.

Item 16: Section 3

25. Inserts new definition of part-time Commissioner to Section 3 of the Act.

Item 17: Subsection 4(3)

26. Substitutes reference to the Board with Commissioners in relation to the custody and usage of IA's seal.

Item 18: Subsection 4(3)

27. Substitutes reference to the Board with Commissioners in relation to the custody and usage of IA's seal.

Item 19: Subsection 5A(2)

28. Substitutes reference to the Board with Commissioners in relation to the Board determining the intervals for preparing audits.

Item 20: Subsection 5C(2)

29. Substitutes reference to the Board with Commissioners in relation to the Board determining the intervals for developing Infrastructure Priority Lists.

Item 21: Subsection 5C(5)

30. Substitutes reference to the Board with Commissioners in relation to the Board determining the period of the Infrastructure Plan after consultation with the Minister.

Item 22: Part 2A

31. The whole of Part 2A – Board of Infrastructure Australia is repealed and substituted with Part 2A – Commissioners. This amendment implements the new governance structure of IA. The 12-member Board, including the Chair, would be replaced with three Commissioners, including a Chief Commissioner.
32. Division 1 of the new Part 2A deals with the functions of the Commissioners, including the requirement for Commissioners to have regard to the policies of the Commonwealth Government. This part also sets the responsibilities, noting that responsibilities and other arrangements covered by the part would be mostly carried over unchanged.
33. Division 2 of the new Part 2A deals with the appointment of Commissioners. It stipulates that there is to be one Chief Commissioner and two other Commissioners appointed on a full-time or part-time basis for a period of 5 years. Commissioners must be appointed through a merit-based and publicly advertised process, but which does not prevent the Minister from taking affirmative action in relation to the appointment women or to consider appropriate geographical representation to the positions.
34. Division 3 of the new Part 2A deals with the conduct of meetings convened by Commissioners.
35. Part 2A implements Recommendation 13 of the Review for IA's governance arrangement to have three commissioners.

Item 23: Section 28A (heading)

36. Substitutes reference to the Board with Commissioners for the heading *CEO to act in accordance with policies and directions of Board*.

Item 24: Subsections 28A(1) and (2)

37. Substitutes reference to the Board with Commissioners in relation to the CEO acting in accordance with policies and directions of the Board.

Item 25: Subsection 29(1)

38. Substitutes reference to the Board with Commissioners in relation to the Board appointing the CEO.

Item 26: Section 31

39. Substitutes reference to the Board with Commissioners in relation to the Board appointing the acting CEO.

Item 27: Subsection 33(2)

40. Substitutes references to the Chair with Chief Commissioner in relation to the Chair granting leave to the CEO.

Item 28: Subsection 34(1)

41. Substitutes reference to the Board with Commissioners in relation to the CEO making disclosures of interest to the Board.

Item 29: Section 35

42. Substitutes reference to the Chair with Chief Commissioner in relation to the Chair approving the CEO's outside employment.

Item 30: Section 36

43. Substitutes reference to the Board with Commissioners in relation to the CEO holding office on other terms and conditions determined by the Board.

Item 31: Subsections 37(1) and (2)

44. Substitutes references to the Chair with Chief Commissioner in relation to the CEO giving written notice of resignation to the Chair.

Item 32: Section 38

45. Substitutes reference to the Board with Commissioners in relation to the Board terminating the CEO's appointment.

Item 33: Section 39B

46. Substitutes reference to the Board with Commissioners in relation to the consultation requirements of the Board in preparing a corporate plan.

Item 34: Paragraph 39B(b)

47. Substitutes text 'it considers' with 'the Commissioners consider' in relation to the consultation requirements of the Board in preparing a corporate plan.

Item 35: Section 39C

48. Substitutes reference to the Board with Commissioners in relation to the annual report prepared by the Board.

Item 36: Paragraph 40A(1)(a)

49. Substitutes reference to the Board with the Commissioner in relation to IA delegating its powers or functions to a member of the Board. This would carry over the existing delegation provision that applies for the Board to the Commissioners.

Item 37: Section 40B (heading)

1. Substitutes reference to the Board with Commissioners for the heading *Delegation by the Board*.

Item 38: Subsection 40B(1)

2. Substitutes text with reference to the Commissioners in relation to the Board delegating its powers to a member of the Board. This would carry over the existing delegation provision that applies for the Board to the Commissioners.

Item 39: Paragraph 40B(1)(a)

3. Substitutes text with reference to the Commissioner in relation to the Board delegating its powers to a member of the Board. This would carry over the existing delegation provision that applies for the Board to the Commissioners.

Item 40: Subsection 40B(2)

4. Substitutes reference to the Board with Commissioners in relation to the delegate complying with directions of the Board. This would carry over the existing delegation provision that applies for the Board to the Commissioners.

Item 41: Subsection 40C(2)

5. Substitutes reference to the Board with the Commissioners in relation to the CEO subdelegating powers that has been delegated by the Board to the CEO.

Item 42: Application, saving and transitional provisions

6. This item ensures that all things done by the Board and Chair before the commencement of these amendments are treated as things done by the Commissioners and Chief Commissioner.

Implementation of Australian Government Response to the independent review of Infrastructure Australia

Recommendations implemented through legislative amendments

Recommendations to be implemented through the Infrastructure Australia Amendment (Independent Review) Bill 2023		
Recommendation	Government response (summary)	Planned implementation
<p>Recommendation 1</p> <p>The Review recommends Infrastructure Australia's (IA) mandate be defined as 'the Australian Government's national advisor on national infrastructure investment planning and project prioritisation'. This should include advising the Australian Government on its strategies and priorities to invest in transport, water, communications, energy, social and economic infrastructure.</p> <p>The Review recommends this mandate be defined in the IA Act.</p>	<p>Support in principle</p> <p>The Government supports the need for a defined mandate for Infrastructure Australia.</p> <p>The Government considers IA's focus should remain on nationally significant projects relating to transport, water, communications and energy infrastructure. IA may examine other infrastructure sectors such as social and economic infrastructure as appropriate, where it is embedded as part of broader strategic and place-based planning considerations associated with transport, water, communications and energy infrastructure.</p>	<p>Amendments to the <i>Infrastructure Australia Act 2008</i> will ensure mandate is appropriately defined to clearly articulate the role of IA:</p> <p>2A Object</p> <p>The object of this Act is to establish Infrastructure Australia as the Commonwealth Government's independent adviser on nationally significant infrastructure investment planning and project prioritisation.</p> <p>This provision does not limit or change any of the functions or powers of IA, and is more of an overarching provision which can affect how the other provisions of the Act are interpreted, by clarifying the intention (noting it does not override any of the other provisions).</p>
<p>Recommendation 2</p> <p>The Review recommends that to support Infrastructure Australia's mandate, the Australian Government formally issues a Charter of Infrastructure Investment Objectives, which outlines the Government's national infrastructure investment objectives and intended performance standards. To provide long-term certainty and guidance, the Review recommends this Charter be issued on a five yearly basis ahead of the refresh of the Infrastructure Plan.</p> <p>The Review recommends the requirement for this Charter be formalised in the IA Act.</p>	<p>Support in principle</p> <p>The Government intends to issue an Infrastructure Policy Statement (IPS), which will set out the Government's infrastructure investment objectives. IA will use the Government's Infrastructure Policy Statement to guide its advice to the Government.</p> <p>The Government will also continue to issue a Statement of Expectations (SoE) to Infrastructure Australia. The SoE will be used to provide guidance to IA on how it can support delivery of the Government's immediate priorities, including those set out in the Infrastructure Policy Statement.</p>	<p>s47C</p> <p>Amendments to the IA Act will require IA and its Commissioners to consider policies issued by the Government, s47C</p> <p>5E Infrastructure Australia must have regard to policies</p> <p>In performing its functions and exercising its powers, Infrastructure Australia must have regard to the policies of the Commonwealth Government in relation to infrastructure.</p> <p>And</p> <p>6E Functions</p> <p>(3) In performing their functions and exercising their powers, the Commissioners must have regard to the policies of the Commonwealth Government in relation to infrastructure.</p>
<p>Recommendation 3</p> <p>The Review recommends that Infrastructure Australia's existing product suite be refined to better support government infrastructure investment objectives and to inform the budget process.</p>	<p>Support</p> <p>The Government will require a targeted Infrastructure Priority List that is informed by the Government's investment objectives and aligned with the budget process.</p> <p>The Government will also require a streamlined Infrastructure Plan that is in line with the Government's policy objectives, and provide solutions-focused advice and recommendations.</p> <p>The updated product suite will be informed by consultation with state and territory governments.</p>	<p>Amendments to the <i>Infrastructure Australia Act 2008</i> will refine IA's product suite.</p> <p>The amendments will ensure IA's existing product suite aligns with Government objectives outlined in the IPS or other government policy statements. The amendments will provide clearer, more streamlined and targeted instructions in regards to IA's functions of conducting audits and developing the Infrastructure Priority Lists (IPL) and Infrastructure Plans.</p> <p>IA will need to consult with the states and territories and local governments in conducting its audits and in the development of the IPL.</p> <p>IA is to undertake these functions when the Commissioners determine, and also at the request of the Minister for the IPL and the Infrastructure Plan.</p> <p>5A Functions—conducting audits</p> <p>(1) For the purposes of paragraph 5(a), Infrastructure Australia has the function of conducting audits to determine the adequacy, capacity and condition of nationally significant infrastructure, taking into account:</p> <p>(a) forecast economic and population growth; and</p> <p>(b) economic, social and environmental sustainability; and</p>

Recommendations to be implemented through the Infrastructure Australia Amendment (Independent Review) Bill 2023		
Recommendation	Government response (summary)	Planned implementation
		<p>(c) Australia's greenhouse gas emissions reduction targets.</p> <p>(2) An audit must be prepared under this section at such intervals as the Commissioners determines.</p> <p>(3) In performing this function, Infrastructure Australia may consider State, Territory or local government reports on the adequacy, capacity and condition of nationally significant infrastructure.</p> <p>5C Functions—developing Infrastructure Priority Lists and Infrastructure Plans</p> <p><i>Infrastructure Priority Lists</i></p> <p>(1) For the purposes of paragraph 5(b), Infrastructure Australia has the function of developing targeted Infrastructure Priority Lists that:</p> <p>(a) specify priorities for Commonwealth investment in nationally significant infrastructure across Australia; and</p> <p>(b) take into account:</p> <p>(i) audits mentioned in section 5A; and</p> <p>(ii) evaluations conducted or endorsed by Infrastructure Australia in accordance with section 5B; and</p> <p>(iii) consultations with Commonwealth, State and Territory governments; and</p> <p>(iv) any other matters Infrastructure Australia considers relevant.</p> <p>(2) Infrastructure Australia must develop Infrastructure Priority Lists at such intervals as the Commissioners determines. Infrastructure Australia must also develop an Infrastructure Priority List if the Minister requests.</p> <p><i>Infrastructure Plans</i></p> <p>(3) For the purposes of paragraph 5(b), Infrastructure Australia has the function of developing Infrastructure Plans specifying priorities for nationally significant infrastructure across Australia.</p> <p>(4) An Infrastructure Plan:</p> <p>(a) must be developed at the request of the Minister; and</p> <p>(b) may be developed on Infrastructure Australia's own initiative after consultation with the Minister.</p> <p>(5) An Infrastructure Plan must cover the period determined by the Commissioners after consultation with the Minister.</p> <p>(6) Infrastructure Australia must make an Infrastructure Plan available on Infrastructure Australia's website within 14 days after it is developed.</p>
<p>Recommendation 7</p> <p>The Review recommends that Infrastructure Australia develops a national planning and assessment framework, providing uniform guidelines based on best practice to support national consistency and coordination in infrastructure assessment. This work must have regard to and build in the broader government infrastructure objectives as outlined in the Charter and the Plan.</p>	<p>Support</p> <p>The Government supports the recommendation that IA develops a national Infrastructure planning and assessment framework and will include it in the Statement of Expectations issued to Infrastructure Australia. The Government notes that it will be important for Infrastructure Australia to work with the states and territories to encourage alignment of jurisdictional frameworks.</p>	<p>Amendments to the <i>Infrastructure Australia Act 2008</i> will give IA this function.</p> <p>IA will need to consult and engage with the states and territories in the development of a planning and assessment framework. IA will need to give the framework to the Minister, publish it on IA's website and review the framework at least every 5 years.</p> <p>5B Functions—evaluating infrastructure proposals</p> <p><i>National planning and assessment framework</i></p> <p>(1) Infrastructure Australia must develop a national planning and assessment framework to promote national consistency and coordination in infrastructure evaluations.</p> <p>(2) The framework is not a legislative instrument.</p>

Recommendations to be implemented through the Infrastructure Australia Amendment (Independent Review) Bill 2023		
Recommendation	Government response (summary)	Planned implementation
		<p>(3) Infrastructure Australia must give the framework to the Minister and publish the framework on Infrastructure Australia's website.</p> <p>(4) Infrastructure Australia must review the framework at least every 5 years.</p> <p>(5) In developing and reviewing the framework, Infrastructure Australia must consult with States and Territories.</p>
<p>Recommendation 8</p> <p>The Review recommends that Infrastructure Australia's role in the project assessment context becomes one of accreditation or peer-review, acknowledging that many state and territories have developed their own project assessment capabilities. Such arrangements should apply across all projects, including those involving Commonwealth investments of over \$250 million or recognised as 'nationally significant'.</p> <p>Where a state or territory framework does not provide the necessary assurance or have not been accredited and the project involves Commonwealth investments of over \$250 million or is recognised as 'nationally significant', Infrastructure Australia will undertake a full assessment. Infrastructure Australia's assessment must be against the Charter objectives and strategies as outlined in the Plan.</p>	<p>Support</p> <p>The Government supports the recommendation that IA's role in the project assessment context becomes one of accreditation or peer-review in support of state and territory processes and capabilities. A collaborative approach with the states and territories will be necessary to achieve this, and the Government will explore opportunities to harmonise the business case/project review approach where possible. Where IA can use its assessment capabilities to supplement the work of a jurisdiction, it will have the flexibility to do so.</p>	<p>IA's revised role in the context of project evaluation and removing duplication of assessment processes will be reflected in amendments to the <i>Infrastructure Australia Act 2008</i>.</p> <p>In addition to evaluating proposals, IA will have the role in endorsing evaluations conducted by or for States or Territories, including those from the Commonwealth, Commonwealth entities and Government Business Enterprises.</p> <p>5B Functions—evaluating infrastructure proposals</p> <p><i>Evaluations</i></p> <p>(6) For the purposes of paragraph 5(aa), Infrastructure Australia has the function of evaluating, or endorsing evaluations conducted by or for States or Territories of, proposals covered by subsection (7) that are submitted by any of the following:</p> <ul style="list-style-type: none"> (a) the Commonwealth; (b) a Commonwealth entity (within the meaning of the <i>Public Governance, Performance and Accountability Act 2013</i>); (c) a Commonwealth company (within the meaning of that Act); (d) a State; (e) a Territory. <p>(7) For the purposes of subsection (6), this subsection covers proposals for investment in, or enhancements to, the following infrastructure:</p> <ul style="list-style-type: none"> (a) nationally significant infrastructure; (b) other infrastructure determined by the Minister. <p>(8) A determination made by the Minister under paragraph (7)(b) is a legislative instrument.</p> <p>(9) As soon as practicable after the end of each quarter, Infrastructure Australia must make available on its website:</p> <ul style="list-style-type: none"> (a) a summary of each proposal evaluated by Infrastructure Australia during the quarter; and (b) a summary of each proposal for which Infrastructure Australia endorsed an evaluation during the quarter.
<p>Recommendation 12</p> <p>The Review recommends that Infrastructure Australia be provided powers to undertake formal inquiries into national infrastructure investment topics, and supporting powers to enable it to carry out such inquiries. Matters may be referred by the Minister or may be undertaken by Infrastructure Australia, on its own initiative and in line with its Charter.</p> <p>The IA Act should be amended to include similar provisions such as those in Parts 2, 3 and 4 of the</p>	<p>Support in part</p> <p>The Government does not support Infrastructure Australia undertaking formal inquiries; rather it will continue with research projects in alignment with the Government's Infrastructure Policy Statement, and/or propose new inquiries in consultation with the Government.</p> <p>The Government acknowledges that greater direction could be provided by outlining specific topics of interest to the Government in the Statement of Expectations.</p>	<p>Through amendments to the <i>Infrastructure Australia Act 2008</i>, IA's advice function will include the ability to inquire into and report on matters relating to nationally significant infrastructure at the request of the Minister, or after consulting with the Minister - section 5D(1)(f):</p> <p>5D Functions—providing advice on infrastructure matters</p> <p>(1) For the purposes of paragraph 5(c), Infrastructure Australia has the following functions:</p> <ul style="list-style-type: none"> (a) to identify any impediments to investment in nationally significant infrastructure and identify strategies to remove any impediments identified; (b) to promote the timely and efficient delivery of nationally significant infrastructure projects, consistent with considerations of social and environmental sustainability;

Recommendations to be implemented through the Infrastructure Australia Amendment (Independent Review) Bill 2023		
Recommendation	Government response (summary)	Planned implementation
<p>Productivity Commission Act 1998 (Cth) outlining the formal inquiry role and necessary functions and powers required perform this function.</p> <p>In performing its commission and inquiry functions, Infrastructure Australia should have regard to matters including 'national significance', infrastructure investment, collaboration and coordination with state and territory projects and I-bodies, and engagement with the private sector.</p> <p>A copy of the Infrastructure Australia inquiry report should be tabled in each House of Parliament within 25 sitting days of that House, and after the day the Minister has received the report.</p> <p>The Government must formally respond to the report and findings of Infrastructure Australia.</p>		<p>(c) to identify and promote best practice in the planning and procurement of nationally significant infrastructure projects;</p> <p>(d) to review and provide advice on proposals to facilitate the harmonisation of policies, and laws, relating to development of, and investment in, infrastructure;</p> <p>(e) to review Commonwealth infrastructure funding programs and their alignment with Infrastructure Plans:</p> <p>(i) at the request of the Minister; or</p> <p>(ii) after consultation with the Minister;</p> <p>(f) to inquire into and report on matters relating to nationally significant infrastructure:</p> <p>(i) at the request of the Minister; or</p> <p>(ii) after consultation with the Minister.</p> <p>(2) For the purposes of paragraph 5(c), Infrastructure Australia has the function of providing advice to the Minister and the Commonwealth on matters relating to infrastructure, including in relation to the following:</p> <p>(a) Australia's current and future needs and priorities relating to nationally significant infrastructure;</p> <p>(b) policy, pricing and regulatory issues that may impact on the utilisation of infrastructure;</p> <p>(c) policy issues arising from climate change, including the achievement of Australia's greenhouse gas emissions reduction targets;</p> <p>(d) impediments to the efficient utilisation of national infrastructure networks;</p> <p>(e) options and reforms, including regulatory reforms, to make the utilisation of national infrastructure networks more efficient;</p> <p>(f) the needs of users of infrastructure;</p> <p>(g) mechanisms for financing investment in infrastructure;</p> <p>(h) the delivery of infrastructure projects.</p> <p>(3) For the purposes of paragraph (2)(h), Infrastructure Australia may evaluate the delivery of an infrastructure project, including evaluating:</p> <p>(a) the delivery against any targets set before or during delivery; and</p> <p>(b) any relevant assumptions made before or during delivery.</p> <p>(4) Infrastructure Australia also has the function of promoting public awareness of the matters mentioned in subsections (2) and (3), including by publishing information on its website.</p>
<p>Recommendation 13</p> <p>The Review recommends the Government consider the three structure governance model options as discussed above to strengthen the role and influence of Infrastructure Australia through its governance framework. The Review notes its preferred model is that of a commission model (option 2). The commission would be formed to lead the agency as well as have power to undertake inquiries on topics.</p>	<p>Support – favouring in principle option 2</p> <p>The Government's intended governance arrangement would be to have three commissioners (or equivalents). A Chief commissioner would be supported by two commissioners in the delivery of Infrastructure Australia's mandate.</p> <p>IA would continue to have a CEO responsible for the day-to-day administration of IA.</p> <p>An advisory board would provide additional expertise in support of the commissioners. The advisory board would comprise of three or four experts from the infrastructure and related sectors and up to three senior Australian Public Service officials.</p>	<p>Amendments to the <i>Infrastructure Australia Act 2008</i> will replace the 12-person Board with three Commissioners, including a Chief Commissioner.</p> <p>The amendments will repeal and update all references in the IA Act to the Board and Chair with references to the Commissioners and Chief Commissioner.</p> <p>Part 2A of the Act, covering the functions, appointment, and meetings of the Board, will be repealed and substituted with a new Part 2A to reflect the Commissioner governance structure.</p> <p>To minimise operational changes for IA and maintain consistency with the standard position under the PGPA Act:</p> <ul style="list-style-type: none"> IA remains a corporate Commonwealth entity the three Commissioners are the accountable authority the CEO is appointed by the Commissioners on a full-time basis and is Head of Agency for the purposes of the PS Act. <p>Consistent with the review recommendations to raise the status of the IA Board:</p>

Recommendations to be implemented through the Infrastructure Australia Amendment (Independent Review) Bill 2023		
Recommendation	Government response (summary)	Planned implementation
		<ul style="list-style-type: none"> the Chief commissioner may be appointed on a full-time or part-time basis (consistent with current provisions of the IA Act) other commissioners may be appointed on a full-time or part-time basis appointment terms are extended to up to 5 years <p>The Commission would:</p> <ul style="list-style-type: none"> Meet at least 4 times each year Require 2 Commissioners for a quorum (the presiding Commissioner at the meeting would have the casting vote) <p>The advisory board, to be referred to as an advisory council, will not be a statutory body.</p>

Recommendations implemented through non-legislative mechanisms

Recommendations to be implemented through an updated Statement of Expectations		
Recommendation	Government response	Planned Implementation
Recommendation 4 The Review recommends that Infrastructure Australia also provides two new annual statements to the Australian Government to inform the annual budget process on infrastructure investment, and report on the performance outcomes being achieved from the investment program and the existing project initiatives. The Review recommends that the Government consider tabling these annual products in the interests of transparency and accountability.	Support in part The Government supports the recommendation that Infrastructure Australia provide annual statements to the Government. The Government does not support tabling these annual products if they will likely inform deliberations of the Cabinet. However, the Government is committed to increasing the transparency of the infrastructure investment pipeline and will consider the best means to do this as part of the infrastructure policy statement.	s47C s47C The Government will work with states and territories through ITMM on releasing regular updates on the delivery status of infrastructure projects to improve accountability and communication on infrastructure investments and their benefits.
Recommendation 6 The Review recommends that Infrastructure Australia's remit be expanded to include social infrastructure (where it is relevant to the infrastructure investment project, or place and precinct in question) as well as future investment challenges where Infrastructure Australia's position as the national advisor best enables it to incorporate those challenges in its advice and analysis.	Support in part The Government considers IA's focus should be on nationally significant projects relating to transport, water, communications and energy infrastructure. From time to time, it may be appropriate for Infrastructure Australia to consider social infrastructure implications where it is part of broader network analysis or place-based project advice. Where required, the Government can request this work through the Statement of Expectations.	s47C s47C
Recommendation 9 The Review also recommends that, reflecting Infrastructure Australia's role as the national advisor, it adopts a much more active role in the post-completion stage through having a clear national evaluation and assurance role against the Charter and Plan.	Support The Government agrees that IA should have responsibilities in the post-completion stage, and will use the Statement of Expectations to implement this recommendation. The Government notes that a framework for this type of evaluation and assessment will need to be developed, in consultation with relevant stakeholders, including state and territory governments.	s47C An appropriate framework should be developed in consultation with relevant stakeholders including the Department and state and territory governments.

Recommendations to be implemented through an updated Statement of Expectations		
Recommendation	Government response	Planned Implementation
Recommendation 10 The Review recommends the formation of an I-bodies council to enable better collaboration and coordination between Infrastructure Australia and state and territories. This formation could be formalised in the IA Act or be made a sub-committee of the Board.	Support in principle The Government supports enhanced collaboration and coordination between IA and state and territory infrastructure bodies. As well as ensuring good relations across the Federation, such collaboration also informs a harmonised, uniform approach on key infrastructure matters.	s47C
Recommendation 11 The Review recommends the definition of 'national significance', in the context of project assessment, is revised to include both the \$250 million monetary threshold figure as well as a list of non-monetary metrics, including factors as outlined in the five yearly Charter and/or a supplementary Statement of Expectations.	Support in principle For project assurance and assessment as part of the Australian Government project funding approvals process, the National Partnership Agreement on Land Transport Infrastructure Projects and associated Notes on Administration, and other intergovernmental funding agreements, require Infrastructure Australia to assess projects seeking \$250 million or more in Commonwealth funding. The Government will retain the existing threshold of \$250 million, and will reinforce this through the Statement of Expectations, but also include flexibility for IA to consider projects under this threshold which are nationally significant. For the purposes of identifying national infrastructure needs and priorities, the Government notes the current definition of 'nationally significant infrastructure' in the IA Act as including transport, energy, communications and water in which investment or further investment will materially improve national productivity.	s47C
Recommendation 16 The Review recommends that Infrastructure Australia be placed within either Department of Prime Minister and Cabinet or the Department of Treasury, through changes to the Administrative Arrangements Order. Should the Government decide not to support Recommendation 16, the Review strongly urges the Government to consider the option of including the Secretaries of these two central agencies on the Infrastructure Australia Board as ex officio members.	Support in part The Government does not support movement of IA to a central agency. The Government considers that strengthening the linkages between IA and senior officials from the Department of the Prime Minister and Cabinet, Treasury and DITRDCA, for instance by including Secretaries as members of the advisory board, could help improve IA's interactions with government investment and decision-making processes and quality of advice.	s47C

Recommendations implemented through other mechanisms		
Recommendation	Government response	Planned Implementation
Recommendation 5 The Review recommends that there is a requirement within the IA Act that the Australian Government must formally, and publicly, respond to Infrastructure Australia's advice, findings and recommendations within six months.	Support in principle The consideration of IA's advice, in a budget context, may be the subject of Cabinet deliberations, and therefore not appropriate for formal release, or response. Where the Government commissions IA to provide advice that may benefit from a wider public discourse ahead of final decisions, such as an Infrastructure Plan, the Government may consider that a formal response is warranted.	Where the Government intends to formally respond to an Infrastructure Australia product, the response mechanism will be determined on a case-by-case basis. s47E(d) s47C
Recommendation 14 The Review recommends the establishment of a Cities and Suburbs Unit within the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA).	Support The Government supports the establishment of a Cities and Suburbs Unit (CSU) within DITRDCA. The Government acknowledges that to support the operations and functions of the CSU, IA should continue to focus on data, analysis and evidence, consistent with its advisory responsibilities. This will ensure that Infrastructure Australia's advisory role supports DITRDCA's policy and implementation responsibilities.	Arrangements for the establishment of a Cities and Suburbs Unit in the Department are under consideration. s47C
Recommendation 15 The Review recommends that the Government clearly delineate the roles and responsibilities of Infrastructure Australia vis-a-vis other Commonwealth infrastructure bodies, including Infrastructure and Commercial Advisory Office and DITRDCA (Infrastructure Investment Division and Significant Projects Investment Delivery Office). This should include investigating options for closer collaboration to provide each other mutual support in carrying out their respective roles, as advisors on infrastructure matters to the Australian Government.	Support The Government supports the delineation of roles and responsibilities for Infrastructure Australia and other Commonwealth agencies with infrastructure responsibilities, including DITRDCA and Treasury. The Government will continue to ensure clarity of roles and responsibilities across Government departments.	Engagement and collaboration across government agencies is ongoing to ensure clarity of roles and to avoid duplication of effort.
For government consideration The Review urges the Australian Government consider, especially from the asset maintenance, management and resilience building perspective, how to utilise the existing Regional Development Australia structure to enhance coordination and collaboration with local government and support their program delivery responsibilities	Noted	The Government has already commenced work in this area in the context of designing the new regional programs announced in the 2022-23 Budget (the regional Precincts and Partnerships Program, and the Growing Regions Program). The Government is considering options for revitalising the Regional Development Australia Committees (RDA) network. s47E(d)

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MS23-003379



Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

s47C

To: The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government (for decision)

Subject: Infrastructure Australia Statement of Expectations addendum

Critical Date: Routine

Recommendations:

1. That you **agree** to write to the Acting Chair of Infrastructure Australia (IA) with an addendum to IA's Statement of Expectations which clarifies the Government's expectation that IA should only accept infrastructure proposals for evaluation from Australian state or territory governments.

Agreed / Not Agreed

2. That you **sign** the letter to the Acting IA Chair at Attachment A

Signed / Not Signed

The Hon Catherine King MP

Date: 15 June 23

Comments:

Key Points:

1. On 8 December 2022 you released the Australian Government's response to the independent review of IA. On 22 March 2023 the Infrastructure Australia Amendment (Independent Review) Bill 2023 was introduced into Parliament.
2. MS23-003113 sought your approval to the Bill, explanatory memorandum and second reading speech^{s47C}

s47C

3. The Bill would limit IA to evaluating infrastructure proposals from the Commonwealth, a Commonwealth entity or company, a state or a territory.
4. IA has identified that, in the absence of updated legislation or an updated SoE, it has nothing documenting the Government's current position on the submission of infrastructure project proposals.
5. Proponents for a number of local government and private sector led infrastructure proposals have contacted IA about submitting proposals for evaluation and possible addition to the Infrastructure Priority List (IPL).

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6. You have made public statements that the IPL should be smaller and more targeted. Projects are submitted by local government and private sector proponents in the hope of getting attention for funding. These projects often fall outside of the intent for the IPL to identify nationally significant infrastructure projects suitable for investment.
7. The current SoE, issued to IA with effect from 5 September 2022, was an interim document that noted that IA is expected to operate in accordance with its statutory functions and obligations while the independent review of IA was undertaken (**Attachment B**).
8. Issuing the SoE addendum letter will provide clarity to IA about the Government's expectations to not accept project proposals from local government and private sector proponents while the Bill is passing through the Parliament.
9. If you issue the SoE addendum, IA will publish it on their website alongside the current SoE.
10. s47C

Financial impacts: N/A

Legal/Legislative impacts: N/A

Stakeholder Implications:

11. It is anticipated that issuing written advice to IA will assist IA in managing approaches from local governments and the private sector who want to submit proposals for inclusion on the IPL.
12. Local government proponents of infrastructure projects are likely to continue to make representations seeking agreement for IA to assess their proposals.

Consultation:

13. IA was consulted on the content of the SoE addendum.

Media Opportunities: N/A

Attachments:

Attachment A: Letter to the Acting IA Chair

Attachment B: Current IA SoE issued with effect from 5 September 2022

Cleared By: Andreas Bleich
 Position: Assistant Secretary
 Division: Infrastructure Investment Division
 Ph: (02) 6274 7934
 Mob: s22(1)(a)(ii)
 Cleared Date: 9 May 2023

Contact Officer: s22(1)(a)(ii)
 Section: Engagement, Advisory and
 Projects
 Ph: s22(1)(a)(ii)
 Mob: s22(1)(a)(ii)

Instructions for MPS: Nil

Responsible Adviser: s22(1)(a)(ii)

PDMS Distribution List: Jim Betts, Dave Hallinan, Andrew Bourne, Andreas Bleich, s22(1)(a)(ii)



The Hon Catherine King MP

Minister for Infrastructure, Transport, Regional Development and Local Government
Member for Ballarat

Ref: MS23-003379

Ms Gabrielle Trainor AO
Acting Chair
Infrastructure Australia
GPO Box 5417
SYDNEY NSW 2001

via: s47F [REDACTED].com.au

Dear Ms Trainor

I am writing to provide an addendum to the Statement of Expectations (SoE) I issued to Infrastructure Australia (IA) with effect from 5 September 2022.

The independent review of IA is complete and the Australian Government response to the review recommendations was released in December 2022. The Government has introduced the Infrastructure Australia Amendment (Independent Review) Bill 2023 (the Bill) into Parliament to implement elements of the Government's response to the independent review of IA.

As advised in the SoE, the Government expects IA to undertake timely evaluation of infrastructure proposals that are nationally significant or where Government funding of \$250 million or more is sought. During the passage of the Bill through Parliament, IA should only accept project proposals for assessment from Australian, state or territory governments.

In recognition that project submissions should only be accepted from state or territory government proponents or Australian Government entities, the Government expects that IA will consider opportunities to strengthen expertise within local governments to make submissions to state and territory governments on project proposals. This should include consultation with Regional Development Australia committees.

This letter may be published on the IA website for the information of project proponents and other IA stakeholders. I do not expect a revised Statement of Intent from IA in response to this letter.

Yours sincerely

Catherine King MP

/ / 2023

Cc. Mr Adam Copp, Acting Chief Executive Officer, IA

STATEMENT OF EXPECTATIONS - INFRASTRUCTURE AUSTRALIA

The Australian Government has commissioned an independent review of Infrastructure Australia. This Statement of Expectations (SoE) outlines the Australian Government's expectations for Infrastructure Australia, while an independent review of Infrastructure Australia is conducted.

Until the independent review is completed, Infrastructure Australia is to operate in accordance with its statutory functions and obligations under the *Infrastructure Australia Act 2008*, the *Public Governance, Performance and Accountability Act 2013* (and associated regulations), and other relevant legislation and legal instruments.

This includes the timely evaluation of infrastructure proposals that are nationally significant or where Commonwealth funding of \$250 million or more is sought.

The independent review will consider the functions of Infrastructure Australia, including the mandate and composition of the IA Board, and whether IA's administrative arrangements are appropriate to support delivery of its role and functions. All members of the Infrastructure Australia Board, and all Infrastructure Australia staff, are expected to fully participate in the review, including providing any information requested by the reviewers in a timely manner.