



Issues Paper

Tourism Regulation Review

06 April 2021



Government of
South Australia

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About the South Australian Productivity Commission

The Commission provides the South Australian Government with independent advice on facilitating productivity growth, unlocking new economic opportunities, supporting job creation and removing existing regulatory barriers.

Premier and Cabinet Circular, *The South Australian Productivity Commission (PC046)* sets out the objectives and functions of the Commission; how inquiries are referred to the Commission, undertaken and reported on; and how the Commission and public sector agencies work together.

The Commission is supported by the Office of the South Australian Productivity Commission (OSAPC) which is an attached office of the Department of the Premier and Cabinet. The Chair of the Commission also serves as the Chief Executive of the OSAPC.

Commission's approach

The Commission is required to take a broad perspective in developing advice for the South Australian Government. It must consider the interests of industry, business, consumers and the community, regional South Australia, social-economic implications and ecological sustainability.

The Commission conducts its own independent quantitative and qualitative analysis. It also draws on the experience, evidence and views of all review stakeholders.

The release of this issues paper supports interested parties to participate in the review by highlighting the key issues and by raising questions to generate feedback.

It is important to emphasise that the Commission has no predetermined views on the matters covered by the review. This issues paper sets out the Commission's initial understanding of the relevant matters. Feedback from stakeholders will assist further analysis and review that will contribute to the development of a draft report.

Making a submission

The Commission invites submissions on the issues paper by Friday, 14 May 2021. Submissions may address any of the issues covered by the paper and the terms of reference.

Submissions are also accepted from South Australian Government agencies if approved by their Chief Executive or Minister.

An electronic submission in Word or PDF format is preferred, along with any supporting documentation containing facts, figures, data or examples:

- through our website www.sapc.sa.gov.au; or
- via email at sapc@sa.gov.au; or
- via post at: GPO Box 2343, ADELAIDE SA 5001

Key dates

29 March 2021
Notice of review

6 April 2021
Issues Paper published

April – July 2021
Initial public consultation

14 May 2021
Submissions to issues paper due

July 2021
Draft report published

July – September 2021
Draft report public consultation

20 August 2021
Submissions due on draft report

1 October 2021
Final report presented to the Premier

January 2022
Final report made public

Confidentiality

Transparency is an important part of the Commission's independent process for gathering evidence and other elements of the inquiry process. The Commission will publish the submissions that it receives on its website unless the author clearly indicates that the submission is confidential or the Commission considers the material to be offensive, potentially defamatory, beyond the scope of the inquiry's terms of reference, or an abuse of process.

Disclosure

The Commissioners have declared to the South Australian Government all personal interests that could have a bearing on current and future work. The Commissioners confirm their belief that they have no personal conflicts in regard to this review.

More information

For more information on the Commission, including circular PC046, how to communicate with the Commission and details on the Commission's approach to handling confidential material visit our website at www.sapc.sa.gov.au, email to sapc@sa.gov.au or call 08 8226 7828.

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Acronyms

ABLIS	Australian Business Licencing and Information Service
DIT	Department for Infrastructure and Transport
GSP	Gross State Product
OECD	Organisation for Economic Co-operation and Development
SATC	South Australian Tourism Commission
TRA	Tourism Research Australia

1. Introduction

The purpose of this review is to consider regulatory reforms that will enable the recovery and future development of the tourism industry.

This review forms part of the wider Modern Regulation project which aims to assist the South Australian Government to make the state's regulatory system a source of comparative advantage while not compromising the overall public interests achieved through existing regulation.

The project is motivated by the need to encourage jobs creation, investment and productivity growth as businesses try to recover from the restrictions imposed as a result of the COVID-19 pandemic. The pandemic has had a large impact on the operations of all businesses in the state (and a particularly large impact on tourism, among other sectors) and it is important that the state ensure its regulations assist recovery without compromising the public interest.

It is also prompted, in part, by lessons learned from recent regulatory changes that were required as a result of the response to the COVID-19 pandemic. That is, some regulations were relaxed or temporarily removed to ensure that goods and services could be delivered to consumers in a timely manner in the context of the social distancing requirements; while, other regulations were created or enhanced to protect public health. In looking at the effect of these changes, the state has asked the Commission to make recommendations that would consolidate any efficiency or effectiveness gains.

The terms of reference focus the review initially on nature-based tourism and agritourism (food, wine and other products and services).

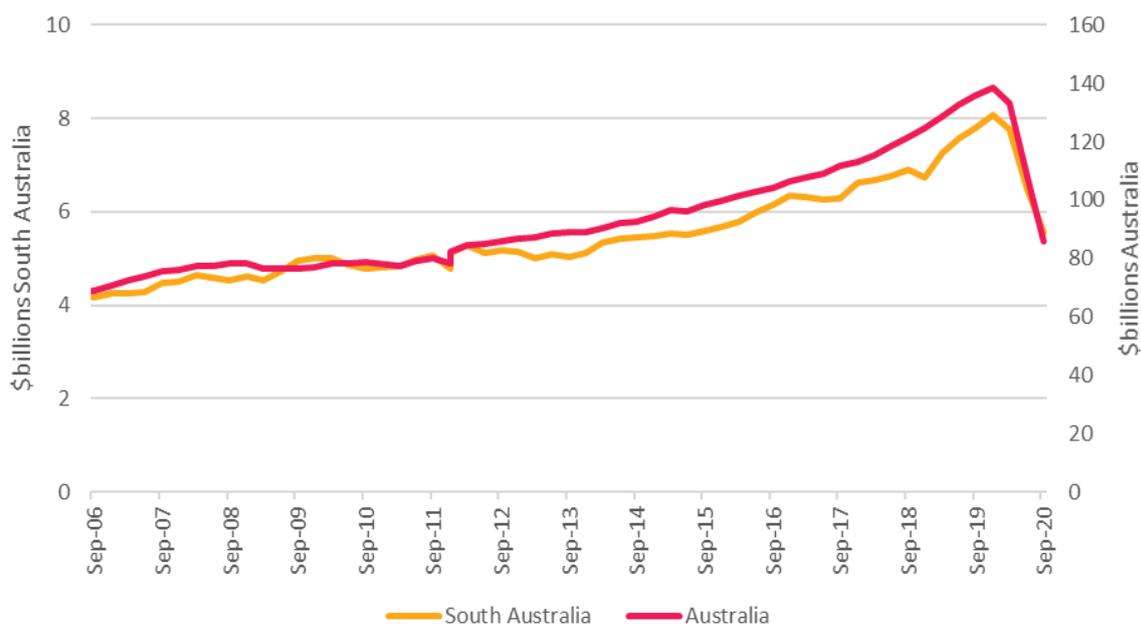
The Commission is aware of the recent state planning reforms, including those changes affecting the tourism industry. The Commission will approach the review largely accepting that regulatory design issues relating to the planning system are settled, and reforms implemented based on the feedback provided as part of the state planning reform consultation process. The Commission's focus in this review will primarily be on practical matters of regulatory practice relating to the regulations affecting the nature-based and agritourism sector.

National regulatory schemes of which South Australia is part and where change requires the agreement of other jurisdictions are excluded from this review. State legislation and regulatory schemes which involve local government are in scope. The Commission is to have regard to South Australia's Growth State initiative and other relevant state and national policies, reviews and reforms.

2. Overview of the tourism sector in South Australia

Tourism is a small but significant part of South Australia's economy, directly accounting for 3.2 per cent of the gross state product (GSP) and 4.8 per cent of employment in 2018-19.¹ The sector has steadily grown over the last decade following the national trend, and total tourism expenditure in South Australia stood at \$8.1 billion by December 2019.²

Figure 1: Total annual tourism expenditure, South Australia and Australia (over year to quarter, September 2006 to September 2020)



Source: *Tourism Research Australia (2021)*

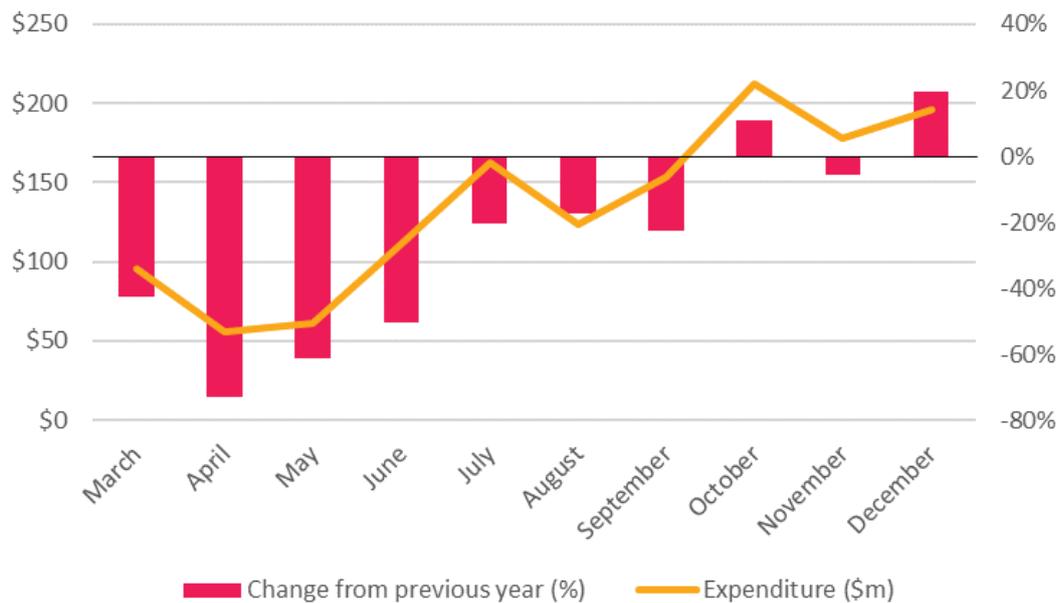
There has been a large, discontinuous swing in tourism spending during 2020, reflecting externally driven changes in the policy regime. Figure 1 shows the devastating impact of the COVID-19 pandemic on the sector. By the September quarter 2020, South Australia's total annual tourism expenditure had plunged to \$5.6 billion, reflecting a nearly 30 per cent drop from the previous year, but less than the 37 per cent fall in tourism expenditure for Australia as a whole over the same period. While the full extent of the impact of the COVID-19 pandemic on the tourism sector is yet to be determined, border closures and other travel restrictions have already resulted in significant contraction of, and disruption to, the sector.

In response to the closures of domestic and international borders, governments, including South Australia and the Australian government have sought to promote domestic tourism through increased marketing, voucher schemes and air travel subsidies. These actions, combined with domestic residents being unable to travel overseas, have resulted in a partial replacement of overseas tourists by domestic tourists. This appears to have contributed to regional South Australia being less severely affected by COVID-19 than Adelaide. Since April 2020, regional South Australia has seen a gradual recovery in domestic overnight tourism expenditure, as shown in Figure 2.

¹ Tourism Research Australia, *State Tourism Satellite Account 2018-19* (2020).

² *Ibid*

Figure 2: Monthly Domestic Overnight Tourism Expenditure and per centage change from previous year, Regional South Australia, 2020



Source: Tourism Research Australia (2021)

Data from Tourism Research Australia (TRA) indicate that South Australia’s share of total tourism expenditure in Australia during the past decade has held steady, fluctuating around 6 per cent. While the total expenditure in South Australia has decreased during 2020 primarily due to impacts of the COVID-19 pandemic, the state’s share of the national total has increased to 6.5 per cent during the same period.³

Information request 2.1

The Commission seeks views and evidence of the impact of COVID-19 pandemic restrictions on nature-based and agritourism businesses in South Australia and how the related regulatory framework and guidance can be improved. Please provide details and suggestions for improvements.

Historically the South Australian tourism sector has been more oriented toward domestic than international travel, as indicated in Figure 3.⁴ In the year ending June 2019, international tourism expenditure accounted for 14 per cent of total tourism expenditure in the state, while the share of international tourism nationally was 23 per cent. Approximately one third of tourism expenditure in South Australia was from interstate tourism.

These data are pre-COVID-19, which has temporarily eliminated tourists from overseas with evidence of partial replacement by domestic residents from South Australia and the rest of

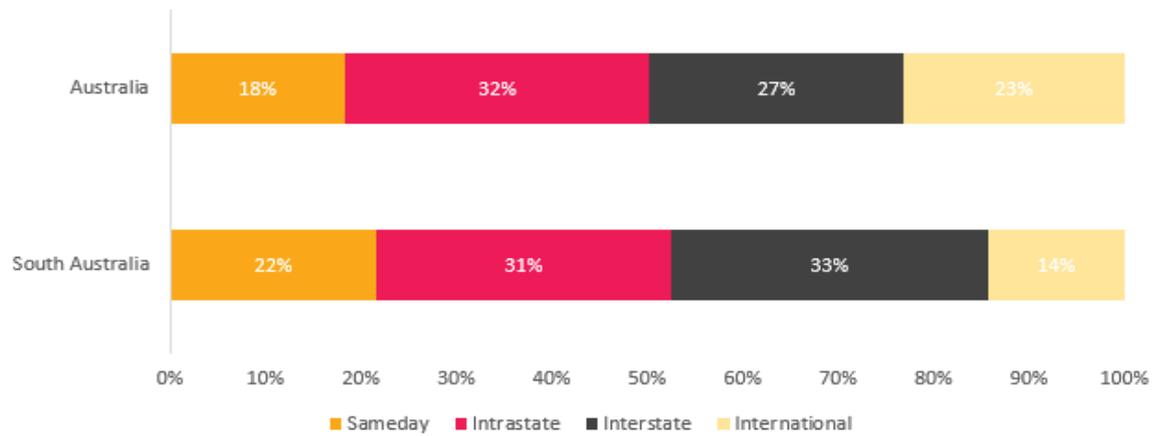
³ Tourism Research Australia, State Tourism Satellite Account 2018-19 (2020).

⁴ International visitors include those who are visiting from another country for less than 12 months. Sameday visitors are domestic residents who travel at least 50km away from home (round trip), are away from home for at least 4 hours, but do not spend a night away from home as part of their travel. Further information on these definitions is available from the Tourism Research Australia, *TRA Online Training Manual V9.1*, (2019) <<http://traonline.tra.gov.au/webapi/help/manual/TRA%20Online%20Training%20Manual%20SW2.pdf>>

Australia. As noted, several state governments and the Australian government have taken action to stimulate domestic tourism through vouchers and subsidised air travel among other actions. The composition of specific expenditure categories has changed as a result of the restrictions caused by the pandemic but with South Australia somewhat less affected than other jurisdictions.

The Commission is interested in whether the regulatory environment has been an impediment to the shifting expenditure patterns.

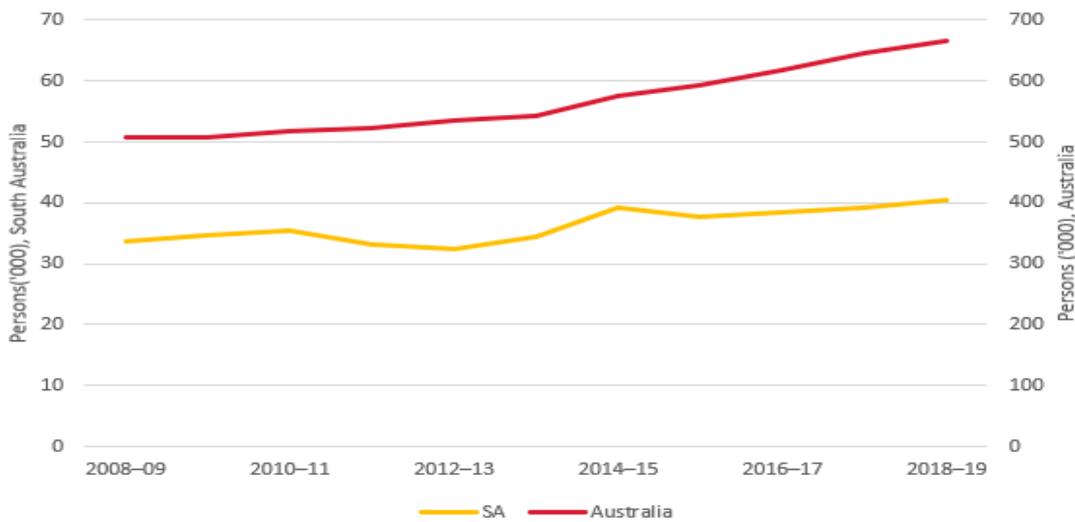
Figure 3: Tourism expenditure by category, South Australia and Australia, year to June 2019



Source: Tourism Research Australia (2020)

In South Australia, direct employment attributed to tourism was 40,500 for the year ending in June 2019, accounting for 4.8 per cent of state employment (Figure 4). The figure for the year ending in June 2009 was 33,700. In comparison, the direct tourism employment was 666,000 nationally in the year ending in June 2018-19, noting that these are pre- COVID-19 data.

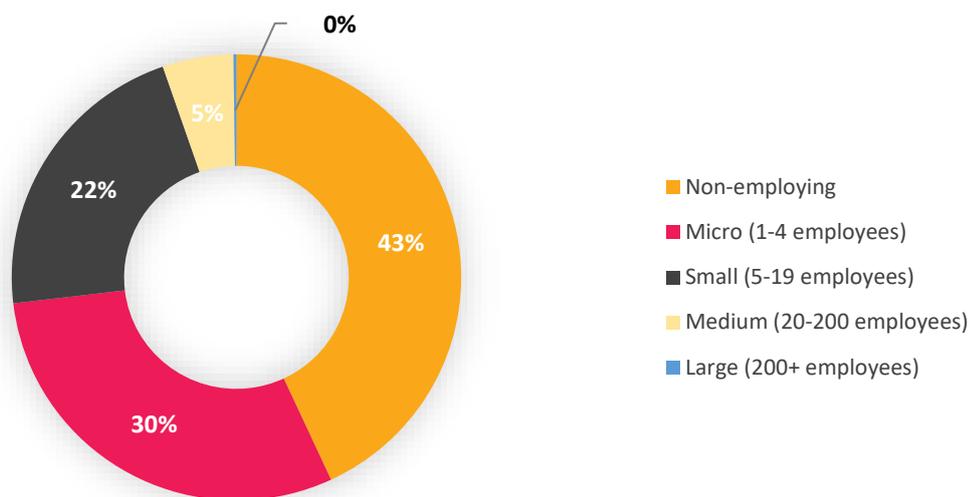
Figure 4: Direct tourism employment, South Australia and Australia, to June 2019



Source: Tourism Research Australia (2020).
 Note: Year ending June.

As illustrated in Figure 5, the tourism sector in South Australia predominantly comprises small businesses, a characteristic that is reflected nationally.⁵ Nearly three in four tourism businesses had less than five employees. While 22 per cent of businesses had between five and 19 employees, less than one per cent had a workforce of 20 or more. The small scale of most tourism businesses has implications for their capacity to manage complex regulations and respond to changes in regulations.

Figure 5: Tourism business size in South Australia, 2016-17



Source: South Australian Tourism Commission, *The South Australian Visitor Economy Sector Plan 2030* (2019) <https://tourism.sa.gov.au/media/txpncuwn/satc_tourism-plan-2030_final_aug2019.pdf>

⁵ L.E.K Consulting, *Tourism investment and regulation review, National long-term tourism strategy, (Final report, 2011)*

Information request 2.2

The Commission would like to understand the contribution and significance of government and regulation among the business drivers of tourism firms.

- How does government impact nature-based tourism and agritourism businesses in South Australia?
- What regulatory factors influence business investment and development in nature-based tourism and agritourism in South Australia?

Please provide details and/or examples including timeframes for approvals and guidance and feedback from regulators on improvements to the application.

3. Key issues affecting tourism businesses

Tourism is typically defined from the perspective of the consumer. While this leads to some conceptual challenges about defining: what a tourism business is (and isn't); to what extent the business model for an individual business depends on tourists; and what the 'tourism industry' is in practice, there are practical solutions.

The Commission's approach is based on a value chain of moving tourists to places where they consume activities and eventually return to their origin. As such, the tourism sector from a supply perspective consists of many businesses across a wide range of industries, including many for whom the demand for their products or services by tourists is a small portion of their business. The review is focused on nature-based tourism and agritourism which narrows somewhat the breadth of primary and supporting services and goods in scope.

From a regulatory perspective the analytical task is much simpler. Relatively little, if any, regulation is directed specifically and solely towards tourism. In general, the regulations focus on the activities conducted by businesses, rather than their customers. Accordingly, the Commission will focus on the key areas of regulation that affect businesses supplying goods and services to nature-based and agritourism tourist customers, with priority being given to issues that have the highest possible impact given the scope of the review.

The Commission will also focus on areas that the South Australian Government can take direct action to remedy, including activities directly regulated by the South Australian Government, the behaviour of its regulators and the interaction between them.

As previously discussed, the focus of this review is on nature-based tourism and agritourism. The Commission notes that there are currently several state-level strategies and plans that support these areas, including the following:

- South Australian visitor economy sector plan 2030;⁶
- South Australian regional visitor strategy 2025;⁷
- nature-based tourism strategy;⁸
- nature-based tourism co-investment fund (\$5 million);⁹
- tourism industry development fund (\$20 million);¹⁰ and
- the regional growth fund (\$150 million over 10 years).¹¹

⁶ South Australian Tourism Commission, *The South Australian Visitor Economy Sector Plan 2030* (2019) <<https://tourism.sa.gov.au/strategies/strategies/tourism-plan-2030>>

⁷ Regional Visitor Strategy Steering Committee, *South Australian Regional Visitor Strategy* (2021) <https://tourism.sa.gov.au/media/14iowsqt/sa_rvs_2025_final.pdf>

⁸ Department of Environment, Water and Natural Resources and South Australian Tourism Commission, *Nature Like Nowhere Else: Activating Nature-based Tourism in South Australia* (2016) <<https://tourism.sa.gov.au/media/jmrhjlkl/nature-based-tourism-strategy.pdf>>

⁹ National Parks and Wildlife Service South Australia, *Nature-based Tourism Co-investment Fund*, <<https://coinvest.parks.sa.gov.au/>>

¹⁰ South Australian Tourism Commission, *Tourism Industry Development Fund*, <<https://tourism.sa.gov.au/support/tourism-industry-development-fund>>

¹¹ Department of Primary Industries and Regions, *Regional Growth Fund*, (10 June 2020) <https://www.pir.sa.gov.au/regions/regional_growth_fund>. Note that this is part of the Recharging our Regions policy and includes support to all businesses in regions including those associated with tourism.

These plans involve some financial assistance to industries. While this is an important part of the context of the South Australian Government's interactions with tourism operators, financial assistance is out of scope of this review.

To refine the scope of this review and develop the issues paper, the Commission has conducted limited consultation with Government agencies and tourism businesses as well as conducting desktop research of past tourism reviews, reviews in other jurisdictions and media reporting of industry concerns. The issues identified by stakeholders and the Commission to date include both regulations that govern the development of businesses, including planning and infrastructure, as well as regulations that govern their ongoing operations, including licencing requirements on businesses. Beyond the wording of regulation, the culture of how regulators interact with business has also been raised by stakeholders.

The regulations discussed below have been listed to prompt feedback on how tourism businesses are affected by regulation. The Commission has made no assessment of the appropriateness of any regulation at this stage. It should also be noted that this is also by no means a complete list of regulatory issues.

This review focuses predominantly on regulator practice and policies. The Commission also has the opportunity to make recommendations on amendments to regulations and legislation. Such proposals would be prompted by suggestions for novel design solutions to current issues or problems that regulation is intended to address. The Commission is interested in the loss to the economy when regulation is not effective (or not efficient) and in the distortions created by regulation, including the barriers to entry to new competitors. It would welcome views from stakeholders on the nature of those problems and different ways of resolving them.

Sections 3.1 and 3.2 set out the main regulations that primarily affect nature-based tourism and agritourism operators respectively and the more common issues associated with those regulations. Finally, Section 3.3 covers regulations that generally apply to tourism businesses, including nature-based and agritourism operators, as well as supporting businesses including accommodation, transport and hospitality in tourist areas.

3.1 Regulations that primarily affect nature-based tourism businesses

Based on consultation with the South Australian Tourism Commission (SATC), the Commission considers nature-based tourism to include leisure trips undertaken largely or solely for the purpose of enjoying natural attractions and engaging in a variety of nature-based activities, including:

- visits to national parks or state parks;
- visits to wildlife parks, zoos or aquariums;
- visits to botanical or other public gardens;
- bushwalking or rainforest walks;
- whale or dolphin watching (in the ocean);
- snorkelling; or
- scuba diving.

Nature-based tourism often requires the access to, or development of crown land. The *Crown Land Management Act 2009* sets out the requirements for disposal, management and conservation of crown land. Some stakeholders have suggested there is a lack of clarity surrounding what types of development are allowed on crown land, as well as the process to approach government for access to crown land or to purchase surplus crown land.

Under the *National Parks and Wildlife Act 1972*, businesses must obtain a licence from the Department for Environment and Water to operate within a national park. Stakeholders have suggested that possible issues might include the length of time to obtain a licence, a possible lack of clarity over what types of activities are eligible for a licence, the proportionality of fees and the length of licences.

Marine parks are governed under the *Marine Parks Act 2007*, which places similar requirements on tourism businesses seeking to operate in a marine park.

Information request 3.1

Is the Commission's characterisation of the key regulatory issues for nature-based tourism businesses accurate and are there any other regulatory issues that should be considered? Please provide evidence and examples.

How can these regulations be improved to support nature-based tourism projects while still achieving their objectives? Please provide examples from other jurisdictions where possible.

3.2 Regulations that primarily affect agritourism businesses

The Commission considers agritourism to be commercial activities at a working agricultural property conducted for the enjoyment of visitors that generate supplemental income for the owner. These activities may include:

- outdoor recreation;
- educational experiences;
- entertainment;
- hospitality; and
- on-farm direct sales.

From early consultations with stakeholders, the Commission understands that some of the most common regulatory issues for agritourism businesses are likely to relate to planning and development, as well as the large number of licences and permits required for each activity.

Further, the Commission is interested in the process for adding additional activities to existing businesses such as holding events at an existing cellar door. Stakeholders have raised concerns that adding a complementary activity can require a change of land use which, among other issues, can open up the whole business to review and require them to meet contemporary building code standards, which can require significant investment.

Other issues relevant to agritourism businesses that the Commission is interested in understanding include the interaction of biosecurity requirements, food safety and restrictions on trading.

Information request 3.2

Is the Commission's characterisation of the key regulatory issues affecting agritourism businesses accurate and are there other regulatory issues that should be considered? Please provide evidence and examples.

How can these regulations be improved to support agritourism projects? Please provide examples from other jurisdictions where possible.

3.3 General regulations that affect tourism businesses

The review includes any regulations that affect either the development of tourism businesses (including the construction, renovation or expansion of tourism enterprises) or their ongoing operations (including restrictions on activity and costs of compliance). In addition to the content of the regulations, the Commission is also interested in the behaviours and practice of regulators. This includes consistency in their interpretation, timeframes for approval, coordination between regulators (including across levels of government) and their willingness to engage with a proponent to advise what activities would be allowed in certain areas and how to refine a proposal in order for it to be successful. The Commission is interested in both the costs of regulation, as well as any distortions that result.

Key regulatory barriers to the development of tourism businesses are likely to include interactions with the planning system and the process to get a development approval. This could include, but is not limited to, changes of land use, native vegetation and community consent requirements. The Commission acknowledges that the planning system is currently in transition and as such it may be too early to adequately assess many elements of the planning system as it relates to tourism projects. The Commission is also interested in whether major project status increases the likelihood, ease and speed of approval for large tourism projects as well as the pathway for a project to be declared a major project.

All businesses also have requirements for licences and permits that vary depending on extent and range of activities they undertake. Table 1 presents the South Australian and Local Government licences to run a hypothetical nature-based and agritourism business.¹² These licences are based on a search of the Australian Business Licence and Information Service (ABLIS) and are simultaneously both excessive and incomplete for most businesses. There are further licences and permits required by the Australian Government, however these have been excluded as they are out of scope of the review.

¹² For this example, the hypothetical nature-based tourism business included the following criteria: operating in a national/state park or reserve, outdoor adventure operation and whale watching cruise operation. The hypothetical agritourism business criteria included operating a restaurant and wine bar and chicken farming (for meat). Note that for illustrative purposes the search included all possible options to obtain a comprehensive list of requirements. Further information is available at <https://ablis.business.gov.au/>.

Table 1: Permits and licence requirements for hypothetical nature-based and agritourism businesses

	Nature-based tourism	Agritourism
Dept for Innovation and Skills	Covid19 business information and support	Covid19 business information and support
Dept for Environment and Water	Marines parks permit	Native Seed/Plant Collection Permit
	Crown Land Occupation Licence	
	Permit to Keep and Sell Protected Animals (Fauna Dealer)	
SA Water	Trade Waste Discharge Permit	Trade Waste Discharge Permit
Consumer and Business Services	Approval of a Responsible Person (Licensed Venues)	Approval of a Responsible Person (Licensed Venues)
	Incorporation of an Association	Incorporation of an Association
	Late Night Trading Code of Practice	Late Night Trading Code of Practice
	Liquor Licensing General Code of Practice	Liquor Licensing General Code of Practice
	On Premises Liquor Licence	On Premises Liquor Licence
	Registration of a Co-operative	Registration of a Co-operative
	Short Term Liquor Licence	Restaurant and Catering Liquor Licence
		Employee Training Guidelines
		General and Hotel Liquor Licence
		Liquor Production and Sales Licence
		Small Venue Liquor Licence
Dept for Infrastructure and Transport	Land Division Certificate	Land Division Certificate
SafeWork SA	First Aid in the Workplace Code of Practice	First Aid in the Workplace Code of Practice
	Hazardous Manual Tasks Code of Practice	Hazardous Manual Tasks Code of Practice
	How to Manage Work Health and Safety Risks Code of Practice	How to Manage Work Health and Safety Risks Code of Practice
	Managing Electrical Risks in the Workplace Code of Practice	Managing Electrical Risks in the Workplace Code of Practice
	Managing Noise and Preventing Hearing Loss at Work Code of Practice	Managing Noise and Preventing Hearing Loss at Work Code of Practice
	Managing the Risk of Falls at Workplaces Code of Practice	Managing the Risk of Falls at Workplaces Code of Practice
	Managing the Risk of Plant in the Workplace	Managing the Risk of Plant in the Workplace
	Managing the Work Environment and Facilities Code of Practice	Managing the Work Environment and Facilities Code of Practice

	Nature-based tourism	Agritourism
		Preparation of Safety Data Sheets for Hazardous Chemicals Code of Practice
		Work Health and Safety Consultation, Cooperation and Coordination Code of Practice
SA Health	High Risk Manufactured Water System Registration	High Risk Manufactured Water System Registration
Forestry SA	Permit to Hold an Event or Activity in a Forest Reserve	
Dept of Treasury and Finance	Registration for Payroll Tax	Registration for Payroll Tax
Return to Work SA	Registration of Employers	Registration of Employers
Local Government	Use of commercial vehicles on specified streets	Approval to remove trees
	Approval for the Distribution of Printed Materials	Approval for the Distribution of Printed Materials
	Certificate of compliance	Certificate of compliance
	Certificate of occupancy	Certificate of occupancy
	Development Approval	Development Approval
	Permission to Display a Banner on Council Property	Permission to Display a Banner on Council Property
	Permission to Obstruct Streets and Footways	Permission to Obstruct Streets and Footways
	Permission to Place or Display a Moveable Sign	Permission to Place or Display a Moveable Sign
	Permission to Undertake Commercial Activities at the Central Market	Permission to Undertake Commercial Activities at the Central Market
	Permit to Erect a Hoarding or Place a Skip Bin on a Road	Permit to Erect a Hoarding or Place a Skip Bin on a Road
	Public Venues and Facilities	Public Venues and Facilities
		Food Business Notification
		Approval to Place or Display Goods in a Public Place
		Outdoor Dining Permit
		Permit to Light a Fire on Council Land

Source: Australian Business Licencing and Information Service (ABLIS). <https://ablis.business.gov.au/>

Information request 3.3

How can the current processes for applying for licences, permits and development approvals for nature-based and agritourism businesses be improved? What are the highest priorities? Please provide examples and relate to specific licenses, permits or application processes.

Short-term accommodation is a key aspect of the tourism industry, as evidenced by 78 per cent of tourism expenditure in South Australia involving an overnight stay (see Figure 3). There are a number of regulatory issues for all types of short-term accommodation providers,

ranging from home-sharing to large hotels, including barriers to development and the proportionality of regulation for smaller scale hotels. They also include the thresholds at which accessibility requirements and fire-fighting infrastructure are required.

Transport to and around tourist areas is another key aspect of the tourism industry that is impacted by state-based regulations. They include the requirements placed on tour bus companies, the adequacy/availability of taxis or ridesharing operators and connections to public transport. The transport modes also include regional air services and other transport services that move tourists to the tourism destination where the state plays a regulatory role.

The Commission also understands that roadside signage can be key in facilitating access to as well as promoting tourism businesses. Roadside signage must be installed by the Department for Infrastructure and Transport (DIT) for state roads, or the local government for local roads. The Commission is interested in feedback on the process, consistency and timeframes for receiving approvals in these areas.

Access to existing infrastructure, particularly South Australian Government owned infrastructure, is also critically important for many tourism businesses. The Commission will seek to understand any regulatory issues tourism operators might face with connecting to South Australia's roads, electricity, and water networks, especially in regional areas.

Other elements of the visitor experience, less directly related to tourism, include retail, hospitality and the night-time economy (which includes evening activities such as visits to restaurants, bars and other cultural or entertainment venues). These provide complementary services to tourists and as such form part of the broad tourism value chain. The Commission is interested in whether the way these two supporting industries are regulated has any impact on tourism, particularly in the regions. This may include restrictions on operating hours and licencing requirements.

Attracting and retaining labour (both skilled and unskilled) has long been identified by industry and government as a key issue for tourism operators, especially in the regions. The cross-border movement of both tourists and staff (domestic and international) has also been significantly affected by governments in response to the COVID-19 pandemic. While immigration and visas are largely out of the direct influence of the South Australian Government, the Commission is seeking views on regulatory barriers within the State Government's control, as well as actions the South Australian Government can take to address these issues.

Preparing tourism businesses for the digital future has been highlighted by the Organisation of Economic Co-operation and Development (OECD)¹³ as a key policy area for governments to support the tourism industry. While most of the policies and regulations that affect adoption of digital technologies are the responsibility of the Australian Government (such as communications infrastructure and privacy legislation), the Commission is interested in receiving feedback on any barriers or actions the South Australian Government can take to address these issues.

¹³ OECD, *OECD Tourism Trends and Policies 2020*, (2020) <<https://www.oecd.org/cfe/tourism/oecd-tourism-trends-and-policies-20767773.htm>>

Information request 3.4

The Commission seeks views, evidence and advice on any regulatory barriers to:

- the development or operation of short-term accommodation;
- development or operation of visitor transport;
- access to public infrastructure;
- attracting and retaining staff; and
- adopting digital technology by nature-based and agritourism businesses.

These regulatory barriers could include requirements placed in legislation or regulations, as well as the behaviour of regulators including the consistency of interpretation, timelines, transparency, coordination between regulators and willingness to provide advice.

In seeking to evaluate South Australia's regulatory regime, the Commission will seek to compare elements of South Australia's regulatory framework, and practices to other states or similar jurisdictions.

Information request 3.5

How does South Australia's regulatory framework for nature-based and agritourism businesses compare with other states? Please identify any state or other jurisdictions that provide examples of best practice for any nature-based tourism and agritourism regulatory areas. Please provided details and/or examples.

4. Summary of information requests

Information request 2.1

The Commission seeks views and evidence of the impact of COVID-19 pandemic restrictions on nature-based and agritourism businesses in South Australia and how the related regulatory framework and guidance can be improved. Please provide details and suggestions for improvements.

Information request 2.2

The Commission would like to understand the contribution and significance of government and regulation among the business drivers of tourism firms.

- How does government impact nature-based tourism and agritourism businesses in South Australia?
- What regulatory factors influence business investment and development in nature-based tourism and agritourism in South Australia?

Please provide details and/or examples including timeframes for approvals and guidance and feedback from regulators on improvements to the application.

Information request 3.1

Is the Commission's characterisation of the key regulatory issues for nature-based tourism businesses accurate and are there any other regulatory issues that should be considered? Please provide evidence and examples.

How can these regulations be improved to support nature-based tourism projects while still achieving their objectives? Please provide examples from other jurisdictions where possible.

Information request 3.2

Is the Commission's characterisation of the key regulatory issues affecting agritourism businesses accurate and are there other regulatory issues that should be considered? Please provide evidence and examples.

How can these regulations be improved to support agritourism projects? Please provide examples from other jurisdictions where possible.

Information request 3.3

How can the current processes for applying for licences, permits and development approvals for nature-based and agritourism businesses be improved? What are the highest priorities? Please provide examples and relate to specific licenses, permits or application processes.

Information request 3.4

The Commission seeks views, evidence and advice on any regulatory barriers to:

- the development or operation of short-term accommodation;
- development or operation of visitor transport;
- access to public infrastructure;

- attracting and retaining staff; and
- adopting digital technology by nature-based and agritourism businesses.

These regulatory barriers could include requirements placed in legislation or regulations, as well as the behaviour of regulators including the consistency of interpretation, timelines, transparency, coordination between regulators and willingness to provide advice.

Information request 3.5

How does South Australia's regulatory framework for nature-based and agritourism businesses compare with other states? Please identify any state or other jurisdictions that provide examples of best practice for any nature-based tourism and agritourism regulatory areas. Please provided details and/or examples.

Appendices

Appendix 1. Terms of Reference

SOUTH AUSTRALIAN PRODUCTIVITY COMMISSION REVIEW INTO MODERN REGULATION – TOURISM

I, Steven Marshall, Premier, hereby direct the South Australian Productivity Commission (the Commission) to undertake a review into tourism regulation.

Background

Tourism is an important contributor to the South Australian (SA) economy with total expenditure of \$5.6 billion in the year ending September 2020 (approximately 5% of GSP) and 40,500 direct jobs in the year ending June 2019. The development of the South Australia Growth State plan for the visitor economy (including tourism) sets a target to grow this portion of the economy to \$12.8 billion by 2030.

Businesses serving tourists, by the diverse nature, navigate several regulatory frameworks and may need to comply with various industry codes and standards. Those requirements can traverse consumer law, marine safety, food safety and environmental standards, among many others, depending on the nature of the business. Registration, licensing and permits to operate in specific locations or access places may also apply, as well as the normal requirements of running a small or medium business including industrial relations, work health and safety, taxation and insurance. Industry feedback indicates regulatory processes can result in unnecessary costs, delays and uncertainty, adversely impacting on investment, proposed business development projects and business sustainability.

Various other factors can also affect the growth and development of the industry and are important considerations in the design and management of regulation to which it is subject. These include the applications of digital technology, including for relationship management in the sector and marketing.

Like several other parts of the economy that rely on proximity and travel, the state's tourism industry has been disproportionately affected by the COVID-19 pandemic. Total expenditure declined by 29 per cent in the 12 months to September 2020 compared to the year ending September 2019. While the Australian and South Australian Governments have made available several support and stimulus packages that are applicable to the tourism industry in response to the pandemic, it is also timely to assess regulations applicable to the industry. Removing regulatory impediments will help support tourism businesses as they reopen in a COVID-safe way to the state, other Australian jurisdictions and the world. In addition, streamlining regulation has been identified as a critical enabler in the South Australian Visitor Economy Sector Plan 2030.

Terms of Reference

The government seeks advice from the Commission regarding the effect of application of regulations on the tourism industry. The Commission is to focus on short to medium term benefits to the state that can be realised through changes in regulator practices, processes and capability, the use of technology as well as culture and relationships between proponents and regulators.

The Commission is asked to recommend actions by the South Australian Government to:

- improve the efficiency of the operations and the performance of the relevant state agencies:
 - in ways that cut the costs of regulation on the regulated parties and make it easier to do business in the state; and
 - having regard to the regulating agencies' mandates and the associated public interests.
- improve the adaptability and resilience of the regulatory process and encourage timely and effective outcomes including in relation to unusual or innovative development proposals of economic value to the state.

While this review is to focus predominantly on regulator practice and policies, the Commission may make recommendations on amendments to regulations and legislation if relevant to these terms of reference.

The Commission is to have regard to (where applicable):

- Regulatory impediments, issues and reforms identified in contemporary reports, reviews and inquiries, and raised by public sector agencies and regulators, to determine their relevance to the challenges faced by tourism operators in South Australia.
- Regulation reforms specific to the tourism subsectors under review in other jurisdictions.
- Innovative and emerging technologies that would improve the efficiency and effectiveness of regulations applicable to tourism operators.
- Barriers to the entry of new businesses and investment in the tourism industry including international tourism services providers.
- The impacts of the COVID-19 pandemic, and in particular COVID-safe requirements and other potential limitations as the industry reopens.

The Commission is to give priority to high-value reforms to regulatory design and regulatory practice that do not require legislative change. In developing its recommendations, the Commission is expected to have regard to their resource implications and implementation timeframes.

Scope

For the purpose of this inquiry, regulation is defined to include any principal legislation or statutory instruments made under an act, such as regulations, rules, by-laws or any instruments of a legislative character, that principally affect businesses. The inquiry will also consider, where appropriate, administrative instruments that have a quasi-legislative character and impose a regulatory burden on businesses.

To contain the scope of the review, it will initially focus on nature-based tourism and agriculture-based tourism (food, wine and other products and services).

National regulatory schemes of which South Australia is part and where change requires the agreement of other jurisdictions are excluded from this inquiry. State legislation and regulatory schemes which involve local government are in scope. The Commission is to have regard to

SA's Growth State initiative and other relevant state and national policies, reviews and reforms.

Inquiry Process

The Commission will consult with key industry organisations, including organisations representing regional South Australian tourism interests, business operators, the SATC, other relevant public sector agencies and regulators, and other key stakeholders.

The Commission is to publish an issues paper at the beginning of the review process and a draft report containing recommendations for consultative purposes. A final report is to be provided to me no later than 6 months from the date of the receipt of these terms of reference.



Hon Steven Marshall MP

PREMIER OF SOUTH AUSTRALIA

29 / 3 / 2021

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