

## Environment & Planning Alert

# Major Project Development Assessment and Approvals – Under Review

February 2013

### Overview

The Australian Government has asked the Productivity Commission to undertake a review of major project development assessment and approvals processes.

The review emanates from a discussion paper prepared by the Business Council of Australia last year which observed that inefficient and duplicative legal regimes are imposing an unnecessary burden on major project development within Australia.

The review has commenced with the release of an Issues Paper, which is available [here](#).

The Issues Paper provides background information about the review, describes certain issues the Productivity Commission has already identified and aims to assist stakeholders in making submissions.

Submissions are sought by 25 March 2013. A draft report is expected during July 2013 and a final report is to be made to the Government by 6 December 2013.

### Terms of reference

The terms of reference for the review, which is to be conducted in accordance with the *Productivity Commission Act 1998 (PCA)*, are to:

- Examine the regulatory objectives and key features of Australia's major project development assessment and approvals (DAA) processes at all levels of government;
- Examine the regulatory objectives and key features of major project DAA processes in comparable international systems;
- Identify the impact that different development

processes have on costs, timeliness, transparency, certainty and regulatory outcomes;

- Examine the strategic planning context for major project DAA processes in Australia and in comparable international systems;
- Identify best practice and (against this benchmark) evaluate different jurisdictional approaches;
- Assess mechanisms for scaling regulatory requirements relative to project size and the expected benefits against potential environmental, social, economic and other impacts;
- Compare the efficiency and effectiveness of Australian DAA processes with comparable international systems in achieving the protection of social, economic, heritage, cultural and environmental assets; and
- Make recommendations on improvements to Australia's major project DAA processes.

### Major Projects

For the purpose of the review, 'major projects' are large-scale private and public sector projects across a range of industry sectors including resources, infrastructure and large commercial development.

### Issues Paper

The Productivity Commission identifies a number of matters in the Issues Paper which are to be considered as part of their review, including:

- **(Unnecessary regulatory burden)** the identification of, and recommendations on how to overcome, any

unnecessary regulatory burdens faced by those engaged in the development of major projects without compromising the achievement of good regulatory outcomes. Unnecessary regulatory burdens identified in the Issues Paper include:

- Poorly articulated or inconsistent regulatory objectives (within and between jurisdictions);
  - Excessive legal coverage;
  - Overlap or duplication of, or inconsistency between, regulatory regimes (within and between jurisdictions);
  - Unwieldy approval processes and conditions;
  - Poorly targeted, overly complex or prescriptive measures;
  - Excessive reporting requirements;
  - Creation of perverse incentives; and
  - Lack of transparency in regulatory processes;
- **(Strategic planning)** regard being given to the work on the New Planning System for NSW as part of the review. In a similar manner to the NSW Government's Green Paper (see [here](#)), the Issues Paper highlights that high-level, 'strategic planning' frameworks and policies could be used to enhance the efficiency and effectiveness of DAA processes and to ensure the cumulative impacts of major projects are taken into account;
  - **(Canadian system)** regard being given to recent reforms to major project DAA processes internationally, particularly in Canada;
  - **(Delay)** that lengthy DAA processes increase cost and uncertainty and lead to delay;
  - **(Compliance costs)** that current DAA processes are leading to unnecessary compliance costs, particularly those associated with Environmental Impact Assessment;
  - **(Effectiveness of current processes)** to ensure that DAA processes achieve environmental, social and other policy objectives, are open and transparent, provide opportunities for public participation, and are subject to review;
  - **(Coordination and streamlining)** measures to streamline and better coordinate major project DAA processes;
  - **(Risk-based regulation)** adopting a more 'risk-based' approach to major project assessment and approval as one strategy to improve the efficiency of DAA processes; and
  - **(Bilateral agreements)** reforms to bilateral agreements between different levels of Government as one mechanism for reducing duplication between DAA processes.

## Written submissions

As required under the PCA, the review is to adopt a community-wide framework. Submissions on the Issues Paper are sought by **25 March 2013**. Submissions are to be made:

- By email: [major.projects@pc.gov.au](mailto:major.projects@pc.gov.au)
- By post:  
Major Project Development Assessment Processes  
Productivity Commission  
Locked Bag 2, Collins Street East  
Melbourne VIC 8003

The Issues Paper contains some questions which those making submissions may choose to answer. However, submissions are not restricted to these questions, or other matters contained in the Issues Paper, but are to be made on any issue considered relevant to the terms of reference.

The Productivity Commission is especially interested in receiving submissions from stakeholders who have direct, first-hand experience in complying with relevant DAA processes for major projects

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