

Private Gain, Public Pain

Taking Stock of Privatisation, Outsourcing and Contracting
Public Sector Work

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Executive Summary

Through a broad overview of what works and what doesn't and three detailed case studies dealing with aged care, COVID responses and the Victorian roads maintenance sector, this report shows that the Australian experience of privatisation, outsourcing and contracting of essential government services and Public Private Partnerships over three decades has been decidedly mixed. What are the alternatives?

On one hand, the solution is simple: we require proper funding of essential government and/or community sector delivered services such as aged care, childcare and TAFE/VET, and rebuilding public sector capability, including but not limited to roads maintenance, so that Australian governments, commonwealth, state or local, are better able to respond to events such as the COVID-19 pandemic. This does not entail re-nationalising assets or excluding the private sector from involvement in service and infrastructure delivery.

We do require a far more stringent framework around privatisation which ensures that all citizens – children, students, families, consumers, workers and the community – are able to access to higher quality essential services and that workers are paid adequately and treated fairly. At the very least, where government intends to pursue a privatisation agenda, there should be a process of ensuring that privatisation, or contracting of government services delivers clearly articulated outcomes for workers, service users, taxpayers, and ultimately governments.

We need codified community well-being parameters that must be met before a service can be privatised, demonstrating how and why privatisation will result in higher quality, cheaper services and that no workers would experience loss of employment or income in the process. If these requirements cannot be met, then in the national interest assets and services should simply not be privatised or contracted out. This report's formal recommendations are eight-fold and are as follows:

1. Immediate moratorium on all privatisations of publicly-owned assets, contracting and sub-contracting out of essential services carried out

by all levels of Australian government, while a specific parliamentary inquiry is carried out vis-à-vis contracting costs and benefits.

2. Establish an independent regulatory body to oversee all privatised services to promote public accountability and compliance with workplace laws and community standards, a position formally advocated for by the Australian Consumer and Competition Commission.

3. The above body should establish a national charter for privatisation, contracting and public-private partnerships which governments must fulfill before entering any contract.

4. The body should mandate removing pure tender cost as a core criterion of privatisation and contracting, ending the race to the bottom in terms of wages and employment conditions. Government work contracted out must be paid at equivalent public sector wages.

5. Privatisations approved by the regulatory body recommended above should mandate one third of board positions are filled by employee-directors to ensure the interests of workers, consumers and communities are adequately represented in company decisions.

6. Governments should legislate so that the above recommendation apply to existing privatised natural and geographical monopolies, at a lower threshold of one-quarter of board seats.

7. The Victorian government should establish a Contracting and Subcontracting Ombudsman, separate to and independent from the Victorian Ombudsman, to deal with complaints by individuals and key stakeholders in regard to improper practices by said private operators.

8. With specific regards to the roads maintenance industry the Victorian government should establish a taskforce to thoroughly investigate occupational health and safety concerns, and establish best practice, clearly defined and legally enforceable industry OHS standards.

Foreword

Ben Davis

The merits of privatisation and contracting out of public goods and services are increasingly viewed sceptically by Australians and questioned by policy makers. Or at least it should be. Instead, state and federal governments of all political persuasions continue to hollow out our public sector and blithely assume outsourcing and privatisation are intrinsically good, and the role of government in providing public goods and services is, by its very nature, somehow bad. It is both intellectually dishonest and intellectually lazy. Moreover, in practice, an increasing body of evidence shows that privatisation and contracting out often lead to poorer quality goods and services, lower wages and conditions, weaker occupational health and safety standards, increases in precarious insecure employment and, in the greatest insult of all, higher prices to taxpayers.

This report does not seek to make the case that privatisation and contracting out are in every instance a bad thing. That is self-evidently not the case. However, what this report does seek to do is question and critique governmental assumptions that privatisation and contracting out lead, in every instance, to better outcomes. It does not, as members of the Australian Workers' Union know all too well, particularly those employed in roads works and maintenance. With more than thirty years of available evidence this report seeks to probe and compare previous instances of privatisation and contracting out. In doing so, it argues that the needle has shifted too far and that it is long past time for governments to see privatisation and contracting out as anything but an inevitably virtuous circle of budgetary repair and cheaper, better goods and services but to instead take it on a case-by-case basis based on previous public policy mistakes.

COVID has dramatically illustrated what works and what doesn't when it comes to striking a proper balance between the public and private sectors – it is incumbent on all of us to make sure the lessons of this once-in-a-century event lead to fundamental change, especially when it comes to the essential public goods and services we rely upon in times of crisis and normality.

This report is an important contribution to that debate and I commend it to you.

Ben Davis

Victorian Branch Secretary
Australian Workers' Union (AWU)



Introduction

The ongoing COVID-19 global pandemic has triggered a rethink of the role of government in our economy and society's well-being, and the nature and size of the public sector, a shift running in tandem with a reconsideration of Australia's sovereign capability. It has also led many to reconsider the decades-long trend of privatising assets and essential services, as well as quasi-privatisation in the form of contracting out of government work to private companies. Front of mind in these debates is the question of trade-offs pertaining to quality, efficiency, reliability, wages and occupational health and safety, as well as equity in our workplaces and communities.

This is particularly the case given the experience of contracted out hotel quarantine security in Victoria, the Commonwealth's failure to put in place a dedicated, nationally funded and coordinated system of quarantine hubs for international arrivals, and the scandal of COVID-19 infections and deaths in the private aged care sector – each area's regulatory oversight clearly sitting with the Commonwealth, as set out in Australia's Constitution. "The coronavirus has disrupted the privatisation narrative, forcing government to rethink the role of the public sector", wrote Flinders University Pro-Vice Chancellor John Spoehr as early as June 2020, "We may be at a turning point ... coronavirus has forced governments here and around the world to take unprecedented action to help prevent the virus from killing tens of millions of people. We have acted boldly and swiftly, delivering a spectacularly successful outcome by global standards. At the heart of the response has been the mobilisation of our public services, particularly our public health system, community services, income and business support systems and police."¹

To be sure, the pandemic has opened the eyes of the public to governments, federal, state and local, sometimes including labor administrations, avoiding responsibility for more than two decades worth of radical free-market 'reforms'. The public

has increasingly recognised that budget cuts, privatisation, and directly or indirectly contracting out services, often further sub-contracted out to smaller private companies have undeniably undermined frontline service delivery. Public sector expertise and the capacity of public servants to respond nimbly and effectively in a crisis has been severely weakened.

As the historian Frank Bongiorno recently noted: "What we have seen in recent months is the workings of a hollowed-out national government. It has decent systems — run by the Australian Taxation Office and Centrelink — for shuffling money around, provided you are not a robodebt victim. It has some agencies that have been able to undertake their regulatory work effectively, helping to keep the economy going and supporting efforts to manage public health. But when it comes to hands-on service delivery, the federal government now seems rather hopeless ... [Yet it] was not always the case that federal governments were so distinguished by what they could not do."²

Even some of the greatest proponents of privatisation have admitted its failures. Dr John Hewson, former Liberal leader, recently wrote in *The Saturday Paper*, "One of the most compelling public policy initiatives globally over the past several decades, but unfortunately one of the most poorly implemented, has been privatisation." However, Hewson, lays the blame with government, rather than recognising that pure profit motives are wholly unsuited to essential public services. "A major weakness of most privatisations has been the failure of governments to specify up- front and in adequate detail the service to be provided by the private owner or operator. This has usually resulted in inadequate service provision, often with significant political debate and fallout."³

Australia has avoided the worst effects of COVID-19, certainly in comparison to much of the Western world and poorer nations, but our fatalities have been overwhelmingly connected with privatised sectors, notably aged care which was

brutally exposed to so-called market forces and 'competition' from 1997 onwards. In this, aged care was not alone. Other essential services privatised or contracted out to the private sector in recent decades include finance (e.g. the Commonwealth Bank of Australia (CBA), state-owned banks and insurance offices), communications (Telstra, formerly Telecom), transport (airlines such as the formerly Commonwealth-owned Qantas and state-owned rail, tram and bus public networks) and essential services such as electricity, gas and water, including the infrastructure itself or retail delivery of these utilities, ports, roads infrastructure and maintenance, prisons and detention centres, Centrelink and employment services, the Australian Taxation Office, Technical and Further Education (TAFE), Vocational Education Training (VET), hospital cleaning services, the CSIRO, state-based land titles registries, and more besides.⁴ The time is ripe for a new national conversation. Do essential services, and the Australian people, benefit from privatisation and private sector contracting and subcontracting? What insights can we gather from specific case studies regarding financial outcomes, service quality, public accountability, and workers' rights? What policy alternatives exist?

This report is founded on the following three assumptions:

- (1) Privatisation, contracting and/or sub-contracting of government services and, indeed, public-private partnerships, are not inherently 'bad' for the community and working people;
- (2) There are examples of successful privatisations, for example the sale by the Keating federal Labor Government of Commonwealth Serum Laboratories in 1994 and by and large that of Qantas and Telstra;
- (3) It is the case, however, that there are numerous examples of privatisation and contracting/sub-contracting hurting the interests of working people and the community. This is borne out by the deleterious impact on people's earnings (in effect a policy of wage suppression abetted by unfettered immigration) and working conditions,

workers' ability to bargain collectively, quality of service provision (e.g., the RoboDebt scandal and private welfare generally), and appalling standards of corporate governance and excessive executive remuneration.

As with any other public policy mechanism, or process, the desirability or otherwise of privatisation needs to be assessed on a case-by-case basis. It is necessary to adopt a nuanced view of how the modern state has evolved over the past few decades and the often-opaque nature of privatisation and contracting. As David Hayward contends: "For all the cuts and privatisations, government is now much bigger than it was. For all the talk of competition delivering the goods, the evidence is that our economy is at least as concentrated as it was and some parts are even worse. And whereas in the old days, it was easy to see where government began and ended, today it is almost impossible to see that line."⁵ He points out a number of key examples, including the NDIS, a wholly federal government funded scheme, but wherein services are delivered by private contractors, utilising an underpaid and largely female casualised workforce or poorly trained labour hire.

Another example is private aged care, where governments fund operators to "pay workers, cover costs, pay management and in some cases deliver to shareholders a nice return. They might be government funded, but they get classified as private firms." Then there is the example of infrastructure construction such as roads whereby governments contract with a "dwindling number of private companies" via private consultants, using private finance more costly than public debt. They are better remunerated than if they worked for an equivalent government department. Classified and seeing themselves as 'private', they depend on taxpayer monies.⁶ Critically, for this report's purposes, the theoretically good idea of harnessing private sector expertise all too often rests on a faulty assumption: namely that wage cuts equate to efficiency gains, and, moreover, these efficiency gains inexorably lead to better quality, cheaper services.



There is a growing body of evidence that privatisation does not improve competition and, in fact, fosters monopoly market power, which inadvertently or deliberately, leads to price rises for consumers. For example, the Australian Competition and Consumer Commission (ACCC) Chair Rod Sims, recently called for curbs on state and federal privatisations, in part due to fraying public trust.⁷ Assets earmarked for sale should have to pass a competition assessment before sale, or otherwise face regulation if they have significant market power, noting the example of ports, specifically the NSW Liberal government's selling off of Port Botany and Port Kembla facilities, which effectively prevent the development of a container port in Newcastle. This matter was litigated by the ACCC but faced significant challenges in obtaining Government documents that would evidence Cabinet's comprehension of competition outcomes.⁸

As Sims further suggests, pointing to the \$4.2 billion sale of Sydney Airport two decades ago, assets prices are artificially inflated by governments by virtue of removing regulation and limiting competition, which hurts consumers via higher prices and stifles the wider economy.⁹ Would it be cheaper and more efficient to have government build and operate all critical infrastructure like roads, electricity, and water? Do short-term 'gains' lead to long-term pain. As John Harris noted in the context of the UK, "It may be hopelessly old-fashioned to point it out, but there is such a thing as a national economy. In that sense, it's right to make a distinction between assets and businesses that may suit being traded for speculative purposes, and ones so central to our national wellbeing that they ought to be left well alone."¹⁰

The report also operates on the following two core assumptions:

(1) There are essential public goods and services, and national security tasks that only government can perform and which can't be outsourced to the private sector in the name of cutting costs and wages; and

(2) Work which is effectively public sector employment should be paid at public sector rates. This is not simply a matter of equity, but economic efficiency, and maintaining sovereign capability and public trust in government. If we have learnt anything from the past few decades it is this: governments ought not privatise monopoly assets without putting in place the necessary regulatory arrangements to protect the economy, promote competition, protect consumers, and maintain secure, well-paid work.

Private Gain, Public Pain: Taking Stock of Privatisation and Contracting Government Work reviews the recent history of Australian privatisation and contracting out of essential services before examining current policy positions of both commonwealth and state governments. By analysing three case studies – private aged care, the experience of COVID-19 and roads infrastructure and maintenance – *Private Gain, Public Pain* then seeks to identify where the above practices have worked or been unsuccessful with reference to social and economic benefits including but not limited to wages, workplace standards and conditions, effective service delivery, and community and national wellbeing. Finally, this report assesses potential strategies for legislative action in the context of Australia's COVID-19 economic recovery, flat wages growth, and eroding job security, advocating policies that governments, working in tandem with key stakeholders can pursue to oppose or reverse harmful effects identified therein.

Part One: Overview

A short history of privatisation and contracting in Australia.

Historically, given the nature of Australia's small, dispersed population, and scarcity of domestic capital, both pre and post-Federation in 1901 the State played an influential role in economic development and social progress. Up until the 1980s, Australian governments, commonwealth, state and territory, generally owned and operated natural monopoly assets and infrastructure, delivered key public goods and essential services, often referred to as public trading enterprises or statutory authorities, including geographic monopolies, such as federally owned airports and airlines and state-owned ports, roads, railways, coastal shipping, electricity generation, transmission, distribution and retail networks, water infrastructure, banking, postal and telecommunications, and more besides.¹¹ At one point, to combat monopolistic power leading to exorbitant prices for meat consumed by working people, during the period between 1915 and 1925, the Queensland government owned and operated butcher's shops and other essential production and consumer infrastructure. The modern history of privatisation in Australia began in the 1990s, defined as when a government-owned business, operation, or asset becomes partially or wholly owned by a private, non-government party (either by a trade sale to a domestic and/or foreign buyers by a tender process, or offering equity to the public, whether individual shareholders or institutional investors, again either domestic or foreign-owned).

De facto privatisation, for the purposes of this report, also includes the withdrawal of government supplying a service (a notable example is the provision of job seeking services to the unemployed). Another is the process of outsourcing, where governments, through a contractual agreement, 'contract out' traditionally public sector work; whether it be a federal or state government-owned enterprise or a local government body, to private service providers to deliver services and/or goods to the public. These range from

the outsourcing of services like IT support for government agencies to roads maintenance.¹² Non-state service providers can take a wide variety of organisational forms: individual experts, private sector firms (local or international), NGOs (local or international), faith-based organisations (FBOs), and community-based organisations (CBOs). In the early stages of post-conflict reconstruction, international private sector companies and international non-governmental organisations (INGOs) are often involved in the provision of essential services or support to state functions. In some cases, co-operatives are formed to provide the services.¹³ A further example are Public Private Partnerships (PPPs), where infrastructure such as roads is privately financed and built by agreement with private corporations. Examples includes Melbourne's Citylink and Sydney's WestConnex where government ostensibly offsets project risk (and debt financing) to private companies who accrue profits on their capital by means of long-term 'toll' receipts. Critics decry these arrangements as privatisation by stealth and deleterious to taxpayer and road users.¹⁴

Furthermore, the recent decision by the NSW Liberal government to award control of Sydney motorway WestConnex to incumbent Transurban for \$11 bn has been criticised by the ACCC for prioritising short-term windfalls over the chance to introduce a new long-term competitor that could challenge the company's monopoly over the state's toll roads (Transurban now runs seven of NSW's nine toll road concessions and 15 of 19 nationwide).¹⁵ Then there is the practice of leasing of state-owned assets, such as ports. And the current NSW government has pursued privatisation by stealth by means of 'Social Impact Bonds',¹⁶ a form of PPP that seeks to fund essential social services through performance-based contracts.¹⁷

Over the course of the past three and a half decades, much of Australia's public infrastructure



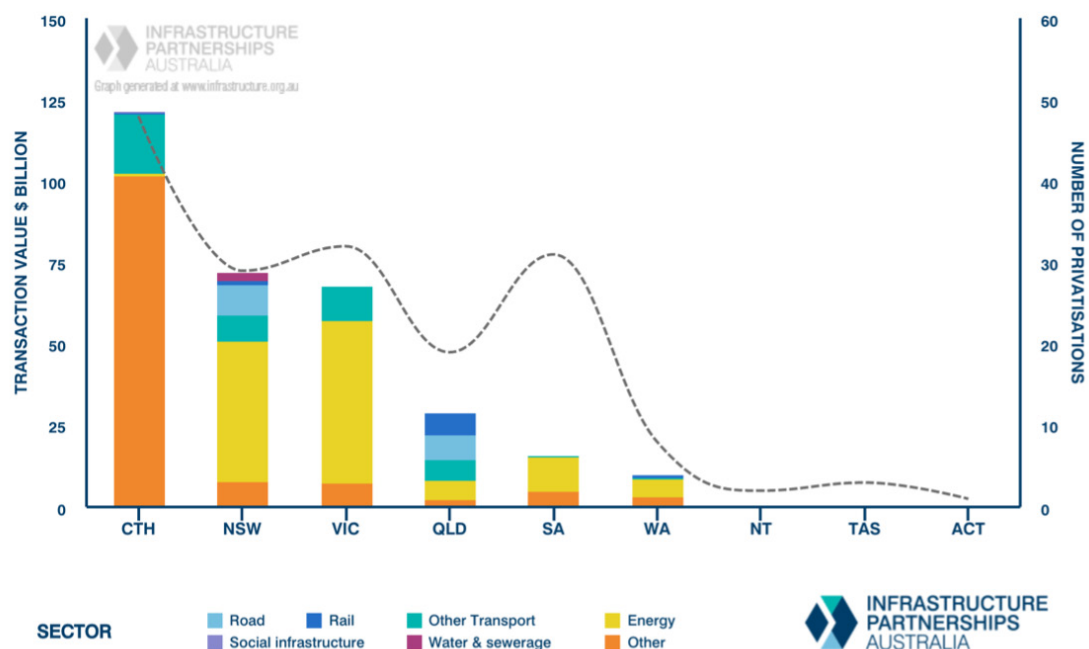
and most infrastructure-related businesses have been corporatised and subsequently privatised, in addition to many essential services and key public goods, in the name of so-called 'economic rationalism'. As the Bureau of Infrastructure, Transport and Regional Economics (BITRE) notes, "increased private sector participation in the provision and operation of infrastructure was generally justified on the basis of increased efficiency resulting from the introduction of corporate and business management practices to previously public-sector entities, and the potential for increased market competition" to lead to cheaper consumer prices and choice.¹⁸

Between 1980 and 2017, as BITRE details, the number of transport and infrastructure-related privatisation and public-private procurement projects completed by Australian, state and territory, and local governments stood at 207, excluding publicly-owned assets sold solely to state-owned enterprises and non-sewage waste management services and many outsourced local government activities or those undertaken by government business enterprises. Between 1987 and 2020

the collective worth of Commonwealth and state government privatisations amounted to around \$270 billion in constant dollar terms, the bulk taking place in the 1990s (Figure 1). The State of Victoria constituted between a fifth and a quarter of all privatisations over this thirty-three-year period. During this time Australia ranks second only to the UK in terms of privatisations.¹⁹

Privatisation was at first overseen by the commonwealth government, by and large receiving bipartisan support despite some opposition within the governing Labor Party. It went hand in hand with a broader trend towards deregulation of markets in an era defined by the embrace by Western governments of free market economics in the late twentieth century, also known as Thatcherism, Reaganism or the ideology of neoliberalism. Taken as a whole, these policies acted to dismantle the highly effective and stable post-war social democratic state.²¹ Indeed, the bulk of OECD privatisation activity took place during the 1990s, which some observers term the "golden age of privatisation".²² This reform process typically began

Figure 1. State and Commonwealth Value of Privatisation, 1987-2020.²⁰



with statutory authorities being corporatised. This is the process of transforming and restructuring state assets, government agencies, public organisations, or municipal organisations into corporations, by virtue of adopting and/or applying business management practices to commercialise said entities. Finally, they are partially and then finally completely privatised.²³

Supporters point towards 'efficiency dividends' and productivity gains, repayment of government debt, paired with a commensurate fall in the value of government bonds outstanding, and more recently the sale or lease of assets freeing up government's ability to invest in infrastructure. Critics argue that utilities, and public goods such as education, health, and welfare, should never be subject to purely market forces, whether by selling public assets or contracting out their provision to private operators. They also point to the experience of Telstra, by and large a success story, but which later exercised its quasi-monopoly market power to compel taxpayer investment in vital infrastructure, i.e., the National Broadband Network.²⁴

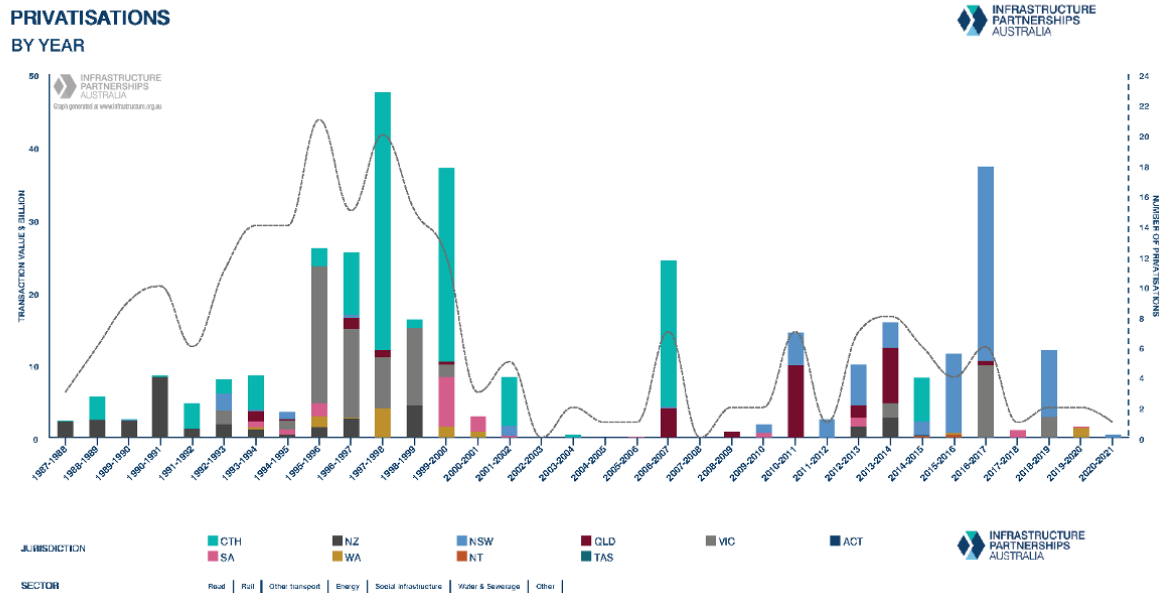
Australia's first major privatisation occurred when the federal Labor governments of Bob Hawke and Paul Keating progressively sold the CBA between 1991 and 1996, followed by the partial sale of Qantas (1992-93). These privatisations occurred against a backdrop of deregulatory policies aimed at modernising the moribund Australian economy, including floating the Australian Dollar in 1983, reducing tariffs on overseas-made goods and services, and allowing foreign owned banks to compete against local institutions. The foundation of future privatisation was the process of corporatisation whereby public ownership was maintained, but statutory corporations were required to achieve certain commercial benchmarks, pay tax, borrow funds without a government guarantee and have any regulatory advantages removed. This trend accelerated under the Coalition government of John Howard (1996-2007). It privatised Telstra in three tranches (1997 onwards), completed that of Qantas (1995-96), and later, too, Medibank Private (established in 1976 as a private health

insurer by the Commonwealth as a not-for-profit statutory authority before its corporatisation in the mid-to-late 1990s under Howard and full privatisation and stock exchange float in 2014 by Tony Abbott's Coalition government).²⁵ In the 1990s and 2000s, state governments embarked upon a raft of privatisations: gas, electricity, and water utilities, rail, airports, and Totalisator Agency Boards (TABs). Figure 2 demonstrates privatisations by value and volume, beginning with the late 1980s, peaking in the late 1990s and early 2000s, with intermittent spikes thereafter, coinciding with major sell-offs. OECD research from 2015 suggested global privatisation activity was trending upwards following an initial drop in the wake of the international financial crisis. In Australia, explicit privatisation is on the backfoot. The Abbott government, under the cover of 'lifting investment' and paying down debt earmarked \$130bn of public assets for privatisation, but its dream failed to materialise. Indeed, privatisation remains stubbornly unpopular with Australians according to almost all public polling. Former NSW Labor Premier Bob Carr admitted as much in a 2014 interview on the subject: "The public, having experienced privatisation over 20 years, is more resolutely hostile to it than ever."²⁶

Interestingly, as pointed out by Osmond Chiu, there are some forty examples of governments reversing privatisations over the past twenty years. This includes the Queensland government taking back two prisons from the private sector, the Western Australian government reversing the privatisation of the operation and maintenance of Perth's Water Corporation and the ACT government bringing school cleaning back in-house to the public sector, the Dame Phyllis Frost Centre (prison) in Victoria and hospitals such as Port Macquarie Base Hospital in NSW, both built through public-private partnerships, but returned to public control. Other examples include railways in Victoria and Tasmania and building maintenance work in Queensland. As Chiu points out, these reversals have primarily occurred under state Labor governments. Furthermore, the example of water corporations in Victoria and in other states of Australia bringing 'customer-facing' activities and aspects of maintenance back



Figure 4. Proportion of households renting privately, 2006 to 2016
Source: Australian Bureau of Statistics 2016 Census.²⁸



in-house rather than relying on contractors and sub-contractors, particularly in regional and rural communities.²⁷

Importantly, privatisation did not merely involve government divesting itself of assets by selling or in some cases 'leasing' assets to private industry. A form of quasi-privatisation has grown apace at all levels of government and by both sides of mainstream politics, whereby essential public goods and services are contracted out by government to be operated for profit by private companies. In some cases, there are clear efficiency gains, at least in the short-term, and new infrastructure is built in the absence of adequate government funding, but this often comes with a catch given contracts entered into with private operators can extend to periods of a decade or even half a century. In others, there are profoundly disturbing consequences. Take, for example, the most basic responsibility of government: to build, staff and operate public hospitals, prisons, and deliver education. In the former case, as the experience of NSW demonstrates, when hospital cleaning and portering was outsourced, profit-motives and quality care soon came into conflict.²⁹

Private operators claimed they could not afford to meet costs; patient care suffered, leading to reports of waiting time blow-outs, infectious patients being left for hours in hospital corridors because no clean rooms were available and incontinent patients were reportedly left lying in their own waste because there was no one to move them.³⁰

A similar pattern can be discerned in Queensland, South Australian and Victorian public hospitals,³¹ posing heightened public health risks for regional, rural and remote communities.³²

It is important to note that a party-political divide exists whereby state and federal Labor governments have typically used privatisation for practical reasons – for example removing the inefficiencies of government-owned entities such as the CBA in a competitive, albeit highly-concentrated 'Big Four' market – or tactically using sale proceeds to redistribute wealth and fund social security, against the dominant Coalition view of privatisation as ideological device to remove so-called fetters on markets and restrict the role of government.³³

The Hawke-Keating Labor strongly associated the government's privatisation program with enhanced competition, notably in the case of aviation and banking/finance. Coalition governments by contrast, appear to have shown a greater ideological propensity to regard privatisation as being desirable even in the absence of competition gains, in part because it reduces the scope of government provision of goods and services.³⁴ Yet, as one analysis of newfound efficiency gains in privatised enterprises demonstrated, "the impact of competition in driving efficiency gains was more important than that of ownership."³⁵ With specific regards to the electricity sector, another analysis of the resulting company restructures as a consequence of privatisation determined that "in looking at the winners and losers, identified investors, owners and creditors as being the major beneficiaries and employees as being the major losers." According to scholar, Lynne Chester, this is largely due to wage suppression, lower working conditions, and job losses/casualisation.³⁶

The reality of privatisation in Australia too often hasn't matched its promises.

Most importantly, ordinary people's experience from previously public services and assets didn't get better after privatisation, hurting workers, families, consumers, and communities. Australian Competition and Consumer Commission chair Rod Sims has repeatedly argued that the sale of ports and electricity infrastructure created unregulated monopolies weakened productivity and damaged the economy. Along with opening vocational education to private companies, the public and the ACCC has begun to increasingly lose faith in privatisation and deregulation.³⁷ Prior to the November 2022 Victorian state election Labor Premier Daniel Andrews, in the context of household energy bills rising by 20 per cent in the previous year, declared that the agenda of energy privatisation and deregulation had "gone too far" and "not worked" making 'things harder for families' and that the sector must be reset "back in favour of the consumer" not billion-dollar corporations.³⁸ After some three decades of privatisation, explicit or otherwise, and with renewed calls to privatise

statutory corporations such as Australia Post and for state governments to consider privatisations as a new way to help pay for the cost of COVID-19 and protect their credit ratings, it is time to take stock.³⁹

Private Gain, Public Pain asks the following: have the claimed benefits of greater efficiency, lower consumer prices and increased competition stemming from privatisation and privatisation by stealth including contracting out of government services been outweighed by less reliable, poorer quality essential goods and services, job losses, insecure work, and lower wages?



Part Two: Taking Stock

Past experience and current directions.

Generally, we observe that privatisation often increases consumer prices, failed to deliver efficient investment particularly in key industries, increased consumer dissatisfaction about service quality and declining reliability, led to frequent job losses, pre and post privatisation, and lowered employment standards for affected workers. As the ACTU notes, this has occurred within a context of a “myriad of other concerns” including foreign ownership of essential services, significant undervaluing of public assets prior to sale, lax environmental safeguards, compromised transparency and weakened regulatory frameworks leading to the erosion of the public good once provided, creating significant and lasting damage to workers, communities, and public as a whole.⁴⁰ When private contractors collapse it potentially leave of hundreds if not thousands of employees and subcontractors unemployed, while a de-skilled public sector “[scrambles] to deliver essential services”.⁴¹

Are governments and by implication taxpayers are receiving back from their buck from privatisations? One startling estimated of Commonwealth privatisations alone suggests they were \$43 billion undervalued.⁴² Nicholas Gruen, in his analysis of the cost of Sydney’s network of toll roads found that if the government had simply borrowed the money to build and operate them, the state would have been \$4.6 billion to \$5.8 billion better off, because “the governments cost of capital is 40 per cent lower than the private sector’s”.⁴³ In Victoria, taxpayers have also borne the brunt of privately-constructed and run tollways, including the Kennett-era Transurban built CityLink. Then there is the example of the East West Link contract entered into by the Napthine Liberal government prior to the 2014 state election but opposed by the Labor Party who subsequently won the election and formed government. Taxpayers were left in the red to the sum of \$301 million for the axed road.⁴⁴ Most recently, there is the mishandling of the West Gate Tunnel project contracted to be built by Transurban.

Costs have blown by at least \$3.3bn and possibly \$5bn over the initial price costing of \$6.7bn. Amid an ongoing dispute between Transurban, builders CPB and John Holland and the state government over the disposal of toxic soil, tunnelling supposed to have begun in mid-2019 ahead of a 2022 completion date is still not under way, creating uncertainty for workers and holding back crucial infrastructure development. None of this is to suggest there isn’t a role for private companies to build roads, and for limited management tollways (especially given the involvement of long-tun thinking and investing Industry Super funds) but the taxpaying public can be hit by a double whammy: not receiving due consideration for asset sales and wearing the cost of poorly regulated privatisations and ill-thought out PPPs.⁴⁵

The program of privatisation changed the policy priorities of governments, from the long-term provision of public infrastructure which underpin development, to the short-term goals of the realisation of budget surpluses, the retirement of debt and the achievement of short-term efficiency gains for service delivery. Privatisation has been successful, to some extent, in achieving these short-term financial goals, but it has also increased the longer-term costs and increased the complexity of regulatory supervision required in the establishment and administration of new quasi (managed) markets for public services. In the process, privatisation has entrenched new monopolies in the Australian economy and undermined the legitimacy and role of new public investment in infrastructure. To manage the effects of privatisations, successive governments have built an extensive, complex, costly new regulatory framework to govern entry and exits from new markets, investment and prices. The consequences have been unfortunately haphazard.⁴⁶ Originally, the stated aim of privatisation policy was to reduce or avoid some of the inefficiencies and misallocation of resources claimed as inherent in the delivery of many public

infrastructure services. The evidence of achieving this aim is decidedly mixed after more than two decades of our experience of privatisations.⁴⁷ The examples of Qantas, Telstra, CSL and the Commonwealth Bank are seeming exceptions to the rule, however it is arguable that governments failed to ensure adequate corporate governance standards and the insertion of a strong employee voice in these privatisations. Looking back, these privatisations should have mandated a form of codetermination whereby elected worker directors were represented on the boards of said companies along the lines of Germany and Northern Europe. The same is true of contracting out public services which have become a major player in the 'public sector'. A 2020 ABC analysis of about 120,000 federal government contracts — for services such as consulting, staffing and recruitment — suggests contract labour has doubled in the past five years, and is now worth more than \$5 billion a year, mostly in defence, the Australian Taxation Office and Services Australia (which operates Centrelink and Medicare offices), with work outsourced to global multinationals such as Manpower, Serco and Datacom.⁴⁸ One comparative international research of thirty-seven case studies (spanning the period 2000 to 2014) examining the contracting out of public services and their effect, less than half of the cases (seventeen) documented cost reductions, while nine studies documented showed cost increases and eleven studies found no significant cost changes. Significantly, cost savings from the contracting out of social services such as health care, social security, education, housing and public transport was a just 0.2 per cent, for all practical purposes zero cost-benefit.⁴⁹

Efficiency, productivity, and competition

There is a sizeable body of evidence which casts doubt over handing over ownership and responsibility to the private sector always increases efficiency, productivity, and competition as envisaged by the 1993 Hilmer Report. The most dramatic example is the electricity sector which "was supposed to be the showcase for privatisation and market deregulation."⁵⁰ As noted by the Grattan Institute, "anticipated price reductions have

not happened, and innovation has been very slow in coming ... the markets with the least regulation have the highest prices. Australia's experience is mirrored in the UK, the United States and Canada, and all are struggling to find solutions."⁵¹

A key problem identified by John Hewson, earlier identified as a proponent of privatisation, is that: "A major weakness of their privatisations was the emergence of 'gentailers', where the one company could operate as both a generator and a retailer... [enabling them to] game both the wholesale and retail markets. In many cases, governments have also sold the profitable parts of the network and kept responsibility for the maintenance of the unprofitable parts: the poles and wires."⁵²

A 2014 Australia Institute investigation of privatised electricity providers, to cite just one example, showed their productivity actually declined after being sold off (productivity often rose pre-sale via crude job cuts). One reason was the proliferation of middle 'managers' and 'salespeople' in newly privatised companies. In 1996, there was a national total of about 1000 salespeople in the industry, but by 2014 that number had climbed to 6000, while the number of managers increased dramatically from one manager for every 13 workers, to 1 for every 9.⁵³ By 2021, there are now 40 per cent more office managers and professionals working in the electricity industry (mostly in finance and sales) than electricians.⁵⁴

Post-privatisation, the evidence is unclear as to whether ownership type of companies boosts efficiency and productivity. While studies are not clear-cut as to whether private electricity companies operate more efficiently vis-à-vis state owned entities, at the very least the size of promised gains hasn't materialised.⁵⁵ Indeed, as energy and climate change policy expert Arjuna Dibley has recently argued: "Government ownership in the electricity sector can be an asset, not a curse, for achieving technological [and innovation] change. The reason runs contrary to orthodox economic thinking. While competition can lead to firm efficiency, some economists argue government-owned firms can take greater risks. Without the pressure for market-



rate returns to shareholders, government enterprises may be freer to invest in more speculative technologies ... Whether state-owned electric companies can drive clean energy innovation depends a great deal on government interests and corporate governance rules."⁵⁶

Port privatisation is not new in Australia. There are three major features of the Australian port privatisation approach, namely long-term lease sale, private equity owners and foreign ownership. The Port of Portland and Geelong Port were respectively privatised in 1995 and 1996. In November 2001, the South Australian Port Corporation managing the Port of Adelaide and another six regional ports were acquired by the private company Flinders Ports Pty Ltd with a 99-year land lease and an operating licence. However, in recent years there has been increasing privatisation of ports through the sale of long-term leases over port land and associated assets. Whereas the driver for port reform in the 1990s aimed at improving efficiency (often code for union-busting), the recent privatisation of ports is mainly driven by state government budget goal's around debt ratings, and the commonwealth's policy of 'asset recycling' intended to raise funds for future infrastructure investments.⁵⁷ However, port users including shipping lines, shippers, stevedoring and logistics companies have seen increases in port charges and rental charges after privatisation. For example, at the Port of Brisbane, PBPL increased charges to ships by 53 per cent and rental charges to stevedores by 111 per cent between 2008–2009 and 2013–2014. The Port of Newcastle, privatised in April 2014, has increased charges and revalued its assets without any independent check. Indeed, as noted above the experience of leasing NSW's ports to private operators has led to decreased competition by virtue of contractual clauses limiting the expansion of the Port of Newcastle vis a vis Port Botany, which is significant given the port's location to key exports such as farming and manufacturing and its need to diversify away from coal.⁵⁸ This is a highly inefficient use of our eastern seaboard ports and an ongoing barrier to regional development. Other issues include restrictions on the competition between

ports including monopoly clauses in agreements, and vertical integration within the privatised port to undermine levels of competition. A study of the Brisbane Port privatisation, undertaken by the Maritime Union Australia, found that the number of employees at the port, excluding stevedoring workers, decreased by 31 per cent. The reduction occurred primarily due to not replacing port workers but contracting out maintenance work.⁵⁹ Finally, of significant concern is privatisation involving foreign ownership of Australian ports, notably in the case of the 99-year lease of Darwin Port to Chinese Communist Party controlled interests, in contradiction to Australia's national interest⁶⁰ (in addition to selling off of other critical Australian infrastructure.)⁶¹

Telecommunications constitutes a mixed bag. The entry of competitors into the (now largely redundant) fixed-line phone business, vastly expanded mobile and smart phone market and internet providers has arguably expanded consumer choice, albeit driven more by rapid technological change. The efficiency of the telecommunications market in Australia seems to have improved by the late 2000s (that is, during the period of privatisation and after), although this might easily be attributed to the introduction of competition into the telecommunications market in the 1990s, rather than privatisation.⁶² The ACCC reported in 2019 that the real prices of NBN services were 13 per cent lower in 2018–2019 than in 2014–2015. The ACCC observed a reduction in the number of entry-level plans; however, it reported that the nominal price of entry-level products has declined from 2014–2015 to 2018–2019. The results reported by the ACCC are consistent with Australian Bureau of Statistics Consumer Price Index (CPI) data, which shows that telecommunications prices have fallen 6 per cent since 2000, while the CPI overall has increased by 63 per cent.⁶³

However, as noted above, Telstra's market power led to the situation whereby the commonwealth government was essentially forced to re-enter the market and build the government-owned National Broadband Network (NBN), regardless of its construction imperfections, when the company

refused to invest in broadband infrastructure. While it is by far the largest access network operator in Australia, NBN Co is not a statutory monopoly. Infrastructure competition continues – in particular from mobile and wireless providers, and also from corporate and government networks. Smaller operators continue to deploy networks in new developments, and one provider, TPG, has also deployed a fibre-to-the-basement network in major cities that currently connects over 120,000 premises. A major issue with NBN is that any future privatisation has the potential to re-create a company with Telstra's dominance of the wholesale market. While the ACCC has regulatory oversight of the NBN, experience suggests it has limited capacity to prevent large-scale anti-competitive behaviour.⁶⁴

Similarly, airlines are a mixed bag. Competition faced by the privatised Qantas has been patchy given the small size of Australia's domestic market. Several foreign operators have failed (Tiger Airways, 2007-2020) or struggled to penetrate the market (Virgin), to say nothing of the ongoing impact of COVID which resulted in the de facto renationalisation of the industry propped up by taxpayers.

An exception to the rule of privatisation failures is the experience of the Commonwealth Bank of Australia. The privatisation was driven by changes in capital adequacy guidelines for the banking industry requiring increases in the CBAs equity base which in turn would have involved continuing calls on the commonwealth. The relatively poor performance of the bank was also a major contributing factor. The CBA's market-adjusted cumulative abnormal returns increased significantly from 32.5 per cent in the first year of full privatisation to 54.12 per cent in the second year and to 64 per cent in the third year. This compares favourably with rival banks cumulative abnormal returns of 21.10, 38.54 and 42.72 per cent during the same period. According to one study, CBA began outperforming its rivals almost nine months after it had been fully privatised. Since then, it has progressively outperformed its major rivals in terms of profitability and efficiency.⁶⁵

Overall, as Abbott and Cohen argued, the evidence in the case of the financial services industry is not conclusive, but it does seem that the level of productivity of the industry is higher in recent times than it was at the time of deregulation.⁶⁶

However, the 2019 Hayne royal commission made damning findings into the industry. Hayne uncovered unethical, greedy and potentially criminal behaviour in the form of short-term profiteering and dodgy practices coupled with a lack of proper regulatory enforcement. Hayne's report did not attend to many matters which deserve attention. No direct criminal referrals were made. 'Vertical integration', whereby banks make and sell financial products, will not be banned. No changes to excessive executive remuneration and bonus schemes will be implemented.⁶⁷ In fact, contrary to the words of Treasurer Josh Frydenberg that "the banking sector must change and change forever",⁶⁸ banks stock skyrocketed since the report's release, and nothing has been done to deal with what Hayne noted to be "the asymmetry of power" between banks and people.⁶⁹

Consumer prices

A quarter of a century on from the privatisation of key public sector assets, notably electricity grids (encompassing power station generation, transmission, distribution, and retail), there is virtually universal agreement that one of the promised outcomes of 'reform' – cheaper and more reliable electricity – have failed to materialise, and been muddled by debates over carbon pricing, the role of renewable energy versus coal-fired power stations. Meanwhile, the National Electricity Market (NEM, a wholesale market separating electricity conglomerates into individual entities dealing with generation, transmission, distribution, and retailing), which covers all states except for Western Australia and the Australian Capital Territory, has likewise failed to produce lower prices or more reliable power for Australian households. Before the 1990s, all state governments owned and ran all four components of electricity, but most sold their electricity enterprises wholly or partly (see Figure 3).



Both Victoria and South Australia fully privatised their systems by the end of the 1990s. New South Wales partially privatised its network ('poles and wires') business after 2015. Queensland privatised retail but maintained public ownership of the network and some electricity generation. In Western Australia, when the Barnett Liberal government went to the 2018 election proposing to sell its majority interest in the electricity distribution enterprise Western Power, it was rejected by the electorate. Prices have continued to rise for the number of reasons. For all the corporatisation and privatisation of these companies, the transmission and distribution components of electricity networks remain natural monopolies (i.e. one set of high voltage transmission and low voltage distribution lines).

Figure 3. Majority ownership of electricity market components in Australia.⁷¹

Component	Generation	Transmission	Distribution	Retail
SA	Private	Private	Private	Private
VIC	Private	Private	Private	Private
Qld	Public	Public	Public	Private
NSW	Private	Public	Public	Private
WA	Public	Public	Public	Public
TAS	Public	Public	Public	Public
NT	Public	Public	Public	Public
ACT	Private*	Private*	Private*	Private*

*ACT Government and AGL joint venture

There simply isn't the market-led ability for multiple businesses to compete and drive costs down and therefore make prices lower through greater innovation and efficiency and productivity gains.⁷⁰

Since the privatisation of previously state-owned electricity utilities, electricity prices have rapidly increased, and continue increasing, Australia- wide. The cost of electricity increased by 170 per cent from 1995 to 2012, an increase four times higher than the rise in the consumer price index (CPI), in direct contradiction to the promises made to increase efficiency and lower prices. Between December 1996 and December 2016 Australian prices increased by 64 per cent but electricity prices increased by 183 per cent—almost three times the overall increase in prices.⁷² Charges for private companies investing in so-called "poles and wires" formed the largest component of rising

electricity prices, primarily determined by the company's rate of return.⁷³

The most dramatic example of privatisation not leading to lower consumer prices occurred in Victoria. Despite promises of cheaper power costs, beginning with the State Electricity Commission of Victoria being sold off by the Kennett Liberal government in early 1990s, prices for consumers in Melbourne alone have increased 85.9 per cent.⁷⁴ The evidence is clear: electricity price rises have been highest in states with privatised electricity networks; customer complaints to the energy ombudsman in privatised states have exponentially increased; reliability has declined across a wide range of measures in Victoria; promised increases to investment efficiency have not occurred; real labour productivity slipped as employment and training of tradespeople was gutted and numbers of managerial and sales staff exploded; private owners are receiving unjustifiably high rates of return based on the low investment risk; and consumers in privatised states bear the cost of approximately 10 per cent per annum interest on private owners' debt, compared to substantially lower government borrowing costs of three per cent.⁷⁵

Real output per electricity sector employees fell 37 per cent between 2000 and 2018; productivity growth was worse than for any other Australian industry; while electricity sector sales staff have quadrupled since mid-1990s and management grew more than 200 per cent.⁷⁶ A major reason is falling productivity in the sector since privatisation, the dramatic fall in output per worker being the direct result of the rapid increase in staff numbers in occupations that do not have a direct role in actually generating electricity, such as managers and marketing, itself the consequence of privatisation and the split of electricity entities into much smaller units, each requiring its own 'teams', with costs passed onto consumers through higher electricity prices, in addition to the increased capital costs associated with privatisation, and practices of state-owned bodies ramping up prices because of over-investment in poles and wires, 'gold plating'.⁷⁷

Even in 2021 with renewable energy pushing down the wholesale market price, the economy has seen gas and coal prices go up, so consumers are not immediately benefitting.⁷⁸ The most recent data collated by the Annual Retail Markets Report indicates that energy bills have grown over three times faster than incomes since 2005, for both electricity and gas. Between 2005 and 2020 Australian consumers have endured a rise of 76.9 per cent in electricity prices and a rise of 60 per cent in gas prices, while the average household income has only increased by 27 per cent.⁷⁹ As of 2021, retail electricity prices in Sydney are 228 per cent higher than when the NEM was established, compared to an increase in the CPI of 74 per cent over the same period.⁸⁰ (The ACT's half privatised energy distribution and retail/50/50 joint venture model between a government corporation and the private sector is an arguable exception to the rule, and is worth policymakers in other states examining).⁸¹ Owing to COVID lockdowns and working from home Australian households are consuming more electricity since the pandemic began, resulting in bills rising by 7 per cent in 2020, despite misleading claims about the 'success' of the federal government's 'standing offer' reforms.⁸² COVID has placed hundreds of thousands of jobless and/or underemployed consumers and small businesses in debt to the tune of \$200m, with resultant energy retailer disconnections rising.⁸³ 2021 has witnessed a further surge in electricity/gas prices rising 156 per cent in the March quarter.⁸⁴

Gas is spectacular example of extreme free-market ideology failing to drive down prices or ensure supply.⁸⁵ Australia is the world's biggest exporter of gas, sitting on vast reserves, and yet consumers pay exorbitant prices (the seventh highest in the world) by virtue of shortages at home and because local manufacturers are denied vital production fuel in the absence of a national gas reservation policy.⁸⁶ In 2017, global gas prices more than halved to below \$10, while domestic prices soared above the same price point owing to domestic shortages.⁸⁷ In late 2020, the ACCC found that consumers and businesses on Australia's east coast were paying significantly more for gas than international

customers: domestic gas users were offered prices of between \$8 to \$11 a gigajoule while LNG exporters were selling to their north Asian customers for less than \$6 a gigajoule by early 2020, even as the commonwealth government embarked on a so-called 'gas led' COVID recovery.⁸⁸ Despite prices falling in 2020, the ACCC has found local manufacturers that rely on gas as a raw material or for energy were continuing to suffer from higher prices than overseas buyers.⁸⁹ Domestic prices are predicted to further increase over the decade despite the federal government's rhetoric.⁹⁰

To minimise abuse of market power by privatised firms, many advocates of privatisation emphasise the need to ensure that competition is introduced into markets and industries prior to changes in ownership structure. Ensuring that a competitive market structure develops is arguably more important than concerns over ownership, and substantial improvements in the performance of privatised enterprises have been found to coincide with increased competition in the industry. Consider the example of airports.⁹¹ Where the market was fully competitive, the privatised enterprise commonly delivered higher levels of performance. Following privatisation, Sydney Airport experienced consistent growth in passenger numbers, from 29.6 million in 2005–06 to 34.9 million in 2009–10. The satisfaction levels of Sydney Airport users however declined markedly over this period. This combination of declining levels of service quality and rising levels of charges for use of the airfield highlights Sydney Airport's ability to charge the airlines monopoly rents. Sydney Airport has also used its monopoly position to charge monopoly rents for car parking share of Sydney Airport's debts. Sydney Airport was increasingly able to fund its debt repayments because of rising earnings. Consolidated earnings before net borrowing costs, income tax, depreciation and amortisation were \$773.3 million in December 2010, up from \$690.2 million in 2009. The privatisation of Sydney Airport has also impacted on employment conditions and airport employees' job security. Following a 12-month period post-privatisation, where employment conditions were guaranteed, Sydney Airport management



commenced a process of job cuts and the contracting-out of key functions, such as security, baggage handling and maintenance. The airport's focus on cost minimisation resulted in increased casualisation, especially amongst security workers, amid concerns over subcontracting and inadequate security vetting of staff.⁹²

Employment and service quality

Once again, the example of privatisation of electricity provides salutary lessons. As noted above, actual electricity workers have been replaced by middle management, especially marketing teams. In regional Gippsland, when the State Electricity Commission was subject to privatisation, hundreds of workers were encouraged to take redundancy packages with the promise they'd be hired back as contractors. This did not transpire. An entire generation never worked again.⁹³ Another dramatic example of eroding service quality costing the community can be found in Victoria's 2009 Black Saturday Fires during which 173 people died. The subsequent royal commission into the fires inquiry made substantive findings about the electrical fires which caused 119 of 173 deaths. Major contributing factors in all of the electrical fires were ageing assets and the reduction in inspection timeliness and quality. Blackouts in South Australia during September 2016 have been attributed to the decisions of the private energy operator to withhold supply in the face of high prices rather than a failure of sustainable generation. Another factor at play is foreign owners, notably the Singapore and Chinese Governments, as majority owners of distribution companies in Victoria, using profits they make in Australia to subsidise their national networks, and keep down electricity costs.⁹⁴

Turning to the caring economy provides similarly bleak reading. Childcare is another sector which has over the past three decades shifted from a community-based not-for-profit model to one in which for-profit private providers have claimed a greater market share, underpinned by billion dollar government de facto subsidies such as the former Child Care Rebate (now known as the Child Care

Subsidy) as per private aged care, with deleterious effects on quality of care for children, standards and investment, wages and working conditions, and fees paid by working parents and carers. Child care costs have risen sharply in the absence of enough affordable government run services. Perhaps the most shocking example pertains to the collapse of ABC Learning Centres, where a single company bought up more than half the childcare centres, expanded overseas and then collapsed, imperiling the education and care of 120,000 Australian children and the employment of 16,000 educators.⁹⁵ To avoid leaving parents in the lurch, as economist Ross Gittins reminds us, government was forced to step in – at great taxpayer expense.⁹⁶ Further, much of the childcare sector remains privately owned: recently a United Workers Union report found that three-quarters of the 12,000 enforcement actions taken since 2015 were against for-profit providers.⁹⁷

More recently, the privatisation/contracting out of disability services under the guise of the National Disability Insurance Scheme rollout has led directly to a blowout in waiting times for consultations and funding times to three years or more, uncertainty about housing for 'clients', lower levels of choice and patent inability of some for-profit to provide the complexity of care required by people living with complex disabilities.⁹⁸ This is a direct result of the National Disability Insurance Agency, responsible for the rollout, having had its public service staffing allocation slashed, filled with a combination of contractors (some non-profit) and labour hire firms using low-paid, poorly trained staff. The NDIS's privatised call centre is run by Serco. It led to thousands of complaints about the lack of support plans approved and poor quality therein.⁹⁹ Indeed, as recently pointed out, the NDIS was designed to be built with 10,000 permanent employees but has less than half of that number. As Rick Morton has written: "An outcome of this has been the wildly inconsistent planning and delivery decisions touted as the reason to introduce the now abandoned independent assessments."¹⁰⁰

In relation to our public health system, nationally, seven privatised public hospitals have failed and

been subsequently handed back to the government, sometimes at great cost to taxpayers. At least another four hospitals have had services badly affected because of privatisation. Outbreaks of infections and poor services have been directly attributed to the push for profits over care.¹⁰¹ Within aged care, as we will see below in our case study, privatisation has been linked to plummeting staff-to-patient ratios, especially well-qualified staff, and resultant decreases in the levels of care.¹⁰²

Then there is the case of the Vocational Education and Training (VET) sector. As the ACTU and others have demonstrated, the federal government's decision in the name of competition to open up the sector to private operators (funded by government via FEE-HELP) produced poor outcomes for government, workers and for the students reliant upon the VET system.¹⁰³ Between 1996 to 2011 the share of enrolments in publicly funded VET in the 'other provider' category, which is 80 per cent private providers, increased from 1.7 per cent to a staggering 26 per cent. Access to public funding has attracted unscrupulous VET providers seeking profits by offering bogus courses. Rather than focus on the quality of education and skills development, we have witnessed predatory marketing targeting vulnerable students, with salespeople offering free iPads and 'free courses to unsuitable students, who do not finish courses but rack up large fee debts.'¹⁰⁴

Under the private VET system, student costs have risen significantly with courses offered up to five times more the cost of equivalent courses at TAFE while students were systematically misinformed about the debt they would incur, the suitability of the courses being offered and requisite labour market skills and qualifications acquired. There is large body of evidence showing that training provided is substandard, particularly in the construction and aged care sectors. Furthermore, many of these providers have been shown to systematically underpay staff who work with insufficient resources and/or time to provide a quality education and when these operators go bust there is no effort made to pay workers outstanding wages or entitlements. These trends have developed in the context of a significant increase in costs to

taxpayers via the federal government: tens of millions of dollars are being paid to substandard private operators, or alternatively when they collapse have cost the taxpayer millions in debt write-offs, each of which constitute clear examples of opportunity cost.¹⁰⁵

Finally, there is the well-documented example of Centrelink and the role of private contractors, most notably the multinational Serco. Contracting out of this vital employment service has led to the cutting of thousands of Centrelink jobs from the Department of Community Services. This had led to clear failures in service delivery spurred by poorly trained and underpaid staff. In 2017 alone, 55 million calls to the agency went unanswered. Average waiting times for those who did get through were 15 minutes and 44 seconds.¹⁰⁶ To make matters worse, Centrelink 'clients' have been harassed with substantial debt notices for monies the government claimed were overpaid – so-called Robodebt. This has had a catastrophic human cost, leading to a spate of suicides among unemployed jobseekers.

Australia has continued to experiment with embedding Payment-by-Results in its welfare to work system as a means of promoting greater service tailoring. The current Jobactive system, which was introduced by the Abbott government in July 2015 and which will continue until mid-2022, is predominantly a Payment-by-Results system. The original Jobactive contracts were estimated to be worth a total of AUD\$7.3 billion over five years, making PES the largest area of Australian government procurement outside defence. The principle of 'personalisation' has become embedded in welfare policy reforms, at least at the level of bi-partisan rhetoric. OBC is attractive to policy-makers because it also transfers the risks of under-performance to providers, ideally ensuring that governments only pay for 'what works'. However, there is no strong evidence to support the proposition that privatised Payment-by-Results is consistent with, or able to drive, meaningful results for people at the welfare-to-work frontline.¹⁰⁷



Wages

A superficial means of providing more efficient, 'cheaper' services through privatisation and more commonly contracting and subcontracting out of government work is for private operators to pay lower wages, which de facto decreases a government's public sector wages bill. Clearly this has a detrimental effect on workers employed in relevant industries and service providers. For private operators it is clearly attractive for individual employers to pay their employees lower wages. However, at an economy-wide level, wage-cutting and wage-suppression of public sector and quasi-public work sector is disastrously counter-productive – negatively influencing private sector wage trends, depressing consumer spending and in turn lowering businesses turnover and profits.¹⁰⁸

As the 2018 *Raising the Bar* report convincingly argued, workers' ability to demand and win higher wages evaporates when their jobs are insecure and precarious. A growing share of Australian workers work in part-time jobs; Australia now has the third-highest incidence of part-time work of any industrial country. One obvious factor which has reduced the impact of public purchasing power on overall labour markets has been the long-term erosion of public sector employment – in favour of privatisation and contracting out public services – relative to the overall population and labour market. The shift to external provision of many key administrative functions by governments is motivated by politicians' desire to be seen as "frugal" – yet in many cases outsourcing increases the ultimate cost to government (due to the overhead, duplication, and profit margins associated with private provision), even though the workers are usually paid less. One egregious example the *Raising the Bar* cites is the example of school cleaning in Victoria. In the early 1990s, the Victoria Liberal state government implemented new regulations requiring all public schools in the state to outsource cleaning services to private suppliers (prohibiting them from engaging their own cleaners as direct school employees). School administrators had no power to make alternative arrangements for school cleaning; they were all required to tender the

services to competitive bids. This intrusive and top-down directive was supposed to reduce the cost of cleaning services across the public school system, but clearly this could only be achieved by pushing down labour costs through competitive bidding and re-bidding of cleaning contracts. The policy had several negative consequences, including inferior cleanliness, wasted administrative effort (to oversee the tendering process and supervise external suppliers), and widespread failure of private cleaning firms to meet minimum labour standards (such as minimum wages, leave entitlements, and more). A similar pattern can be discerned in countless other examples of contracted out public sector work: private operators are inefficient and harm workers.¹⁰⁹

One of the clearest examples of outsourcing leading to lower wages and redundancies pertains to cleaners and security guards who have worked at the front line of the COVID pandemic. As OECD research examining trends in Australia, the United States and Europe released in July of this year showed there has been a shift by businesses to move staff off their books and to third-party providers in the name of increasing productivity and cutting costs, a situation the OECD describes as domestic outsourcing. Cleaners and guards are already among the lowest-paid workers in Australia yet not only were cleaners and guards guaranteed to be paid less when their jobs were outsourced but they were less likely to receive training and received fewer hours than they wanted. The report found that in Australia, the share of local cleaners outsourced to a third party has increased from less than 30 per cent in 1995 to almost 45 per cent in 2019 while among security guards more than half are now outsourced. According to the OECD, if a cleaner's job is outsourced their earnings will fall. Cleaners who remain in-house receive on average one per cent more in income than those already in an outsourced role. The difference is larger among security guards. A guard in an outsourced firm is paid 3.6 per cent less than those kept in-house. Moreover, outsourced workers were also more likely to work in breach of health, safety and labour standard regulations, a direct result of contractors and subcontractors and labour-hire companies

competing for scarce, tendered work, in many cases leading to workers being paid cash in hand wages or by virtue of sham contracts, firms evade minimum wage laws whereby staff are falsely classified as running their own businesses.¹¹⁰ These practices were previously exposed in a domestic case study of NSW government contracted out cleaners.¹¹¹

The costs to workers exploited by such arrangements have wider flow-on effects. At a macro-level, lower wages and redundancies lead to higher social security expenditure required of government at the very same time as governments received a reduction in tax receipts, whether it be income taxes on wages and salaries, payroll taxes, and GST on consumption. Short-term gains, or so-called efficiency dividends, often leads to long-term fiscal pain, reduced consumer spending and slower economic growth.¹¹² Alternatively, state investment in particular projects, and the resultant employment of public sector workers paid at public sector rates, is shown to have non-economic benefits and externalities. For instance, the construction of a new state operated and owned crematorium in the Australian Capital Territory assists cultural communities otherwise denied use of a suitable facility for cremating deceased loved ones in a purely free market because of a lack of broader public use.¹¹³

The strangest area of core government responsibility subject to market forces are prisons. The modern prison privatisation phenomenon emerged in the US in the mid-1980s and quickly spread to the UK and Australia, once more using the argument that private sector practices would lead to cheaper, more innovative and better prisons which would improve publicly-run institutions. In Australia there have been seven private prisons established, some by Labor governments, notably Bob Carr's NSW administration in 2001. Queensland and Victoria each have two private prisons and NSW, South Australia and Western Australia each have one. Australia has the highest proportion of inmates in private prisons of any nation, at around 17 per cent. It goes without saying that imprisonment is an essential state function that should not be delegated

to private interests and, separately, that it is morally wrong to allow profits to be made from criminality. The profit motive will inevitably conflict with community safety, prisoner welfare and incentivise operators to increase the length of an inmate's stay while lobbying governments for high-imprisonment policies.¹¹⁴ A study published in *Criminal Justice Policy Review* reported that heavy state government reliance on, and investment in private prisons, has failed to achieve positive community outcomes and is proven by increasing incarceration rates around Australia since the 1980s. Significantly, Queensland recently ended private prisons following a damning report on the state's two privately run prisons.¹¹⁵

The above costs do not consider the sense of loss communities experience, particularly regional ones, when vital services are privatised – irrelevant of whether it is heavy industry and production jobs, downstream employment, teaching, or caring professions, in the latter cases maximising profit interferes with work which relies fundamentally on human empathy. The well-documented lack of planning for on local jobs, wages and conditions, and re-training in the face of plant closures by a privatised electricity sector in the Latrobe Valley in Victoria is one striking example of this community impact. Privatisation is often devastating for local workers and the communities and can have an especially severe impact on the viability of local economies in rural and regional areas.¹¹⁶



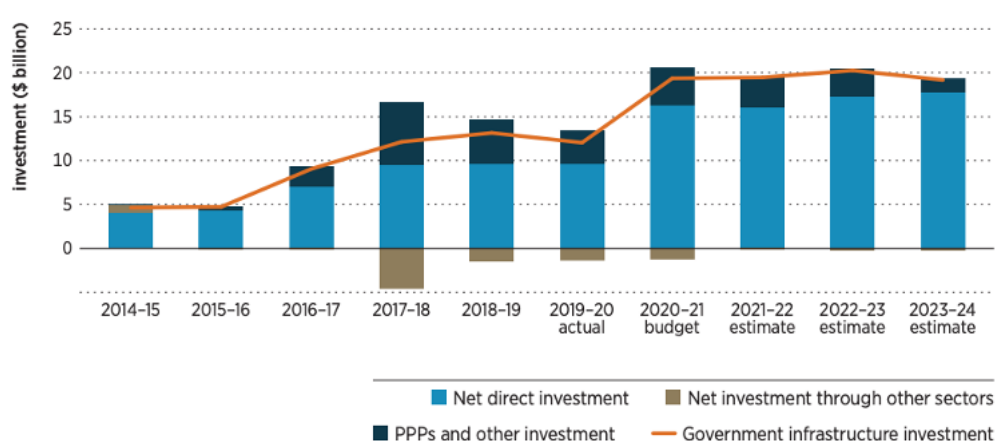
Current Directions

In more recent years, the Victorian Government has undertaken a number of privatisations and public-private partnerships. Since 2014-15, the state government has engaged in eight separate privatisation projects worth over \$13 billion.¹¹⁷ It has also undertaken at least five public-private infrastructure partnerships worth over \$10 billion.¹¹⁸ Over the last two decades, state government has worked with private enterprise to deliver thirty two public-private projects worth around \$30.1 billion in capital investment currently.¹¹⁹ Five of these projects relate to health and health related infrastructure, eight of these projects road, rail and other associated transport projects, and five with respect to delivering justice through the court and prison systems.

These projects and partnerships represent significant projects which Victorians expect government to typically provide. With over \$60 billion committed to infrastructure funding by the government, public-private partnerships are relied upon to a significant amount.¹²⁰ Currently, the 2020-21 State Government Budget outlines three public-private partnerships worth around \$10 billion.¹²¹ These three projects include public housing and a hospital redevelopment, alongside a more traditional road transport project.

This Budget also sets out an estimated \$5.5 billion in public-private partnership or private sector co-investment for 2021-22, which is followed by a further \$3.9 billion in 2022-23 and almost \$3 billion in 2023-24.¹²² This contrasts with projections made in the 2018-19 State Budget which set out that expenditure on PPPs and other investment was expected to drop substantially to \$1.7 billion in 2022-23.¹²³

Figure 4. Victorian Government Infrastructure Investment: 2014/15 – 2023/24.¹²⁸



Source: Department of Treasury and Finance, *Consolidated Cash Flow Statement – General Government Sector* (2020)

The increased reliance on public-private partnerships and private sector contributions is broadly a consequence of unprecedented infrastructure investment. Infrastructure as a share of Government expenditure was just below 10 per cent in 2015-16 and is around 17.5 per cent in 2020-21, with projections it could rise to just below 20 per cent by 2022-23.¹²⁴

Furthermore, it is predicted that interest expenses will be 4.8 per cent of total revenue by 2023-24 based on borrowing undertaken.¹²⁵

Figure 4. Victorian Privatisations by Year: 1987 - 2021.¹²⁶

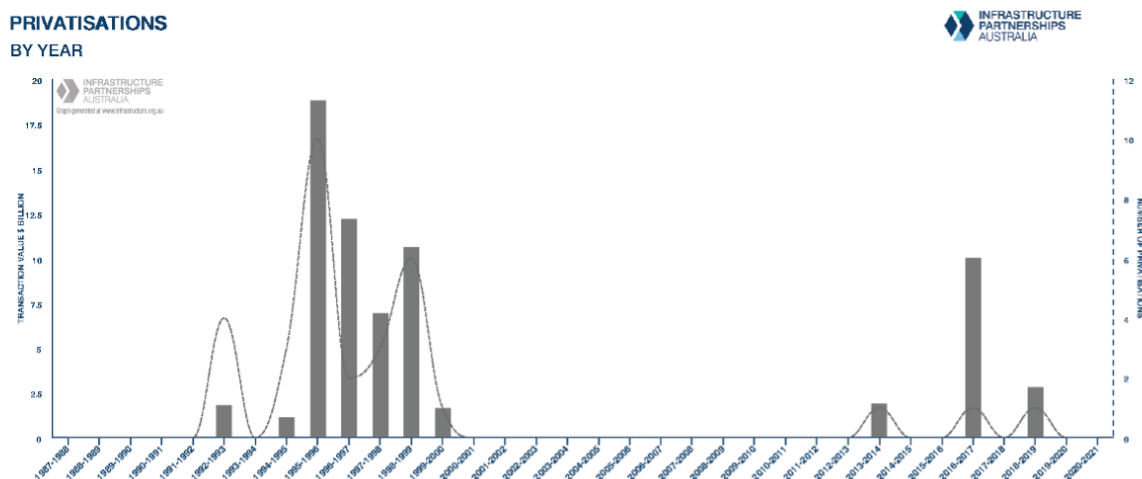
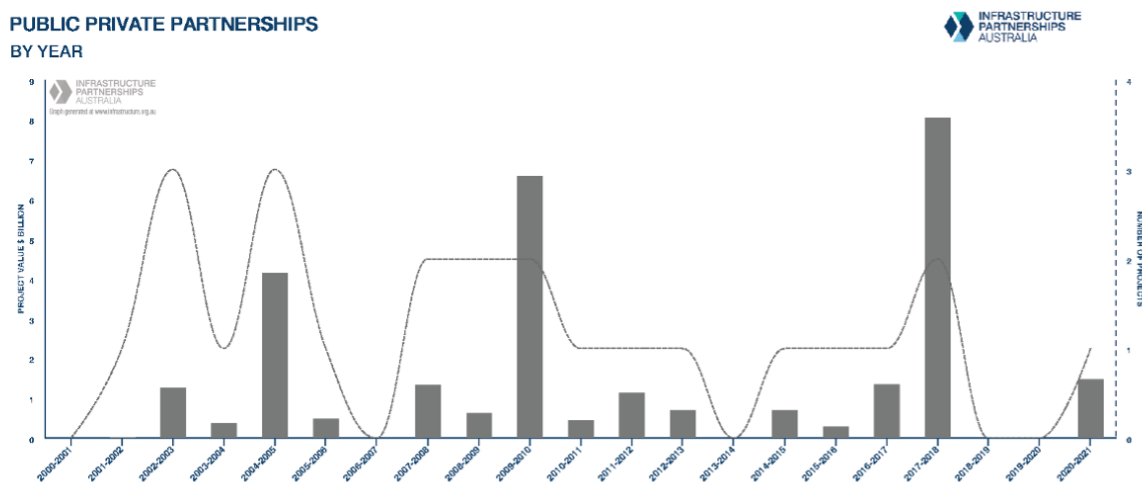


Figure 6. Victorian Public-Private Partnerships by Year: 2000 - 2021.¹²⁷





Part Three: Aged Care Case Study

An analysis of the impact privatisation had and is having on aged care.

COVID-19 exploits the underlying conditions of our bodies, in medical terminology, comorbidities. Similarly, the virus has exposed the frailties of Australia's policy settings net. Most notably this has been evident in our rundown sovereign capability, diminished ability of the public service to respond in a crisis, our workplace relations and social security systems, and, most notably, our private aged care sector.¹²⁸ As commentator George Megalogenis has written: "Politicians who have only known the open economic model have been forced to provide care, and security against an invisible enemy, using the old tools of intervention. These levers are both familiar and alien at the same time. The closing of borders and the opening of the public purse to support people in lockdown came naturally enough. The difficulty has been in repairing the safety net and restoring public services that were previously entrusted to the market. COVID-19 has demonstrated a wicked genius for exploiting the gaps in the old model, most notably in the management of hotel quarantine for returned travellers, and in aged care, where the lines between private and public, and between the federal and state governments, were blurred."¹²⁹

The seeds of the tragedy which took place in private aged care in 2020 and parts of 2021 were planted decades ago. Since the years of the Howard government, private aged care operators have been encouraged to pursue a strategy of maximising profits to shareholders and owners, falsely incentivising employees to be more 'productive', and rewarding management for cost-cutting with grotesquely high salaries. This trend has been underpinned by the light-touch regulatory model overseen by the Commonwealth government's *Aged Care Quality and Safety Commission*.¹³⁰ As a direct result, private aged care homes are routinely understaffed and underfunded, and staff-resident ratios have deteriorated to the point of dysfunction, facilities underequipped, and casualised workforces underqualified and

undertrained. These underlying problems meant COVID-19 dramatically and tragically wreaked havoc within Australia's aged care sector. Australia has, fortunately, recorded relatively few deaths. At the time of writing, there have been 40,774 cases and 970 deaths.¹³¹ Tragically 691 aged care residents have died with COVID-19,¹³² most occurring in Victoria (indeed, the private aged-care system accounted for the vast majority of Victoria's second wave deaths (82 per cent), but with increasing deaths occurring in NSW as a result of that state's third 'Delta' wave. There have been thousands of cases among aged care staff. The overwhelmingly majority have been in private, commonwealth regulated homes, where underpaid, insecurely employed, and mostly female staff workers move from workplace to workplace spreading the virus.¹³³ Understaffing and reliance on casuals working across several facilities were crucial factors. State-run facilities had only a handful of cases. While this outcome was partly due to geographical factors (the state-run facilities are more heavily concentrated in regional areas less exposed to the pandemic), the recent royal commission into aged care exposed systematic deficiencies, particularly in the for-profit sector. By way of comparison, in Victoria, there were just five COVID cases in state operated aged care.¹³⁴ Incredibly, as Australia was hit by Delta, the federal government failed to prevent staff at aged care facilities from working across multiple sites which led to renewed infections and deaths in private aged care.¹³⁵ As Victorian premier Daniel Andrews subsequently acknowledged, between May and July, casualised, insecure working conditions drove up to 80 per cent of workplace transmissions of the coronavirus.¹³⁶ Amidst NSW's ongoing 2021 outbreak, preliminary figures show almost 10 per cent of all COVID-19 cases in the latest outbreak have been transmitted at work.¹³⁷ COVID is many things, yet with workplace transmissions accounting for most cases, it is virus largely preying on insecure workers.¹³⁸ (To be sure, increasing casualisation of

the workforce in the sector is pushing permanent staff to leave the workforce altogether, further reducing care levels).¹³⁹ Indeed, across the world it has been lower socio-economic communities, the culturally and linguistically diverse, and those with employed under insecure, but essential, working arrangements, who are the people most typically infected, hospitalised, impoverished, and killed at the highest rates by COVID-19.¹⁴⁰

The 2020 *Royal Commission into Aged Care* revealed that the sector completely was unprepared for a health crisis like COVID-19. The Commonwealth failed to enforce standards, properly fund aged care and equip the sector to manage COVID outbreaks. The report specifically found the Morrison government's response to be "insufficient", leaving the sector's overworked and under-resourced workers "traumatised".¹⁴¹ As Peter Rozen, counsel assisting the royal commission into aged care observed, Commonwealth explicitly failed to provide a health plan for this sector: "While there was undoubtedly a great deal done to prepare the Australian health sector more generally for the pandemic, the evidence will reveal that neither the Commonwealth Department of Health nor the aged care regulator developed a COVID-19 plan specifically for the aged care sector."¹⁴² The crisis was the direct result of operators prioritising profits ahead of the health and safety of residents and staff. As observed by Professor John Braithwaite, this is part of a broader trend of increasing abuse and neglect of frail elderly people both in nursing homes and in community care across Western societies since the 1980s and 90s when the aged care sector became subject to the market forces of privatisation and deregulation.¹⁴³ Critically, as he points out, the crisis in the quality of care has exposed the inappropriate nature of using market mechanisms to regulate care in nursing homes. Namely, older people often cannot exercise their rights as consumers by leaving or complaining. The evidence from the early 2000s to today is very clear: quality of care is significantly lower in profit making nursing homes than in non-profit nursing homes because of significantly greater pressure on directors of nursing to reach financial goals by cutting corners on quality.¹⁴⁴ There are no legislated

staff-to-resident ratios in aged care, no requirement for a registered nurse to be on duty, and no minimum training qualifications required to work in the private sector. Thus, privatised aged care led directly to the COVID crisis and mass deaths amongst elderly Australians living in care.¹⁴⁵

Adequate funding is a key problem. A 1997 Howard government federal Cabinet Memorandum reflected on the creation of the 'new' aged care system in which those needing care in future would be provided for within the funds available, rather than funds expanding to meet needs. Indeed, the 1996/97 budget offered no extra funding for aged-care services, whereby "the line item for 'reform of aged and community care' saved the Howard government almost \$570 million over four years."¹⁴⁶ Since 2000, the cost of providing care in nursing homes has risen by 116.3 per cent. But government subsidies to outsourced providers increased by only 70.3 per cent, royal commission analysis revealed.¹⁴⁷ In effect, aged care was outsourced to the private sector. In mid-1999, private for-profit companies had a 27.6 per cent share of all bed licences in residential aged care. By June 2019, their market share had grown to 41 per cent,¹⁴⁸ and for-profit providers now represent 49 per cent of all aged-care operators, with tens of thousands of elderly people waiting for funding and many dying before they receive it. As the authors of one report argue: "The aged care sector prides itself in being an 'industry' and it behaves like one. This masks the fact that 80% of its funding comes directly from Government coffers ... taxpayers have every right to expect that a sector so heavily funded by them should be open and fully accountable to the public and seen as a 'service' to them."¹⁴⁹

With the reforms introducing for-profit private care, the cabinet memo is another indication that the market-driven issues which took root in aged care were anticipated.¹⁵⁰ Thus, as a study of residential aged care quality in Australia produced for the royal commission showed, residents in privately run for profit nursing homes are almost four times as likely to be hospitalised for weight loss or malnutrition than those in government-run aged



care homes, five times more likely than those in government facilities to register a complaint about the home's cleanliness or safety, and twice as likely to complain about the competence of the staff caring for them. The royal commission estimated that one in three people in aged care received substandard care, while around one in seven had suffered physical or sexual abuse.¹⁵¹ Overall, government facilities showed the best average results across thirty-one key indicators measured by the study, compared with two indicators for not-for-profit facilities and one for the for-profit facilities.¹⁵² Research by the University of Queensland in 2020 indicates that private providers operating large nursing homes were the worst-performing group in the Australian aged care sector. Small facilities run by state governments, meanwhile, were consistently the best performers across a full range of quality indicators, paradoxically however these small facilities run are also the fastest-shrinking type of aged-care provider.¹⁵³ There are 873 residential private aged-care providers in Australia. By income, the sixty largest aged-care providers and their affiliated entities account for 76 per cent of all revenue generated in the sector – almost \$19.6 billion in 2019. These providers invest in property, often using bonds from residents, and then charge themselves, and by extension the federal government, for the rent of that property.¹⁵⁴ By way of comparison, one pre-COVID study of the sector exposed the fact that private aged care homes were spending an average of just \$6 per day on the food requirements for each of its resident, down from \$8 per day in 2015.¹⁵⁵

Aged care privatisation has also led to a dramatic loss of professional skill since these providers aren't required to hire registered and enrolled nurses, therapy and personal-care workers.¹⁵⁶ Unfortunately, those that are hired often endure significant exploitation as they suffer precarious work and wage theft, exacerbated by threadbare reporting requirements for private providers.

In August this year, for instance, it was revealed that multinational aged care operator Regis Healthcare underpaid staff by as much as \$40 million over six years.¹⁵⁷ As Rick Morton notes in his two-part

The Saturday Paper investigation into the private aged care sector, before Howard's 1997 aged-care changes, the number of registered nurse (RN) hours that a typical nursing home with 60 residents was funded for and received was 308. Within a decade, however, RN hours dropped to just 198. In 2021, RN hour numbers had collapsed to just 168 hours in a week.¹⁵⁸ The decline in nurses engaged in the private sector largely explains this trend. As Morton writes: "In 2003, there were 16,265 full-time equivalent RNs ... representing 21.4 per cent of all direct care employees in these facilities. Even with an explosion in the number of older people receiving care, by 2016, there were only 14,564 registered nurses caring for them, representing less than 15 per cent of all staff. Enrolled nurses (ENs) fell by almost 2000 full-time positions – dropping from 14.4 per cent of all employees to 9.3 per cent. These clinical roles were replaced by low-paid and low-skilled personal care workers, often migrants who are given little or no support and face language barriers in the workplace. More than 26,000 such jobs were created between 2003 and 2016, pushing the proportion of these still-overworked employees from 56.5 per cent to 71.5 per cent of the entire direct care workforce." ¹⁵⁹

These problems were exposed by COVID and indolent response by the commonwealth. As George Megalogenis has pointed out, despite the fact "outbreaks in nursing homes were responsible for twenty-eight of the forty-nine deaths in the first wave of the virus in New South Wales, little work was done to prepare the system for the next wave. No target advice was provided by the nation's main COVID advisory body, the Australian Health Protection Policy Committee, in the six critical weeks before the declaration of a state of emergency in Victoria in August. The committee had issued only three statements specific to aged care since February, compared to eight for schools." ¹⁶⁰

When it came to the critical task of vaccinating the sector, and having promised to vaccinate residents and staff by Easter 2021, the Commonwealth was unable to tell Australians how many frontline workers and residents of nursing homes had been vaccinated because it palmed off the rollout to the private sector without thinking to collect the data,

or to enforce compliance if targets weren't met. As of June 2021, fewer than 12 per cent of the sector's 300,000 strong workforce had been fully vaccinated as the deadly Delta wave hit Australia.¹⁶¹ It has taken until September to address the problem but at the time of writing there remains 10 per cent of residents who are unvaccinated and only 81.4 per cent of staff are fully vaccinated, though the latter rate is likely to increase.¹⁶² The recently released draft report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People found the commonwealth's vaccine rollout to be 'seriously deficient', particularly for people in residential disability settings and people with intellectual disability. Core failures included not consulting with the sector in developing the strategy, a lack of transparency in decision making vis-à-vis the prioritisation of the aged care sector, and failure to provide clear and easily comprehensible information about the vaccines and the rollout of the vaccines to people with disability, which contributed to ongoing vaccine hesitancy.¹⁶³

Diagnosing the problems in aged care is the easy part. More difficult is implementing long-term solutions. The Royal Commission recommended the *Aged Care Act*¹⁶⁴ be amended to establish new governance provisions which would increase oversight alongside adopting necessary pricing reforms (accepted by the federal government).¹⁶⁵ This suggestion has been criticised as merely creating more bureaucracy, regulation and associated costs but failing to actually enhance care. Alternatively, the consequence will be enhanced care at the detriment of workers, who will be slugged with these new requirements and asked to complete this additional work at no extra cost for this privatised, for-profit system.¹⁶⁶ Indeed, successfully implementing the royal commission's recommendations appears slim given experience. As Professor Briony Dow, Director of the National Ageing Research Institute suggests: "More than 20 previous reviews into the aged care sector have revealed similar shortcomings. We need to establish public trust in the aged care system and this will be driven by ... [government]. So far, the response has largely focused on increased regulation of the sector. To regain trust, we need transformational

change, enabling front-line staff to transform the way they deliver care, especially ... for people living with dementia and at the end of life. We need to transform the experience of older people who need care, and to hear from them whether the changes are working. This will require more than just regulatory reform, it will require significant resourcing and reform to the way aged care is delivered, requiring strong leadership and good governance."¹⁶⁷ Nationalisation is not the solution, even if aspects of privatisation have been an unmitigated disaster for elders and workers. More funding (the 2021 budget included \$18 billion in new funding over five years, the largest boost for the aged care sector on record)¹⁶⁸ heavier government regulation and boosting staff-resident ratios are not silver bullets. The commonwealth's increased funding may simply funnel more money into the pockets of for-profit providers.

What the past eighteen months has taught us is that care is primarily the business of government, not the market.¹⁶⁹ The real problem stems from a view that sees operators prioritise short-term profits over the needs of residents and employees, and their own self-interest. As *The Saturday Paper* reported, nowhere in the world do similar aged care systems have as high a return on equity as private Australian aged-care providers. It notes that their return is almost ten percentage points higher than the value for listed companies in Australia, and four percentage points higher than the closest cohort in the Asia-Pacific.¹⁷⁰ Reform is needed at the coalface of the sector. As Megalogenis notes, one of the key recommendations of the royal commission that was ignored was to preference direct employment of staff by government over private contractors.¹⁷¹ Here, the concept of codetermination is a potential solution to the aged care crisis exposed by COVID-19. Aged care reform must start in boardrooms: which can also serve as the first line of defence against shonky behaviour. We need to hear from a much broader cross-spectrum of people actually engaged in the sector. This entails moving from a pure shareholder model and a clubby group of mates appointed to boards to a self-regulating stakeholder model.



As a first step, employees and families of residents should be included as directors on the boards of private aged care home companies. These directors would provide a much-needed balance of interests, bringing greater urgency to discussions around ratios, insecure work, and quality of care. Homes would draw on real-world knowledge and consider differing views on executive pay, workers' pay and employment conditions, company strategy and operational issues. Evidence from similar models suggests trust and communication between management, employees and residents is improved.¹⁷²

Another suggestion worth exploring is Paul Keating's idea for aged care costs to be met by a HECS-style funding model, whereby every Australian is extended a loan to pay for care and costs are recovered from their estate.¹⁷³ Whatever the solution, privatisation and deregulation of aged care has been a costly disaster leading to the tragedy of COVID aged care deaths. In this it mirrors the experience of COVID quarantine.

Part Four: COVID-19 Case Study

An analysis of the impact privatisation had and is having on COVID-19.

We now turn to the experience of COVID-19 quarantine, vaccination and testing across 2020-21. Australia has, as noted at the outset of this report, escaped the worst of the pandemic compared to developed countries such as the UK and US, and the global south. Deaths are low in relative terms, as are infection rates. Luck played a part – we are an island continent after all. A degree of political bi-partisanship undoubtedly helped during 2020, notably in respect of federal economic stimulus and support packages for newly jobless Australians and hard-hit businesses. State government-led border closures and lockdowns, by contrast, received mixed support from the commonwealth with the Victorian government the subject of brazen partisan attacks. This is not to say Australia's management of COVID during 2020 was perfect, as detailed below, and its luck finally ran out in mid-2021. In this our hermit-kingdom complacency has been encouraged by an indolent federal government.

Too often it was a case of "near enough is good enough", and failures as detailed below can be explicitly linked to trends in privatisation and contracting, notably quarantine. Until mid-2021 Australia boasted one of the lowest vaccination rates of all G20 nations: squarely the responsibility of the commonwealth government, owing to its failure to source adequate vaccine supplies in the first place and quickly enough (notably in relation to procurement of the Astra Zeneca vaccine, in preference to Pfizer), related management of 'vaccine hesitancy' around the former vaccine and confused communication lines, especially vaccine advice, and build fit-for-purpose national quarantine facilities. Furthermore, Australia remains bereft of a nimble national testing and contact-tracing infrastructure system.¹⁷⁴

Shamefully, at the time of writing, fewer than a third of Aboriginal and Torres Strait Islander Australians are fully vaccinated, well under the 52 per cent double-dose coverage of all over 16s across the nation.¹⁷⁵

Quarantine

With respect to policing COVID patients in hotel quarantine, returned overseas travellers or otherwise, Victoria is a case study in the consequences of using private providers. Rapidly deployed in March 2020, the virus escaped hotels during late May/early June, entering the community and causing mass infections, hospitalisations and deaths, not to mention the social and economic costs of resultant prolonged lockdowns. (It should be noted that the Prime Minister's announcement of a mandatory 14-day program for returned travellers on 27 March allowed Victoria just 36 hours to create its quarantine program).¹⁷⁶ The resultant Coates inquiry¹⁷⁷ revealed that some security workers tasked with overseeing quarantining citizens were recruited through online messaging services such as WhatsApp and employed as private contractors with minimal workplace rights.¹⁷⁸ These workers, through no fault of their own (and nor the hotels), worked across multiple sites, were inadequately trained by three firms contracted – MSS, Unified and Wilson Security – especially in relation to hygiene and engaging other staff and guests, with training times of reportedly "three minutes" duration.¹⁷⁹ The firms who were contracted by state government without tender further subcontracted work to fourteen labour hire companies,¹⁸⁰ with evidence of further subcontracting to other smaller firms. Workers were also minimally, or not provided with, adequate personal protective equipment (PPE), including, in some instances, being told to bring their own masks,¹⁸¹ and were not explicitly told not to go to work if they developed symptoms.¹⁸²

Genomic sequencing later revealed that much of the 2020 outbreak emerged from hotel quarantine as security workers acquired infections from travellers and spread it to close contacts. The ramifications were especially felt across working-class and ethnically diverse northern and western suburbs of Melbourne.¹⁸³ The outbreak led to over 800



COVID deaths, especially aged in aged care, and a 111-day lockdown.

The report, commissioned by the Victorian Government, highlighted that hotel quarantine security “was not a function for private [contractors] to perform”. Additionally, it noted: “the heavy reliance on sub-contracting [emphasis added] posed a significant risk to the success of the Hotel Quarantine Program in terms of the quality and competence of security guards actually recruited.”¹⁸⁴ Specifically, volume one of the report identifies: “Consideration was not given to the appropriateness or implications of using a largely casualised workforce in an environment where staff had a high likelihood of being exposed to the highly infectious COVID-19. This, of course, had flow on impacts in terms of the spread of the virus ... as casually employed security guards were particularly vulnerable on the basis of a lack of job security, lack of (or no) training and knowledge in safety and workplace rights, and susceptible to imbalance of power resulting from the need to source and maintain work. These vulnerabilities had previously been identified by the Government; with that knowledge, they should not have been selected to provide the services they did without having addressed those vulnerabilities.”¹⁸⁵

As Megalogenis suggests, among others, a fully salaried, highly structured workforce with a strong industrial focus on workplace safety, such as Victoria Police, would have been a more appropriate cohort to deploy, which would have minimised the risk of outbreaks occurring and made contact tracing an easier job in the wake of an outbreak.¹⁸⁶ In response to these failures, the Victorian government “reset” its hotel quarantine program to the direct control and staffing of Corrections Victoria, which runs the state’s jails and parole system, in conjunction with Australian Border Force.¹⁸⁷

Inarguably, however, this program should from the outset have operated as a quality public service, run and staffed directly by the Victorian Government. Remarkably, even after these events, private contractors from catering companies providing ‘welfare’ were deployed to hotel

quarantine (and allegedly working shifts at one of Melbourne’s largest public hospitals, The Alfred) in addition to the Australian Open Tennis quarantine operation.¹⁸⁸

The problem as the Coates inquiry pinpointed was the nature of the contracting industry itself. As scholars Sarah Caine and Emmanuel Josserand have argued, “to put it plainly, the Victorian Government used an industry with a long history of non-compliance with minimum standards for a critical public safety job” as revealed by previous Fair Work Ombudsman investigations a decade ago and again in 2020. “It is not difficult to enter the industry. It does not take much capital to start a business and the workforce is relatively low-skilled”, they write. “As a result, a large number of security businesses compete for security contracts and there is strong competition on labour costs” leading to underpayment of wages, health and safety problems and sub-contracting. Sub-contracting is especially a problem, as they point out, on two levels. Firstly, it often appears in the form known as ‘sham contracting’, whereby the employer seeks to conceal an employment relationship as an independent contract, to avoid liability for employee entitlements. Secondly, subcontracting by larger companies to smaller companies dilutes control and responsibility and increases the pressure on costs, especially wages. This is precisely what occurred in Victoria’s hotel quarantine system, with the firms contracted hastily and without tender. By contrast, for its hotel quarantine system, NSW used police and Australian Defence Force personnel as well as security contractors (early in the pandemic it failed to prevent the virus spreading from cruise ships.)

Yet as Caine and Josserand point out, the problem went and goes well beyond Victoria. “The fact that Victoria has relied on private security firms for a hyper-sensitive public health job is testament to an entrenched culture of outsourcing government services all around Australia. In the federal sphere alone, in 2018-19, there were 78,150 contracts published on AusTender with a combined value of \$64.5 billion.” The problem can be solved and COVID might possibly provide the impetus.

Governments have a key role to play: “as governments are among the biggest procurers of goods and services in Australia, they also have a ready-made lever to ... monitor the companies who work for them and use their influence to ensure subcontractors adopt best practices in terms of workforce management and labour standards” by means of explicit binding charters and/or accountability frameworks.¹⁸⁹

Additionally, the use of private hotels came under significant scrutiny, particularly considering the cost to taxpayers; roughly \$377 million a year (roughly over a million dollars a day), when by no fault of their own they were built with the express purpose of housing tourists and not sick and/or quarantining returning Australians.¹⁹⁰ In this the commonwealth government was negligent. In mid-2020, one could reasonably excuse our paucity of purpose-built national quarantine facilities, including adequate ventilation, located outside of major cities. They will come in handy for future pandemics that will most surely follow this one. They would represent a wise investment, further stimulate the economy and create jobs. There is no justification in late-2021, however, especially given the recent big-spending commonwealth budget, for why the government has not built dedicated quarantine stations for returning Australians (which have only just begun construction in Victoria, Queensland and Western Australia and will not be ready for use until at least the first quarter of 2022).¹⁹¹

As Megalogenis observes: “Commonwealth long-term neglect by contracting out fused with Victoria’s rushed implementation of hotel quarantine, using private security guards and cleaners without proper training or oversight, to create a perfect viral storm. Victoria’s COVID-19 hotel inquiry studied more than 70,000 documents and could not determine who made the decision ‘to use private security as the first tier of enforcement, or an approval of that rationale in the upper levels of government’.” But it noted that the commonwealth had also neglected to inform the states what was expected of them. While this Inquiry had no remit or jurisdiction to examine any action or inaction by the commonwealth, given its role through the Commonwealth Pandemic Plan and

the lead that it provides to the states and territories, it would be unfair to judge Victoria’s lack of planning for a mandatory quarantining program given the commonwealth, itself, had neither recommended nor developed such a plan.”¹⁹² The Melbourne hotels should never have been policed by private security contractors, because as economist Richard Holden noted, “the highest possible standards were paramount.”¹⁹³ By contrast, private doctors and medical industry employees contracted by the Victorian government to provide care to quarantined patients in these hotels, or, by and large, private firms undertaking testing and pathology results to supplement public sectors efforts, were adequately trained and qualified, and provide a compelling example of government successfully leveraging the capacity and adaptiveness of private sector health sector during the pandemic. It beggars belief that there are multiple proposals for private companies to not just build – defensible policy – but operate, in progress, quarantine fit-for-purpose facilities,¹⁹⁴ particularly given Coates’s finding that no person or agency took responsibility for the quarantine debacle.¹⁹⁵

In the manner of aged care, the hotel quarantine fiasco merely exacerbated a long-run problem, namely contracting and subcontracting. As Melbourne University Law Professor Kristen Rundle has argued: “‘Contracting out’ government functions for delivery by the private sector has become the standard way of doing things across all levels of government in Australia. Indeed, it has become so standard that decision-makers might not see the matter as involving choice at all.” Rundle goes on to note “the disintegrating effects this situation can have on the principles of responsible government, around which Australia’s constitutional systems are built. The entrenched status of “contracting out” means the potential for more “orphan” decisions can occur at any time and place.”¹⁹⁶ This practice has extended into the pandemic despite the February 2020 Senate Standing Committees on Legal and Constitutional Affairs specifically made the following recommendations:

(1) That the commonwealth government “assess all current and future proposals for outsourcing



government services against a 'public interest test', which includes flow-on economic and employment impacts";

(2) Provide a commitment that services dealing with complex cases and vulnerable people should not generally be considered suitable for outsourcing;

(3) Implement arrangements to make outsourcing contracts publicly available, unless there are published national security concerns, amid other recommendations on the automation of government services and matters such as visas.¹⁹⁷

Specifically, cleaners and security guards have been at the front line of the COVID pandemic in Australia and elsewhere, and intrinsically relied on by governments to keep this disease at bay. Yet OECD research has discovered that these industries are subject to enormous and increasing outsourcing with workers often independently contracted to perform their work. Examining what the OECD has described as 'domestic outsourcing' within Australia, the US and Europe, the report found not only are cleaners and guards guaranteed to be paid less when their jobs were contracted out, but they were also less likely to receive training and the hours than they wanted. Cleaners who remain in-house receive on average one per cent more in income than those already in an outsourced role. The difference is even more pronounced among security guards. A guard in an outsourced firm is paid 3.6 per cent less than those kept in-house. Outsourced workers were also more likely to work in breach of health, safety and labour regulations. Many businesses, the report concluded, followed this trend in the belief it would boost overall productivity in their own firms by reducing costs and allowing them to focus on core operations. In Australia, the share of local cleaners outsourced to a third party has increased from less than 30 per cent in 1995 to almost 45 per cent in 2019 while among security guards more than half are now outsourced. In addition, through a recent audit of cleaning companies at major stadiums, the Fair Work Ombudsman found 270 workers were underpaid a total of \$25,292 and 78 per cent of the firms were not complying with workplace laws such as providing proper pay

slips and paying correct hourly pay and penalty rates.¹⁹⁸ This has occurred despite the creation of the Cleaning Accountability Framework in 2014 as an independent, industry-led body that brings together property owners, companies and employee groups to solve sectoral issues.¹⁹⁹

John Quiggin and Alan Kohler have both recently argued quarantine failures were avoidable.²⁰⁰ In the 1970s, the commonwealth and some states up until the late 1980s still operated quarantine facilities (Victoria's is now a museum) and possesses a department of works, capable of building new facilities or expanding old ones. During COVID, however, at almost every stage, the "Commonwealth has sought to avoid responsibility, and transfer it either to the states or to private parties ranging from management consultants to hotel operators. To the extent that it has taken action of its own, the commonwealth has relied almost entirely on the military (and, more opaquely, on the advice of the quasi-military Australian Border Force). A crucial cost of outsourcing policy advice is the loss of institutional memory. While the consulting companies have plenty of institutional memory, it concerns the process of consultancy, not the concerns of individual clients. Consultants need to develop the flexibility to move quickly from one contract, and one team, to another."²⁰¹ In simple terms, the Commonwealth Department of Health no longer possesses the operational capacity to be a 'hands-on service delivery agency', instead relying on consultants. It's spending on these consultants, according to budget documents, nearly doubled from \$38 million in 2013-14 to \$66.1 million in 2019-20.²⁰² This necessarily contributed to the botched vaccination rollout. The commonwealth relied upon the advice of McKinsey consultants to 'go slow' on ordering vaccines, instead of the public service, while McKinsey rejected this version of events, producing a blame-shifting game.²⁰³

Despite this controversy, in June 2021, McKinsey was awarded another \$1.4 million contract by the Department of Employment for work on examining labour force gaps in the economy. As Rick Morton recently noted: "because the public service does not have the people or the skills required to do the

job. The need they were assessing was also the hole they were filling.”²⁰⁴

Vaccination

The national COVID vaccination rollout has been described as “the worst national public policy failure in modern Australian history”.²⁰⁵ Former Coalition prime minister Malcolm Turnbull has claimed that he couldn’t recall “a more black and white failure of public administration” than the vaccine program.²⁰⁶ While the commonwealth has been responsible for the global and local procurement and national distribution of vaccine supplies (and lack thereof for far too long), it has outsourced several key aspects of Australia’s vaccine rollout to private corporations, from distribution (which is defensible – government does not and should not own logistical companies) to data tracking and monitoring of vaccine supplies and uptakes (again partially defensible given the IT expertise of specialist firms), and relying disproportionately on private General Practice (GP) clinics to administer vaccines.

All up, the commonwealth delivered private contractors an eye-watering \$155.9 million in the 2021–22 federal budget as part of the government’s \$7.2 billion COVID-19 vaccine program. The federal government hired four private health providers – Aspen Medical (a company with strong links to the Liberal Party), Healthcare Australia (HCA), International SOS and Sonic Clinical Services – to help vaccinate private aged and disability care residents, supplementing state-based workforces. Other multinational consultancies were paid tens of millions of dollars to perform rollout tasks which arguably the public sector should have been tasked with, if give the finding and capacity.²⁰⁷ As one report noted: “Details of the contracts remain shrouded in secrecy – the government has refused to make tender details public [and] there have been myriad problems”, from incorrect (and deadly doses),²⁰⁸ misplaced and wasted doses thrown away after problems with temperature-controlled storage. Residents in disability care and aged care alongside their carers and associated staff were exceedingly slow to be vaccinated.²⁰⁹

The four private companies responsible for vaccinating the aged care sector subsequently gave conflicting accounts about whether the government ever contracted them to inoculate aged care staff, further delaying the sector’s rollout.²¹⁰ Contractors struggled to accurately report the percentages of a population group vaccinated.²¹¹ And as Health and Community Services Union Tasmania assistant secretary Robbie Moore noted of the situation: “Aspen Medical was supposed to recruit nurses from the private sector to administer the shots but when it couldn’t it poached state staff – something state health departments would have been able to organise without paying a contractor.”²¹²

Furthermore, the commonwealth government was too slow to procure supplies, relying as it did on the advice of private consultants in place of the expertise of the public sector, while the Therapeutic Goods Administration (TGA) was and continues to be accused of being “persistently behind the curve – lagging months behind foreign regulators” in formally approving the various vaccines.²¹³ As this report has repeatedly stressed, the pitfalls follow decades of implementing the so-called ‘new public management’ model, in which, as one expert recently noted: “the core functions of government are slowly eroded and eventually given off to private contractors, consultants and external agencies. The effect of this becomes self-reinforcing – as more work gets farmed out, those working in government lose opportunity to gain valuable skills and experience. This further entrenches arguments that it is necessary to look beyond government departments to implement government work, primarily because that is where the skills now lie. And so the cycle goes.”²¹⁴

One recent report estimates that since coming to office in 2013, the Coalition government has spent \$1.1bn annually on private consultancies and \$5 billion every year on ‘external staff’ such as labour hire, amid enforced public service staffing caps, equivalent to about 12,346 public service jobs.²¹⁵ Thus, with a denuded public service, COVID management failings were almost inevitable.²¹⁶



In terms of the vaccine rollout, the commonwealth, “confronted with a public service ill-prepared for big challenges and with no expertise in rolling out vaccines nationally” was forced to contract out “many aspects to a range of for-profit companies, which proved a costly failure.”²¹⁷ Ultimately, the states were forced to step into the breach, in part a function of containing the Delta crisis, finally setting us on a course to have 80 per cent of the eligible population vaccinated by the end of 2021.²¹⁸

Testing and tracing

How has privatisation and contracting affected a major means of containing the spread of COVID? For the most part, testing centres have been established at public hospitals and health services, and not private operators, and tests conducted free of charge. Once again, the privatisation or de facto privatisation of public health hampered Australia’s efforts – initial testing efforts were unwieldy and slow. In this it mirrored the UK, which after ten years of privatisation and erosion of public health service, comprehensively failed to mobilise private pathology labs to implement large scale COVID-19 testing program has resulted to deadly delays, unreliability and a chronic undersupply in testing capacity.²¹⁹ A local example proves the point. South Australia has been immune from mass infections and shutdowns. Its publicly owned and operated agency which tests for the virus, SA Pathology, has been lauded for its “world-class” efforts, despite the state Liberal government threatening to privatise its operations at various points.²²⁰ When the commonwealth did, in effect, enlist the services of a private contractor it represented poor value for taxpayers. For example, in May 2020, billionaire Andrew Forrest’s Mindereroo Foundation purchased 10 million Covid-19 PCR tests for Australia from the Chinese manufacturer Beijing Genomics Institute at a cost of \$200m, refunded (or on sold at cost) by the federal government. Yet most state and territory governments did not utilise the testing kits, and instead they were sent to a so-called ‘national medical stockpile.’²²¹

COVID testing in Australia, after initial teething problems, is generally regarded as a success story. In at least this example, while Australia looked to the Northern Hemisphere for a COVID-19 vaccine across 2020-21, the world looked at us for the best ways to perform pathology testing.²²² Overall private testing has had significant successes where it is complementary to public efforts,²²³ albeit not without major pathology companies registering major profits increases last financial year, or controversies over government subsidies to such companies in comparison with public providers.²²⁴ Crucially, and not to downplay the successes of working with private pathology companies,²²⁵ between October 2020 and August 2021, in the case of Victoria, the capacity of the state’s thirteen public laboratories undertaking testing has more than tripled from 4000 a day to 14,000 a day.²²⁶ Still, a major weakness has been Australia’s failure to secure faster COVID testing kits, which can deliver results in as little as 10 minutes already widely used overseas including the US and UK.²²⁷ In terms of contact tracing, after the same hollowing out of public sector capability hampered efforts in 2020 (when the pandemic began in March, Victoria’s contact tracing team consisted of just 14 people, lifting to more than 2600 people, although the number of outsourced workers is unclear), the Victorian system became more sophisticated, like testing, only once government stopped relying so heavily on and funding privatised, outsourced contractors (call centres, data analytics and management consultants), and was able to invest in the long-neglected technological upgrades and shifted to a more decentralised model along the lines of NSW.²²⁸

It is important to note however that contact tracing and testing has to a large extent depended upon geography. Regional, rural and remote testing sites in major states have been under heavy strain, with the private contractors used to process tests, struggling to keep up with demand, in part a function of pathology laboratories at regional hospitals either partially or entirely closed.²²⁹

None of this is to argue that there will not be a significant role for the private sector as the pandemic transitions to an endemic. For instance they will have an important role in the local production and sale of rapid antigen kits through chemists, particularly when required for repeat tests, workplaces, and dealing with major outbreaks,²³⁰ though once again the commonwealth's ATAGI has been too slow to act in approving their use,²³¹ potentially providing a silver lining in a classic example of private gain at public expense.²³²

When future pandemics inevitably strike, Australian governments and policymakers will need to use the lessons of COVID-19 in order to effectively demarcate the roles of the state and market.



Part Five: Road Maintenance Case Study

An analysis of the impact privatisation had and is having on roads maintenance.

Earlier in this report we examined flaws in the rollout of PPP tollway roads and freeways. Given safety concerns, roads require continuing maintenance as, like almost all infrastructure, they have a finite life cycle and deteriorate over time. This makes roads maintenance an essential public service especially amidst substantial investment and prioritisation on long-term road repair, construction and infrastructure works by the Victorian government. Further, there is an interlocking series of public sector provisions required to keep our roads system functional, safe and efficient, including statutory bodies such as VicRoads, which has, to the dismay of many, seen its registration and licensing system sent out to contract by the government to private providers, what some describe as part-privatisation (and government terms a PPP harnessing the latter's capacity to deliver more efficient IT systems).²³³

Registration and licencing interacts with millions of Victorians, registering more than 6 million vehicles, conducting more than 150,000 driver licence tests annually, and renewing more than 600,000 licenses each year.²³⁴ By way of payment for the redesign, the proposed contract allows the successful company to share a part of the profits over a 30-to-40-year period from licensing and registration. Last year, these functions were worth about \$1.8 billion alone. No other jurisdiction has partnered with private players for its vehicle registration system. It has been suggested that the project will create 100 jobs and employees will be able to choose whether they stay in the public sector or migrate to the private sector. There are no guarantees around what this means for the long-term plans for VicRoads as it is highly unlikely that employees currently employed by the state would transition to the private entity contracted to part-run and operate VicRoads only to return to the public sector in a number of years. This also raises some significant concerns surrounding the notion of public sector jobs for below public sector wages and conditions, which the government

has so far not commented on, and has given no guarantees that registration and other fees would not rise for Victorian drivers.²³⁵ This would effectively mean the public absorbing the cost of privatisation with no guarantee of meaningful improvements to technology and service delivery. In particular, contracting out/part-privatisation may have a disproportionate impact on regional communities.²³⁶ (Victoria's long-term planning, and that of other Australian state governments, specifically in regards to rural regional road maintenance and upgrades, was the subject of recent criticism by Infrastructure Victoria as being "unpredictable", too reactive, short-termist and thus potentially more costly).²³⁷

In this, however, the proposed arrangement mirrors the experience of roads maintenance in Victoria and other states, and the denuding of public sector corporate knowledge. According to a leaked 2014 Infrastructure Australia report, road expenditure in Australia had become notoriously inefficient and, it claimed, roads agencies lacked intimate knowledge of roads systems, having outsourced almost all maintenance work, resulting in frequent cost overruns and other issues described below. A former VicRoads employee, quoted in accompanying coverage, said the agency had been deskilled to the point where there are too few experienced engineers to properly assess tenders submitted by private contractors. In this sense, the public sector no longer builds or has the capacity to maintain roads at scale. "VicRoads has to go for the lowest tender, and because they have been deskilled over the years, they can't tell whether or not the price has been deflated – or inflated."²³⁸

What constitutes roads maintenance? On one hand, it pertains to repairing or overlaying existing roads, highways, subdivisions and bridges, which due to use by motor vehicles and other forms of transport, as well as exposure to water, have a limited lifespan. As a road surface or seal deteriorates, and poor investment to build

the road base correctly in the first place leads to pre-mature failure, it can develop potholes, cracks and other defects. Timely maintenance prevents these occurrences. It also stops water from entering and weakening the pavement. Road maintenance falls into two categories: planned and reactive. Planned maintenance helps avoid the need for more expensive reactive road works down the track, such as rehabilitation or reconstruction.²³⁹ This takes the form of two major techniques – asphaltting performed by road crews in which roads are replaced or overlaid with spray sealing (purely bitumen, a product of petroleum refining process, and which comprises thick, thin and geotextile/membrane spray sealing) and is the most common method (90 per cent) or different types of hot, warm and cold asphalt (a mixture of bitumen and other products such as synthetic polymers or crumb rubber, and either thick or thin seal type). Importantly, asphalt companies have little oversight over the production of asphalt. Poor manufacturing processes such as high temperatures of bitumen can lead to oxidation which leads to premature deterioration. However, roads maintenance in practice includes, but is not limited to, road and bridge design and inspection, road intersection and cyclist/pedestrian upgrades, inspecting and fixing potholes, safety barriers, signage and line marking, cleaning gutters and drains, repairing damaged signs, graffiti and clearing litter, landscaping, mowing and weed removal, wire rope repair, and removing material and even human debris from motor vehicle/accident clean-ups (in rural/regional areas extending to dead animals).²⁴⁰

As per most essential services and infrastructure delivery roads, maintenance was once generally the domain of state and local government, that is the public sector, undertaken by metropolitan and country land and works boards and authorities which progressively merged to become the Roads Corporation of Victoria (VicRoads), a statutory corporation within the Department of Transport. VicRoads looked after freeways and arterial roads in urban and non-urban areas, while municipal councils had and continue to have, responsibility for local roads. Many of VicRoads' functions were progressively shifted to the Department proper,

leaving it with registration and licensing functions and heavy vehicle regulation. Broadly, road maintenance is the domain of private delivery as the Department has contracted out work to a myriad of businesses, as seen in other states. Some minor roads maintenance and bridge inspections are carried out by VicRoads Patrols – numbering roughly 200 workers at the time of writing. Approximately 1200-1500 roads maintenance workers are employed across metropolitan, rural and regional Victoria, spanning full-time employees, labour hire, and a plethora of contractors and sub-contractors. Victorian councils manage local roads (132 000 kms), comprising 87 per cent of the network. In 2018–19, they spent \$870 million on sealed and unsealed roads, approximately 10 per cent of their budgets.²⁴¹

Contracting out of road maintenance in Australia has a long but inconsistent history. Traditionally, the dominant road maintenance model until the 1980s saw each state's road agency and local councils monopolise control over decisions (and risks) relating to the management of the road network, budgets and prioritisation of work. This essentially left the private service provider with a schedule of projects and the only exposure to risk being quality control. At various points, state and local governments have embarked on ambitious outsourcing 'reform' programs to supposedly drive down costs and increase allocative efficiencies, but at others, as circumstances and financial necessity has changed, outsourcing has been wound back, with a return to traditional public delivery.²⁴²

Outsourcing properly began in the 1990s. In 1995 the NSW Government tendered its first Performance Based Contract (PBC) covering 450 kms of urban roads in Sydney, ostensibly achieving a 25 per cent lower bid price and cost reductions of between 20 and 30 per cent. Thus began the shift to two models. The first are Performance Specified Contracts or Performance-Based Road Maintenance by Contracting (PBRMC) whereby the private service provider plans, programs, designs and delivers work output to achieve contractually specified performance and activities, including incident response and IT as well as asset



management and maintenance. In effect, control and risk is shifted to the private sector and away from the roads agency. The second is the so-called alliance model which seeks to more evenly share risk and control between the agency and service providers, and entails a greater degree of integration between the agency and service providers and as a result a more complex payment schedule. Victoria operates a series of different road maintenance models, with the most in-depth operating in the North Eastern Region (effectively the Hume corridor) under the alliance model. For routine maintenance, close to 100 per cent of roads in urban areas and 50 per cent in rural areas are maintained through an outsourced system. Much of this work is undertaken on a lump sum and schedule rates basis, recently trending towards a more integrated approach. The contract includes all periodic and routine maintenance for a given network area and components of rehabilitation, renewal and emergency work. Until relatively recently, the composition of the Alliance (i.e. staff who fall under the Alliance) was split 50/50 between VicRoads and private contractor staff and VicRoads acting as an in-house quasi-private contractor competing by invitation and tender with the private sector to deliver some maintenance services. The in-house business units also bids for work in other Australian jurisdictions and for local council contracts. In October, the government has decided to establish Victorian Road Maintenance Contracts in regional Victoria commencing in February 2023, ending the alliance model in Barwon South West Region; Gippsland Region; and Hume Region. Workers will no longer be employed by the public sector and will transition to the newly contracted private enterprises.

In Victoria, major contracting was an initiative holistically introduced in 1994 by the Liberal government, with large contracts negotiated with private operators. The central agencies drove contracting and an Outsourcing and Contract Management Unit was created in the Department of Treasury and Finance. Contracting guidelines, designed to assist public agencies implementing this policy, closely following NSW guidelines but including industry and regional development as

objectives for outsourcing. By the mid-1990s, the state government was letting out nearly 5000 new contracts in year and the total value of contracts amounted to nearly \$1.5 billion. Infrastructure accounted for 86 per cent of contracts. Transport services counted for the largest proportion of the expenditure, followed by information technology, infrastructure maintenance, and building and property services. By 1994-95, private contractors already performed 42 per cent of the construction of public roads.²⁴³ The major reasons cited for outsourcing were access to skills/ expertise, improved service quality, and an ability to manage fluctuations in demand. While lower cost was claimed to be a less important reason for contracting, agencies reported, on average, savings in excess of 28 per cent of the cost prior to contracting. After the Victorian Labor (Bracks) government was elected in 1999, the emphasis switched (as in NSW) to sharing maintenance services with other government agencies, government-wide procurement contracts, and towards public-private partnering agreements.²⁴⁴

The private sector's share of Victorian public road maintenance has increased appreciably during the twenty-first century. In 2018, it was announced that the Andrews Labor government would outsource, through 'availability-style' public-private partnerships, a major upgrade and maintenance of a network of increasingly congested and degraded major roads in Melbourne's outer suburban growth zones. Private companies will pay the upfront cost of \$4 billion, entailing taxpayers having to repay the costs over the next two decades.²⁴⁵ The state government committed to upgrades on over 2000km of roads and the filling of over 200,000 potholes for 2021 alone.²⁴⁶ Problems with the PPP availability-style model (an Australian-first for an arterial road, where once VicRoads would have previously managed such upgrades) were exposed by recent reports of the state government's stalled \$1.8 billion Western Roads Upgrade (eight roads in Melbourne's west and maintaining more than 260 kilometres of road from Footscray to Werribee), after the subcontractor, South-African headquartered and Perth-based WBHO walked off the job with \$920 remaining in its accounts, and

Civilink, a civil engineering firm responsible for two upgrades on the project, stopped paying private operators, leaving some 200 subcontractors millions of dollars out of pocket or in liquidation.

This was the result of WBHO under-bidding to win the work in the first place, a common practice with respect to PPPs and (sub)contracting. This prompted the Victorian government to abandon plans for future private-sector partnerships on its next \$2.2 billion Suburban Roads package of arterial road upgrades. However, the main contract on what is described as a “riskier and more expensive project”, the \$15.8 billion North East Link (which, when constructed, will connect the M80 Ring Road to an upgraded Eastern Freeway), is still intended to be a PPP, with risk amendments.²⁴⁷

All of this activity means that road maintenance is big money and demands rigorous oversight of standards in the industry from employment security to wages and health and safety. The Victorian State Government allocated \$653 million in the 2019/20 Victorian Budget, followed by a further \$411 million in the 2020/21 Victorian Budget, and \$265 million in the 2021/22 Victorian Budget.²⁴⁸ Consequently, between February 2014 and November 2019, there was 750 individual instances of contracting out by VicRoads for a variety of road maintenance works and related services – most of which would have been previously performed by the government body.²⁴⁹ A lot of this work is contracted to a small number of large organisations. For instance, in 2018 the Victorian Government awarded \$183 million in road refurbishment and resurfacing contracts to three companies (Downer EDI Works, Fulton Hogan Industries, Sprayline Road Services (effectively owned by VicRoads) – the other major players in the industry are Boral and Alex Fraser, along with smaller firms such as Asphalttech).²⁵⁰ PBRMC methods have been considered by state government metrics to be generally quite successful. By May 2021, the government announced that it had exceeded its targets by 10 per cent overall and up to 30 per cent in some places like Melbourne’s west.²⁵¹ However, interestingly, this sector is facing significant labour shortages to deliver future projects. Industry bodies Roads Australia (RA) and

the Australasian Railway Association (ARA), called on the federal government to make provision for migrant workers to fill a ‘skills shortage’ instrumental to delivering these projects.²⁵² Yet with a developed construction industry and skilled workforce, labour shortfalls may be a consequence of low wages and poor conditions, and shortages reflect pre COVID specific market conditions and structural problems, including a lack of government (and private sector) investment in education, apprenticeships and training.²⁵³

Indeed, as we have seen in our two previous case studies, there are costs to be borne by workers, communities and taxpayers in the short and long-term. As a 2014 report noted, “[roads] outsourcing may at first blush look promising, especially in terms of its cost effectiveness as a means of delivering local services, [yet] this often later turns out to be illusory. Moreover, once a service has been outsourced, it can be difficult and expensive to acquire the lost capacity and skills necessary to bring it back in-house. It follows that public policymakers should act cautiously, and bear in mind the broader interests of local communities, rather than blindly pursuing the deceptive chimera of cost cutting and outsourcing.”²⁵⁴ With specific regards to Victoria, Melbourne University Urban Planning Professor Crystal Legacy, warns that “shoddy outcome, cost overruns and a lack of oversight” are the all-too-frequent result of 30 years of the state’s outsourcing model. Mirroring the findings of other case studies, she observes, “Once you remove the government from the business of doing infrastructure planning and maintenance, you turn it into something that serves the private sector’s profit margins rather than serving in the public interest.”²⁵⁵ Beyond cost and delivery outcomes, other industry-specific issues pertaining to employees should inform government policy when contracting out roads maintenance now and into the future.

Occupational, Health and Safety (OHS) is a major issue in the roads maintenance industry. Roads may also contain dangerous and deadly substances such as McAdam (made of compressed layers of small broken stones bound with coal tar and



asbestos), and silica. As it stands in Victoria, there is no formal identification process of these hazardous materials on sites and confusion exists between the Department of Transport and contractors over who has primary responsibility. The Department's asset management system upgrade is in its very early stages. Incorporating data recording such as what asphalt mix type has been laid is not presently occurring. Testing for Reprocessed Road Pavement (RAP), which described materials removed and/or containing asphalt and aggregates, is only checking for bitumen and binder content. Further, as a March 2019 *WorkSafe/Institute for Safety, Compensation and Recovery Research* report outlines, a key issue is workers inhaling chemicals when heated bitumen produce 'emissions', which comprise a complex mixture of vapours, aerosols, gases and particulate matter. Acute health effects as a result of exposure to fuming loads or contact with bitumen products include eye, nose, throat and skin irritation, nausea and dizziness, and respiratory discomfort, while chronic health effects through exposure to straight-run bitumen and their emissions during road paving are "possibly carcinogenic to humans".²⁵⁶ Underreporting of symptoms by workers is a major problem. Other issues include an absence of traffic light controls endangering workers operating on busy rural/regional roads, working in high temperatures and traumatic clean-up of vehicle accident sites. Regrettably, despite significant union density in roads maintenance, the federal Coalition's ideologically-driven establishment of the Australian Building and Construction Commission has effectively undermined union access and activity on worksites to ensure that OHS standards are being complied with. Too many workers are anxious about speaking up on OHS and other issues for fear of losing employment and bullying is allegedly rife in the industry. Ultimately, short run OHS problems pose long-term threats to workers employed in the industry as well as families and communities, and ultimately risks for the Victorian state government and taxpayers.

We now turn to the explicit question of whether road maintenance workers are better off working in an environment covered by the public sector or by contracting and sub-contracting models. For

the purposes of comparison, we have focused on agreements concerning one public sector employer, VicRoads, and five major industry leaders in road maintenance (Boral, Downer, Fulton Hogan, Alex Fraser, Centre State).²⁵⁷ It is worth noting that some of these Agreements are slightly older than the more contemporarily negotiated *Department of Transport – Road Occupations Enterprise Agreement 2020*. This agreement was a 12 month roll over agreement whilst the new VicRoads (housed within the Department of Transport) Enterprise Agreement is currently in draft form and reportedly to be voted on shortly. This new EA is specifically for road division field staff (road maintenance, incident response and Aprayline), as opposed to the current agreement that covered all VicRoads staff including office workers such as licensing/IT staff.)

Broadly, across the six agreements wage increases are relatively similar. Some Agreements have larger increases earlier in the term of their operation and others later, but generally, most of the Agreements accord wage increases of approximately 2-3 per cent each year. Shift penalties, i.e., afternoon and night work, are also relatively uniform across each of the Agreements as are 'Rostered Day Off' (RDO) cycles. The Victorian Department of Transport Enterprise Agreement prescribes a salaried wage, while all other industry participants provide hourly wages between \$24.55 and \$31.27 without penalties (base, new entrant pay). Because the DoT Agreement covers a wider diversity of employees and classifications than the Agreement's it is more difficult to compare wages in a strict sense. Nonetheless in a limited comparison, the wages at top industry participants such as Boral and Downer are roughly similar to public sector wages. Smaller, more recent industry entrants such as Centre State Asphaltting, tend to pay a lower hourly rate as they attempt to win government and local council contracts, in the process undercutting regional agreements such as the Boral Agreement which pay over \$7p/h more, along with other benefits. Interestingly, a comparative analysis demonstrates the competitive nature of public/private sector wages rebuts suggestions that the public sector is excessively remunerated. Nonetheless, a salaried roads maintenance worker clearly benefits from

more clearly defined, secure employment, and precludes the often-hidden exploitation and wage theft which accrues to workers who are either contracted and more importantly subcontracted for short-term work. In the latter case it is more difficult to ascertain if workers are being paid properly and on-time, whether they received compliant superannuation and other benefits, or OHS compliance.

Crucially, most of the core differences between the public and private sector lie outside of the wages paradigm. There are significant differences between the public and private sector employees with respect to non-wage monetary and non-monetary bonus' and employee rights. Public sector employees have accrued significant financial benefits relative to their private sector counterparts from their Enterprise Agreement negotiated by the Australian Workers' Union. Unlike any other Agreement, the DoT Agreement provides for a 40 per cent discount for employees who use an annual public transport ticket for work travel.²⁵⁸ This means workers are incentivised to use public transport and significantly reduce their annual work travel related expenses. Further, public sector employees not only have secure annual salaries to rely on, but unlike their private counterparts have a systematic means of achieving higher wages and promotion through annual reviews, frequent training, and tailored assessment plans.²⁵⁹ This means that workers are incentivised to upskill and invest in their long-term career progression. It also serves to standardise promotion opportunities and wage increases across the workforce, limiting the potential for discriminatory promotion practices and correspondingly facilitating a more diverse workforce at all levels. Across the industry, private employers have adopted the 10-days personal leave standard with unpaid leave available for family violence and some providing additional paid carers leave. They have also unanimously deferred to the statutory requirements of parental leave. This is in stark contrast with the public sector which is industry leading with respect to personal leave, family violence leave, and parental leave. Public sector workers are entitled to 15-days annually of personal leave alongside a 15-day

personal leave bonus which can be utilised across their employment at any stage.²⁶⁰ Public sector workers are entitled to 20-days per year of paid special leave for dealing with family violence which includes medical appointments or other activities that may pertain to family violence.²⁶¹ Public sector employees are entitled to 14-weeks paid primary care giver leave in relation to both birth and adoption of their child accompanied by an additional 96-weeks unpaid leave and 5-days paid leave for their partner.²⁶²

Employee rights also differ between public sector and private sector employment. Public sector employees can fairly liberally and easily escalate issues of workplace concern or Award/Agreement violations to the Fair Work Commission for conciliation and arbitration. Whilst some private sector employers have similar ease of escalation, the majority of those analysed have dispute resolution clauses that place burdens and delays on employee escalation of matters to the Commission. A common feature to these restrictive clauses is mandating in-house resolution at various levels of management, which is both time consuming and logistically challenging for workers. Interestingly, considering the greater emphasis placed on casual employees across the country, public sector casual employees who work regularly and systematically are entitled under the Department of Transport Agreement to periods of notice roughly equivalent to their part-time and full-time counterparts.²⁶³

Overall, then, we conclude that roads maintenance workers, when combining both wage/salary considerations and non-material benefits, are better off covered by public sector agreements. This is especially the case when it comes to the murky issue of subcontracting, when, in effect, any individual in possession of a vehicle and other core equipment can set themselves up as said entity, to say nothing of the critical issues around OHS which confront workers in the roads industry, where underhanded deals to secure contracts have been rife and 'cowboy' operators allowed to run amok. In the concluding recommendations section, we outline suggested improvements to industry practice.



Part Six: The Way Ahead - Recommendations

The core recommendations for policy maker consideration.

1. Immediate moratorium on all privatisations of publicly-owned assets, contracting and sub-contracting out of essential services carried out by all levels of Australian government, while a specific parliamentary inquiry is carried out vis-à-vis contracting costs and benefits.
2. Establish an independent regulatory body to oversee all privatised services to promote public accountability and compliance with workplace laws and community standards, a position formally advocated for by the Australian Consumer and Competition Commission.
3. The above body should establish a national charter for privatisation, contracting and public-private partnerships which governments must fulfill before entering any contract.
4. The body should mandate removing pure tender cost as a core criterion of privatisation and contracting, ending the race to the bottom in terms of wages and employment conditions. Government work contracted out must be paid at equivalent public sector wages.
5. Privatisations approved by the regulatory body recommended above should mandate that one third of board positions are filled by employee-directors to ensure the interests of workers, consumers and communities are adequately represented in company decisions.
6. Governments should legislate so that the above recommendation apply to existing privatised natural and geographical monopolies, at a lower threshold of one-quarter of board seats.
7. The Victorian State Government should urgently establish a Contracting and Subcontracting Ombudsman, separate to and independent from the Victorian Ombudsman, to deal with complaints by individuals and key stakeholders in regard to improper practices by said private operators.
8. With specific regards to the roads maintenance industry the Victorian government should establish a public taskforce to thoroughly investigate occupational health and safety concerns, and establish best practice, clearly defined and legally enforceable industry OHS standards.



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