

March 17, 2014

Regulatory Reform Taskforce
Department of the Environment
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CANBERRA
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Regulatory Reform Taskforce

Draft Bilateral Agreement with South Australia under section 49A of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth)

The Property Council of Australia welcomes the opportunity to provide input on the Draft Bilateral Agreement with South Australia under section 49A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The Property Council represents the \$670 billion property investment industry in Australia. Our 2,000 member firms and 55,000 active industry professionals span the entire spectrum of the property and construction industry.

Our members operate across all property asset classes—including office, shopping centres, residential development, industrial, tourism, leisure, aged care, retirement and infrastructure.

The EPBC Act has significant implications for the property industry and the residential development sector in particular.

The Property Council has welcomed the 'one stop shop' reform by the Federal Government - aimed at streamlining assessment and approval processes with State and Territory governments.

The EPBC Act has been subject to a number of reviews which examined its impact on development and sustainability objectives.

The experience of the industry with the EPBC Act has been characterised by a lack of clear definitions, rules and tests which has resulted little consistency or certainty in its administration.

The property industry is among the hardest hit by the ongoing failure to streamline assessment processes. With over 200 residential and over 100 commercial property developments being referred to the Commonwealth in the past 12-months, construction

costs and delays could be substantially reduced through the implementation of assessment and approval bilateral arrangements.

The Property Council is pleased by the release of the Draft Bilateral Agreement with South Australia. The industry welcomes reform that streamlines assessment and approval processes while not reducing environmental outcomes.

Outstanding Issues

While a 'one stop shop' model represents a significant step forward, there are still outstanding issues which have not been progressed in the Draft Bilateral Agreement with South Australia.

1. Statutory timeframes for preparing assessment reports and determining approval decisions

The Draft Bilateral Agreement with South Australia does not include provisions for assessment report and approval decision timeframes.

The Property Council favours the wider use of statutory timelines in development assessment processes. Specifically, the Property Council supports the development of timelines that specify reporting, assessment and decision making timeframes.

'Stop the clock' arrangements should only be available when matters emerge that were not contained in the terms of reference and could not have been reasonably anticipated.

To encourage agencies to seek time extensions only when absolutely necessary, regulators should be required to disclose when they have activated the 'stop the clock' provision and the reason(s) for doing so.

2. Formalising inter-department dialogue

The Draft Bilateral Agreement with South Australia should include provisions for a Senior Officers' Committee which would oversee the implementation of the approvals bilateral. The Draft Bilateral Agreement for New South Wales has provisions for this.

The Property Council favours using this committee to facilitate a better dialogue between the State departments with carriage of environmental assessments under the Bilateral Agreement.

Specifically, the Senior Officers' Committee should implement procedures for preventing and addressing assessment bottlenecks (especially delays) where projects require assessment by more than one State Government agency.

3. Monitoring of progress made under bilateral agreements

It is concerning that the Draft Bilateral Agreement with South Australia does not contain provisions for more frequent review of progress.

The proposed agreement with South Australia is also missing provisions for ongoing improvements, including minor amendments to the Agreement. These are a feature in the Bilateral Agreement with New South Wales.

In its 2013 report *Major Project Development Assessment Processes*, the Productivity Commission reported that it supports the monitoring of bilateral assessment and approval agreements in order to examine how well the agreements are working and to draw out implications for improving them.

The Property Council favours the recommendation of the Productivity Commission that State and Territory Governments should prepare annual reports on their implementation of bilateral agreements and the adoption of the aforementioned provisions.

We thank you for the opportunity to provide comment on the Draft Bilateral Agreement. If you have any questions regarding the Property Council or this submission, please do not hesitate to contact me on 02 9033 1900 or ckakas@propertyoz.com.au.

Yours sincerely,



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