

PRODUCTIVITY COMMISSION
PERFORMANCE BENCHMARKING OF AUSTRALIAN BUSINESS REGULATION:
PLANNING, ZONING AND DEVELOPMENT ASSESSMENTS
Issues Paper – May 2010

INTRODUCTION TO THE TOWN:

The Town of Vincent is an inner-urban Local Authority located three kilometres from Western Australia's capital city of Perth. The Town covers an area of 11.3 square kilometres and encompasses the inner city suburbs of Leederville, Highgate, North Perth, Mount Hawthorn and parts of Mount Lawley Perth, Coolbinia, East Perth, West Perth and Osborne Park.

PRODUCTIVITY COMMISSION - ISSUES PAPER:

The *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments* Issues Paper raised a number of issues in relation to the decisions and actions of planning regulators at differing levels of governments, in relation to planning, zoning and development assessments, in an attempt to highlight areas where there may be benefits from further reform. While there are a significant number of questions raised within the *Issues Paper*, the Town has highlighted a number of key issues for inclusion in this submission that are of particular relevance to the Town, and have attempted to provide a local perspective to address some of these issues:

The submission includes the key points of discussion below and addresses the following issues:

- Positive coordination and cooperation between all levels of Government;
- Conflict between Local Government community visioning and State Government decision in relation to zoning, land use and planning;
- Delays in decision making at various levels of government, resulting in uncertainty to the community and unwarranted costs (such as denial of development potential);
- Delays in rezoning of land and the implications at a local level;
- Conflicts as a result of decision making powers for land rezoning failing at the State level;
- Mechanisms to improve Development Application (DA) and Building Application (BA) processing;
- Challenges faced by the local authorities and the community in pursuit of liveability goals;
- Challenges faced by local government in community consultation,
- Impact of State Government directives (such as pressure for infill development) on infrastructure costs at a local level and the potential resultant flow-on effect to developers and the wider community; and
- Factors affecting delays in the supply of appropriately zoned land.

GOVERNMENT COORDINATION AND COOPERATION IN PLANNING, ZONING AND DEVELOPMENT ASSESSMENTS

Issues Paper –key points for discussion

Are there particular examples of where land development and development of other urban infrastructure (such as transport and schools) are or are not well coordinated?

What costs (benefits) does poor (good) coordination between levels of government create for:

- *Property developers*
- *Businesses, aside from property developers*
- *Government agencies and local governments*
- *Residents?*

The Town provides the following local government perspective and points for discussion in relation to the coordination and cooperation between the spheres of Government in relation to planning and zoning; the impact of community visioning on planning decisions; and the obstacles within the planning processes that result in a flow on effect to the wider community.

Community Visioning

The Towns community consultation project *Vincent Vision 2024* was officially launched on 3 July 2004 with a Community Workshop. The project aimed to build a common understanding about the people and the place of the Town of Vincent and the values, issues and trends shaping the community. The workshop sought to gather initial input for further stages of the project, which involved developing a shared vision for what the community wishes the Town to become in the future.

The Town has considered State Government initiatives and documents with respect to its population projections and the impact these may have on our communities and the built form in the future, particularly in ways that strategic planning directions within the Town can cater for the expected population projections.

Throughout the community visioning project, the community participated in workshops and various forums specifically dealing with the future of their town and matters relating to housing density and urban design, town centres and commercial areas, traffic and transport, character and heritage, environment and sustainability, safety and security, community culture and the arts and parks and community facilities.

The Town's Officers, through *Vincent Vision 2024*, worked collaboratively with the then Department for Planning and Infrastructure throughout the process, and upon conclusion of the vision statement and action planning stages of the process, the final report outlining the Town's vision, was forwarded to the Department. As a result, it is considered that *Vincent Vision 2024* has portrayed the shared values and vision held by our community and has met State Government planning directives, which will additionally reflect a

commitment to responsible planning, with the delivery of a new Town Planning Scheme.

Further information in relation to *Vincent Vision 2024* can be found at the following website link:

<http://www.vincentvision2024.com.au/?nodeNum=444>

Former Eton Locality – Proposed rezoning

Streets within the Town's former 'Eton Locality' have been the subject of various Scheme Amendments to rezone the streets from Residential R30/40 to Residential R20. Since the promulgation of Town Planning Scheme No.1 on 4 December 1998, issues relating to the "split/dual" density codes have arisen. Issues were raised in relation to whether or not the split coding actually achieves its intention, which is to retain the existing dwelling, and allow development of the rear portion of the lot consistent with Residential R40 requirements.

The confusion in interpretation of "split/dual" zoning and the impact of infill development was having on adjoining properties within the area, were the primary instigators behind the initiation and final adoption of Scheme Amendment No.11 and subsequent Amendments 22, 24 and 27 which saw the temporary down coding of areas within the former Eton Locality from Residential R30 and R30/40 to Residential R20.

These amendments have all dealt with the matter of density resulting from significant community concern relating to the scale, height and intrusive nature of residential development at R30 and R40 densities, a strong desire to protect the existing fabric and character, and the continued impact on the amenity (such as privacy and overshadowing), character and stability of the communities. The Council has acknowledged and supported the communities' formal requests and to date, 4 amendments to the Scheme have been initiated and adopted. A fifth amendment is currently being determined by the Western Australian Planning Commission and ultimately the Minister for Planning.

Notwithstanding the consistent approach taken by the Town with respect to the initial and subsequent Scheme Amendments, to maintain lower density development with the 'protection of appropriate residential streetscapes', the above mentioned area has consistently been denied permanent down zoning by the former Minister for Planning, by the imposition of a 'sunset clause' which effectively limits the period of down-coding to coincide with the anticipated gazettal of proposed Town Planning Scheme No. 2.

The Town's main concern is that due to unanticipated delays in the progression of the Town Planning Scheme Review, should the Minister determine a further extension to the sunset clause, uncertainty to the Town and the residents affected by the Scheme Amendment area will result.

This highlights the complexity in balancing the competing social and community expectations at a local level, with broader objectives at a State Government level; and how the impact of decision making at different levels of

Government can have a conflicting effect on the zoning and use of land at a local level.

Multiple Dwelling Scheme Amendment

Since the gazettal of Town Planning Scheme No.1 on 4 December 1998, the Town's Officers have periodically been questioned over the Town Planning Scheme No.1 provision relating to 'no multiple dwellings' in the Precincts of Cleaver, Smith's Lake, Norfolk, Hyde Park, Forrest and Banks. In particular, questions have been raised as to the appropriateness of this provision in relation to higher density codings along major roads.

In this respect, some examples of significant redevelopment proposals of merit that the Town has been unable to progress are as follows:

- Council Members were briefed at a Forum on 13 November 2007 of a proposal to redevelop 3 separate sites adjacent to one another along Lord Street, a 'major road', for multiple dwellings.
- The East Parade Regeneration Project which proposes, among other aspects, a range of building forms up to 4 storeys in height accommodating multiple dwellings.
- The Council received a petition lodged on 12 February 2007 by 15 landowners requesting it consider reviewing the zoning on the north side of Newcastle Street, between Loftus and Charles Street, West Perth from R80 to R160, to allow multiple dwellings and to allow a building height in the order of nine (9) storeys.

In this regard, the Town initiated Scheme Amendment No.25 on 13 May 2008 to facilitate the development of medium-high density multiple dwellings particularly within Town Centres and along major roads. It is anticipated that opportunities will be provided within areas, previously prohibited, for developments to be built up to 3 storeys in height with capacity in some areas, to develop up to 5 storeys depending on the locality, and subject to neighbourhood zonings and character guidelines being met. It is anticipated that this form of medium-high density development be primarily located within key Town Centre locations and along the major roads that can benefit from public transport opportunities and accessibility to retail outlets and community facilities.

The Council at its Special Meeting held on 28 October 2008 considered the above Scheme Amendment and endorsed for final approval, Scheme Amendment No. 25; and forwarded the relevant documents to the Honourable Minister for Planning and the Western Australian Planning Commission to adopt for final approval and gazettal as a matter of urgency.

Due to some concern within the community, a number of community information workshops were conducted in February 2010 in relation to Scheme Amendment No. 25. Community members were able to voice their particular concerns. The main concerns raised related to loss of character and amenity and excessive height and bulk of multiple dwellings.

To date, Scheme Amendment No. 25 has not been finalised due to resultant community concern, in addition to delays in final approval and gazettal by the

State Government. As a result, there remains uncertainty within the Town's administration and the community, as to the development potential of properties within certain precincts; potential undue land holding costs as a result of an inability to develop land to its maximum potential, and delays in being able to facilitate the Town's desired future development, thus highlighting the flow on effect that delays in decision making can result in.

IMPACT ON COMPETITION

Issues Paper –key points for discussion

How broad and transparent are the consultation processes for assessing public and business on proposed planning and zoning options?

To what extent does influence by interested parties, particularly those who may be politically active in the community, affect the decision-making processes? Does this improve or worsen outcomes? In what way? Do the views of these parties typically reflect the broader community sentiment?

The Town provides the following local government perspective and points for discussion in relation to the potential for planning, zoning and DA systems (particularly in relation to the extent to which the Town undertakes consultation) to have a detrimental impact on decision making processes.

Community Consultation

Consultation is seen as an important part of the decision making process, allowing local government to fulfil its role as a place for community engagement at the local level. While it is important to remember that community consultation can neither, nor should replace, the appropriate process of decision-making by elected, and accountable public representatives, there is a responsibility for local government to engage the community in planning and decision making at a local level.

The Town undertakes community consultation in accordance with the Town Planning Scheme No. 1 and the Community Consultation Policy No. 4.1.5. Whilst these mechanisms provide for broad, equitable and transparent consultation amongst the wider community, there are factors which affect the ability of the consultation process to effectively represent the views of the broader community.

Notwithstanding the Town undertaking extensive and thorough consultation and advertising in matters relating to general or specific planning, community interests and policy development, it is not unusual for submissions to be made by members of the community that have a particular political or social agenda and who are considerably more vocal than the general community.

Some factors that may influence the effectiveness of the community consultation process:

- Persons with high emotions, and strong opinions as to how they would like their local area to be redeveloped, often attempt to dominate discussion, and try to influence other opinions to more suit their own;

- There may be groups of people who are not represented in the Council decision making processes, or who cannot or do not respond to consultation and engagement for a variety of reasons (including age, language and cultural differences and socio economic);
- Some interest groups may dominate public forums, while others are difficult to contact;
- The often small number of submissions received may mean that the outcome of consultation might not be a good representation of the larger population; and
- A lack of understanding or trust in the local consultation process may result in members of the community not engaging in the consultation process.

While the Town makes every attempt to thoroughly engage all members of the community, based on the above factors, some questions exist as to whether the value and nature of community consultation remains a vexed issue at the Town.

IMPACT ON COMPLIANCE COSTS

Issues Paper –key points for discussion

Where the rezoning of land is undertaken, does it occur in a timely manner? What slows the rezoning of land? Can delays be shortened while still allowing the zoning process to be consultative and transparent?

Are DA's conducted in a timely manner? What aspects of the DA process (for example, pre-application assistance, tracking systems, appeals and external agency referrals) could improve without compromising the integrity of decision making process? What form could such improvements take (for example, greater use of exempt or self-assessment approval tracks)?

The Town provides the following local government perspective and points for discussion in relation to the impact of compliance costs as a result of the planning, zoning and DA systems.

Rezoning of Land – time delays

The rezoning of land is a lengthy and detailed process. The review and/or amendment of a Town Planning Scheme involving the rezoning of land includes a number of approval stages both at the local government and State Government levels, an extensive public consultation period, at which times the process could be considerably delayed. It is noted that the Town does not support spot rezoning as it is generally considered to be inequitable to rezone one lot over another. While a number of strategic development sites have been identified in the Town's Local Planning Strategy as a precursor to the proposed new Town Planning Scheme No. 2 and it is anticipated that considerably greater development will be permitted on these sites, the rezoning of this land is undertaken as part of a review of the Town Planning Scheme (TPS).

To illustrate the extent to which delays in rezoning can occur, the Council at an Ordinary Meeting held in June 2003, initiated a review of the Town's Town

Planning Scheme No.1. Since this time significant work has been undertaken to progress the review. In the first instance, the extensive community visioning process undertaken (*Vincent Vision 2024*) and the information obtained largely informed the preparation of the Town's Draft Local Planning Strategy, that was adopted by the Council at its Ordinary Meeting in April 2009. Since this time, continuous work has been undertaken in the review of the TPS, however due to considerable influencing factors (both internal and external to the Town), it is unlikely that the Town Planning Scheme No. 2 will be adopted and gazetted until mid to late 2011.

Delays in finalising the TPS, and subsequent rezoning of land, leaves the Town's residents and the general community with considerable uncertainty as to the future direction of development within the Town.

Mechanisms to improve Development Application and Building Application processing.

A review of the Town's planning processes, delegations and associated policies in relation to planning applications and approvals was last presented to the Ordinary Meeting of Council held on 8 June 2010.

The State Government has recently presented a series of Discussion Papers and recommended procedural changes with the intent of streamlining the planning process in all municipalities across the State. From a strategic planning perspective, the Discussion Papers have included: '*Building a Better Planning System*', the review of the Town Planning Regulations 1967 and Model Scheme Text and *Directions 2031 - Spatial Framework for Perth and Peel*. From a statutory planning perspective, initiatives such as the 'Shorttrack' system for subdivision referrals have been initiated by the Western Australian Planning Commission.

In addition to this, the Department of Local Government has initiated the Local Government Reform to assess the existing operation of all Local Government Authorities and to formulate a report to improve the operation of Local Governments across the State. The Town of Vincent submitted the mandatory Local Government Reform Checklist in April 2009. Note that the Town was advised in a letter from the Department of Local Government that the Town of Vincent was considered a 'Number 1 Ranking' (sustainable, however structural reform to be investigated). The only area of improvement required was '*delays with processing development applications*'.

In response to these State-led initiatives, various mechanisms to improve the building application and development application process were identified as part of the Town's recent Organisational Review. The Town has implemented the following short, medium and long term initiatives aimed at improving the efficiency of the Town's Building Application and Development Application process, with the intent to decrease the current timeframes in which applications are being assessed and to provide greater customer service satisfaction.

Short Term Initiatives:

- Increase in the regularity of Development Assessment Team (DAT) meetings from 3 days per week to daily and ensure that a representative from all Service areas attend DAT.

- Implementation of new target response times for subdivision applications to the Western Australian Planning Commission (WAPC) within 21 days.
- Remove overlap of double handling of work by Customer Service and Planning Administration Staff.
- Review the extent of the conditions placed on Development Applications.
- Pre-application meetings between applicants and planning officers to be restricted to (1) meeting per application and only (1) set of revised plans will be accepted per application.
- Any more than 2 on-site meetings with regard to Strata Form 7 clearance/certificate of classification shall be subject to a flat-rate inspection fee.
- Engage with the WAPC's 'shorttrack' subdivision application process, where all responses have to be forwarded to the WAPC within 15 calendar days.

Medium Term initiatives:

- Review of Town's Policy relating to fencing requirements and increase delegation.
- Formalise a Building Licence 'fastrack' approval process for minor BL's such as patios, sheds, pools. etc.
- Cancellation and Suspension practices of DA and BL applications to be reviewed for consistency.
- Investigate improvement of the Authority System (information systems for DA and BA data) to work to the Town's needs.
- Review the Town's Development Application Flowcharts and Processes.
- Increased delegation from the Council to the Chief Executive Officer to determine planning applications.
- Introduce greater emphasis on assessing development applications against Performance Criteria. Introduce delegation to Officers to determine applications that are non-compliant with Acceptable Development criteria but consistent with Performance Criteria.
- Form a Working Group to assist in facilitating and monitoring the progression of improving the efficiency of the planning and building application process.

Long Term Initiatives:

- Review and consolidate the Town's Planning and Building Policy Manual as part of the Town Planning Scheme Review.
- Commence extensive review of the Residential Design Elements Policy.

The Town has substantially commenced to improve the efficiency of the processing of building and development applications, and to date, notable improvements in streamlining the processes, and improving the customer service offered by the Town in relation to planning and building services, as occurred.

IMPACT ON EFFICIENCY AND EFFECTIVENESS IN THE FUNCTIONING OF CITIES

Issues Paper –key points for discussion

Where it has occurred, what effect has the removal of local government from decision making processes (and replacement by state agencies or regional planning panels) had on the efficiency and effectiveness of the functioning of your city?

What challenges do governments and communities face in pursuit of liveability goals? How can these be addressed by planning, zoning and DA systems?

The Town provides the following local government perspective and points for discussion in relation to the impact of decision making processes on the efficiency and effectiveness of the functioning of the Town.

Development Assessment Panels

Since the beginning of 2009, the Department of Planning have released a series of Strategic Planning documents and initiatives targeted at streamlining planning processes in Western Australia. In March 2009, the Department of Planning released the *Building a Better Planning System* consultation paper for comment.

On 11 September 2009, the Minister for Planning announced the release of the Discussion Paper *'Implementing Development Panels in Western Australia'*.

The Town's Officers attended the information session presented by the Department of Planning on 25 September 2009, which provided an overview of the proposal. In addition, the Town's Officers also attended an information session on the Development Assessment Panels hosted by McLeods Lawyers on 8 October 2009.

The Town's Officers considered the discussion paper and provided an overview and recommendations in relation to the paper to the Council for consideration at its Ordinary Meeting on 20 October 2009. At this meeting, the Council determined to advise the Department of Planning that it does not support the introduction of Development Assessment Panels in Western Australia as outlined in the discussion paper and outlined a number of areas of concern with the proposal.

On 22 April 2010, the State Government released *'Implementing Development Assessment Panels in Western Australia – Policy Statement'*, which addressed the key issues raised by the submissions received in relation to the Discussion Paper. In light of the number of concerns raised, significant changes have been made to the proposed model for Development Assessment Panels in Western Australia as have been addressed in the Policy Statement.

Whilst it is acknowledged that the amended model addresses some of the Town's concerns, it is still questionable as to whether the Development Assessment Panels will improve the efficiency of assessing Development Applications at the Town and local governments more generally. Furthermore, there is still some concern that the proposal would see a shift from a system

emphasising decisions made by Council Members responsible to the local community, to that of a majority of technical specialists who are appointed by the State Government who may not be responsible to the local community. The following concerns in the DAP process have been highlighted by the Town:

- The shift in decision making on planning matters from a local level to a State level has not been adequately addressed. Whilst there is Elected Member representation on the panel (2 Local representatives: 3 State representative), there is some concern that the power of Elected Members to represent the needs of the local community is not equitably matched to the State representation. The new proposed model for DAP's, as addressed above, does not propose a change in the composition of the panel in terms of the ratio between Local and State representation.
- The Policy Statement has not specifically addressed the Town's concerns in relation to the omission of other government agencies within the Development Assessment Panel process, such as the East Perth Redevelopment Authority, the Heritage Council of Western Australia and the Swan River Trust.
- In relation to the Town's opinion on the general need for Development Assessment Panels, it is considered that adequate provisions already exist within the Planning and Development Act 2005 and State Planning Policies to ensure consistency and transparency in decision-making of matters relating to planning by Local Government Authorities.
- In relation to the composition of the panel, there is still some concern that majority State representation will have a lack of local knowledge to effectively represent the needs of the community.
- The Policy Statement still fails to provide a model for an open forum to provide applicants and/or other interested parties to present comments on Development Applications to the Development Assessment Panel.

The above outlines the concern the Town has in relation to the effect that the removal of local government from decision making processes (and replacement by state agencies or regional planning panels) may have on the efficiency and effectiveness of the functioning of the Town of Vincent.

State Government Policy

State Government Policy, in particular *Network City* establishes the fundamental land-use direction for the Perth and Peel regions. The values underlying *Network City* are sustainability, inclusiveness, innovation and creativity, sense of place and equity. Subsequent to *Network City*, in June 2009, the State Government released *Directions 2031*. The *Directions 2031 Spatial Framework* is not a replacement of *Network City* but rather a successor to Metroplan. Its purpose is to spatially define how we think we should grow, identify structural changes necessary to support growth, and identify planning and policy priority for implementation.

The Town has considered the *Network City* and *Directions 2031* documents with respect to population projections and the impact these may have on our

communities and the built form in the future. The Town of Vincent is expected to have an increase in population between 8 and 9 percent by 2031.

The Town's community visioning project (*Vincent Vision 2024*) was carried out with the express purpose of guiding the review of Town Planning Scheme No.1. Throughout this process, the community participated in workshops and various forums specifically dealing with the future of their town and matters relating to housing density and urban design, town centres and commercial areas, traffic and transport, character and heritage, environment and sustainability, safety and security, community culture and the arts and parks and community facilities. Throughout this process, participants raised concerns that State Government policies, geared to achieving housing numbers for the expected population increases, will result in unacceptable development in the Town.

Particular concern related to:

- *retention and conservation of heritage and character buildings vs. requirement for infill development;*
- *economic development of activity or town centres vs. neighbouring residential amenity vs. creation of a sense of place;*
- *density vs. residential amenity;*
- *affordable housing vs. market trends and economic growth; and*
- *current road widening requirements and transport objectives vs. retention of streetscape value and significant built heritage*

The above highlights the need for the Town to engage sound community participation in decision making process at a local level in order that State Governments directives are carried out in a manner that enhances the functionality and liveability of the Town for the current and future community. Further to this, the Town's concerns in relation to the introduction of Development Assessment Panels (DAP) in Western Australia, as highlighted in the previous section, may remove the scope of this local context when decisions are made at the State level rather than at the local level.

ENSURING ADEQUATE SUPPLY OF LAND FOR DIFFERENT USES

Issues Paper –key points for discussion

What are the current methods employed by planners for determining forward demand for the different uses of land appropriate? If not, why not and how could they be improved?

Is there land in your district that is zoned for a certain purpose (housing, commercial, industrial, other) but cannot be used for that purpose due to planning restrictions, zoning or DA conditions? If so please provide details.

The Town provides the following local government perspective and points for discussion in relation to the adequate supply of land for different uses.

West Perth Regeneration Masterplan

In November 2008, the Town requested the Western Australian Planning Commission to amend its classification under the Metropolitan Region Scheme

from Industrial to Urban of the land bounded by Newcastle Street, the Graham Farmer Freeway, Charles and Loftus Streets, West Perth in order to progress the West Perth Regeneration Masterplan proposal.

The West Perth Regeneration Masterplan embraced the challenges facing all inner-city councils, to:

- Encourage the introduction of centralised high density residential
- To provide additional workplaces and employment opportunities
- To capitalise on transit infrastructure, and
- To ensure every development scenario is of best practice sustainable design.

The West Perth Regeneration Area signifies the Town's commitment to urban renewal on the northern collar of Perth's CBD and capitalising on the close proximity to the City, employment opportunities and the existing transport infrastructure while ensuring that the Town does not lose the intrinsic qualities and sense of place that make Leederville and its surrounds such an attractive place to live, work and visit.

The progress in developing this area is further complicated as the Town is restricted in its determination of development applications in this area by the existing provisions of the City of Perth City Planning Scheme No.2 and its Industrial Metropolitan Region Scheme classification. As such, a proposal for the subject land to be re-classified from Industrial to Urban under the Metropolitan Region Scheme has been made with a request that this is presented to the WAPC for their consideration.

As part of the rezoning process, the Town has considered comments from the Water Corporation and Main Roads, and acknowledges that there are a number of issues relating to the Masterplan and proposed MRS amendment that need to be further investigated through transport and environmental assessments. Their assessments will need to be undertaken prior to the amendment being initiated by the Western Australian Planning Commission. The Water Corporation has indicated that some water assessments can take up to two years thus resulting in further delays and cost implications for the Town.

While the Town supports the development of the West Perth Regeneration Masterplan, and the continuation of the proposed MRS amendment, this issue highlights the ongoing uncertainty to the community, potential delays in development resulting in associated costs to developers as a result of various regulators being involved in the decision making process.

CONCLUSION

In light of the above, it can be seen that while the decisions, processes and actions at a local level can have a significant impact on planning, zoning and development assessment, there are many external factors that can affect the zoning and use of land. The above local perspectives and points of discussion aim to highlight the complexity of the processes involved, the factors that are considered, and the challenges faced at a local level, in the management of land use which subsequently determines the liveability of the community.