



Final Report

Tourism Regulation Review

28 October 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.

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.

Confidentiality

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

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 inquiry.

More information

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

Transmittal letter



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The Hon Steven Marshall MP
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Dear Premier

Tourism Regulation Review

In accordance with the terms of reference received by the Commission on 29 March 2021, we are pleased to submit the South Australian Productivity Commission's Final Report on the review of South Australia's tourism regulation.

This final report has been prepared after consultation with industry, government agencies and other stakeholders as well as careful consideration of the submissions we received. We acknowledge and thank them for their support, together with the Office of the South Australian Productivity Commission staff, for their contributions in preparing this Final Report.

We respectfully note that in accordance with the *Premier and Cabinet Circular PC046* "The Commission must ensure that the report is available on its website within ninety days of delivering the report...", unless you specify a shorter period.

Yours sincerely

Dr Matthew Butlin

PRESIDING COMMISSIONER

28 / 10 / 2021

Prof Christopher Findlay AM

COMMISSIONER

28 / 10 / 2021

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Key messages

This review focuses on regulations relating to nature-based and agritourism sectors and is part of the broader Modern Regulation project which aims to identify reforms to assist the South Australian Government in improving the performance of the state's regulatory system.

Tourism is typically defined by the consumer, rather than a defined set of industries. This means activities of tourism businesses are varied, as are the relevant regulations. For South Australian businesses offering nature-based tourism or agritourism, the evidence indicates the main regulatory issues mainly relate to either land use and planning, operations or expansion; or access to public infrastructure.

The review focused on seven areas where regulatory practice can be improved:

- *making regulatory decisions faster.* Businesses perceive that regulators do not grasp the importance of timely decisions, positive or negative, to their business economics.
- *building positive regulatory cultures.* Regulators, acting strictly in accordance with their mandates, could do more to assist business in understanding and meeting regulatory requirements, where possible, and rejecting early otherwise.
- *better cooperation and coordination among regulators and business.* Regulators are willing to work together but generally do so on an ad hoc basis.
- *facilitating new or innovative proposals.* While agencies had difficulty considering and/or approving new or innovative proposals, once they initiated a dialogue, businesses found the communication with regulators to be helpful and constructive.
- *clearer approval guidelines.* Clear guidelines reduce the number of inquiries from business and allow for timely consideration of proposals.
- *increased digital enhancement, including online applications.* Digitising government services is particularly important for the mostly small regional tourism businesses.
- *improving the capability of local government regulators.* Local government regulates in several areas under state legislation, including food safety. Businesses identified inconsistencies in regulatory practice between councils.

The Commission has made eight recommendations including: establishing, and publicly reporting against, performance targets; effective feedback mechanisms for each regulator on its regulatory practice; better, simpler information for businesses on regulatory requirements; a lead agency to coordinate information for each tourism subsector; closer engagement between regulators and businesses; improved governance framework for Crown lands relevant to tourism; prioritising the roll-out of digital services in those agencies most involved with nature-based tourism and agritourism; and strengthening the role of the state in improving capability and consistency in food regulation by local government.

The Commission considers these recommendations will improve regulatory practice relevant to nature-based and agritourism businesses by removing barriers and inefficiencies without compromising the various public interests that the regulators protect.

Executive summary

The COVID-19 pandemic has had a large impact on the operations of all businesses in the state. There has been a particularly large impact on tourism with the cessation of international tourist travel to Australia and a redirection of travel originating in South Australia to local destinations. It is important that the state ensures its regulations facilitate recovery. The purpose of this review is to consider reforms in regulatory practice and arrangements that will reduce regulatory barriers to recovery and development of the tourism industry.

Tourism is typically defined from the perspective of the consumer. Regulation is not directed towards tourism but is focused on the activities conducted by businesses, rather than their customers. The Terms of Reference for this review require the Commission to focus on nature-based tourism and agriculture-based tourism (agritourism). Accordingly, the Commission's focus is on the key areas of regulation that affect these types of businesses, with priority being given to issues and regulatory practice that have the highest impact on those sub-sectors.

As described in chapter 2, tourism expenditure in South Australia has grown steadily over the last decade following the national trend. However, there was a large drop in tourism spending during 2020, reflecting the impact of the COVID-19 pandemic. In response to the closures of domestic and international borders, governments sought to promote domestic tourism through increased marketing, voucher schemes and air travel subsidies. These actions, combined with existing travel restrictions, have resulted in a partial replacement of overseas tourists by domestic tourists. Many regions in South Australia have recovered from the initial COVID-related impacts, especially since many regional South Australia areas are less dependent on international visitors.

The tourism sector in South Australia predominantly comprises small businesses which is consistent with the national tourism sector.¹ Nearly three in four tourism businesses had less than five employees, while less than one percent had more than 200 employees which has significant implications for regulations affecting the tourism sector. The smaller scale of most tourism businesses limits their capacity to manage complex regulations and respond to changes in regulations.

Most business involvement with regulators centres around gaining approval to either start, expand or diversify. The Commission has found that the main regulatory issues faced by tourism businesses primarily relate to:

- land use and planning approvals;
- operations or expansion; or
- access to public infrastructure.

The Commission notes that issues relating to development approvals, such as native vegetation or other referrals, were raised by business participants; however, these matters are dealt with by the Commission's Development Referrals Regulatory Review or as part of the Inquiry into South Australia's Regulatory Framework. There were also a number of issues identified by businesses that were not in the scope of this review that included workforce skill shortages in the regions and barriers to digital uptake. The Commission notes these issues in

¹ L.E.K Consulting, *Tourism investment and regulation review, National long-term tourism strategy, (Final report, 2011)*.

chapter 1 for consideration by the government. The major tourism issues identified through the Commission's consultation with businesses, regulators and other stakeholders fall into the categories identified below.

Processing applications in a timely manner

The length of time required to process an application was the most common issue raised by tourism businesses during the Commission's consultation with stakeholders. Businesses do not consider that regulators understand the importance of quick decisions (whether positive or negative) to the economics of their businesses. While time delays do not have a major impact on government costs, holding costs can be significant for businesses as each day of waiting time adds costs to the overall project. A related issue is the gaps in communications that occur in response to innovative proposals. A number of businesses indicated that they were not able to contact individuals in agencies regarding the progress of their applications or that written communication was not answered within a reasonable timeframe.

During this review, the Commission has found very few identifiable target times for the processing of applications or issuing of licences for tourism-oriented businesses. SA Water has clear targets for its services, but the Commission has found little evidence of clear and publicly available targets in the rest of government regulation that primarily affect tourism businesses. There is also little easily found public reporting regarding the performance of agencies in processing applications related to tourism-oriented businesses.

As the Commission considers performance reporting to be an essential part of an effective and accountable regulation framework, the Commission has recommended the establishment of performance targets and public reporting against those targets for regulators relevant to nature-based tourism and agritourism. It has also made a similar but broader recommendation in the South Australia's Regulatory Framework inquiry.

Developing an enabling culture in regulators

Stakeholders from both agritourism and nature-based tourism businesses want regulators to adopt a more flexible and proactive approach to assessing applications. Businesses would like the regulators to consider how an application might be improved rather than focussing on why it cannot be approved or not engaging with the proponent.

This request is particularly important to applicants proposing to provide new or different services. The Commission discussed this issue with a number of regulators that all indicated a willingness to work with businesses and there were some positive examples of regulators working with businesses to achieve an outcome (see chapter 5 regarding the positive feedback on the responsiveness and attitude of Consumer and Business Services in relation to navigating the COVID-19 pandemic restrictions and chapter 8 regarding PIRSA's simplification of regulatory arrangements for oyster tourism).

The Commission considers this is evidence that regulators can work proactively with businesses when they believe there is support or need for a proactive approach. That said, the majority of the feedback from businesses indicates they perceive agencies as viewing regulations as a set of hard and fast rules that have little flexibility. Based on the information available to the Commission, there appears to be an opportunity for regulators, acting strictly within the boundaries set by their regulatory mandates, to encourage and train their employees to work proactively with businesses to assist them in understanding and meeting the regulatory requirements.

The Commission has recommended that every relevant agency has effective mechanisms to ensure that feedback from regulated entities regarding its regulatory practice is received on a regular basis and that they use this feedback to improve their practices. This is a first step to ensuring that agencies are aware of the priorities for businesses that are the subject of their regulations and will provide more opportunities for agencies and businesses to work together.

Coordination between regulators

The Commissions has found that the list of permits and licences required for nature-based tourism or agritourism businesses can be extensive. Given the small size of most tourism-oriented businesses in South Australia, the potential cost in terms of resources and time to address the potential list of requirements can be intimidating and may discourage firms from even attempting to establish new businesses.

Business stakeholders expressed frustration not only with the number of permits and licenses required, but also being required to provide the same information to different and, in some cases, the same regulators in relatively short periods of time. Businesses propose sharing of common information between regulators to reduce the administrative burden these regulations impose on business.

There was also a perception that regulators were only interested in their own processes which makes the task of organising all the necessary approvals for the activity in question in a timely manner more difficult. Business would like more coordination between regulators to accelerate the approval process that is, considering approvals concurrently rather than sequentially.

The Commission has found that regulators are willing to work together, but generally on an ad hoc basis related to a specific issue or project. The lack of ongoing coordination exacerbates the entry cost for new businesses as the cost of obtaining information on the regulatory requirements is high for most intending small business entrants.

To help address this issue, the Commission has recommended that, for priority sectors like nature-based tourism and agritourism, the state provide consolidated advice on the necessary approvals required to expand or begin operating a business, through lead agencies.

New or innovative proposals

As mentioned above, businesses have found that agencies were reluctant or had difficulty considering and/or approving new or innovative proposals. Once they were able to initiate a dialogue, businesses found the communication with regulators to be helpful and constructive. However, finding the right connection to provide feedback was difficult, particularly if the proponent was new to the regulatory process. Through consultation with agencies, the Commission has identified a number of reasons for the difficulties that occur, including:

- the level of resources available to the agencies involved in regulating tourism businesses, with some agency staff indicating that the issuing of licences or permits was only one of their responsibilities; and
- a low tolerance for risk, limited familiarity with business or concern for probity that discourage its employees from engaging with businesses on new ideas. Some businesses considered this to be a real issue with some agencies.

In addition, new and innovative proposals are not necessarily well-developed business proposals. The proposals may lack necessary details and, even when sufficient information is provided, substantial research may be required to determine the impact of the proposal on the objectives of the regulation.

It is important to strike a balance on this issue. Businesses' primary purpose is to generate profits and accordingly businesses take commercial risks. It is not the government's job to take on the commercial risks properly belonging to business. It is government's role to reduce risk from regulatory ambiguity, regulatory gaps, inappropriate/inflexible regulation or absent regulation, among other matters. The Commission has made recommendation to:

- identify agencies that can provide coordinated guidance to businesses in the nature-based tourism and agritourism sectors;
- increase communication between businesses and agencies through external reference groups and public forums; and
- have agencies review their guidelines over the next 12 months in partnership with the businesses they regulate to reduce ambiguity and eliminate gaps.

Approval guidelines

It is best practice to have clear, publicly available guidelines as to the necessary conditions for approving a development, licence or permit. Clear guidelines reduce the number of inquiries from business and allow for timely consideration of proposals. This is even more important given the structure of the tourism industry in South Australia as most businesses are relatively small and do not have the same capacity as larger businesses to investigate guidelines and develop business proposals.

The Commission's initial review of the public material available to guide businesses in the development of proposals for government, concludes that the guidelines could be improved. For example, the requirements reviewed by the Commission regarding access to Crown or national park land, seem unnecessarily complex. This may be a result of the regulations being designed when sensitive and compatible economic development of the public asset was not considered a priority.

The Commission also notes that in developing an action plan for progressing the development of nature-based tourism, the Department for Environment and Water (DEW) made the reduction of red tape and other barriers to investment a priority. However, the Commission did not receive any information regarding the agency's progress in reducing red tape or barriers to investment.

Consequently, the Commission has recommended that the regulations that govern the development of nature-based tourism and agritourism businesses be reviewed to ensure that objectives of a new program can be progressed in a reasonable timeframe. The Commission has also made a recommendation to accelerate the review of park management plans that may need to change to accommodate future investment.

Online applications

The current state government identifies digitisation of government services as a priority. The state's Digital Transformation Strategy outlines both the approach and benefits of that transformation.

The benefits that are most relevant to the Tourism Review include:

- reduced processing times for applications;
- reduced costs associated with doing business with government;
- increased community engagement; and

- reduced time spent on manual administration of processes.

The Commission considers that the digitisation of government services is particularly important for regional businesses involved in nature-based tourism and agritourism as most are relatively small and have little time to deal with centralised or manual application processes.

While consultations with businesses and regulators indicated that some progress in developing online applications has been made, both have indicated that more is possible. The Commission has recommended that the government's digital strategy prioritise the roll-out of digital services in those agencies that are most involved with nature-based tourism and agritourism.

Local government regulatory capability

The delegation of administrative responsibility to local government can be an effective means of delivering regulatory services in those areas. However, it is important to ensure regulations and standards are applied capably and consistently across council areas. The absence of a consistent application of standards adds to business development costs as services are developed in different regions.

In the Commission's consultations, this issue was often raised in the context of food safety regulations. The Commission's research indicates that SA Health provides guidance on the role requirements for environmental health officers and as well how to manage the risks, but there is no mechanism that allows businesses to provide regular feedback to SA Health on how its guidelines are being applied. As a result, when there are problems, it may take some time for the issue to come to the attention of SA Health.

To address this issue, the Commission has proposed that SA Health food safety regulation function include a central and independent process for receiving feedback on, and reviewing, the enforcement of food safety regulations by local governments.

Conclusion

In conducting this review, the Commission was impressed by the overall commitment of government agencies to improve the effectiveness of their regulations when they felt compelled to address issues. The COVID-19 pandemic generated a number of positive regulatory outcomes in very short timeframes and there were numerous positive comments from businesses regarding agencies efforts in light of the restrictions imposed by the pandemic.

That said, the Commission was told that unnecessary time delays, communication problems and a reluctance to partner with business were issues; particularly when the agencies considered the issues raised to be lower priorities or outside the scope of their normal regulatory activities. The Commission understands that not every business proposal is worth pursuing; however, it is important that businesses receive quick and clear guidance on what is possible and, when a proposal is not possible, so they can move on to other commercial opportunities.

As is evident from the Commission's recommendations, it does not consider broad legislative or regulatory change to be necessary. This report contains several examples of how the state government and business worked together to develop new economic opportunities. Most issues raised during this review could be resolved through improving the culture of the agencies regulating tourism businesses.

Summary of recommendations

Recommendation 4.1

To develop greater simplicity in the regulatory structures, reduce cost, risk and time in approval processes, the Commission recommends that the South Australian Government establish a cross-government taskforce led by the Department for Environment and Water (DEW), as the custodian for most Crown land used for tourism purposes, be established to:

- resolve the management and maintenance issues of the Crown land experiencing increased tourism visitations (including Crown land under pastoral lease); and
- establish a framework for addressing 'adjacency' problems where a proponent wants to make use of contiguous Crown land that operates under different administrations and rules.

Recommendation 5.1

The Commission recommends that the SA Health food safety regulation function be expanded to:

- establish a central and independent process for receiving and evaluating feedback on the application of food safety regulations by local government; and
- provide advice and training to local government on improving their regulatory practice, abased on the analysis of the feedback.

Recommendation 6.1

The Commission recommends that the Department for Infrastructure and Transport (DIT):

- establish public targets for the installation of tourism signs once approved;
- report publicly on performance against its targets for timeframes for both assessment of applications and installation of signs; and
- increase the supply of prequalified contractors in all regions to ensure timely installation.

Recommendation 8.1

In order to increase the transparency and accountability of agencies for their performance in processing applications, the Commission recommends that regulators relevant to nature-based tourism and agritourism, in conjunction with their regulated businesses:

- develop appropriate clear timeframes for their approval processes; and
- publicly report on their performance against these targets.

Recommendation 8.2

In order to ensure that regulations are as effective and efficient as possible, the Commission recommends that regulators relevant to nature-based tourism and agritourism undertake regular reviews (annually or bi-annually) of past applications, including unsuccessful applications, to assist continuous improvement by:

- identifying possible changes to regulatory practice;
- improving efficiency in assessing those applications, including early rejection of non-viable applications; and
- ensuring the regulations are achieving their objectives.

Recommendation 8.3

To facilitate better stakeholder engagement on regulatory matters and practice, the Commission recommends that regulators relevant to nature-based tourism and agritourism either

- evaluate the effectiveness of existing public mechanisms; or
- develop new mechanisms (e.g. external reference groups and regular public forums); and
- that the feedback provided by stakeholders through those mechanisms be reported publicly.

Recommendation 8.4

To accelerate development of the nature-based tourism and agritourism sectors, the Commission recommends that:

- the Department for Environment and Water (DEW) coordinate the provision of consolidated guidance to prospective nature-based tourism businesses covering relevant regulatory requirements, including those from regulators outside the portfolio; and
- Primary Industries and Regions South Australia (PIRSA) coordinate similar support to new agritourism businesses.

Recommendation 8.5

To help develop nature-based tourism, the Commission recommends that

- regulators relevant to nature-based tourism, in partnership with their regulated businesses, review and improve the clarity and accessibility of their approval guidelines for nature-based tourism within 12 months; and
- these reviews draw insights from the nature-based tourism co-investment fund application process.

Recommendation 8.6

To help support tourism development in the regions, the Commission recommends that the government's digital strategy prioritise the roll-out of digital services in those agencies that are most involved with nature-based tourism and agritourism.

Definitions

Agritourism	commercial activities at a working agricultural property conducted for the enjoyment of visitors that generate additional income for the owner
Crown land	public land owned and administered by the state, typically set aside for various community and government purposes. It includes vacant land and is generally not a freehold title.
Nature-based tourism	leisure trips undertaken largely or solely for the purpose of enjoying natural attractions and engaging in a variety of nature-based activities
Value chain	the entire sequence of activities or parties that provide or receive value in the form of products or services

Acronyms

ABLIS	Australian Business Licence Information System
BCA	Building Code of Australia
CBS	Consumer and Business Services
CLMP	Community Land Management Plan
CoH	Commissioner of Highways
CTO	Commercial Tour Operator
CTP	Compulsory Third Party
CWMS	Community Wastewater Management System
DEW	Department for Environment and Water
DIT	Department for Infrastructure and Transport
EPA	Environment Protection Authority
GDP	Gross Domestic Product
GSP	Gross State Product
LGA	Local Government Association
MFA	Marine Fishers Association
MoU	Memorandum of Understanding
NCC	National Construction Code
NPW	National Parks and Wildlife
NVC	Native Vegetation Council
OSAPC	Office of the South Australian Productivity Commission
PIRSA	Primary Industries and Regions South Australia
RV	Recreational Vehicle
SA	South Australia
SAPC	South Australian Productivity Commission
TRA	Tourism Research Australia
WHS	Workplace Health and Safety

1. Introduction

1.1 Purpose of the review

This review is part of the Modern Regulation project which aims to assist the South Australian Government to make the state's regulatory system a source of comparative advantage while not compromising the public interests protected through existing regulation. In this review, the government has asked for advice from the Commission regarding the effect of state regulations on the tourism industry.

Tourism is typically defined from the perspective of the consumer. This leads to some conceptual challenges about defining what a tourism business is (and is not) and to what extent the business model depends on tourists. As a result, the nature of activities undertaken by tourism businesses in South Australia are highly variable, with the regulations relevant to each business being similarly varied. The terms of reference for this review require the Commission to focus on nature-based tourism and agriculture-based tourism (agritourism).

The current pandemic has particular significance for this regulatory review. Tourism as a whole has been very adversely affected in South Australia and nationally; especially those parts directly exposed to the cessation of international tourist travel. At the same time, while total expenditures have fallen sharply, some domestic consumers have switched their spending towards local tourism offerings, particularly in the regions.

This regulatory review is timely in its potential contribution to ensuring South Australia's regulatory practices have regard to the task of facilitating an efficient recovery and future development of the tourism industry.

The Commission is asked to recommend actions that the South Australian Government could consider that would:

- improve the efficiency of the operations and the performance of the relevant state agencies:
 - in ways that cut the costs of regulation for the regulated parties and make it easier to do business in the state; and
 - having regard to the regulating agencies' mandates and the associated public interests; and
- improve the adaptability and resilience of the regulatory process and encourage timely and effective outcomes including in relation to unusual or innovative development proposals of economic value to the state.

The Commission notes that there are currently several state-level strategies and plans that support these areas, including the following:

- South Australian visitor economy sector plan 2030;²
- South Australian regional visitor strategy 2025;³

² South Australian Tourism Commission, *The South Australian Visitor Economy Sector Plan 2030* (2019) <<https://tourism.sa.gov.au/strategies/strategies/tourism-plan-2030>>.

³ Regional Visitor Strategy Steering Committee, *South Australian Regional Visitor Strategy* (2021) <https://tourism.sa.gov.au/media/14iowsqt/sa_rvs_2025_final.pdf>.

- nature-based tourism strategy;⁴
- nature-based tourism co-investment fund (\$5 million);⁵
- tourism industry development fund (\$20 million);⁶ and
- the regional growth fund (\$150 million over 10 years).⁷

These plans include objectives which are directly relevant to this review, for example the nature-based tourism strategy states the state government will create an environment where nature-based tourism businesses can flourish. They also involve some financial assistance. While this is an important part of the context of the South Australian Government's interactions with tourism operators, financial assistance is out-of-scope of this review.

The focus of this review is primarily on matters of regulatory practice relating to the regulation affecting the nature-based and agritourism sectors. This is driven by factors that include:

- the recent state planning reforms have just been implemented making an evaluation of those changes premature; and
- there is a concurrent South Australian Productivity Commission (SAPC) review into regulation and practice governing the referrals processes that form an integral part of the state's development approval system.

National regulatory schemes of which South Australia is part and where change requires the agreement of other jurisdictions are excluded from this review, while state legislation and regulatory schemes which involve local government are in-scope. The Commission is also to have regard to the South Australia Growth State initiative and other relevant state and national policies, reviews and reforms.

1.2 Methodology

The Commission has a standard process for conducting reviews and inquiries which is described on our website (see [Inquiry Process](#)). In addition, as this review is part of the Modern Regulation project, it will draw on the performance data collected by the South Australia Regulatory Framework inquiry and the Development Referrals regulatory review.

The Commission takes the view in approaching this task that:

- Regulations are in place to protect a public interest.
- Businesses establish, expand and diversify their operations by employing people and investing capital. In doing so, they take on risk having regard to the potential reward of their activities.
- It is not the state's role to take on risks that belong to business; nor is it the role of businesses to take on risks that properly belong to government.

⁴ Department of Environment, Water and Natural Resources and South Australian Tourism Commission, *Nature Like Nowhere Else: Activating Nature-based Tourism in South Australia* (2016) <<https://tourism.sa.gov.au/media/jmrhijkl/nature-based-tourism-strategy.pdf>>.

⁵ National Parks and Wildlife Service South Australia, *Nature-based Tourism Co-investment Fund*, <<https://coinvest.parks.sa.gov.au/>>.

⁶ South Australian Tourism Commission, *Tourism Industry Development Fund*, <<https://tourism.sa.gov.au/support/tourism-industry-development-fund>>.

⁷ Department of Primary Industries and Regions, *Regional Growth Fund*, <https://www.pir.sa.gov.au/regions/regional_growth_fund>. Note that this is part of the Recharging our Regions policy and includes support to all businesses in regions including those associated with tourism.

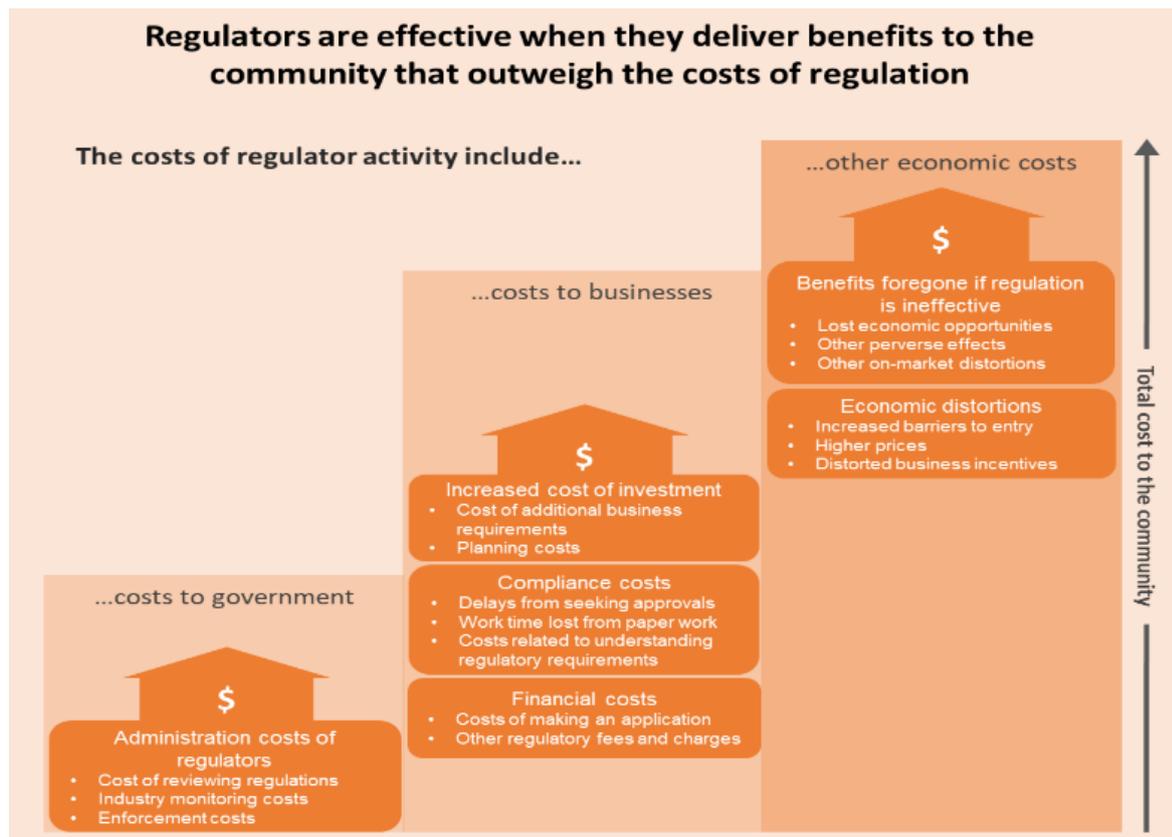
Regulators are most effective when they deliver benefits to the community that justify the costs of regulation (see Figure 1.1). The benefits of regulation include:

- more competitive and thereby productive and efficient markets;
- better information for businesses and consumers;
- improved public health and safety;
- environmental amenities;
- more equitable social outcomes; and
- greater access to essential services (e.g. water infrastructure).

On the other hand, regulation can also incur costs to government, businesses and the community. For example, businesses can face increased regulatory costs related to market entry and new investment, or as part of ongoing operations. Specific costs include:

- direct payments to government (e.g. application and licencing fees); and
- the costs of complying with regulations (e.g. time and money spent on paperwork or getting legal advice).

Figure 1.1 Cost of regulator activity



Source: Adapted from Productivity Commission (Cth), *Identifying and Evaluating Regulation Reforms: Research Report (Commonwealth of Australia, 2011), 12*; Marneffe, W & Vereek, 'The Meaning of Regulatory Costs' (2011) 32 *European Journal of Economics*, 341.

Inefficiencies can arise if regulators (and regulations) fail to deliver their expected benefits, or if the requirements they place on regulated entities are too costly or unnecessarily

burdensome. Other economic costs can also be incurred from the side effects of regulation, including those on market entry and competition.

The review team has focused on consulting with external stakeholders and regulators and developing case studies to identify issues central to the tourism industry in two groups:

- how the regulations affect businesses establishment or set-up costs; and
- how they affect a business's ongoing operations.

The case studies map the experience of external stakeholders to the documented processes within regulators to identify opportunities for greater efficiency and net benefits—that is achieving the objective of the regulations while reducing impediments to the development and growth of tourism businesses.

In developing the report, the Commission met with over 50 groups and individuals including tourism-oriented businesses, regulators and advocacy groups and hosted three roundtables. The Commission also conducted a survey of tourism-oriented businesses with the help of the Tourism Industry Council SA. The survey sought feedback from tourism businesses on common issues that could be followed up with regulators and other stakeholders. The key issues were subsequently discussed with both stakeholders and regulators. The Commission has concentrated on the more common issues raised by stakeholders in SA and those issues that can be addressed by the Commission's recommendations.

1.3 Overview of business stakeholder issues

The following summarises the common issues found through consultations with business stakeholders and other research that are addressed in more detail in chapters 3 through 7.

1.3.1 In-scope issues

More timely regulator decisions

The time required by regulators to action development applications, or issue licences was a consistent issue with all stakeholders. Stakeholders did not believe that government agencies understood the importance of quick decisions (whether positive or negative).

Changing the culture of regulators

Business stakeholders tended to believe that some agencies were unwilling to work with business to help develop strong applications and de-risk issues. They believe that regulators preferred to judge the proposal rather than explore what is possible.

Government regulators working together

Business stakeholders expressed some frustration in providing the same information to different and in some cases, the same regulators in relatively short periods of time. Businesses would like to see some sharing of common information between regulators to reduce the administrative burden on business. There was also a perception that the regulators were only interested in their own processes which sometimes complicated getting the necessary approvals for the activity in question.

Business sought better coordination between regulators to ensure the approval process is as efficient as possible, suggesting options like a case manager to guide an application through the full approval process rather than having a set of uncoordinated regulatory activities.

Facilitating new or innovative proposals

There were concerns about the capacity of regulators to consider new or innovative proposals in a timely manner. The perception was that if the business wanted to develop a new activity or provide a service in an innovative manner, regulators took a very risk-averse approach. Stakeholders also found that communication with regulators on the status of these applications could be difficult. In addition, the time involved in obtaining decisions for these types of proposal often extended beyond any reasonable timeframe.

Greater clarity about approval guidelines

Businesses would like clearer guidelines as to the necessary conditions for receiving approval for a development or licence. This is particularly relevant given the structure of the tourism industry in South Australia. As most businesses are relatively small, they do not have the same capacity as larger businesses to develop business proposals.

Local government regulatory capability

There were some concerns regarding the consistency of regulations administered by local government. Businesses have indicated that the standards associated with some regulations seem to be interpreted differently by individual local governments and, as a result, the same business may have to operate differently in different council areas.

More use of on-line applications

While there has been progress in developing on-line applications for the various development and licence approvals required to operate a business, some application processes are still paper-based and some require business to attend government centres in person. Stakeholders would like to see more progress in moving the application and approval process on-line, consistent with the emphasis on digitising government services.

1.3.2 Out-of-scope issues

Stakeholders raised several issues that, while very important to the tourism sector, are outside the terms of reference for this review. The Commission notes the issues and draws them to the attention of the South Australian Government.

Skill shortages

A consistent theme was the persistent shortage of skilled labour in the regions that has been exacerbated by the COVID-19 pandemic travel restrictions. The Commission notes that this is an issue that impacts all business sectors including tourism. Nature-based and agritourism businesses, particularly in the regions, regularly rely on transitory workers due to local skill shortages. This is highlighted in the submission from the nature-based tour operator Wilderness Escape:

We'd like to see outdoor leaders and tour guides on the skills shortage list and enabling working holiday visa people who secure work to be able to get a visa in this area easier. The past year has been difficult to attract and retain staff and there is a shortage of skilled staff in the outdoor sector. To get staff upskilled to the level that is needed is a considerable cost to the business. Some of the ratios for qualified staff to participant are restrictive and make it harder for our experiences to be viable. (Wilderness Escape Outdoor Adventures, DR7, p.3)

The Commission notes that there are efforts underway to try to address this issue. The Regional Workforce review by Regional Development South Australia in June 2021 proposed a number of recommendations to address regional workforce issues.⁸

The Commission also notes that the 2021-22 state budget invested \$8.3 million over 2020-21 and 2021-22 'to address labour shortages facing regional employers in key sectors, resulting from restrictions on foreign workers imposed due to COVID-19 and includes the establishment of a temporary seasonal worker's regional quarantine facility in Paringa'.⁹

Aboriginal tourism business development

There were some concerns raised regarding the lack of opportunities or programs that could support the development of Aboriginal tourism businesses. The absence or effectiveness of programs that support Aboriginal business development are outside the scope of this review and, as a result not analysed in the report.

Insurance

The Commission heard that there were issues related to obtaining appropriate and affordable public liability insurance for adventure tourism operators. For example, the submission from the nature-based tour operator Wilderness Escape stated:

It is increasingly difficult to find suitable, affordable insurance as an outdoor, adventure tourism, edutourism and corporate tourism tour operator. It would be great to see support around insurance from government. (Wilderness Escape Outdoor Adventures, DR7, p.2)

The increasing difficulty in obtaining insurance for adventure tourism operators has been identified as a national phenomenon.¹⁰ The sector has been advocating for a system similar to that of New Zealand which has a universal system of no-fault risk underwritten by the national government. Under this system, employers and stakeholders pay levies to the New Zealand Accident Compensation Corporation¹¹ which manages the process.

In addition, some stakeholders mentioned that hospitality businesses that do not own their premises (particularly hotels) face challenges obtaining insurance and with what are regarded as ballooning insurance premiums.¹²

Barriers to digital uptake

Several stakeholders based in remote and rural South Australia discussed the difficulties accessing digital technology due to poor internet access. The South Australian Regional Visitor Strategy 2020 also identifies telecommunication blackspots in regional South Australia as a key issue for business operators and visitors.¹³

The Commission notes that the Australian Government Department of Infrastructure, Transport, Regional Development and Communications is currently funding 132 'place-based'

⁸ <<https://www.rdaadelaide.com.au/wp-content/uploads/2021/06/Regional-Workforce-Policy-Paper-Summary-June2021.pdf>>.

⁹ Further information available at <<https://www.statebudget.sa.gov.au/our-budget/regions>>.

¹⁰ Reporting on this issue can be found at <<https://www.abc.net.au/news/2020-06-10/adventure-tourism-businesses-close-as-insurers-refuse-coverage/12333032>> and at <<https://www.insurancebusinessmag.com/au/news/breaking-news/public-liability-withdrawal-leaving-tourism-operators-vulnerable-226563.aspx>>.

¹¹ <<https://www.acc.co.nz/>>

¹² Commission's consultations with the Australian Hotels Association, SA.

¹³ <<https://tourism.sa.gov.au/media/gymodaud/south-australian-regional-visitor-strategy.pdf>>.

telecommunications infrastructure projects across regional, rural and remote Australia through the Regional Connectivity Program.¹⁴

In addition, a Regional Telecommunications Independent Review was announced in June 2021 by the Australian government which 'will examine the adequacy of telecommunication services in regional, rural and remote Australia' and will consider issues including:¹⁵

- the impact of government policies and programs;
- insights from COVID-19;
- emerging technologies;
- service reliability;
- regional development; and
- improving coordination between tiers of government.

1.4 Structure of the Report

This draft report begins in chapter 2 with an overview of the South Australian tourism sector, having regard to trends, composition and location and the impact on it of the pandemic and policy actions.

Chapter 3 sets out the regulatory framework governing tourism activities that are the subject of this review. The scope of the framework is broad because tourism activity is part of many parts of the economy. The following chapters address relevant aspects of the regulatory framework in detail: chapter 4 considers land use regulations; chapter 5 addresses regulations that are relevant to operating, expanding and diversifying tourism businesses; chapter 6 considers access to public infrastructure; and chapter 7 addresses relevant transport and accommodation regulations. Chapter 8 provides the Commission's conclusions and draft recommendations.

¹⁴ Additional information about the Regional Connectivity Program, including funding rounds, amounts and the 2018 Regional Telecommunications Review can be found at: <<https://www.communications.gov.au/what-we-do/internet/regional-connectivity-program>>.

¹⁵ Further information is available at: <<https://www.rtirc.gov.au/>>.

2. Overview of the tourism sector in South Australia

2.1 Introduction

This chapter provides an overview of the tourism sector¹⁶ in South Australia including its characteristics and contribution to the state. Where possible time trends and interjurisdictional comparisons are also provided.

Tourism is a small but significant part of South Australia's economy, accounting for 3.2 per cent of the gross state product (GSP) in 2018-19 (Table 2.1). By 2019-20, this had fallen to 2.8 per cent, reflecting the impact of the COVID-19 pandemic and the resulting policy measures on the sector. As Table 2.1 indicates, the trend in South Australia's is consistent with the experience of other jurisdictions across Australia. Nationally, the tourism sector's direct share of the gross domestic product (GDP) was 3.1 per cent in 2018-2019 but declined to 2.5 per cent by 2019-20.

Table 2.1: Tourism's direct share of GSP (per cent) by state, territory and Australia, 2006-07 to 2019-20

	NSW	Vic	Qld	SA	WA	Tas	NT	ACT	Australia
	Per cent (%)								
2006-07	2.9	2.7	4.2	2.8	2.4	4.8	6.9	3.0	3.1
2007-08	2.9	2.7	4.2	2.6	2.3	4.5	5.7	2.9	3.1
2008-09	2.8	2.7	3.7	2.8	2.0	4.4	5.7	2.5	2.9
2009-10	2.7	2.6	3.6	2.9	1.9	4.8	5.4	3.0	2.8
2010-11	2.7	2.6	3.4	2.7	1.7	4.0	4.4	2.4	2.7
2011-12	2.6	2.7	3.7	2.6	1.7	4.2	4.3	2.6	2.7
2012-13	2.7	2.8	3.9	2.6	1.8	4.5	4.0	2.7	2.8
2013-14	2.8	2.8	3.7	2.8	1.9	4.4	4.1	2.6	2.9
2014-15	2.8	2.8	3.6	3.2	2.3	4.5	4.6	3.0	2.9
2015-16	2.8	2.9	3.9	3.1	2.6	4.5	4.7	2.8	3.1
2016-17	2.8	3.0	3.6	3.0	2.5	5.3	4.6	2.9	3.0
2017-18	3.0	3.1	3.8	3.1	2.1	5.1	4.0	3.4	3.1
2018-19	3.0	3.3	3.8	3.2	2.1	5.4	4.2	3.0	3.1
2019-20	2.4	2.6	3.2	2.8	1.7	4.6	3.3	2.2	2.5

Source: *Tourism satellite accounts 2019-20*, *Tourism Research Australia* (2021).

Figure 2.1 illustrates the trend in total annual tourism spending in South Australia and Australia for the period 2006 to 2021.¹⁷ Tourism expenditure in South Australia has grown steadily over the last decade following the national trend. However, there was a large drop in tourism spending during 2020, reflecting the impact of the COVID-19 pandemic. Total annual tourism expenditure in South Australia reached a high of \$8.1 billion in 2019.¹⁸ By 2020,

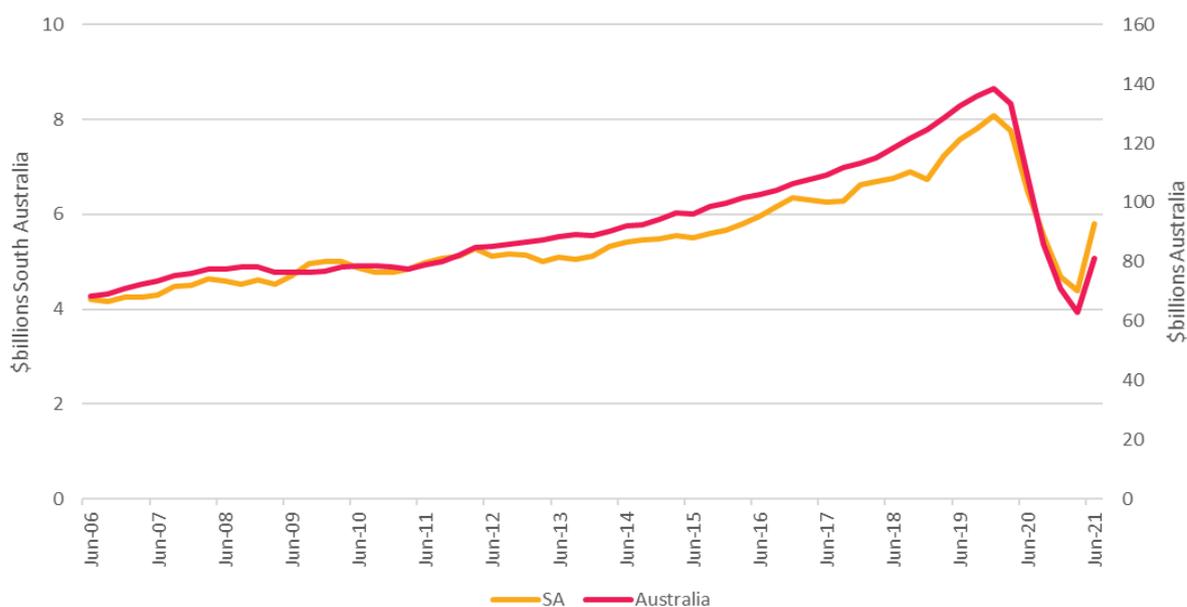
¹⁶ Consistent with the definitions used by Tourism Research Australia (TRA), <<https://www.tra.gov.au/Domestic/national-visitor-survey-methodology> and <https://www.tra.gov.au/International/ivs-methodology>>.

¹⁷ Year ending to June.

¹⁸ *Tourism Research Australia, Tourism Satellite Accounts 2019-20* (2020).

South Australia's total annual tourism expenditure had fallen to \$4.7 billion, reflecting a nearly 42 per cent drop from the previous year, but less than the nearly 50 per cent fall in tourism expenditure for Australia as a whole over the same period. Total annual expenditure in South Australia stood at \$5.8 billion for the year ending in June 2021, indicating a gradual recovery since the beginning of 2021, also reflected in the national figures. While the full extent of the impact of the COVID-19 pandemic on the tourism sector is yet to be determined, it is clear that border closures and other travel restrictions have already resulted in significant contraction of, and disruption to, the sector.

Figure 2.1: Total annual tourism expenditure, (\$bn), South Australia and Australia, year ending to June 2006-June 2021



Source: Tourism Research Australia (2021).

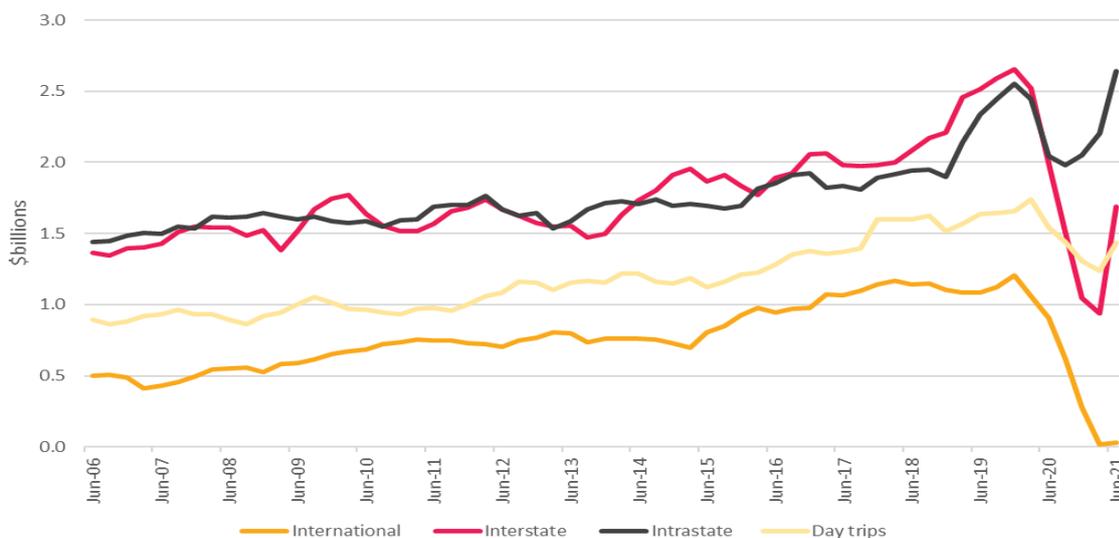
Figure 2.2 provides a breakdown of the total tourism expenditure by type for South Australia.¹⁹ International tourism expenditure, the smallest component, has steadily increased over this period until December 2019, after which the impacts of the COVID-19 pandemic including restricted international travel are reflected in its sharp decline. International tourism expenditure in South Australia declined by 96 per cent to \$34 million for the year ending June 2021. On the other hand, total domestic tourism expenditure, including interstate, intrastate and day trips are showing signs of recovery, rising by three per cent to \$5.8 billion in the year ending June 2021. Intrastate tourism expenditure grew 29 per cent to \$2.6 billion between June 2020 and June 2021.

Notwithstanding the absolute decline in total tourism expenditure in South Australia during the COVID-19 pandemic in 2019-20, data from Tourism Research Australia (TRA) shows that the state's share of total tourism expenditure during the past decade has held steady, fluctuating around 6 per cent. By June 2021, the state's share of national total tourism expenditure stood at 7.1 per cent.²⁰

¹⁹ Year ending to June.

²⁰ Tourism Research Australia, *State Tourism Satellite Account 2018-19* (2020).

Figure 2.2: Annual tourism expenditure (year ending in June) by type, South Australia (\$bn), 2006-2021



Source: Tourism Research Australia (2021)

In response to the closures of domestic and international borders, governments sought to promote domestic tourism through increased marketing, voucher schemes and air travel subsidies. These actions, combined with existing travel restrictions, have resulted in a partial replacement of overseas tourists by domestic tourists.

Table 2.2, reproduced from the South Australian Tourism Commission's fact sheet on COVID recovery indicators,²¹ provides a comparison of total tourism expenditure by region. Based on data from TRA, using the year ending December 2019 as a pre-COVID benchmark, and compares to the most recent data for the year ending March 2021.

Table 2.2 Total tourism expenditure by region, South Australia, COVID recovery indicators

Total Tourism Expenditure per Region			
Tourism Region	Pre-COVID (Year Ending Dec '19)	Most Recent (Year Ending Mar '21)	% of Pre-COVID Performance
Adelaide Hills	\$207m	\$124m	60%
Barossa	\$225m	\$208m	92%
Clare Valley	\$117m	\$134m	114%
Eyre Peninsula	\$549m	\$349m	64%
Fleurieu Peninsula	\$559m	\$545m	97%
Flinders Ranges and Outback	\$516m	\$344m	67%
Kangaroo Island	\$191m	\$179m	94%
Limestone Coast	\$421m	\$418m	99%
Murray River, Lakes and Coorong	\$281m	\$130m	46%
Riverland	\$195m	\$146m	75%
Yorke Peninsula	\$240m	\$238m	99%
Regional SA	\$3.56b	\$2.84b	80%
Regional Australia	\$74.79b	\$42.06b	56%

Source: Reproduced from, SA Tourism Commission (2021). Fact Sheet, Regional job numbers: COVID recovery indicators. <<https://tourism.sa.gov.au/media/mq5ljigz/fact-sheet-regional-job-numbers-2019-20-15-july-2021.pdf>>

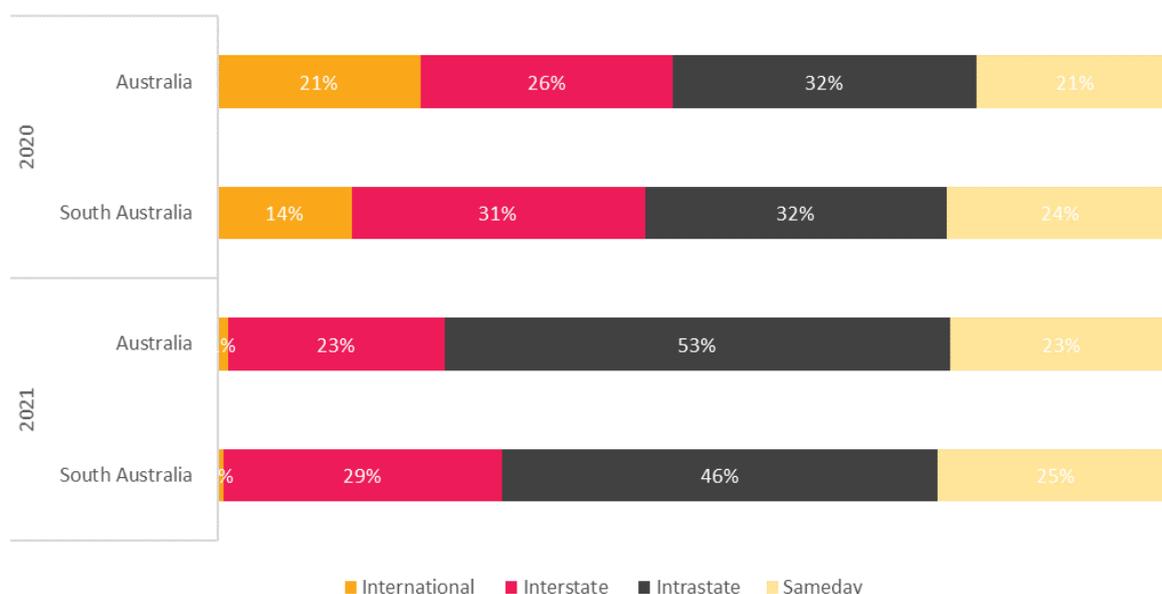
²¹ <<https://tourism.sa.gov.au/media/mq5ljigz/fact-sheet-regional-job-numbers-2019-20-15-july-2021.pdf>>

As evident from the table, most of regional South Australia has bounced back from the initial COVID-related impacts. Regions including the Barossa, Fleurieu Peninsula, Kangaroo Island, Limestone coast and the Yorke Peninsula were performing close to pre-COVID levels in the year ending March 2021, while the Clare Valley region is performing above pre-COVID levels. Moreover, SA regional tourism fared better than regional tourism in the rest of Australia. Being less dependent on international visitors appears to have contributed to regional South Australia being less severely affected by COVID-19 than Adelaide.

Historically, the South Australian tourism sector has been more oriented toward domestic than international travel, as indicated in Figure 2.3.²² In the year ending in June 2020, international tourism accounted for 14 per cent of total tourism expenditure in South Australia, and 21 per cent nationally. Approximately one third of the state’s tourism expenditure was from interstate tourism and a further 32 per cent from intrastate tourism.

In comparison, in 2021, international tourism expenditure accounted for only 1 per cent of total tourism expenditure in the state as well as nationally. Intrastate tourism contributed to 46 per cent of total tourism expenditure in South Australia, while 29 per cent was from interstate tourism. The composition of specific expenditure categories has changed as a result of the restrictions imposed due to the pandemic.

Figure 2.3: Tourism expenditure by category, South Australia and Australia (per cent of total spending), years ending June 2020 and June 2021



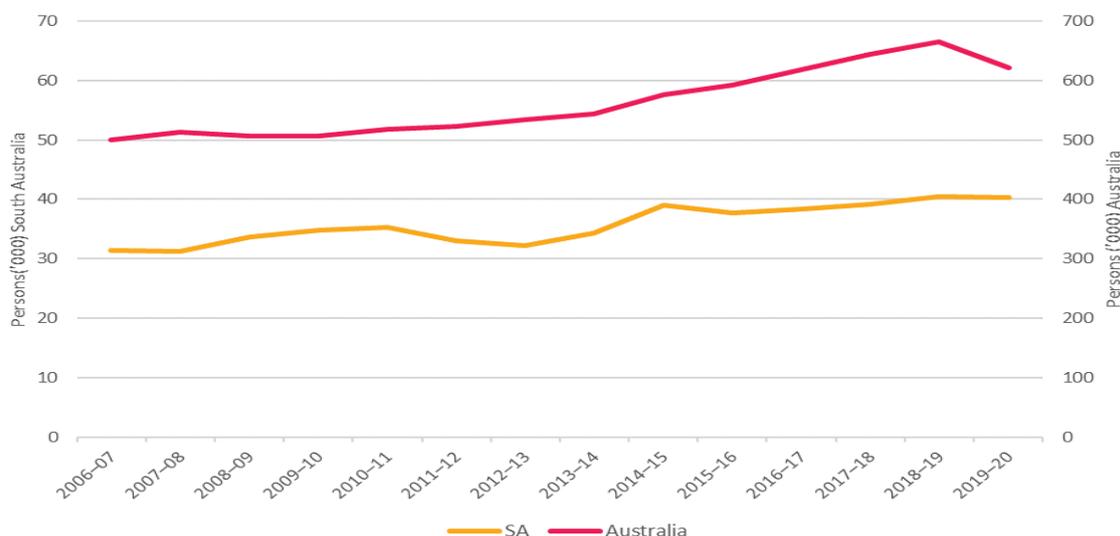
Source: Tourism Research Australia (2021)

In South Australia, direct employment attributed to tourism increased from 31,500 in 2006-07 to 40,400 in 2019-20, accounting for 4.2 and 4.8 per cent of state employment (Figure 2.4) and there was a significant increase in direct tourism employment nationally during the same period, peaking at 665,000 in 2018-19. However, in 2019-20, this figure dropped to 621,000

²² International visitors include those who are visiting from another country for less than 12 months. Same day visitors are domestic residents who travel at least 50 km away from home (round trip), are away from home for at least 4 hours, but do not spend a night away from home as part of their travel. Further information on these definitions is available from the Tourism Research Australia, *TRA Online Training Manual V9.1*, (2019) <<http://traonline.tra.gov.au/webapi/help/manual/TRA%20Online%20Training%20Manual%20SW2.pdf>>.

reflecting the impact of the COVID-19 pandemic. The share of intrastate tourism in South Australia’s tourism expenditure increased by almost 50 per cent over 2020-21.

Figure 2.4: Direct tourism employment, South Australia (left hand axis, persons, thousands) and Australia (right hand axis, persons, thousands), 2006-07 to 2019-20

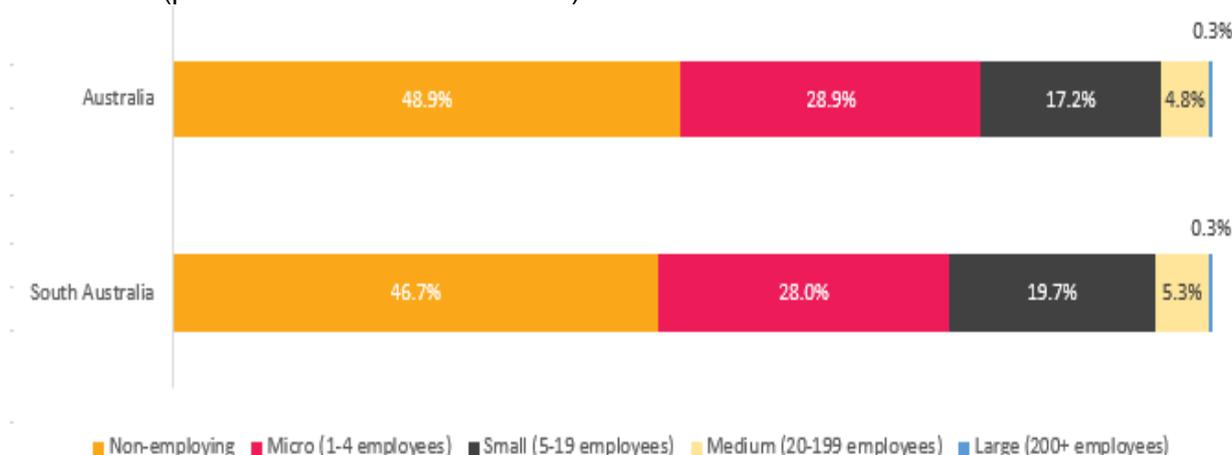


Source: Tourism Research Australia (2020)

2.2 Tourism business characteristics

Figure 2.5 shows the tourism sector in South Australia is predominantly comprised of small businesses, a characteristic that is reflected nationally.²³ In June 2019, nearly 75 per cent of tourism businesses had less than five employees, while less than one percent had more than 200 employees. The small scale of most tourism businesses has implications for their capacity to manage complex regulations and respond to changes in regulations.

Figure 2.5: Size distribution of tourism businesses, Australia and South Australia, June 2019 (per cent of tourism businesses)



Source: Tourism Research Australia, *Tourism Businesses in Australia (TBIA) employment size data tables* <<https://www.tra.gov.au/data-and-research/reports/tourism-businesses-in-australia-june-2014-to-2019/tourism-businesses-in-australia-june-2014-to-2019>>

²³ L.E.K. Consulting, *Tourism investment and regulation review, National long-term tourism strategy, (Final report, 2011).*

Table 2.3 presents the geographic distribution of tourism businesses in South Australia in June 2019. The majority of tourism businesses are concentrated in the Adelaide region, with nearly 13,000 businesses accounting for 70.9 per cent of the state's share.

Table 2.3: Geographic distribution of tourism businesses in South Australia, June 2019

	Number of tourism businesses	Share of tourism businesses (per cent)
Adelaide	12,952	70.9
Adelaide Hills	773	4.2
Barossa	359	2.0
Clare Valley	193	1.1
Eyre Peninsula	585	3.2
Fleurieu Peninsula	836	4.6
Limestone Coast	767	4.2
Murray River, Lakes and Coorong	308	1.7
Riverland	348	1.9
Yorke Peninsula	428	2.3
Flinders Ranges and Outback	511	2.8
Kangaroo Island	115	0.6
Unknown regions in SA	103	0.6
Total South Australia	18,278	100

Source: Tourism Research Australia (TRA), TBIA employment size data tables <<https://www.tra.gov.au/data-and-research/reports/tourism-businesses-in-australia-june-2014-to-2019/tourism-businesses-in-australia-june-2014-to-2019>>

Table 2.4 presents the different types of businesses across the tourism sector in June 2019. The distribution in South Australia generally mirrors that of Australia. Other retail trade has the largest share of tourism businesses in South Australia (44.7 per cent), followed by cafes, restaurants and takeaway food services (23.6 per cent).

Table 2.4: Business types in tourism, South Australia and share of total Australian tourism (per cent), June 2019

	South Australia (%)	Australia (%)
Accommodation	4.5	4.1
Cafes, restaurants and takeaway food services	23.6	23.5
Clubs, hotels, taverns and bars	4.5	2.9
Rail transport	0.0	0.0
Taxi transport	8.8	12.6
Air and space, water and other transport	1.8	1.7
Motor vehicle hiring	0.5	0.6
Travel agency and tour operator services	2.1	2.6
Cultural services	4.0	5.0
Casinos and other gambling services	0.5	0.4
Other sports and recreation services	3.9	4.1
Automotive fuel retailing	1.2	1.3
Other retail trade	44.7	41.2
Total	100	100

Source: Tourism Research Australia, TBIA employment size data tables <<https://www.tra.gov.au/data-and-research/reports/tourism-businesses-in-australia-june-2014-to-2019/tourism-businesses-in-australia-june-2014-to-2019>>

2.3 Conclusion

Tourism is a small but significant part of South Australia's economy, accounting for 3.2 per cent of GSP. The sector predominantly comprises small businesses. In 2019, nearly three in four tourism businesses had less than five employees and less than one percent had more than 200 employees. The small scale of most tourism businesses has implications for their capacity to manage complex regulations and respond to changes in regulations.

While it is clear that the COVID-19 pandemic has had a significant effect on total tourism spending, it is also clear that the tourism sector in regional South Australia is less dependent on international tourism when compared to Adelaide and the rest of the country. This factor has contributed to regional South Australia being less affected by COVID-19 than Adelaide. Most of regional South Australia has recovered from the initial COVID-19 impacts, with some regions performing close to or above pre-COVID levels.

Tourism in South Australia has also changed its composition, with a large rise in the significance of intrastate tourism, which has important implications for the mix of services demanded and the categories in tourism expenditure.

3. South Australian tourism regulation – an overview

The terms of reference for this review ask the Commission to provide advice regarding the effect of the application of regulations on the tourism industry. This chapter identifies the types of businesses within the scope of this review and provides a brief summary of South Australian Government regulations that apply to them, including those delegated to local governments. The requirements of these regulations, and how they are applied, are considered in subsequent chapters. There are other relevant regulations imposed by the Australian Government, that are beyond the scope of this review which have been excluded.

3.1 Defining tourism businesses

Tourism is typically defined from the perspective of the consumer as noted in chapter 1. Consequently, the range of activities potentially undertaken by tourism businesses is broad and variable, meaning that the regulations relevant to each business are specific and varied.

The terms of reference for this review state that the review should focus on nature-based tourism and agritourism and the Commission has adopted the following definitions of these two tourism-industry sub-sectors.

Nature-based tourism comprises leisure trips undertaken largely or solely for the purpose of enjoying natural attractions and engaging in a variety of nature-based activities, including:

- visits to national parks, state parks or marine parks;
- visits to wildlife parks, zoos or aquariums;
- visits to botanical or other public gardens;
- bushwalking or rainforest walks;
- whale or dolphin watching (in the ocean);
- snorkelling; and
- scuba diving.

Agritourism comprises commercial activities at a working agricultural property²⁴ conducted for the enjoyment of visitors that generate additional income for the owner, including:

- outdoor recreation;
- educational experiences;
- entertainment;
- hospitality; and
- on-farm direct sales.

The Commission's focus is on businesses that directly provide those services. That said, these businesses operate within a complex tourism value chain where tourists move into an area, primarily for one or more of the purposes set out above, and consume products or

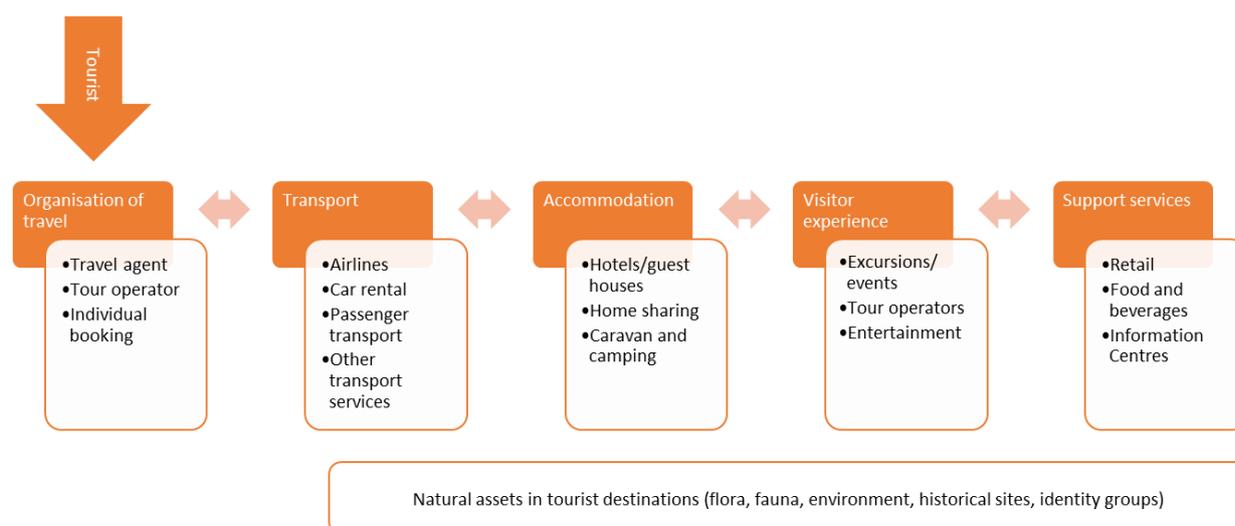
²⁴ This may also include aquaculture and fisheries.

services from a range of complementary businesses and then return home or move to other destinations.

Value chains are defined as ‘the entire sequence of activities or parties that provide or receive value in the form of products or services’.²⁵ In a tourism context, the value chain starts with travel organisations and booking services and includes transportation; accommodation; food and drinks, tourist activities and support services.

Figure 3.1 provides an illustration of a generalised example of a tourism value chain. Within each stage, value is shared by both direct providers and suppliers of goods and services.

Figure 3.1: Example tourism value chain



Source: SAPC²⁶

Note: the activities listed are illustrative only.

3.2 How tourism is regulated

Relatively little regulation is directed solely towards tourism. In general, the regulations focus on the activities conducted by businesses to ensure the goods and services provided are safe and public amenities are protected. Similarly, these same activities can be relevant to businesses in different parts of the tourism value chain. Accordingly, the Commission’s focus is on the key areas of regulation affecting businesses that supply goods and services to nature-based tourism and agritourism customers, with priority being given to issues that have the highest possible impact, given the scope of the review.

The Commission considers that the main regulatory issues faced by tourism businesses primarily relate to:

- land use and planning;
- operating or expanding an established business; and
- obtaining access to public infrastructure.

²⁵ Sandra Averous-Monnelly and Mark Barthel, *How to map tourism value chains and identify key actions* (one Planet, 2019).

²⁶ This example tourism value chain has been tailored to the two sectors by the SAPC but there are many tourism value chains that have been used for tourism project evaluation in the past.

For most businesses, their main involvement with regulators will be in gaining approval to either start, expand or diversify their business. These approvals take many forms and could include planning and development approval, and licences to undertake certain activities or to connect to public infrastructure. Table 3.1 presents two hypothetical examples of the possible South Australian Government and local government licences required to run a nature-based tourism business and an agritourism business.²⁷ These licences are based on a search of the Australian Business Licence and Information Service (ABLIS). The list is simultaneously both excessive and incomplete for most businesses. There are further Australian Government licences and permits required; these are out-of-scope of the review.

Table 3.1: Permits and licence requirements for hypothetical nature-based and agritourism businesses

Agency responsible	Nature-based tourism	Agritourism
Dept for Innovation and Skills	Covid19 business information and support	Covid19 business information and support
Dept for Environment and Water	Marines parks permit	Native Seed/Plant Collection Permit
	Crown Land Occupation Licence	
	Permit to Keep and Sell Protected Animals (Fauna Dealer)	
SA Water	Trade Waste Discharge Permit	Trade Waste Discharge Permit
Consumer and Business Services	Approval of a Responsible Person (Licensed Venues)	Approval of a Responsible Person (Licensed Venues)
	Incorporation of an Association	Incorporation of an Association
	Late Night Trading Code of Practice	Late Night Trading Code of Practice
	Liquor Licensing General Code of Practice	Liquor Licensing General Code of Practice
	On Premises Liquor Licence	On Premises Liquor Licence
	Registration of a Co-operative	Registration of a Co-operative
	Short-Term Liquor Licence	Restaurant and Catering Liquor Licence
		Employee Training Guidelines
		General and Hotel Liquor Licence
		Liquor Production and Sales Licence
		Small Venue Liquor Licence
Dept for Infrastructure and Transport	Land Division Certificate	Land Division Certificate
SafeWork SA	First Aid in the Workplace Code of Practice	First Aid in the Workplace Code of Practice

²⁷ For this example, the hypothetical nature-based tourism business included the following criteria: operating in a national/state park or reserve, outdoor adventure operation and whale watching cruise operation. The hypothetical agritourism business criteria included: operating a restaurant and wine bar and chicken farming (for meat). Note that for illustrative purposes the search included all possible options to obtain a comprehensive list of requirements. Further information is available at <<https://ablis.business.gov.au/>>

Agency responsible	Nature-based tourism	Agritourism
	Hazardous Manual Tasks Code of Practice	Hazardous Manual Tasks Code of Practice
	How to Manage Work Health and Safety Risks Code of Practice	How to Manage Work Health and Safety Risks Code of Practice
	Managing Electrical Risks in the Workplace Code of Practice	Managing Electrical Risks in the Workplace Code of Practice
	Managing Noise and Preventing Hearing Loss at Work Code of Practice	Managing Noise and Preventing Hearing Loss at Work Code of Practice
	Managing the Risk of Falls at Workplaces Code of Practice	Managing the Risk of Falls at Workplaces Code of Practice
	Managing the Risk of Plant in the Workplace	Managing the Risk of Plant in the Workplace
	Managing the Work Environment and Facilities Code of Practice	Managing the Work Environment and Facilities Code of Practice
		Preparation of Safety Data Sheets for Hazardous Chemicals Code of Practice
		Work Health and Safety Consultation, Cooperation and Coordination Code of Practice
SA Health	High Risk Manufactured Water System Registration	High Risk Manufactured Water System Registration
ForestrySA	Permit to Hold an Event or Activity in a Forest Reserve	
Dept of Treasury and Finance	Registration for Payroll Tax	Registration for Payroll Tax
Return to Work SA	Registration of Employers	Registration of Employers
Local government	Use of commercial vehicles on specified streets	Approval to remove trees
	Approval for the Distribution of Printed Materials	Approval for the Distribution of Printed Materials
	Certificate of compliance	Certificate of compliance
	Certificate of occupancy	Certificate of occupancy
	Development Approval	Development Approval
	Permission to Display a Banner on Council Property	Permission to Display a Banner on Council Property
	Permission to Obstruct Streets and Footways	Permission to Obstruct Streets and Footways
	Permission to Place or Display a Moveable Sign	Permission to Place or Display a Moveable Sign
	Permission to Undertake Commercial Activities at the Central Market	Permission to Undertake Commercial Activities at the Central Market
	Permit to Erect a Hoarding or Place a Skip Bin on a Road	Permit to Erect a Hoarding or Place a Skip Bin on a Road
	Public Venues and Facilities	Public Venues and Facilities
		Food Business Notification
		Approval to Place or Display Goods in a Public Place
		Outdoor Dining Permit

Agency responsible	Nature-based tourism	Agritourism
		Permit to Light a Fire on Council Land

Source: ABLIS. <https://ablis.business.gov.au/>

3.2.1 Land use

Businesses seeking to conduct tourism activities need access to land, either to locate and develop a business such as accommodation or to conduct tourism activities.

Where businesses seek access to Crown land, they need approval from the South Australian Government. While the Department for Environment and Water (DEW) is the largest landholder in South Australia, other government departments also have significant land holdings. For example, the Department for Infrastructure and Transport (DIT) is responsible for the care and control of transport corridors and the seabed.

Nature-based tourism often requires access to Crown land. The *Crown Land Management Act 2009* sets out the requirements for disposal, management and conservation of Crown land. Some stakeholders have suggested there is a lack of clarity surrounding what types of development are allowed on Crown land, as well as the process to approach government for access to Crown land or to purchase surplus Crown land.

Under the *National Parks and Wildlife Act 1972*, businesses must obtain a licence from DEW to operate within a national park. Stakeholders have suggested that possible issues might include the length of time to obtain a licence, a possible lack of clarity over what types of activities are eligible for a licence, the proportionality of fees and the length of licences. South Australia also has 14 wilderness protection areas established under the *Wilderness Protection Act 1992* which places the highest level of protection for land under South Australian legislation.²⁸

Tourism businesses seeking to operate in a state forest or marine park face similar requirements under the *Forestry Act 1950* and *Marine Parks Act 2007*.

In general, access to Crown land can take the form of either a licence (for entry or specific activities) or a lease, which grants exclusive rights.

Local governments are often the custodians of dedicated Crown land. This land is governed by the *Local Government Act 1999*.

Crown land suitable for nature-based tourism and agritourism is also often leased for other purposes, with about 40 per cent of South Australia leased as pastoral land. The management, condition and use of pastoral lands is governed by the *Pastoral Land Management and Conservation Act 1989*.

For most tourism business, once they have access to land, they still require development approval of some sort such as for accommodation or a cellar door. Before this can occur, they require a development approval, either from the local government, or in national parks or unincorporated areas, the South Australian Government. The development approval process is set out under the *Planning, Development and Infrastructure Act 2016* and includes referrals to other agencies to ensure that the proposed development complies with other legislative requirements. Planning and building rules that apply to a development approval will depend on the type and location of the development. Planning rules are included in the *Planning and Design Code* as well as the *Design Standards*, while building

²⁸ Department of Environment, Water and Natural Resources, *Wilderness protection in South Australia*, (2018).

rules include the *National Construction Code (NCC)* (which comprises both the *Building Code of Australia (BCA)* and the *Plumbing Code of Australia*) and Ministerial Building Standards.

Two regions that include significant numbers of agritourism and nature-based tourism businesses, Barossa Valley and McLaren Vale, have additional requirements on development under the *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012*. These acts recognise the character and heritage of these regions and restrict inappropriate urban development and urban expansion.

3.2.2 Operating or expanding a tourism business

Businesses providing food services are covered by the *Food Act 2001*. The Act is enabling legislation with regulations that automatically adopt national food standards. Under Standards 3.2.2 and 3.2.3 of the Australia New Zealand Food Standards Code, specific health and hygiene requirements are set out for food businesses. These include responsibilities around the health of food handlers, the hygiene practices of food handlers and other general duties. Food businesses are not licenced in South Australia, but they must be registered and have their operations periodically inspected. SA Health has policy responsibility, with compliance and enforcement being primarily the responsibility of local governments (and SA Health in the case of unincorporated areas).

For paddock-to-plate type experiences involving meat, eggs and seafood, PIRSA has further responsibilities for food safety.

The provision of liquor is covered by the *Liquor Licencing Act 1997* and the *General Code of Practice*, with licensing and compliance the responsibility of Consumer and Business Services (CBS).

Businesses of all types operating in South Australia face requirements under the *Work Health and Safety Act 2012*. Their duties imposed by this Act are the same regardless of the industry concerned. Businesses do not need licences or formal approval and compliance and enforcement is conducted primarily on a complaints basis by SafeWork SA, although significant guidance material is provided to businesses on how to meet their obligations under this Act.

As businesses seek to expand or diversify, they may seek to add additional activities such as hosting events, functions or a restaurant. These activities may be inconsistent with their original planning approval, so a new planning approval may be required.

Transport

Businesses providing transport services to tourists have requirements placed upon them by the *Passenger Transport Act 1994* and the *Passenger Transport Regulations 2009*. This covers both tour providers as well as standalone transport providers including taxis and ridesharing services. DIT is the regulator for this Act and its requirements include accreditation of operators and drivers and requirements for regular vehicle inspections and some limits about the age and kilometres travelled for each vehicle.

Commercial marine transport is regulated by the Australian Government via the *Marine Safety (Domestic Commercial Vessel) National Law (Application) Act 2013*. The *Harbours and Navigation Act 1993* governs the use of South Australian Government-owned marine infrastructure.

The construction of new boating infrastructure such as pontoons and jetties requires approval under the *Planning, Development & Infrastructure Act 2016*, and requires referrals to the Coastal Protection Board under the *Coast Protection Act 1972*.

Accommodation

Short-term visitor accommodation is not directly regulated as an activity in South Australia. Instead, providers must meet requirements under the *Planning, Development and Infrastructure Act 2016* and the BCA. This includes having planning approval for their intended land use, meeting building standards (including accessibility requirements), meeting fire safety requirements and meeting other requirements assessed as part of a development approval.

In terms of operational requirements, accommodation businesses must meet general hygiene principles under the *South Australian Public Health Act 2011*. They also must register infrastructure that might pose a health risk to customers (such as cooling towers in air-conditioning systems, swimming pools and spas) and face inspections. The relevant local government's environmental health officer is responsible for enforcing these requirements; SA Health is responsible where there is no relevant local government. Accommodation businesses also face general requirements of Australian consumer law for which Consumer and Business Services (CBS) has a regulatory role.

Camping is legal in South Australia with the permission of the land holder. Permission for camping on Crown land, with the exception of unalienated Crown land, requires the permission of the agency responsible for the care and control of the land and is subject to the requirements of the Acts set out in section 3.2.1.

3.2.3 Access to public infrastructure

Tourism businesses rely on public infrastructure ranging from roads, mains water and sewerage systems, to jetties and harbours. The processes for accessing this infrastructure are set out by the owning agency's policies and practice, but often access is subject to overarching legislation.

Connections to roads are subject to the *Local Government Act 1999*, *Planning, Development and Infrastructure Act 2017* and in some cases the *Highways Act 1926*. In many cases the creation or alteration of access are subject to approval by the local council. Where a proposal affects a road under the care, control and management of the Commissioner of Highways (CoH), new or altered access points or road junctions are approved by the Commissioner.

Tourism signage on state roads is also subject to DIT's *Road Sign Guidelines* which set out what signage is allowed and the process for having tourism signage installed on state roads. Tourism signage on local roads is the responsibility of local governments.

The processes to connect to SA Water's water and sewerage networks are set out in SA Water's Connections Policy. To discharge trade waste into the sewerage network, a business must apply for trade waste authorisation under the *Water Industry Act 2012* and in some cases will be required to pre-treat the waste on-site before it can be discharged.

Businesses that operate outside of existing networks of water and sewerage infrastructure face separate requirements for providing drinking water and managing and treating waste. The provision of safe drinking water is governed by the *Safe Drinking Water Act 2011*, while

wastewater, human and trade waste are governed from both an environmental and public health perspective by a mix of legislation and their accompanying regulations including the:

- *South Australian Public Health Act 2011;*
- *Environment Protection Act 1993;*
- *Local Government Act 1999;*
- *Water Industry Act 2012; and*
- *Planning, Development and Infrastructure Act 2016.*

3.3 Conclusion

The regulations applying to tourism businesses depend on their business activities and may be broad as shown in two hypothetical examples. The following chapters examine four regulatory areas in greater detail, reflecting the issues identified in consultation and through the Commission's assessment of other evidence that has been gathered. The Commission has used this information to focus on the areas that are specific to nature-based tourism and agritourism.

The Commission's interest in its review of these areas of regulation is not just the design of regulation but also its practice. In its analysis of the impacts of regulation, the Commission will pay attention to its cost to government and to business but also its other economic effects, as explained in chapter 1. There are also questions discussed later in the report about how the tourism sector is consulted when regulation is designed or reviewed.

4. Land use

4.1 Introduction

Most agritourism and nature-based tourism businesses require land use permission to develop, expand or operate their businesses. This may involve getting approval for a different type of service being offered (e.g. developing a cellar door operation at a vineyard) or getting access to national parks to operate a tour. For businesses operating on private land, development approvals are governed by the planning system. Where the land in question is controlled by the state (e.g. national parks, pastoral leases or other Crown land), additional approvals are required to operate on or have access to the land in question.

Stakeholders identified several common issues related to land use including:

- the time required to process applications;
- the willingness of regulators to work with business;
- getting clear feedback on proposals; and
- a lack of coordination between regulators, and within agencies.

The chapter covers several specific areas of land regulation. Section 4.2 addresses Crown lands, describing the current system for accessing Crown lands and issues raised by stakeholders. Section 4.3 covers national parks and notes some issues arising from zoning of some parts of national parks and forest reserves. The remainder of the chapter addresses coastal development and pastoral leases and provides a brief conclusion.

4.2 Crown lands

Land in South Australia is identified by a land title reference. Private land is held under a Certificate of Title which certifies that the person named on the title document is the legal owner. Private land is administered under the *Real Property Act 1886*. Crown land has a different land title reference to private land and may be listed as a Crown Record or a Crown Lease and is administered under the *Crown Land Management Act 2009*. Approximately one fifth of South Australia is classified by the Department of Environment and Water (DEW) as Crown land. It comprises approximately 26 million hectares.²⁹ This excludes the area of Crown land under pastoral lease, a further 41 million hectares (see Table 4.1).

Crown land may be:

- sold if surplus to government requirements;
- reserved for national parks to protect the natural environment (discussed in more detail in section 4.3);
- licenced for a particular activity or use such as conservation, grazing, agriculture, jetties and pontoons, boat ramps, coastal protection works, houseboat mooring, retaining walls and beekeeping;
- leased for a range of purposes that includes agriculture, conservation, irrigation and other activities;

²⁹ <<https://www.environment.sa.gov.au/topics/crown-land/south-australias-crown-land>>.

- dedicated to a custodian for a specific purpose such as community parks, state heritage sites, town squares, community halls, coastal lands, waterway corridors, sporting grounds, war memorials, cemeteries, racetracks, showgrounds, caravan parks, camping areas, traveling stock routes, channel reserves, rest areas, walking tracks and community and government infrastructure and facilities; and
- unalienated (all other public land).

While much of the land suitable for nature-based tourism sits within the management and control of the Department for Environment and Water (DEW), there are also parcels of Crown land that are under the management and control of other agencies such as local governments, the Department of Infrastructure and Transport (DIT) for rail and road corridors and the Department of Primary Industries and Regions (PIRSA) for pastoral leases.

Table 4.1 Indicative Areas of Crown lands in South Australia

Types of Crown land	Area (Ha)	Share of state (per cent)
Crown land administered by DEW through the Crown Lands Program ³⁰	4,744,087	4.8
National parks	21,293,062	21.7
Total of above categories of Crown land	26,037,149	26.5
Pastoral lease land under control of PIRSA	41,274,966	42.0

Source: *Crown Lands Program, Department for Environment and Water*

4.2.1 Crown Lands Program

Administration of Crown land by DEW through its Crown Lands Program includes the following activities:

- authorising the use, access and occupation of Crown land;
- ensuring activities and developments on Crown land are compliant;
- assisting government agencies, local councils and property professionals;
- issuing tenure over Crown land such as licences, leases, easements and dedications; and
- selling Crown land.

The program is managed in the context of the objects and principles of the *Crown Land Management Act 2009*.

The objects of the Act are to:

- provide administrative procedures for the efficient handling of Crown land transactions;
- encourage fair and transparent decision-making in the allocation of Crown land; and
- provide a system for the management of Crown land that achieves a balance between the social, economic and environmental needs of the community.

³⁰ Includes the area of Crown Land under the management and control of other agencies and local government, and areas of unalienated land.

The principles of Crown land management as outlined in in the Act ensure:

- the principles of ecologically sustainable land management are observed in the management and administration of Crown land;
- the objects and objectives of other relevant legislation are given due weight; and
- Crown land is occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the state, consistent with the above principles.

4.2.2 Crown land assessments

When assessing the allocation of Crown land, consideration must be given to the objects and principles of the *Crown Land Management Act 2009*. The department will also consider other factors such as:

- how the proposal may align or interact with state economic priorities and other policies and guidelines;
- the impacts of current or previous uses (biodiversity and contamination);
- the status of native title over the land; and
- its future direction for a site, existing interests and development requirements.

Box 4.1 lists legislation that may also apply when dealing with Crown Land³¹.

Box 4.1 Other legislation relevant to Crown land

- | | |
|--|---|
| • <i>Crown Rates and Taxes Recovery Act 1945</i> | • <i>Native Vegetation Act 1991</i> |
| • <i>Land for Public Purposes Acquisition Act 1914</i> | • <i>Environmental Protection Act 1993</i> |
| • <i>Real Property Act 1886</i> | • <i>Pastoral Land Management and Conservation Act 1989</i> |
| • <i>Conveyancers Act 1994</i> | • <i>Coastal Protection Act 1972</i> |
| • <i>Planning Development and Infrastructure Act 2016</i> | • <i>National Parks and Wildlife Act 1972</i> |
| • <i>Local Government Act 1999</i> | • <i>Heritage Places Act 1993</i> |
| • <i>Native Title Act 1993 (Cth)</i> | • <i>River Murray Act 2003</i> |
| • <i>Aboriginal Heritage Act 1988</i> | • <i>Irrigation Act 2009</i> |
| • <i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i> | • <i>Marine Parks Act 2007</i> |
| • <i>Landscape South Australia Act 2019</i> | • <i>Renmark Irrigation Trust Act 2009</i> ³² |
| | • <i>Retail and Commercial Leases Act 1995</i> |

³¹ <<https://www.environment.sa.gov.au/topics/crown-land/south-australias-crown-land>> and update provided by DEW in its submission to the review.

³² <<https://www.environment.sa.gov.au/topics/crown-land/south-australias-crown-land/managing-crown-land>>.

4.2.3. Accessing Crown lands for a tourism proposal.

Crown Land is generally leased from the Government for a specified period but on occasion it can be purchased freehold. There are generally three ways to gain access to Crown land for a tourism proposal:

- seek access through application to the Crown lands program pursuant to the *Crown Land Management Act 2009*;
- seek access as part of a government-initiated process or program (such as the Nature-based Tourism Co-investment Fund). The formal requirements for gaining access to the land are unchanged; or
- seek access through the unsolicited bid process (These requests can be made at any time and are not specific to any program or call for tender.³³ The process would be managed by the agency responsible for care and control of the land, or the Department of Treasury and Finance if above the \$3 million threshold for infrastructure projects, or \$1 million for non-infrastructure programs.³⁴).

Once a tourism business has access to land, it still requires development approval, either from local government, or, in the case of national parks or unincorporated areas, from the state government. The development approval process is set out under the *Planning, Development and Infrastructure Act 2016*³⁵ and potentially includes referrals to other agencies to ensure that the proposed development complies with other legislative requirements. This review will not consider these parts of the approval process other than in the context of national park management plans in section 4.3.2. The Commission's concurrent Development Referrals Regulatory Review has considered the referral process.

4.2.4 Local councils and Crown land

While Crown Land is owned by the state, local councils are sometimes the custodians of parcels of Crown land and may have them included on their community land registers as required under the *Local Government Act 1999*³⁶. Each parcel of Crown land that is under the care and control of a council needs a Community Land Management Plan (CLMP) that outlines suitable and agreed uses for each parcel of land (See Box 4.2). The Commission understands that plans are not often updated as the process is time consuming owing to the amount of community consultation required.

Box 4.2 World End Reserve

The Regional Council of Goyder has provided the Commission with an example of this in relation to the care and control of World's End Reserve. The CLMP states the dedication of land is for recreation purposes pursuant to the environmental benefit and is categorised by the council as general parkland.

To access this land, the business would need to approach the council and, if the specified activity or development fitted within the CLMP, the council has the authority to enter into a

³³ <<https://www.environment.sa.gov.au/get-involved/unsolicited-proposals>>

³⁴ <https://www.treasury.sa.gov.au/__data/assets/ ifpdf_file/0006/36816/Guidelines-for-Assessment-of-Unsolicited-Proposals-September-2018.pdf>

³⁵ *Planning, Development and Infrastructure Act 2016*.

³⁶ *Local Government Act 1999*.

lease agreement, permit or some other legal arrangement with the proponent for access to the land. That said, all other planning requirements would still need to be met.

If the proposed activity or development does not fit within the scope of the CLMP for the Crown land being pursued, a change to the CLMP is required, with approval from the council and the Minister for Local Government. Finally, the change of use of this Crown land has to be approved by the Minister for Environment and Water. This can be a lengthy process. In addition, the Commission has been advised that the proponent is normally required to provide a detailed plan and a significant amount of supporting information to have the proposal assessed, which can be expensive and time consuming.

4.2.5 Issues identified regarding access to Crown land for nature-based and agritourism business

The Commission's consultations with stakeholder groups and business operators identified several key issues relating to accessing Crown lands.

The lack of urgency in the approval process was regularly raised by businesses. The timeliness of responses was also raised by the Caravan Parks Association of SA (SA Parks).

In some cases, a park (or council) may wish to acquire some Crown land in order to secure the land before investing heavily into the business infrastructure. The acquisition of Crown land can be a time lengthy and frustrating process. (SA Parks, DR3, p.2)

Box 4.3 shows how difficult the experience can be using the example of Martindale Hall.

Box 4.3 Martindale Hall

In 2015, following an unsuccessful expression of interest process, an unsolicited bid was put to the South Australian Government, State Co-ordinator General, to obtain access to Martindale Hall conservation park, with the aim of upgrading the Hall and building complementary accommodation and hotel facilities on the park. In response to requests for information, the developers spent considerable time and funds to have architectural plans drawn with input from professional heritage architects and hosted several community consultation sessions with the understanding that the proposal was an acceptable use of the property. The issue was complicated by unresolved matters related to the charitable trust associated with the property. The proponents worked with the department and the community for over 18 months and indicated that they were never given a definitive timeframe as to when the bid would be either accepted or rejected by the Government. The proponent has abandoned the proposal, and there are still ongoing issues regarding acceptable uses of Martindale Hall which the Government is attempting to address through legislative change.

The Commission's consultations with businesses made it clear that an important issue from their perspective is getting a quick and clear answer on the proposed development. In addition, clear feedback on why the proposal was not acceptable is essential as it affects businesses' willingness to develop similar proposal in the future.

DEW advised the Commission that there have been improvements made in the last two years to reduce timeframes for assessing unsolicited proposals. DEW's process now aligns to that of the Department of Treasury and Finance. and includes engagement of proponents

pre application, increased scrutiny in stage 1 to determine early 'no's' and avoiding protracted stage 2 assessments. Box 4.4 shows stages and timeframes adopted by DEW.

Box 4.4 DEW timeframes for processing unsolicited proposals

- Acknowledgement of receipt should be within 2 business days.
- Stage 1 – Initial assessment – 6 weeks, provided sufficient information is available.
- Stage 2 - Exclusive negotiation and detailed proposal – up to 12 weeks, with longer timeframes noted/reported to the Unsolicited Proposal Committee. This timeframe may vary significantly depending on the complexity of the proposal. For example, if DEW is waiting for additional information from the proponent or requires valuation advice from the Office of the Valuer General, the time is likely to be extended.
- Stage 3 – Contract negotiation – up to 12 weeks, with longer timeframes noted/reported to the Unsolicited Proposal Committee. This timeframe will vary depending on how quickly parties agree to commercial terms (e.g. a lease) and complexities of the site.

Dealing with multiple agencies or external stakeholder parties can also complicate the process for businesses as the timeframes for decisions are often not coordinated between parties and, as a result, can lengthen the approval process. For example, for Crown land under the care and control of local councils, businesses may require approval from both the council and DEW and be required to facilitate a public consultation process.

DEW have advised the Commission they make efforts to streamline processes where multi-agency approvals are required. For example, the allocation of 10-year shark cage diving licences for tourism operators was conducted via an expression of interest process (solicited proposals). The Department worked closely with PIRSA and the Commonwealth Government to ensure that all necessary approvals were issued to the successful applicants through a single process.

The length of Crown land leases has been an issue for businesses that want to expand or diversify as they need the security of either freehold ownership or a long-term lease to arrange finance. The Commission's consultation with businesses has indicated that recent changes by DEW have helped to address the issue of longer-term leases.

The term of a lease is negotiated considering a number of factors, including the level of investment offered by interested parties, the nature and complexities of the site and policy and legislation. While the standard term is 15 years (on a rolling 5 + 5 + 5 basis), longer leases have been granted following negotiated agreement. The Commission notes the importance for DEW to obtain a deep understanding of commercial parameters when reconciling them with the department's broader objectives, and that experience with the Nature-based Tourism Co-investment Fund should be instructive in this respect.

4.3 Access to national park land

For a nature-based tourism business, access to national parks is key to delivering their services as a large portion of consumer interests relate to experiencing nature in national parks. Access is required for commercial tours, bushwalking experiences and accommodation experiences.

The state government has legislative responsibility through the *National Parks and Wildlife Act 1972* (NPW Act) for managing the South Australian park system. It is also promoting the development of activities in national parks to build the conservation capacity of parks and boost state and local economies.

The \$5 million Nature Based Tourism Co-investment Fund announced in March 2020, as part of the \$130 million Parks 2025 investment strategy, is particularly relevant to this review. It is described as a pilot grant program designed to assist eligible businesses and organisations to deliver sustainable, quality tourism experiences in South Australia. The Fund does not have a closing date and remains open until all funds have been exhausted. The Commission has been advised that there has been a high level of enquiries for the fund but as at September 2021, only three proposals have been approved. There is no public information regarding the number of proposals under consideration.

4.3.1 Access to national parks

Access to national parks is under the management and control of DEW. This land includes all reserves proclaimed under the *National Parks and Wildlife Act 1972* (NPW Act), *the Wilderness Protection Act 1992* and conservation reserves dedicated to the Minister under the *Crown Land Management Act 2009*.

Commercial activities that currently take place in SA's national parks include:

- coach and bus tours;
- boating activities;
- bushwalking;
- camping;
- four-wheel driving;
- observing wildlife (including bird watching);
- fishing;
- rock-climbing and abseiling; and
- cycling.

4.3.2 National park management plans

Section 38 of the NPW Act requires a plan of management for national parks. National park management plans set out the Minister's directions for the future management of a park. They are strategic documents that provide broad scope for proponents to identify what activities can be undertaken, based on the purpose and values of the park. In current management plans, there is considerable scope for the types of commercial activities listed in section 4.3.1 to occur; however, for development activities such as tourism accommodation a specific reference would need to be added to the management plan.

DEW manages a process for amending park management plans if required to facilitate new directions in management, whether they be for tourism, conservation or for other reasons. This process includes a minimum three-month consultation process as prescribed in the NPW Act. The consultation process can be seen as obtaining a social licence for activities in the park and understanding community and stakeholder views. Community engagement is

tailored to the park and stakeholder interest, for example, pre-release engagement of specific issues, or targeted engagement processes during the statutory consultation period. The Department has advised the Commission that the process for amending management plans as set out in the legislation can take at least six months to complete (including the mandatory consultation period).

Prior to the Nature Based Tourism Co-investment Fund opening in May 2020, DEW had not undertaken any proactive amendments to management plans. Amendments were initiated when there was certainty that a proposed development would be forthcoming. The approach necessarily meant a proponent experienced a sequential approval process, with the consequential delay. In such circumstances there is scope to make the approval process more streamlined and to reduce the uncertainty in the regulatory environment. A closer alignment of the department's park management regulatory regime with those areas of sensible and sensitive nature-based tourism is a logical way forward.

The department has advised that it has now completed a broad assessment of its national parks and reserves state-wide, to identify those parks most likely to attract applications to the Fund and where the envisaged nature-based tourism activities are not currently provided for in the relevant management plans. As a result of this assessment, the department considers it is better prepared to manage the required amendment process should eligible applications be received. DEW has advised that some of the prioritised parks are also part of the Government's \$130 Parks 2025 investment strategy³⁷ improvement program.

The management plans currently under review are summarised in Table 4.2.

Table 4.2 National park management plans in preparation or being amended

Management plan	What is proposed	Status
Arkaroola Protection Area	No publicly available information	Final plan in preparation
Belair National Park	Changes to land use in the former golf course precinct, including creation of a tourist accommodation/development zone (encompassing the existing caravan park)	Final amendment in preparation – consultation closed 4 May 2021
Dhilba Guranda-Innes National Park and York Peninsula Parks	No publicly available information	Draft plan in preparation
Kati Thanda-Lake Eyre National Park	No publicly available information	Draft plan in preparation
Lawari Conservation Park	No publicly available information	Draft plan in preparation
Mount Remarkable National Park	<ul style="list-style-type: none"> Broadening areas where cycling tracks can be developed Making allowance for guided 4WD tours Providing principles for ecologically sustainable tourism 	Final amendment in preparation – consultation closed 30 September 2021

³⁷ <<https://www.parks.sa.gov.au/park-management/improving-sa-national-parks>>.

Management plan	What is proposed	Status
	accommodation developments (in two tourism accommodation areas)	
Parks of the Glenthorne National Park-Ityamaiitpinna Yarta precinct	Replacing existing management plans and plan amendments	Draft plan released for consultation – 24 September 2021
Parks of Western and Central Kangaroo Island (include 15 parks)	Providing for new visitor facilities in visitor use zones. Types of accommodation anticipated include RV sites, traditional camping, permanent tents, cabins, pods, cottages (heritage) & other small-scale structures with a temporary or short-term arrangement, for visitors on a commercial basis.	Draft plan in preparation – draft plan released for consultation 17 September 2021
Witjira National Park	No publicly available information	Final plan in preparation

Source: <<https://www.environment.sa.gov.au/topics/park-management/state-wide-park-strategies/plans-in-preparation>> and <<https://yoursay.sa.gov.au>>

The amended management plans have the potential to facilitate development application pathways under the new planning system. The new Planning and Design Code designates all national parks as Conservation Zones. This zoning provides a pathway for tourist development in national parks where the park management plan specifically identifies the development as an 'envisaged land use'. In the case of a tourism accommodation development, it will be performance assessed on its merits against the Code policies relevant to tourism accommodation if it is specifically referenced as a designated activity in the park management plan or will occur in a Visitor Experience subzone.

The Commission acknowledges that DEW proactively reviewing management plans to identify where amendments are required is an important first step to minimising the time required to develop nature-based tourism businesses. The Commission notes that Table 4.2 shows that progress in reviewing plans has been limited, given that the Co-investment Fund has been in place since March 2020.

Specific issues identified during this review with regard to accessing national parks are discussed below in section 4.3.5. Given the recent implementation of the planning reforms including the Planning and Design Code, there is insufficient experience to assess the extent that the new development approval processes will address concerns expressed about the overall process for development in a national park.

4.3.3 Co-management of national parks with traditional owners

In accordance with the NPW Act, the Minister for Environment and Water (the Minister) has control of all reserves which are managed by the Director of National Parks and Wildlife (the Director), other than co-managed parks with a co-management board (board) which are managed by the board in partnership with the Minister.

A co-managed park is normally created as part of the benefits package agreed by the state and the native title holders during the negotiation of native title settlement. A co-

management agreement is the formalisation of that commitment between the state and the native title holders. The agreements reflect specific natural and cultural aspects of the park and Aboriginal community, and adhere to four principles:

- continued cultural, spiritual and traditional use of the park by the relevant Aboriginal group;
- continued enjoyment of the park by members of the public;
- preservation and protection of Aboriginal sites, features, objects and structures of spiritual or cultural significance; and
- protection of natural resources, wildlife, vegetation and environmental features of the park.

The NPW Act has a three-tiered framework for the co-management of Aboriginal-owned or government-held national parks and conservation parks:

- *Aboriginal-owned parks* – Aboriginal-owned national parks and conservation parks are under the control of, and managed by, co-management boards. A co-management board for an Aboriginal-owned park has a majority of members from the relevant Aboriginal group and is chaired by a person nominated by the Aboriginal owners. There are currently two Aboriginal owned parks.
- *Crown-owned parks managed by a co-management board* – Co-management boards may be established for Crown-owned national parks and conservation parks in which case the board has management control of the park. Membership of a co-management board for a Crown-owned park is determined by agreement between the Minister and the traditional owners. There are currently six Crown-owned parks managed by co-management boards:
- *Crown-owned parks with a co-management advisory structure* – an advisory structure may be established for a Crown-owned national park or conservation park to provide management advice to the Minister and the Director. The functions and membership structure of an advisory committee are determined by agreement between the Minister and the relevant Aboriginal group. There are currently three Crown-owned parks with advisory committees:

4.3.4 National park licences

In addition to gaining access to national parks for either nature-based or agritourism operations, pursuant to regulation 36(b) of the *National Parks and Wildlife (National Parks) Regulations 2016*, anyone conducting tours in South Australia's national parks for fee or reward requires a Commercial Tour Operator (CTO) Licence. The requirements for CTO licences are set out in DEW's Commercial Tour Operator Licencing and Permitting Policy. The policy applies to both tour activities conducted in parks or reserves, as well as marine mammal interactions that require an approval under the *National Parks and Wildlife (Protected Animals – Marine Mammals) Regulations 2010*.

In general, CTO licences are issued through a non-competitive process, with no restriction on the number of non-competitive licences or permits; however, some CTO licences are issued through a competitive allocation process when unrestricted commercial tourism activity presents an unacceptable risk to a site or species. One example is licensing shark-

cage diving, which is limited to three operators (state-wide) and has restrictions on the number of days they can operate, to minimise their impact on shark populations.

CTO licences are subject to the conditions outlined in the CTO Licence Terms and Conditions³⁸. These include general conditions for all permitted activities, such as walking tours only able to be conducted on designated walking trails, but also list activities that are permitted within each park and any special conditions. DEW can impose additional conditions and may change conditions at any time to address risks, in consultation with affected businesses.

CTO licences can be applied for at any point in time and can be issued for a period ranging from two months to ten years. Generally, a one-year licence or permit will be issued unless businesses demonstrate they have the appropriate accreditation. Three-year licences can be issued if the operator is accredited under one or more of:

- Australian Tourism Accreditation Program;
- Nature Based Eco Certification Program;
- Climate Action Certification Program; and/or
- Green Globe Company Standard.

A five-year licence or permit can be issued to businesses that are accredited under one or more of the:

- Advanced Ecotourism Eco Certification Program;
- Ecotourism Eco Certification Program; and
- Respecting our Culture.

Licences longer than five years in length (up to a maximum of 10 years) can only be granted through a competitively allocated process and where the business meets the requirements for a five-year licence or permit.

When applying for a CTO licence, operators are required to:

- detail their intended activities and location (including an assessment of risks when required);
- provide evidence of approved accreditation where required;
- demonstrate compliance with the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*;
- declare any offences committed, including convictions and any current proceedings under relevant Commonwealth, state or territory law; and
- demonstrate compliance with transport safety regulations relevant to the proposed activities.

Operators are also expected to hold and maintain public liability insurance for a minimum of \$10 million throughout the term of their permit.

³⁸ <<https://d35s2bz2fw949f.cloudfront.net/parks/docs/Commercial-Tour-Operator-Licence-Terms-Conditions.pdf?mtime=20210401090711&focal=none>>.

CTO holders are charged a licence fee as well as a visitor-use fee. Fees for licences are based on the cost of administration; however, competitively allocated licences may be influenced by market valuation in addition to the cost of administration.

DEW has advised that is currently reviewing its invoicing processes for CTOs, to ensure consistent and efficient service provision while a broader licensing review is undertaken. The objective is to move to a fully digital system for licensing and fee payments, which may overcome issues raised by some CTO holders.

4.3.5 Issues identified regarding national park access for nature based and agritourism business

The Commission met with several businesses either operating, or interested in developing, nature-based tourism businesses that had concerns with the process to get access to national parks. Businesses were reluctant to provide specific feedback on DEW processes, especially where they had active proposals under consideration or ongoing business relationships to manage. DEW was asked to identify businesses that the Commission could consult with regarding the agency's processes, but these were only provided late in the process of finalising this report. This has limited the information available to the Commission.

Business operators and regulators advised the Commission that it is relatively straightforward to apply for licences for nature-based and agritourism activities in national parks for existing commercial activities. However, it can be a much more difficult process for new proposals that require infrastructure.

The timeframe for making decisions was identified as a common issue for access to national parks. A decision requiring changes to park management plans is perceived as taking a minimum of six months, and more likely in excess of 12 months. The long timeframe is a significant hurdle for most businesses.

Businesses have also raised concerns at the level of detail they are required to provide to both the department and to the general public through public consultation. There was some concern that the level of information required to be disclosed in the public consultation process would negatively affect a business' competitive advantage.

Stakeholders have also raised concerns that developing infrastructure within a national park is not as financially viable as doing the same development outside the park. This relates to the land being government owned and, as a result, the potential for capital appreciation on the asset is limited. The tenure arrangements can also limit their ability to obtain financing for the proposed development.

The Commission has also been advised that proposing changes in co-managed parks can be a difficult process, as potential operators need to consult with both the Government and the co-management board who may have different views on the proposed activities or infrastructure. This is a process that often takes a long time and therefore can be a deterrent for private operators. The Commission has been advised during its roundtable sessions that traditional owners are not consulted early enough in the process of developing businesses and activities in national parks.

With respect to commercial tour operators, concerns were raised regarding Respecting our Culture accreditation. This was originally intended for Aboriginal operators only but is now available to anyone with some partnership with an Aboriginal group. The Commission investigated the concern and found it related to Commonwealth accreditation and therefore is not in-scope for this review.

4.3.6. Issues identified regarding change in land use

Under the new planning system, every part of South Australia is zoned to guide the types of developments and activities that are appropriate for the land in that zone. All zones are listed within the state government's Planning and Design Code, and as noted in section 4.3.2 above all national parks are designated conservation zones. The Planning and Design Code specifies the development approval pathways in conservation zones.

The Commission has been informed by some stakeholders that in evaluating proposals put forward for land use that seem suitable for nature-based and agritourism businesses, it seems the zoning for some land in national parks or forest reserves is inappropriate and therefore the developments cannot gain approval until the zoning issues have been resolved. For example, there are sections of forest with existing buildings and commercial logging that have been zoned 'conservation' and not 'commercial or recreation'. ForestrySA are now pursuing a time-consuming process to have the issue rectified.

4.4 Coastal development

Proposals for new development or substantial changes to land use on coastal land are referred to the Coast Protection Board. The Coast Protection Board was formed in 1972 under the *Coast Protection Act 1972*. The functions (as stated in the Act) are to:

- protect the coast from erosion, damage, deterioration, pollution and misuse;
- restore any part of the coast that has been subjected to erosion, damage, deterioration, pollution or misuse;
- develop any part of the coast aesthetically, or to improve it for those who use and enjoy it;
- manage, maintain and develop those coast facilities that the Board is responsible for;
- report to the Minister where required; and
- carry out, or be involved in, research into the protection, restoration or development of the coast.³⁹

A guide to coastal development assessment and planning was produced in 2013 by DEW. Elements of this guide include:

- Specific policy provisions to facilitate tourism development were adopted by the Board in 2016.
- The policy supports environmentally sustainable public access to the coast, balancing visitation with conservation.
- DEW supports the Board in providing advice and support to councils, developers and the community.

The Coastal Protection Board has two key strategic considerations when considering tourism development to coastal areas:

³⁹ <<https://www.environment.sa.gov.au/topics/coasts/coast-protection-board>>.

- It is not impacted by foreseeable coastal hazards, at a cost to operators, community and government; and
- It does not have a negative impact on the values that draw tourism and investment to the South Australian coast – land and seascapes, environmental values, and atmosphere.

4.4.1. Issues identified regarding coastal protection

As illustrated in chapter 2, intra and inter-state travel have increased significantly as a result of the COVID-19 travel restrictions. Several coastal regions have expressed concerns regarding the pressure that increased visitation has put on local facilities and services available, such as designated campgrounds, bins and rubbish removal, carparks and amenities blocks. Many of these essential services are on coastal land where there may be a significant risk of the natural landscape being damaged because the existing infrastructure is incapable of coping with the increase in numbers.

Eyes on Eyre, an initiative between the Eyre Peninsula Landscape Board, Regional Development Australia Eyre Peninsula, DEW and the Eyre Peninsula Local Government Association (LGA), in conjunction with coastal councils, is attempting to address some of these issues for that region. Together they have achieved a number of outcomes to try and minimise environmental impacts and at the same time improve visitor amenity. Outcomes achieved include producing a Coastal Vehicle Access Decision Making Framework (completed in 2017). The framework guides environmental, social and economic values for decision-making along the coast. It also provides clear recommendations for councils and other organisations who manage the coast through a suite of management options and consistent guidelines.^[1] The Commission commends this initiative.

The Commission has heard from businesses, local government and the Coast Protection Board and concludes there is a lack of clarity about who has responsibility for each of the processes involved with resolving coastal protection development approval issues. While it is assumed the Coast Protection Board owns the land and therefore has care and control of it regarding developments, the Board has advised the Commission that this is rarely the case. Most coastal land is either privately owned, in the ownership of another Minister or agency or Crown land which is administered by DEW, dedicated to councils for various purposes or subject to lease or licence. This creates confusion regarding the process to gain approvals to develop coastal infrastructure and in determining responsibility for maintenance and management of coastal land for tourism purposes.

4.5 Pastoral leases

The management, condition and use of pastoral lands is provided for in the *Pastoral Land Management and Conservation Act 1989*. In addition to livestock, many of the leaseholders have diversified their businesses to have some level of tourism on their properties. A review of this Act was conducted in 2019, led by the state government with PIRSA the lead agency. It has been acknowledged in this tourism review that the pastoral rangelands contribute to South Australia's economy and pastoral industry, are important for Aboriginal culture and

^[1] <<https://www.landscape.sa.gov.au/ep/Stewardship-priorities/coasts-and-seas/eyes-on-eyre>>.

ecological biodiversity, and support local communities through regional employment and tourism.⁴⁰

4.5.1 Issues identified regarding pastoral leases.

The following issues were raised in the consultation process:

- Apart from a healthy ecosystem, the priorities identified by pastoralists were financial viability, productivity and the ability to diversify.
- The major priority identified by the public was access for tourism purposes.
- There was overwhelming support for mixed use of the land providing that land condition and ecology is preserved. The mixed use mainly focused on tourism.

There are some concerns that the increase in visitor numbers on pastoral lands is having detrimental effects on the environment as well as an impact on the land holders who manage the infrastructure required to support the increase in visitors. The Outback Communities Authority has developed a consumer awareness campaign 'Aussie Travel Code' that is being widely promoted to educate visitors on sustainable tourism practices; however, the Authority advises that it has insufficient resources provided to regulate and maintain services in this region.⁴¹

4.6 Conclusion

Differences between what businesses want to develop on public land and what regulators see as appropriate uses of that land are not unexpected. This is particularly true for national parks which are protected areas and are essential spaces to enjoy nature in all its forms, as well as providing a wide range of environmental, social and economic benefits to people and communities.⁴²

At the same time, the Commission notes the South Australian Government has expressed interest in expanding nature-based tourism through the introduction of the Nature-Based Tourism Co-investment Fund.⁴³ As noted earlier in chapter 2, the tourism sector in SA is dominated by small businesses that often do not have the time or resources to investigate complex regulations. Hence, to achieve the objectives of the Co-investment Fund, it is important to minimise the entry costs for new businesses by minimising the time and effort required to understand and comply with regulations governing their activities, and to provide certainty as to whether a proposed development may proceed.

DEW does provide a comprehensive checklist for tenure and access requirements and a specific guide outlining the process involved with accessing Crown land; however, businesses have advised that the process is complex and requires several approval stages, often involving several agencies and regulators. Based on the evidence so far, including the advice and experience of proponents, the Commission concludes the guidance would

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<https://pir.sa.gov.au/primary_industry/pastoral_leases_in_sa/pastoral_act_review#:~:text=Following%20the%20transfer%20of%20the,State%20Government%20in%20August%202019.&text=The%20management%2C%20condition%20and%20use,provided%20for%20in%20the%20Act>.

⁴¹

<https://pir.sa.gov.au/__data/assets/pdf_file/0003/360570/KPPM_PLA_Review_Consultation_Summary_Report_FINAL_updated_25-05-20-converted_2.pdf>.

⁴² <<https://www.parks.sa.gov.au/understanding-parks/conservation>>.

⁴³ <<https://coinvest.parks.sa.gov.au/>>.

benefit from greater clarity and simplicity, and from testing the guidance with business organisations and other potential proponents (see recommendations in chapter 8).

In addition, the Commission has concluded there are areas of complexity with the plethora of different Crown land management regimes and the lack of arrangements for addressing 'adjacency' problems where a proponent wants to make use of contiguous Crown land that operates under different administration and rules. Examples were provided to the Commission of confusion as to who owned the land (DEW, DIT or local government), compared with the authorities that were in place to oversee suitable uses of the land such as the Coastal Protection Board. The current arrangements impose regulatory uncertainty and unnecessary complexity, high entry costs and externalities where demand for the services of a limited natural resource is high.

Recommendation 4.1

To develop greater simplicity in the regulatory structures, reduce cost, risk and time in approval processes, the Commission recommends that the South Australian Government establish a cross-government taskforce led by the Department for Environment and Water (DEW), as the custodian for most Crown land used for tourism purposes, be established to:

- resolve the management and maintenance issues of the Crown land experiencing increased tourism visitations (including Crown land under pastoral lease); and
- establish a framework for addressing 'adjacency' problems where a proponent wants to make use of contiguous Crown land that operates under different administrations and rules.

5. Business operations and expansion

5.1 Introduction

This chapter considers regulatory issues related to business operations and expansion in the areas of food safety and liquor licensing that arose in the Commission's consultations with agritourism and nature-based tourism operators. For each of these issues a brief discussion of the relevant legislature is provided, followed by significant issues identified by stakeholders and regulators.

The following issues are discussed in detail:

- access to meat processing facilities;
- using rainwater for commercial purposes;
- processing and serving fish on charter boats;
- farm-to-table produce;
- liquor licence attached to a vehicle; and
- interactions with WorkSafe SA.

Agritourism and nature-based tourism businesses are subject to a range of regulations administered by different agencies depending on the type and number of activities they offer. It was evident from the Commission's consultations that navigating this regulatory landscape poses particular challenges to the small operators that form the majority of tourism businesses in South Australia. In addition, certain regulatory requirements meant for larger business operations may present practical and economical impediments to smaller businesses.

Table 5.1 sets out the Acts and the associated administering agencies that are relevant for the issues discussed in this chapter.

Table 5.1: Administering agencies and Acts

Agency	Acts
SA Health	<i>Food Act 2001</i> <i>Safe Drinking Water Act 2011</i> <i>Public Health Act 2011</i>
Department of Primary Industries and Regions SA (PIRSA)	<i>Primary Produce (Food Safety Schemes) Act 2004</i> <i>Fisheries Management Act 2007 (SA).</i>
Consumer and Business Services (CBS)	<i>Liquor Licencing Act 1997</i>
SafeWork SA	<i>Work Health and Safety Act, 2012 (SA)</i>

5.2 Food safety

Food safety in South Australia is managed under the food regulatory system comprising the *Public Health Act 2011*⁴⁴, The South Australian *Food Act 2001*,⁴⁵ relevant sections of the Australia New Zealand Food Standards Code⁴⁶ and *Safe Drinking Water Act 2011*.⁴⁷ Food safety regulations are enforced by a number of agencies and departments including:⁴⁸

- SA Health
 - registrations of food businesses (both making and selling of food);
 - food safety programs, handling of food in a food business, food hygiene;
 - primary food producers who sell food direct to the public, package, treat or substantially transform food;
 - dairy distributors;
 - general food and labelling compliance issues; and
 - other advice relating to food safety matters or legislation.
- Department of Primary Industries and Regions SA (PIRSA)
 - food safety in the primary industry sector such as meat (e.g. abattoirs, butchers), eggs or seafood (but not dairy)
- Dairy Authority of South Australia (Dairysafe)
 - safety and quality of the production and processing of dairy products, including food safety arrangements and accreditation of dairy farmers, dairy processors and dairy transport businesses.
- local government
 - food safety in local government areas.

The objects of the South Australian *Food Act 2001* are to:

- ensure food for sale is both safe and suitable for human consumption;
- prevent misleading conduct in connection with the sale of food; and
- provide for the application in South Australia of the Australia New Zealand Food Standards Code.

⁴⁴<[https://www.legislation.sa.gov.au/LZ/C/R/SOUTH%20AUSTRALIAN%20PUBLIC%20HEALTH%20\(NOTIFIABLE%20CONTAMINANTS\)%20REGULATIONS%202020/CURRENT/2020.25.AUTH.PDF](https://www.legislation.sa.gov.au/LZ/C/R/SOUTH%20AUSTRALIAN%20PUBLIC%20HEALTH%20(NOTIFIABLE%20CONTAMINANTS)%20REGULATIONS%202020/CURRENT/2020.25.AUTH.PDF)>.

⁴⁵<<https://www.legislation.sa.gov.au/LZ/C/A/FOOD%20ACT%202001/CURRENT/2001.44.AUTH.PDF>>.

⁴⁶<<https://www.foodstandards.gov.au/code/Pages/default.aspx>>.

⁴⁷<<https://www.legislation.sa.gov.au/LZ/C/A/SAFE%20DRINKING%20WATER%20ACT%202011/CURRENT/2011.16.AUTH.PDF>>.

⁴⁸<<https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/public+health/food+safety+for+businesses/food+regulation/food+regulation+in+south+australia>>.

As detailed on the SA Health website:⁴⁹

The Food Act sets out provisions regarding the monitoring and enforcement of food sold in South Australia ... The Food Regulations 2017⁵⁰ under the Food Act 2001 legally adopt the provisions of the Australia New Zealand Food Standards Code to ensure that the same composition and labelling laws apply to food sold in South Australia as well as nationally ... All food sold in Australia and New Zealand must comply with the requirements of the Australia New Zealand Food Standards Code.

The Commission notes that there is a Memorandum of Understanding (MoU) between SA Health and PIRSA that “establishes the roles and responsibilities between the two agencies in relation to food safety in the regulated and unregulated primary production sector”. In addition, an overarching agreement between SA Health and PIRSA Biosecurity is in place to manage regulatory responsibilities between the two agencies in the administration of the national Primary Production and Processing Standards in South Australia (chapter 4 of the Australia New Zealand food standards code). This includes frameworks for specific industry sectors including seafood, meat processing and eggs.⁵¹

SA Health works with local governments in relation to food safety issues, which is covered by a MoU between SA Health and the Local Government Association (LGA) as described below:

The Minister for Health and Wellbeing is responsible for the carriage of the SA Food Act 2001 (Food Act) and for ensuring appropriate oversight of food safety in SA. The department and the 68 Local Government (council) areas in SA are defined, as enforcement agencies for businesses captured by the Food Act (and Food Regulations 2017). A Memorandum of Understanding (MOU) with the Local Government Association sets out the agreed responsibilities for food safety between SA Health (the Department) and Local Government.

The MOU stipulates that Local Government will monitor and enforce the Food Act provisions and relevant Food Standards in their areas, while SA Health undertake administration of the Food Act in all unincorporated areas of SA and assist Local Government as needed, including in food safety incidents that are significant or widespread. (SA Health, FR7, p.1).

Through these types of arrangements, when a new standard is introduced, the agencies have both processes and systems in place to determine who is responsible for regulating what activity. This distributed framework of regulatory for food safety accountability also contains the risks of uneven expertise, particularly at the local government level, as well as different applications of standards between local governments and the ongoing need to update regulatory knowledge and practice among many practitioners across many councils.

5.2.1 Setting up a food business

The Commission has heard from stakeholders about business models in tourism that highlight the value of local experiences and also involve the use of their own (or local) resources and output, for example their produce or water collected on their properties. These aspects are regulated in the following manner.

Under the *Food Act 2001*, a food business in South Australia is defined as a ‘business, enterprise or activity that involves the handling of food intended for sale or the sale of food’.⁵²

⁴⁹ <<https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/about+us/legislation/food+legislation/food+legislation>>.

⁵⁰ <<https://www.legislation.sa.gov.au/LZ/C/R/Food%20Regulations%202017.aspx>> .

⁵¹ Information received from PIRSA.

⁵² <<https://www.legislation.sa.gov.au/LZ/C/A/FOOD%20ACT%202001/CURRENT/2001.44.AUTH.PDF>>.

All food businesses must notify their intention of setting up their business to the relevant enforcement agency (usually the local council) before starting any food handling operations.⁵³ Primary food production businesses, defined as ‘the growing, raising, cultivation, picking, harvesting, collection or catching of food and associated onsite activities, with the exception of any “substantial transformation of food”, direct sale of food to the public or activities’⁵⁴ are exempt from this requirement, and are regulated under the *Primary Produce (Food Safety Schemes) Act 2004*^{55, 56}. Food and accommodation businesses are also required to comply with the *Safe Drinking Water Act 2011*⁵⁷ and *Safe Drinking Water Regulations 2012*.⁵⁸ Domestic rainwater tanks and private bore water supplies are exempt from the Act. There are also exemptions for small business operators using rainwater tanks in low-risk premises such as bed and breakfasts, hotels, caravan parks and camping grounds. They are, however, required to provide a risk management plan.⁵⁹

5.2.2 Issues identified in nature-based and agritourism

The Commission’s consultations with business operators in agritourism and nature-based tourism helped identify several key issues related to food safety, discussed below.

Access to meat processing facilities

The Commission’s consultations with agritourism stakeholders indicated that regional and remote businesses had limited access to meat processing facilities, hindering their ability to provide an authentic ‘paddock to plate’ experience. Such experiences typically involved low volumes of high value local produce. The Commission investigated the use of mobile and micro abattoirs as possible options in such situations. Consultations with businesses revealed that there were practical and economical barriers to setting up these facilities in regional areas. The Commission’s research and consultations with regulators indicate the same regulatory framework applies to small and large abattoirs.

That said, the cost and economics of setting up and operating meat processing facilities in South Australia are affected by size, scale of production and location, and may impact costs of compliance and are likely to impact smaller operators disproportionately. This can be a challenge for the economics of agritourism that uses local, low volume and high value produce, especially where abattoirs operating low volume throughput are not located within an economic distance in terms of processing and transport costs. The Commission also notes that PIRSA completed a public consultation and review of on-farm meat processing in Kangaroo Island in 2018-19.⁶⁰ The review examined several different options including:

- a facility for primary meat processing (single or multi-species);

⁵³ <<https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/public+health/food+safety+for+businesses/starting+a+food+business>>.

⁵⁴ <<https://www.legislation.sa.gov.au/LZ/C/A/FOOD%20ACT%202001/CURRENT/2001.44.AUTH.PDF>>.

⁵⁵ <[https://www.legislation.sa.gov.au/LZ/C/A/PRIMARY%20PRODUCE%20\(FOOD%20SAFETY%20SCHEMES\)%20ACT%202004.aspx](https://www.legislation.sa.gov.au/LZ/C/A/PRIMARY%20PRODUCE%20(FOOD%20SAFETY%20SCHEMES)%20ACT%202004.aspx)>.

⁵⁶ Further information related to food safety in primary food production is available at <https://www.pir.sa.gov.au/biosecurity/food_safety>..

⁵⁷ <<https://www.legislation.sa.gov.au/LZ/C/A/SAFE%20DRINKING%20WATER%20ACT%202011.aspx>>.

⁵⁸ The Act is based on the Australian Drinking Water Guidelines available at <<https://www.nhmrc.gov.au/about-us/publications/australian-drinking-water-guidelines>>.

⁵⁹ <<https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/public+health/water+quality/providing+safe+drinking+water/risk+management+plans+for+drinking+water+providers>>.

⁶⁰ The public discussion paper is available at <https://pir.sa.gov.au/__data/assets/pdf_file/0004/332437/Discussion_Paper_-_Artisan_On-farm_Meat_Processing_on_KI.pdf>.

- a small shared facility;
- a mobile processing facility, which travels to livestock, and
- the use of existing accredited facilities.

A PIRSA economic assessment of these options concluded that while there are no regulatory impediments to establishing mobile abattoirs, they were not economically viable on Kangaroo Island primarily due to the processing demand being too low to sustain operations. The discussion paper also noted that to date producers have indicated that it was more cost effective to transport livestock to a processing facility.

The Commission notes that the publicly available information on regulatory requirements and guidelines for meat processing in the state provide a clear starting point for potential businesses.⁶¹ Figure 5.1 presents the requirements for all primary processing of meat, which includes the killing of animals for meat for human consumption and by-products. This information is on the PIRSA website as a factsheet.⁶²

Figure 5.1: PIRSA factsheet on the requirements for primary meat processing standards and legislation in South Australia

Primary Processing		
Relevant Legislation and Standards	Summary of key requirements	Infrastructure requirements
<p>Food Standards Australia New Zealand Food Standards Code:</p> <ul style="list-style-type: none"> • Standard 1.2 Labelling and other information requirements • Standard 2.2.1 Meat and meat products • Standard 3.2.2 Food safety practices and general requirements • Standard 3.2.3 Food premises and equipment • Standard 4.2.3 Primary production and processing standard for meat <p>Food Act 2001</p> <ul style="list-style-type: none"> • Food Regulations 2017, Section 14 <p>Primary Produce (Food Safety Schemes) Act 2004</p> <ul style="list-style-type: none"> • <i>Primary Produce (Food Safety Schemes) (Meat) Regulations 2017</i> <p>Australian Meat Standards</p> <ul style="list-style-type: none"> • Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption 	<ul style="list-style-type: none"> • Accreditation & approved food safety arrangement • Documented system, including monitoring • Qualified Meat Inspector (ante & post mortem inspection) • Undercover yarding for stock to be killed • Chiller capacity for stock to be killed • Restraint & stunning equipment • Arrangements for holding suspect and diseased stock • Pest control • Construction standards that facilitate cleaning and sanitising • Microbiological testing program 	<ul style="list-style-type: none"> • Chiller with capacity to reduce carcasses to 7 degrees within 24 hours of stunning • Yarding for livestock • Drainage, waste treatment and disposal (solid and liquid) • Power • Potable water • Minimum 82 degree water for sterilisation • Rail height to keep carcasses off floor • Separation of dirty/clean processes • National Livestock Identification System (NLIS) - hardware and software

Source: <https://pir.sa.gov.au/__data/assets/pdf_file/0005/332438/Fact_Sheet_-_Meat_processing_legislation_and_standards_in_SA.pdf>

While all states follow the Australian Standard for the Hygienic Production and Transportation of Meat (AS4696) and the Australia New Zealand Food Standards Code, their application to mobile abattoirs may vary between the states (see Table 5.2).

⁶¹ <https://www.pir.sa.gov.au/biosecurity/food_safety/meat>.

⁶² <https://pir.sa.gov.au/__data/assets/pdf_file/0005/332438/Fact_Sheet_-_Meat_processing_legislation_and_standards_in_SA.pdf>.

Table 5.2: Jurisdictional comparison of the operation of mobile abattoirs

State	Status
Victoria*	Amendments to the <i>Meat Industry Act, 1993</i> made by the <i>Primary Industries Legislation Amendment Act, 2019</i> commenced on 1 February 2020 and make it possible for vehicle- based meat processing facilities to be licensed by PrimeSafe (the statutory authority responsible for regulating meat, poultry, seafood and pet food in Victoria).
New South Wales*	There are no NSW regulations prohibiting the operation of mobile abattoirs. The standards are the same for all operators. Australia's first mobile abattoir was licensed to operate in NSW.
Western Australia	Mobile abattoirs can be approved if they comply with existing standards (<i>Food Act 2008, Food regulations 2009</i> , and Australian Standard for Hygienic Production and Transportation of Meat and Meat Products for Human Consumption).
Queensland	Mobile abattoirs would be assessed for accreditation primarily under the requirements of the Australian Standard for the Hygienic Production and Transportation of Meat (AS4696) and the Australia New Zealand Food Standards Code.
Tasmania	Mobile abattoirs cannot be used for commercial meat processing within Tasmania.
Northern Territory	Current legislation does not allow for mobile abattoirs to operate in the territory.
South Australia	The requirements are the same for all operators. None currently operating in the state.

*mobile abattoirs currently operating in the state.

Source: <<https://www.beefcentral.com/processing/mobile-abattoirs-soon-to-start-rolling-in-australia/>>
<https://pir.sa.gov.au/__data/assets/pdf_file/0004/332437/Discussion_Paper_-_Artisan_On-farm_Meat_Processing_on_KI.pdf>

The Commission notes that there are currently 24 meat processing facilities spread across South Australia as presented in Table 5.3. In addition, there are eight game meat processing facilities across South Australia, which can be used by agritourism operators in the regions.⁶³

Table 5.3: Meat processing facilities in South Australia

Region	Number of meat processing facilities
Adelaide	8
South East	2
Riverland	2
Yorke Peninsula	3
Mid and Far North	4
West Coast	5
Total	24

Source: Information received from PIRSA

⁶³ The Commission's communications with and information received from PIRSA.

The Commission's consultations with stakeholders generally indicated that industry interactions with PIRSA in relation to meat processing have been positive. That said, it appears that a combination of mixed messages and lack of current information on regulatory requirements for meat processing is an issue, particularly for small businesses that rely on previous experiences of other businesses and informal advice from colleagues. There may also be issues relating to the interpretation of delegated regulatory requirements by different individuals at the local government level, leading to the mixed messages currently reported. There was also a common concern regarding slow decision-making at the regulator level and how it leads to increased costs for businesses.

Better communication between regulators and stakeholders will improve this situation. In particular, better consultation with small businesses and an enabling approach by regulators can lower transactions costs leading to improved outcomes. Improvements in communication would be facilitated by regulator engagement with a variety of proponents to establish what regulatory barriers exist, including in compliance standards.

The Commission also notes that the resources allocated at PIRSA to facilitate, process and manage regulatory requirements related to meat processing seem low compared to the volume of work and the State's goal to grow the agritourism sector.

The Commission suggests, noting the experience of other jurisdictions, that, in the context of the state's goal to grow the agritourism sector, a close examination by PIRSA of the impact of the current regulations on low volume high value meat production is warranted. Such a project would best be approached as part of the thrust towards adding value to the state's agricultural resources including through agritourism, and would draw on the understandings of the regulator, industries promoting regional development and small-scale producers.

Using rainwater for commercial use

During the Commission's consultations, several agritourism stakeholders raised the issue of difficulties related to using rain or bore water for commercial use. The Commission heard that agritourism businesses in regional areas tend to rely solely on rain or bore water as they have no access to mains water. Moreover, some agritourism businesses that have the option of using water from the mains as well as rain and bore water tend to use only the mains due to the high costs and additional requirements involved in complying with the *Safe Drinking Water Act 2011* administered by SA Health, in relation to rain water.⁶⁴ Under the Act, all drinking water suppliers are required to:

- register as a drinking water provider;
- implement a risk management plan;
- provide water quality results to consumers; and
- comply with audits and inspections.⁶⁵

SA Health also requires water quality testing to be carried out by an approved laboratory.

From a tourism business perspective, the *Safe Drinking Water Act 2011* applies to drinking water provided in short-term accommodation such as bed and breakfasts, farm-stays, motels, hotels, caravan parks and holiday rentals. There are exemptions for rainwater supplies in low-risk premises including short-term accommodation. Detailed instructions on

⁶⁴ The Commission's consultations with agritourism stakeholders.

⁶⁵ *Ibid.*

the application of the Act to accommodation businesses are provided as a fact sheet by SA Health, available on their website.⁶⁶

In addition, the following are exempt from the *Safe Drinking Water Act 2011*:⁶⁷

- water for private domestic purposes (rainwater or bore water);
- rainwater supplied at low-risk premises (for example short-term accommodation facilities including bed and breakfast, hotels, caravan parks, camping grounds, but does not apply to places where food or beverages are prepared and provided for sale or supply);
- optional rainwater supplies (additional to mains water);
- discretionary sources of water at recreational parks and reservoirs; and
- boiled rainwater used in small, regulated food premises (such as roadhouses and cafes that use very low volumes of boiled rainwater).

The Commission's consultations with SA Health confirmed these exemptions and clarified that it was possible to use rainwater for growing produce in a farm to table setting, as long as all other food safety standards were met.

Processing and serving fish on charter boats

The Commission's consultations with nature-based tourism business stakeholders raised the issue of processing and serving fish on charter boats. For example, the Marine Fishers Association (MFA) of South Australia indicated that their members are keen to diversify and add value to existing business offerings in the form of processing fish on charter boats.

As clarified in the submission from PIRSA to the review, the Commission notes that the 'the MFA represent commercial fishing businesses in the commercial Marine Scalefish Fishery, and their core business operations relate to commercial marine scale fishing, which is different from charter boat fishing. This was elaborated in the PIRSA submission.

While established as a Charter Boat Fishery, it should be noted that charter boat fishery licences only authorise the sale of 'charter boat fishing services', not fish. Fish that are caught during charter activities may only be caught by individual recreational fishers who are passengers on the charter and not by the holder of this type of authority.

Pursuant to regulation 18 of the Fisheries Management (General) Regulations 2017, fish that are subject to size limits taken in the course of fishing from a boat cannot be mutilated (includes filleting, but not scaling and gutting) before they are brought to shore or landed, unless they are to be consumed on that boat within 24 hours or used as bait by persons on that boat. (PIRSA, FR5, p7)

While recreational fishers do not require a licence for general fishing in South Australia, there are size and bag limits which also apply in charter fishing and in this case, there are

⁶⁶ Available at

<<https://www.sahealth.sa.gov.au/wps/wcm/connect/909b56004e88eb5096399e3a30168144/Accommodation+Pr emises+Public+Health+Water+Quality-20140120.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-909b56004e88eb5096399e3a30168144-nwLVCOv>>.

⁶⁷ <<https://www.sahealth.sa.gov.au/wps/wcm/connect/907f9e004e88ed7c96499e3a30168144/160212+Safe+Drin king+Water+Act+Exemptions+Fact+Sheet.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-907f9e004e88ed7c96499e3a30168144-nwKjVPZ>>.

also boat limits. Permits and registrations are required for certain activities including lobster pots and fishing in reservoirs.⁶⁸

The Commission is aware that there are charter boat operators currently operating in South Australia who catch and serve fish on the boat before landing, subject to size and bag limits.⁶⁹

The Commission notes that there are on-going discussions between industry stakeholders and PIRSA around improving the flexibility of existing regulations to support the charter fishing sector.⁷⁰

PIRSA enters into co-management arrangements with industry associations and regularly engages with these associations. Individual operators are advised of changes to arrangements through notice to fishers. There are statutory requirements for public consultation periods regarding fishery management plan development and for internal review and appeal processes in relation to the variation of conditions on licences. (PIRSA, FR5, p.7)

In addition, the Commission notes that an industry Red Tape Reduction Working Group has been established by PIRSA to facilitate industry consultation and improve efficiencies in marine scalefish fishing operations.⁷¹ This is a positive step. There are benefits in similar engagement with the charter boat fishing sector to better understand and facilitate their needs.

Farm-to-table produce

The Commission heard from some agritourism operators that there were restrictions on using farm grown produce including eggs in their restaurants. Upon further investigation and consultations with relevant regulators including SA Health and PIRSA, the Commission notes that food businesses can use their own farm eggs as long as food safety requirements are met. Under the primary production and processing standard for eggs and egg products in South Australia, egg producers who have less than 50 laying hens are not required to be accredited.⁷²

Farm-to-table gourmet food is a growing segment of agritourism. The Commission's consultations with regulators indicated that both SA Health (food safety) and PIRSA (biosecurity) see no barriers to using farm produce by restaurant owners, provided all the food safety standards are met. The difference between this perception and those of business participants in this review point to a need for greater clarity of the true position.

The Commission notes that there may be inconsistencies in the interpretation and implementation of delegated food safety regulations at the local government level that may lead to some inconsistent messaging regarding this issue. The Commission was advised by PIRSA that it welcomes new and innovative ideas from the meat and horticulture sectors on agritourism, noting that opportunities for those sectors would need to be considered carefully due to biosecurity issues.

As discussed earlier, MoUs are in place between SA Health and PIRSA as well as between SA Health and the LGA to manage regulatory responsibilities across relevant agencies. The Commission's research indicates that SA Health provides guidance and training on the role

⁶⁸ <https://www.pir.sa.gov.au/fishing/recreational_fishing>.

⁶⁹ The Commission's consultations with charter fishers' stakeholders.

⁷⁰ The Commission's communications with PIRSA.

⁷¹ <https://www.pir.sa.gov.au/fishing/commercial_fishing/fisheries/marine_scalefish_fishery/reform/red_tape_reduction>.

⁷² <https://www.pir.sa.gov.au/biosecurity/food_safety/eggs>.

requirements for environmental health officers at the local government level. However, there is no obvious mechanism for businesses to provide feedback to SA Health on the consistency of these guidelines across regions. As a result, if there is an issue, it may take some time for the issue to be identified by SA Health.

Recommendation 5.1

The Commission recommends that the SA Health food safety regulation function be expanded to:

- establish a central and independent process for receiving and evaluating feedback on the application of food safety regulations by local government; and
- provide advice and training to local government on improving their regulatory practice, based on the analysis of the feedback.

5.3 Liquor licensing

The regulation of the sale, supply and consumption of alcohol in South Australia is managed under the *Liquor Licencing Act 1997*.⁷³ It governs liquor licence applications, approvals and compliance and underwent a series of reforms that took effect in November 2019 in response to the Anderson Review.⁷⁴

A tourism operator intending to sell or produce alcohol must apply for a liquor licence from the Commissioner for Consumer Affairs, Liquor and Gambling. Liquor licensing decisions are guided by the objects of the Act which include promoting and supporting the tourism sector:

to facilitate the responsible development of the licensed liquor industry and associated industries, including the live music industry, tourism and the hospitality industry, in a manner consistent with the other objects of this Act. (Liquor Licencing Act 1997, Part 1.3)

There are exemptions to liquor licensing requirements under certain situations including cottage or bed and breakfast style accommodation businesses, which cater to a maximum of 16 people if:⁷⁵

- the alcohol is complimentary;
- the alcohol is supplied to an adult staying at the premises;
- the alcohol has been purchased on a retail basis from a licensee;
- the supply of liquor is ancillary to the provision of accommodation;
- no more than 1.5 litres per accommodation booking is supplied;
- alcohol is supplied with a meal hosted by the operator of the accommodation, no more than 750 ml per person; or

⁷³<https://www.legislation.sa.gov.au/LZ/C/A/LIQUOR%20LICENSING%20ACT%201997/CURRENT/1997.65.AU TH.PDF>.

⁷⁴ Further information available at <https://www.cbs.sa.gov.au/campaigns/reform-sa-liquor-laws> and https://www.agd.sa.gov.au/sites/default/files/anderson_report_review_of_liquor_licensing_act_1997_june_2016.pdf?v=1492476510.

⁷⁵ <https://www.sa.gov.au/topics/business-and-trade/liquor/apply/not-needed>.

- a picnic basket with alcohol is supplied, no more than 750 ml per adult.

The Commission notes that CBS granted 128 liquor production and sales licences between July 2020 and June 2021 and has not refused any applications.⁷⁶ The Commission's consultations with nature-based and agritourism stakeholders also indicated that tourism business operators were generally happy with the most recent reforms to liquor licensing.

5.4 Workplace health and safety

The safety, health and welfare of employed persons or those engaged in industry in South Australia are ensured by the *Work Health and Safety Act, 2012 (SA)* and the *Work Health and Safety Regulations, 2012 (SA)*.⁷⁷ They apply to all businesses and are enforced by the regulator, SafeWork SA. Workplace health and safety (WHS) involves managing the risks to the safety and health of employees as well as customers and visitors. In addition to enforcing the WHS laws, SafeWork SA provides advice and education on WHS and investigates workplace incidents.⁷⁸ Workplace health and safety codes of practice, which are part of the legislative umbrella, guide the measures that are to be taken by employers to prevent workplace injury. They include best practice controls for particular types of hazards, identifying and managing risks and achieving the standards required under the Act.⁷⁹

5.5 Conclusion

This chapter addressed regulatory issues identified during the Commission's consultations with agritourism and nature-based tourism operators related to business operations and expansion in the areas of food safety, liquor licensing and WHS. Specific issues in food safety included interpretation of national standards for mobile and micro meat processing facilities, serving fish on charter boats, farm-to-table produce and the use of rainwater. Other issues identified included the time taken by regulators to respond, imposing costs on businesses. Furthermore, these costs are relatively large for small businesses, and in particular for entrants to these sectors, which impedes competition and innovation.

The Commission's consultations and submissions to the review indicate that stakeholders generally view the recent reforms to liquor licensing favourably. In addition, stakeholder interactions with CBS in relation to liquor licencing are regarded as positive and proactive.

The Commission notes the importance of communication between stakeholders and has recommended that the mechanisms for businesses to provide feedback are strengthened to improve efficiency and effectiveness of the regulations in these areas. Better coordination and engagement with industry subsectors by agencies as well as interagency coordination and cooperation are also key to improving regulatory practice and to addressing barriers.

From a business perspective, the most common problem associated with these issues was a combination of misinformation, mixed messages and lack of current information on regulatory requirements. This was particularly evident in meat processing. Inconsistencies in the interpretation and implementation of delegated regulatory requirements at the local government level also led to some confusion regarding food safety standards. Greater clarity about requirements, ongoing improvement through feedback and faster decisions were recurring themes. Chapter 8 includes recommendations on those matters.

⁷⁶ The Commission's communications with Consumer and Business Services.

⁷⁷ <<https://www.legislation.sa.gov.au/lz/c/a/work%20health%20and%20safety%20act%202012.aspx>>.

⁷⁸ <<https://www.safework.sa.gov.au/about-us/our-role>>.

⁷⁹ <<https://www.safework.sa.gov.au/workplaces/codes-of-practice>>

6. Access to public infrastructure for tourism

The South Australian Government and local governments own a significant amount of tourism-relevant infrastructure across the state, ranging from roads, water and sewerage networks to boating infrastructure. Agritourism and nature-based tourism businesses benefit from connections to networks of infrastructure (including roads, water and sewerage) as well as access to other infrastructure such as jetties. Access to natural assets such as mountains, forests, caves and landscapes are addressed in chapter 4.

This chapter discusses regulatory issues related to accessing and using public infrastructure by tourism businesses. These includes timeframes, conditions and costs of access and connection.

6.1 Roads

The state government through the Department for Infrastructure and Transport (DIT) manages around a quarter of South Australia's road network, including 13,000 km of sealed roads and 10,000 km of unsealed roads.⁸⁰ Local governments are responsible for maintaining 75,000 km of local roads.

Issues that tourism businesses face with using the state's road network include connections to state roads and placing signage on roads to facilitate access.

6.1.1 Connecting to roads

A development of a new tourism business, or significant expansion of an existing one, may affect traffic flows on the road network where it is located. As a result, development applications that have potential to alter traffic on arterial roads may require referral to the Commissioner of Highways for assessment.

The Commissioner of Highways (CoH) is the statutory body responsible for development referrals affecting arterial road transport routes and corridors, future road widening and advertisements near signalised intersections. The CoH is established under the *Highways Act 1926* and has the role of carrying that Act into effect.

The Commission has considered the process of referrals to CoH as part of its Development Referrals Review. However, a common theme from tourism businesses during consultation was that the costs of undertaking the required traffic assessments, which is typically borne by the applicant, can be high.

If a park is redeveloping and wishes to change entries onto departmental roads it can be a costly process to get approvals. Traffic surveys must be undertaken, and specialist departmental approved consultants must be appointed and paid for by the business operator. These consultants can be expensive. (SA Parks submission, DR3, p. 2)

6.1.2 Roadside signage

Tourism signage on state roads (under the care and control of DIT) is also subject to DIT's Road Sign Guidelines which sets out what signage is allowed and the process for having tourism signage installed on state roads. These guidelines are developed in conjunction with

⁸⁰ Department for Infrastructure and Transport, *Roads and traffic monitoring* (9 April 2021) <<https://www.sa.gov.au/topics/driving-and-transport/roads-and-traffic/road-responsibilities>>.

the South Australian Tourism Commission and supplement the Australian Standard AS 1742.6 Manual of uniform traffic control devices – Tourist and Services signs.

DIT has advised that they have received 17 applications for new tourism signage within the last 12 months. Of these applications, two were not approved as they did not meet the minimum criteria, nine were approved and the remainder were still being assessed. Tourism signage on local roads is the responsibility of local governments and policies and practices differ between local governments.

Where a sign is in the form relevant to either the *Road Traffic Act 1961* or the Australian Standard 'Manual of uniform traffic control devices', these are exempt from development approval and only require the approval of the relevant road authority. The CoH has the delegation for such tourism signage on state roads and local council has delegation to approve tourism signs on local roads.

The purpose of tourism signage on state roads is not to promote individual businesses, but to aid navigation. Signage designed to promote individual businesses is classed as advertising and is instead subject to the Advertising Signs Assessment Guidelines for Road Safety. Advertising signs, unlike tourism signs, require a development approval under the *Planning, Development and Infrastructure Act 2016*. The advertising signs guidelines have not been updated since the introduction of the *Planning, Development and Infrastructure Act 2016*. However, these guidelines are scheduled for review by DIT in mid-2022.⁸¹

Tourist attractions

To be eligible for a tourist attraction sign on a state road, the guidelines provide ten essential criteria that an attraction must meet:

- The attraction should be already established and operational with tourism as its core business.
- The business must be registered with the Australian Tourism Data Warehouse.
- It must have all relevant local, state and Commonwealth approvals to operate.
- The attraction caters for casual visitors without the need for pre-booking (except for large groups).
- It must be open for a minimum of five days a week, including weekends and public holidays, and is expected to be open during daylight hours for a minimum of six hours.
- Adequate parking must be available onsite or close and convenient.
- It must have marketing material (a brochure, printed material or a website) that provides clear directions, details of opening hours and information about the visitor experience, and printed material should be made available at the closest visitor information centre.
- It must provide conveniently located toilet facilities that comply with disability access legislation.

⁸¹ Department for Infrastructure and Transport submission FR3, p.8.

- The entrance should be clearly identified (within the property boundary) with the attraction name, the opening days, hours of operation and contact details.
- The attraction should be open for a minimum of nine months of the year for permanent signage.

The criteria are based on recommendations of the National Tourism Signing Reference Group which encourage common assessment and application of signage for tourist attractions, establishments, features and driving experiences, nationally. The National Tourism Signing Reference Group consists of representatives of state and territory tourism organisations and their road authorities.

Only state significant attractions can be signed on freeways, expressways and motorways. To be classified as a state significant attraction, an attraction must operate seven days a week during normal business hours and have visits by fee-paying customers in excess of 100,000 per year.

Tourism signage remains the property and responsibility of DIT, but the applicant is required to cover the costs of manufacturing, installation and maintenance.

Accommodation signage

Directional signing for accommodation is provided to inform travellers that suitable facilities are available to meet their overnight accommodation needs. Signs are not intended to promote an accommodation facility or to enable the accommodation to increase patronage.

Tourism accommodation businesses seeking directional signage must, in addition to the criteria outlined above, be:

- currently operating and hold all relevant state and local government licences and other appropriate consents;
- be open daily;
- be available for casual accommodation (without a prior booking);
- be open to the general tourist (not exclusively for coach tours or other organised groups); and
- have clear signage on the property, near or on the property line so that the entrance is clearly identified to motorists.

Signage locations

The location and type of signs vary depending on the location of the attraction or service. In townships and built-up areas, where the speed limit is 60 km/h or lower, advance signs are not provided. Instead DIT deems fingerboard signs at the intersection of the arterial road to be sufficient. These signs are usually the responsibility of the local government.

Attractions or businesses which can be accessed directly from a DIT arterial road are not able to apply for sign approval as they are deemed to be able to provide suitable signing on their own property unless:

- it is located on a road with a speed limit of 80 km/h or higher;
- the entrance cannot be identified from a distance of 250 m; or

- access is hazardous.

In rural areas, if an attraction or service business is located on a council road that intersects with a DIT arterial road, and is less than 10 km from the turnoff, then advance and intersection/position signs will be considered if the speed limit is 80 km/h or greater. If the speed limit is less than 80 km/h, only intersection/position signs will be considered.

Issues identified regarding road signage

Stakeholders have questioned the location, consistency and timeframes for installation of signage.

Obtaining signage on local government roads appear to be a relatively easy process; however, if a business wants signage on a DIT road it is more complex. The application process needs to be simplified and consideration of more signage for roads with speed limits of over 80 km/h would be helpful to business. (SA Parks, DR3, p.2)

Applications can be made online via DIT's website, where applicants are asked to provide details of the attraction, and to demonstrate that they meet all the criteria outlined above (including providing documentation where appropriate). While the on-line capability is helpful, the Commission notes the detail required for applications to meet the criteria.

DIT commits to confirming the ownership of the road and assessing the application against criteria, guidelines and site considerations and providing a response to applicants within 28 days of application. DIT does not report on performance against this target. Once the applicant accepts DIT's sign permit, DIT will organise manufacture and installation of signs and invoice the customer once the installation has been completed.

Once approval for the installation of tourist signs has been granted to the business (within 28 days as outlined in the Guidelines), the Department is required to receive a quotation from prequalified contractors for the manufacture, supply and installation of the signs so that an accurate cost can be provided to the applicant for their consideration and acceptance.

Timeframes for the installation of tourist signs are subject to a number of variants including the time taken for the applicant to respond back to the Department with acceptance of the cost, time to design and manufacture the signs and to program installation. (DIT, FR3, p.2)

DIT does not have targets for installation timeframes and has advised that the timeframe for installing can depend on the availability of contractors, but generally signs are manufactured and installed within one to three months. The Commission has heard of instances in the regions where over six months have elapsed between approval and installation. This seems, at face value, an unreasonably long period.

In DIT's view, public reporting against timeframes 'will not help improve timeframes due to the time constraints in sign design, manufacture and installation'.⁸² The Commission does not agree. In the Commission's assessment, targets, focussing on improving performance and accountability through public reporting, will increase transparency, improve governance, incentivise shorter installation timeframes and reduce uncertainty faced by businesses.

⁸² Department for Infrastructure and Transport submission, FR3, p.2.

Recommendation 6.1

The Commission recommends that the Department for Infrastructure and Transport (DIT):

- establish public targets for the installation of tourism signs once approved;
- report publicly on performance against its targets for timeframes for both assessment of applications and installation of signs; and
- increase the supply of prequalified contractors in all regions to ensure timely installation.

6.2 Water and sewerage

Access to water infrastructure, both for drinking and other purposes, is critical for many tourism businesses as is infrastructure to process and remove waste produced. This section examines the process for connecting to water and sewerage networks, and the requirements of businesses in areas that cannot reasonably be connected to existing infrastructure.

6.2.1 Water

When moving to or establishing a tourism business on a property that already has a water and sewerage connection, businesses are not required to apply for a connection. The conveyancer will notify SA Water of a change of ownership and services can be used immediately. Where the property is not already connected to the network, a business will have to apply to SA Water for a connection. Connections to SA Water are managed under SA Water's Connections Policy.⁸³

The connection fee for a standard connection is determined by the type and size of water, sewerage or fire service requested. A business can nominate the size of service on application or SA Water can advise of the most suitable size. In some circumstances, SA Water will need to nominate a minimum or maximum size to suit their needs to conform to its operational or infrastructure requirements. SA Water commits to assessing an application, designing a connection to meet Australian standards and providing an invoice, as well as design and installation information within 20 days.

In contrast to DIT for road signage, SA Water has publicly available connection timeframes. Once paid, SA Water commits to connect a standard water connection within 25 days, or a non-standard water connection within 35 days.⁸⁴ SA Water installs a new service up to the meter and businesses may need to engage a licensed plumber to complete the connection of the property.

Many nature-based or agritourism developments occur outside of the existing SA Water network area. In this case a business can still apply to connect to the SA Water network but will have to pay the costs of extending the network. SA Water will provide a fixed cost

⁸³ SA Water, *Connections Policy* (2018) <https://www.sawater.com.au/__data/assets/pdf_file/0008/9926/SA-Water-Connections-Policy.pdf>.

⁸⁴ SA Water, *Fact Sheet – Household application process* <https://www.sawater.com.au/__data/assets/pdf_file/0009/426645/SAW_Fact-Sheet-Household-application-process_FINAL.pdf>.

quotation as part of the assessment. SA Water can contribute 50 per cent of the cost of extending the mains if it is determined by SA Water that it will benefit other customers.

The Commission has heard from most business participants that the connection process to the SA Water network is relatively simple, and the Commission has not heard any issues other than the cost of extending the network.

6.2.2 Wastewater and trade waste

The process and requirements for connecting to the SA Water wastewater network are similar to those of the water network outlined above and are detailed in SA Water's Connections Policy. Timeframes for the installation of sewerage are slightly longer, with standard connections installed within 30 days and non-standard within 50 days.

Outside of the SA Water area, local governments are responsible for effluent and some sewage collection, treatment and disposal for country towns. Local governments currently operate 175 community wastewater management systems (CWMSs) in 50 council areas throughout the state,⁸⁵ which collect, treat, reuse and/or dispose of primary treated effluent from septic tanks on individual properties. Most CWMSs are owned and operated by the relevant local government.

The Commission heard that in many regional areas, CWMS systems are at, or near, capacity and that new tourism businesses are often required to pay for infrastructure upgrades to the CWMS in order to connect. Similarly, expanding businesses can be asked to pay for the entire cost of upgrades if the CWMS is near capacity. These upgrades can be expensive and may incentivise some tourism businesses to pursue off-network options (as discussed in section 6.2.3).

In regional areas caravan parks that are connected to Community Wastewater Management Systems may face costly charges if developments lead to the need for them to increase their capacity into the system. (SA Parks, DR3, p.2)

Trade waste

Trade waste requires additional treatment compared to wastewater and substances created from household and general business activities. Before discharging trade waste into SA Water's sewerage network, a business must apply for a trade waste authorisation under the *Water Industry Act 2012*. SA Water's Restricted Wastewater Acceptance framework⁸⁶ outlines the policy requirements and authorisation compliance and the Restricted Wastewater Acceptance Standards outline the common admissible contaminant concentration discharge limits. SA Water also produce numerous guidelines and fact sheets including for specific business activities such as for commercial food preparation.

For tourism businesses, the most common activities that would require a trade waste authorisation are the preparation and selling of food and, in the case of accommodation businesses, laundry services. These activities typically involve only low volume discharges and operators are usually required to pay administration fees and are audited, whereas larger customers⁸⁷ face volumetric charges. Some businesses are required to install some

⁸⁵ Local Government Association of South Australia, *Overview of CWMS* <<https://www.lga.sa.gov.au/about-lga/what-we-do/community-wastewater-management-systems/overview-of-cwms>>.

⁸⁶ SA Water, *Restricted Wastewater Acceptance Framework* <http://www.sawater.com.au/__data/assets/pdf_file/0018/6723/Restrictedwastewateracceptanceframework.pdf>.

⁸⁷ Those with trade waste discharges that exceed 10 tonnes of biochemical oxygen demand or suspended solids, 20 tonnes of total dissolved solids or a volume of 10,000 kL per year.

on-site infrastructure prior to gaining authorisation. For most tourism businesses, this is most likely in the form of a grease trap, while large customers may be required to do some pre-treatment on site.

Applications can be made either online or via mail and SA Water advises that applications are typically assessed within 10 business days of their receipt and a payment of a \$175 application fee.

SA Water conducts inspections of authorised businesses to assess compliance with authorisation details and to confirm operator details. The frequency of audits is based on risk, which is assessed by both the types of activity and history of compliance. Businesses are also charged an administration fee (currently \$65.50), a fee per inspection (currently \$141.00) and fines for failure to comply with conditions.

No significant issues relating to the process of obtaining authorisation or ongoing requirements, such as audits, were raised with the Commission.

6.2.3 Off network properties

Many nature-based and agritourism businesses are located in areas without existing water and sewerage networks. These businesses face separate requirements for providing drinking water and managing and treating their waste products. The requirements to provide safe drinking water under the *Safe Drinking Water Act 2011* are discussed in chapter 5. Wastewater is governed from both a public health and environmental perspective by the:

- *South Australian Public Health Act 2011*;
 - *South Australian Public Health (Wastewater) Regulations 2013* and its prescribed codes:
 - the Onsite Wastewater Systems Code; and
 - the Community Wastewater Management Code.
- *Environment Protection Act 1993*;
 - Environment Protection (Water Quality) Policy 2015;
 - Environment Protection (Noise) Policy 2007; and
 - Environment Protection (Air Quality) Policy 2016.
- *Local Government Act 1999*; and
- *Water Industry Act 2012*;
 - *Water Industry Regulations 2012*.

Where connection to a SA Water sewer or CWMS is not practical, installation of an onsite wastewater system is generally required.

Approval is required before installing or altering an onsite wastewater system. In most cases, this will be through the council's environmental health officer, although larger systems (greater than 40 effective persons) and those in areas of the state not covered by local government, must obtain approval from SA Health. Premises with a capacity of greater than 40 effective persons usually require a site-specific wastewater system designed by a wastewater engineer to ensure it is fit for purpose and approved by SA Health.

These systems are often highly complex and require rigorous assessment in order to ensure that they are suitable for the site in question and are effective in safeguarding people and the environment from potential harm associated with exposure to inadequately treated effluent. (SA Health, FR7, p.6)

The Commission has heard that most businesses smaller than 40 effective persons were provided with a list of approved 'drop in' systems by SA Health,⁸⁸ which helps businesses to find suitable products that enable them to get development approval. Business participants in the review considered the list too prescriptive. Some businesses said they believed they were only able to install one of these systems and were unaware that custom solutions were allowed, which are more adaptable to growth and business circumstances. An example of this is presented in Box 6.1.

Box 6.1: Case study – Lot 100

Lot 100 was established in 2018 as an agritourism business in the Adelaide Hills that combines an orchard with a craft brewery, small batch distillery, restaurant and function centre on former cattle pasture.

As the site is located outside of the SA Water area, in order to get development approval, they required referrals to the Environment Protection Authority (EPA) for processing of wastewater as well as SA Health for human waste (as well as the Native Vegetation Council (NVC)). They were provided a list of approved septic systems by SA Health and purchased and installed a system from this list. Lot 100 have advised that as they used an approved product, they found the process simple, and approval was easy to obtain.

As Lot 100 expanded, this system reached its capacity and started to produce odours. The system they had installed was not easily expandable, so a new septic system was required. The system most suitable to their size on the approved list was a membrane system which would have cost around \$1 million; however, as they are only open four days a week, this system would not have been suitable as it functions best with continuous waste flow.

Lot 100 instead pursued a custom solution designed for the site, that would be expanded through adding additional soakage beds should they require. As this was not a pre-approved system, they required approval from SA Health for the system before they could progress with a development application. Lot 100 have advised that SA Health were receptive to the custom system, and had approved systems from that provider before, but that approval took three months to obtain.

The Onsite Wastewater Management Systems Code 2013 prescribes the requirements for the design, installation, operation and maintenance of on-site wastewater systems. The Code is currently under review by SA Health.⁸⁹ The agency advised the Commission it expects the revised Code to provide a more flexible, risk-based approach to design, installation, operation and maintenance requirements for onsite wastewater treatment systems.

⁸⁸ SA Health, *Approved wastewater products in South Australia – Septic tanks, biological filters, holding tanks and pump sumps* (2021).

⁸⁹ SA Health submission, FR7, p.7.

6.3 Boating infrastructure

The South Australian Government, along with local governments, owns a significant amount of boating infrastructure which is used by both commercial and recreational vessels. This includes infrastructure owned and operated by DIT as well as that leased to local governments or community organisations. The use of this infrastructure is important to many marine and river-based tourism businesses.

The use of public jetties is governed by the *Harbours and Navigation Regulations 2009*. In general, public jetties and wharves are available to use for free, including by commercial vessels for tourism purposes. However, a vessel may not be moored for more than four hours per day unless authorised by the Chief Executive of DIT.⁹⁰

Launching fees are charged at some public boat ramps at the discretion of the ramp operator.⁹¹

The development or upgrade of boating infrastructure that is relevant to tourism businesses is governed by a mix of legislation including:

- *Planning, Development & Infrastructure Act 2016*;
- *Coast Protection Act 1972*; and
- *Harbours and Navigation Act 1993*.

The state, through DIT, has ownership of the seabed in South Australia.⁹² As a result, anyone seeking to develop new boating infrastructure must secure a seabed lease from DIT.

Once a lease has been established, the process for approving the development of new boating infrastructure is governed by the *Planning, Development & Infrastructure Act 2016*. Local governments are typically the approval authority; however, coastal developments require referral to the Coastal Protection Board under the *Coast Protection Act 1972*. As the new planning system has only recently fully commenced, the Commission has not sought to examine issues related to the planning system.

Under section 90AA of the *Harbours and Navigation Act 1993* a levy is imposed on boat owners for the purpose of providing a source of revenue to establish, maintain and improve facilities used by vessels in the state.

Levy monies are used for establishing and improving boating facilities in South Australia's coastal and inland waters including:

- boat ramps;
- temporary mooring facilities or wharves;
- channel improvements;
- aids to navigation; and
- 24/7 emergency VHF marine radio services.

⁹⁰ *Harbours and Navigation Regulations 2009* s 15 and s 30.

⁹¹ Department for Infrastructure and Transport, *Boating Facilities – Frequently Asked Questions* <<https://dit.sa.gov.au/recboatingfacilities/faqs>>.

⁹² As per the *Coastal Waters (State Title) Act 1980* (Cth).

Local councils and large community organisations can apply for funding contributions from the fund towards eligible projects, provided a commitment is given to accept on-going ownership, operation and maintenance of the facility.⁹³

6.4 Conclusion

Tourism businesses benefit from public infrastructure including roads, water and sewerage and boating infrastructure. The Commission has not identified any significant barriers to accessing public infrastructure, although delays in approval have costs for businesses. Similarly, upgrades or extensions to infrastructure can add significant costs.

The processes for access to these are set out in a range of Acts and departmental guidelines. In general, the Commission has heard that requirements for businesses in accessing significant infrastructure are clear. However, in parts of the state not served by existing water and sewerage infrastructure, the requirements can be more complex. In these instances, a more proactive culture of regulators in engaging with proponents prior to applying for approval would be beneficial. The Commission has made recommendations to address this issue in chapter 8.

In addition, the cost of extending infrastructure, or upgrading infrastructure that is at capacity, is often borne by the applicant. The Commission notes the rules for assigning the cost of such expansions in infrastructure capacity are outside the terms of reference for this review. The Commission has also heard application processes for access or connection to these infrastructure networks is relatively simple and can be done digitally. Publicly committed timeframes exist for the assessment of applications, as well as for installation or connection for most infrastructure, which are important for fast decisions. The primary exception in the areas examined by this review is that DIT does not publicly report against these timeframes for roadside signage, nor do they have target timeframes for the installation of road signs following approval which the Commission has heard can, in some circumstances, be up to six months. The Commission has made a recommendation in this chapter to address this issue.

⁹³ Department of Planning, Transport and Infrastructure, *SA Boating Facilities Strategic Plan* <https://dit.sa.gov.au/__data/assets/pdf_file/0005/327956/SA_Boating_Facilities_Strategic_Plan.pdf> p.13.

7. Transport and Accommodation

Transport and accommodation are key aspects of most tourism activities. By most definitions of tourism, travel of over 40 km (round-trip) is required for a day trip and three quarters of tourism in South Australia involves an overnight stay. This chapter examines regulatory issues faced both by transport and accommodation providers as well as other businesses in linking to transport and accommodation.

The main issues raised by tourism businesses include:

- processes and requirements for vehicle registration;
- different requirements for regional and non-regional businesses;
- barriers to ridesharing in the regions (especially the Adelaide Hills); and
- planning and building issues for accommodation development.

The Commission heard few concerns from tourist accommodation businesses about operational requirements, such as inspections, reporting or ongoing compliance.

7.1 Transport

While transport is important for all tourism businesses, it is particularly important to agritourism and nature-based tourism providers. The Commission has primarily investigated on-road transport as the South Australian Government is the main regulator. While air transport is also important, it is primarily regulated at a national level. At the state level, there is the *Air Transport Act 2002*; however, the legislation focusses mainly on the delivery of essential services and is not intended to address tourism-focussed issues.

Businesses providing on-road transport services to tourists are governed by the *Passenger Transport Act 1994* and the *Passenger Transport Regulations 2009*. The *Passenger Transport Act 1994* covers any on-road transport for a fee (or in kind) and covers both tour providers as well as point-to-point transport providers including taxis and ridesharing services. The Department for Infrastructure and Transport (DIT) is responsible for administering this Act and its requirements include accreditation of operators and drivers and ensuring vehicle standards.

Accreditation of passenger transport services is provided by DIT, through the Accreditation and Licencing Centre. There are different standards and requirements for operators, drivers and vehicles depending on the type of passenger transport service being provided. In some cases, an operator may need accreditation as both an operator and a driver. In all instances, the operator is responsible for the vehicle or vehicles used for a passenger transport service. This includes arranging vehicle inspections and insuring the vehicle for passenger transport.

All vehicles used for a passenger transport service in South Australia must meet road safety and basic amenity standards. Vehicles must be checked at approved vehicle inspection stations prior to being used as passenger transport vehicles.⁹⁴ To ensure they continue to meet the required standards, taxis must have six-monthly inspections, and chauffeur, special

⁹⁴ There are exemptions for new, unmodified small passenger transport vehicles.

purpose and rideshare vehicles must have annual inspections. Drivers of passenger vehicles must have South Australian driver accreditation and meet other specified requirements.⁹⁵

From 1 July 2016, any person who operates a centralised booking service for a chauffeured vehicle service, including all classes of small passenger vehicles operating as plated chauffeured vehicles or plain plated point-to-point vehicles, must be accredited under the *Passenger Transport Act 1994*. A centralised booking service is described as: a service where more than one vehicle is participating in the booking service: and bookings for a chauffeured vehicle service are accepted from members of the public and are assigned to drivers. Chauffeured vehicles may take bookings directly from the public without a centralised booking service, but ridesharing vehicles may not.

7.1.1 Commercial tour operators

Commercial tour operators are regulated under the *Passenger Transport Act 1994*. Commercial tour operators who seek to access or provide services in national parks in South Australia are also required to obtain a commercial tour operator licence, pursuant to regulation 36(b) of the *National Parks and Wildlife (National Parks) Regulations 2016* and the Department for Environment and Water (DEW)'s Commercial Tour Operator Licencing and Permitting Policy. A Commercial Tour Operator Licence is not required if the business is offering a public transport service, charter bus service or taxi service (and does not market their service as a tour); or if they are only traversing a reserve using a 'public access route' and not deviating from it. The Commercial Tour Operator licence is considered in chapter 4.

A tourism business that uses vehicles to transport customers on roads must obtain operator accreditation. Operator accreditation is valid for five years, subject to annual instalment payments and is required by the registered owner of the vehicle used for passenger transport; or, in the case of a company, each director and other interested persons. The objectives of operator accreditation are to consider the safety of passengers and the public; service to passengers; and the condition of vehicles and equipment.

There are nine classes of operator accreditation, which depend on the type of activity being conducted and the location of operations (whether it is within the 'Metropolitan Adelaide Boundary' under the *Passenger Transport Act 1994*). To conduct tours, an operator needs an operator accreditation for one or more of:

- large passenger vehicles (seating capacity of 13 or more);
- small passenger vehicles – chauffeur metropolitan;
- small passenger vehicles – chauffeur non-metropolitan; or
- small passenger vehicles – chauffeur special purpose.⁹⁶

An operator may obtain accreditation for multiple categories with a single application and fee, but each type of activity must be included in a plan of operations.

To obtain accreditation, operators must provide an application for operator accreditation form (MR311) together with a plan of operation (MR325) and a National Criminal History Check.

⁹⁵ DIT, *Driver accreditation for large or small passenger vehicles* (10 January 2020) <<https://www.sa.gov.au/topics/driving-and-transport/industry-services/taxi-and-passenger-transport/driving-a-passenger-vehicle>>.

⁹⁶ Department for Infrastructure and Transport, *Operating a passenger transport business* (16 July 2021) <<https://www.sa.gov.au/topics/driving-and-transport/industry-services/taxi-and-passenger-transport/operator-accreditation>>.

Operators must also prove they have a minimum of \$5 million public liability insurance and third-party property or comprehensive insurance and compulsory third-party insurance (CTP) for each vehicle, issued by an insurance company incorporated in Australia. DIT provide guidance material as to what is required for accreditation on their website.

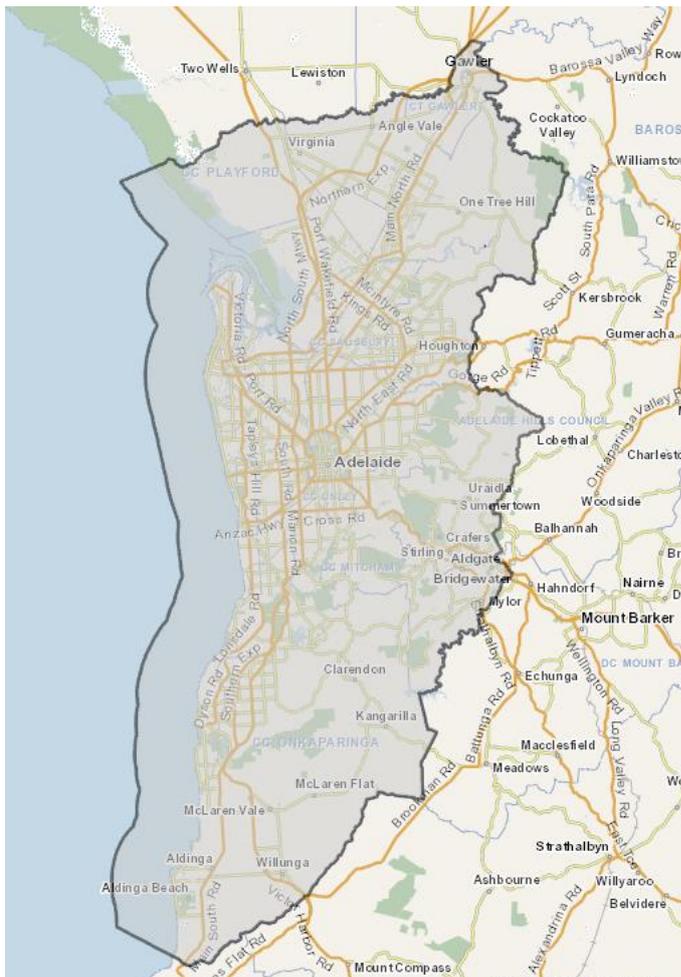
Issues raised by stakeholders

The Commission has not heard concerns from businesses about the process for accrediting operators. Most issues raised by businesses related to requirements for vehicle renewal processes or differences in regulation for metropolitan and non-metropolitan operators. Tour operators expressed frustration with the definition of the Adelaide metropolitan area used by the *Passenger Transport Act 1994*.

Why does the PT Act's definition of 'Adelaide metropolitan area' differ from the Road Traffic Act definition? This affects vehicle registration, allowable travel distance per year, vehicle retirement age, and where we're actually allowed to drive our passengers. It also fails the pub test: Mt Barker (population ≈ 18,000) is deemed 'non-metropolitan' whereas Willunga (population ≈ 2400 and further from Adelaide city) is 'metropolitan'. (The Backyard Universe, DR6, p.1)

The Adelaide metropolitan area definition used in the *Passenger Transport Act 1994* is the same as the *Development Act 1993* and the area boundary is shown in Figure 7.1.

Figure 7.1: Adelaide metropolitan area boundary



Source: Location SA Map Viewer

The metropolitan area definition affects operators with small passenger vehicles (12 seats or less) operating in the metropolitan area being unable to use vehicles over 8 years old, while operators outside the metropolitan area may use a vehicle up to 15 years old. Some exceptions are available for special purpose vehicles such as classic cars.

Some businesses advised the Commission they consider the requirements for inspections of passenger vehicles and the inspection process can be a burden (both in cost and time). For operators based in the metropolitan area, there are currently only two accredited inspectors for small passenger vehicles and one for large vehicles. Vehicles must be inspected on site at these facilities which means operators face time costs in travelling to these locations and are unable to use the vehicle that day. Regionally based operators can arrange for departmental inspectors to travel to them and conduct inspections on-site. Some stakeholders have also expressed a view that the inspectors can be quite risk averse and that they can require expenditure, such as replacing tyres, earlier than necessary.

An exemption from initial inspection is available for new, unmodified small passenger vehicles, as they must meet national standards placed on manufacturers. Large passenger vehicles (13+ seats) are not exempt from initial inspection. Some stakeholders have stated that in some cases they had to get a trade plate to drive the vehicle to be inspected before they can register it, when purchasing a second-hand vehicle. Vehicles purchased from interstate are required to have a vehicle identity inspection before they can be registered.

The Commission heard that many tour operators are frustrated with the definition of a small passenger vehicle. A small passenger vehicle is currently defined as having fewer than 13 seats, while many commonly available minibuses come fitted with 14 seats. Simply removing the extra seat is sufficient to meet the definition of a small passenger vehicle and generally doesn't count as an alteration which would require an initial inspection.

We have a minibus which came with 14 factory-fitted seats. We've had to remove two of them to register as a 'small passenger vehicle' and legally be able to drive it without a truck licence, even though it would still weigh less than 4.5 tonnes with all 14 seats occupied. (The Backyard Universe, DR6, p.1)

The application process for accreditation relies on filling out paper forms. Some stakeholders have said they are required to provide the same information on multiple forms such as operator accreditation, driver accreditation and adding a vehicle.

The Commission also heard that regional operators are required to travel to Adelaide for certain tasks such as to renew passenger vehicle registration.

Why can't we renew our passenger vehicle registration locally? We can renew our private car registration — and driving licences — at our local post office. The official reason, we're told, is that our copy of the vehicle's mechanical inspection certificate needs to be sighted. The Dept of Transport already has the original of this certificate because their inspector retains it! Why do they need our copy? And why can't our local postmaster 'sight' it? They're already accredited to process passports and other official documentations. (The Backyard Universe, DR6, p. 1)

The Commission understands that DIT is currently in the process of tendering for the operation of vehicle inspection stations, and that a successful tender will be required to provide documentation of inspection online. This will enable passenger vehicle registration renewals online.

DIT have advised that they are working with the Department of the Premier and Cabinet on the development of a client-centred portal for whole of Government services, and that driver

accreditation is one of the transactions that will be included.⁹⁷ In developing this portal, there is value in considering links between driver accreditation and vehicle registration and streamlining these applications.

7.1.2 Taxis and ridesharing

Taxis and other on-demand transport options such as ridesharing provide a means of access between major tourism facilities, attractions and accommodation. These services are even more crucial to the tourism sub-sectors of agritourism and nature-based tourism as frequently attractions are located outside of populated areas and not easily accessible by public transport. Furthermore, many of South Australia's agritourism businesses involve the consumption of alcohol, such as cellar door tourism, so private transport is not always advised or convenient.

Taxis and ridesharing services are regulated under the *Passenger Transport Act 1994*, with different systems in place for metropolitan and non-metropolitan areas. There are no government-imposed restrictions on the number of ridesharing vehicles or country taxis.

Ridesharing was introduced in South Australia on 1 July 2016, allowing private vehicles to be used to provide a transport service, offered to passengers through an accredited booking service, generally through a smartphone application. Any person who has a full South Australian driver's licence, relevant police clearances and meets the minimum fitness requirements can apply to become a rideshare driver.

Rideshare vehicles with private number plates must be booked through an accredited booking service and cannot take bookings direct from the public or be hailed from the side of the road.

Issues raised by stakeholders

The Commission heard from businesses operating outside the metropolitan area (see Figure 7.1), especially in the Adelaide Hills, that the current rules for ridesharing mean that some Hills' residents are not serviced by ridesharing operators. This is highly relevant to businesses that sell or serve alcohol as part of their business, such as cellar doors, breweries and distilleries. This also affects businesses differently depending on their location. For instance, a cellar door in McLaren Vale is able to have customers picked up by ridesharing services, while a cellar door in the Adelaide Hills may not be able to despite being similar distances from the Adelaide central business district.

DIT advised that under the current legislation, it is possible for ridesharing operators to operate outside the metropolitan area. The 'non-metropolitan (NV) rideshare' category of operator accreditation allows for the operation of ridesharing services outside the metropolitan area. An existing rideshare operator primarily operating in the metropolitan area can also apply for multiple categories of operator accreditation to allow them to operate in both the metropolitan and non-metropolitan area, if it is included in their plan of operations.

That said, a ridesharing operator may not take direct bookings from the public and must go through a centralised booking service (unless they also have chauffeur accreditation). To date, the Commission understands that existing booking services are not operating outside the metropolitan area, with none operating in the Adelaide Hills. As there are no booking

⁹⁷ Department for Infrastructure and Transport submission, FR3, p.3.

services operating in the area, a driver is unable to detail their operation in the Adelaide Hills as part of their plan of operations, which must include the booking service.

Based on discussions with DIT, the Commission understands that the lack of booking services outside the metropolitan area is likely to have been an economic decision by the centralised booking services, likely owing to different requirements faced outside the metropolitan area. These include differences in compulsory third-party (CTP) insurance and the levy on metropolitan services, as well as having to track which drivers have non-metropolitan accreditations.

A one-dollar levy is charged on all chauffeur and taxi trips conducted within the metropolitan area. Trips outside the metropolitan area, and trips starting inside but travelling outside the metropolitan area (and vice versa) are exempt from this levy.

CTP insurance for ridesharing or chauffeur operators, unlike for private vehicles, is based on their area of operations rather than where they are garaged.

These requirements increase costs on centralised booking services operating both inside and outside the metropolitan area as they have to 'ring fence' the metropolitan area, collect additional data and have different rules for drivers depending on their accreditation.

On 10 July 2021, the South Australian Government announced that it was extending the definition of the Adelaide metropolitan area boundary to include the Adelaide Hills and Mount Barker council areas.⁹⁸ These changes are unlikely to take effect until December 2021 but are likely to address these issues in newly included areas.

While expanding the Adelaide metropolitan area boundary will allow for ridesharing in the newly included areas, while there remains a boundary there will be potential for barriers to ridesharing in these border regions. The Commission has also heard that the lack of ridesharing is a potential barrier to tourism in regions (especially wine regions) further out from the Adelaide Metropolitan area, which have limited taxi services, such as Clare. In implementing the changes to the metropolitan boundary, the Commission suggests that DIT also identify and consider options to remove barriers to entry by services providers, including ride share providers, in the regions.

7.1.3 Boat and ferry services

The licensing and operation of commercial boat services such as ferries and boat tours are regulated at the national level by the Australian Maritime Safety Authority. Although the South Australian Government does not regulate commercial boats and ferries, it does own a significant amount of infrastructure such as jetties and harbours, the use of which is crucial for many marine tourism operators. The process for obtaining access and rules governing its use are discussed in chapter 6.

7.2 Accommodation

Short-term visitor accommodation businesses are a key facilitator of tourism activity, with 79 per cent of tourism expenditure in South Australia in 2019 including an overnight stay.

⁹⁸ Kathryn Bermingham, 'Adelaide Hills residents to have access to metro-based taxis and rideshare services', *The Advertiser* (online), (10 July 2021) <<https://www.adelaidenow.com.au/news/south-australia/adelaide-hills-residents-to-have-access-to-metrobased-taxis-and-rideshare-services/news-story/22577a389361bf2f1ed8be1039379cba>>.

Furthermore, Tourism Research Australia estimates that accommodation businesses represent 4.5 per cent of total tourism businesses in South Australia.⁹⁹

In general, the South Australian Government does not directly regulate the operations of short-term visitor accommodation businesses. Instead, certain activities common to accommodation businesses are regulated, such as food, liquor service and laundry.

An accommodation business's main interactions with state regulations are likely to be through the process of gaining a development approval when establishing or expanding. Other interactions will be through the relevant local government's environmental health officers while the business is in operation.

The Commission primarily heard about planning and building issues impacting on the establishment of new accommodation businesses or expansion of existing businesses. Few issues have been raised by businesses about general operating requirements for accommodation businesses.

7.2.1 Establishing an accommodation business

To obtain a development approval, the accommodation business must meet requirements under the *Planning, Development and Infrastructure Act 2016* and the National Construction Code (NCC). This includes being compatible with the designated land use, meeting building standards (including accessibility requirements), meeting fire safety requirements and other requirements assessed as part of a development approval. A development approval is needed prior to construction of a new building, when altering an existing building or changing the land use.

The new Planning and Design Code came fully into effect in March 2021. As a result, while the planning system plays a significant role in tourism accommodation development, it is too early to assess the recent changes.

As part of the development application process, referrals to other parts of government for advice or approval are often required. For tourism businesses these can include, among others, referrals to the Native Vegetation Council (NVC), the Environment Protection Authority (EPA) and the Commissioner of Highways (CoH) to determine its effect on native vegetation, the environment/waterways and the state's road network. The Commission is separately reviewing these referrals as part of the Development Referrals Regulatory Review.

The Building Code of Australia (BCA) provides the minimum necessary requirements for safety and health; amenity and accessibility, and sustainability in the design, construction, performance and liveability of new buildings (and new building work in existing buildings) throughout Australia. It is a uniform set of technical provisions for building work and plumbing and drainage installations throughout Australia. The BCA is produced and maintained by the Australian Building Codes Board and is given effect by legislation in each state and territory. As a result, while it is a national code, any provision can be overridden by, or is subject to state legislation.

A tourist accommodation business must be classified as either a class 1(b) or class 3 building under the BCA. For new developments, this will be a part of the building approval;

⁹⁹ Tourism Research Australia, *TBIA employment size data tables*, (2019) <<https://www.tra.gov.au/data-and-research/reports/tourism-businesses-in-australia-june-2014-to-2019/tourism-businesses-in-australia-june-2014-to-2019>>.

however, to repurpose an existing building for tourist accommodation, a building approval will still be needed even if no building activity is required.

A development application for a tourist accommodation business may require a referral to the Commissioner of Highways to approve entrances and exits to roads, which may require traffic surveys and consultants. This process has been separately considered by the South Australian Productivity Commission's Development Referrals Review.

Bed and Breakfast venues

To establish an accommodation business on an existing residential property, a change of land use is usually required. For small scale businesses, such as bed and breakfasts in existing residential properties, a change of building classification is often also required. Most residential dwellings are classified as class 1(a) buildings. To operate such a building as an accommodation business it must be reclassified as a class 1(b) building—which allows short-term holiday accommodation for up to 12 people or a floor area of 300 m². A class 1(b) building can also be four or more single dwellings located on one allotment which are used for short-term holiday accommodation.¹⁰⁰ The conversion of a dwelling to class 1(b) requires a building approval.

The *Commonwealth Disability (Access to Premises – Buildings) Standards 2010* apply to new class 1(b) buildings and existing class 1(b) buildings being altered. Buildings currently classified as 1(a) that are reclassified to 1(b) are not subject to this requirement provided that they have no more than three bedrooms. The Commission has heard from some accommodation providers that the cost of meeting this requirement in some heritage buildings can be a barrier to expanding their business as facilitating access may not be possible while protecting heritage.

While there is provision for an exemption from these requirements if compliance would impose unjustifiable hardship, compliance is required to the maximum extent not involving unjustifiable hardship.¹⁰¹ The standards set out the circumstances which would be taken into account in determining unjustifiable hardship, including financial circumstances. It is unclear how they are interpreted in practice.

Buildings greater than 300 m² in area or accommodating more than 12 persons are classified as class 3 buildings which are subject to a greater degree of fire safety, and access requirements.

Home sharing

Home sharing may facilitate tourism by providing additional capacity, especially during peak periods in regions with limited accommodation providers.

Home sharing services such as Airbnb currently may operate in South Australia without the types of regulations that apply to similar accommodation such as traditional bed and breakfasts. This is because there is no clear legal position on the need for planning approval to lease a property or room through a home sharing service.

As an activity, home sharing mostly represents short-term leasing of property which does not require planning approval. However, the distinction between larger-scale home sharing and a commercial tourist accommodation business, which would require planning approval, can

¹⁰⁰ Australian Building Codes Board, *Understanding the NCC – Building Classifications* (July 2020) <https://www.abcb.gov.au/-/media/Files/Resources/Education-Training/UTNCC_Building_Classifications.PDF>.

¹⁰¹ *Disability (Access to Premises — Buildings) Standards 2010* (Cth) Part 4.

be difficult to determine. Some local governments in South Australia have by-laws which require permits to operate a 'lodging house'. That said, the majority of home sharing in South Australia is unregulated.¹⁰²

Accommodation providers have expressed concern that they face competition from similar businesses that face lower regulations in that they do not need planning approval and, as a result, lower compliance costs. South Australia does not impose any requirements on home sharing unlike other Australian jurisdictions. New South Wales, Victoria and Tasmania all require registration of homes used for this purpose, while New South Wales also has a code of conduct and a cap on the number of days per year a property can be rented out. The Commission does not support caps on home sharing. The Commission notes the interstate regulatory requirements appear to provide a competitive advantage to some SA providers. This matter could be reviewed as part of any review of the new planning system.

Caravan parks

Caravan parks face similar issues related to the planning system and building codes. Under the *Planning, Development and Infrastructure Act 2016*, a development approval is required for the layouts of new caravan parks, alteration to site layouts, extensions to existing parks and any building work or alterations to fire services and equipment.

Caravan parks can only be established on land zoned for use as a caravan or residential park. Stakeholders have suggested that the process for getting land rezoned can be lengthy.

Caravan Parks that need to acquire land in order to expand or build new parks have experienced lengthy timeframes in order to get land rezoned for use as a caravan or residential park. This can delay developments and increase costs significantly and is a deterrent to the development and expansion of parks. (SA Parks, DR 3, p.2)

Specific fire safety standards for caravan parks are set out in Ministerial Building Standard MBS003 – Fire safety in caravan parks and residential parks. These standards include requirements for separation distances between caravans and adjacent caravans, tents and buildings. They also specify requirements for providing access, water and equipment for fire-fighting purposes and reducing potential fire hazards.

The standards were introduced in July 2019. They are not retrospective and apply only where a new development approval is required. The Commission heard that, while the sector supports the requirements, the standards have been inconsistently applied across the state and that it has been retrospectively applied to some parks.

The management of compliance falls on local government authorities via their fire safety committees. At present there is a great deal of variation between local governments as to how their committees discharge their obligations. While SA Parks have received correspondence from the Minister to state that compliance is not retrospective, there are fire safety committees that have been seeking retrospective compliance from parks. We have some members who operate more than one park in different local government zones with greatly different obligations imposed on them.

SA Parks have sought support from the Department to disseminate guidelines to local government as to the general parameters that fires safety committees must work within, in an effort to get some state consistency on this. At this time, we are unaware whether any such guidelines have been created. (SA Parks, DR3, p.2)

¹⁰² Alex Lazar, 'Home-sharing in South Australia: Protecting the rights of hosts, guests and neighbours' (2018) 3 *UniSA Student Law Review*.

Tiny cabins

The installation of tiny cabins and tourist pods in areas of natural beauty such as vineyards, forests and national parks is an emerging tourism product globally. The Commission understands that under the previous planning system, these developments were considered non-complying in every zone. As a result, these developments were required to go through a non-complying development process under which proponents had no rights to appeal a council's decision and the requirements could vary across councils.

The Commission heard that the new planning system expands the number of zones that tourism accommodation is allowed in and that this type of accommodation would now likely be performance assessed.

Because these cabins are usually installed in remote areas, they often face issues with not being connected to public infrastructure. This means that they must be able to store and remove their grey water and effluent, thus likely to require approval from SA Health and, in the Mt Lofty Ranges watershed area, the EPA, which is discussed in chapter 6. Their location also means that they may require clearing of native vegetation. To do this, they require referral to the NVC and/or the EPA in order to obtain a development approval. The Commission examined these referral processes separately as part of the Development Referrals Review.

7.2.2 General operating requirements

Accommodation businesses are subject to the general hygiene principles set out in the *South Australian Public Health Act 2011*. In addition, many activities or infrastructure offered by accommodation providers can have public health risks and therefore face government regulations. The relevant authority for enforcement of these regulations is usually the local government's environmental health officer. Many accommodation businesses also serve food and/or alcohol to guests. The processes and requirements surrounding the service of food were examined previously in chapter 5, as was the service of alcohol.

Accommodation businesses with air-conditioning systems that include cooling towers are considered high-risk and must be operated in accordance with the *SA Public Health (Legionella) Regulations 2013*. These systems are required to be registered with the relevant local council and owners are required to conduct monthly inspections of regulated systems and ensure periodic preventative maintenance is performed as prescribed. Environmental health officers from the relevant authority, such as a council, must ensure all regulated systems are inspected at least annually and may inspect systems at any time.

Many short-term visitor accommodation businesses also provide swimming pools or spas for the use of their guests. These pools and spas can become a source of harmful microorganisms that can cause illness to users. Also, incorrect chemical levels can cause problems such as skin rashes and irritated eyes. The *South Australian Public Health (General) Regulations 2013* and the Standard for the Operation of Swimming Pools and Spa Pools in South Australia prescribe specific requirements for owners and operators of public pools to ensure that water quality within a public pool is of a standard that protects public health. Local governments are responsible for administering the requirements of the regulations and standards, with SA Health providing a Guideline for the Inspection and Maintenance of Swimming Pools and Spa Pools in South Australia to assist and to ensure consistent requirements and standards across the state.

Camping

Camping is an activity offered by many tourism businesses such as tour operators. Campsites also provide an alternative accommodation option to tourists that helps support nearby tourism businesses through greater patronage. The main issues relating to camping that the Commission has heard relate to administrative costs of booking and paying for campsites operated by the South Australian Government.

Camping is generally legal in South Australia with the permission of the land holder, although the requirements for camping will in practice vary depending on the type and location of the land. For instance, a change of land use may be required if the land is designated for another purpose (such as agricultural production).¹⁰³

For Crown land, permission must be given by the agency responsible for the care and control of the land. Camping is generally not allowed on the roadside and permits are required to camp within a forest or national park under the relevant Acts. Local governments frequently adopt their own by-laws governing camping within their council area.¹⁰⁴ On unalienated Crown land, camping is allowed for a period of up to three weeks (21 days) without a permit.¹⁰⁵

National parks

Camping in national parks is managed by the National Parks and Wildlife Service South Australia, governed by the *National Parks and Wildlife Act 1972* and the *National Parks and Wildlife (National Parks) Regulations 2016*. Camping is not allowed in any national park, without the permission of the relevant authority, typically the park ranger.¹⁰⁶ Campsites in national parks can be booked and paid for online.

Many national parks do not allow solid fuel fires (wood and charcoal) at any time. In parks where fires are permitted, they are only allowed outside of the Fire Danger Season for that region. Each park is unique and the rules for each park are available on the National Parks and Wildlife Service website.¹⁰⁷

National parks in South Australia are closed on days of Catastrophic Fire Danger, as forecast by the Bureau of Meteorology, but may also be closed on days of Extreme Fire Danger.

The Commission heard that for commercial tour operators, the invoicing system is inconsistent across national parks which can result in additional expenses for operators in reconciling expenses. However, this relates to park fees in general rather than being specific to camping.

The invoicing for park fees for Commercial Tour Operators (CTO)s is haphazard, with various practices in place which results in delayed invoices, lack of consistent information and detail on invoices, which makes it very difficult for a small operator to keep track of, reconcile against individual booking expenses and to pay. A complete overhaul of the system should be

¹⁰³ Pitchup, *How to set up a campground, glamping park or caravan park in Australia* <<https://www.pitchup.com/en-au/how-start-campsite-caravan-park/>>.

¹⁰⁴ For instance see Yorke Peninsula Council's Local Government Land By-Law 2020 – By-Law No 2 <<https://yorke.sa.gov.au/content/uploads/2020/11/By-Law-No-2-Local-Government-Land-Bush-Camping-Authorisations-2020....pdf>>.

¹⁰⁵ Department for Environment and Water, *Accessing Crown Land* (2020) <<https://www.environment.sa.gov.au/topics/crown-land/accessing-crown-land>> .

¹⁰⁶ *National Parks and Wildlife (National Parks) Regulations 2016*, s 14.

¹⁰⁷ National Parks and Wildlife Service South Australia, *Know before you go: Fires and BBQs* (2021) <<https://www.parks.sa.gov.au/know-before-you-go/fires-and-bbqs>>.

undertaken to streamline and automate the process from a central source. (Wilderness Escape Outdoor Adventures, DR7, p.2)

The Department for Environment and Water (DEW) have advised that it is currently reviewing its invoicing processes for commercial tour operators (CTOs) and is keen to move to a fully digital system for licensing and fee payments.¹⁰⁸ This should resolve these issues of inconsistent invoicing systems.

As schools are exempt from paying visitor fees in national parks, the Commission has heard that as a result they do not always pre-book campsites, which can result in overcrowding and affect visitor experiences.

Fees for children to visit National Parks are charged to a CTO but not to a school if they visit directly. Parks could support CTO's by encouraging schools to utilise a CTO for their excursion. It has been our first-hand experience in parks that schools frequently do not pre-book their visits or their camping stays with National Parks which can cause overcrowding and unexpected, unmanageable visitation. CTO's are required to book in advance and pay for each person. (Wilderness Escape Outdoor Adventures, DR7, p.2)

Forest Reserves

Under the *Forestry Regulations 2013* a person must not, without lawful authority camp in a forest reserve overnight; enter a forest reserve before sunrise on any day; or enter or remain in a forest reserve after sunset on any day.¹⁰⁹ Forestry SA is generally supportive of camping but due to the nature of forestry and its obligations to provide a safe experience for campers, only allow camping at designated camp sites. Camping fees are regulated under the *Forestry Regulations 2013* and campsites can be booked and paid for online.

Due to fire risks, camping in forest reserves is permitted only from 1 April to 30 November annually and forests are closed to the public on Total Fire Ban days.

Houseboats

The commercial operation of leasing houseboats is regulated nationally by the Australian Maritime Safety Authority, under the *Marine Safety (Domestic Commercial Vessel) National Law (Application) Act 2013*. DIT retained a regulatory role for a transition period of five years until 2018. As a result, the Commission has not investigated regulatory barriers to houseboat rentals.

7.3 Conclusion

Transport services for tourism are regulated under the *Passenger Transport Act 1994* and have relatively easily understood requirements placed upon them. The DIT website provides guidance to operators and prospective operators on what is required. The current application processes could be improved, but DIT is currently undergoing work on this, including increased digital capabilities, and the Commission has heard no concerns about the timeliness of assessing applications.

Once approved, the main ongoing requirements for passenger transport operators are to have regular vehicle inspections. While this requirement was supported by stakeholders, the Commission has heard concerns that inspectors were overly risk averse and that operators were required to prove they had been inspected despite inspections being conducted by

¹⁰⁸ Department for Environment and Water submission, FR2, p.2.

¹⁰⁹ *Forestry Regulations 2013* s 7.

DIT. The recommendation in chapter 8 regarding better engagement with businesses may help assuage these issues.

The current regulations also, while not technically restricting ridesharing outside the metropolitan area, in effect have restricted operations to date. The Commission notes that the South Australian Government has committed to expanding the boundaries of the Adelaide metropolitan area which may address this issue in some regions. As part of this process, DIT should consider whether any of its regulations have the unintended effect of discouraging the development of ridesharing services outside the Adelaide metropolitan area.

Accommodation services face a more complex regulatory environment, with the regulatory issues ranging from planning and development to public health and environmental protection. The Commission has heard mainly about issues related to planning and the development of new accommodation and is unable to evaluate them due to brief experience to date with the recently introduced current planning system.

The Commission has heard few concerns about operational requirements for tourist accommodation businesses. Concerns businesses raised related mainly to consistency between local governments, with respect to the application of public health and fire safety, as enforcement and compliance of the relevant regulations is typically delegated to local government. The Commission has made a recommendation on this issue in chapter 5 and discussed this theme further in chapter 8.

In both areas, regulations could be seen to place restrictions on businesses that might have the effect of limiting the size of their business or reducing growth. These include limiting their areas of operation (such as for ridesharing) or limiting patronage (such as through vehicle size limits and requirements of the BCA on heritage buildings). There are also differences across the state through either separate regulatory frameworks (such as for passenger transport) or possible inconsistencies in application (such as those delegated to local governments).

8. Conclusion

As detailed in the tourism review terms of reference, the Commission was asked to recommend actions for the South Australian Government to consider that would:

- improve the efficiency of the operations and the performance of the relevant state agencies;
- improve the adaptability and resilience of the regulatory process; and
- encourage timely and effective outcomes including in relation to unusual or innovative development proposals of economic value to the state.

In addition, the review was to focus on practical matters of South Australia regulatory practice relating to the regulations affecting the nature-based and agritourism sector.

8.1 Common Issues

As discussed in the chapter 1, tourism is typically defined from the perspective of the consumer. In addition, from a regulatory perspective, tourism is a relatively new and growing economic focus for South Australia. This means that many of the regulations that affect tourism businesses were not developed in the context of tourism-oriented businesses. This has significant implications for the sector as some businesses struggle to understand how the older regulations apply in the tourism sector and some regulators may apply standards that are more suited to different types of businesses.

Based on the feedback received to date, the agencies most involved in regulating the tourism sector include:

- Attorney Generals Department – Consumer and Business Services (CBS);
- Primary Industries and Regions South Australia (PIRSA) – charter boats, fishing and meat processing;
- Department for Environment and Water (DEW) – Crown lands, national parks, pastoral lands and native vegetation;
- Environment Protection Authority (EPA)
- SA Health – food safety;
- Department for Infrastructure and Transport (DIT) – Commissioner for Highways (CoH) access to roads and road signage; and
- SafeWork SA - workplace health and safety.

The follow sections discuss the most common issues that are within the scope of the terms of reference for this review and include a series of recommendations. These recommendations draw on the conclusions of previous chapters and are developed in the context of the framework for the assessment of regulatory design and practice presented in chapter 1, which refers to costs to government, business and other economic effects.

The business impacts are of immediate concern, but the Commission also gives attention to the economic effects, including the implication of this package of regulation to competition in

this sector. As noted, the design and practice of regulation can provide an advantage to incumbents and can add to the (unrecoverable) costs of entry. It can also impede innovation.

The Commission also notes the extensive policy package the government has announced with respect to tourism and the ambitions expressed in those various policy documents, especially in relation to nature-based tourism. These include greater coordination, provision of information to business to support the development of proposals, streamlining application process, and removing unnecessary barriers. These initiatives are consistent with the finding of this review and the recommendations are intended to help address these issues.

8.1.1 More timely regulatory decisions

The length of time required to respond to development applications, or issue licences was the most common issue raised by businesses and other stakeholders. In addition, the SAPC Regulatory Framework Business Survey found of the 333 businesses (out of 376) that responded to the question on factors that influence the incidence of compliance challenges - waiting for approval was cited by 65 per cent. Businesses do not perceive that regulators understood the importance of quick decisions (whether positive or negative). The following example comes from the SA Parks submission.

Caravan Parks that need to acquire land in order to expand or build new parks have experienced lengthy timeframes in order to get land rezoned for use as a caravan or residential park. This can delay developments and increase costs significantly and is a deterrent to the development and expansion of parks. (SA Parks, p.2)

The Commission's research for this review has found very few identifiable targets for processing of applications or issuing licences for tourism-oriented businesses. The Commission notes that there are state government regulators that have robust frameworks for measuring and reporting on their performance; however, the focus of this review is on the regulation impacting on tourism-oriented businesses. SA Water has timeliness targets for its services and DIT does have some targets in its Road Signs guidelines. That said, the Commission has found scant evidence of public reporting on the performance of agencies in the timeliness of processing applications or issuing licences.

The SA Productivity Commission Regulator Practice Survey indicates that, of the 24 regulators that responded to questions in this area, some referred to their annual business plans or strategic plans for performance measure information; however, in reviewing the documents, the Commission found that the plans normally contained goals and objectives rather than performance measures.

A version of Recommendation 8.1 was in the Commission draft report (Draft Recommendation 8.3). There was broad support from those agencies that made submission in response to the draft report for the concept of clear timeframes for the delivery of services. Those agencies that commented on the recommendation indicated that some targets already existed or that there was a process in place for developing them. With respect to publicly reporting against those targets, most agencies indicated some level of support; however, there was not consensus. That said, the Commission considers that clear timeframes and public reporting against those timeframes is an essential component of an effective and accountable regulatory scheme and for that reason makes Recommendation 8.1.

Recommendation 8.1

In order to increase the transparency and accountability of agencies for their performance in processing applications, the Commission recommends that regulators relevant to nature-based tourism and agritourism, in conjunction with their regulated businesses:

- develop appropriate clear timeframes for their approval processes; and
- publicly report on their performance against these targets.

In addition, the Commission considers it good practice that regulators regularly review applications, including both approvals and rejections, to ensure the effectiveness and efficiency of its regulations and processes. The SA Productivity Commission Regulator Practice Survey indicates that there is some scope to improve the State's performance in this area as 44 per cent of the 27 regulators surveyed reported that they had not conducted any ex-post evaluations in that past five years.

The Commission considers analysing unsuccessful applications is an important aspect of regular reviews. This information helps to ensure rejection of non-viable applications occurs as early as possible in the approvals process (the early no) and to identify where changes in regulator practice, such as information and pre application meetings, may reduce rejection rates.

Draft Recommendation (8.3) in the Commission's draft report proposed periodic reviews of past applications as a tool for performance improvement. The agencies that commented on this draft recommendation generally supported the thrust of the draft recommendation. In addition, the SAPC Regulatory Practice survey asked state regulators how many ex-post evaluations of regulations were completed in the last five years. In response 12 (44 per cent) reported conducting none at all while 15 (56 per cent) indicated they had conducted at least one. The Commission considers this is an area for improved practice and proposes a series of actions in Recommendation 8.2.

Recommendation 8.2

In order to ensure that regulations are as effective and efficient as possible, the Commission recommends that regulators relevant to nature-based tourism and agritourism undertake regular reviews (annually or bi-annually) of past applications, including unsuccessful applications, to assist continuous improvement by:

- identifying possible changes to regulatory practice;
- improving efficiency in assessing those applications, including early rejection of non-viable applications; and
- ensuring the regulations are achieving their objectives.

8.1.2 Developing a proactive culture in regulators

Stakeholders from both agritourism and nature-based tourism businesses flagged a desire for regulators to adopt a more flexible and proactive approach to assessing applications.

That is, the businesses would like the regulators to look at how the application might be improved rather than focussing on why it cannot be approved. This is particularly important to applicants proposing to provide new or different services.

There were some positive examples related to interactions with some regulators during the COVID-19 pandemic discussed in chapter 5. In addition, PIRSA's work on the *Aquaculture (Tourism Development) Amendment Act 2021* (see Box 8.1) that will allow oyster farmers to expand their business activities to include tourism experiences provides a good example of how regulators can work with industry to allow new activities and streamline the approval process for those services while protecting the public good (biosecurity).

Box 8.1 Aquaculture (Tourism Development) Amendments Act changes

PIRSA was approached by oyster farmers regarding developing a tourism experience on their farms whereby tourists would be allowed to sample oysters with wine in the water where the oysters are growing. Owing to Biosecurity issues and separate approval processes, this type of activity would be complicated and could discourage businesses from even attempting to get the necessary approvals. However, with the support of the Minister and Premier, and the other agencies with legislative responsibilities in these areas the department developed the bill to allow PIRSA to become the one-stop shop for development approvals for tourism structure on aquaculture leases.

Not only is this a good example of regulators working proactively with businesses it also demonstrates that legislative change can be a feasible and effective means of simplifying business proponents' approval experience, permanently modifying regulatory mandates to better manage coordination among regulators.

That said, the majority of the feedback from businesses suggests that agencies view their regulations as a set of strict rules that have little flexibility. The SAPC Business Survey indicated that 54 per cent of all 376 business respondents indicated that regulators had a 'one-size fits all' focus and 42 per cent believed that regulation requirement did not proportionately match the risk. Further, the Commission has not been provided with any guidance material from regulators that suggests its employees are encouraged or trained to work proactively with businesses.

The Commission considers that cooperation between regulators and regulated businesses, while respecting the role of the regulator in protecting the public interest and avoiding industry capture, is an integral aspect of developing and maintaining an effective regulatory framework. Regular and transparent interactions between industry regulators are good practice, together with pathways to provide unsolicited feedback to regulators. The agencies that provided comments on the Commission's draft report generally supported the principle of better cooperation with stakeholders and some agencies indicated that they have some mechanisms in place already. However, the Commission recommends (in 8.3) that further attention be given to the design and operation of relevant mechanisms.

Recommendation 8.3

To facilitate better stakeholder engagement on regulatory matters and practice, the Commission recommends that regulators relevant to nature-based tourism and agritourism either:

- evaluate the effectiveness of existing public mechanisms; or
- develop new mechanisms (e.g. external reference groups and regular public forums); and
- that the feedback provided by stakeholders through those mechanisms be reported publicly.

8.1.3 Better Cooperation Between Government regulators and with Businesses

Business stakeholders expressed frustration in providing the same information to different and, in some cases, the same regulators in relatively short periods of time. Businesses would like to see some sharing of common information between regulators to reduce the administrative burden on business. As illustrated by Table 3.1 in chapter 3, the list of permit and licence required for nature-based tourism or agritourism activities can be extensive. Given the typical size of tourism-oriented businesses, responding to this situation can be both intimidating and confusing.

There was also some concern from these stakeholders that the regulators were perceived as only being interested in their own processes which complicated getting all the necessary approvals for the activity in question. Businesses sought more coordination between regulators to ensure the overall approval process is as efficient as possible. While the Commission has found that regulators are willing to work together, as the example in Box 8.1 illustrates, this appears to occur on an ad hoc basis related to a specific issue or project. Business stakeholders expressed a preference for an ongoing focus on better cooperation that leads to a more efficient approval process that lowers application and compliance costs for business. That said, the Commission considers every business bears the responsibility for developing and maintaining its own commercial interests and as such, needs to take actively engage with its regulators, including through industry associations, to pursue its interests.

In responding to Draft Recommendation 8.5, agencies considered that coordination was important. PIRSA indicated that it provides an integrated cross sector, cross-government and regionally focussed approach to improving social and economic outcomes for regions. While DEW indicated that its role and responsibility include developing and regulating nature-based tourism on public lands, it is concerned that it is not resourced or best placed to provide a broader concierge service.

As the development of tourism, especially nature-based tourism and agritourism is a development priority for the State, the Commission considers that better coordination in these sectors is warranted to accelerate their development and proposes a series of actions in Recommendation 8.4. The Commission considers DEW is the appropriate coordination agency to coordinate regulatory matters for nature-based tourism, drawing on its experience with the co-investment program and noting the Commission's Recommendation 4.1 about

improved coordination of Crown land. Given PIRSA's strategy document, the Commission considers PIRSA would be the appropriate choice for agritourism. A recommendation on this issue with wider application has been made in the Inquiry into SA's Regulatory Framework.

Recommendation 8.4

To accelerate development of the nature-based tourism and agritourism sectors, the Commission recommends that:

- the Department for Environment and Water (DEW) coordinate the provision of consolidated guidance to prospective nature-based tourism businesses covering relevant regulatory requirements, including those from regulators outside the portfolio; and
- Primary Industries and Regions South Australia (PIRSA) coordinate similar support to new agritourism businesses.

8.1.4 Facilitating new or innovative proposals

Over time, regulators build up an understanding of appropriate practice in their areas of responsibility, and the manner in which current regulation is to be applied. By their nature, new and innovative proposals may lie outside this experience or it may not be immediately clear how current regulation could be applied to the proposal. The risk is that the default response is to decline the application, losing opportunities for business and for tourism consumers as a result.

There was consistent feedback from businesses that agencies were reluctant to consider or approve new or innovative proposals. In general, once a dialogue begins with agencies, businesses found the communication with regulators to be helpful and constructive but finding the right person to provide feedback was difficult, particularly if the proponent was new to the regulatory process.

The reluctance of the regulator to consider or engage on new proposals could be related to the level of resources available, the tolerance for risk in the agency's business culture or the difficulty of adapting existing processes to accommodate new ideas.

Some agency staff indicated that the issuing of licences or permits was only one of their responsibilities (among compliance and other regulatory activities) and not necessarily a high priority in the context of competing work demands. As a result, the reluctance to consider new or innovative proposals may reflect limited time to consider these proposals and their perceived importance to the agency's regulatory role.

Some external stakeholders were concerned that the gradual withdrawal by regulators of senior regional staff with decision-making authority reflected a reduced risk tolerance by the regulator. Moreover, there was a perception by business that agency staff were reluctant to explore new ideas as mistakes are not tolerated. The Commission did not have the evidence to assess these suggested causes.

There is a balance to be achieved in this space. Businesses pursue commercial opportunities. To generate profit, businesses need to manage a certain level of risk and it is not the government's job to take on risks best managed by business. That said, it is

government's role to reduce risk from regulatory ambiguity, regulatory gaps, inappropriate/inflexible regulation or absent regulation.

As such, the Commission sees benefit from industry and government working together in the development and modification of the relevant regulations, particularly as technology evolves. This conclusion supports Recommendation 8.3 which focusses on building partnerships between business and government.

8.1.5 Greater clarity about approval guidelines

Clear guidelines as to the necessary conditions for approving a development, licence or permit underpin efficient regulatory process. They reduce the number of inquiries from business and allow for timely consideration of proposals by agency staff. This is even more important given the structure of the tourism industry in South Australia as most businesses are relatively small and do not have the same capacity as larger businesses to investigate guidelines and develop business proposals.

The Commission's review of the public material available to guide businesses in the development of proposals indicated that in several cases the guidelines could be improved by communicating the requirements for approval in a clearer and more concise manner. The requirements reviewed by the Commission, particularly regarding access to Crown or national park land, seem unnecessarily complex and, in some cases, vague.

This may be a result of the regulations being designed in a context where appropriately sensitive and compatible economic development of public assets was not considered a priority. As evidenced by the co-investment fund, the government has identified the economic development of nature-based tourism businesses as a priority. As such, it is important that the regulations that govern activity in those areas be reviewed to ensure that objectives of the new program can be progressed in a reasonable timeframe. The Commission notes that this is identified in Action 3 of DEW's Nature-based Tourism Action Plan but has not seen any evidence of the agency's progress in reducing red tape.

In their responses to draft report, there were no specific objections to recommendation 8.5 and it was generally viewed as good practice for the purpose of providing greater clarity about approval guidelines.

Recommendation 8.5

To help develop nature-based tourism, the Commission recommends that:

- regulators relevant to nature-based tourism, in partnership with their regulated businesses, review and improve the clarity and accessibility of their approval guidelines for nature-based tourism within 12 months; and
- these reviews draw insights from the nature-based tourism co-investment fund application process.

8.1.6 More use of digital enhancement, including online applications

Digitisation of government services is a priority for the current state government. The state's Digital Transformation Strategy outlines both the approach and benefits of that transformation. Some of the benefits that are most relevant to the Tourism Review include:

- reduced processing times for applications;
- reduced costs associated with doing business with government;
- increased community engagement; and
- reduced time spent on manual administration of processes.

The Commission agrees that this is an important initiative and emphasises that it is particularly important for regional businesses involved in nature-based tourism and agritourism as most are relatively small and have little time to deal with centralised or manual application processes.

While there has been some progress in developing online applications for the various development and licence approvals required to operate a business, both regulators and businesses have indicated that more progress can be made. In addition, stakeholders indicated that it was not sufficient to replicate the existing approval process online, it is also important to consider how the approval process can be improved at the same time.

The Commission notes that there are a number of initiatives to digitise government processes currently underway in a number of agencies including the development of sa.gov.au around the provision of government services. This is discussed in more detail in chapter 5 of the Inquiry into SA's Regulatory Framework and the following recommendation is consistent that of the inquiry on this issue. The agencies that provided responses to this the draft review supported the following recommendation as did most stakeholders.

Recommendation 8.6

To help support tourism development in the regions, the Commission recommends that the government's digital strategy prioritise the roll-out of digital services in those agencies that are most involved with nature-based tourism and agritourism.

8.1.7 Local Government Regulatory Capability

While the delegation of administrative responsibility to local government can be an effective means of developing local regulatory services that meet the needs of that particular region, it is important to ensure regulations and standards are applied in the same manner in each council area. The failure to do so adds to uncertainty in the application process for business and thereby to their costs.

As discussed in chapter 5, this was a significant concern for several businesses consulted in the development of this report. The Commission has also made a recommendation in chapter 5 to ensure that regulators receive appropriate feedback on the application of food safety regulations delegated to local government.

Appendices

Appendix 1: Terms of Reference

SOUTH AUSTRALIAN PRODUCTIVITY COMMISSION REVIEW INTO MODERN REGULATION – TOURISM

I, Steven Marshall, Premier, hereby direct the South Australian Productivity Commission (the Commission) to undertake a review into tourism regulation.

Background

Tourism is an important contributor to the South Australian (SA) economy with total expenditure of \$5.6 billion in the year ending September 2020 (approximately 5% of GSP) and 40,500 direct jobs in the year ending June 2019. The development of the South Australian Growth State plan for the visitor economy (including tourism) sets a target to grow this portion of the economy to \$12.8 billion by 2030.

Businesses serving tourists, by the diverse nature, navigate several regulatory frameworks and may need to comply with various industry codes and standards. Those requirements can traverse consumer law, marine safety, food safety and environmental standards, among many others, depending on the nature of the business. Registration, licensing and permits to operate in specific locations or access places may also apply, as well as the normal requirements of running a small or medium business including industrial relations, work health and safety, taxation and insurance. Industry feedback indicates regulatory processes can result in unnecessary costs, delays and uncertainty, adversely impacting on investment, proposed business development projects and business sustainability.

Various other factors can also affect the growth and development of the industry and are important considerations in the design and management of regulation to which it is subject. These include the applications of digital technology, including for relationship management in the sector and marketing.

Like several other parts of the economy that rely on proximity and travel, the state's tourism industry has been disproportionately affected by the COVID-19 pandemic. Total expenditure declined by 29 per cent in the 12 months to September 2020 compared to the year ending September 2019. While the Australian and South Australian Governments have made available several support and stimulus packages that are applicable to the tourism industry in response to the pandemic, it is also timely to assess regulations applicable to the industry. Removing regulatory impediments will help support tourism businesses as they reopen in a COVID-safe way to the state, other Australian jurisdictions and the world. In addition, streamlining regulation has been identified as a critical enabler in the South Australian Visitor Economy Sector Plan 2030.

Terms of Reference

The government seeks advice from the Commission regarding the effect of application of regulations on the tourism industry. The Commission is to focus on short to medium term benefits to the state that can be realised through changes in regulator practices, processes and capability, the use of technology as well as culture and relationships between proponents and regulators.

The Commission is asked to recommend actions by the South Australian Government to:

- improve the efficiency of the operations and the performance of the relevant state agencies:
 - in ways that cut the costs of regulation on the regulated parties and make it easier to do business in the state; and
 - having regard to the regulating agencies' mandates and the associated public interests.
- improve the adaptability and resilience of the regulatory process and encourage timely and effective outcomes including in relation to unusual or innovative development proposals of economic value to the state.

While 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.

The Commission is to have regard to (where applicable):

- Regulatory impediments, issues and reforms identified in contemporary reports, reviews and inquiries, and raised by public sector agencies and regulators, to determine their relevance to the challenges faced by tourism operators in South Australia.
- Regulation reforms specific to the tourism sub-sectors under review in other jurisdictions.
- Innovative and emerging technologies that would improve the efficiency and effectiveness of regulations applicable to tourism operators.
- Barriers to the entry of new businesses and investment in the tourism industry including international tourism services providers.
- The impacts of the COVID-19 pandemic, and in particular COVID-safe requirements and other potential limitations as the industry reopens.

The Commission is to give priority to high-value reforms to regulatory design and regulatory practice that do not require legislative change. In developing its recommendations, the Commission is expected to have regard to their resource implications and implementation timeframes.

Scope

For the purpose of this inquiry, regulation is defined to include any principal legislation or statutory instruments made under an act, such as regulations, rules, by-laws or any instruments of a legislative character, that principally affect businesses. The inquiry will also consider, where appropriate, administrative instruments that have a quasi-legislative character and impose a regulatory burden on businesses.

To contain the scope of the review, it will initially focus on nature-based tourism and agriculture-based tourism (food, wine and other products and services).

National regulatory schemes of which South Australia is part and where change requires the agreement of other jurisdictions are excluded from this inquiry. State legislation and regulatory schemes which involve local government are in-scope. The Commission is to

have regard to SA's Growth State initiative and other relevant state and national policies, reviews and reforms.

Inquiry Process

The Commission will consult with key industry organisations, including organisations representing regional South Australian tourism interests, business operators, the SATC, 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 the receipt of these terms of reference.



Hon Steven Marshall MP

PREMIER OF SOUTH AUSTRALIA

29/3 / 2021

Appendix 2: Submissions in response to the draft report

Organisation name	Submission number
<u>Coast Protection Board</u>	FR1
<u>Department for Environment and Water</u>	FR2
<u>Department for Infrastructure and Transport</u>	FR3
<u>Peter Forsyth</u>	FR4
<u>Primary Industries and Regions South Australia</u>	FR5
<u>Tourism Industry Council South Australia</u>	FR6
<u>SA Health</u>	FR7

Appendix 3: Submissions in response to the issues paper

Organisation name	Submission number
<u>Department for Environment and Water</u>	DR1
<u>Greg O'Grady</u>	DR2
<u>SA Parks</u>	DR3
<u>South Australian Tourism Commission</u>	DR4
<u>South Australian Wine Industry Association Incorporated</u>	DR5
<u>The Backyard Universe</u>	DR6
<u>Wilderness Escape Outdoor Adventures</u>	DR7

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