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Major Project Development Assessment Processes
Productivity Commission
Locked Bag 2, Collins Street East
Melbourne VIC 8003

Dear Sir/Madam,



I write to you in relation to the Productivity Commission's Issues Paper: *Major Project Development Assessment Processes*.

Business SA is South Australia's leading business membership organisation, representing thousands of businesses through direct membership and affiliated industry associations. We represent businesses across all industry sectors, ranging in size from micro-business to multi-national companies. Business SA advocates on behalf of business to propose legislative, regulatory and policy reforms and programs for sustainable economic growth in South Australia.

Business SA generally supports the Productivity Commission's approach to benchmarking major project development assessment processes. Some metrics that could be quantified include: length of time to approve major projects, the cost to the proponent of the process, the number of regulators that the proponent needs to deal with and the number of elements of the process that are duplicated. Identifying best practice should be an important outcome of the benchmarking process.

Other countries that could be considered for analysis during the benchmarking process are: Canada, New Zealand and the United States.

The major project development assessment process in South Australia is quite straightforward. The initial step is for the Minister for Planning to declare a proposed development a major development if it is of major economic, social or environmental importance. Such a declaration is necessary for a proper assessment to occur.

Once a proposal has been declared a major development by the Minister, and a formal development application received, it is referred to the Development Assessment Commission (DAC). The DAC determines the level of assessment that is required and issues formal guidelines.

There are three possible levels of assessment:

1. Environmental Impact Statement (EIS).

This is the level of assessment required for the most complex proposals, where there is a wide range of issues to be investigated in depth. If the project proponent is directed to prepare an EIS, it must do so and then release it for public comment for a period of at least six weeks. The project proponent must also conduct a public meeting in an area close to the site of the proposed development.

2. Public Environmental Report (PER).

This level of assessment – sometimes referred to as a 'targeted EIS' – applies where the issues surrounding the proposal require investigation in depth, but are narrower in scope and relatively well known, or where there is existing information available. A PER must also be released for public comment for a period of at least six weeks and a public meeting conducted in an area close to the site of the proposed development.

3. Development Report (DR).

This is the least complex level of assessment, which relies principally on existing information. For a DR level of assessment, a meeting is not a statutory requirement and the report would need to be released for a period of three weeks for public comment.

As implied above, once the necessary assessment document is completed by the proponent, the document is released for public or agency comment for three to six weeks. The document is made available at the relevant local council and on the listing of major developments proposals (which is easily accessible at www.sa.gov.au).

Once the public comment period has elapsed, the proponent is required to respond to any public or agency comments. This proponent's completed response document is then released for public information and is again made available at the relevant local council and on the listing of major developments proposals.

The Minister will consider the proposal and detail his/her considerations in an assessment report. The completed report is again made available at the relevant local council and the listing of major developments proposals.

The Governor will make a decision on the final proposal, having regard to the assessment report and other documentation. This will be published in the Government Gazette, the listing of major developments proposals and in the local media.

In the past there has been some tension between the South Australian Government and the Adelaide City Council (ACC) regarding projects in and around the Central Business District being given major development status. Declaring a project a major development takes the assessment process out of the hands of the ACC and into the hand of the DAC. Such projects have usually been projects that the ACC has either rejected or has been slow in the approval process. While this has created some uncertainty for project proponents, the relationship has improved under the current Lord Mayor and Council members.

A possible mechanism to reduce the costs and uncertainties for proponents when dealing with major project development assessment processes is intergovernmental agreements. These could be between both different levels of Government and the same level of Government. For example, a consistent approach across Councils would assist projects that extends across Council boundaries, such as infrastructure. A 'Lead Council' model, where one Council takes responsibility for assessing a project that extends across Council areas, could also cut costs and reduce the time taken for a project to be approved. A single approval process could also be useful when considering projects that might require approval by more than one level of Government.

Indeed, in late 2008, the Council of Australian Governments (COAG) agreed to improve development assessment processes, by reducing regulatory burdens and delays. Reforms included: rolling out electronic development assessment processing nationally, a system of national performance monitoring, increasing the use of code assessment, a set of national planning system principles and assessment of the benefits from development assessment reforms. Important progress has been made in some of these areas.

Unfortunately, initiatives to streamline environmental approval processes have not progressed far, largely due to the composition of the Australian Parliament. Simplifying such processes, in particular requiring only one environmental impact statement to be produced, would improve consistency and reduce the costs and time taken for major projects to be approved.

Another area of concern, which is partly due to the same reason, is the undue influence of unions on industrial relations and subsequently the ability of project proponents to proceed with Greenfield projects.

The current provisions in the *Fair Work Act 2009* are acting as a barrier to businesses commencing new projects and in particular resource projects. They are also adding to the costs of such projects.

Businesses should be able to make pre-start agreements for new projects without having to negotiate with a union(s) and be pressured to agree to their inflated claims.

The *Fair Work Act 2009* should be amended as per the previous provisions in the *Workplace Relations Act 1996* to allow employers the option of a non-union greenfield agreement that would be tested against the relevant modern award, minimum standards and a 'no disadvantage test'.

It is unclear what impact the recent *Plan for Australian Jobs* announcement by the Commonwealth Government will have on major project development assessment processes by requiring projects of more than \$500 million to have an Australian Industry Participation Plan and global businesses with projects worth \$2 billion or more to involve Australian businesses in their global supply chains.

The predictability of development assessments processes is important, due to the negative impact uncertainty has on investment. In that context, realistic timeframes for development assessments must be communicated and adhered to by the relevant level of Government.

Likewise, project proponents should have certainty regarding the information requirements of the development assessment process. Information should also only be required to be submitted once and should be shared between agencies where appropriate.

It is also important that development assessment processes are transparent and easy to understand. Regulations associated with such processes should be reviewed at regular intervals to ensure that their objectives are still being met and that any interim changes do not have unintended consequences.

Business SA believes that a risk-based approach to major project development assessment would reduce the costs and time associated with such processes. The South Australian system is risk-based to an extent, by having three levels of assessments depending on the project.

Transparent strategic planning by Governments could assist some proponents of major projects, particularly in terms of knowing where their project fits in terms of broader economic growth and development goals, as well as possible constraints. Strategic planning is especially important for proponents of infrastructure projects and projects that rely on new or improved infrastructure, such as mining and energy projects.

It is therefore disappointing that the South Australian Government has not released an updated Strategic Infrastructure Plan and apparently has no intention to do so, despite a consultation process having taken place in late 2010 and early 2011.

Yours sincerely

Nigel McBride

Chief Executive Officer