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Dear Dr Butlin

The Department of Primary Industries and Regions (PIRSA) welcomes the opportunity to provide written feedback to the South Australian Productivity Commission on both its review into Tourism Regulation Draft Report; and the inquiry into South Australia's Regulatory Framework Draft Report.

PIRSA is a key economic development agency in the Government of South Australia; and is responsible for growing primary industries and driving regional development. We work closely with industry and our regional communities to understand how we can help in meaningful ways and be more agile with our programs, in order to provide tangible and practical assistance, particularly in challenging times.

Our work is underpinned by several strategies and directives, including (but not limited to) the PIRSA Corporate Plan 2020-21; a new PIRSA Strategic Plan and the inaugural Regional Development Strategy that was published on 20 April 2021. These documents outline our purpose, vision and goals for the next 12 months and beyond; and which provide further detail on how PIRSA develops and manages policy and how we regulate and enforce legislation that we are responsible for.

In addition to the above is PIRSA's role as the lead agency for the Food, Wine and Agribusiness Plan for Growth. Jointly owned by Primary Producers SA (PPSA), Food South Australia (Food SA), the South Australian Wine Industry Association (SAWIA) and the Government of South Australia, PIRSA is a member of the Steering Committee responsible for driving the Food, Wine and Agribusiness Sector Plan. This Sector Plan seeks to stimulate an ambitious growth agenda that contributes revenue of \$23 billion by 2030 to the South Australian economy. Current initiatives include (but are not limited to) \$10 million for the Mobile Blackspot Funding and \$1.1 billion in improved road infrastructure – with both initiatives providing greater services and improvements across regional South Australia.

Through initiatives such as the Regional Growth Fund, that has committed \$160 million over 10 years, funding has been established to unlock new economic activity in our regions whilst delivering critical economic infrastructure that creates direct benefits across regional industries. By doing this, regional communities across South Australia are strengthened and supported as part of the Recharging our Regions policy.

We commend the work done thus far by the South Australian Productivity Commission as part of the Modern Regulation Project; and particularly as part of the Tourism Regulation Review and inquiry into South Australia's Regulatory Framework.

We welcome the opportunity to provide input to the draft recommendations developed by the South Australian Productivity Commission; and where relevant, have provided information to new requests written in both Draft Reports.

PIRSA will continue to engage with the South Australian Productivity Commission as it prepares its Final Reports in October 2021; and will contribute to the development of the Government of South Australia's response(s) later this year.

Yours sincerely

A handwritten signature in black ink, appearing to read "Michelle Edge". The signature is fluid and cursive, with the first name "Michelle" written in a larger, more prominent script than the last name "Edge".

Michelle Edge
CHIEF EXECUTIVE

18/9/2021

Enc: PIRSA's response to SAPC SA's Regulatory Framework Inquiry Draft Report and the SAPC Tourism Review Draft Report

PIRSA

South Australian Productivity Commission Inquiry into South Australia's Regulatory Framework

Submission from the Department of Primary Industries
and Regions (PIRSA)



**Government
of South Australia**
Department of Primary
Industries and Regions

South Australian Productivity Commission Inquiry into South Australia's Regulatory Framework – Submission from the Department of Primary Industries and Regions (PIRSA)

Information current as of 13 September 2021

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2. Overview

- The Department of Primary Industries and Regions (PIRSA) welcomes the opportunity to provide a written submission to the South Australian Productivity Commission's South Australia's Regulatory Framework Inquiry Draft Report (Draft Report) that was published on 5 August 2021.
- The information provided in this submission builds on the information provided in response to the Issues Paper released for this inquiry; and other advice provided to the South Australian Productivity Commission through direct engagement with PIRSA.
- PIRSA reiterates its commitment to best practice regulation and the importance of understanding the sectors it regulates in achieving the outcomes of the legislation for which it has responsibility while minimising burden on business.
- PIRSA also reinforces its position that policy development and regulatory responses should be evidence based, proportionate to risk; and developed using effective engagement processes.
- PIRSA has considered the recommendations of the Draft Report from the perspective of its responsibilities as a regulator as well as its role as an economic development, a Growth State sector lead agency and lead agency for regional development.
- Comments on individual recommendations are provided in section 3 below. This section includes overarching comments that take account of the recommendations in the Draft Report as a package of reform and how these may impact agencies.
- The overall intent of recommendations to ensure that South Australia's regulatory framework and legislation development processes are robust and transparent are supported.
- It is noted that there are a number of new cross government policies, frameworks and guidelines recommended as well as a number of new reporting requirements envisaged. The outcomes that these recommendations seek to achieve are accepted, however, consideration should be given to the cumulative impact on regulators and how improvements can be made without diverting regulators from delivering their regulatory responsibilities. It is also important that policy makers are not prevented from being agile in their responses to industry, have barriers to facilitating innovation or delayed in responding to emergencies when considering or progressing changes to legislation.
- It is suggested that consideration be given to streamlining or aligning recommendations that seek to improve or establish new cross government policies, frameworks and reporting to ensure they are practical and can be responded to as a reform package. It is also requested that existing reporting mechanism be given further consideration as to whether they achieve the intended outcomes.
- Consideration could also be given to providing guidance where there are interdependent recommendations, and where implementation of recommendations will enable successful implementation of others. For example, recommendation 4.1 – Register of Regulations and 5.1 Regulator Innovation and Digital Systems Enhancement appear to be fundamental to implementing recommendation 6.1 which relates to enabling a lead regulatory coordinator model for each Growth State sector.
- PIRSA will continue to be available to assist the Commission in preparing its final report.

3. Draft Recommendations

Responses to draft recommendations have been grouped where they are considered to align.

Draft Recommendation 2.1: Cross border issues

- *To ensure that cross-border issues between SA and other Australian jurisdictions are appropriately identified and addressed in the development of South Australian regulation, the Commission recommends that the SA Government amend the Better Regulation Handbook to require agencies to consider equivalent regulatory settings in other jurisdictions when undertaking regulation impact assessment.*

Draft Recommendation 6.2: Harmonisation

- *To reduce regulatory costs and duplication on business and the SA economy and to improve access of SA businesses to national markets, the Commission recommends that the SA Government commits, where possible, to harmonisation with best practice or to regulatory equivalence of the state's regulatory settings with other best practice Australian jurisdictions, including in border regions of the state, while also pursuing, where possible, mutual recognition at the national level for new or amended regulation.*

Response

- PIRSA supports minimising impacts on business, particularly those in regional cross border communities and those that operate nationally, to provide a level playing field and to streamline approval processes.
- Regulatory responsibilities, particularly in biosecurity and food safety that are within PIRSA's remit are part of national regulatory schemes. These schemes apply consistent requirements nationally and have underpinning structures such as national committees with responsibility for consistent implementation across jurisdictions. However, due to the different biosecurity status of each jurisdiction, there will be instances that require variations in regulatory approach among jurisdictions.
- In fisheries and aquaculture, national harmonisation is also pursued through the National Aquaculture Committee, the National Sub-Committee for Aquatic Animal Health, the National Aquaculture Strategy and the National Strategic Plan for Aquatic Animal Health (AQUAPLAN).

Draft Recommendation 2.2: Developing regulatory proposals for Cabinet

- *To improve the efficiency and effectiveness of regulation development processes and the quality of regulatory proposals to Cabinet by strengthening governance, policy guidance and policy capabilities, the Commission recommends that the SA Government:*
 - *commit to an across government policy to support regulatory quality, drawing on the OECD's better practice principles, to ensure that the economic, social and environmental benefits of regulation justify the costs and that distributional effects are considered in order to maximise the net benefits of regulation;*
 - *strengthen the gatekeeper role of Cabinet Office, in respect of its quality assurance responsibilities regarding regulatory proposals to Cabinet;*

- *incorporate contemporary OECD better practice principles into the requirements laid out in the Better Regulation Handbook;*
- *increase agency adherence to the Better Regulation Handbook through provision of improved guidance material and coordination of RIA training by Cabinet Office;*
- *establish a central agency support and advisory function, either in DPC or DTF, to enhance agencies', especially smaller agencies, capacity to undertake effective policy development and regulatory impact assessment;*
- *develop and implement a strategy to build public sector expertise in policy development and review, including through training and establishment of communities of practice for policy makers;*
- *enhance transparency as well as RIS capabilities through publication of RIS's; and*
- *subject the RIA process to monitoring, regular evaluation and continuous improvement.*

Response

- PIRSA supports the intent of this draft recommendation, noting it seeks to (amongst other things) improve the efficiency and effectiveness of the regulation development process and the quality of regulatory proposals submitted to Cabinet.
- Further, PIRSA supports the development and implementation of a strategy to build public sector expertise in policy and regulatory development and review, including through training and the establishment of communities of practice for policy makers. PIRSA considers it appropriate that policy and regulatory development and management is provided sufficient support and resources in the short/medium-term to manage the recovery process following the COVID-19 pandemic.
- As included above in section 2, it is important that any improvements to strengthen the process do not compromise agency's ability to be agile, innovative and responsive. Any regulation impact assessment (RIA) requirements should be proportionate to the impact of changes being proposed and take account of the urgency as is acknowledged in the current Better Regulation Handbook.
- This is important to the legislation that PIRSA administers. Biosecurity threats such as African Swine Fever or exotic pests that could devastate an industry, compromise the food supply or close international trade (and if changes are needed to legislation to ensure preparedness or response to such an emergency), must be accommodated within any a regulation impact statement (RIS) or other process requirements.

Draft Recommendation 3.1: Performance measurement and reporting

- *To increase the transparency and accountability of SA regulators, the Commission recommends that the SA Government establish an across government policy framework to guide measurement, monitoring and assessment of performance by regulators, in line with good practice principles. This framework would include the following characteristics:*
 - *be flexible enough to recognise that regulators are a heterogeneous group with different legislative obligations, roles, structures and functions; and*
 - *not be overly burdensome but be integrated into each regulator's performance monitoring and review cycle.*

Draft Recommendation 3.2: Statement of expectations

- *To provide greater clarity about government objectives, policies and deliverables relevant to each regulator, the Commission recommends that the SA Government provide statements of expectations (SOE) to all state business regulators. These SOEs would include a requirement to foster economic growth and specify key performance indicators (KPI) that regulators will be assessed against and require that regulators:*
 - *are timely, outcome focused and proportionate in managing risks;*
 - *are open, transparent and efficient in their dealings with regulated entities;*
 - *pursue continuous improvement and apply innovative processes to reduce regulatory burden; and*
 - *report annually on achievement of their KPIs, based upon self-assessment and stakeholder feedback on performance.*

Draft Recommendation 3.3: Continuous improvement of practice

- *To promote and support the improvement of regulatory practice among SA regulators, the Commission recommends that the SA Government establish an across government improvement strategy that, among other things:*
 - *requires regulators to develop, implement and report publicly on improvement strategies with a strong outcomes focus;*
 - *establishes a community of practice among SA regulators and policy agencies to build capability and to share data, management systems and best practice in development, operations and stewardship. The community of practice could also provide a resource for smaller regulators to access specialist skills and expertise for RIA assessment and performance review;*
 - *includes other initiatives to improve the capability, such as a dedicated training that could be rolled out across regulatory agencies;*
 - *includes incentives and assistance for regulators to adopt new technologies that will enhance their efficiency and effectiveness;*
 - *is complemented by a program of external audit of selected priority regulatory agencies to examine the extent to which individual regulators deliver on their objectives and implement good practice. This could be undertaken by the SA Auditor General.*

Response

- PIRSA's understanding of these draft recommendations is that they seek to provide a whole of government framework within which regulators can operate with more aligned outcomes, transparency and accountability and improve regulatory practice.
- This outcome is supported; however, further consideration could be given to how the recommendations work together in practice and if there is an opportunity to provide a more streamlined approach.

- PIRSA is mindful that as a regulator, it is already captured by a number of requirements, including (but not limited to) regulation scope, agency-related strategies and commitments and national obligations that will impact on the SOE, KPI's and reporting.
- PIRSA requests that the Commission takes account of all existing reporting mechanisms that South Australian regulators are subject to, be it local, national or otherwise.
- Whilst the Commission has proposed that the policy framework is flexible enough to recognise that regulators are a heterogeneous group, acknowledgment in the recommendation of the need to collaborate with regulators, particularly in setting a statement of intent or KPIs, to ensure regulators are engaged.
- PIRSA supports the inclusion of other initiatives such as dedicated training that could be rolled out across regulatory agencies. In addition, PIRSA is supportive of adopting new technologies that will continue to enhance efficiency and effectiveness provided sufficient resourcing is provided and data confidentiality requirements are met.

Draft recommendation 4.1: Register of regulation

- *To improve knowledge and understanding of the existing stock of regulation by government agencies and businesses, the Commission recommends that the SA 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 information exported to enable review.*

Response

- PIRSA supports draft recommendation 4.1, noting that the recommendation will lead to the development and/or update of an online regulation register.
- It would be beneficial if the maintenance and long-term expectations of the online regulation register is also considered to ensure that it remains fit-for-purpose.
- PIRSA notes that this draft recommendation is fundamental to the implementation of recommendations such as 6.1 that envisage a greater role for government in assisting industry to navigate regulatory requirements.

Draft recommendation 4.2: SA's Regulation Expiry Program (REP)

- *To support the REP to achieve its stated purpose that 'regulations are reviewed regularly and remade in a form that is appropriate to their current context', the Commission recommends that the SA Government provides:*
 - *guidance material to inform and guide agencies on the purpose, requirements and processes of the REP;*
 - *tools to complement the REP guidance material and assist agencies (including templates, case study examples, FAQs etc);*
 - *training and education that references the REP (including online options);*
 - *a mechanism to improve coordination of the REP across agencies and enable agencies to share and report on REP activity including regulatory reviews (previous, current and planned); and*

- *improved REP governance arrangements be improved to better support the objectives and reaffirm commitment to the REP, enhance transparency and strengthen accountability through better coordination and reporting.*
- *Any new guidance material, tools, mechanisms and education programs be developed in consultation with agencies.*

Draft recommendation 4.3: Review priority policy

- *To assist in ensuring the state's regulations remain relevant, achieve their policy objectives and deliver net benefits to SA, the Commission recommends that the SA Government develop an across government policy to guide the prioritisation of regulation reviews.*
- *The policy's principles and criteria will enable regulatory and policy agencies to:*
 - *identify and prioritise reviews of regulations, categories of regulation or regulated industries;*
 - *determine the most appropriate review type and evaluation methodology to apply;*
 - *support a holistic approach to regulation review that considers associated regulatory interactions when appropriate;*
 - *coordinate and undertake effective stakeholder engagement and communication; and*
 - *apply a proportionate and risk-based approach to regulation review that considers the actual and potential costs and benefits of the review process and outcomes.*

Draft recommendation 4.4: Regulatory stewardship

- *To establish a leading practice approach to management of the stock of regulation, the Commission recommends that the SA Government requires all state-based regulators to adopt a regulatory stewardship approach that:*
 - *confirms and publicly sets out the roles, responsibilities and associated accountabilities of regulatory agencies;*
 - *proactively manages regulation over the regulation life cycle, including through post-implementation evaluations;*
 - *builds regulatory agency capacity and capability to improve the capture and sharing of data and information, and collaborative approaches that limit the impacts of regulatory interactions on industry through simplification and consolidation; and*
 - *requires regulatory stewards to publicly report information on their regulatory review activity (current and planned) to improve stakeholder engagement.*

Response

- PIRSA has considered these draft recommendations as a group with the understanding that they seek to strengthen evaluation and reviews of regulations.
- Reviews of regulations can be triggered by a number of factors ranging from administrative issues noted while administering legislation, issues or barriers to innovation raised by industry through to full scale reform projects.

- Taking a stewardship approach is supported as a means of proactively managing legislation and ensuring it remains fit for purpose and stakeholders are engaged.
- As stated in PIRSA's submission to the Inquiry Issues Paper, it is important that review systems including the REP do not create a system driven solely by timeframes and results in regulator and industry resources diverted away from legislation reform that will have more impact
- As also stated in this submission, a simple consolidated cross government process that enables regulators to change aspects of their legislation such as update forms, allow for electronic communication or correct administrative errors would be beneficial.

Draft recommendation 5.1: Regulator innovation and digital systems enhancement

- *To make regulatory compliance activities faster, easier and more cost effective for both regulators and regulated entities, the Commission recommends that the SA Government:*
 - a) *commit to all regulators migrating to digital business-to-government data transfers and the greater use of regulatory technology (RegTech); and*
 - b) *facilitate innovation in regulatory design and practice by:*
 - *Completing a study lead by the Department of the Premier and Cabinet, working with regulators, to identify where digital and technology solutions could be best implemented to enhance regulatory practice for individual regulators and provide the greatest benefits for the state regulatory system.*
 - *Revising the methodology for assessing government investments in RegTech and digital solutions to consider the broad, ongoing benefits to regulated entities and the state economy from reduced compliance costs, and not just the financial impact on government or individual regulators.*
- *Committing to the use of regulatory sandboxes to test innovative concepts at smaller scale, facilitate growth of emerging industries and respond to emerging opportunities in established industries.*

Draft recommendation 5.2: Investment in cross-government RegTech solutions

- *Based on the study recommended in recommendation 5.1, the Commission recommends that the SA Government identify and fund specific priorities for investment in RegTech and digital solutions that enable:*
 - *more efficient data collection from regulated entities;*
 - *more efficient data sharing between regulators, including regulators in other jurisdictions where appropriate; and*
 - *improved coordination between regulators.*

Response

- PIRSA supports these draft recommendations and notes that they are also fundamental to the successful implementation of other recommended improvements to regulator practice and Government's role in assisting industry to navigate regulatory requirements.

Draft Recommendation 6.1: Lead regulatory coordinator model

- *To strengthen better regulation in the Growth State industries, the Commission recommends that the SA Government establish a lead regulatory coordinator model for each Growth State industry in which the lead coordinator encourages collaboration and coherence amongst regulators and seeks to reduce multiple information requests, share data and promote efficient approvals processes.*

Response

- PIRSA as the lead agency for the Food, Wine and Agribusiness Growth State Sector Plan, supports the intent of this draft recommendation.
- It is noted that appropriate structures such as digital support and communities of practice, for example, will be important to the intent of this recommendation being realised and implemented.
- While it is understood that this draft recommendation seeks to provide a mechanism for better coordination of regulators, ongoing mechanisms that enable industry to provide its views on how regulatory practice and legislation could be improved is also important at the Growth State Sector level.
- The Steering Committee in place to drive the work under the Food, Wine and Agribusiness Sector Plan; and that is convened by PIRSA, provides this opportunity.
- It should also be noted that PIRSA is already case managing and coordinating aquaculture-related applications as they pertain to other agency requirements.

Recommendation 6.3: Central leadership and oversight

- *To provide leadership and advice on improving and optimising the value of the state's regulatory framework, including through adoption of best practice across the regulation life cycle, the Commission recommends that the SA Government establish a dedicated unit, located in a central agency and responsible to a minister whose responsibilities include modern regulation reform. The unit's key accountabilities are:*
 - *across government regulatory strategy, performance and priorities;*
 - *building regulator capability; and*
 - *expert advice on regulatory impact assessment and post implementation reviews.*
- *The unit would have no authority to intervene in the work of any regulator.*

Response

- PIRSA supports the establishment of a central agency that can provide support and advice to other agencies when undertaking regulatory policy development and RIS'. In the short-term, the South Australian Productivity Commission may wish to consider whether sufficiently experienced resources can be posted within agencies – to assist agencies in policy development and preparation of RIS'.