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Office of the Chief Executive

31 Flinders Street  
Adelaide SA 5000

GPO Box 1152  
Adelaide SA 5001  
DX 541

[education.ce@sa.gov.au](mailto:education.ce@sa.gov.au)

[www.education.sa.gov.au](http://www.education.sa.gov.au)

Mr Adrian Tembel  
Chair  
South Australian Productivity Commission  
GPO Box 2343  
ADELAIDE SA 5001

Email: [sapc@sa.gov.au](mailto:sapc@sa.gov.au)

Dear Mr ~~Tembel~~ *Adrian*

Thank you for the recent correspondence from the South Australian Productivity Commission inviting comment on the draft report of the Inquiry into reform of South Australia's regulatory framework.

The draft report provides numerous findings and draft recommendations aimed at modernising South Australian's regulatory framework. I note the scope of the inquiry covers regulations that are principally directed at, or principally affect, businesses, with a focus on start-up, expansion, and entry into interstate or overseas markets. National regulatory schemes where change requires the agreement of other jurisdictions are excluded from the inquiry.

The *Education and Care Services National Law* is committed to the Minister for Education and administered by the Education Standards Board and includes provisions which regulate early childhood services. This is the only Act in the Minister's portfolio which has provisions that are principally directed at, or affect, businesses. As the *Education and Care Services National Law* is part of a national regulatory scheme it falls outside of the scope of the inquiry.

However, some of the proposed reforms set out in the draft report relate to the maintenance of South Australian's regulatory framework more broadly, which may, if adopted, effect the Department for Education (the department). I provide the department's comments on those matters below:



***Draft recommendation 2.1: Cross border issues***

The Commission recommends that the *Better Regulation Handbook* be amended to require that agencies consider equivalent regulatory settings in other jurisdictions when undertaking regulation impact assessment.

The department already undertakes comparative assessments of the regulatory settings in other Australian jurisdictions when developing proposals for regulatory change and, therefore, has no concerns about inclusion of such a requirement in the *Better Regulation Handbook*.

***Draft recommendation 2.2: Developing regulatory proposals for Cabinet***

Draft recommendation 2.2 proposes that the SA Government adopt various changes aimed at improving the efficiency and effectiveness of regulation development process and the quality of regulatory proposals.

The department supports draft recommendation 2.2 to the extent it seeks to improve and update the *Better Regulation Handbook*, improve guidance material and coordination of regulatory impact assessment training, and seeks to build public sector expertise in policy development and review, including through training and establishment of communities of practice for policy makers.

Draft recommendation 2.2 recommends the Government strengthen the gatekeeper role of Cabinet Office in respect of its quality assurance regarding regulatory proposals. The department suggests that if this recommendation is adopted the role of Cabinet Office in the development of regulatory proposals should be clear and unambiguous with established timeframes for any Cabinet Office assessment of proposals to ensure the Cabinet process remains timely and efficient.

***Draft recommendation 4.1: Register of regulation***

In draft recommendation 4.1 the Commission recommends the Government create, or build on an existing, online regulation register that lists all current SA Government regulation (primary and delegated legislation) in a format that can be readily navigated and searched and that allows information to be exported.

The department supports recommendation 4.1. The current SA legislation website provides an excellent and reliable resource for determining current regulations in force and, to an extent, historical versions, for those adept at using it. However, improvements could be made to the usability and searchability of the database, the ability to export information from the site, and its general accessibility, for public officers, businesses and the community.



***Draft recommendation 4.2 – SA’s Regulation Expiry Program (REP)***

Draft recommendation 4.2 proposes various improvements to the current REP including the provision of guidance material and tools to agencies, training that references the REP, improved coordination, and improved governance arrangements.

The department supports recommendation 4.2. The REP provides an important reminder to agencies of the need to review regulations and a mechanism for managing redundant regulations. The process would benefit from improved promotion, guidance, and training to shift focus to management and regular review of regulations throughout their lifecycle and to ensure that regulations that are due to expire are dealt with promptly and not postponed unnecessarily.

***Draft recommendation 4.4 – Regulatory stewardship***

Draft recommendation 4.4 recommends that all state-based regulators be required to adopt a stewardship approach to regulations that confirms the roles and responsibilities of regulatory agencies, proactively manages regulation, builds capacity and capability of agencies to capture and share data and information on regulations, and publicly reports information on regulatory review activity.

The department supports an approach to the management of regulation that is clear and transparent about the roles and responsibilities of regulatory agencies and that promotes the proactive management of regulations over their entire life cycle.

If public reporting of regulatory review activity is to be required, care should be taken to ensure that such reporting does not become unreasonably burdensome on agencies and, if possible, fits within current annual reporting obligations rather than create a separate and additional reporting process.

Thank you again for the opportunity to provide comment on these important reforms. Should the Commission have any questions or require any further information about the department’s feedback, please contact [REDACTED]

Yours sincerely



Rick Persse  
**CHIEF EXECUTIVE**

20 August 2021