

Business  
Council of  
Australia



submission

Submission to the  
Productivity Commission  
Study of Major Project  
Development Assessment  
Processes

APRIL 2013

*Working to achieve  
economic, social  
and environmental  
goals that will benefit  
Australians now and  
into the future*

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The Business Council of Australia (BCA) brings together the chief executives of more than 100 of Australia's leading companies, whose vision is for Australia to be the best place in the world in which to live, learn, work and do business.

This is the BCA submission to the Productivity Commission Study of Major Project Development Assessment Processes.

## **Recommendations for improving major project approvals**

- We recommend that in conducting this study, the commission should:
  - establish where approvals processes in Australia add costs that are not necessary to achieving the required outcomes of regulation, and do this in comparison to international practice to highlight where these costs are harming our competitiveness
  - look to international developments to identify possible reforms to approvals processes in Australia that will enhance the competitiveness of Australia as an investment destination
  - consider the cost of the totality of Australia's major project approvals from the perspective of the project owner, including approvals under Australia's development assessment regimes, environmental approvals, licensing and permits and completing enterprise bargaining agreements.
- The findings from the Productivity Commission study should be used by governments to reform Australia's major project approvals processes so that they meet policy objectives in a way that imposes the lowest economic cost.
- Governments should work together to remove all overlap and duplication in approving major projects and introduce wherever possible a single point of contact for business (or 'one-stop-shop') that covers all project approvals requirements for major project proponents.
- Jurisdictions should adopt a risk-based approach to regulation to ensure that regulatory effort is directed to the areas of development approvals where it will have most impact and that the costs of regulation are commensurate with the risks to be managed.
- Legislative objectives should reflect that development assessment and approval (DAA) processes are designed to meet broader policy objectives of government, as well as achieving a specific economic, environmental or social objective.
- We support consideration of alternative approaches to DAA processes that can be implemented economically and which work well. We encourage the commission to look at recommending alternatives to DAA processes including:
  - improved strategic planning, with high levels of early community and business input, and more 'as of right' development
  - strategic assessments of areas with high environmental value
  - recognition of internal company approvals processes and conditions for accrediting these processes.

- Governments should adopt strategic planning processes that can speed up the time for approving developments and land use decisions:
  - reform strategic planning of cities and regions to fully integrate land use, transport and social infrastructure and access to natural resources, and to better resolve land use and ownership conflicts
  - invite comprehensive participation by business and the community early in the development of strategic plans
  - reserve areas for designated activity – e.g. mining exploration, primary production activities – which are then permissible. Cities planning should focus on creating more liveable and efficient cities with designated areas of density and compact activity.
  - make a key purpose of strategic planning the facilitation of private investment by allowing developments consistent with strategic plans to be deemed complying or ‘as of right’; and allow for unsolicited proposals
  - use new planning instruments to allow all policy matters to be brought forward into a rezoning decision, which then allows for subsequent developments to be deemed complying development and then tested against a set of performance standards. Many states are using structure plans to plan a site or corridor. Most planning Acts do not adequately cater for them.
- Australia’s governments should better coordinate and streamline their approval functions by:
  - state governments adopting the single agency model for assessment of significant projects where a single minister is the consent authority and all development, pollution and other licensing approvals are under a single major project approval process with clear time frames and no other agency able to ‘stop-the-clock’. The desirable characteristics of state government major approvals process are detailed in Exhibit 1.
  - having a ‘critical infrastructure’ status that means major projects which fall into this category are deemed approved from the outset and not subject to third party approval (in accordance with strategic planning as above)
  - reducing the excessive number of conditions attached to investments approvals
  - states and federal government to progress bilateral agreements where the states will undertake both assessment and approval of projects under the EPBC Act on behalf of the federal government and accredit state-based environmental offsets policies and schemes
  - speeding up the use of strategic assessments and land use plans under the EPBC Act
  - ensuring approvals functions are properly resourced with personnel with appropriate commercial and regulatory skills and experience to meet the expected assessment needs from the forward investment pipeline.
- Government agencies and departments with responsibilities for project approvals should be required to report annually on:
  - the number of projects considered for approval over the past 12 months
  - the time taken to decide approvals
  - the number of conditions imposed with approvals
  - the total administrative and compliance costs associated with approvals and conditions, including monitoring and compliance.
- Drawing from these reports by individual agencies, the Productivity Commission (or another agency) should be tasked annually with calculating the aggregate costs (and benefits) of Australia’s multiple project approvals regimes across jurisdictions – in order to highlight areas of continuing high cost and potential reform.
- The federal government should not proceed with adding a new layer of approvals around project procurement in planned laws requiring major projects over \$500m to produce Australian Industry Participation Plans.

**Exhibit 1: Desirable characteristics of state processes for major approvals**

- Major project approval status where the minister is the consent authority must make explicit the types of projects to be dealt with by the state, rather than local government.
- States developing a 'critical infrastructure' status that means major projects which fall into this category are deemed approved from the outset and not subject to third party approval.
- A single agency must have responsibility for development assessment.
- Major project assessment should require state authorities to issue upfront the standards, requirements, and the technical studies that need to be incorporated as preconditions for consent to be granted.
- These requirements should incorporate the Commonwealth's Environment Protection and Biodiversity Conservation Act requirements so that both levels of government have stipulated these standards for consent and the two levels of government are compelled to work together.
- Timeframes for assessment should be made explicit. If a development which is complying (i.e. permissible within the zoning provisions and the local planning scheme) should be deemed approved once the time frame has elapsed.
- There should be no 'stop the clock' provisions for any agency other than the agency with consent powers.
- The development consent should be able to be issued in the form of a concept approval, which would allow very complex developments to be staged in over long periods. This would mean a project, which is currently subject to new approvals at various stages, would only be subject to meeting certain conditions, or providing updated information, etc. The merit of the proposal should not be subject to assessment. This would give 'bankable' long-term approvals to major projects to facilitate financing.
- Specialist major project assessment teams should be established in state planning agencies. These should have improved resources and specialist expertise. Developer fees could contribute to a 'blind trust' to support these units, who should have the power to command other agencies.
- States should set up a major project coordinator so there is one point of contact to ensure all approvals are timely.
- States should bring all development, pollution and licensing approvals under a major project approval.

The current approach to declaring and approving major developments under the Development Act 1993 in South Australia and reforms to planning currently being considered to streamline approvals in New South Wales are examples of practice in line with these characteristics.

Source: Business Council of Australia.

## Introduction

Australia's long-term sustainable development will depend on its success in delivering a large number of investment projects that will make real long-term improvements in our standard of living.

High levels of investment are anticipated to continue over the remainder of this decade and beyond. The extended phase of growth in the economies of the Asia–Pacific region means Australia is likely to experience sustained strong demand for our commodities. Demographic change and estimated growth in the population to 36 million by 2050 will require continuing investment in economic and social infrastructure.

Public and private capital projects in the pipeline will be hugely important to Australia's economic and social prosperity. They will provide the energy, transport, water, communication, urban infrastructure and social services to make our cities and regions better places to live and do business.

To deliver each of these projects well, we need to develop world-class capabilities and performance for planning, approving, funding, and delivering capital projects.

The experience to date, however, with respect to regulatory approvals for major projects suggests we fall short of world best practice.

Governments have an important role in safeguarding environmental, safety and cultural standards, as do the businesses delivering the projects.

However, Australia's multiple laws and inefficient processes across governments to do this have grown over time and often overlap or are poorly executed and resourced. Regulatory approvals systems suffer from unclear roles, confused accountabilities and a lack of expertise and commercial acumen.

The result is unnecessary cost, time delays and uncertainty in investment decision making.

This timely study by the Productivity Commission offers a rare opportunity to streamline Australia's approvals regimes and adopt world's best practice while maintaining environmental and community standards.

Perhaps most importantly, it offers an opportunity to consider the totality of Australia's approvals regimes from the perspective of the project proponent, rather than from the perspective of each individual regulatory agency.

Project proponents have to deal with multiple regulatory requirements when making a decision of whether to invest. It would be a big step forward if Australia's governments could also bring all project regulations into a single point of decision making and, by doing so, measure and limit the total impact on project cost and performance.

There are examples of good practice in project approvals in Australia, and worthy efforts are being made in many state jurisdictions to improve and streamline performance.

We should strive to be the best in the world at combining major project approvals regulations with sustainable economic growth. This study by the Productivity Commission will provide important directions that can assist governments to realise that aim.

## Complement to 2011 Report on Planning, Zoning and Development Assessments

The Productivity Commission's 2011 review of Planning, Zoning and Development Assessments is a forerunner to this study. The 2011 review benchmarked planning, zoning and development assessments across the states. It made recommendations and comments on best practice development assessments that are of relevance to the commission's current study.

However, there were two areas of critical importance not covered in that earlier report where this study can complement those earlier findings:

- the impact of Australia's approvals regimes on major capital projects (the earlier review focused mainly on housing and commercial buildings)
- international benchmarking of Australia's development assessment processes, to identify where we are falling behind in international competitiveness and to identify opportunities to lift Australia's regimes to world's best practice.

This study and the 2011 review mark a welcome entry by the Productivity Commission into providing advice to governments on improving planning and development assessments.

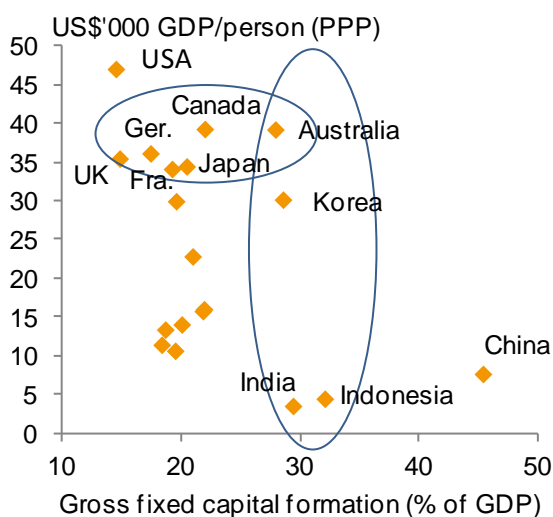
## Importance of major projects to Australia's economy

### The contribution of major projects

Australia's growth opportunities are highly dependent on investment and tied to the growth in our trading partners. Total gross investment was 28.5 per cent for the calendar year of 2012, which we estimate make Australia the most investment-intensive OECD economy. By comparison the OECD average investment intensity of GDP is around 19 per cent.<sup>1</sup>

At this level, our investment-to-GDP ratio looks more like that of one of the fast-growing emerging economies of Asia, rather than our traditional advanced economy peers – even as we remain a Top 10 high-income country in terms of GDP per capita. As Figure 1 shows, even in 2010 (the most recent year with comparable data), Australia stood out among G20 countries as being both a high-income and high-investment economy.

**Figure 1: G20 economies: investment share and per capita income levels in 2010**



Source: IMF, World Economic Outlook, April 2012, and World Bank website at <http://databank.worldbank.org>.  
Note: all data for 2010; PPP = Purchasing Power Parity.

Australia's high dependence on investment for economic growth and the large number of discrete investment projects in the investment pipeline mean that an efficient approvals process is arguably more important for Australia than any other developed country.

1. See ABS, *Australian National Accounts: National Income, Expenditure and Product*, cat. no. 5206.0, December 2012 and OECD, *National Accounts at a Glance*, 2013.

All in all, Australia's current project pipeline is conservatively estimated to be \$921 billion according to the Deloitte Access Economics Investment Monitor.<sup>2</sup> This is constituted by projects that are categorised as:

- \$384 billion of projects 'under construction' are those where work has commenced on the project
- \$66 billion of projects where a decision to proceed has been announced but construction has not yet started are shown as 'committed'
- \$192 billion of projects 'under consideration' are those where a decision whether to proceed with the project is expected in the reasonably near future
- \$280 billion of projects with 'possible' status are those projects that have been announced but where no early decision on whether to proceed with the project is likely.

These aggregate investment figures breakdown into 902 individual projects over \$20 million. Over 500 of the projects are either under construction or committed. To illustrate the pipeline of potential projects yet to come, 190 projects are 'under consideration' and a further 184 projects are at an early stage of feasibility testing and described as 'possible', according to the Deloitte Access Economics monitor.

#### Number of projects over \$20m in Australia by status, as at December 2012

Project type	Number
Under construction	456
Committed	72
Under consideration	190
Possible	184
Total	902

Source: Deloitte Access Economics, *Investment Monitor*, December 2012.

These projects span the entire economy and include mining, oil and gas, roads, ports, water, communications and industrial complexes, hotels and tourist facilities, office buildings, major urban developments, universities, sport and cultural facilities and major social infrastructure such as schools and hospital (it does not include residential development).

In addition to the \$921 billion investment pipeline, there are many other projects on the horizon:

- projects in very early stages of concept or planning, for instance a second airport for Sydney, or the East–West Freeway link in Melbourne
- the future investment task needed to transform our energy sector to meet the needs of households and business in a carbon-constrained world
- further investment in our energy and resources sector to meet growing demand for our commodities exports, with mining investment forecast to remain elevated at above 5 per cent GDP through to the end of the decade<sup>3</sup>
- the long-term vision for Australia to be a premium service provider to the growing Asian middle class in the decades ahead will require investment in world-class infrastructure, including in our international gateways.

2. Deloitte Access Economics records projects located in Australia with gross capital expenditure over \$20 million. Projects for which capital expenditure cannot be estimated are listed but not included in the \$921 billion. Residential housing projects are also not included.

3. Internal report for the Business Council of Australia by Deloitte Access Economics.



All of these projects will interact in some way with Australia's approvals processes.

### ***The importance of getting major project approvals processes right***

There will be lasting benefits from improving the performance of Australia's major project approvals processes:

- Australia's economic output as measured by GDP will rise through direct capital expenditure.
- Investment project activity will create direct and indirect employment opportunities.
- Much of the investment boom underway and in planning will be in regional parts of Australia, which will boost regional development.
- Successful projects will have a significant impact on the federal budget through their contribution to economic activity and employment.
- Our ability to export Australian products and grow national income will be enhanced.
- Earning income from the rest of the world through exporting is important for maintaining our external financial stability.
- Future income streams from exports will contribute to a better resourced and more productive economy.
- Investment projects will facilitate the development of Australian expertise for managing and delivering investment projects.
- Investment projects in the energy sector can successfully, efficiently and sustainably enable a reduction in greenhouse gases over time.

### **Problems with Australia's major project approvals regimes**

Large capital projects typically require approval by government authorities on a number of grounds, including:

- planning and development
- environmental impact
- various specific environmental issues such as noise, odour, waste discharges, water extraction, etc.
- heritage and native title
- land acquisition and/or access
- construction, e.g. building codes
- labour, including rules for accessing temporary skilled migration and for concluding industrial relations agreements
- health and safety.

The government is adding to this list a new regulator (the Australian Industry Participation Authority) and a new requirement for government approval of a project's procurement process (Australian Industry Development Plans) for projects over \$500 million. In our view this is unnecessary additional red tape and existing policies to match suppliers with project opportunities are preferred.

Recognising the importance of effective project delivery to our economy, the BCA recently undertook research into the barriers facing the delivery of major projects in Australia. The time, cost and uncertainties associated with Australia's multitude of project approvals regimes for many companies were at or near the top of the list of concerns. These concerns have been documented in previous reports, in particular our 2012 reports *Discussion Paper for the COAG Business Advisory Forum*, and *Pipeline or Pipe Dream? Securing Australia's Investment Future*.

We are continuing to assess regulatory and other cost impacts on major projects through the BCA Projects Costs Task Force and will provide the results from that analysis to the Productivity Commission in a supplementary submission.

It had been hoped that COAG's Construction Cost Task Force, announced in April 2012, would have been a source of data for this study, but that process has, disappointingly, been abandoned.

Individual case studies can be compiled to illustrate the problems. What is also needed is a clear picture of the accumulated administrative and compliance costs that these multiple regimes impose on projects across the economy. The difficulty in sourcing aggregate data on project approvals performance in Australia is one of the main reasons why this study by the Productivity Commission is so important. Aggregate data would greatly assist policymakers to identify inefficiencies and target improvements.

An important issue for this study then should be to consider current mechanisms in place for the measurement of approvals systems performance, not only in terms of whether regulatory objectives are being achieved, but also the total administrative and compliance costs of red tape for governments and for project owners, and the effectiveness of reporting of these costs by government agencies with responsibility for project approvals.

Regular measurement of the costs of Australia's approvals regimes will allow policymakers to measure and limit the costs to projects and the wider economy, and point to where improvements can be made. It will provide a baseline of data against which any proposals for new regulations can be assessed for their contribution to what is already a high cumulative cost impost on projects.

It is important to restate that the concerns raised by industry are not about the environmental, safety and other standards that need to be met for delivering projects. And it is accepted that properly assessing complex projects with the potential for significant impacts can be a time-consuming and costly process – but an important one to ensure good outcomes and build community confidence in investment. Rather, it is the inefficiencies and uncertainties that exist within the approvals processes of government that are of concern and the unnecessary costs they impose on projects which are, ultimately, costs also borne by the wider community.

Our consultations with companies and research provided numerous experiences of business interaction with the planning and approvals system that found:

- Processes are too complex and too many permits are required. For example, the \$7.2 billion Roy Hill project in Western Australia required 3,104 permits and approvals for mine, railway and port developments.<sup>4</sup> A BCA member told us it required 70 approvals and 19 different decision points to build two bitumen import terminals in Queensland. Complex environmental approvals associated with exploration have been estimated to cost up to 60 cents in every \$1 raised for exploration purposes<sup>5</sup>
- Processes take too long or are highly uncertain: a BCA member told us it took 10 years to get some basic service centres approved in Western Australia. Another said it took over five years to have a relatively straightforward mine deepening application approved. The average time taken from referral to approval under the Environment Protection and Biodiversity Conservation Act (EPBC Act) for 'controlled actions' for developments in urban areas was one year, seven months (Productivity Commission). The Australian Petroleum Production and Exploration Association (APPEA) has estimated that for each year that a \$2.7 billion LNG project is delayed there is an opportunity cost of \$300 million.
- Processes are too bureaucratic: there is a view that compared to other countries it is 'harder' to get through approvals processes in Australia but not necessarily because the system is any stricter in its requirements. Internal processes and policies in large companies often impose

4. G. Rinehart, 'West Australia: Business Hub in the Twenty First Century?', speech to the Commonwealth Heads of Government Meeting, October 2011.

5. Business Regulation and Competition Working Group, *Future COAG Regulatory Reform Agenda Stakeholder Consultation Paper*, 2011.

environmental and safety obligations on projects that are stricter than those imposed by governments yet internal company processes of evaluating projects are considered to be more efficient.

- There are too many conditions: too many ad hoc conditions are being attached to project approval, which not only add significant costs to proponents – which can be prohibitive – but also can be simply unmanageable and unable to be properly monitored by regulators, resulting in high cost from red tape for no real benefit. This is multiplied across jurisdictions. The approval of one large project came with more than 1,500 conditions – 1,200 from the state and 300 from the Commonwealth. Those conditions have a further 8,000 sub-conditions attached to them.
- Decision making can be too risk averse: a tendency has been observed for governments to become too risk averse in managing their own projects and be less willing to make decisions without needing to commission external advice, which delays approvals processes further.
- There is poor coordination across federal and state governments: the duplication and overlap of project approvals across governments is a major headache for project proponents. For example, one recent investment triggered four assessment processes by four separate government agencies, at both federal and state levels, all with similar information requirements. The lack of accreditation for state processes and excessive duplication of process under the EPBC Act is causing project proponents to incur the cost and uncertainty of going through two administrative processes when one process should suffice.
- There is poor resourcing in some parts of government: regulatory administration functions are not always adequately staffed to manage the increasing number and complexities of approvals processes demanded by government legislation. Personnel are frequently inexperienced in undertaking the assessment and/or lacking in project experience or commercial acumen. Staff who do develop good experience are leaving to work on the projects themselves. Inexperience is thought to be a reason for the large number of conditions that are being placed on projects.

A number of other case studies have been published by other organisations, for example, APPEA in its March 2013 report *Cutting Green Tape*. The BCA will seek to separately provide the commission with further case study examples and evidence throughout this process in supplementary submissions.

### **Examples of good practice**

Where respondents said that approvals processes had worked well was in jurisdictions that had a single point of contact for businesses, where properly qualified people were engaged in conducting the approvals and where there were time constraints on the approvals process to give business certainty that the process would not be dragged out.

The Development Assessment Forum is an organisation established in 1998 with the aim of improving Australia's development assessment processes. The Productivity Commission said in its 2011 report that it 'particularly supports' the practices in Exhibit 2, many of which were previously recommended by the Development Assessment Forum. Some states – such as New South Wales – are undertaking reforms to their approvals processes in line with these principles.

## **Exhibit 2: Productivity Commission support for Development Assessment Forum recommendations for development approvals**

A summary of the attributes of a good development assessment system according to the Productivity Commission.

- link development assessment requirements to their objectives in stated policies and eliminate impacts on the viability of existing businesses as a consideration for development and rezoning approval
- use a risk-based approach that streams development and rezoning applications into assessment 'tracks' (exempt, prohibited, self assess, code assess, merit assess and impact assess) and facilitate more 'as-of-right' development processes
- facilitate the timely completion of referrals through memoranda of understanding between referral bodies and planning authorities, clear and concise pro forma development approval conditions ('model conditions'), all referral requirements collectively detailed and located in one place and resolve referrals simultaneously rather than sequentially
- adopt electronic development assessment systems to reduce costs for businesses and residents and improve consistency, accountability, public reporting and information collection/benchmarking
- ensure the skill base of local council development assessment staff includes a good understanding of the commercial implications of requests and decisions
- adopt practices to facilitate access to relevant information on land uses for different zones, notify the community of proposed planning scheme amendments and hold open meetings for significant rezoning
- provide transparent and independent regional, city and state-based assessment mechanisms, have panels or commissions take input from all interested parties, including local interests, and publish the basis for the decision.

Source: Taken from Productivity Commission, *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments*, Research Report and related material, 2011.

International experience is another pointer to good practice. The New Zealand Government's nine-month cap on development approvals processes is the type of initiative that could provide greater certainty over the time of the process and should be explored for Australia. Canada has established a Major Projects Management Office to facilitate improvements to the regulatory system for major projects.

The international benchmarking aspect of this study is particularly important for evaluating the experiences in other similar jurisdictions and identifying best practice processes that can be implemented in Australia.

### **The costs of poor major project approvals processes**

Investment projects should contribute to the economic, social and environmental development of Australia and high standards must be maintained. However, the costs and risks associated with inefficient approvals processes are considerable and should be the target for reforms:

- One of the problems with the long time taken to make a decision and its variability is the inherent uncertainty for investors – not knowing how long the approval process will take is a deterrent to business investment.
- Where processes are excessively costly or timely they can significantly impact on project viability either through the project approvals phase, or through the life of the project, in monitoring and reporting obligations.

- The value of taxpayer-funded investments in infrastructure projects is eroded where there is undue delays in the time taken for project approvals.
- There is a high administrative cost to taxpayers associated with excessive bureaucracy and poorly applied regulation due to the increased number of regulators and the monitoring of multiple unnecessary conditions.
- New approvals regimes continue to be added to a long list, the latest proposals being the federal assessment of coal seam gas projects under the EPBC Act due to the 'water trigger' and the requirement to have an Australian Industry Participation Plan for projects over \$500 million. The addition of new approvals requirements rarely considers the addition to the cumulative regulatory burden placed on the project and whether there are better alternatives.
- The unpredictable nature of government permit approvals can disrupt the efficient sequencing of projects with similar design, which can mean the construction teams assembled for those similar projects are disbanded and potential productivity gains lost.
- The efficiency of all the approvals regimes related to a project is important to the success of a project in a community. For example, in addition to the approvals for the projects themselves, the approvals processes for land release around the sites of the major resources projects in the Pilbara affects the ability of business and governments to provide new housing and social infrastructure that can attract and retain employees and benefit the community through economic and social development.
- These concerns are magnified when considering the increasing project activity in Australia today. Australia's development approvals processes are not well set up to deal with multiple large projects working their way through the system.

## **Comment on selected questions raised in the issues paper**

### **The commission's proposed approach to benchmarking**

The issues paper asks:

- Is a mainly qualitative approach to benchmarking appropriate for this study?
- Are there specific aspects of DAA processes that can be benchmarked in a quantitative way? If so, what data should be used?

Given the inherent difficulties in sourcing data on approvals performance, we support the mainly qualitative approach to benchmarking proposed by the commission, backed up with case study evidence where it can be obtained.

In conducting the international element of the benchmarking study, it will be necessary to make similarly qualitative judgements about best practice in other countries.

However, we would like the commission to make recommendations for improving data collection in Australia, for example, annual reporting of the red tape burden in this area. In particular, this should be from the project perspective. This data collection will facilitate ongoing review of regulatory performance and provide the means for more measurement of costs and identifying areas for improvement.

Building a database of regulatory impacts could be achieved if government agencies and departments with responsibilities for project approvals are required to report annually on:

- the number of projects considered for approval over the past 12 months
- the time taken to decide approvals
- the number of conditions imposed with approvals
- the total of administrative and compliance costs associated with approvals and conditions, including monitoring and compliance.

Drawing from these reports by individual agencies, the Productivity Commission (or another agency) should be tasked annually with calculating the aggregate costs (and benefits) of Australia's multiple project approvals regimes across jurisdictions – in order to highlight areas of continuing high cost and potential reform.

### Proposed criteria for evaluation

The issues paper asks:

- Are these appropriate assessment criteria for benchmarking major project DAA processes in Australia and international jurisdictions? Are additional criteria relevant?
- Should these assessment criteria be weighted in evaluating the efficiency and effectiveness of assessment and approvals processes in different jurisdictions? If so, how should trade-offs between assessment criteria be managed?

We agree with the criteria listed on pages 8 and 9 of the issues paper and suggest to add the following evaluative criteria:

- consistency of regulatory objectives and application across jurisdictions
- consistency of each regulation with broader policy objectives of government

Reconciling and/or balancing different policy objectives is a very important aspect of the study and should be dealt with as a priority in the commission's deliberations.

Regulatory approvals processes should be supporting the achievement of the broader economic, social and environmental policy objectives of government and allowing for an appropriate weighing up of the costs and benefits of projects to the community – rather than solely evaluating projects against a specific objective in one of those areas.

Legislative objectives should reflect that DAA processes are designed to meet broader policy objectives of government, as well as any specific economic, environmental or social objectives. The commission should consider recommending the take-up of reforms redefining policy objectives in planning and approvals regimes in New South Wales and the United Kingdom under 'sustainable development' objectives.<sup>6</sup>

6. In New South Wales, see the Green Paper on *A New Planning System for New South Wales*. In the United Kingdom, see the National Planning Policy Framework.

## Which international jurisdictions should be considered?

The issues paper asks:

- How should the choice of 'peer' countries for benchmarking be determined? How important is it to focus on countries with similar community preferences, levels of economic development and legal and government systems? Are other criteria, such as those countries that compete with Australia, relevant?
- Should the choice of 'peer' countries vary across economic activities? For example, are the most relevant jurisdictions for benchmarking DAA processes for major mining projects different to those for major infrastructure projects?
- Which countries (or sub-national jurisdictions) do you see as particularly successful at designing and administering efficient DAA processes for major projects? What aspects of their arrangements are especially attractive? Do you have direct experience with, or can you provide evidence on, DAA processes in other countries that work well?

This is a particularly important element of this project for two reasons. First to identify features of best practice globally that can be considered for implementation in Australia, Secondly, to highlight where inefficiencies in Australia's approvals regimes put us at a competitive disadvantage in the global markets for attracting major project activity and financing. The quality and predictability of Australia's regulatory regimes are important factors for global investors.

Comparisons should be with:

- countries of similar development to Australia, including Canada, New Zealand, the United States, Germany, Japan and the United Kingdom
- emerging economies with which Australia competes for investment, including Brazil, China, Russia, Argentina and ASEAN countries.

International comparisons with best practice should be undertaken to match Australia's systems against the most efficient and effective approvals process occurring in other countries with similar standards.

## Information sources

The issues paper asks:

- Is there other information or data that the commission could draw on in undertaking this study?
- Which case studies examined as part of other reviews provide useful insights? What sorts of new case studies should the commission undertake?

The commission should seek to understand the impact of the totality of Australia's multiple projects approvals processes from the perspective of the project, as they apply in Australia compared to leading international jurisdictions.

To do this, the commission is advised to compile case studies of projects from major project owners with experience of participating in approvals processes and consider the performance of the approvals regime from a project owner's perspective.

In doing so, it should meet with experts in major project regulation and management in Australia and overseas and obtain a solid understanding of how regulatory approvals interact with the

different stages of a major project and how approvals processes impact on project planning, project management and project delivery.

### **Response to set of questions in the issues paper on the impact of current arrangements and possible measures to improve the efficiency and effectiveness of processes**

#### ***Alternatives to project approvals processes***

We are supportive of consideration of alternative approaches to DAA processes that can be implemented economically and which work well to ensure standards are met. We encourage the commission to look at recommending these alternatives to DAA processes, including:

- improved strategic planning, with high levels of early community and business input, and which can lead to more 'as of right' development
- strategic assessments of areas with high environmental value
- recognition of internal company approvals processes and potential rules for accrediting these processes.

Better long-term strategic planning of cities and regional development, with high levels of community and business input in the planning phase, should aim to lead to an increase in 'as of right' development that avoids the need for protracted approvals processes.

Strategic assessments, as are occurring in environmental regulation, are also a good alternative, and should be prioritised. The strategic assessments can, however, take a long time to complete, sometimes many years, and would need to be regularly updated to incorporate new information or changed circumstances.

Similarly, baseline environmental data that can be shared and which can avoid costly new research is useful if it is robust and independent and updated

Recognition or accreditation of internal company project approvals processes should be considered given many companies have strong internal risk management processes and often employ the best experts on project impacts. Governments could set rules for how company processes would be recognised including around the scope of the impact analysis, levels and timing of public consultation and transparency of reporting.

#### ***Institutions and governance***

A key area we would like the commission to look closely at is institutional arrangements: are the agencies charged with approvals in an appropriately central part of government where broader policy considerations can be taken into account, and what are their KPIs, capabilities and corporate values?

Issues to consider include:

1. Whether there are opportunities to consolidate teams undertaking assessments into central economic or development agencies to ward against the potential for bias in the approval process.
2. Experience and understanding of major projects within regulatory agencies, e.g. levels of familiarity with the key stages in projects and the impact of inefficient approvals processes on project viability, and generally the level of commercial experience and/or acumen which is essential to an understanding of the material effect of delays on the cost of capital and other opportunity costs for individual projects and for the community.
3. the importance of organisational culture and the organisational values of regulatory agencies – do agencies have organisational values that are oriented to facilitating project success, and are those values published?



4. Whether government regulatory agencies are adequately staffed for the size and variation in the approvals workload that arises from the investment pipeline, and how better information collection on the future project pipeline could help to better plan workforce resourcing.
5. Whether there are alternative approaches such as strategic assessments and recognition of internal company approvals processes that can reduce the need for in-agency assessment processes, while still while achieving the same outcomes required under the legislation.
6. Where there are opportunities to remove expensive and unnecessary duplication of functions across governments.

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