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South Australian Productivity Commission
GPO Box 2343
ADELAIDE SA 5001
By email: sapc@sa.gov.au

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DEVELOPMENT REFERRALS REGULATORY REVIEW DRAFT REPORT by SAPC – July 2021

Dear Sir/Madam

Thank you for the opportunity for the Murraylands and Riverland Landscape Board (the landscape board) to provide comment on the *Development Referrals Regulatory Review Draft Report* (the report). The landscape board appreciates the opportunity for review of the draft report findings and recommendations, having provided initial written comment in May 2021.

The landscape board offers the following comments:

Draft recommendation 4.1 – Formalising pre-lodgement arrangements

The report proposes that referral bodies formalise the pre-lodgement arrangements by producing and publishing guidance material; ensuring suitably experienced staff are involved; recording and sharing the outcomes of pre-lodgement processes with applicants (where pre-lodgement agreements are not used); and supporting an evidence based approach to calculating pre-lodgement engagement activity through the capture and reporting of relevant metrics.

Guidance material

Landscape boards offer advice on frequently required permits such as Water Affecting Activity permits through their existing websites. There is also considerable information on the relevant approval pathways which landscape boards are part of, on the Department for Environment (DEW) website, which landscape boards will refer applicants to as a first point of reference for guidance on native vegetation clearance approval, use of Crown land, water licensing etc.

Experienced staff

The Murraylands and Riverland landscape board retains experienced staff to manage and respond to planning enquiries, however not all landscape boards are sufficiently resourced to provide this service. Resourcing is directly proportional to the prevalence of development or referrals and their relevance in each landscape board region, and is a decision taken by each board. The Murraylands and Riverland landscape board provides advice to the delegate for the Minister responsible for administering the *River Murray Act 2003* under Regulation 43 of the *Planning, Development and Infrastructure Regulations 2017*, for the bulk of the referrals received by the board.

Recording and sharing outcomes of pre-lodgement processes with applicants

Many referral agencies have multiple conversations per day, through different contacts within each agency, which could be regarded as pre-lodgement discussions. Resourcing the monitoring and evaluation of the proposed recommendation would be onerous, and it is not clear what value the metrics suggested would add to the process.

The landscape board has an existing review, response and approval process similar to that of the EPA and the Native Vegetation Council, for ensuring a consistency of review and delivery

of clear and relevant advice to any formal application. Additionally, the type and number of referrals are captured and reported to the board on a monthly basis. Pre-engagement discussions are captured and recorded on a regular basis as required, usually following up on an initial request for advice made directly to staff. The landscape board also provides post-development approval advice for applicants, where a council has recommended liaison with the local landscape board or on an *ad hoc* basis where an applicant wishes advice on a particular aspect of their development. Any discussions with applicants are part of a two way conversation, whether pre or post development approval, so there is no need to formalise this process further.

For these reasons, the formalisation of pre-lodgement arrangements is not supported.

Scope of review

Ideally the review would have had a wider scope beyond the 3 agency groups selected, and with only 8 written responses, there is a limited basis for the Productivity Commission to propose large scale change to the existing system. DEW, which manages referrals under the Mining Act, the EPBC Act, the River Murray Act and the National Parks and Wildlife Act (to name a few of the main referral triggers) would have been a good source of information to have included in this development referrals review. If the review is to become a regular event, it is recommended that the scope of referral agencies is broader.

Native Vegetation Council review

There are a number of observations made by the draft report that are of concern to the landscape board:

Page 40 – the comments that accredited consultants undertaking native vegetation assessments for clearance approvals:

“consistently reach a predetermined and unchangeable outcome”

and P102:

“The Commission also heard that accredited and professional consultants are inclined to take a conservative approach to their assessments and reports to guard against impacts on their reputation and their professional indemnity insurance”

Both of these observations cause significant concern for the landscape board.

These assessments are intended to be independent and data driven, to provide a balanced view of the native vegetation value to the Native Vegetation Council. These data reports, in addition to comments provided by landscape boards, are the basis for the Native Vegetation Council to fully or partly approve clearance or to refuse clearance. If the Productivity Commission has received such comments, then these should be investigated. The landscape board ecologists have expressed similar concerns to the DEW Native Vegetation Management Unit, who oversee and manage the accredited consultant training and registration. The landscape board will be submitting similar comments as part of a response to the Natural Resource Committee parliamentary review of the *Native Vegetation Act 1991*, this week.

P65 – Regarding the NVC:

“Compliance and monitoring arrangements generally rely on reporting by the general public to identify non-compliance”.

The landscape board understands that DEW currently resource the compliance function through one staff member, for the whole state. It is therefore not surprising that one person cannot follow up on all compliance or monitoring arrangements as determined through a NVC or planning decision. The landscape board often assists in alerting DEW to non-compliance

with clearance approvals, but is not required to monitor compliance in an official capacity, nor is it resourced to deliver this function, without support to fund resources.

The landscape board is concerned, firstly, that the review supports the compliance system for our state being reliant on a single resource; and secondly that the public are left to ensure compliance and monitoring of native vegetation – how are the public to know exactly what was agreed? How does this support future compliance if there are no checks or follow ups? This situation is not ideal, and will be raised via the landscape board's response to the Native Vegetation Act 1991, as previously mentioned.

As such, the landscape board **does not agree** with the draft report's conclusion on Page 65 that *"there was no specific workload or resourcing issues adversely affecting the efficiency of the referrals response process."*

For further information regarding this matter, please contact Eilidh Wilson, Senior Project Officer Planning and Policy within the Murraylands and Riverland Landscape Board on Eilidh.wilson@sa.gov.au or [REDACTED].

Thank you for writing to me and I trust this information is of assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Meddle', with a stylized flourish at the end.

Andrew Meddle
General Manager, Murraylands and Riverland Landscape Board