

s22

From: Jennifer Westacott <Jennifer.Westacott@bca.com.au>
Sent: Wednesday, 4 April 2012 11:24 AM
To: s 22
Cc: maria tarrant
Subject: BCA COAG BAF paper - for the attention of Dr Ian Watt
Attachments: Business Advisory Forum - draft discussion paper 04-04-12.docx

Dear Ian

Following on from our conversation yesterday, I have attached the latest version of the BCA COAG paper. You'll note there are a couple of areas where we need to get additional comment but this is pretty close to complete.

We would be pleased to have your views before we provide it to anyone else for comment. It would be helpful if that were to be sometime today.

Thanks

Jennifer

Jennifer A. Westacott
Chief Executive
Business Council of Australia
Level 42, 120 Collins Street
MELBOURNE VIC 3000

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Web: www.bca.com.au

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Business Advisory Forum – Discussion Paper

Introduction

This paper has been prepared for the Council of Australian Governments (COAG) Business Advisory Forum (BAF) by the Business Council of Australia (BCA), in consultation with the Australian Chamber of Commerce and Industry (ACCI) and Australian Industry Group (AI Group).

The paper puts forward the BCA's views on how competition and regulatory reform should be pursued and prioritised in order to overcome the problems experienced while implementing the National Partnership to deliver a Seamless National Economy. It nominates 6 reform initiatives that should be prioritised as part of future reform efforts:

1. s22
2. Streamlining environmental assessments and approvals;
3. Improving the efficiency of major project development approvals
4. s22
- 5.
- 6.

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There are 6 priorities that will lift productivity and enhance competition

Consistent with the approach outlined above, the BCA in consultation with the AI Group and ACCI has identified reforms that will unambiguously make a significant contribution to lowering costs to business, improving competition and lifting productivity.

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2. Streamline environmental assessments and approvals

Proposal:

- All jurisdictions to work together to develop a structured approach to ensure environmental impact assessments for *all* eligible projects are assessed (where the proponent agrees) using bilateral agreements under the Environmental Protection and Biodiversity Conservation (EPBC) Act; and
- The Commonwealth Government to commit to a 6 month timeframe to accredit state environmental approvals to remove the Commonwealth's concurrence powers (so that state approvals count for Commonwealth approvals).

Rationale:

The Commonwealth has bilateral agreements with every jurisdiction to accredit state environmental assessments. In spite of this, only a small number of actions that are referred to the Minister under the EPBC Act are done so using these bilateral agreements.

The bilateral agreements need to be extended to accredit state approvals, as well as assessments.

A structured approach to environmental impact assessments needs to include tighter requirements on the Commonwealth to ensure adequate input is provided throughout the state process. This will avoid instances where, according to business feedback, the Commonwealth deems state assessments conducted under bilateral agreements inappropriate – in spite of providing no substantive comment during the state process – and requires new assessments.

These reforms are essential to removing the double handling of environmental assessments that do nothing to improve environmental outcomes, but risk the cost-effectiveness and competitiveness of Australia's unprecedented investment pipeline – by BCA estimates there are around \$900 billion of committed and prospective investment opportunities in large scale projects, mostly in resources and economic infrastructure.

Evidence:

The costs and delays associated with environmental impact assessments are significant – an ANU study estimated a direct cost to all industries of up to \$820m over the life of the EPBC Act³. Further the referrals process under the Environmental Protection and Biodiversity Conservation (EPBC) act can range from \$30 000 to \$100 000 according to the Productivity Commission⁴.

³ Andrew Macintosh, 'The Environment Protection and Biodiversity Conservation Act 1999 (Cth): An Evaluation of its Cost-Effectiveness' (2009), 26 *Environmental and Planning Law Journal*, p.337; Andrew Macintosh, *The EPBC Act Survey Project: Preliminary Data Report* (2009) available at http://law.anu.edu.au/accel/EPBC_Survey_Report_%207sept09.pdf.

⁴ Productivity Commission (2011) *Performance Benchmarking of Business Regulation: Planning, Zoning and Development Assessments*, Melbourne, Productivity Commission.

The Commonwealth's rejection of the Traveston Crossing Dam project in Queensland, following Queensland Government conditional approval of the project, highlights the need to develop a structure approach to environmental impact assessments and the need to accredit state approvals. The Traveston Crossing Dam project was subject to a comprehensive state environmental impact assessment – the whole process to a number of years to complete. The project was approved to proceed at the state level with conditions designed to protect the environment. The Commonwealth minister subsequently vetoed the project under the EPBC Act.

3. Improve the efficiency of approvals for major development projects

Proposal:

- COAG to task the Productivity Commission to benchmark Australia's major development assessment processes against international best practice in terms of timelines for approvals, cost of administration and compliance and the additional costs arising from conditions imposed on projects;
- State governments to adopt similar and improved arrangements for major project assessments that are administered by a single state agency and which set maximum timeframes for assessment (further details are in Attachment B); and
- State governments:
 - undertake regional planning (as well as capital city planning) to identify major land uses and associated infrastructure requirements;
 - use new planning instruments to allow all policy matters to be brought forward into a rezoning decisions, which then allows for subsequent developments to be deemed complying development and then tested against a set of performance standards; and
 - reserve areas for designated activity as part of strategic planning and where possible deem permissible activity as complying, for example, resources exploration.

Rationale:

There is a clear link between productivity and efficient government approvals processes for major developments – particularly for economic and resource infrastructure.

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. Inefficient or duplicative regulatory approvals systems are unnecessarily adding to project cost and time outcomes.

Evidence:

The experience of a BCA member company in seeking approval for a major resources project provides an illustrative example of the complexities of the government approvals process. The environmental assessment of for the project was done under Australian Government and state legislation. The assessment took more than two years, involved more than 4000 meetings, briefings and presentations across interest groups, and resulted in a 12,000-page report. The assessment was advertised widely across Australia for comment and resulted in about 40 submissions. When approved, more than 1500 conditions – 1200 from the state and 300 from the Commonwealth – were imposed. These conditions have a further 8000 sub-conditions attached to them. In total, the company invested more than \$25m in the environmental impact assessment.

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Attachment A: Summary of key initiatives and recommendations

Initiative	Objective/Rationale	Recommendations
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Streamline environmental assessments and approvals	<p>The costs and delays of complying with multiple and inconsistent environmental approvals processes at the Commonwealth and state level for major projects are large. This double handling does nothing to improve environmental outcomes but does impose large costs and delay on projects.</p> <p>The objective of this reform is to remove duplicative</p>	<ul style="list-style-type: none"> • All jurisdictions to work together to develop a structured approach to ensure environmental impact assessments for <i>all</i> eligible projects are assessed (where the proponent agrees) using bilateral agreements under the Environmental Protection and Biodiversity Conservation (EPBC) Act; and • The Commonwealth Government to commit to a 6 month timeframe to accredit state environmental approvals to remove the Commonwealth's concurrence powers (so that state approvals

	environmental assessment and approvals processes without compromising environmental outcomes.	count for Commonwealth approvals).
Improve the efficiency of approvals for major projects	<p>One of the key factors impacting on successful investment in major projects in Australia is the efficiency of government development approvals processes, and the related impact of red tape imposed by permits and regulation.</p> <p>The objective of this reform is to reduce the risks to major projects in Australia by improving government efficiency for approvals.</p> <p>This reform should be achieved within current state planning frameworks (ie not a national approach).</p>	<ul style="list-style-type: none"> • COAG to task the Productivity Commission to benchmark Australia's major development assessment processes against international best practice in terms of timelines for approvals, cost of administration and compliance and the additional costs arising from conditions imposed on projects; • State governments to adopt similar and improved arrangements for major project assessments that are administered by a single state agency and which set maximum timeframes for assessment (further details are in <u>Attachment B</u>); and • State governments: <ul style="list-style-type: none"> ○ undertake regional planning (as well as capital city planning) to identify major land uses and associated infrastructure requirements; ○ use new planning instruments to allow all policy matters to be brought forward into a rezoning decisions, which then allows for subsequent developments to be deemed complying development and then tested against a set of performance standards; and ○ reserve areas for designated activity as part of strategic planning and where possible deem permissible activity as complying, for example, resources exploration.

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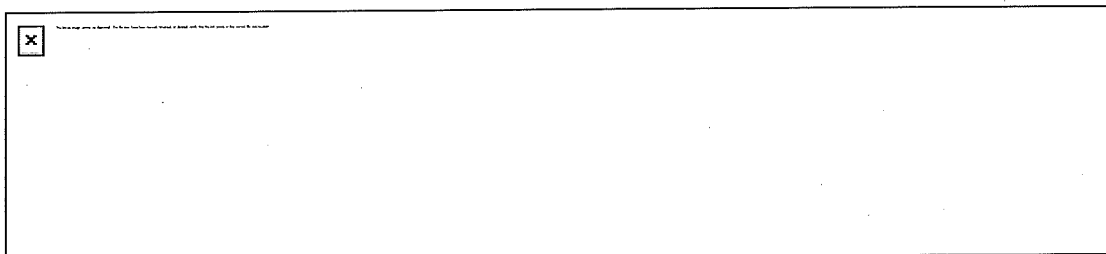
Attachment B: Characteristics of state process for major approvals

States' processes for major project approval need to meet the following characteristics:

- Major project approval status where the minister is the consent authority must make explicit the types of projects to be dealt with by the state, rather than local government.
- States developing a 'critical infrastructure' status that means major projects which fall into this category are deemed approved from the outset and not subject to third party approval.
- A single agency must have responsibility for development assessment.
- Major project assessment should require state authorities to issue upfront the standards, requirements, and the technical studies that need to be incorporated as pre-conditions for consent to be granted.
- These requirements should incorporate the Commonwealth's Environmental Protection and Biodiversity Act requirements so that both levels of government have stipulated these standards for consent and the two levels of government are compelled to work together.
- Timeframes for assessment should be made explicit. If a development which is complying (i.e. permissible within the zoning provisions and the local planning scheme) should be deemed approved once the timeframe has elapsed.
- There should be no 'stop the clock' provisions for any agency other than the agency with consent powers.
- The development consent should be able to be issued in the form of a concept approval, which would allow very complex developments to be staged in over long periods. This would mean a project, which is currently subject to new approvals at various stages, would only be subject to meeting certain conditions, or providing updated information etc. The merit of the proposal should not be subject to assessment. This would give 'bankable' long-term approvals to major projects to facilitate financing.
- Specialist major project assessment teams should be established in state planning agencies. These should have improved resources and specialist expertise. Developer fees could contribute to a 'blind trust' to support these units, who should have the power to command other agencies.
- States should set up a major project coordinator (e.g. in South Australia) so there is one point of contact to ensure all approvals are timely.
- States should bring all development, pollution and licensing approvals under a major project approval.

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From: Business Council of Australia <website@bca.com.au>
Sent: Wednesday, 11 April 2012 12:40 PM
To: s 22
Subject: Discussion Paper for the COAG Business Advisory Forum



Discussion Paper for the COAG Business Advisory Forum

11 April 2012

Last night the BCA released a discussion paper for the COAG Business Advisory Forum. The paper makes recommendations on how competition and regulatory reform should be pursued and prioritised to achieve greater productivity and competitiveness. It nominates six initiatives that should be prioritised as part of future reform efforts. The discussion paper is available at: <http://www.bca.com.au/Content/101966.aspx>

Yesterday the BCA also released supplementary information to its initial submission to the Australia in the Asian Century White Paper process. The supplementary information provides a detailed picture of Australia's competitiveness and highlights five key priorities to make the most of current and future opportunities from economic engagement with Asia. Download it at: <http://www.bca.com.au/Content/101963.aspx>

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From: Commonwealth-State Relations Secretariat
Sent: Tuesday, 10 April 2012 3:03 PM
To: 'andrea.wylob@riotinto.com'
Cc: s22
Subject: Prime Minister's Business Advisory Forum [SEC=UNCLASSIFIED]
Attachments: Agenda.pdf

Dear Mr Peever,

We are writing to provide you with an update regarding the upcoming Business Advisory Forum being hosted by the Prime Minister on Thursday 12 April 2012, 12.00pm – 2.30pm at Parliament House in Canberra.

Please find attached a copy of the agenda for the meeting. Lunch will be provided from 11.30am and afternoon tea will be provided following the meeting. There will be a photo opportunity once all attendees are seated in the meeting room. There will also be a media conference at the conclusion of the meeting, between 2.00pm and 2.30pm.

Entry to Parliament House is via the Ministerial Entrance off National Circuit. You will be issued a meeting pass upon your arrival which must be worn at all times for security purposes. We will have staff at the Ministerial Entrance to escort you to Committee Room 1R1 upon your arrival from 11.00am onwards. Please let us know if you require disability assistance and alternative arrangements can be made.

A reminder that the invitation is for the named attendee only, if you are no longer able to attend please let us know as soon as possible.

Please do not hesitate to contact us via email to s 22 or by phone on s 22

We look forward to your attendance at the meeting.

Many thanks,

s22

COAG Unit
Department of Prime Minister and Cabinet
One National Circuit, Barton, ACT 2600
Phone: (02) s 22
Email: s22

BUSINESS ADVISORY FORUM MEETING

PARLIAMENT HOUSE, 12PM – 2.30PM

AGENDA

Chair: Prime Minister

1. Welcome and purpose of the forum (10 mins)

- Creating a strong, resilient and diverse Australian economy in 2020
- Why competition and regulation reform matters for the national economy

2. The current competition and regulation reform agenda (10 mins)

- Overview of the current competition and regulation reform agenda (Lead discussant: Minister for Finance and Deregulation)

3. Challenges and opportunities for future reforms (90 mins)

- Principles and priorities for regulation reform – a business perspective (Lead discussant: Business Council of Australia)
- State and Territory priorities for future reform (Lead discussant: Chair of the Council for the Australian Federation, The Hon. Jay Weatherill MP)

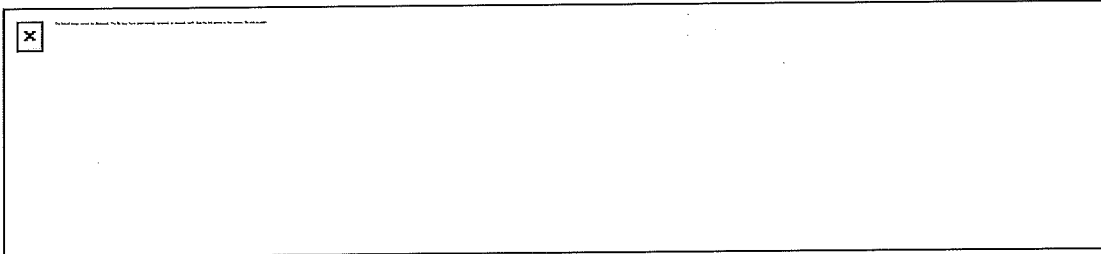
4. Closing remarks (10 mins)

- Take-away ideas for COAG
- Proposed focus for the next meeting: improving productivity

5. Media conference (30 mins)

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From: Business Council of Australia <website@bca.com.au>
Sent: Wednesday, 11 April 2012 12:42 PM
To: s22
Subject: Discussion Paper for the COAG Business Advisory Forum



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11 April 2012

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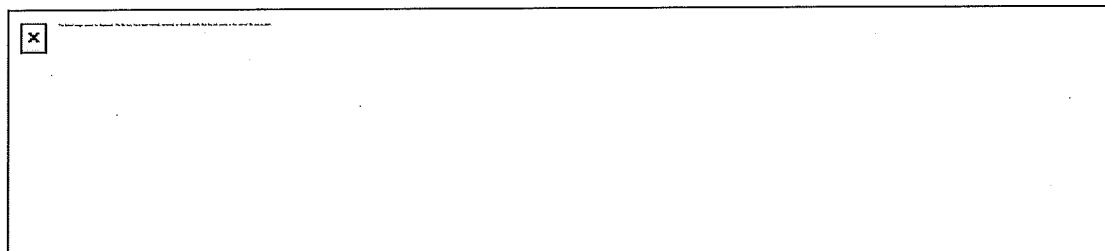
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From: Business Council of Australia <website@bca.com.au>
Sent: Wednesday, 11 April 2012 12:36 PM
To: s22
Subject: Discussion Paper for the COAG Business Advisory Forum



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From: Matt Garbutt <Matt.Garbutt@bca.com.au>
Sent: Wednesday, 4 April 2012 6:30 PM
To: Taylor, Marie
Subject: RE: BCA paper for the BAF [SEC=UNCLASSIFIED]
Attachments: Business Advisory Forum - draft discussion paper 04-04-12.docx

Hi Marie,

Please find attached the latest version of the BAF paper. Jennifer provided it to Ian Watt this morning, so I assume you have seen a copy already?

Cheers,
 Matt

Business Council of Australia
 Ph (03) 8664 2628
 Level 42, 120 Collins Street
 Melbourne
 VIC 3000

From: Taylor, Marie [<mailto:Marie.Taylor@pmc.gov.au>]
Sent: Monday, 2 April 2012 7:07 PM
To: Matt Garbutt
Cc: Maria Tarrant
Subject: RE: BCA paper for the BAF [SEC=UNCLASSIFIED]

Thanks Matt, noted. Do you think you would be tracking for Wednesday then?

s 22

Marie

Marie Taylor
 First Assistant Secretary
 Industry, Infrastructure & Environment
 Department of the Prime Minister & Cabinet
 ph (02) s22

From: Matt Garbutt [<mailto:Matt.Garbutt@bca.com.au>]
Sent: Monday, 2 April 2012 7:04 PM
To: Taylor, Marie
Cc: maria tarrant
Subject: BCA paper for the BAF

Hi Marie,

Just a quick update on the paper – the discussion with the BCA members went well and there was agreement with the broad priorities and recommendations that are outlined in the paper I sent you last week. However, the structure of the paper will be changed as will the way the specific recommendations are presented.

The upshot, unfortunately, is that I will not be able to get you a final version of the paper tomorrow.

Please don't hesitate to give me a call if you want to discuss.

Regards,

Matt.

Business Council of Australia

Ph (03) 8664 2628

Level 42, 120 Collins Street

Melbourne

VIC 3000

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Consistent with the approach outlined above, the BCA in consultation with the AI Group and ACCI has identified reforms that will unambiguously make a significant contribution to lowering costs to business, improving competition and lifting productivity.

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Proposal:

- All jurisdictions to work together to develop a structured approach to ensure environmental impact assessments for *all* eligible projects are assessed (where the proponent agrees) using bilateral agreements under the Environmental Protection and Biodiversity Conservation (EPBC) Act; and
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Rationale:

The Commonwealth has bilateral agreements with every jurisdiction to accredit state environmental assessments. In spite of this, only a small number of actions that are referred to the Minister under the EPBC Act are done so using these bilateral agreements.

The bilateral agreements need to be extended to accredit state approvals, as well as assessments.

A structured approach to environmental impact assessments needs to include tighter requirements on the Commonwealth to ensure adequate input is provided throughout the state process. This will avoid instances where, according to business feedback, the Commonwealth deems state assessments conducted under bilateral agreements inappropriate – in spite of providing no substantive comment during the state process – and requires new assessments.

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Evidence:

The costs and delays associated with environmental impact assessments are significant – an ANU study estimated a direct cost to all industries of up to \$820m over the life of the EPBC Act³. Further the referrals process under the Environmental Protection and Biodiversity Conservation (EPBC) act can range from \$30 000 to \$100 000 according to the Productivity Commission⁴.

The Commonwealth's rejection of the Traveston Crossing Dam project in Queensland, following Queensland Government conditional approval of the project, highlights the need to develop a structure approach to environmental impact

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assessments and the need to accredit state approvals. The Traveston Crossing Dam project was subject to a comprehensive state environmental impact assessment – the whole process to a number of years to complete. The project was approved to proceed at the state level with conditions designed to protect the environment. The Commonwealth minister subsequently vetoed the project under the EPBC Act.

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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. Inefficient or duplicative regulatory approvals systems are unnecessarily adding to project cost and time outcomes.

Evidence:

The experience of a BCA member company in seeking approval for a major resources project provides an illustrative example of the complexities of the government approvals process. The environmental assessment of for the project was done under Australian Government and state legislation. The assessment took more than two years, involved more than 4000 meetings, briefings and presentations across interest groups, and resulted in a 12,000-page report. The assessment was advertised widely across Australia for comment and resulted in about 40 submissions. When approved, more than 1500 conditions – 1200 from the state and 300 from the Commonwealth – were imposed. These conditions have a further 8000 sub-conditions attached to them. In total, the company invested more than \$25m in the environmental impact assessment.

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Attachment A: Summary of key initiatives and recommendations

Initiative	Objective/Rationale	Recommendations
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	environmental assessment and approvals processes without compromising environmental outcomes.	count for Commonwealth approvals).
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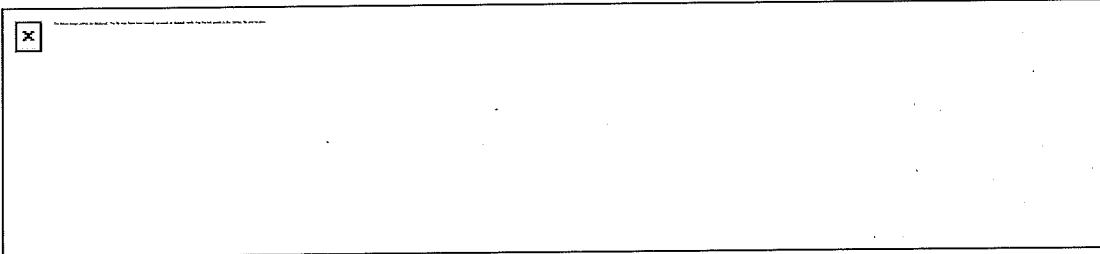
Attachment B: Characteristics of state process for major approvals

States' processes for major project approval need to meet the following characteristics:

- Major project approval status where the minister is the consent authority must make explicit the types of projects to be dealt with by the state, rather than local government.
- States developing a 'critical infrastructure' status that means major projects which fall into this category are deemed approved from the outset and not subject to third party approval.
- A single agency must have responsibility for development assessment.
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- Timeframes for assessment should be made explicit. If a development which is complying (i.e. permissible within the zoning provisions and the local planning scheme) should be deemed approved once the timeframe has elapsed.
- There should be no 'stop the clock' provisions for any agency other than the agency with consent powers.
- The development consent should be able to be issued in the form of a concept approval, which would allow very complex developments to be staged in over long periods. This would mean a project, which is currently subject to new approvals at various stages, would only be subject to meeting certain conditions, or providing updated information etc. The merit of the proposal should not be subject to assessment. This would give 'bankable' long-term approvals to major projects to facilitate financing.
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- States should set up a major project coordinator (e.g. in South Australia) so there is one point of contact to ensure all approvals are timely.
- States should bring all development, pollution and licensing approvals under a major project approval.

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From: Business Council of Australia <website@bca.com.au>
Sent: Wednesday, 11 April 2012 12:41 PM
To: Cross, Rebecca
Subject: Discussion Paper for the COAG Business Advisory Forum



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11 April 2012

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From: Commonwealth-State Relations Secretariat
Sent: Tuesday, 10 April 2012 2:45 PM
To: s47F
Cc: s 22
Subject: Prime Minister's Business Advisory Forum [SEC=UNCLASSIFIED]
Attachments: Agenda.pdf

Dear Ms Shepherd,

We are writing to provide you with an update regarding the upcoming Business Advisory Forum being hosted by the Prime Minister on Thursday 12 April 2012, 12.00pm – 2.30pm at Parliament House in Canberra.

Please find attached a copy of the agenda for the meeting. Lunch will be provided from 11.30am and afternoon tea will be provided following the meeting. There will be a photo opportunity once all attendees are seated in the meeting room. There will also be a media conference at the conclusion of the meeting, between 2.00pm and 2.30pm.

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Please do not hesitate to contact us via email to s 22 or by phone on s 22

We look forward to your attendance at the meeting.

Many thanks,

s22

COAG Unit
Department of Prime Minister and Cabinet
 One National Circuit, Barton, ACT 2600
 Phone: (02) s22
 Email: s22

BUSINESS ADVISORY FORUM MEETING

PARLIAMENT HOUSE, 12PM – 2.30PM

AGENDA

Chair: Prime Minister

1. Welcome and purpose of the forum (10 mins)

- Creating a strong, resilient and diverse Australian economy in 2020
- Why competition and regulation reform matters for the national economy

2. The current competition and regulation reform agenda (10 mins)

- Overview of the current competition and regulation reform agenda (Lead discussant: Minister for Finance and Deregulation)

3. Challenges and opportunities for future reforms (90 mins)

- Principles and priorities for regulation reform – a business perspective (Lead discussant: Business Council of Australia)
- State and Territory priorities for future reform (Lead discussant: Chair of the Council for the Australian Federation, The Hon. Jay Weatherill MP)

4. Closing remarks (10 mins)

- Take-away ideas for COAG
- Proposed focus for the next meeting: improving productivity

5. Media conference (30 mins)

s22

From: s47F
Sent: Tuesday, 10 April 2012 2:52 PM
To: Commonwealth-State Relations Secretariat
Cc: s22
Subject: RE: Prime Minister's Business Advisory Forum [SEC=UNCLASSIFIED]

Thank you for the email. Please note that both Jennifer Westacott and Tony Shepherd will be attending from the BCA.

Regards

s47F

s47F

Executive Assistant to the Chief Executive
Business Council of Australia
Level 42, 120 Collins Street
Melbourne VIC 3000
Tel: s47F
Fax: s 47F
Email: s47F
Web: www.bca.com.au

The Business Council of Australia works to achieve economic, social and environmental goals that will benefit Australians now and into the future. Our vision is to help make Australia the best place in the world in which to live, learn, work and do business.

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From: Commonwealth-State Relations Secretariat [mailto:s 22]
Sent: Tuesday, 10 April 2012 2:45 PM
To: s 47F
Cc: s 22
Subject: Prime Minister's Business Advisory Forum [SEC=UNCLASSIFIED]

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We look forward to your attendance at the meeting.

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[REDACTED] s 22

COAG Unit

Department of Prime Minister and Cabinet

One National Circuit, Barton, ACT 2600

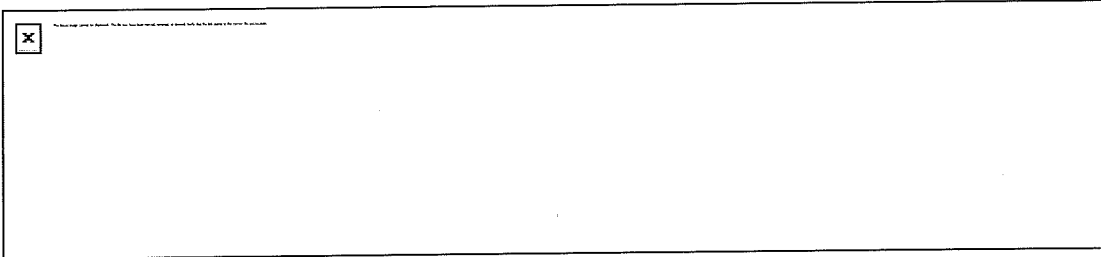
Phone: [REDACTED] s22

Email [REDACTED] s22

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s22

From: Business Council of Australia <website@bca.com.au>
Sent: Wednesday, 11 April 2012 12:40 PM
To: s22
Subject: Discussion Paper for the COAG Business Advisory Forum



Discussion Paper for the COAG Business Advisory Forum

11 April 2012

Last night the BCA released a discussion paper for the COAG Business Advisory Forum. The paper makes recommendations on how competition and regulatory reform should be pursued and prioritised to achieve greater productivity and competitiveness. It nominates six initiatives that should be prioritised as part of future reform efforts. The discussion paper is available at: <http://www.bca.com.au/Content/101966.aspx>

Yesterday the BCA also released supplementary information to its initial submission to the Australia in the Asian Century White Paper process. The supplementary information provides a detailed picture of Australia's competitiveness and highlights five key priorities to make the most of current and future opportunities from economic engagement with Asia. Download it at: <http://www.bca.com.au/Content/101963.aspx>

For further information, visit our website at www.bca.com.au.

To provide feedback or unsubscribe to the BCA email distribution list, please [click here](#).

This message was sent by the Business Council of Australia.
[Click here](#) to view our Privacy Policy.

s22

From: Commonwealth-State Relations Secretariat
Sent: Tuesday, 10 April 2012 3:13 PM
To: s47F
Cc: s22
Subject: Prime Minister's Business Advisory Forum [SEC=UNCLASSIFIED]
Attachments: Agenda.pdf

Dear s47F

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Many thanks,

s22

Adviser | COAG Unit | Department of the Prime Minister and Cabinet
p 02 s22 e s22

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