

13 September 2013

Major Project Development Assessment Processes
Productivity Commission
Locked Bag 2,
Collins St East
Melbourne Vic 8003

Email: major.projects@pc.gov.au

Dear Commissioner,

Major Project Development Assessment Processes, Draft Research Report, Productivity Commission 2013

The Urban Taskforce is pleased to make this further submission as the Productivity Commission finalises its benchmarking study and report into major development assessment and approval processes. The Urban Taskforce has reviewed the Major Project Development Assessment Processes Draft Report, August 2013 and we are pleased to note that our concerns have been fully acknowledged.

Our primary concern with the major development assessment process comes from the fact that Australia has a number of pieces of State and Commonwealth legislation that control development while aiming to protect the environment. The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) is the Australian Government's primary piece of "environmental" legislation. In New South Wales, the primary legislation addressing land use, management and the promotion of ecologically sustainable development is the Environmental Planning and Assessment Act 1979.

The problem with having State and Commonwealth legislation concerned with the same issues is that there are instances where development proposals become subject to assessment and approval pursuant to both State and Commonwealth legislation. We argue that Government processes that duplicate and overly complicate an already complex environmental assessment and approval process must be removed. We strongly advocate for reforms to the assessment and approval process that will deliver an improved, more efficient and transparent environmental assessment and approval system.

It is encouraging that the Commission's draft report highlights the problems with a duplicative assessment system and recommends changes consistent with those suggested by the Urban Taskforce. In this regard we support the draft recommendations made by the Commission to reduce regulatory overlap and duplication and we are pleased to read that

[t]he Commission recognises that it might never be practical to remove all incidences of duplication between Australian Government and state and territory environmental assessment processes. However, more comprehensive bilateral agreements that accredit a broader range of state and territory processes — and in particular, those most commonly used for major project assessment — offer significant potential to reduce the incidence of regulatory duplication (and the costs and delays this gives rise to).¹

¹ Productivity Commission 2013, Major Project Development Assessment Processes, Draft Research Report, Canberra. p. 142

All bilateral agreements should be reviewed and renewed with the aim of instituting a 'one project, one assessment' framework for the significant majority of major projects requiring approval under the EPBC Act.²

The Urban Taskforce strongly supports the Commission's recommendations to reduce duplication in assessment particularly:

- **DRAFT RECOMMENDATION 7.1**

The Australian and State and Territory Governments should strengthen and expand the scope of existing bilateral assessment agreements under the Environment Protection and Biodiversity Conservation Act 1999. Areas for improvement include agreements on standards and procedures for assessment and extending the number of regulatory processes accredited under current bilateral agreements.

- **DRAFT RECOMMENDATION 7.3**

Regulatory agencies at the state and territory level should establish cooperative arrangements (for example, memorandums of understanding) for joint or substitutable assessments to minimise unnecessary duplication between major project assessment processes within a jurisdiction.

While the Urban Taskforce is encouraged by the potential to expand bilateral assessments, we argue that this should also be supported by a bilateral approval process. We acknowledge that the implementation of a bilateral approval process is complex, but argue that this is not a reason to vigorously pursue its implementation. We agree with the suggestion that

.....the Commonwealth Environment Minister using existing powers in relation to strategic approaches to enter into an agreement with the States and Territories. These agreements would effectively delegate to States and Territories the responsibility for assessing and granting most environmental approvals under the EPBC Act in urban areas, where relatively mature assessment and decision-making processes are in place and strategic planning tools have already been used successfully. Subsequently, where matters of national environmental significance were involved, the Commonwealth could transfer responsibility for approving controlled activities in non-metropolitan areas to the States and Territories.³

We believe that state assessment and approvals process are sufficiently robust. However we see the value in providing Commonwealth Environment Minister with the right to withdraw accreditation if national standards were not being met.

With respect to removing duplication of approvals we support the following Commission's recommendation.

- **DRAFT RECOMMENDATION 8.1**

Governments should aim to establish a 'one project, one assessment, one decision' framework by restarting negotiations on bilateral approval agreements between the Australian Government and the States and Territories. Such agreements must ensure that rights of appeal are no less than those in the Environment Protection and Biodiversity Conservation Act 1999.

² Productivity Commission 2013, Major Project Development Assessment Processes, Draft Research Report, Canberra. p. 143

³ Ibid. p. 188

The Urban Taskforce is passionate about cutting red tape and the elimination of bureaucratic duplication. We argue that a streamlining of the approvals and assessment processes must occur if development is to be relied upon to kick start the economy and meet housing demand.

Yours sincerely
Urban Taskforce Australia

A handwritten signature in blue ink, appearing to read 'Chris Johnson', with a long horizontal flourish extending to the right.

Chris Johnson AM
Chief Executive Officer