

Response to the South Australian Productivity Commission Development Referrals Review

October 2021



Government
of South Australia



Foreword

The South Australian Government's Growth State Plan seeks to grow our economy at an annual rate of 3%.

To achieve this target, we need to support business to flourish and grow and provide certainty and clarity about processes.

The South Australian planning and development system is a key supporter of economic growth. The assessment scheme, including the role of referral process seeks to protect the broader public interest, and ensure those interests are applied to the most significant development proposals received in South Australia.

The government supports all of the Commission's recommendations and the affected Government agencies will begin their implementation as a priority in 2022.

I thank the Commission, Dr Matthew Butlin and Mr Adrian Tembel for the comprehensive and carefully considered report that has been provided, and for the extensive consultation that was undertaken with the development sector, government agencies and other stakeholders.

I look forward to the benefits of this review to the community and development sector as we implement the recommended changes.



Hon Steven Marshall MP

Premier of South Australia

Introduction

The Commission was asked to conduct a review into the regulation and practice of governing referrals processes that form part of the state's development approval system.

The terms of reference focussed on the Commission's recommendations aimed at improving the operations and the performance of three referral bodies that experienced the highest volume of referrals:

- Environmental Protection Authority South Australia
- The Native Vegetation Council
- The Commissioner of Highways.

The review specifically examined how the referrals processes can be improved to lift the competitiveness of South Australia as an investment destination.

The Commission has delivered the *Development Referrals Review Final Report* (the Final Report) which makes six key recommendations and make a series of observations.

Overall, the Commission found that all three referral bodies use and are supportive of pre-application and early engagement. Improvements include referral bodies making the level of guidance clearer for applicants early in the development cycle (i.e. better quality guidance material for applicants).

Continuous improvement and improved performance were evident for all referral bodies, but there is scope to embed best practice models of continuous improvement into regulator's referral functions.

The Commission also highlighted the importance of consistency and transparency of process, which could be achieved through improved standard operating procedures, a continuous formal improvement cycle, better capture of performance data, and enhanced modelling of business impacts of the overall assessment regulatory function.

The government's response to the Commission's recommendations is provided in the next section, including high-level action plans.



Government's Response

The Commission's recommendations to government below are re-printed verbatim from the Commission's Final Report.

It is noted that completion dates are in calendar year.

<p>Recommendation 2.1 – Pre-application activity and early engagement</p> <p>In order to support referral bodies to adopt best practice in early engagement, the Commission recommends that the three referral bodies review and revise relevant guidance materials:</p> <ul style="list-style-type: none"> • to include the level of service applicants can expect during early engagement with the referral body reflecting the proportionality of the information provided by an applicant; • to ensure content is useful to both inexperienced developers and planning professionals alike; and • are easily accessible on the referral body's website. 	<p>Supported</p>
<p>Response</p> <p>The Government supports pre-application activity and early engagement that provides greater confidence regarding regulatory requirements and key issues that will be considered in the assessment process.</p>	
<p>Implementation Plan</p> <p>Establish an electronic 'front door' to pre-lodgement services within AGD through the PlanSA website. While this should be available to major development proposals, it could also be used to access pre-lodgement services for assessment undertaken by the State Commission Assessment Panel.</p> <p>EPA, DIT and NVC to identify the level of services that can be expected during pre-lodgement in consultation with key industry bodies and AGD. Service level standards and guidance materials to be placed on agency and PlanSA websites.</p> <p>Materials can reflect common requirements for different user types, departmental contact points and indicative timelines. Formats to be determined including fact sheets or frequently asked questions (published in fact-sheet/FAQ format).</p>	<p>July 2022 -</p> <p>Update PlanSA website with new material.</p>

<p>Recommendation 2.2 – Guidance material</p> <p>In order to support efficiencies in the referrals process, avoid requests for additional information and minimise rework, the Commission recommends that the three referral bodies review and revise their suite of guidance material following the coming into operation of the <i>Planning, Development and Infrastructure Act 2016</i> to ensure it:</p> <ul style="list-style-type: none"> • clearly identifies assessment and information requirements and standards; • is equally useful to inexperienced applicants and planning professionals alike, which may take the form of technical materials accompanied by user-friendly notes or equivalent; and • includes advice about the level of service and indicative timeframes an applicant can expect in relation to the referrals process. <p>All materials supporting referral activity are to be published, including materials used by accredited or specialist consultants which can be identified as requiring technical skills to understand and apply. To support the implementation of the state planning reforms, and in the spirit of a single planning system, the Commission recommends that by the end of 2022 the three referral bodies, in collaboration with the State Planning Commission:</p> <ul style="list-style-type: none"> • adopt a consistent format and structure to referral process guidance material; and • make all such material available centrally through the SA Planning Portal. 	<p>Supported</p>
<p>Response</p> <p>The Government supports the PlanSA website as the central repository of planning information as set out under the <i>Planning, Development and Infrastructure Act 2016</i>. The Government supports the updating, simplifying and improvement of referral advice and documentation.</p>	
<p>Implementation Plan</p> <p>AGD will update the PlanSA website to provide simplified access to information on major developments and in relation to referral body requirements.</p> <p>Guidance materials will reflect common requirements for different user types, departmental contact points and indicative timelines. Formats to be determined including fact sheets or frequently asked questions (published in fact-sheet/FAQ format). Duplication with existing national, state or departmental technical guidelines/content will be avoided.</p> <p>DIT, EPA and NVC will use an agreed template to update all guidance material to be published on the PlanSA website. This will ensure it operates as a one stop planning shop for information relevant to an applicant's proposal.</p>	<p>December 2022 -</p> <p>Update PlanSA website with new material.</p>

<p>Recommendation 2.3 – Regular continuous improvement cycle for referral functions</p> <p>In order to build on referral body past performance improvements, and to embed and institutionalise continuous improvement practices, the Commission recommends that:</p> <ul style="list-style-type: none"> • all three referral bodies implement a regular and structured continuous improvement cycle in relation to their referral body functions that captures the applicant experience of the regulator’s practices through feedback loops; and • the cycle is integrated into the regulator’s existing continuous improvement or performance evaluation processes with regular monitoring and reporting on progress. 	<p>Supported</p>
<p>Response</p> <p>The Government is committed to continuous improvement and ensuring the evaluation of existing practice to identify reform opportunities.</p>	
<p>Implementation Plan</p> <p>The Performance Indicators Scheme has been established under the PDI Act to enable key indicators of the planning system to be measured to ensure a continuous cycle of improvement. The first report was issued by the State Planning Commission in October 2021, but only measures three months of the new Planning and Development system.</p> <p>At the next review, a more comprehensive data set will be available to evaluate improvements.</p> <p>DIT, EPA, AGD, NVC will establish a process that documents the learnings at the conclusion of each Major Development assessment process to then update and improve procedures.</p> <p>This coordinated approach will be led by PLUS to gain insight into the applicant experience. This will result in benefits including peer learnings across agencies, use of common criteria, improvement of common issues, and improvements that can feed back into the planning system and minimise multiple approaches to applicants by different agencies.</p>	<p>July 2022</p>

<p>Recommendation 3.1 – Modelling the cost of delay in major project assessments</p> <p>In order to capture the full benefit of the planning reforms, the Commission recommends that Planning and Land Use Service’s proposed enhancements to its benefits realisation model to quantify the expected savings from the planning reforms be given effect, including by:</p> <ul style="list-style-type: none"> • publishing results generated by the model incorporating both the value of realised and forecast future benefits. • continuing to review the model’s outputs and methodology to ensure relevance and to inform ongoing assessment of the planning reforms. • continuing to work with relevant authorities and industry to identify additional system wide benefits of the model; and • ensure this ongoing work is adequately resourced. <p>The Commission also recommends that this capability to measure and value time savings and other costs to business be extended to monitoring major projects, addressing among other aspects:</p> <ul style="list-style-type: none"> • from the proponent’s perspective, the overall process to obtain a major project approval, including ongoing operational licensing and condition impacts; • estimates of the timeframes of the requirements of the referrals process to obtain a major project approval; and • estimates of proponents’ costs and loss of income due to a lapse of time for referrals beyond industry standards or determined benchmarks. 	<p>Supported</p>
<p>Response</p> <p>The Government is committed to publishing results through modelling of cost delays to projects, with a bespoke approach to major development applications.</p>	
<p>Implementation Plan</p> <p>PLUS will oversee the publishing of results generated by the model from mid-2022. This timeframe will enable the inclusion of additional data from lodged applications and the further testing of assumptions.</p> <p>The results would be timed with the release of the Commission’s 2nd Performance Indicator Report on the planning system’s performance since its full introduction in March 2021.</p> <p>In terms of its application to major development applications this is considered best dealt with, noting the complexity of such applications, with any bespoke in depth economic advice secured as part of the service to be made available in response to Recommendation 3.3.</p>	<p>Complete by Q3 2022</p>

<p>Recommendation 3.2 – Consistency and transparency in major project assessment regulatory practice</p> <p>Given the potential impact of major projects on the state economy, and in order to better align relevant assessment practices with best practice regulatory governance principles, the Commission recommends the State Planning Commission (SPC) and Planning and Land Use Services (PLUS) take administrative actions to establish:</p> <ul style="list-style-type: none"> • standard operating procedures to provide PLUS staff who are supporting the relevant authority/SPC with consistent practices, structured communication arrangements and service standards; • a continuous improvement cycle to capture the experience of all entities involved in a major project assessment, including the role of referral bodies, to distil improvements in assessment practices and regularly apply those improvements back into the assessment process; and • a strategy to capture key performance data, including time elapsed indicators for each stage of the statutory assessment process, to complement a systemic approach to continuous improvement of major project assessments. 	<p>Supported</p>
<p>Response</p> <p>The Government is supportive of consistent and streamlined processes and procedures that are repeatable and predictable.</p>	
<p>Implementation Plan</p> <p>AGD to prepare standard operating procedures and service standards for Major Development assessments. Work has already commenced on a framework for these procedures.</p> <p>AGD will also prepare a standard reporting template to identify key steps in the process and associated timeframes that can inform the setting of service standards by the middle of 2022 and a full suite of further regulatory procedures and a reporting framework by the end of 2022.</p> <p>AGD has also introduced a new coordination role, which will be responsible for documenting and maintaining procedures, reporting on assessment processes, and capturing performance data using appropriate electronic systems and tools. In terms of the capture of key performance data this will be optimised once the Impact Assessed (and Crown Development / Essential Infrastructure) pathway is available on the PlanSA website.</p>	<p>December 2022</p>

Recommendation 3.3 – Strengthening the state’s capacity to assess major project proposals for economic effects

In order to strengthen the capacity to analyse information regarding the economic effects of a major project, the provision of which is mandated by the *Planning, Development and Infrastructure Act 2016*, the Commission recommends that:

- existing gaps in this capability be identified through consultation with the State Planning Commission, Planning and Land Use Services, Infrastructure SA and the Department of Treasury and Finance;
- the required economic analytical and modelling capability is scoped and defined; and
- the optimal business model is determined to source this required capability for the relevant authority as required.

Supported

Response

The Government supports the need to strengthen the assessment of the economic effects of proposed major projects.



<p>Implementation Plan</p> <p>Context</p> <p>The current <u>major project process</u> (impact assessed developments), provides opportunities for specialist advice to be sought regarding assessment of major project proposals for economic impact at various stages.</p> <p>When a formal development application has been received for a major development or project, it is referred to the State Planning Commission (the Commission) to issue the applicant with assessment requirements.</p> <p>The Commission identifies social, environmental and economic issues relevant to the proposed development and the assessment requirements.</p> <p>During this process, the Commission would consult with:</p> <ul style="list-style-type: none"> • commonwealth agencies (i.e. EPBC Act requirements) • relevant state government agencies • applicable local council <p>The assessment requirements summarise all potential issues that need to be addressed by the development. They also highlight any further information that is required to enable a proper assessment of the development. The requirements are publicly released on the PlanSA website.</p> <p>If required, the proponent prepares an Environmental Impact Statement (EIS) that responds to the assessment requirements.</p> <p>The length of time it takes for the proponent to prepare the EIS is not set and varies depending on complexity of the proposal.</p> <p>Once complete, the Minister releases the EIS for public and agency comment for at least 30 business days unless a longer period is determined by the Minister.</p>	<p>Complete by Q3 2022</p>
<p>Response to recommendation</p> <p>The government has recently established a business case support team shared between DPC and DTF, whose functions include providing peer review of business cases.</p> <p>AGD-PLUS will be able to seek advice from the business case support team and on a case-by-case basis will refer economic analysis prepared by major project proponents to the business case support team for review.</p> <p>Infrastructure SA advice will be sought where the major project proposal is defined as a major infrastructure project under the Infrastructure SA Act 2018.</p> <p>Where there is a need for other external advice to properly assess economic impact claims by developers, AGD-PLUS will engage external consultants.</p> <p>It is noted that advice from other independent specialist sources with particular expertise relating to the proposed development may also be sought in the assessment of the proposal.</p>	



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