

B962056



The Hon Steven Marshall MP
Premier of South Australia

Dr Matthew Butlin
Chair and Chief Executive
SA Productivity Commission
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Email: sapc@sa.gov.au

Dear Dr Butlin,

Matthew

Please find enclosed a Notice of Inquiry into South Australia's regulatory referrals within the development approvals process which sets out the terms of reference for the inquiry.

I thank you and the Commission in advance for your work in relation to this matter and I look forward to receiving the Commission's report and recommendations.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Steven Marshall".

Hon Steven Marshall MP
PREMIER OF SOUTH AUSTRALIA

9 / 3 / 2021

Attachments: Notice of Inquiry – Review of regulatory referrals within the development approvals process

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 clock' 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