

# **Using Australian products in Australian infrastructure**

**Submission to the inquiry into procurement practices for government-funded infrastructure**

**Date:** 30 July 2021

**On behalf of:** Daniel Walton, AWU National Secretary



# Submission - procurement practices for government-funded infrastructure

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## Overview

Thank you for the opportunity to make this submission on the issues raised in the Terms of Reference for this committee.



The Australian Workers' Union (AWU) represents over 70,000 members nationally in a diverse range of industries. AWU members play a crucial role in building Australia's infrastructure: they are not just on construction sites of infrastructure projects across the country as traffic controllers, tunnellers and tradespeople; they are also making the steel, aluminium and glass that these projects use.

Construction industry employment and spending has rebounded in 2021 with significant government stimulus being allocated to shovel-ready infrastructure projects, particularly across the East Coast and Western Australia.

Government is a major actor in the economy and the single largest consumer of goods and services. In some products categories it is the largest consumer. For decades Australia governments of various levels have taken a narrow interpretation of 'value' when considering government purchasing decisions. Even when other criteria are included, the bottom line for the tenderer, at the time of their decision, tends to dominate procurement decisions. This ignores the critical role that governments can, and should, play in maintaining Australia's sovereign capability.

Our sovereign capability is currently under critical risk. Australia continues to fall in the rankings of our ability to develop and sell new products, based on a lack of local economic complexity. The AWU has long warned about the impact of offshoring our critical sovereign capabilities in manufacturing.

Contrary to the 'penny-pinching' approach currently taken, government procurement generates significant national economic benefits. For example, Australian steel creates \$29 billion of economic benefits and employs over 100,000 people. Around \$1 million in increased or retained business output in steel produces 6 direct and 10 indirect jobs, around \$1.8 million in gross value added, and significant benefits for government balance sheets in avoided welfare expenditure and additional tax revenue. BIS Shrapnel has estimated that for every \$1 spent on buying domestic steel (final demand), a total of \$2.30 of gross output (sales) is generated by domestic industries – namely domestic manufacturing, iron ore and other mining, professional services, transport and utilities.<sup>1</sup>

Australia's steel industry underpins national security and is the vital cog in the broader industrial wheel – for this reason it must be supported. Other building products are equally critical such as cement, aluminium, glass and copper.

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<sup>1</sup> The Benefits of a Local procurement policy for Local Steel in Government Construction (2015) BIS Shrapnel.

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The AWU proposes several changes to government procurement practices with a focus on protecting Australia's sovereign capability:



**1. Government should consider the whole-of-life costs in purchasing materials, particularly steel.**

This can be done, in part, by mandating that the supply of steel products and services comply with relevant Australian Standards, are independently certified by the Australian Certification Authority for Reinforcing and Structural Steels (ACRS) and that fabrication work be subject to certification under the relevant Construction Category through Steelwork Compliance Australia (SCA).

**2. Procurement should also consider:**

- The unfair economic advantage to overseas competitors that benefit from dumping product into the Australian economy;
- The short-term nature of current global oversupply and the fact that once domestic industry closes it is closed for good;
- The outsized economic impact of closures versus costs to government budgets in providing access for domestic producers to public projects;
- The impact of substandard products on budgets with hidden costs resulting from poor quality imported product such as steel.

**3. Australian governments should look to fully use exemptions in our trade obligations to support our sovereign capabilities.**

**4. The *Australian Jobs Act 2013* should be given new life**, by lowering its thresholds for major projects in order to give local industry a fair chance to participate.

**5. All Australian governments should set a goal of an 'if not, why not' approach to domestic procurement.**

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## 1 Construction and inputs: current market conditions

### 1.1 Construction

Construction growth was significantly impacted by the pandemic in 2020. The AWU worked closely with industry peak bodies like Master Builders and the Australian Steel Institute to ensure that construction, and manufacturing of critical inputs, could continue throughout 2020. However, construction industry employment and spending has rebounded in 2021 with significant government stimulus being allocated to shovel-ready infrastructure projects.<sup>2</sup> Many major civil infrastructure projects that were on hold last year have recommenced this year. To name a few:

- In New South Wales, the West Connex Stage 3A extension (M4-M5 Link Tunnels and Rozelle Interchange) and the Western Sydney Airport Gateway project are ramping up, while the Parramatta light rail line and Snowy Hydro 2.0 projects recently commenced. Work is expected to commence soon on the West Harbor and Northern Beaches Tunnels. The NSW Renewable Energy Sector Board (co-chaired by the AWU National Secretary) is also developing a plan for the emerging 'green' energy supply industries.
- In Queensland, the Cross-River Rail project is due to commence underground tunnelling work shortly.
- In Victoria, tunnelling work for the Melbourne Metro is expected to be completed in July, while the West Gate tunnel project is scheduled to recommence in September. Work will soon commence on the Northern Link and Melbourne Airport rail link projects.
- In Western Australia, the Perth Metro is underway while key infrastructure for the resources industry is also either underway (in the case of the Pilbara Perdaman ammonia plant) or due to commence later this year (in the case of the Pluto 2 gas train project).

There remains significant uncertainty about the capacity for these projects to proceed in a timely manner given ongoing outbreaks of COVID-19.

Many of these projects are being undertaken with Commonwealth as well as State government support. This provides a significant opportunity, in the wake of the pandemic, to support not just Australia's construction industry, but the workers and industries willing and able to supply the necessary inputs.

### 1.2 Australia's steel industry – economic context

Australian steel companies have all had dramatic growth from a low-point in the mid-2010s. BlueScope Steel expected earnings of over \$1 billion in this last financial year – 30% higher than expectations.<sup>3</sup>

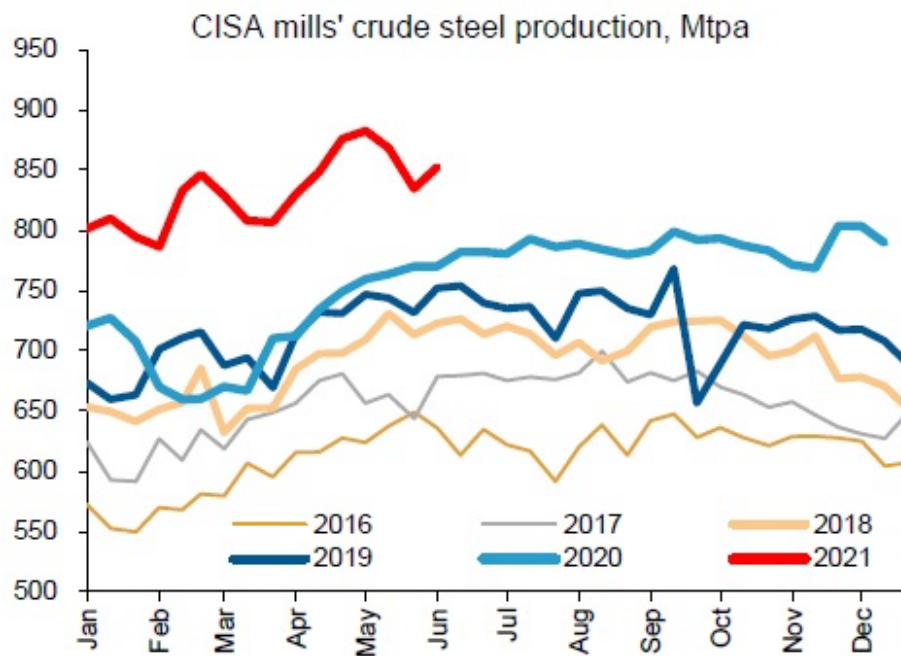
<sup>2</sup> Australian Construction Market Report, May 2021 (2021) Australian Construction Industry Forum.

<sup>3</sup> <https://www.afr.com/companies/manufacturing/bluescope-profits-jump-on-robust-steel-demand-20210427-p57mos>

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Liberty Steel and Infrabuild's local operations have been described as 'jewels' among the businesses of its global owner, GFG Alliance, having strong fundamentals and positive cashflow.<sup>4</sup> Recent growth has come off the back of global supply chain disruption, but also from massive increases in Chinese steel production (figure 1). These increases have been built around expectations that the Chinese government will no longer add to its steelmaking capacity and even reduce steel production on the back of its recent Five Year Plan.



Source: CISA, Macquarie Strategy, June 2021

Figure 1.

This dramatic upswing in production caused price of Australia's iron ore to skyrocket to over \$200 per tonne. Past booms resulted in steel products, made with Australian iron, being dumped into the Australian market - crushing our local industry and local jobs. Dumping regimes require high levels of funding, diligence and where necessary amended laws and regulations to maintain rigour against determined and adaptive dumpers that respond to systemic improvements with more sophisticated behaviours designed to evade detection.

<sup>4</sup> <https://www.afr.com/companies/manufacturing/how-sanjeev-gupta-lured-infrabuild-ceo-dak-patel-20210618-p582aa>; <https://www.afr.com/companies/manufacturing/gupta-director-says-infrabuild-is-greensill-free-20210314-p57aiz>

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## 1.3 Heavy industrial materials

The AWU has coverage of workers across a range of heavy industrial inputs to infrastructure projects: concrete, cement, copper, aluminium and aggregates (particularly quarried stone).



Revenue for the concrete industry (including both ready-mix concrete and concrete products) is estimated to have declined by between 7 and 9 per cent in 2020-21 off the back of reduced building construction. This comes off the back of some deterioration as mining investment has fallen over part of the last decade. However, governments' focus on infrastructure spending, particularly in road and rail projects, has kept the industry steady, as has the steady price of inputs. Concrete manufacturing is expected to strengthen over the next 5 years on the basis of increasing demand. Cement manufacturing, likewise, has its fortunes pinned to the fate of the broader construction industry – though, as a highly competitive market, growth is likely to be constrained.

Quarried products (gravel and sand) have faced a smaller decline as they are essential to a wider range of projects. Nonetheless, the decline in 2020-21 was estimated at 4.5%. In part, this is the result of a strong domestic supply chain – the low per-tonne value of the product combined with high shipping costs make it crucial that products are made near construction sites.

Copper is another crucial input that can sometimes be overlooked in analysis of construction procurement. Copper tubes are crucial to water and gas plumbing and refrigeration systems, while copper wire is used in a range of electrical applications. Unfortunately, Australia has only one scale producer of copper tubes, while the rest of the market is highly fragmented, showing the impact that erosion of our sovereign capability has had.

One key challenge faced by all of these industries is being able to operate in close proximity to construction sites – due to the heavy loads and perishable nature of their products. Policies that encourage strategic and quality consultation with nearby residents of industrial products can help to maintain this crucial supply chain – as well as ensuring that urban sprawl and other local development are compatible with industrial uses of sites.<sup>5</sup> However, in the procurement context, these industries generally follow the trend of construction demand. This means there is less urgency to adopt measures to support them in government-funded procurement.

## 1.4 Glass

Flat glass products for construction purposes have generally faced good conditions over the last 5 years off the back of significant apartment and commercial construction. The increasing density of Australian residential construction has made architectural glass an invaluable component. Both of these sources of demand have faced a significant downturn in the last 12 months, with total industry revenue estimated to

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<sup>5</sup> Resources Sector Regulation (2020) Productivity Commission, p. 125.



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have fallen by around 3.5%.<sup>6</sup> However, increases in single-unit housing construction have partially offset this fall in demand.



Domestic glass products, by comparison to other inputs in infrastructure, face lower levels of competition from imports (accounting for around 20% of domestic demand). Nonetheless, anti-dumping measures are in place to reduce the use of cheap subsidized glass from China, Thailand and Indonesia. Supply chain shocks have also reinforced the crucial role of domestic capacity in the sector. Australian manufacturers have shown their ability to meet market demand by increasing their capacity for producing eco-friendly glass to meet building standards increasingly sought by commercial and residential developers.

## 2 Using Australian products in Australian infrastructure

Government is a major actor in the economy and the single largest consumer of goods and services. In some products categories it is the largest consumer. \$54 billion was spent by the Commonwealth through tenders on acquiring goods and services; building construction and support and maintenance and repair services account for more than 10 per cent of this spend. This is a significant purchasing power.

For decades Australia governments of various levels have taken a narrow interpretation of 'value' when considering government purchasing decisions. Even when other criteria are included, the bottom line for the tenderer, at the time of their decision, tends to dominate procurement decisions. This ignores the critical role that governments can, and should, play in maintaining Australia's sovereign capability. Worse, it aids and abets the dumping of subsidised steel – predominantly from China – undercutting the ability of Australia to make these inputs in the first place.

As just one example of this, the NSW Government undertook millions of dollars of maintenance and repairs to the Sydney Harbour Bridge last year. Yet the Government chose to procure \$4 million of steel from northern Italy, \$470,000 of concrete from Malaysia, \$1.2 million of bolts and weldable bonds from the United States and \$380,000 in other construction material from China. This is a far cry from when the bridge was built – the legislation to build the Bridge clearly required the tender to use as many materials made in NSW as possible. 10,500 tonnes of steel was sourced from the newly-upgraded BHP steelworks in Newcastle. Regrettably, Australia's industry policy no longer views nation-building projects as a priority for local procurement.

Our sovereign capability is currently under critical risk. Australia continues to fall in the rankings of economic complexity. Australia's ability to develop and sell new products to the rest of the world is currently below that of Senegal and Uganda, according to the Harvard University's Atlas of Economic

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<sup>6</sup> Glass and Glass Product Manufacturing in Australia (2021) IBISWorld.



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Complexity. The AWU has long warned about the impact of offshoring our critical sovereign capabilities in manufacturing.



Contrary to the ‘penny-pinching’ approach currently taken, government procurement particularly in steel generates significant national economic benefits. Along the entire supply chain, Australian steel creates \$29 billion of economic benefits and employs over 100,000 people. Around \$1 million in increased or retained business output in steel produces 6 direct and 10 indirect jobs, around \$1.8 million in gross value added, and significant benefits for government balance sheets in avoided welfare expenditure and additional tax revenue.<sup>7</sup> BIS Shrapnel has estimated that for every \$1 spent on buying domestic steel (final demand), a total of \$2.30 of gross output (sales) is generated by domestic industries – namely domestic manufacturing, iron ore and other mining, professional services, transport and utilities.<sup>8</sup> Australia’s steel industry underpins national security and is the vital cog in the broader industrial wheel – for this reason it must be supported. This type of calculus is readily applicable to other sectors of the manufacturing economy – the McKell Institute found that the alleged higher costs of domestic procurement were almost always offset by the broader economic benefits of awarding tenders to local firms.<sup>9</sup>

Australia already knows what happens when support for our local steel industry is undermined. Australia has seen countless times what happens in Port Kembla and Whyalla when our steelworks are under pressure – both of Australia’s major steel players have undergone enormous structural and financial difficulties in the last decade. These facilities are now in a better position than they were in the middle of the decade, in no small part due to the pandemic exposing flaws in our reliance on global supply chains. Nonetheless, these industries remain under pressure from a range of sources, including poor quality, dumped Chinese made steel but also around energy costs. Government procurement can provide a stable source of demand and maintain the crucial sovereign capability for Australia to make steel here.

## 2.1 A new approach to procurement

In practice, many programs administered by the government in respect to procurement standards lack oversight or enforceability and require a level of ‘good will’ from major project proponents that simply is not evident.

The AWU proposes several changes to government procurement practices with a focus on protecting

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<sup>7</sup> ICN – Compiled by AECgroup, 2012: Impacts of new and retained business in the Australian Manufacturing Sector

<sup>8</sup> The Benefits of a Local procurement policy for Local Steel in Government Construction (2015) BIS Shrapnel.

<sup>9</sup> Build It Here (2021) McKell Institute.

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Australia's sovereign capability:



## **1. Government should consider the whole-of-life costs in purchasing materials, particularly steel.**

This can be done, in part, by mandating that the supply of constructions products such as steel and services comply with relevant Australian Standards, are independently certified by the Australian Certification Authority for Reinforcing and Structural Steels (ACRS) and that fabrication work be subject to certification under the relevant Construction Category through Steelwork Compliance Australia (SCA).

## **2. Procurement should also consider:**

- The unfair economic advantage to overseas competitors that benefit from dumping product into the Australian economy;
- The short-term nature of current global oversupply and the fact that once domestic industry closes it is closed for good;
- The outsized economic impact of closures versus costs to government budgets in providing access for domestic producers to public projects;
- The impact of substandard steel on budgets with hidden costs resulting from poor quality imported steel.

## **3. Australian governments should look to fully use exemptions in our trade obligations to support our sovereign capabilities.**

These exemptions have been introduced to trade instruments like the Government Procurement Agreement (GPA) for a reason – yet the Australian Government remains fearful to even suggest relying upon them, let alone test their boundaries. Although exemptions in relation to small-to-medium enterprises (SMEs) are drawn upon by many States, there are several key exemptions with direct relevance to infrastructure that are rarely explicitly identified in procurement criteria, particularly in protecting Australia's national security and environment. These will become critical as geopolitical risk continues to increase from our trading partners and Australia takes the emerging opportunity to invest in the future of our manufacturing technologies.

## **4. The *Australian Jobs Act 2013* should be given new life.**

Presently, the Act only requires major projects worth \$500m or more to develop an Australian Industry Participation Plan to give local industry a fair chance to participate, while only projects worth more than \$2 billion which seek tariff concessions are required to consider Australian industry capability at a global corporate level. Since its introduction, this legislation has been steadily undermined by the Liberal-

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National Government, which abolished the Australian Industry Participation Authority and subsumed its role into the Department of Industry. Lowering the thresholds for major projects to develop Australian Industry Participation Plans would give local industry a fair chance to participate.



## **5. All Australian governments should set a goal of an 'if not, why not' approach to domestic procurement.**

Establishing a core principle of supporting domestic procurement would bolster the current patchwork of arrangements between States, Territories and the Commonwealth.

## **3 Case studies in successful domestic procurement policy**

Both here in Australia and in other pro-market economies, some governments have taken leadership and shown that prioritising local procurement can work for industry, workers and governments alike. These measures, outlined in detail below, show that governments can support industry and remain well within the bounds of trade obligations. The Commonwealth should aspire to meet, and go beyond, the standard set by these governments.

### **3.1 Victoria**

The Victorian Industry Participation Policy (VIPP) strategic projects concept supporting local content policies introduced by the Brumby Government on 1 July 2009 was actively supported by the AWU. It has been instrumental in revitalising the local tram and train manufacturing sector through the efficient delivery of E-Class trams and X'Trapolis trains by Bombardier and Alstom respectively.

The VIPP introduces additional local content requirements for strategic projects to help drive additional economic activity and jobs.

A project can be declared by the Victorian Government to be a Strategic Project where it exceeds \$100 million in capital expenditure or \$250 million in whole-of-life cost, and where it meets any or all of the following criteria:

*Contributes to the productive capability of Victoria and make a strategic economic contribution to the State's potential to generate significant local industry participation, employment or skills and training/technology transfer opportunity to build ongoing industry capability, skills and employment benefits contains significant contestable items.*

Bidders for projects of state significance will be required to produce Local Industry Development Plans (LIDPs) in consultation with ICN that will be used to assess competing bids. In addition, bidders must meet a minimum local content commitment determined on a case-by-case basis for each Project.

The VIPP has been very successful in encouraging the use of domestic suppliers. Since its inception in

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2001, the VIPP has led to an estimated \$7 billion of import replacement. The program has been highly successful in keeping local content in Victorian projects in the 80-90 per cent range – the level recommended by BIS Shrapnel.



Specifically in the infrastructure context, the Victorian Government also recently mandated the use of 100 per cent steel in its 50 level crossing replacement projects, with no concerns raised in relation to trade obligations.

## 3.2 Queensland

The Queensland Government adopted its bolstered Queensland Procurement Policy at the beginning of 2021. Its core principle is 'putting Queenslanders first when securing value for money – recognising that value for money is more than price paid'.

The new policy explicitly includes a local benefits test for all significant procurement where a weighting of up to 30 per cent may be applied. The goal of the policy is to maximise opportunities for local suppliers – defined as those being within 125 kilometres of the region where the procurement is being used.

The Queensland policy also explicitly acknowledges whole-of life cost factors. For major projects of \$100 million and above and declared projects, this value for money assessment must also include application of best practice principles on workplace health and safety systems and standards, commitment to apprentices and trainees and industrial relations.

## 3.3 South Australia

The SA Government in 2015 announced a strengthening of its Industry Participation Policy through pricing in tendering as well as standard enforcement.

Price competitiveness has been harnessed by increasing the weighting domestic bidders received from 15 per cent to 20 per cent. Local steel and fabricated products have seen successful bids by local contractors like Glenis Steel in the Gawler Rail Electrification Project to supply 36 major steel structures and 150 smaller steel beams required to support overhead wiring in the Adelaide Yard. Winning this contract allowed Glenis Steel to take on an additional 41 employees.

## 3.4 United States

The major Acts that have provisions relating to steel procurement are the Buy American Act and the Recovery Act Buy American Provision. The Recovery Act followed the GFC, and applies to construction, alteration, maintenance or repair contracts funded with Recovery Act money.

The Buy American Act has been in place since 1933, and has only been substantially amended four times since then. The Act applies to purchases directly made by the Federal government of more than \$3000 as long as it is consistent with public interest, reasonable in cost and the item is for use in the United States.

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The Act has been interpreted to mean that at least 50 per cent of the purchase be attributable to American made components. There are other statutes that impose higher domestic content requirements on procurements not covered by Buy American, or apply to indirect purchases (that is, not by Federal government entities, but using federal funds).



In determining what constitutes American goods, the place of mining, manufacturing or production is controlling. The nationality of the contractor is not considered when determining the origin of a product. To illustrate, for manufactured articles, regulations have interpreted the act as meaning that the cost of foreign components does not exceed 50% of the cost of all components. In terms of steel, for it to be deemed as 'produced in the US', all manufacturing processes must be performed in the United States. Exceptions apply for the metallurgical processes for steel additives. The federal government also have exceptions due to the World Trade Organisation Government Procurement Agreement (GPA). For projects/purchases that fall under the GPA, substantial transformation must occur in a signatory to the GPA.

Department of Defence purchases have more stringent requirements, with the Berry Amendment requiring certain purchases to be 100% American in origin.

## 3.5 Canada

Canada has the Agreement on Internal Trade (AIT), an agreement on trade between different provinces. The AIT explicitly allows preferences for Canadian content through the use of weighting criteria that favour 'Canadian value-added', or through limiting the tender entirely to Canadian suppliers or goods.

There are exceptions in Ontario and Quebec, the two largest provinces. These exceptions are generally in line with exceptions used in most US states. Ontario has a Procurement Directive that give a price preference of 10% for Canadian steel products identified in vendor proposals.<sup>10</sup>

## 4 Anti-dumping policy

Outside of procurement policy itself, anti-dumping policy also plays a key role in ensuring Australian suppliers remain competitive. As permitted by trade obligations, Australia has the capacity to institute appropriate tariffs to reflect the significant government subsidies that allow overseas manufacturers to charge less than cost for their outputs. Ten anti-dumping measures are currently in place for steel products from a range of export countries including China.

Unfortunately, while China seeks to fully exploit anti-dumping measures against world-standard Australian exports like barley and wine, the Australian Anti-Dumping Commission is showing increasing reluctance to intervene to protect the competitiveness of our industries. As just one example, the Anti-Dumping Commission plans for the removal of tariffs on steel grinding balls when they expire in

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<sup>10</sup> BIS Shrapnel.

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September this year. Its basis for that recommendation is the questionable use of South American steel billet as a cost benchmark for Australian and Chinese production. A final decision is expected on the matter in late July 2021.



Simultaneously, an additional \$5 million in funding for the Anti-Dumping Commission in the 2021-22 Budget is targeted not at increased resourcing for compliance and enforcement, or increasing the capacity of the Commission to make decisions in a timely manner. Rather, reforms are focused on 'streamlining' the process and facilitating differential duties for products targeted by anti-dumping measures. Importers will take advantage of any flexibility introduced into Australia's anti-dumping regime. to push the boundaries of anti-dumping measures – ultimately at a cost to Australian businesses and workers.

The AWU has worked hard to advocate for its members and the broader community through campaigns on Australian steel and local procurement, and continues to do so. We would welcome any opportunities to provide further information, including by appearance at hearings for this inquiry.