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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.

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Terms of reference

Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments

The following letter was received from the Assistant Treasurer requesting the Commission to commence the third year of this continuing work program.

Dear Chairman

I am writing to you regarding the topics for the Productivity Commission's Performance Benchmarking of Australian Business Regulation in 2010.

This matter was discussed at the Council of Australian Governments' (COAG) Business Regulation and Competition Working Group (BRCWG) meeting of 5 February 2010. It agreed that the Commission be asked to undertake performance benchmarking in 2010 of States and Territories' planning and zoning systems and land development assessments.

The performance benchmarking of States and Territories' planning and zoning systems is to be undertaken consistent with the enclosed terms of reference. The terms of reference have been agreed in consultation between the Commonwealth and the States and Territories, and were specified by COAG at its 7 December 2009 meeting.

I look forward to receiving the reports on this further work.

I have copied this letter to the Minister for Finance and Deregulation and the Minister Assisting the Finance Minister on Deregulation.

Terms of reference

The Productivity Commission is requested to undertake a benchmarking study of States and Territories' planning and zoning systems, and report back by December 2010.

Context

Planning systems play an important role in managing the growth of cities. They aim to preserve the environment, provide and coordinate community services and facilities, and promote the orderly and economic use and development of land.

The systems serve the valuable purposes of balancing the often competing social, environmental, and economic impacts of a development. Planning systems, and in particular the zoning of land, affect the location, quantity, and use of land for specific activities, but at the same time they can affect competition within local markets. The extent of this impact on competition within local markets varies across States and Territories, and over time.

The Productivity Commission is requested to examine and report on the operations of the States and Territories' planning and zoning systems, particularly as they impact on business compliance costs, competition and the overall efficiency and effectiveness of the functioning of cities. As part of the study, the Commission should report on planning and zoning laws and practices which unjustifiably restrict competition and best practice approaches that support competition, including:

- measures to prevent 'gaming' of appeals processes
- processes in place to maintain adequate supplies of land suitable for a range of activities
- ways to eliminate any unnecessary or unjustifiable protections for existing businesses from new and innovative competitors.

Nick Sherry
Assistant Treasurer

[Received 12 April 2010]

Foreword

Australia's Federal system of government can result in undue regulatory burdens on business, but it also enables comparison of regulatory performance across jurisdictions. This report is the latest in a series, initiated by COAG, directed at benchmarking different areas of State and Territory regulation in terms of the relative burdens on business. It thereby supports COAG's regulatory reform agenda.

For this study, as well as benchmarking costs to business, the Commission was asked to assess how the planning system impacts on competition and the functioning of cities, and to identify leading practices to avoid unjustifiable restrictions on competition and to ensure adequate supplies of urban land.

Planning, zoning and development assessment address how society allocates land use, ranging from broad allocations for urban uses to ensuring development applications comply with plans and plan amendments. The task is complicated and is becoming more so, as a growing number of issues and policy agendas impact on land-use considerations. The many cases where the costs of a land use are borne primarily by people in limited areas, while the benefits are shared across a whole city or region, pose a core challenge. This study reveals considerable variation in how effectively different governments are dealing with such issues and points to practices that would yield significant gains if extended more widely.

The study was overseen by Commissioner Louise Sylvan and Associate Commissioner Paul Coghlan, with a staff research team led by Sue Holmes.

The Commission has been greatly assisted by an Advisory Panel of senior officials from all governments. It also benefitted from many discussions with participants in the sector, regulators and members of the community who filled in detailed questionnaires. Thanks are extended to all those who contributed.

Gary Banks AO
Chairman
April 2011

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Abbreviations

ABC	Australian Broadcasting Corporation
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACF	Australian Conservation Foundation
ACT	Australian Capital Territory
ACTPLA	ACT Planning and Land Authority
AEC	Australian Electoral Commission
AFR	Australian Financial Review
AHA	Australian Hotels Association
AHURI	Australian Housing and Urban Research Institute
ALGA	Australian Local Government Association
ANAO	Australia National Audit Office
ANRA	Australian National Retailers Association
ARA	Armadale Redevelopment Authority
ARA	Australian Retailers Association
BAF	Building Australia Fund
BANANA	build absolutely nothing anywhere near anything
BCC	Brisbane City Council
BGRA	Bulky Goods Retailers Association
BRCWG	Business Regulation and Competition Working Group
BTRE	Bureau of Transport and Regional Economics
CAL	Canberra Airport Limited
Cat.	Catalogue
CBA-HIA	Commonwealth Bank of Australia–Housing Industry Association
CBD	Central Business District
CBRE	CB Richard Ellis
CCCLM	Council of Capital City Lord Mayors

CEC	Canberra Estate Consortium
CFA	Country Fire Authority
CIV	Community Indicators Victoria
CMC	Crime and Misconduct Commission
COAG	Council of Australian Governments
Cwlth	Commonwealth
DA	Development Assessment
DAC	Development Assessment Commission
DADTA	Durability and Damage Tolerance Assessment
DAF	Development Assessment Forum
DAP	Development Assessment Panel
DCA	Development Consent Authority
DCP	Development Contribution Plan
DEC	Department of Environment and Conservation
DEWHA	Department of the Environment, Water, Heritage and the Arts
DIER	Department of Infrastructure, Energy and Resources
DITRDLG	Department of Infrastructure, Transport, Regional Development and Local Government
DLGP	Department of Local Government and Planning
DNREAS	Department of Natural Resources, Environment, The Arts and Sport
DoP	Department of Planning
DPCD	Department of Planning and Community Development
DSEWPC	Department of Sustainability, Environment, Water, Population and Communities
eDA	Electronic Development Assessment
eDAIS	Electronic Development Assessment Interoperability Specifications
EES	Environmental Effects Statement
EP&A	Environmental Planning and Assessment
EPA	Environment Protection Agency
EPBC	Environmental Protection and Biodiversity Conservation
ERDC	Environment, Resources and Development Court

FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
FNQ	Far North Queensland
FNQIP	Far North Queensland Infrastructure Plan
FTE	Full Time Equivalent
GAA	Growth Areas Authority
GAIC	Growth Areas Infrastructure Contribution
GBE	Government Business Enterprise
GFA	Gross Floor Area
GLO	Government Land Organisation
GPCC	Government Planning and Coordination Committee
GST	Goods and Services Tax
HAF	Housing Affordability Fund
HELSP	Housing and Employment Land Supply Program
HIA	Housing Industry Association
ICAC	Independent Commission Against Corruption
ICC	Infrastructure Coordinating Committee
ICU	Infrastructure Contribution Unit
IPA	Integrated Planning Act
IPART	Independent Pricing and Regulatory Tribunal
IT	Information Technology
JRPP	Joint Regional Planning Panel
LC	Local Council
LDA	Land Development Agency
LDC	Land Development Corporation
LEP	Local Environmental Plan
LGA	Local Government Area
LGPMC	Local Government and Planning Ministers Council
LHCTF	Land and Housing Supply Coordination Task Force
LMC	Land Management Corporation
MAV	Municipal Association of Victoria
MCP	Metropolitan Centres Policy
MDP	Metropolitan Development Program

NARGA	National Association of Retail Grocers Australia
NCA	National Capital Authority
NES	National Environmental Significance
NHSC	National Housing Supply Council
NIMBY	not in my backyard
NOTE	not over there either
OECD	Organisation for Economic Co-operation and Development
OHS	Occupational Health and Safety
OSCAR	Organisation Sunshine Coast Association of Residents
PAC	Planning Assessment Commission
PAP	Precinct Acceleration Protocol
PC	Productivity Commission
PCA	Property Council of Australia
PIA	Planning Institute of Australia
PIP	Priority Infrastructure Plan
PIRSA	Department of Primary Industries and Resources of South Australia
PSP	Precinct Structure Plan
QPP	Queensland Planning Provision
RCC	Regional Coordination Committee
REIA	Real Estate Institute of Australia
RFS	Rural Fire Service
RICS	regulated infrastructure charges schedule
RMF	Regional Management Framework
RMPAT	Resource Management and Planning Appeal Tribunal
ROL	Reconfiguration of lots
RPDC	Resource Planning and Development Commission
RSS	Regional Spatial Strategies
SAT	State Administrative Tribunal
SCCA	Shopping Centre Council of Australia
SDPWO	State Development and Public Works Organisation
SEPP	State Environmental Planning Policy
SEQ	South East Queensland

SEQIPP	South East Queensland Infrastructure Plan and Program
SIBA	Spatial Industries Business Association
SIC	State Infrastructure Contribution
SLA	Statistical Local Area
SMDA	Sydney Metropolitan Development Authority
SMH	Sydney Morning Herald
SPA	Sustainable Planning Act
SPR	Sustainable Planning Regulations
SRT	Swan River Trust
TAMS	Territory and Municipal Services
TTF	Tourism and Transport Forum
UDIA	Urban Development Institute of Australia
UK	United Kingdom
ULDA	Urban Land Development Authority
USA	United States of America
VCAT	Victorian Civil and Administrative Tribunal
VCEC	Victorian Competition and Efficiency Commission
VPP	Victorian Planning Provisions
WAEPA	Western Australian Environmental Protection Authority
WALGA	Western Australian Local Government Association
WAPC	Western Australian Planning Commission