Cover for the Australian Government Productivity Commission Draft report title "Major Project Development Assessment Processes". Published August 2013.
This draft report has been prepared for further public consultation and input.
The Commission will finalise its report after these processes have taken place.

Commonwealth of Australia 2013

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The Productivity Commission

The Productivity Commission is the Australian Government’s independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission’s independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission’s website (www.pc.gov.au) or by contacting Media and Publications on (03) 9653 2244 or email: maps@pc.gov.au

# Opportunity for further comment

You are invited to examine this draft report and comment on it by written submission to the Productivity Commission, preferably in electronic format, by **Friday 13 September 2013**. Further information on how to provide written comments is included on the study website listed below.

The Commission is planning on holding several roundtables with stakeholders to get feedback on the draft report. This feedback, along with further discussions with interested parties and any written comments received will be drawn on by the Commission in preparing its final report. The final report will be forwarded to the Australian Government in December 2013.

**Roundtables**

Monday 2 September – Brisbane

Tuesday 3 September – Melbourne

Friday 6 September – Sydney

**Commissioners**

For the purposes of this study and draft report, in accordance with section 40 of the *Productivity Commission Act 1998* the powers of the Productivity Commission have been exercised by:

|  |  |
| --- | --- |
| Jonathan Coppel | Presiding Commissioner |
| Dr Warren Mundy | Commissioner |

**Study contacts**

Website: www.pc.gov.au/study/major-projects  
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# Terms of reference

STUDY TO BENCHMARK AUSTRALIA’S MAJOR PROJECT DEVELOPMENT ASSESSMENT PROCESSES

***Productivity Commission Act 1998***

I, David Bradbury, Assistant Treasurer and Minister Assisting for Deregulation, pursuant to Parts 2 and 4 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake a study to benchmark Australia’s major project development assessment processes against international best practice.

### Background

Major projects in Australia are subject to a wide range of government regulations and development controls applied at the local, state and/or Commonwealth level.  These controls are intended to serve the public interest by delivering desirable regulatory outcomes in a variety of ways including protecting the public from health and safety risks and managing environmental, social and other development-related impacts that may arise from a project.

While the regulations and controls are intended to deliver specific benefits and avoid undesirable impacts, they add a layer of cost to doing business and may be particularly burdensome if they involve unnecessary duplication, or are poorly designed.  To the extent that they lead to longer than expected construction times, such processes may impact on the commercial viability of some projects.

The mining boom in Australia has led to a large increase in the number of major projects seeking approval, which has highlighted the need for efficient and streamlined approvals processes.  The Business Council of Australia has argued that ‘one of the key factors impacting on successful investment in Australia is the efficiency of government development approvals processes, and the related impact of red tape imposed by permits and regulation’.

This was discussed at the Business Advisory Forum (BAF) and it was agreed to further test the premise about the efficiency of the development approvals processes across a broad range of development categories (for example, in industries such as construction and resources) and across a range of locations (including urban and regional areas).

In response to a request from the Council of Australian Governments, Heads of Treasuries have considered the scope of the BAF’s proposal to benchmark Australia’s major project development assessment processes finding that it would be beneficial to undertake further work to measure Australia’s performance relative to international best practice.  In conducting further work, there is merit in assessing the effectiveness of approaches to streamline and coordinate development approvals processes which have been adopted by governments, such as a one‑stop shop or Lead Agency Framework, as a means for coordinating interaction with the proponent.

Given the broader concerns in the community around the delivery of planned projects, this provides an appropriate time to consider the extent to which development assessment processes across all levels of government affect the costs incurred by business, deliver good regulatory outcomes for the public and provide appropriate transparency and certainty to facilitate business investment.

### Scope of the research study

In undertaking the study, the Commission should:

1. examine the regulatory objectives and key features of Australia’s major project development assessment processes at all levels of government, including the interactions between levels of government, the role of facilitation, the capacities and resources of the institutions involved and significant variations between jurisdictions
2. examine the regulatory objectives and key features of comparable international systems with respect to major project development assessment processes
3. identify critical elements of development assessment processes and compare these to assess the extent to which different decision-making approaches in Australian jurisdictions and alternative investment destinations overseas (including other federations) have a material impact on costs, timeliness, transparency, certainty and regulatory outcomes
4. examine the strategic planning context for major project approvals in Australia and in comparable international systems (including for example, the pursuit of urban and regional development policies, or broader strategic resource development plans)
5. identify best practice and against this benchmark evaluate jurisdictional approaches, such as one-stop shops and statutory timeframes, to make recommendations to improve Australia’s processes, both within and between jurisdictions, by reducing duplication, removing unnecessary complexity and regulation, and eliminating unnecessary costs or unnecessarily lengthy timeframes for approvals processes
6. assess mechanisms for ‘scaling’ regulatory requirements relative to project size and the expected benefits against the potential environmental, social, economic and other impacts
7. compare the efficiency and effectiveness with which Australian approvals processes achieve the protection of social, economic, heritage, cultural and environmental assets compared with comparable international systems.

In undertaking this study, the Commission should take into account the work being led by the Commonwealth Department of the Prime Minister and Cabinet to agree bilateral arrangements for accreditation of state/territory environment assessments and approvals processes.  The Commission should not seek to duplicate this existing work, which COAG has agreed be finalised by March 2013.

In conducting the study, the Commission will also take into account evidence from benchmarking studies and other relevant studies, including the Infrastructure Australia ‘Principles for Assessment’, the COAG Reform Council’s review of capital city strategic planning systems and work on development assessment processes by individual jurisdictions, such as the NSW Planning System Review.

In conducting the study, the Commission should also examine relevant domestic case studies to inform its findings.

The Commission should consult with industry, non-government stakeholders and governments in conducting the study.

The Commission will publicly release a draft report and seek submissions prior to finalising the Report.  The final Report should be provided within 12 months of the receipt of these Terms of Reference.

**DAVID BRADBURY  
Assistant Treasurer**

[Received 7 December 2012]

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# Abbreviations and explanations

Abbreviations

ABS Australian Bureau of Statistics

ACCC Australian Competition and Consumer Commission

ACG Allen Consulting Group

ACTPLA ACT Planning and Land Authority

AMEC Association of Mining and Exploration Companies

ANEDO Australian Network of Environmental Defender’s Offices

APPEA Australian Petroleum Production and Exploration Association

BAF Business Advisory Forum

BCA Business Council of Australia

BCC Brisbane City Council

BREE Bureau of Resources and Energy Economics

CEAA Canadian Environment Assessment Agency

COAG Council of Australian Governments

CSG Coal seam gas

DAA Development assessment and approval

DAC Development Assessment Commission

DAE Deloitte Access Economics

DAF Development Assessment Forum

DAP Development Assessment Panel

DSEWPAC Department of Sustainability, Environment, Water, Population and Communities

EES Environmental effects statement

EIA Environmental impact assessment

EIS Environmental impact statement

EPA Environmental Protection Authority

EPBC Act *Environment Protection and Biodiversity Conservation Act 1999*

ESD Ecologically sustainable development

GDP Gross Domestic Product

IC Industry Commission

ICAC Independent Commission Against Corruption

LNG Liquefied natural gas

MNES Matters of national environmental significance

MOU Memorandum of understanding

MPCO Major Projects Coordination Office

MPMO Major Projects Management Office

NCEA Netherlands Commission for Environmental Assessment

NEB National Energy Board

NEC National Environment Commission

NOPSEMA National Offshore Petroleum Safety and Environmental Management Authority

OECD Organisation for Economic Co-operation and Development

OPGGS Act *Offshore Petroleum and Greenhouse Gas Storage Act 2006*

PAC Planning Assessment Commission

PC Productivity Commission

QRC Queensland Resources Council

RIS Regulatory impact statement

SEA Strategic environmental assessment

SIA Social impact assessment

SSD State significant development

SSI State significant infrastructure

TOR Terms of reference

VCEC Victorian Competition and Efficiency Commission

Explanations

|  |  |
| --- | --- |
| Approval authority | The Minister or regulatory authority that is making a decision to approve a project or a particular action within the scope of the project (see ‘decision maker’). |
| Assessment authority | The Minister or regulatory authority (for example, the government department, agency or statutory body) that is undertaking an analytical and systematic examination of the merits and consequences of a project proposal or part thereof. |
| Assessment track | The level of assessment within a pathway, usually the EIA process. |
| Decision maker | The Minister or regulatory authority that is making a decision to approve a project or a particular action within the scope of the project. |
| Environmental impact assessment (EIA) | An analytical and systematic examination of the possible environmental consequences of the implementation of projects, programs and policies. |
| Fast-track | Methods by which different rules of assessment and approval apply to a selected development, or if the rules are not changed, the decision maker is changed (for example, to a political person or appointed body). |
| Major project | The Commission does not define a ‘major’ or ‘significant’ project by its total capital expenditure but rather through a number of characteristics that include its physical size, complexity, long-lead times and life cycle and potential for significant economic, environmental and social impact on the local and broader community. Major projects can include both public infrastructure and private projects. |
| Major project development assessment and approval regulations and processes | The regulatory steps that proponents must adhere to in seeking the various permits, authorisations and approvals needed by law for their project. |
| Major projects pathway | Some jurisdictions in Australia have designated regulatory pathways for projects deemed to be ‘major’ or ‘significant’. The pathways differ across jurisdictions and the types of permits, authorisations and approvals that apply. |
| Major project proponent | The individual or entity seeking regulatory approval for a project. For example, a publicly listed corporation may be a proponent of a major mining project. |
| Ministerial call-in | When the assessment and approval of a development is taken out of the hands of the usual regulatory bodies and instead decided by a Minister. |
| Primary approvals | Decisions by regulatory authorities about whether a proponent’s project proposal is able to be developed. A primary approval may be subject to conditions under which the development is allowed to proceed. |
| Secondary approvals | The various authorisations, licences and permits required by the proponent concurrently with (or subsequently to) primary approvals for their proposed project to proceed. |
| Stages of a DAA process | DAA processes (whether for environmental or other matters) generally consist of four stages: application; assessment; approval; and, for projects that are approved, monitoring of compliance and enforcement of conditions of approval. |
| Stop the clock | The act of stopping the regulatory process by which a development is assessed or approved. |
| Strategic assessment | An analytical process that systematically assesses the potential impacts of plans, policies and programs across an entire region, catchment, activity or industry. |
| Strategic planning | A continuous and systematic process during which people and organisations make decisions about intended future outcomes, how they are to be accomplished, and how success is to be measured and evaluated. |