INFRASTRUCTURE PARTNERSHIPS AUSTRALIA

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Director
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Via email: superannuation@treasury.gov.au

SUBMISSION IN RESPONSE TO YOUR FUTURE, YOUR SUPER DRAFT REGULATIONS

Infrastructure Partnerships Australia is pleased to provide this submission to the exposure draft of the regulations for the Federal Government's *Your Future, Your Super* package*,* specifically:

- *Addressing Underperformance in Superannuation Exposure Draft*, and
- *Improving Accountability and Member Outcomes Exposure Draft*.

This submission follows from Infrastructure Partnerships Australia's December 2020 submission to the *Your Future, Your Super* exposure draft legislation. Our previous submission included broader context on the role of the superannuation industry in infrastructure investment, and the importance of considering the context of the COVID-19 pandemic in relation to the proposed reforms. This submission can be accessed here: www.infrastructure.org.au/submissions/.

Infrastructure Partnerships Australia is an independent think tank and executive member network, providing research focused on excellence in social and economic infrastructure. We exist to shape public debate and drive reform for the national interest.

The infrastructure sector – and all Australians – benefit from a strong superannuation sector

As indicated in the previous submission, the infrastructure sector supports the Federal Government's broad aim of ensuring Australia has a high-performing superannuation sector. The policy objective of 'addressing underperformance in superannuation' is aligned with the objectives of Australian infrastructure investors, operators and users. Sound infrastructure investments benefit all stakeholders.

The introduction of the right benchmark for superannuation performance can support continued positive outcomes for Australian infrastructure investors and, by extension, Australians with superannuation savings. Improving transparency and ease of comparison of the performance of superannuation funds is a positive reform outcome.

Clearly Australia's governments have placed a high priority on infrastructure as a way of boosting aggregate demand through the economic recovery from COVID-19. However, public investment cannot carry Australia's recovery in its own right. Private investment – particularly in productivity-enhancing infrastructure – can play a major role in supporting the national economy. In this context, stable policy and regulatory settings are essential for providing an attractive environment for private investment in Australian infrastructure.

Providing the right settings for Australian superannuation investments in Australian infrastructure is a long-standing policy objective of successive Federal Governments. This was reflected in comments by the Federal Treasurer in June of last year, when he stated superannuation was a *"massive pool in savings that should be harnessed more for domestic investment. I don't care if they are industry funds or retail funds, I would like to see them both put to work on domestic infrastructure assets more than they have been"*.[1]

The change in benchmarks is a step in right direction but introduces new issues

In relation to the *Addressing Underperformance in Superannuation Exposure Draft,* we welcome the government's consideration of feedback provided by Infrastructure Partnerships Australia, among others, in response to the draft legislation. In particular, we raised concerns about the use of a global listed benchmark for all Australian infrastructure, arguing this could deter investment in Australian unlisted assets, or see Australian superannuation investors seeking to divest their more than $50 billion in investments in the asset class.

On this basis, we support the introduction of a specific benchmark for Australian unlisted assets – the MSCI Australia Quarterly Private Infrastructure Index – instead of the FTSE Developed Core Infrastructure Index as previously proposed. This change is a step in the right direction, with the MSCI Index more reflective of the characteristics of the asset class, and less volatile than the FTSE Index.

However, the MSCI Index is not without its shortcomings. In particular, the composition of the Index appears to be relatively thin, and the calculation methodology lacks transparency. It is also unclear whether this benchmark has been used for the benchmarking purpose set out in the draft regulations. This introduces uncertainty for superannuation trustees, and the potential for conflicts of interest to emerge through data contributions that cannot be transparently addressed.

Given the draft regulations are likely to substantially benefit MSCI by effectively committing superannuation funds to subscribe to the Index, the Federal Government has an opportunity to leverage this to seek improvements to the Index. In particular, the Federal Government should work with MSCI to improve the transparency of the Index and its methodology, to provide effective safeguards, and to provide assurances that the quality of the Index will be improved and maintained over time.

The portfolio disclosure rules could have adverse impacts for infrastructure

Infrastructure Partnerships Australia supports greater transparency across the sector. The availability of accurate and up-to-date information is critical to the efficient operation of infrastructure markets. Transparency also supports better decisions on investments, guides changes to policy and regulatory settings, and underpins public confidence through enhanced accountability.

This support for enhanced transparency extends to infrastructure ownership and transactions, so long as the information that is shared does not undermine commercial negotiations or distort incentives for private investment. We are concerned that the information requirements put forward in the *Improving Accountability and Member Outcomes* amendments may overstep the mark in this regard.

[1] Comments by Hon Josh Frydenberg MP to Duke, J. 2020, *Sydney Morning Herald,* 'Super funds say policy stability key to more infrastructure investment,' published 10 June 2020.

The proposed portfolio holdings disclosure requirements would require superannuation trustees to publish information about their infrastructure asset holdings and investment options. In the proposed format, these requirements could reveal valuations of infrastructure assets or enable market participants to deduce asset values. This could have implications for the investment dynamics in unlisted infrastructure, beyond equity holdings by superannuation funds, by revealing information that is otherwise highly commercially confidential. By placing these valuations on the public register, the proposed amendments may undermine current or future infrastructure transactions, or limit asset holders' capacity to negotiate transactions with prospective buyers.

The Federal Government should consider alternative forms of reporting portfolio holding information that avoid the need to directly report asset valuations, particularly for unlisted infrastructure.

The government should take time to ensure it gets these reforms right

It is important the *Your Future, Your Super* reforms safeguard Australia's reputation as a leading infrastructure investment market, which has been built on a track record of stable market frameworks and rules.

Over recent years, investors have expressed increasing levels of concern with shifting policy and regulatory settings. Infrastructure Partnerships Australia's *2019 Australian Infrastructure Investment Report* found that 83 per cent of participants indicated uncertainty in Australia's policy and regulatory settings as limiting their willingness to invest. This has been brought on by, *"a flurry of government interventions, tax changes and regulatory reviews in recent years"*.[2]

In this context, it is essential the reforms are implemented in a manner that builds investors' confidence in the Australian market, and does not add to uncertainty at a time when the sector can afford it least. Getting the policy settings right for the *Your Future, Your Super* package is in the best interests of the Federal Government, the superannuation sector, the infrastructure sector and – most importantly – the broader community.

On this basis, we propose the Federal Government takes time to consider the full implications of these reforms. Issues with the proposed methodology – such as those raised through this submission – should be resolved through ongoing engagement with industry stakeholders and the community.

We would be pleased to provide additional information. If you require further detail please contact Jon Frazer, Director of Policy and Research, on (02) 9152 6017 or jon.frazer@infrastructure.org.au.

Yours sincerely,

Adrian Dwyer

ADRIAN DWYER
Chief Executive Officer

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[2] Infrastructure Partnerships Australia, 2019, *2019 Australian Infrastructure Investment Report.*