



Issues Paper

Development Referrals Review

26 March 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.

The 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 inquiry 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.

Making a submission

The Commission invites submissions on the issues paper by 7 May 2021. Submissions may address any of the issues covered by this paper and the terms of reference which is at section 4.1.

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

If you would like to discuss how best to communicate with the Commission, the Office of the SAPC can be contacted at 08 8226 7828.

Confidentiality

Transparency is an important part of the Commission's independent process for gathering evidence and other elements of the inquiry process.

Key dates

9 March 2021
Notice of inquiry

26 March 2021
Issues Paper

March – May 2021
Initial public consultation

7 May 2021
Submissions to issues paper due

June 2021
Draft report

July – August 2021
Draft report public consultation

6 August 2021
Submissions due on draft report

9 September 2021
Final report presented to the Premier

8 December 2021
Due date to be available to the public

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.

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

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.

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Definitions

Applicant	refers to the person who files a development application; is used interchangeably with 'proponent' which is usually a reference to an applicant in relation to a development declared to be a major project.
Co-regulation	the circumstance where a regulated activity is, or is perceived to be, the subject of two or more regulatory mandates.
Development	has the same meaning as 'development' in s 3 of the <i>Planning, Development and Infrastructure Act 2016</i> .
Development application	refers to the forms and associated plans and information that describe a proposed development and are required to be submitted for assessment to obtain the applicable development consent.
Environmental significance	is a reference to activity referred to as such in the <i>Environment Protection Act 1993</i> and the Planning and Design Code, and for which the Environment Protection Authority (SA) is the referral body in the <i>Planning, Development and Infrastructure (General) Regulations 2017</i> .
Referral body	has the same meaning as 'prescribed body' in s 122 of the <i>Planning, Development and Infrastructure Act 2016</i> .
Referral process	refers to the process by which a development application is referred by the relevant authority to another body for direction or advice informing the outcome of the development assessment.
Regulatory interdependence	the circumstance where the activity of a regulator is subject to or influenced by the activity of one or more other regulators.

1. Introduction

1.1 Purpose of review

This review forms part of the Modern Regulation project which aims to assist the South Australian Government to make the state's regulatory system a source of competitive advantage while not compromising the overall public interests served by existing regulation. It is prompted in part by recent action in Australian jurisdictions arising from regulatory reform that is conducive to jobs creation, investment and productivity growth, and will draw on lessons from the COVID-19 pandemic experience.

The purpose of this review is to recommend improvements to a specific area of regulation – referrals of development applications (DA) to state referral bodies as part of the development assessment process. The recent state planning reforms and the resulting major design changes to the planning system set the context for this review.

Whilst the impact of regulatory systems is a combination of system design (including regulator mandates) and regulatory practice (regulator business systems, culture and skills), this review will have a strong focus on the regulatory practice of three referral bodies. The Commission will view matters of regulatory design as having been settled through the state planning reforms.

When considering regulation and regulator performance there are always two sides to the story. The Commission is keen to hear the different experiences, objectives and priorities of both regulated entities (applicants) and regulators (referral bodies). Timeliness, proportionate information requirements, and the use of pre-lodgement and case management arrangements can all impact on achieving an efficient and effective referrals process. A balanced assessment of the issues raised during the review will support potential improvements to the efficiency of the referrals process on the one hand without compromising the existing mandate of referral bodies on the other.

Improvements the Commission identifies will be set out as draft recommendations in the draft report and will be subject to consultation and further consideration before recommendations are provided to government in the final report.

1.2 Scope

The scope of this review is confined to the referral of the following development matters:

- environmental significance managed by the Environment Protection Authority of South Australia (EPA);
- native vegetation clearance managed by the Native Vegetation Council and the Department for Environment and Water; and
- transport routes and corridors managed by the Commissioner of Highways and the Department of Infrastructure and Transport.

These three important referral bodies collectively attract a significant number of referrals and interact differently and significantly with the planning system. While the numbers of referrals are likely to change with the new planning arrangements, the practices of these bodies remain relevant to the process for determining development applications after considering the annual volume of referrals to each body, the regulatory role and function of each body, and their level of involvement with the planning system.

For example, the Commissioner of Highways accounts for the highest number of referrals each year; the EPA licenses the same activity it responds to in development assessments; and native vegetation clearance is managed under *Planning, Development and Infrastructure Act 2016* and the *Native Vegetation Act 1991*. Taken together these three referral bodies present an opportunity to consider the referrals process from contrasting perspectives, roles and functions.

The Commission's preliminary consultation with developers, industry associations, public sector agencies and other interested parties validated the review's scope.

The outputs, value and employment benefits of residential and non-residential development is substantial. The prospect of even small efficiencies in the referrals process contributing to substantial time and cost savings to business is real. Of the 7.5 per cent contribution residential and non-residential development makes to GDP, South Australia contributes 0.35 per cent. Direct and indirect outputs in FY 2018-19 produced approximately \$312 billion for the Australian economy.¹ Some modelling indicates the value of improvements to the efficiency of the referral process across Australian jurisdictions could be worth up to \$360 million per annum.²

In this issues paper the Commission starts the discussion with key entities and processes in the planning system with respect to development referrals. This is followed by consideration of the referrals process in more detail and introduction of the referral bodies that will be considered in this review. The issues paper concludes with an identification of proposed focus areas to which interested parties are encouraged to respond, and to suggest other areas for consideration having regard to the terms of reference.

¹ Urban Development Institute of Australia, *The economic contribution of the development industry* (Report, 2019) <<https://udia.com.au/research/the-economic-contribution-of-the-development-industry-2019/>>

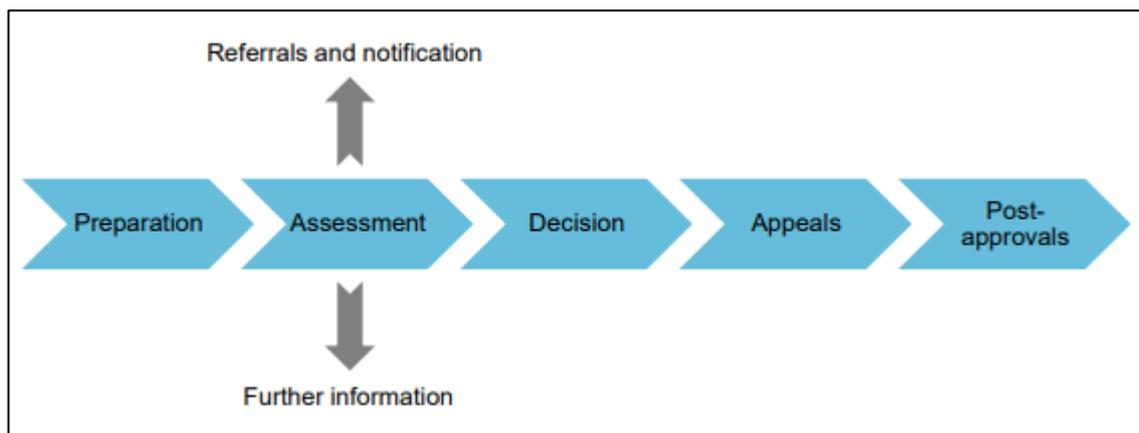
² Property Council of Australia, *Cutting the costs – streamlining state agency approvals* (Report, November 2017) <https://files.propertycouncil.com.au/hubfs/_RDC/WebFiles/RDC_CuttingTheCosts.pdf> (Property Council) 7.

2. Referrals in the planning process

2.1 The development assessment process

Development within South Australia can only be undertaken if it is approved under the *Planning, Development and Infrastructure Act 2016 (PDI Act)*.³ The overarching purpose of development assessment is to ensure that proposed land uses are safe and minimise negative impacts on the surrounding area. A development approval can require up to six consents.⁴ In this review the Commission will focus on planning consent as this is required for most forms of development.

Figure 2.1: Steps in the development assessment process



Source: Australian Government Productivity Commission, *Plan to identify planning and zoning reforms (Information Paper, March 2021)* Figure 3, 16 <<https://www.pc.gov.au/research/completed/planning-zoning-reforms/planning-zoning-reforms.pdf>>

Development assessment, when considered from the state’s perspective, necessarily requires a balanced consideration of competing interests which can be broadly characterised as the:

1. direct and indirect economic and employment benefits that are derived from infrastructure, residential and other commercial developments, and supply chain activities; and
2. social policy and community safety objectives, and environmental preservation outcomes.

Achieving this balance supports effective land use, improved productivity, economic development and improved liveability and sustainability.⁵ This aim is captured in the objects of the *PDI Act*⁶ and the State Planning Policies (SPPs), with the latter intended to identify ‘...all

³ Attorney-General’s Department, *Guide to Development Assessment – PDI Act* (Guide, 21 January 2021) (AGD Guide) <https://plan.sa.gov.au/__data/assets/pdf_file/0008/699353/Guide_to_Development_Assessment_-_PDI_Act.pdf>

⁴ Ibid 10-11.

⁵ Deloitte Access Economics, *Land use planning and the South Australian economy* (Report, August 2018) 8 <https://plan.sa.gov.au/__data/assets/pdf_file/0005/513329/Land_Use_Planning_and_the_South_Australian_Economy.pdf> (Deloitte Report) [2.1 – 2.3].

⁶ *Planning, Development and Infrastructure Act 2016* s 12(1) (*PDI Act*).

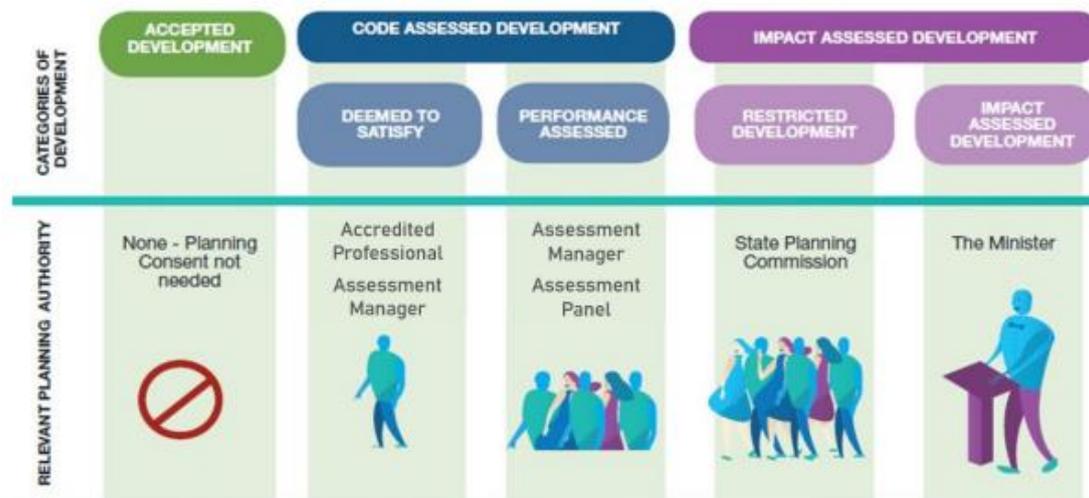
state interests in land use planning and development in a single location ...[and]... provide efficiency, consistency and certainty in planning for South Australia's future'.⁷

Whilst the SPPs capture the state's land use objectives and priorities, DAs are assessed against the Planning and Design Code (the Code) through the relevant assessment pathway⁸ (accepting that the SPPs are considered in relation to Environment Impact Statements prepared for Impact Assessed developments).⁹ The Commission's focus will be on the impact the referrals process has on obtaining a timely DA decision.

2.2 Relevant authorities

A relevant authority manages the development assessment process and makes the decision on a DA. Under the *PDI Act* DAs may be managed by one of several relevant authorities (i.e. an Assessment Panel, a council, the State Planning Commission, the Minister for Planning and Local Government, Assessment Manager or Accredited Professional). Figure 2.2 sets out which relevant authority assesses a DA for each category of development.¹⁰ A development's potential impact and complexity are also relevant considerations.¹¹

Figure 2.2: Determination of relevant authority



Source: Attorney-General's Department, *Guide to Development Assessment – PDI Act (Guide, 21 January 2021)* 21 <https://plan.sa.gov.au/__data/assets/pdf_file/0008/699353/Guide_to_Development_Assessment_-_PDI_Act.pdf>

⁷ State Planning Commission, *State Planning Policies for South Australia*, 23 May 2019, 9-12 (State Planning Policies) <https://plan.sa.gov.au/__data/assets/pdf_file/0005/552884/State_Planning_Policies_for_South_Australia_-_23_May_2019.pdf>

⁸ Plan SA, *Assessment pathways* (web page, 10 March 2021) <https://plan.sa.gov.au/our_planning_system/instruments/assessment_pathways>

⁹ Plan SA, *State planning policies* (web page, 11 March 2021) <https://plan.sa.gov.au/our_planning_system/instruments/planning_instruments/state_planning_policies> see also *PDI Act* (n 6) s 58(4) which provides 'A state planning policy is not to be taken into account for the purposes of any assessment or decision with respect to an application for a development authorisation under this Act'.

¹⁰ Plan SA, *Relevant authorities – how applications are assessed* (web page, 7 December 2020) <https://plan.sa.gov.au/development_applications/getting_approval/how_applications_are_assessed/relevant_authorities>

¹¹ Department of Planning, Transport and Infrastructure, *The Role of Relevant Authorities in Development Assessment* (web page, 7 December 2020) <https://plan.sa.gov.au/__data/assets/pdf_file/0005/571217/Role_of_Relevant_Authorities_in_Development_Assessment.pdf>

The relevant authority's role with respect to referrals includes triaging DAs to assessment pathways, early engagement on major projects, and determining the necessary referrals. The relationship between a relevant authority and a referral body is therefore an important one as the relevant authority is the bridge between the applicant and the referral body. This means the exchange of information between the referral body and the applicant is, to some extent, subject to the performance of the relevant authority. This tripartite relationship is of interest to the Commission to the extent that a relevant authority's role impacts on the ability of a referral body to perform its statutory referral function, and ultimately on when a decision is made on a DA.

The Commission has had initial feedback from applicants that the relationship with referral bodies is not always clear. In some cases, particularly when a DA is delayed or additional information is required, applicants and referral bodies engage directly to speed up the referrals process.

Information request 2.1: Relevant authorities in the referrals process

Stakeholders are invited to provide information and evidence on the following issues based on their experiences with referral bodies responsible for native vegetation, matters of environmental significance, and road network access and corridors:

- Are the roles of the relevant authority and these three referral bodies involved in a development assessment made clear to applicants at the start of the process?
- Is the process for the applicant engaging with relevant authorities and these three referral bodies in relation to the development application (DA) clearly understood?
- In what circumstances have applicants engaged directly with these three referral bodies in relation to a DA?
- Has direct engagement of these three referral bodies resulted in improved development assessment outcomes?

2.3 Referral bodies

The *Planning, Development and Infrastructure (General) Regulations 2017 (PDI Regulations)* list 22 prescribed classes of development requiring referral. The *PDI Regulations* specify the prescribed class of development for which each prescribed body (referred to in this review as a 'referral body') is responsible, and the nature of their functional response i.e. direction or advice. Some referral bodies are responsible for more than one prescribed class of development. The *PDI Regulations* also provide timeframes within which a referral body is to respond to the relevant authority, ranging from 20 business days to 30 business days.¹²

Examples of prescribed classes of development include development affecting transport routes and corridors, airports, coastal development, high bushfire risk areas, mining, native vegetation, heritage, areas of environmental significance, the Murray-Darling Basin or classes of development caught by other specific legislation. The referral bodies in scope for this review are discussed in section 3.2.

¹² *Planning, Development and Infrastructure (General) Regulations 2017 (PDI Regulations)* sch 9.

The annual volume of referrals received by the state's referral's bodies is set out in Table 2.1. The Commissioner of Highways received the highest number of referrals with 747 in 2019-20. It is unclear at the time of writing whether NVC referrals are included in the data. This may be because prior to the coming into force of the *PDI Act* the NVC only received referrals through pathways other than under the *Development Regulations 2008 (Development Regulations)*. This is discussed further in section 3.2.2 and will be considered further in the preparation of the draft report.

Table 2.1: Number of statutory referrals under Schedule 8 of the Development Regulations 2008, by referral body, 2018-19 and 2019-20.

Referral Body	Number of Referrals Received	
	2018-19	2019-20
Commissioner of Highways	835	747
Heritage Branch	685	647
Country Fire Service	404	383
Minister for the River Murray	338	343
Environment Protection Authority	243	197
Coast Protection Board	144	128
Minister responsible for the Natural Resources Management Act	27	9
Minerals DEM	5	8
Affordable Housing Unit	3	5
Chief Executive Department for Environment and Water	4	4
Minister administering the Aquaculture Act	1	2
The Office of the Technical Regulator	2	1
Total	2,546	2,474

Source: *Planning and Land Use Services (PLUS) Planning System Information Database, 20 January 2021.*

Referral bodies may have different powers in relation to a DA depending on the prescribed class of development being assessed. Referral bodies have powers to direct a relevant authority either to refuse a development application or impose conditions on development approval.¹³ A small number of referral bodies provide advice instead of direction in relation to specified types of development activity.¹⁴ Changes to referral body powers arising from the state planning reforms are discussed in the next section.

2.4 Referrals and the state planning reforms

Under the state planning reforms there have been several changes to the development referral regime intended to minimise the requirement for a referral and streamline the process when one is required.¹⁵ Arguably the most significant change to the referrals regime is the introduction of policy-based overlays into the Code. Overlays are the spatial expression of the SPPs and their inclusion in the Code identifies where specialist assessment is required by referral bodies. This is intended to provide more certainty to applicants regarding the requirement for a referral. With that certainty applicants can better prepare for the requirements referral bodies place on applicants when assessing a DA.

Under the *PDI Act* referrals are intended to be predominantly confined to matters for direction, rather than for advice. Of the 22 prescribed classes of development requiring referral all but 3

¹³ *PDI Act* (n 6) s 122(5).

¹⁴ *PDI Regulations* (n 12).

¹⁵ AGD Guide (n 3) 26.

are for direction only. Referral bodies will be required to confine their comments to matters relevant to the purpose of the referral and within their Code referral policy (which is usually a reference to the referral body's regulatory mandate).¹⁶ This is an important accountability measure.

The Commission has heard that referral body advice to relevant authorities has in the past resulted in delays to DA decision-making. The value of referral body advice has been raised as an issue. The move to most referrals being for direction supports judicial accountability in terms of appeals to the Environment, Resources and Development Court. If a relevant authority is directed by a referral body to impose a condition in respect of a DA or refuse a DA and that decision is the subject of an appeal under the *PDI Act*, the referral body is respondent to the appeal.¹⁷

Early stakeholders' feedback to the Commission indicates there is some uncertainty about the consequences of the shift to direction referrals. While the outcome may be more definitive, there is a greater perceived capacity for referral bodies to make more directions and apply more conditions to DAs. This may impact on the frequency of appeals.

Applicants will have more control over the order in which matters requiring approval are assessed. Applicants will be able to defer a referral to a later time in the assessment process to avoid potential delays, however the risk of a subsequent referral impacting on a previously obtained consent is borne by the applicant.¹⁸ The Commission is interested in the value of this new arrangement to applicants, and whether it may result in potentially significant re-work where a subsequent referral direction compromises consents that have already been obtained in the development assessment process.

Matters of co-regulation and regulatory interdependency of referral bodies will be of interest to the Commission, as will the extent to which overlays effectively balance the state's land use interests with the existing mandates of referral bodies.

Information request 2.2: Impacts of the state planning reforms on referrals

Stakeholders are invited to provide their perspective on the extent to which changes to development referrals under the state planning reforms will impact on regulator practice regarding native vegetation, matters of environmental significance (EPA) and road network access and corridors, including:

- The actual or expected effects of the shift to a predominantly direction role for referral bodies, and the implications for development application conditions and compliance with those conditions.
- The introduction of overlays into the planning regime and the effect on certainty for proponents in dealing with referral bodies for development applications.
- The powers for applicants to appeal decisions made by referral bodies and the potential impacts on applicants who avail themselves of this process.

¹⁶ *PDI Act* (n 6) s 122(2).

¹⁷ *PDI Act* (n 6) ss 122(7), (8).

¹⁸ *PDI Act* (n 6) s 122(10).

3. The referrals process, issues and focus areas

3.1 The referrals process

The state has an interest in preserving the environment, maintaining access to clean water, ensuring public safety, and ensuring land is available to support important future infrastructure. Whilst the SPPs acknowledge the need for balance, judgment and contemporary knowledge in ensuring the state's land use interests are met,¹⁹ the input of referral bodies is critical to achieving the balance between development and protecting specific public interests in the planning system.

For referrals to apply under the *PDI Act* the referral body must have policies recognised in the Code.²⁰ These policies are generally the referral body's legislative mandate or other relevant statutory instruments.²¹ The requirement for these policies to be present in the Code are intended to support transparency and proportionality in referral bodies' powers to condition, make directions or refuse a development application under the *PDI Act*.

The classes of development that require a referral are established in regulation²² and the Code, and are generally identifiable spatially in overlays.²³ Some referrals are based on land-use and apply state wide, while others apply to a specific location.²⁴ Referrals are required in the development assessment process when '...additional assessment or protection is warranted, there is a level of risk to life or property, and/or the assessment requires expertise available at the state level (e.g. for the management of specific hazards such as bushfire, flooding or coastal erosion).'²⁵

Where the input from a referral body is sought, a relevant authority cannot make a decision in relation to a development application until such time as the referral bodies have responded.²⁶

The Commission will focus on the effect the referrals process has on the time it takes to decide a DA. The Commission will approach this from several perspectives, including assessment pathways and the planning system's ability to decide:

- developments assessed under the Code, focusing on the performance assessed pathway; and
- developments of significant commercial and economic value to the state assessed through the impact assessed pathway (including major developments).

Assessment pathways under the *PDI Act* are set out in Figure 3.1.

¹⁹ State Planning Policies (n 7) 15.

²⁰ *PDI Act* (n 6) s 122(2).

²¹ For example, the EPA's policies in the Planning and Design Code include the criteria in the *Environment Protection Act 1993* that the EPA must consider in development applications, and other statutory instruments e.g. the *Environment Protection (Air Quality) Policy 2016*.

²² *PDI Regulations* (n 12) r 41 and sch 9.

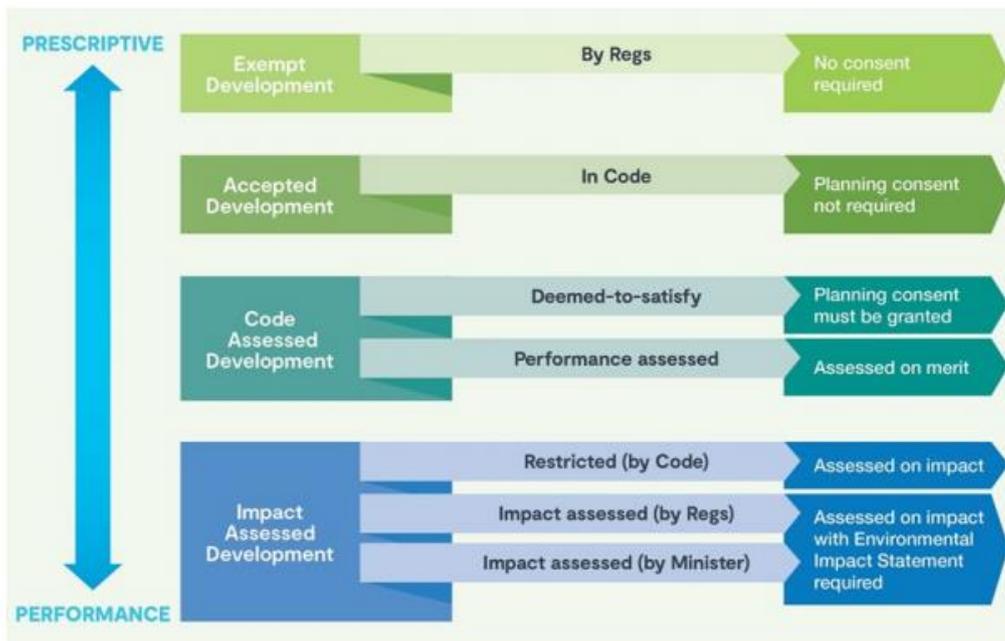
²³ Planning and Design Code (the Code) pt 9.

²⁴ Attorney-General's Department, *Guide to the Draft Planning and Design Code Rural and Urban Council Areas (Phases Two and Three) For Consultation - October 2019* 28.

²⁵ State Planning Policies (n 7) 9-12.

²⁶ *PDI Act* (n 6) s 122, reg 41, sch 9.

Figure 3.1: Assessment Pathways



Source: Plan SA, *What are the assessment pathways in the Planning and Design Code?* (Fact Sheet, 10 March 2021) <https://plan.sa.gov.au/__data/assets/pdf_file/0008/698327/Fact_Sheet_-_What_are_the_assessment_pathways_in_the_Planning_and_Design_Code.pdf>

The Commission has an interest in the planning system's ability to respond to land use proposals involving innovation in an effective and efficient way. The focus is the planning system's ability to assess projects that may not have been in contemplation when the planning system was designed. Changes in global markets, climate change, population growth and distribution, and emerging technologies will also impact on the extent to which the state's productivity is supported by effective land use.²⁷

Meeting the state's land use interests into the future will necessitate a flexible and agile planning system that can provide certainty, attract investment and limit unnecessary costs, especially for innovative developments. The way in which referral bodies exercise their powers to conditionally approve or refuse development applications will be an important part of responding to these challenges.

Information request 3.1: Assessment pathways – contrasting approaches to the referrals process

What are the advantages and disadvantages to applicants in relation to the way development referral processes are managed for:

- developments assessed under the Planning and Design Code, particularly performance assessed developments; and
- impact assessed developments where a separate state-run assessment process is used.

²⁷ Deloitte Report (n 5).

The Commission's interest is on the contrasting approaches to managing referral process, and specifically the efficiency and effectiveness of referral activity undertaken in relation to major projects of significant commercial and economic value to the state.

3.2 Referral bodies in scope

The Commission discussed the scope of the review having regard to referral bodies in section 1.2. This section introduces the three in-scope referral bodies and provides some information requests as an initial invitation for stakeholders to participate in the review, and to assist the Commission to identify the key issues.

3.2.1 Environment Protection Authority (Activities of Environmental Significance)

The Environment Protection Authority of South Australia (EPA) is the state's independent environment regulator. The EPA is an instrumentality of the Crown governed by a board and is established under the *Environment Protection Act 1993* (EP Act). Its functions include the development of environment protection policy, authorising activities of environmental significance, and investigations and compliance with conditions and licensing provided for under the EP Act, among other things.

The EPA's referral functions are subject to co-regulation in some industry sectors, including aquaculture, mining, extractive industries and community wastewater management schemes. The EP Act provides the EPA must further the objects of the EP Act, environmental policies and duties, and the state waste strategy when determining its response to a DA.²⁸ The types of development activity triggering a referral to the EPA are set out in the *PDI Regulations*²⁹ and the Code.³⁰ The referral response time for all EPA referrals is 30 days.³¹

The specific classes of development activity of 'environmental significance' triggering a referral to the EPA under the Code and overlays³² include:

- a range of activities of environmental significance energy generation and storage facilities, petroleum and chemical, manufacturing and mineral processing, resource recovery and waste disposal, food, animal and plant production, materials handling and transportation, among others;³³
- activities that pose a high risk of polluting surface and/or groundwater in water protection areas; and
- proposed changes in the use of the land to a more sensitive use where site contamination exists or may exist as a result of certain (high risk) classes of previous contaminating activities.

At the time of writing the EPA's Planning and Impact Assessment Branch has up to 6 staff (FTE) dedicated to assessing and responding to DA referrals. This core cohort liaise with applicants and their representatives, other regulators and relevant authorities. This group is

²⁸ *Environment Protection Act 1993* s 57.

²⁹ sch 9.

³⁰ pt 9.1.

³¹ *PDI regulations* (n 12) sch 9.

³² The Mount Lofty Ranges Water Supply Catchment (Area 1 and 2) Overlays, the River Murray Floodplain Overlay, and the Water Protection Area Overlay.

³³ the Code (n 23) pt 9.1.

supported by up to another 67 specialist EPA staff who have core duties in relation to industry regulation and environmental monitoring and also provide irregular technical advice in relation to DA referrals.

The EPA took a structured and iterative approach to its review of its referral functions as part of its input into the state planning reforms. The EPA developed 'guiding principles' based on its regulatory mandates to determine its preferred referral activities under the *PDI Act* and conducted detailed reviews of its resourcing of referrals and the performance of this function.

Information request 3.2: Planning approvals and environmental licensing

Some development activities also require a licence under the *Environment Protection Act 1993 (EP Act)*. To what extent does the development assessment referral process under the *Planning, Development and Infrastructure Act 2016* support and effectively integrate with the requirement for an applicant to obtain a subsequent environmental licence under the EP Act?

Have applicants experienced a disconnected approach in relation to development approvals and environmental licensing requirements for the same development?

Do applicants foresee any potential challenges or risks in relation to the dual development assessment and licensing requirements under the new planning system?

3.2.2 Native Vegetation Council (Native Vegetation Clearance)

Native vegetation clearance is the statutory responsibility of the Native Vegetation Council (NVC) under the *Native Vegetation Act 1991 (NV Act)*³⁴. The Department for Environment and Water (DEW) provides administrative and technical support to the NVC in relation to development referral and other functions.

Assessment officers within the Native Vegetation Branch in DEW undertake assessment of applications under the *NV Act* as well as assessments of referrals under the *PDI Act*. For the 2020/21 financial year there are eight positions (equivalent to 7.2 FTE's) within the Native Vegetation Branch who are responsible for the assessment of *NV Act* clearance applications including referrals. To date, the processing of referrals only constitutes a small portion of the work conducted by these assessment officers.

Prior to the introduction of the *PDI Act*, the native vegetation assessment process often commenced once a planning approval had been granted (or late in the application process). This sequential process in some instances resulted in delayed decisions, inconsistent information requirements, confusion and uncertainty for applicants. While a mechanism for referral under the *Development Regulations* existed, it had not operated in practice due to native vegetation mapping being absent from local council development plans.³⁵

The NVC has been a referral body under the *PDI (General) Regulations 2017* since September 2020 following the introduction of phase 2 of the Code as part of the state's

³⁴ *Native Vegetation Act 1991* pt 3 div 1.

³⁵ The trigger for an NVC referral under the *Development Regulations 1993* was the development Plan containing '...a map showing an area of substantially intact native vegetation, development within, or within 20 metres of, the area shown on the map, other than development in a River Murray Protection Area under the *River Murray Act 2003*.'

planning reforms. The Code introduces two new overlays for native vegetation. The overlays designate locations where native vegetation clearance is to be avoided or minimised. The two new overlays are State Significant Native Vegetation Areas Overlay (applies to Wilderness Protection Areas, National Parks, Conservation Parks and areas subject to heritage agreements), and Native Vegetation Overlay (applicable to areas of the state where the *NV Act* applies (excluding areas covered by the State Significant Native Vegetation Overlay)).³⁶

Since September 2020, the NVC has received eight referrals. This number is expected to grow now that phase 3 of the state planning reforms is in operation. Prior to July 2020, the NVC processed an estimated average of 100 non-mandatory referrals per annum for native vegetation clearance for development purposes. These referrals were voluntary referrals from the relevant planning authority and were referred for advice only. The NVC also assesses native vegetation clearance application for purposes other than development, through separate and independent processes established under the *NV Act* and *Native Vegetation Regulations 2017*.³⁷

Whilst the inclusion of the NVC as a referral body under the *PDI Regulations* has aligned development assessment and native vegetation clearance approval processes, an approval under the *NV Act* is still required to clear native vegetation for development purposes. The referral under the *PDI Act* will use the same information reports as required for native vegetation clearance approval under the *NV Act* and ensure that design and minimisation of native vegetation clearance is a fundamental part of the planning process.³⁸

Information request 3.3: Native vegetation clearance and co-regulation

The Commission has an interest in co-regulation and regulatory interdependencies that may result in duplication, wasted effort and delayed decision-making. Feedback is sought from stakeholders about their experiences regarding:

- dual approvals required under the *Planning, Development and Infrastructure Act 2016* or *Development Act 1993* and the *Native Vegetation Act 1991* for native vegetation clearance for development purposes, specifically where regulatory practice has resulted in the need for significant clarification or re-work.
- the co-regulation of native vegetation clearance by the Native Vegetation Council and the Country Fire Service (as a referral body for the clearance of native vegetation for both new and existing developments to comply with bushfire safety standards), particularly where a development has been delayed or uncertainty has been created.

3.2.3 Commissioner of Highways (Roads)

The Commissioner of Highways (CoH) is the statutory body responsible for referrals on development affecting transport routes and corridors, future road widening and advertisements near signalised intersections. The CoH is established under the *Highways Act*

³⁶ State Planning Commission, *State Planning Reform Fact Sheet: Native Vegetation*, 3

https://plan.sa.gov.au/__data/assets/pdf_file/0008/597842/Fact_Sheet_-_Native_Vegetation.pdf

³⁷ Department for Environment and water, *Clearing and fire recovery* (web page, 17 March 2021)

<https://www.environment.sa.gov.au/topics/native-vegetation/clearing>.

³⁸ State Planning Commission, *State Planning Reform Fact Sheet: Native Vegetation*, 2

https://plan.sa.gov.au/__data/assets/pdf_file/0008/597842/Fact_Sheet_-_Native_Vegetation.pdf

1926 and is charged with the duty of carrying that Act into effect.³⁹ The purpose of the Act is to make further and better provision for the construction and maintenance of roads and works.

The Department for Infrastructure and Transport (DIT) provides resources to support the CoH referral function and referrals are coordinated primarily by the Transport Assessment Section in the Transport Planning and Program Development Division. This section manages development applications, related planning matters and proposals that interface with the road and transport network with up to 4.5 staff (FTE) dedicated to assessing and responding to DA referrals. This group is supported through internal engagement from a wide range of specialist areas and functions in DIT, including strategic transport planning and traffic network management and design. For those staff, development referrals are ancillary to their core role.

The state planning reforms have introduced seven transport overlays into the Code. The CoH has advised that the overlays provide improved transparency of arterial road referral elements that can assist planning authorities and applicants. The new overlays include major urban transport route, non-stop corridors, urban transport routes, key outback and rural routes, advertising near signalised intersections, future road widening, and traffic generating development.

The CoH receives the highest number of referrals annually with 747 in 2019-20, down from 835 in 2018-19. Of the total number of referrals, approximately 60 per cent were for low complexity, smaller subdivisions and land uses. Representatives of the CoH advise that under the Code many of the small subdivision referrals are now addressed using 'deemed-to-satisfy' criteria, and that this may lead to a reduction in the high volume of referrals experienced under the *Development Act*.

Information request 3.4: Road network referrals and information requirements

For some development activity the Commissioner of Highways requires traffic impact assessments or studies to inform its assessment of a development application. Stakeholders are invited to provide to the Commission information and insight on their experience with the proportionality of those information requirements, response times, the requirement for any re-work to support the assessment, and any other experiences that materially affected the development assessment process.

3.3 Findings

As a necessary input to the state planning reforms referral bodies have undertaken reviews of their referral functions. The Commission acknowledges this work and will build on it in consultation with the three in-scope referral bodies as it considers the prospects of achieving additional efficiencies from transactional/business process, capability and cultural perspectives.

Whilst the scope of the review is confined, the Commission's findings and recommendations are likely to be applicable beyond the three in-scope referral bodies where the context and circumstances in which the recommendation is made are present. This would represent an opportunity for other referral bodies to adopt improvements where applicable.

The Commission acknowledges that the recent the state planning reforms will necessarily require the Commission to conduct analysis of historical information, data and applicant

³⁹ *Highways Act 1926* s 8.

experience under the *Development Act*. Any conclusions based on that information and data will need to be interpreted and translated to the future state of the *PDI Act* and the Code.

3.4 The issues and potential focus areas

The Commission has considered several recent reviews of referrals processes in other jurisdictions, proposals of industry, and associated policy and position papers. Several meetings with developers, referral agencies, industry associations and other interested parties have also occurred. This preliminary activity has provided an initial view of the key issues regarding costs, unnecessary delays and uncertainty and ambiguity in relation to outcomes of development referrals within the development process.

This section sets out some of those key issues. The Commission will consider these issues further, applicant experience, referral body advice and other supporting evidence as it makes draft recommendations aimed at balancing improvements in the referrals process with maintaining the public interests expressed in the mandates of the referral bodies.

3.4.1 Understanding the impact on business

Early feedback obtained in the formulation of this issues paper indicates that a better understanding by referral bodies of the commercial impacts on businesses arising from the development assessment referrals process may have a positive impact on achieving a 'conditional yes' or an 'early no' on a DA.

The Commission's early perspective is that improvements will be linked with referral bodies' understanding of the commercial considerations of applicants, and the way that referral bodies exercise their mandate in the development assessment process. It is neither about compromising their mandates nor the interests of the state which those mandates were established to protect.

In practice, this understanding is about the extent to which referral bodies undertaking assessments understand matters of cost, unnecessary delay, and uncertainty and ambiguity. These issues are intrinsically linked. Costs can be direct (administrative) or indirect (holding) and can be linked with unnecessary delay in achieving a response to a DA. Further, ambiguity or uncertainty in the mind of the applicant regarding the information requirements of a referral body to support an assessment can lead to re-work and give rise to additional cost to the applicant that may have been avoided if made clearer earlier in the process.

The Commission will have a keen focus on aspects of the referrals process suitable to improvements that concurrently assist applicants and increase the efficiency of referral bodies' processes. Some of the areas of interest based on the Commission's understanding so far are set out in the next section.

3.4.2 Signs and symptoms

Unforeseen cost, unnecessary delay, and uncertainty may be present in one or more of several parts of the referral process. The Reserve Bank of Australia⁴⁰ and the Australian Productivity Commission,⁴¹ among others, have identified that unnecessarily complex development assessment processes lengthen the time it takes to negotiate development

⁴⁰ The Reserve Bank Australia, *Housing Bulletin September Quarter 2012* (Report, September 2012) 13 <<https://www.rba.gov.au/publications/bulletin/2012/sep/>>

⁴¹ Productivity Commission, *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessment, Research Report*, Canberra (Report, April 2011) <<https://www.pc.gov.au/projects/study/regulation-benchmarking/planning/report?a=108835>>

approvals and potentially create uncertainty about the likelihood of project success. Based on the Commission's early consultation and literature review, some of those issues may include:

- **Proportionality:** disproportionate information requirements not commensurate with the risks and mandates against which a DA is being assessed can add unnecessary costs (e.g. external consultants), create delays and lead to re-work.
- **Timeframes:** timeliness is one of the most important aspects to applicants in the development assessment process. This can take several forms. Suspension of the statutory timeframes by which referral bodies are required to respond to a DA, also known as 'stopping the clock', has been viewed by applicants as a cause of unnecessary delay. The Commission accepts that referral bodies require a minimum amount of information to assess a DA against their legislative mandate. The grounds for 'stopping the clock' and how it is restarted will be the Commission's focus here. Appeals and associated delays will be an indicator of practice,⁴² as may the management of public notification and consultation requirements. The Commission will consider pre-lodgement, case management and the use of concurrent assessment processes as opportunities to improve timeframes.
- **Pre-lodgement:** pre-lodgement services are currently available for 'eligible developments'.⁴³ Whilst this service can reduce timeframes, increase certainty and avoid the need for referral through use of pre-lodgement agreements⁴⁴ the current arrangements have limitations. Eligible developments are narrowly defined, and referral bodies differ in their approach to pre-lodgement services. The Commission is interested in how referral processes could be improved through pre-lodgement arrangements and principles to simplify, avoid re-work and provide consistency and efficiency.
- **Case management:** early feedback indicates referral decisions can take longer than necessary due to lack of coordination and communication between relevant referral bodies and the relevant authority. Role clarity can avoid duplication of tasks and '...ensure agency advice is specific to their stated role, and not over-reach.'⁴⁵ Regulatory interdependency and issues of co-regulation are areas of interest for the Commission, particularly where the decisions from an assessment process require an applicant to resolve irreconcilable advice from assessing entities. The appropriateness of thresholds used to determine whether a development attracts case management, specifically risk and cost will be considered.

In the Commission's experience there are other issues of regulatory practice that are expected to have a material impact on performance, outcomes and applicant experience which may include:

- the accessibility and effectiveness of publicly available guidance material published and supported by referral bodies to assist applicants with relevant processes;
- the use of electronic management systems, technology and reporting arrangements to support the efficiency of the referrals process and enable transparency; and accountability.

⁴² Ibid 28

⁴³ Plan SA, *Pre-lodgement service* (web page, 9 December 2020)

<https://plan.sa.gov.au/development_applications/case_management_services/pre-lodgement_service>

⁴⁴ *PDI Act* (n 6) s 123.

⁴⁵ Property Council (n 2) 9.

- triaging and matching resources to DA complexity to assess DAs as efficiently and effectively as possible in the circumstances.

Information request 3.5: Applicant experiences and case studies

Stakeholders are invited to provide to the Commission specific examples of their experiences in relation to the organisational practices of referral bodies assessing native vegetation, matters of environmental significance and road network access having regard to:

- the proportionality of information required by referral bodies relative to the risk and complexity of the development being assessed and whether those requirements are commensurate with the referral body's mandates.
- the utility of case management and pre-lodgement arrangements and whether a broader application of these types of arrangements to more types of developments would improve development assessment efficiency and provide for better outcomes.
- the use of 'stop the clock' provisions and whether this has enabled referral bodies and applicants to efficiently navigate a development assessment or created unnecessary and avoidable delays.
- other matters that have given rise to uncertainty, delays or re-work of development applications that applicants believe could have been avoided.

Whilst the Commission is always interested in interested parties' experiences, specific examples and corroborated case studies may support evidenced-based findings and recommendations.

The Commission welcomes stakeholders' views about proposed changes to the practice of referral bodies that would streamline decision-making on a development application without compromising their important mandates.

The Commission will have an interest in the ability of the referrals process to deal with DAs assessing innovative developments or where emerging technology is present e.g. land use for satellite launches. This will demonstrate how the competing development and safety/preservation interests can adapt to development proposals of high value to the state. That value may be defined by commercial and economic outcomes, job growth or productivity, particularly in areas where the state can develop competitive advantage through innovation and technology. Consideration of development relevant to South Australia's growth state sectors will be of particular interest.

3.4.3 Relevant jurisdictional reforms

There are several significant reviews regarding development processes and approvals that have been completed or have been undertaken, including those considering best practice approaches in Victoria, New South Wales, Western Australia and Queensland.

In 2019 the Victorian Red Tape Commissioner undertook a review of state and local government processes for building and planning approvals and early building works infrastructure approvals to identify opportunities to streamline processes and reduce delays. The review primarily looked at the causes of complexity, delay and lack of effectiveness in

planning and building approvals. The review identified multiple opportunities for short and medium-term improvement in the approvals chain and made several recommendations aimed at reducing response times for referrals.⁴⁶

In response to the COVID-19 pandemic, the New South Wales Government has introduced a suite of reforms designed to support improved planning outcomes. The Planning Reform Action Plan (PRAP) is currently underway to improve assessment time frames, reduce red tape, eliminate double-handling and fast-track projects that deliver public benefits to the social economy. The PRAP outlines long term structural reform of the planning system and consists of a series of initiatives, including introducing the Planning Delivery Unit (PDU). The Unit has a target of reducing concurrence and referral requests by 25 per cent by 2023.⁴⁷

The Western Australian Government has brought forward several measures for planning reform as part of COVID-19 economic recovery plans, together with a proposal to establish a new development application process for significant projects. The proposed reforms aim to remove barriers to enable development, create and protect jobs and support business, and provide new approvals pathways for significant developments and streamline planning and referral processes.⁴⁸

Notwithstanding the time since its publication, South Australia's Development Assessment Forum (DAF) and its 'Leading Practice Model' still resonates in contemporary industry and state reviews. The Commission will have an interest in the extent to which the state planning reforms have picked up the key drivers of that model as applicable to the practice of referral bodies. More recently, the centralised and concurrent approaches of the Queensland State Assessment and Referral body (SARA) model for referral of DAs is seen as a benchmark.⁴⁹

⁴⁶ Department of Treasury and Finance Victoria (Better Regulation Victoria), *Planning and Building Approvals Process Review*, (Discussion Paper, 2019) <<https://www.vic.gov.au/planning-and-building-approvals-process-review>>

⁴⁷ New South Wales Department of Planning, Industry and Environment, *Planning Reforms* (web page, 17 March 2021) <<https://www.planning.nsw.gov.au/Policy-and-Legislation/Planning-reforms>>

⁴⁸ Western Australia Department of Planning, Lands and Heritage, *COVID-19 Planning Reforms* (web page, 17 March 2021) <<https://www.dplh.wa.gov.au/projects-and-initiatives/planning-reform/covid-19-planning-reforms>>

⁴⁹ Property Council (n 2) 8.

4. Appendices

4.1 Terms of reference

SOUTH AUSTRALIAN PRODUCTIVITY COMMISSION REVIEW INTO MODERN REGULATION – REVIEW OF REGULATORY REFERRALS WITHIN THE DEVELOPMENT APPROVALS PROCESS

I, Steven Marshall, Premier, hereby request that the South Australian Productivity Commission (the Commission) undertake a review into regulation and practice governing referrals processes that form part of obtaining a development approval.

Background

Encouraging investment in developments and significant projects that create or expand private sector investment is essential to lifting South Australia's economic growth, employment and productivity. The total value of building approvals in 2019/20 in South Australia was more than \$6.8 billion.¹

The government is aware of industry concerns about costs, time delays and uncertain outcomes arising from referrals processes that are often an important part of development assessments. Duplicated and disproportionate information requirements placed on proponents, use of 'stop the dock' provisions by agencies during assessment processes, and an absence of case management and pre-lodgement arrangements can all contribute to these concerns and influence investment outcomes.

Referrals occur when an application for development approval is referred by the approving authority to another body for specialised advice which may be advisory or binding. In recent years there have been several efforts to improve the speed at which a project of economic importance to the state can be assessed, along with improvements intended to speed up assessment of development applications generally. The most important of these is the state planning reforms. The government recognises the importance of building on these reforms to ensure that South Australia's regulatory systems contribute to a competitive business environment which is attractive for business growth.

Terms of Reference

The government seeks advice from the Commission on how the referrals processes, that form an integral part of the state's development approvals system, can be improved to lift the competitiveness of South Australia as an investment destination. The Commission is to focus on short to medium term benefits to the state that can be realised through changes in regulator practices, regulator structure and systems, business processes, technology and capability as well as culture and relationships between proponents and regulators.

The Commission is to make recommendations aimed at an improved understanding by state authorities of the impacts of the referrals process on a proponent's preparedness to undertake a development having regard to application and holding costs, timeframes and certainty of decision-making. This includes the value of a transparent and efficient assessment process in achieving a conditional approval or an 'early no'. Whilst 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.

To contain the scope of the review it will be confined to three referral processes which together account for a significant volume and complexity of referral activity in the areas of:

- environmental significance;
- native vegetation; and
- transport routes and corridors.

¹ Australian Bureau of Statistics, Building Approvals, Australia, catalogue number 8731.0.

Heritage-related referrals will not form part of this review.

The Commission is asked to make recommendations to:

1. improve the efficiency of the operations and the performance of the relevant referral agencies:
 - a. in ways that cut the costs of referrals and development assessment to regulated parties and make it easier to do business in the state; and
 - b. having regard to the relevant referral agencies' mandates and the public interests with which they are charged.
2. institutionalise continuous improvement and better practice in the referral agencies.
3. improve the adaptability and resilience of the referrals process to achieve timely and effective outcomes including in relation to unusual or innovative development proposals of economic value to the state.

The Commission is to make estimates of the value of proposed administrative efficiencies and time reductions in obtaining referral outcomes that will contribute to South Australia's competitiveness and certainty of investment in the state.

Scope

Given the recency of the state planning reforms, the Commission will accept the *Planning Development and Infrastructure Act 2016*, the Planning and Design Code and complementary reforms as given. This review is to be confined to referrals processes, and specifically to the interdependencies, processes and practices of the referral agencies, planning authorities, and relevant interactions with proponents.

The Commission is to focus on developments where the efficiency of the referrals process can have a material influence on attracting and securing investment, jobs and economic growth. This may include development declared to be a major project or Crown development, other large commercial developments, and smaller scale developments of a high frequency or complexity.

The Commission is asked to have regard to better practice in other jurisdictions and the government's Growth State Plan.

Inquiry Process

The Commission is to consult with key industry organisations, business operators, Planning and Land Use Services (Attorney-General's Department), the referral agencies, 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 receipt by the Commission of these terms of reference.



Hon Steven Marshall MP

PREMIER OF SOUTH AUSTRALIA

01 / 3 / 2021

4.2 Summary of information requests

Information request 2.1: Relevant authorities in the referrals process

Stakeholders are invited to provide information and evidence on the following issues based on their experiences with referral bodies responsible for native vegetation, matters of environmental significance, and road network access and corridors:

- Are the roles of the relevant authority and these three referral bodies involved in a development assessment made clear to applicants at the start of the process?
- Is the process for the applicant engaging with relevant authorities and these three referral bodies in relation to the development application (DA) clearly understood?
- In what circumstances have applicants engaged directly with these three referral bodies in relation to a DA?
- Has direct engagement of these three referral bodies resulted in improved development assessment outcomes?

Information request 2.2: Impacts of the state planning reforms on referrals

Stakeholders are invited to provide their perspective on the extent to which changes to development referrals under the state planning reforms will impact on regulator practice regarding native vegetation, matters of environmental significance (EPA) and road network access and corridors, including:

- The actual or expected effects of the shift to a predominantly direction role for referral bodies, and the implications for development application conditions and compliance with those conditions.
- The introduction of overlays into the planning regime and the effect on certainty for proponents in dealing with referral bodies for development applications.
- The powers for applicants to appeal decisions made by referral bodies and the potential impacts on applicants who avail themselves of this process.

Information request 3.1: Assessment pathways – contrasting approaches to the referrals process

What are the advantages and disadvantages to applicants in relation to the way development referral processes are managed for:

- developments assessed under the Planning and Design Code, particularly performance assessed developments; and
- impact assessed developments where a separate state-run assessment process is used.

The Commission's interest is on the contrasting approaches to managing referral process, and specifically the efficiency and effectiveness of referral activity undertaken in relation to major projects of significant commercial and economic value to the state.

Information request 3.2: Planning approvals and environmental licensing

Some development activities also require a licence under the *Environment Protection Act 1993 (EP Act)*. To what extent does the development assessment referral process under the

Planning, Development and Infrastructure Act 2016 support and effectively integrate with the requirement for an applicant to obtain a subsequent environmental licence under the EP Act?

Have applicants experienced a disconnected approach in relation to development approvals and environmental licensing requirements for the same development?

Do applicants foresee any potential challenges or risks in relation to the dual development assessment and licensing requirements under the new planning system?

Information request 3.3: Native vegetation clearance and co-regulation

The Commission has an interest in co-regulation and regulatory interdependencies that may result in duplication, wasted effort and delayed decision-making. Feedback is sought from stakeholders about their experiences regarding:

- dual approvals required under the *Planning, Development and Infrastructure Act 2016* or *Development Act 1993* and the *Native Vegetation Act 1991* for native vegetation clearance for development purposes, specifically where regulatory practice has resulted in the need for significant clarification or re-work.
- the co-regulation of native vegetation clearance by the Native Vegetation Council and the Country Fire Service (as a referral body for the clearance of native vegetation for both new and existing developments to comply with bushfire safety standards), particularly where a development has been delayed or uncertainty has been created.

Information request 3.4: Road network referrals and information requirements

For some development activity the Commissioner of Highways requires traffic impact assessments or studies to inform its assessment of a development application. Stakeholders are invited to provide to the Commission information and insight on their experience with the proportionality of those information requirements, response times, the requirement for any re-work to support the assessment, and any other experiences that materially affected the development assessment process.

Information request 3.5: Applicant experiences and case studies

Stakeholders are invited to provide to the Commission specific examples of their experiences in relation to the organisational practices of referral bodies assessing native vegetation, matters of environmental significance and road network access having regard to:

- the proportionality of information required by referral bodies relative to the risk and complexity of the development being assessed and whether those requirements are commensurate with the referral body's mandates.
- the utility of case management and pre-lodgement arrangements and whether a broader application of these types of arrangements to more types of developments would improve development assessment efficiency and provide for better outcomes.
- the use of 'stop the clock' provisions and whether this has enabled referral bodies and applicants to efficiently navigate a development assessment or created unnecessary and avoidable delays.
- other matters that have given rise to uncertainty, delays or re-work of development applications that applicants believe could have been avoided.

Whilst the Commission is always interested in interested parties' experiences, specific examples and corroborated case studies may support evidenced-based findings and recommendations.

The Commission welcomes stakeholders' views about proposed changes to the practice of referral bodies that would streamline decision-making on a development application without compromising their important mandates.

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