



BAD CUSTOMERS

**THE BILLIONS
GOING MISSING FROM
INFRASTRUCTURE
INVESTMENT
IN AUSTRALIA**

CFMEU
CONSTRUCTION & GENERAL

EXECUTIVE SUMMARY

Australia's infrastructure investment is at an all-time high with an estimated \$288 billion in the pipeline over the coming decade.

DESPITE this enormous escalation in expenditure of taxpayers' resources, State and Federal Governments across Australia remain uninformed and ideological purchasers of infrastructure and services leading to extraordinary economic waste and delay.

When it comes to delivering infrastructure, Australian governments have become bad customers.

Research conducted by Equity Economics estimates that this has cost Australian taxpayers **\$10.8 billion** over the last ten years and may cost an additional **\$5.0 billion** over the coming three, and that **"this is a direct result of state, territory and Commonwealth Governments not retaining adequate expertise in the procurement of infrastructure projects"**.

Government doesn't know what it's doing, and we are all paying the price.

The outsourcing of project delivery to the private sector has encouraged the denuding of the public sector of the staff, skills and expertise required to oversight the projects the government seeks to deliver.

So, the government doesn't know what its buying and it doesn't have the tools to properly oversight projects, because most of the skills sit in the private sector. This 'Cycle of Waste' leaves government as an uninformed purchaser.

Projects are poorly scoped and designed, leading to delays, cost overruns and disputes with private sector suppliers. Infrastructure projects are delivered late and excessively over budget, sapping valuable resources which then cannot be invested in proper design, scoping and the retention of appropriate skills within government. This in turn sows the seeds of the next cycle of infrastructure delivery failure.



WHEN IT COMES TO DELIVERING INFRASTRUCTURE, GOVERNMENT DOESN'T KNOW WHAT IT'S DOING, AND WE ARE ALL PAYING THE PRICE.

THIS IS ESTIMATED TO HAVE COST \$10.8 BILLION OVER THE LAST TEN YEARS AND MAY COST AN ADDITIONAL \$5.0 BILLION OVER THE COMING THREE.



It is another case of deregulation and a rush to the private sector having reached a logical end where government and taxpayers have to foot the bill for an ideological obsession.

While the Commonwealth distributes \$95 billion in GST payments and maintains significant leverage to address the issues with infrastructure procurement systems, it chooses to take no action to police the significant investment it makes in social and civil infrastructure.

Often it has fallen to unions to blow the whistle on waste and community safety in the public sector. Now, the Federal Government wants to make it easier for major construction firms to silence union officials who act for the safety of their members and the public.

BAD CUSTOMERS

WHAT GOVERNMENT WASTE IN INFRASTRUCTURE IS COSTING US:

\$10.8 BILLION

OVER THE LAST TEN YEARS

\$5.0 BILLION

OVER THE COMING THREE



WHICH WOULD BE ENOUGH TO BUILD:



**SEVERAL MAJOR
PUBLIC HOSPITALS**



250 SCHOOLS



OR COULD FUND:

**MORE THAN 10,000 TEACHERS
OR NURSES PER YEAR**



OVER THE NEXT THREE YEARS.



INTRODUCTION

Australia’s infrastructure investment is at an all-time high with an estimated \$288 billion in the pipeline over the coming decade. With our population expected to increase to 34 million by 2042, our demands on infrastructure will grow even more acute.

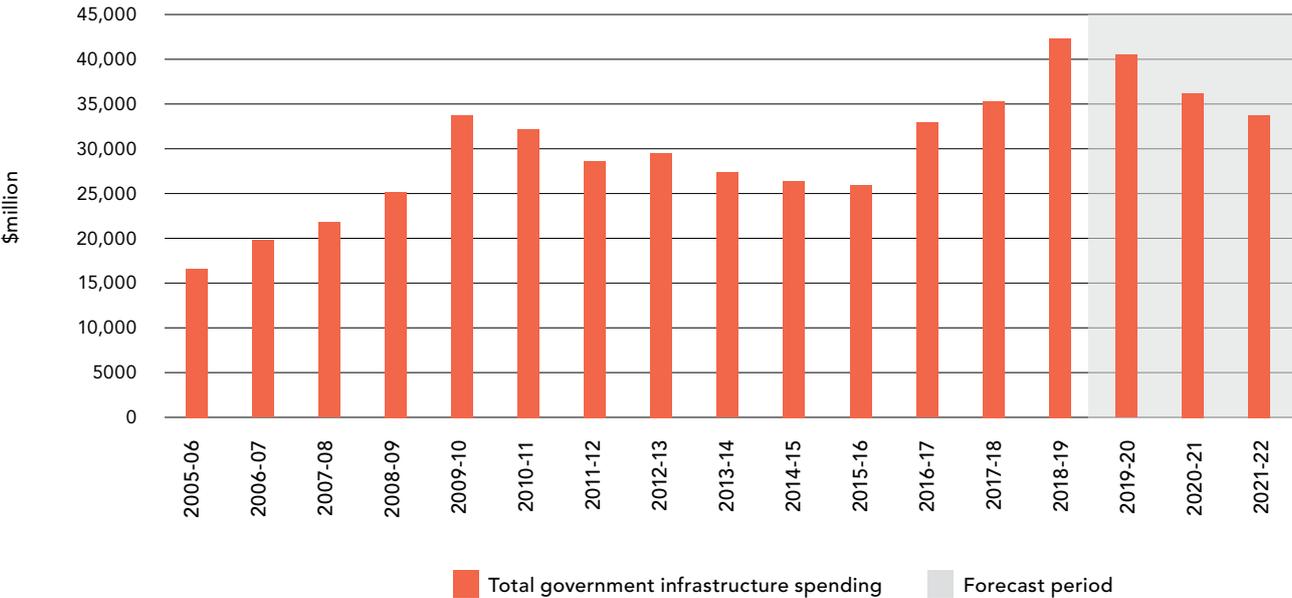
ACCORDING to Equity Economics, “Over the last 10 years Australian State, Territory and Commonwealth governments have funded \$315 billion in infrastructure projects”¹, with another \$110bn in the next three.

For major capital cities, many large projects are both a critical response to managing their growing populations and an effort to ‘catch-up’ on underinvestment over prior decades. Those periods of underinvestment exacerbated our reduced capacity to deliver major

projects on time and on budget as **our diminished public sectors became out of practice.**

Our huge infrastructure investment has a number of beneficiaries – those companies engaged to perform work and their employees not least amongst them. More than half of the public sector engineering construction work performed in Australia is delivered by the private sector, with this figure increasing year-on-year as government recedes as a major delivery partner.²

Figure 1: Total government infrastructure funding, 2005-06 to 2021-22, constant prices



Source: Equity Economics

1 Infrastructure Partnerships Australia, *Committed Government Infrastructure Funding, by Jurisdiction*. 2019 [cited 2019 5 August]. Retrieved from: <https://infrastructure.org.au>.
 2 Australian Construction Industry Forum, *Boosting Construction Productivity, Fact Sheet 1*.

GOVERNMENT AS AN UNINFORMED PURCHASER

Government in Australia has been an uninformed and ideological purchaser of infrastructure and services.

Since the 1990s, State Governments around Australia have looked to dismantle their large-scale public works agencies in favor of contracted services and project delivery. This approach shifts recurrent costs off the balance sheet of governments but adds significant costs when it comes to delivering projects and services.

In the last three decades, the private sector has become the crux of infrastructure delivery, with their involvement deemed a necessity by successive governments. Government project delivery now largely consists of contracted work arrangements that seek to shift risk and responsibility to the private sector. Procurement practices have been aimed at minimising the costs to government from this approach.

The most recent research conducted by Ashurst, in 'Scope for Improvement' has found disputation is driven by "poorly scoped projects, resulting in variations, rework and interface issues between trades, unclear contract drafting... poor contract administration (and overly optimistic scheduling and cost estimates"³. A report by Deloitte Economics, the 'Economic Benefits of Better Procurement', compiled for Consult Australia "found that conservatively, public sector clients could save 5.4% on professional services costs alone through better procurement"⁴.

What is never properly assessed in these approaches is the lifetime benefit of projects: the long-term benefits of a project and how it is best delivered with broader objectives.

SHIFTING RESPONSIBILITY

Like in residential construction, models of infrastructure delivery are failing us. Often criticised has been the Design and Construct (D&C) model, where the proponent prepares a design brief that outlines the functional and key user requirements (in terms of performance) for the work, and then seeks tenders for completion.

The contractual relationship is a single contract with the construction contractor (head contractor) who then subsequently deals with subcontractors to get the job done. Even though there are upfront advantages of this procurement model, for example project accountability and efficient administration, the disadvantages it poses are significant, including the inability to determine life-cycle costs and the government being liable for time and cost overruns.⁵

This model actively encouraged and enabled the denuding of the public sector of staff, skills and expertise, with a flight to the private sector allowing a situation to evolve where government can no longer adequately oversight projects it seeks to deliver, sometimes even employing contract managers.

Competition on cost alone has driven adversarial relationships in the construction industry, with companies looking to drive down labour costs. There has been a growth in the use of pyramid contracting, labour on-hire and subcontracting arrangements, which has subsequently eroded worker's rights, wages and entitlements. There are now many layers between government and the hired workers, with opaque company structures making it so government has no line of sight on how contracts are delivering in line with worker's rights, or if legal and moral obligations are being fulfilled.

In its 'Better Infrastructure' report, Professionals Australia describes the cycle of waste that ensues from a lack of public sector capability, where government not only fails to properly articulate its requirements in the scope and design but as an 'uninformed purchaser' is problematic in its behaviour as a client that errs in favour of disputation over collaboration.⁶

3 Ashurst, *Scope for Improvement 2014* (2015), p20, Ashurst, Melbourne, Sydney

4 Deloitte Access Economics (2015) *Economic benefits of better procurement practices*. Retrieved from: www.consultaustralia.com.au/docs/default-source/infrastructure/better-procurement/dae---consult-australia-final-report-050215---96-pages.pdf

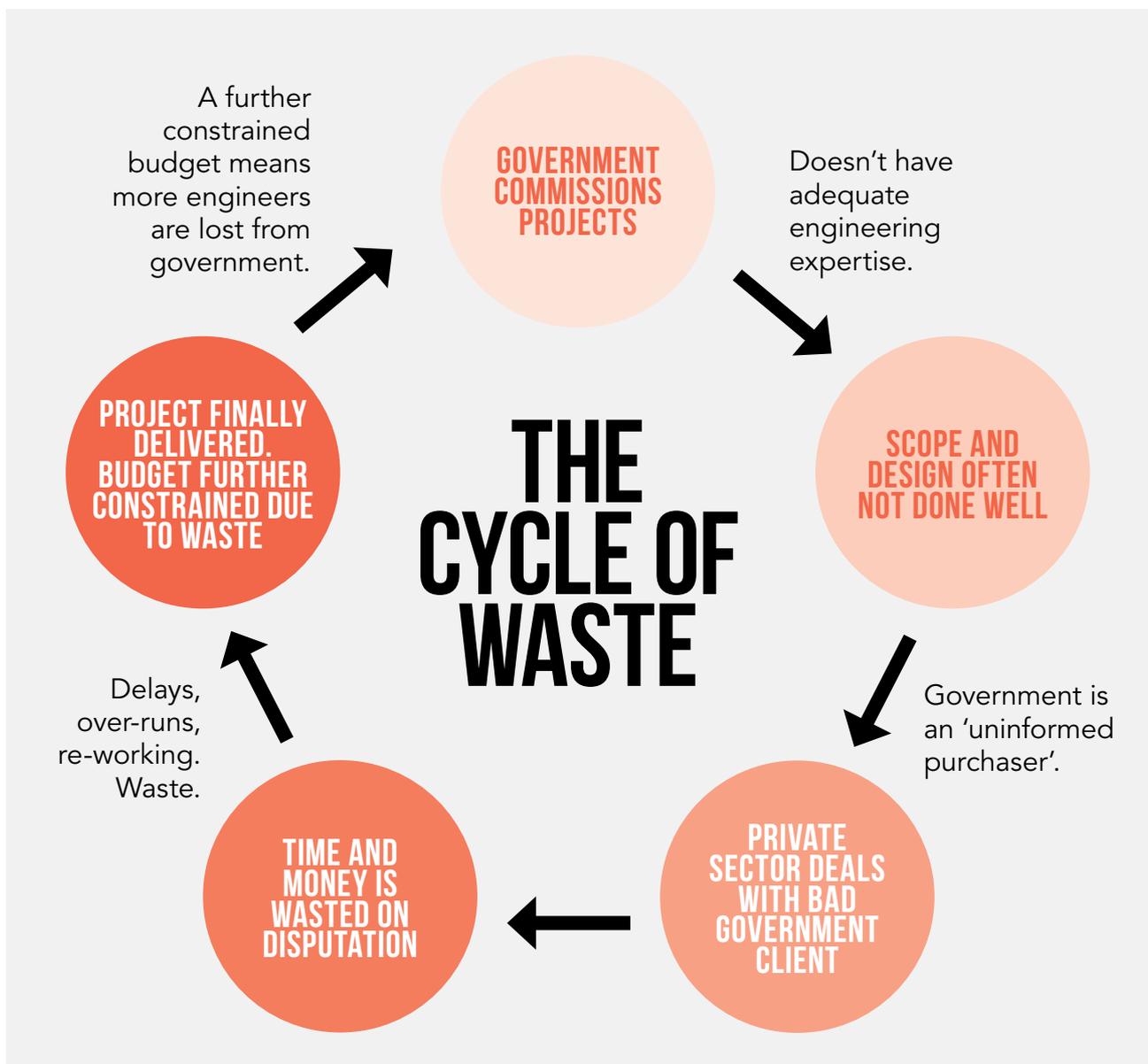
5 Government of Western Australia, Centre for Excellence and Innovation in Infrastructure Delivery (November 2010) *Infrastructure Procurement Options Guide*, pg. 31. Retrieved from: www.finance.wa.gov.au/cms/uploadedFiles/Building_Management_and_Works/CEIID_PMO/procurement_infrastructure_guide.pdf?n=6890.

6 Professionals Australia. *Better Infrastructure: Australia needs professional engineers to build better infrastructure*. Retrieved from: www.professionalsaustralia.org.au

THE CYCLE OF WASTE

The Queensland Government has maintained an informed purchaser capacity with a significant standing workforce.⁷ The benefits of this have been reduced waste in procurement, an ability to respond rapidly to emergencies and a more calculated approach to procurement.

All jurisdictions have their examples of major projects gone wrong and would benefit from rebuilding their public sector capability so that there is at least the basic infrastructure that Queensland has in place. Notably, Victoria has acted to improve their central agency procurement capacity through Projects Victoria, the Office of the Chief Engineer and Infrastructure Victoria, in response to repeated calls from industry.^{8,9} Western Australia effectively met this response with a sub-agency of the Department of Premier and Cabinet.¹⁰



7 Building the Education Revolution Implementation Taskforce (2011). *Final Report*. Canberra, p11.

8 Australian Construction Industry Forum (2016) *Boosting Construction Productivity, Fact Sheet 1*. Retrieved from: www.acif.com.au/documents/item/786

9 Government of Victoria, *Office of Projects Victoria*. Retrieved from <http://www.opv.vic.gov.au/Home>

10 Department of Premier and Cabinet, *Infrastructure WA*. (2019) Retrieved from: www.dpc.wa.gov.au/ProjectsandSpecialEvents/infrastructurewa/Pages/default.aspx

THE CONSEQUENCES OF OUTSOURCING FOR THE WORKFORCE

One of the greatest dividends we can draw from large construction projects is a highly skilled workforce. In states such as Victoria and Queensland, there are enforceable targets for the employment of apprentices, traineeships and cadets when bidding for construction projects. For example, major projects in Victoria “must use local apprentices, trainees or engineering cadets for at least 10 per cent of the project’s total labour hours”¹¹. Whereas previously large Federal Government departments may have engaged apprentices, trainees and cadets, industry now has no incentive to do so, competing instead on a project-to-project basis and using temporary labour ‘fixes’. Over time this will erode our skills base and increase skills shortages in the future.

The construction industry has evolved into a complex ‘pyramid’ of contractual relationships, otherwise known as a hierarchical system of contracting, which involves a head contractor and multiple layers of smaller subcontractors.¹²

Pyramid contracting occurs when a subcontractor engages another subcontractor to perform part of the work within their respective contract, sometimes without the knowledge of the principal contractor or the client.

In some scenarios, a subcontractor can contract out 2-3 times within a block of work or contract out to a number of contractors for the same block of work. The practice of pyramid contracting leads to poor outcomes for workers’ wages and entitlements, workmanship, quality assurance systems and facilitates insecure work. It encourages non-compliance with statutory employment requirements, poor health and safety and contributes to the high rate of insolvency in the industry, specifically amongst the subcontractors. Subcontractors further down the contracting chain normally don’t have the capacity to undertake the work or are forced to cut labour costs and quality assurance to meet the contract requirements of the lead subcontractor.

This is a consequence of private companies being forced to compete on price for work, without proper weight given to their employment practices, business conduct or record of delivery. The largest – and easiest – overhead to reduce in this environment is that of wages for workers or their manner of employment.

Unions are sidelined when there is a race to the bottom and the casualty of this is often safety. As submitted by our union to the Senate Education and Employment Committee’s inquiry into the framework surrounding the prevention, investigation and prosecution of industrial deaths in Australia, it is a demonstrable fact that unionised workers suffer less injuries than non-unionised workers. They are 70 percent more likely to be aware of Occupational Health and Safety (OH&S) hazards and issues than in a non-unionised workplace.¹³ In the United Kingdom, trade union health and safety committees had half the injury rate of employers who managed safety without unions and workers in unionised workplaces were less likely to have a fatal injury.¹⁴ A 2013 study of 31 industrialised countries found that union density is the ‘most important external determinant of workplace psychosocial safety climate, health’ and that ‘eroding unionism may not be good for worker health or the economy’.¹⁵ Research also finds that unionised workers are more likely to receive safety instructions, have regular safety meetings, be made aware of dangerous work practices and be less likely to perceive that taking safety risks is part of their job.¹⁶

Any move to tilt the balance so that unions have less power will have direct safety consequences.

11 Victorian Government, Major Projects Skills Guarantee. Retrieved from: <https://jobs.vic.gov.au/about-jobs-victoria/major-projects-skills-guarantee>.

12 CFMEU Construction, Security of Payment Reform – Industry Advisory Group Submission 1, April 3 2018, pg. 1, https://www.commerce.wa.gov.au/sites/default/files/atoms/files/cfmeu_submission.pdf.

13 ACTU, What has the Union movement done for OHS?. Retrieved from: <https://www.actu.org.au/ohs/about-us/union-movement>

14 TUC, How unions make a difference on health and safety: The Union Effect. Retrieved from: https://www.tuc.org.uk/sites/default/files/Union%20effect%202015%20%28pdf%29_0.pdf

15 *ibid*

16 Gillen, M., et al., (2002), ‘Perceived safety climate, job demands, and co-worker support among union and non-union injured construction workers’, *Journal of Safety Research*, 33(1), pp. 33-51.



FUND AND FORGET FEDERAL GOVERNMENT

The Federal Government does nothing to police the significant investment it makes in social and civil infrastructure. It is content with waste to continue untrammelled and instead pursue a narrow ideological agenda. The Commonwealth distributes \$95 billion in GST payments, and has often used incentives to drive change in the states – be it regulatory reform, such as through the Asset Recycling Fund, or through the regulatory reform processes undertaken by the Abbott and Rudd Governments.¹⁷ ¹⁸ This Federal Government will advocate for reform when it suits its ideological purpose.

Major State projects often rely on Federal co-funding, which makes a fourteen per cent contribution to direct State projects. Almost half of the total taxation revenues

for the State of Victoria are derived from Federal Government grants of approximately \$30bn per annum. Half of that, \$15bn is from Specific Purpose Payments, some of which is acquitted to infrastructure. The other half is a general grant, representing nearly one-quarter of the budget.¹⁹

These are the major points of leverage the Commonwealth has with the States: both direct and incentive payments which they have used in the past to encourage States to reform. They have used these schemes to effectively encourage privatisation, so should be minded to ensure that the States are equipped to discharge the billions in GST payments which are collected on their behalf by the Commonwealth on infrastructure projects and to ensure the safety of those who deliver projects.

¹⁷ Australian Bureau of Statistics (29 April 2019), Taxation Revenue Analysis, Retrieved from: www.abs.gov.au/ausstats/abs@.nsf/mf/5506.0

¹⁸ Dossor, R., *Australian Parliamentary Library* (2014) Budget Review 2014-15. Retrieved from: www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201415/InfrastructureGrowth

¹⁹ DTF Victoria (December 2017) State Budget Update 2017-18. Retrieved from: www.dtf.vic.gov.au/sites/default/files/2018-02/state-budget-budget-update-2017-18.pdf

THE POTENTIAL DIVIDEND

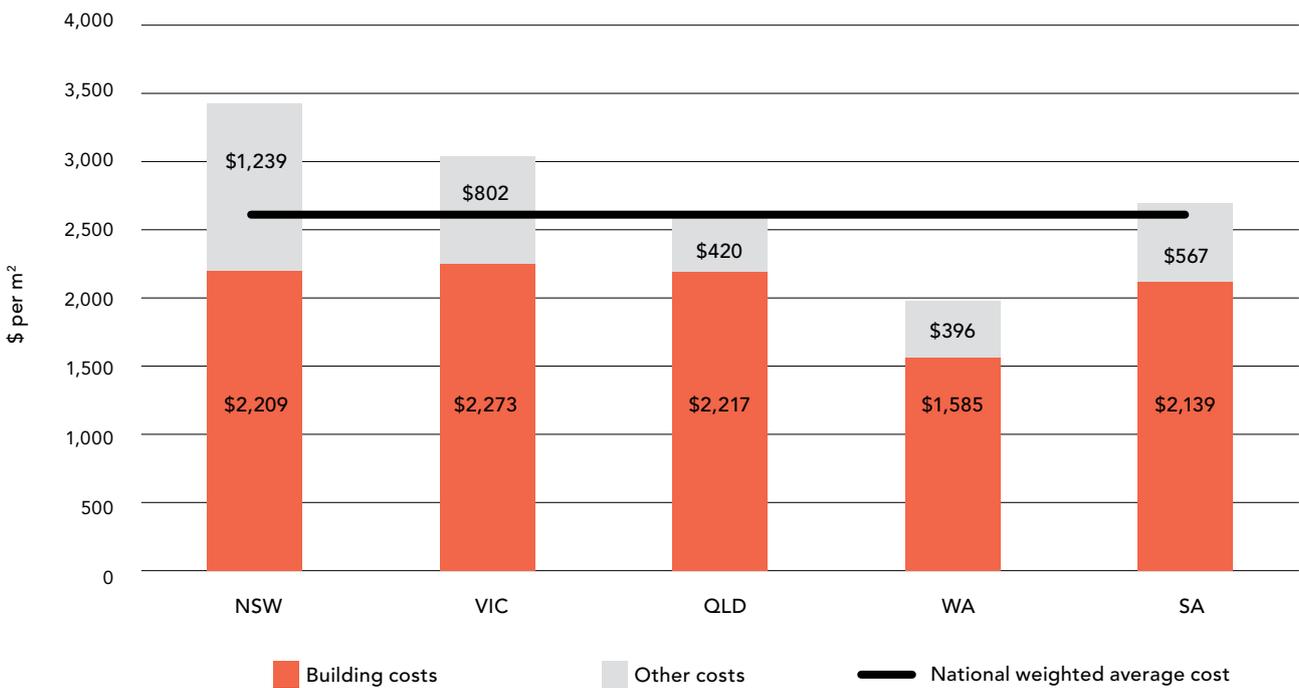
A small investment in government capacity can have huge dividends.

Equity Economics have found that during the roll-out of Building the Education Revolution (BER), as illustrated in Figure 2, the Queensland Government had one construction employee for each \$5 million of funding for infrastructure while the NSW Government had one construction employee per \$32 million and Victoria had one construction employee per \$181 million in funding for infrastructure.

Queensland delivered BER projects approximately \$400-\$800 per m² cheaper than NSW and Victoria, and cheaper even than South Australia.

This disparity serves to emphasise the gulf that exists between jurisdictions, but also the benefits of being an informed purchaser. The relationship between internal capacity and project delivery is demonstrable, with a small investment in internal capacity being able to yield huge dividends over the long-term.

Figure 2: Average project costs per m² for public schools, regionally adjusted



Source: Building the Education Revolution Taskforce.

SYDNEY LIGHT RAIL (NEW SOUTH WALES)

Originally budgeted for \$1.6 billion, the 12.8 km line is more likely to be coming in with a final bill over \$3 billion due to poor planning and oversight throughout the project's life cycle. The main components of the cost increase being:

- \$549million cost adjustment in December 2014, later found by the NSW Auditor-General to be caused by "mispricing and omissions in the business case"²⁰;
- \$576million settlement with the builder following a claim of misleading the successful contractor that its plan for handling the electricity cabling had been agreed with the owner AusGrid. It later transpired that had not occurred for all cables and that additional costs would be incurred²¹;
- Delay to commencement of benefits (i.e. lower productivity growth and prolonged disruption) due to falling 14 months behind schedule²²; and
- Risk of increased compensation to businesses impacted by the delay including a \$400 million class action from 150 retailers.²³

REGIONAL FAST RAIL (VICTORIA)

In 2000, the Victorian Government approved a project for the delivery of faster regional rail services at a cost of \$556 million. The project was intended to cut travel times along four corridors through a combination of inter-related activities: new rolling stock; enhanced signalling; reconfigured timetables; and upgraded tracks.

According to subsequent audits by the Victorian Auditor-General²⁴, by December 2004 the Department of Infrastructure had revised upwards the costs by \$194.5m (or an additional 35% of the original budget) to cover:

- Upgrades to trains that had already been placed under order;
- Extending new safety systems that had been introduced to the four corridors;
- Underestimates of the cost of fibre-optics to support the signalling upgrades; and
- The additional costs of operating the new service.

In the assessment of the Auditor-General, most of these costs can be attributed to inadequate design specifications which would have negatively impacted the overall business case. Further, the travel time reductions ultimately achieved were not the same as those originally articulated meaning lower benefits flowing from the investment. Meanwhile the delays to completion of between 9 to 19 months were found by the Auditor-General to have been unrealistic targets from the outset.

20 O'Sullivan, Matt; Nicholls, S. *The Sydney Morning Herald* (30 November 2016). Audit report reveals public misled on Sydney's light rail cost blowout. Retrieved from www.smh.com.au/national/nsw/audit-report-reveals-major-failures-in-sydneys-21-billion-light-rail-project-20161130-gt0imv.html

21 O'Sullivan, M., *The Sydney Morning Herald* (13 April 2018). Spanish builder claims state failed to reveal full facts on light rail. Retrieved from www.smh.com.au/national/nsw/spanish-builder-claims-state-failed-to-reveal-full-facts-on-light-rail-20180413-p4z9et.html

22 O'Sullivan, M., *The Sydney Morning Herald* (4 October 2018). Sydney light rail opening delayed another two months to May 2020. Retrieved from www.smh.com.au/national/nsw/sydney-light-rail-opening-delayed-another-two-months-to-may-2020-20181004-p507nx.html

23 Fellner, C., *The Sydney Morning Herald* (25 May 2019). Retailer anger as NSW defends light rail disruptions as reasonable. Retrieved from www.smh.com.au/national/nsw/retailer-anger-as-nsw-defends-light-rail-disruptions-as-reasonable-20190517-p51ocy.htm

24 Auditor General. (2006). Results of special audits and other investigations. Melbourne. pp.17-18

NEW ROYAL ADELAIDE HOSPITAL (SOUTH AUSTRALIA)

In 2007, a \$1.7 billion project to build a completely new hospital for Adelaide was announced, that would replace the existing Royal Adelaide Hospital. By the time construction had commenced in 2011, the total budget had been revised up to \$2.1 billion to account for additional floorspace and new medical equipment.

Tragically, two workers were killed during construction. The Coroner was scathing in his findings in relation to the death of Jorge Castillo-Riffo at the site²⁵. Jorge had expressed serious concerns about safety on site to his partner but was too frightened to raise them with site management as he was in casual labour hire employment, and feared victimisation. This form of employment has become common in the project-by-project, cost-centric mentality of Australian governments.

Poor planning to deal with site contamination from the pre-existing railways meant that by 2013 construction was already perceived to be six months behind schedule, and compensation for impacts of the contamination became a protracted legal dispute with the State Government and the consortium. The parties ultimately reached a settlement for \$69 million in compensation.

The costs of managing the transition from the old hospital to the new was only first properly accounted for once construction was underway. This saw an initial \$25 million allocated to the task eventually soar to a total of \$202 million, that was not included in the original project.

Failure to meet the contracted completion date saw the State Government issue a default notice and the commencement of legal action that lasted approximately 10 months before agreement was finally reached to resolve all outstanding issues via independent arbitration, pushing back the transition between hospitals from November 2016 to September 2017.²⁶

The final approved budget for the New Royal Adelaide Hospital was \$2.4 billion²⁷ - around \$700 million (or over 41%) more than originally budgeted.

PERTH CHILDREN'S HOSPITAL (WESTERN AUSTRALIA)

In 2010, the WA Government approved a \$1.2 billion business case for the Perth Children's Hospital Project with construction to commence in early 2013 and scheduled for completion by June 2015²⁸.

The Government chose to accept an extremely competitive bid, with small margin for error, from a company it had not previously used to manage construction projects of such scale and complexity. The departmental oversight added to the complexity with dual governance / dual accountability arrangements that saw the Department of Treasury responsible for the construction, while Department of Health managed all aspects of commissioning²⁹.

Once construction was underway, a string of issues began to arise:

- Asbestos, fire safety and intractable lead contamination.³⁰
- Slow progress due to 15-20 per cent fewer tradespeople being on site than planned.³¹
- Sub-standard work due to reliance on price as the main determining factor in awarding contracts which saw subcontractors utilise unskilled workers such as backpackers instead of the existing skilled local workforce.³²
- A culture of underpayment of workers by subcontractors that instilled a fear of speaking out about unsafe working conditions.³³

Delays alone at the hospital cost \$115m, with the hospital opening three years late³⁴.

The first reporting of asbestos at Perth Children's Hospital was made by a CFMEU shop steward, alerted to asbestos being in the same materials on a site interstate and is a prime example of the kind of whistle-blowing the Federal Government is seeking to silence.

25 ABC News (1 November 2018). SA coroner recommends changes to scissor lift use following death of Jorge Castillo-Riffo. Retrieved from: <https://www.abc.net.au/news/2018-11-01/rah-death-jorge-castillo-riffo-coronial-inquest-findings/10454366>

26 Scopelianos, S., ABC News (8 May 2017). Timeline: New Royal Adelaide Hospital plagued with issues from the start. Retrieved from www.abc.net.au/news/2017-01-24/new-royal-adelaide-hospital-plagued-with-issues-from-start/8204004

27 Auditor-General of South Australia. (2018). Report of the Supplementary Report New Royal Adelaide Hospital: p.3

28 Public Affairs Committee (2018). PCH - A Long Waiting Period. Retrieved from: [www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/A5D4EC94C80CBC3048258258000A42FB/\\$file/60282652.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/A5D4EC94C80CBC3048258258000A42FB/$file/60282652.pdf)

29 Ibid. p. 10

30 Government of Western Australia, Department of Commerce (2017) Final Report – Perth Children's Hospital audit, Retrieved from: www.commerce.wa.gov.au/sites/default/files/atoms/files/final_report_-_perth_childrens_hospital_audit.pdf

31 Parker, G., *The West Australian* (10 January 2017), Perth Children's Hospital defects: Report reveal depth of problems, Retrieved from: thewest.com.au/news/wa/10000-hospital-defects-but-government-defends-its-oversight-ng-b88345174z

32 Daly, J., *WA Today* (13 September 2017), 'Backpackers and unskilled workers' employed to build Perth Children's Hospital. Retrieved from: www.watoday.com.au/national/western-australia/backpackers-and-unskilled-workers-employed-to-build-perth-childrens-hospital-20170913-gygug3.html

33 Roberts, G., *WA News* (13 September 2017), 'Culture of fear' at Perth children's hospital site. Retrieved from: www.perthnow.com.au/news/wa/culture-of-fear-at-perth-childrens-hospital-site-ng-139a2c30d3f64daf9ae2a9e71460fb5e

34 Collard, S., ABC News (12 May 2018), Perth Children's Hospital finally opens after three years of contamination and disease scares. Retrieved from: <https://www.abc.net.au/news/2018-05-12/perth-childrens-hospital-finally-opens-after-three-year-delay/9754958>

TOOWOOMBA SECOND RANGE CROSSING

“The Toowoomba Second Range Crossing (TSRC) is an alternative crossing of the Toowoomba Range for all classes of heavy and super heavy vehicles to improve freight efficiency and driver safety, relieve pressure on Toowoomba’s roads, and enhance liveability for residents of the city and its near neighbour Withcott in the Lockyer Valley”³⁵, delivered by Nexus Infrastructure Pty Ltd.

The union repeatedly warned that the rush to build this project was leading to real hazards with over twenty vehicles rolling over during construction.

17 accidents in 18 months were reported and work was suspended on the project pending investigation.³⁶

The OH&S regulator issued 25 statutory notices in relation to the project.³⁷ Serious safety concerns resulted in workers being sent home without pay by the consortium.

The union repeatedly raised concerns about the haste and safety in delivery on this project and were the main vanguard of safety for the public and workers on the site.

These are exactly the kind of actions by union which would be placed in jeopardy under the government’s new legislation.

ASBESTOS IN TELSTRA PITS (NATIONWIDE)

In 2013, a contractor named Darren Hayes lifted the lid on the inappropriate manner in which asbestos was being widely being handled after being removed from Telstra communications pits, sparking the NBN asbestos scandal in Victoria.

Telstra was eventually forced to spend over \$50 million to properly remediate around 60,000 pits, and was required to train 125 staff for the proposed team of up to 200 specialists it brought in to supervise pit remediation.

Darren Hayes was found to have been unfairly dismissed and received a payout.³⁸

35 DTMR, Toowoomba Second Range Crossing. Retrieved at: <https://www.tmr.qld.gov.au/Projects/Name/T/Toowoomba-Second-Range-Crossing>

36 Moor, T., *Brisbane Time* ‘Accidents force minister to stop work on Toowoomba range crossing’. Retrieved from: <https://www.brisbanetimes.com.au/national/queensland/accidents-force-minister-to-stop-work-on-toowoomba-range-crossing-20180501-p4zcpa.html>

37 Brafield, E., and Webb, N., ABC News, ‘Toowoomba Second Range Crossing project will ‘kill someone, CFMEU says’. Retrieved from: <https://www.abc.net.au/news/2017-08-17/toowoomba-second-range-crossing-project-kill-someone-cfmeu/8812088>

38 Dowling, J., *The Herald Sun* (6 November 2013) NBN asbestos whistleblower gets payout in Fair Work Commission case. Retrieved from: <https://www.heraldsun.com.au/news/law-order/nbn-asbestos-whistleblower-gets-payout-in-fair-work-commission-case/news-story/3fa050884c8c8fd1d6ceec1cb72813a6>



THE ROLE OF WHISTLE-BLOWERS

The Government procurement policy for the building and construction industry, the *Code for the Tendering and Performance of Building Work* does very little to improve the performance of funding entities or code-covered entities (namely head contractors and subcontractors). Rather, the Code is focused on micromanaging industrial relations in the sector and has been abused to prevent workers flying Eureka flags on construction sites and to force the removal of agreed terms from enterprise agreements which mandate a ratio of apprentices to tradespeople.

The Code and the Government's funding of the Agency to enforce it - the Australian Building and Construction Commission (ABCC) - represents the ideological priorities of the Government rather than the real needs of the public to have better, safer and more efficient infrastructure delivery. The Code and the ABCC prevent the union from mitigating the poor consequences for

workers as a result of infrastructure delivery being outsourced. The ABCC, with 155 staff and \$75 million per annum, litigates at every opportunity against the union for standing up for workers, but it doesn't do the same with employers engaged in sham contracting, wage theft and poor health and safety practices.

In myriad examples around the world, and in Australia, unions have played a crucial role in holding the private sector to account for shoddy work, delays and public danger.

Now the Federal Government wants to go even further. If the private sector are fitted with the tools to have union officials disqualified for playing this important role, then workers and the community will bear the price.

Union whistle-blowers could be effectively silenced under the Ensuring Integrity Bill, putting the community in further danger.



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