

YARRUM EQUITIES

Response to

Productivity Commission

INQUIRY INTO FIRST HOME OWNERSHIP

January 2004

Table of Contents

Introduction	3
Submitter's Credentials	4
Identification of Issues and Impediments associated with rising costs of housing to First Home Buyers and others	5
Identification of impediments to release and development of land and the provision of basic infrastructure	6
Efficiency and transparency of different planning and approval processes for residential land	7
The Yarrum Experience – Losses Accruing to Developers attributable to Local Government Indecision, Incompetence and Inefficiency	9
Recommendations for Greater Efficiency at Local and State Government	13
Taking the Devil Out of Development	16
Concluding Statements: Maintaining Competition in the Marketplace	17
Contact Details	18

INTRODUCTION

Yarrum Equities Pty Ltd, a private Queensland-based development consortium, commends the Commonwealth Government for its initiative in referring the issues of affordability and availability of housing for first home buyers and others to the Productivity Commission.

The Government acknowledges the significance of home ownership to Australians and to the economy, as well as its role and responsibility in maintaining standards of living in Australia.

Unlike many countries including some neighbouring countries in the Asia-Pacific region, there is an abundance of land in this country. The Government has a responsibility to ensure that land and housing are available, affordable and that the market is competitive.

In this context, the Productivity Commission's Terms of Reference for its Inquiry into Home Ownership in Australia revolves around three major questions:

- What has happened to affordability for first (and subsequent) home buyers in recent years?
- What are the major causes of declining affordability?
- Are government initiatives warranted to improve affordability and enhance productivity in the supply chain?

Yarrum Equities Pty Ltd's submission specifically identifies a number of significant components that have contributed to declining affordability in the first home buyers' market in the past three years, analyses the factors underpinning spikes in costs and land prices now peaking at historical highs, and recommends changes to current policies, processes and procedures aimed at cutting production costs and reducing delays in land development currently creating an artificial shortage of urban land in South-East Queensland. Yarrum Equities Pty Ltd asks the Commission to address these issues as a matter of urgency, with the express aims of making the development approvals process more efficient, transparent and accountable, enhancing compliance with responsible development of the environment, and maintaining competition in the marketplace.

SUBMITTER'S CREDENTIALS

Yarrum Equities Pty Ltd is a Queensland-based consortium responsible for three major developments in the Redlands region of South-East Queensland.

South-East Queensland is one of the fastest-growing regions in Queensland and in Australia. The region's affordable housing, quality of lifestyle, climate and marine attractions bear testimony to the population drift from the southern states to Queensland.

Yarrum Equities Pty Ltd has been an integral part of that growth in the eastern Brisbane-Gold Coast corridor adjoining Moreton Bay, having planned and developed estates representing more than 2000 lots at Mt Cotton Village, adjoining Ridgewood Downs, and Sovereign Waters estate at nearby Wellington Point.

The developers acknowledge the importance of maintaining the balance between development and protection of the environment.

Yarrum Equities are members of the Master Builders Association and active members of the Urban Development Institute of Australia (Queensland), engage in community consultation and undertake revegetation and tree retention programs that effectively upgrade vegetation in developments. Yarrum Equities Pty Ltd wholeheartedly support integrated planning of developments that minimize the impact of the urban footprint in environments that are ecologically sensitive.

Yarrum Equities is the UDIA (Queensland) 1997 Winner for Excellence (Rural Residential) and a National Finalist for Environmental Excellence.

IDENTIFICATION OF ISSUES AND IMPEDIMENTS ASSOCIATED WITH RISING COSTS OF HOUSING TO FIRST HOME BUYERS

In response to the Government's reaction to an observable decline in affordability of housing in Australia generally, and more specifically in South-East Queensland, Yarrum Equities Pty Ltd urges the Productivity Commission to take particular notice of several significant components that have created spikes in housing affordability for first home buyers.

Land is the raw material at the base of the housing supply chain. There is currently a shortage of developed land in South-East Queensland.

The Queensland state government and relevant local government bodies have done much to try to overcome the pressure of demand for both inner city and suburban housing. The entities responsible have endeavoured to provide a balanced solution, endeavouring to meet demand by actively promoting redevelopment of the inner-city, replacing industrial sites with medium- and high-density residential complexes combining retail and leisure precincts, and controlling urban sprawl as Brisbane, by area, is already one of the largest cities in the world.

The responsible entities have also endeavoured to increase greenfields around the city in a bid to reduce pollution, enhance liveability, address environmental degradation, and promote biodiversity.

In the Redlands area, for example, the Queensland state government has allocated funding for basic infrastructure such as housing, hospitals and health, education and transport. These planning decisions have been made by a government conscious of projections that the population in Redlands Shire will increase by between 3000 and 5000 residents per annum over the next 10 years.

However, this expenditure is strangely at odds with expert estimates that there is little more than two years' supply of developable land in Redlands Shire's proposed Planning Scheme (UDIA letter to Local Government Minister, 19 December 2003). Yarrum Equities Pty Ltd contends that an artificial shortage of developed land in the Redlands Shire is a significant factor that equates with public misperception of a shortage of land. This tends to create panic buying and further unnecessarily escalates prices already inflated by a range of other factors detailed overleaf.

IDENTIFICATION OF IMPEDIMENTS TO RELEASE AND DEVELOPMENT OF LAND AND PROVISION OF BASIC INFRASTRUCTURE

Yarrum Equities currently has approximately 1200 lots of land in the Redlands Shire held up in a haphazard development planning and approvals regime. Developers, the construction industry, realtors and home buyers operate in a development twilight zone.

This is extraordinary given that more than 400,000 people migrate to Queensland every year, Queensland will need as many new homes overall to meet surges in demand, the development industry is Queensland's fourth largest contributor to Gross State Product and the fifth largest industry generator of employment in the state (UDIA Submission to the Productivity Commission Inquiry into FHB, September 2003).

No-one can predict, with any degree of certainty, how long it will take to nurse any development application – whether it be a bus shelter, aged home, or land development – through the quagmire of regulations and an approvals process that can only be described as a regulatory nightmare for everyone except lawyers tasked to act as plumbers to clear blockages in the system.

As the UDIA Submission to this Inquiry stated, the complexity of the situation and the increasing level of interaction between state and local authorities with respect to land release in growth corridors demands an integrated approach that can deliver predictability and consistency in applying laws and regulations governing development applications.

Yarrum Equities Pty Ltd has lodged this submission to the Productivity Commission not only to demonstrate how arbitrary regulatory mechanisms have unnecessarily forced up land (and subsequently housing) costs in the past three years in the Redlands Shire but also to plead for industry relief from factors associated with these hikes through a more coordinated approach to development planning and the approvals process. Yarrum Equities Pty Ltd contends that affordability can be preserved, demand can be met, availability can be guaranteed and a competitive market ensured, against the current situation in South-East Queensland whereby first home buyers are frozen out of the market and others are effectively constrained from upgrading in the marketplace.

EFFICIENCY AND TRANSPARENCY OF DIFFERENT PLANNING AND APPROVAL PROCESSES FOR RESIDENTIAL LAND

In lodging this submission to the Productivity Commission's Inquiry into First Home Ownership in Australia, Yarrum Equities Pty Ltd submits that the present lack of coordination, efficiency and transparency in planning and approvals processes governing residential land in Queensland not only create artificial shortages of residential land but also contribute significantly to rising costs of land and declining affordability for first home buyers.

The stated purpose of the *Integrated Planning Act (1997)* was "to integrate planning and development so that development and its effects are managed in a way that is ecologically sustainable, and for related purposes." In an operational context, the Act is explicit in its stated intent to coordinate and integrate planning at the local, regional and state levels, to manage the process by which development occurs, and to manage the effects of development on the environment.

Yarrum Equities Pty Ltd applauds the Queensland government for acknowledging the need for a coordinated approach to development and the development approvals process, protection of the environment, and responsible management of development.

However, the legislation has failed to deliver any of its stated aims to date.

The apparent incapacity of the state government to exercise its responsibility in its oversight role, the discretionary powers of local government and inefficiency of processes can be shown to be major contributors to declining affordability of housing in Queensland.

Unless these issues are remedied as a matter of urgency, the very authorities tasked to ensure the supply and affordability of housing in Australia will have failed the public at a time when economic factors that influence decisionmaking are exceptionally favourable, for example, interest rates at an historic low and low inflation in other sectors of the economy.

Yarrum Equities Pty Ltd has identified three major impediments to housing affordability in Queensland. This submission is intended to demonstrate how, in an operational context, these three factors contribute to rising costs and declining affordability of housing.

Yarrum Equities Pty Ltd will begin discussion of factors identified as contributing to declining affordability in an operational context with the current development approvals process because it exerts an excessive yet avoidable impost upon the cost of land in new residential estates in Queensland. The submission then deals with the role and functions of responsible local and state government bodies.

Inefficiency in Development Approvals Process re residential land in Qld

In the past three years, Yarrum Equities has lodged nine development approval applications with Redlands Shire Council covering thirty stages of land at Mt Cotton Village.

During that time, not one application has been processed in the nominated period for assessment and approval which is twenty working days in the first instance.

Invariably, every request is put on hold as the local authority requests additional information. Resubmission of the application is then subject to an extension of twenty working days.

This is invariably followed by more requests for information. This process continues, with applications taking an average of nine to twelve months.

This may result in a Development Permit being issued with the operational works permit still to be approved. This process can take just as long as the Development Approval, adding a further 9– 12 months to the project.

Instead of granting an approval or a deemed refusal, Council may grant a Preliminary Approval. This should not be construed as to represent anything other than an opportunity to negotiate a final approval or appeal an application that has been rejected.

Invariably, the matter ends up in the courts. In the experience of Yarrum Equities Pty Ltd, local authorities have frequently negotiated an acceptable outcome at the eleventh hour.

However, approval is then subject to a series of conditions. In the experience of Yarrum Equities Pty Ltd, approval granted for land development in the Redlands Shire has been subsequently withdrawn as a consequence of retrospective planning or legislation.

For example, a new vegetative mapping regime in Queensland has resulted in an approved subdivision, Mt Cotton Village owned Yarrum Equities Pty Ltd. Previously mapped “of no concern”, it has now been re-designated “endangered.”

Such reassessments of land and policy effectively mean that developers must now engineer proposed developments to master planned communities up front. The consequences of this type of policy and planning are explained below.

For developers, the financial risks associated with planning to such an advanced stage prior to seeking approval is prohibitive.

The courts are already clogged with cases arising from development decisions that are challenged and awaiting judgment. Planning and Environment Court arbiters are visibly displeased with frivolous delays, rejected applications on unsubstantiated grounds, and the small number of cases that are dismissed.

Yarrum Equities Pty Ltd has been unable to confirm reports that only two of twenty court proceedings arising from rejected applications contested in Redlands Shire were upheld, most cases appear to arise from councillors over-riding the recommendations of council officers.

The costs associated with legal fees and holding charges whilst shepherding development applications through the development approvals process are passed onto purchasers of land coming onto the market in new estates.

The Yarrum Experience – Losses Accruing to Developers attributable to Local Government Indecision, Incompetence and Inefficiency

Yarrum Equities is willing to share the following experiences with the Productivity Commission because they illustrate the frustration and obstruction that developers face every working day. Ultimately, these barriers to business will drive smaller private developers out of the industry. The market will then be dominated by large consortia, a situation that can only lead to a lack of competition in the marketplace.

Case Study 1:

In December 1996, Yarrum Equities joint venture partner Bayview Country Club Pty Ltd lodged six applications for town planning consent to erect houses in six areas of the Bayview Country Club Estate, areas that subsequently became known as Appeal Areas A to F. Council was unable to make a decision on the applications notwithstanding that a series of deeds and agreements since 1974 existed for the development of this land for residential purposes.

It was not a detailed application in terms of location of houses or size of lots or technicality, it was merely as to whether land zoned comprehensive development could be used for residential purposes in accordance with pre-existing agreements. Residential use was consistent with the draft Strategic Plan of Council, that is, that the land be used for residential purposes.

Bayview went to the Planning & Environment Court in August 1997 against the deemed refusal of Council to consider the application. Bayview spent close to \$1million obtaining legal advice and preparing for the trial which was set down for 10 days. Further, Bayview obtained expert advice and reports as to impact upon roads, environment, flora and fauna, engineering considerations, town planning rights and issues, heritage issues, etc. in readiness for trial. In compliance with the discovery process, copies of all reports were provided to Council.

In reply, Bayview were not provided with any Council reports. There were none to discover. In effect, Council merely wanted Bayview to establish its case before the Court whilst Council did not intend to produce any evidence to the contrary. The Council had abrogated its responsibility to make a decision, and then failed to assist the Court to make a judgement.

Council then attempted to negotiate a settlement at court. After three days of drafting and redrafting terms of settlement, they were finalised and consent court orders made. Nothing in those orders was inconsistent with existing rights, and the terms of the consent orders are very general which they had to be because the myriad detailed considerations for development of land by carrying out works only comes after comprehensive design work has been done which, in turn, can only be done after taking into account all the issues set out in the reports prepared by the usual consultants.

Bayview lost \$1million and 10 months of development time.

Case Study 2

On the morning of a ten-day trial, solicitors for the Council announced to Bayview Country Club Pty Ltd that they were to serve upon us a notice of resumption of part of the land which were the subject of the Appeals. It was served later that morning.

We accept that sometimes notices of resumption need to be issued for good reasons. But here the notice of resumption was issued to resume land for conservation purposes, more specifically for koala movement purposes, on the morning of the trial.

The matter had been before the Council in December 1996 for decision, Council had been unable to make a decision, the matter had gone through the usual Court-directed process for discovery of reports and ensuring that all parties were ready for the trial, and yet totally unannounced on the morning of the trial in August 1997, the notice of resumption was issued.

Obviously, this meant that the Appeals relating to the areas to be resumed could not proceed before the Court, as it would appear to be a waste of Court time if the Council subsequently proceeded with the resumption.

So all the money spent on preparing for trial of the Appeals for these areas was wasted. As an aside, the Council subsequently issued a second notice of resumption, for a smaller area which, under the threat of resumption, was then sold to Council for less than \$3million.

This same zoned raw residential land has a market value of more than \$25million, could yield over 700 house sites and generate \$175million into the economy, all targeted to the first home buyer.

There is nothing stopping a head of authority from exercising the rights conferred onto this land.

Case Study 3

Bayview Country Club Pty Ltd lodged an application to develop certain low lying flood prone land into a golf course. Nothing unusual, this is where most golf courses are built. In addition, all master plans for the development of the estate some 10 years previously showed land dedicated for a golf course.

Again, the Council was unable to make a decision, the matter had to go to the Planning and Environment Court, and again consent orders were worked out just before the Court was due to hear the matter. There was nothing difficult or unusual for the consent orders for development, certainly nothing more than the usual trade off between Council and developer. So again, almost \$500,000 was wasted because the Council was unable to make a decision.

Discretionary powers of Local Government Authorities

The discretionary powers of local government authorities pose massive risk for land developers in terms of political and financial risk.

This submission contends that many legal costs associated with development applications rejected by local government authorities in Queensland – and in other states for that matter - are not attributable to planning and policy factors but to political factors. Local government elections are now a battleground for votes between major political parties and political pressure groups. Strategic power plays add costs to development as councillors are obliged to demonstrate public support for the interests of their constituent power base, often against the interest of, and benefit to, the wider electorate.

Oversight Role of State Government

The Integrated Planning Act (1997) is explicit in granting power to the Queensland state government to oversight the role of local government authorities to ensure a well managed, efficient and coordinated development approvals regime in this state.

The Department of Local Government does not appear to gather the data that would justify necessary intervention to promote efficiency in the development applications assessment and approvals process in Queensland.

Moreover, as a direct consequence of benign oversight of its managerial role, the state government has failed to provide an administrative environment that can support the government of the day's responsibility to underwrite affordable housing in Queensland.

Clearly, the Department of Local Government in Queensland needs to be given the resources to perform its designated role and functions as coordinators and managers of development in this state. Likewise, the Department of State Development, an agency tasked with promoting prosperity in Queensland through identifying risks and opportunities, appears impotent in its capacity to give impetus to development in Queensland. The red tape and the prolonged, exhaustive and expensive processes associated with residential land development applications and approvals in Queensland is a barrier to investment in this state.

RECOMMENDATIONS FOR GREATER EFFICIENCY OF DEVELOPMENT APPLICATIONS AND APPROVAL PROCESSES OF RESIDENTIAL LAND IN QLD

- **Review of Administrative Process**

Yarrum Equities Pty Ltd contends that a review of administrative processes and procedures regarding applications for development and the approvals processes for residential land in Queensland is long overdue.

In particular, Yarrum Equities Pty Ltd asks the state government to empower the Department of Local Government to gather the necessary data to enable it to make judgements as to whether development applications in Queensland are taking an unreasonable and unacceptable length of time to process through local government and state government channels.

As part of its administrative function under the *Integrated Planning Act (1997)*, the Queensland State Government has the authority to direct the Department of Local Government to fulfil its obligations under the Act and to take action against any local government authority that is denying Queenslanders the right to invest in the development of this state on frivolous grounds.

- **Review of Council's Role as a Development Consent Authority**

Yarrum Equities Pty Ltd recommend that the consent authority role of councils should be clearly demarcated from their other functions and business.

The exercise of responsibilities by a council pursuant to the *IPA Act* should be explicitly recognized as a discrete function within local government bodies.

- **Strengthening of Capacity and Independence of Council Staff, reinforcing obligation to provide objective advice**

Yarrum Equities Pty Ltd. expresses concern over the high turnover staff in planning agencies, and has voiced concern over what appears to be a shortage of qualified experienced staff engaged in processing development applications.

The resource levels of local government authorities in this regard should be included in the efficiency criteria performance indicators during efficiency audits conducted by the Department of Local Government when gathering data for analysis.

- **Reduction of State Government Stamp Duty to Offset Legal Costs associated with New Residential Land Development Applications**

Queensland State-government imposed stamp duty on First Home Buyers effectively quadrupled from \$940 in June 1998 to \$3,445 in June 2003. June 2004 is fast approaching.

Yarrum Equities Pty Ltd respectfully requests the Queensland government to abolish stamp duty for First Home Buyers who are the first purchasers of lots in new residential estates.

This will go some way in offsetting legal costs for developers as the price of lots in our estates has jumped from an average of \$110,000 per lot to \$160,000 per lot in the past year.

Yarrum Equities Pty Ltd estimates that four percent of the cost of a residential housing lot is absorbed by legal fees and 2.5percent in holding charges associated with development applications and challenges to arbitrary local government decisionmaking. Consequently, these are significant factors in declining affordability of residential housing in Queensland.

If the lots had been approved in an efficient manner, our company could have sold over 600 lots in the preceding two calendar years, representing a saving of over \$30million to first home buyers in our subdivision.

TAKING THE DEVIL OUT OF DEVELOPMENT

In making this submission, Yarrum Equities Pty Ltd are mindful that various functions conferred upon local government can create conflict for councillors.

There is a need for clarity in respect of the role of local government authorities roles as development consent authorities.

Research in other states has revealed that the stage for conflicts of interest amongst local government councilors exists because they have three distinctly different roles and responsibilities that conflict.

The three roles are:

- Making of planning laws and development control
- Being an advocate for constituents
- Making judgements on individual development applications.

As discussed elsewhere in this submission, the combination of three conflicting roles is unique to local government. Neither state nor federal parliamentarians exercise all three roles.

Consequently, the processes need to be transparent but there is ample evidence in Queensland and other states that these processes are vulnerable to unhealthy influences.

For evidence of corruption, one need look no further than the Fitzgerald Report in Queensland, WA Inc, the Rockdale City Council scandal in NSW and a host of other inquiries in which local and state government elected officials and administrative staff have been implicated.

A survey of 174 councils, 40 managers and hundreds of administrative staff by the Independent Commission Against Corruption in NSW in 2000-1 revealed that only 15 percent of councils had implemented mechanisms against corrupt practices.

In a report aimed at promoting transparency in local government processes, "Taking the Devil out of Development" (2002), the ICAC identified the Development Applications process as the area most prone to complaints about undue influence.

CONCLUDING STATEMENTS

Yarrum Equities Pty Ltd thanks the Productivity Commission for the opportunity to participate in the Commission's investigation into Affordability of First Home Ownership in Australia.

Representatives of the company are willing to appear before the Commission's Public Hearing scheduled to be held in Brisbane on 28 January 2004 where our representative will elaborate upon any aspect of this submission and provide evidence in support of claims contained within this submission.

Yarrum Equities Pty Ltd seek a prudent outcome in the development assessment and approvals process, a process dependent upon everyone in the process properly playing assigned roles.

This submission has been lodged with the intention of removing the identified impediments to the release and development of residential land in Queensland that contribute to declining affordability of housing for First Home Buyers (and buyers subsequently upgrading).

Yarrum Equities Pty Ltd hereby lodge this submission without malice, hoping to put an end to ambiguity, uncertainty, loopholes and other opportunities that reduce efficiency in public administration. It is imperative that the government acts to seal off opportunities for the inappropriate exertion of influence that distorts prices.

.....
Mr Tony Cetinich
Senior Partner
Yarrum Equities

.....
Mr Murray Cetinich
Project Manager
Yarrum Equities

CONTACT DETAILS

YARRUM EQUITIES PTY LTD

Mr Murray Cetinich
Shop 5, Mt Cotton Shopping Centre
Valley Way
Mount Cotton 4165
0419 659 013

MEDIA

Dr Barbara-Ann Butler
Consultant Adviser
Directions Media
Queen St, Brisbane
0412 494 634