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Dedicated to a better Brisbane

3 August 2010

Business Regulation Benchmarking –
Planning, Zoning and Development Assessments
Productivity Commission
PO Box 1428
Canberra City ACT 2601

Dear Commissioners,

Brisbane City Council Submission – Issues Paper, Planning, Zoning and Development Assessments

Thank you for the opportunity to make a submission on the Issues Paper for this Benchmarking Study. Brisbane City Council commends the balanced approach being adopted by the Productivity Commission and looks forward to engaging fully with the Commission in developing appropriate benchmarks and reviewing the impact of current arrangements on desired outcomes. For ease of review Council's comments correspond with the headings in the Issues Paper.

Overview

Brisbane City Council is unique among local governments in its responsibility for an urban region that embraces most of the metropolitan area of Brisbane, which in 2010 accounts for 1.2 million residents and generates over 45% of Queensland's economic output. As Australia's largest local government authority, Council has played a leading role in bringing together advanced technical expertise, developing a comprehensive evidence base and marshalling the tools necessary to tackle the big questions which are being faced by Brisbane and many other capital cities.

The greatest challenge for Council has been managing the unprecedented growth of the city and the South East Queensland (SEQ) Region more generally. In the decade to 2006, the Brisbane Statistical Division population increased by 21%, from 1.47 million to 1.78 million. Employment increased by 31%, over the same period from 656,000 to 859,000 jobs. In percentage terms, this has been the fastest growth recorded among Australia's capital cities.

The State Government's key regulatory policies for assisting in the management and integration of this growth are the SEQ Regional Plan and the South East Queensland Infrastructure Plan and Program (SEQIPP). These State plans which are best practice in Australia are called up in the Sustainable Planning Act and recognise inter-jurisdictional issues and the need to deliver consistency in forward planning arrangements.

Government Coordination and Cooperation

Brisbane's planning framework has been challenged by developments on federal land that are inconsistent with their stated purpose and are exempt from Council and State planning systems. Examples of this include developments at the Brisbane and Archerfield airports. These developments have caused significant inefficiencies in the infrastructure and economic planning of the City.

At State level, the *Sustainable Planning Act 2009 (SPA)* encompasses regional planning and seeks to standardise planning schemes across Queensland. Whilst the need to have a consistent planning framework is supported there is little flexibility to allow Brisbane to articulate capital city

functions. For example, Brisbane's CBD as a principal centre is not the same as a principal centre in Cooktown or Beaudesert. Ability to reflect the national planning criteria for capital cities in support of COAG planning reforms is essential.

Inflexibility in other components of the SPA, such as the requirements of a properly made application have meant Council has not been able to accept applications for assessment that would otherwise be acceptable (adding to compliance costs for customers). State and federal building standards represent a barrier to innovation in higher density building forms and building materials within urban renewal areas.

Whilst the SEQ Regional Plan and SEQIPP are important in coordinating State and local governments around a single framework there is a need for better State Government coordination of infrastructure investment with local government land use plans. This is relevant for infrastructure provision between local governments and on systems outside Brisbane that place pressure on the City centre.

A key limitation of the SEQ Regional Plan is that it is not complemented by recognition of the differences in economic opportunity across the Region and an appropriate economic development strategy that differentiates between population serving and exporting economic functions. Given the significance of large urban economies to the State and national economies, a key issue to consider specifically is how planning arrangements might deliver outcomes which are more effectively tailored to increasing efficiency and competition for businesses within Australia's large cities.

There are a number of regional plans that have either been adopted or being drafted. The relationship between these regions in the State planning framework is not clear.

Impacts on Competition

Brisbane's planning scheme provides a sound balance between development control, competition in the market and natural change in the economy of a city. The following are key points to be made about Brisbane's planning and assessment system and impacts on competition:

- Council's centres hierarchy allows for a range and mix of retail, commercial and residential activities without the necessity for a publicly advertised development application.
- It is the property ownership of particular areas that can prevent competition. Council has little control over anti-competitive practices that may prevail in centres, including agreements signed with major tenants (eg supermarkets) and the ability of a small number of land owners to restrict supply or access by the market.
- Brisbane's exposure to "gaming" of appeals is somewhat limited due to the State Planning legislation and provisions of the Brisbane City Plan 2000. In SPA the power to alter land zoning rests solely with the local authority. These provisions remove the ability for competitors to disrupt development applications during the assessment process, or lodge appeals against approvals. SPA also provides for the Court to award costs against a party if "the court considers the proceeding was instituted or continued by a party bringing the proceeding, primarily to delay or obstruct" (Section 457(2)(a)). This allows the Court to penalise anti-competitive behaviour.
- In most circumstances tenancy changes within existing buildings in designated commercial centres and industrial areas are allowed without the need for planning approval. In addition, most applications to extend or construct new buildings within commercial centres and industrial zones are Code assessable development ie no third party appeal rights.
- Inability to locate within a centre can prompt lodgement of "out of centre" development applications. These are impact assessable and trigger third party appeal rights. The most common anti-competitive appeal in the BCC jurisdiction, are appeals lodged against commercial proposals outside the designated commercial centres. Whilst it is possible to make such applications Code assessable and not open to appeal, these are circumstances where community interests are appropriately sought.

- Child care centres approvals in the past have also been the subject of competitor appeals. Particular operators have been regular litigants against approvals for other childcare centres in close proximity to any of their existing premises.
- Urban renewal strategies in inner city areas have resulted in some inevitable conflicts between industrial and residential requirements. Council has identified the key industrial growth areas of the city and has developed appropriate buffering policies to ensure that residential developments are protected while industrial activities are supported within key areas.
- Council's approach to consultation on planning and zoning is generally in excess of any requirements of State legislation, particularly for development of Neighbourhood Plans. Key stakeholders are specifically targeted with workshops, focus groups, business breakfasts as well as traditional methods of accessing the broader community.
- Council publishes a plan of its local infrastructure investment over a 20 year planning schedule. Infrastructure charges are carefully apportioned between users to ensure that the costs are fairly distributed. The infrastructure charging framework provides for developers to be reimbursed some of their costs if they contribute necessary trunk infrastructure.

Impacts on Business Compliance Costs

Council's RiskSMART DA process is an industry leading model for fast tracking development applications that saves money, time and stress for residents and businesses. Accredited town planners can submit lower-risk projects for quick approval within five working days. Less holding costs equal savings to the development industry of more than \$1.8M per annum.

Achievements of Council's RiskSMART DA process include:

- Continued growth with 20% of all development applications (600 plus applications) approved in 08/09
- Increased industry involvement with 84 accredited consultants in 09/10 (up from 65 in 08/09)
- Five-day turn around on development assessment decisions, a process that would previously take up to three months
- Cheaper development fees with a 30% discount on application fees
- Reduced handling times for applications saving on Council's administration and professional costs
- More effective use of Council professionals to assess higher risk development proposals
- More consistent interpretation and application of the planning scheme, through electronic tools
- Improving development application quality by increasing development industry capabilities and accountabilities
- Expansion of categories based on industry feedback, review of risks and number of applications received for different application types.

Council is currently piloting electronic DA processing. During 2009/10, 473 electronic applications have been lodged and assessed. The business case for electronic Development Assessment (eDA) has conservatively estimated \$31M in savings for the development industry and \$9M savings for Council over the first 5 years. Other jurisdictions (Victoria and ACT) have reported a 30% reduction in decision time resulting from electronic processing of applications. Brisbane will be monitoring this statistic as a component of its pilot evaluation.

Currently planning schemes across Queensland vary widely in the way they define and regulate development. As previously mentioned the SPA aims to standardise planning schemes by having a mandatory land use zones, definitions and formats. This approach will ensure land uses are consistent between local government jurisdictions although some local variation should be expected depending on the location and context of an area.

The primary difficulty to making valid comparisons between jurisdictions is the variability in the planning schemes. The key indicators are typically numbers of applications and decision time. For example, a jurisdiction that has worked hard to simplify regulation and deregulate development activity, would report higher decision making times and fewer DA's assessed due to

an increased level of complexity. Accessibility to green field sites, the age and availability of major infrastructure can also determine how quickly a development application can be assessed. A study which identifies all of the types of potential development and how each jurisdiction regulates these would be useful to provide a real benchmark of the burden of compliance in each jurisdiction. Other process metrics, such as decision time, can then be applied within like for like comparisons.

Brisbane City Council has had a comprehensive program of reform over the past two years to improve the timeliness of development assessments. The process began with development industry consultation regarding the causes of dissatisfaction with the development assessment approval process. The root causes and key impacts on housing affordability were found to be:

- inefficient business systems and processes and complex regulatory frameworks;
- poor access to customer information regarding development assessment requirements;
- applications being not well made and incomplete;
- retention of skilled staff.

A program of 11 projects were launched to address the issues above, with the following expected outcomes:

- achieve Development Assessment decision-making targets and high quality development outcomes for the city;
- simplified regulation and improve customer satisfaction;
- renewed business operations, improved knowledge management and management reporting;
- renewed organisational model and cultural change.

Key projects were:

- RiskSMART Target 20% - the challenge was to target 800 applications processed in 2008/09 (or 18% of total applications received in 08/09) and reduce the decision-making timeframe to five days. This target was increased for 2009/2010 to 25% which has already been met with 26% of all high-level applications now approved through RiskSMART.
- Planning and Building Website – This website won a national award from Planning Institute of Australia. The new content was developed by consulting customers with six focus groups held with different customer segments to understand their information needs. The site was rewritten and the navigation improved to enable first-time developers to easily access and understand development application requirements.
- Simplify Regulation – an independent review of the opportunities for Council to simplify regulation (including greater use of code or self assessable provisions, and opportunities to improve planning processes that would have a positive impact on development assessment decision-making time). Benchmarking was also conducted against other states and SEQ Councils. This has initiated shorter timeframes for delivery of Neighbourhood Plans and identified potential planning provisions for consultation in preparing a new City Plan.
- eDA – as previously described this is the key delivery mechanism for well-made applications, risk based classification and assessment methods of DA's, a knowledge portal/intranet and improving the public scrutiny process.

Impacts on the efficiency and effectiveness in the functioning of cities

The planning and zoning system in Brisbane guides development to locations where infrastructure exists or investment is planned. This approach maximises efficiency in the city's investment and reduces business costs elsewhere (such as through rates and taxes).

A key aspect of liveability in a city is conditioned by accessibility by residents to a range of needs. At the top of the hierarchy of needs, but often overlooked, is the need to access a job. Council's commissioned research indicates that in a successful city economy, working residents are able to get to their place of work within 45 minutes. This can be measured irrespective of the mode of travel and represents a measure of satisfaction that results in businesses experiencing normal levels of employee turnover. Exceeding 45 minute commute times leads to reduced business performance and increased decisions by businesses to move to other locations – a costly and inefficient result for the businesses and the community.

The importance of workplace accessibility needs to be matched with appropriate transport infrastructure investment to ensure that increased demands for transport will be met. An undesirable application of such indicators is to use the lack of availability of existing transport networks to restrict developments within central locations. This constrains market led growth and is contrary to building an efficient and competitive environment.

Apart from benchmarking capital cities such as Brisbane, it would be useful to benchmark the Gold Coast, Ipswich, Logan and Sunshine Coast local governments within SEQ Region as these urbanising areas are seeking to provide efficient and competitive environments that will attract business investment.

Adequate Land Supply

The SEQ Regional Plan identifies an urban footprint and growth targets for local authorities in SEQ. Brisbane's future growth is almost entirely dependent on the capacity of the City to grow within the existing urban footprint. The nature of growth in the city will largely be redevelopment of existing urban and brownfield areas rather than release of 'greenfield' sites for residential, industrial/retail and community land uses. Benchmarking should focus on supply of new lots and dwellings rather than land release.

Land supply to accommodate economic activity, supporting transport infrastructure and increased residential densification is a key issue that the planning scheme addresses and considers as part of the future requirements of the city. Many areas that are available for new development are constrained because they require significant up-front infrastructure investment. It is traditional for developers to provide this infrastructure. However, some areas of the city require too high an investment for any individual investor. Council has partnered with landowners to share the cost of investment between existing and future users by establishing infrastructure charges plans and levying charges from future developers on behalf of the initial investor.


The understanding of current and future land supply requirements requires a well developed evidence base detailing current land uses and forecasting future demand. Council's detailed economic forecasts for Brisbane estimate the long term employment growth of specific industries and apply the City Plan provisions and other endorsed policies to estimate economic activity growth within specific locations of the city. This exercise has led to the establishment of forecasts for the entire SEQ Region. Through these forecasts, the adequacy of land supply and infrastructure needs that will be required to support the future economy can be estimated. Forecasts are renewed periodically to incorporate more recent data as it becomes available.

Since the Global Financial Crisis, regulations and institutional behaviour have further increased the propensity to undertake residential developments within prime inner city locations. Access to finance is impacting on the attractiveness of commercial developments with banks and developers more favourably inclined to loan/invest in strata title residential developments where money can be raised up front through sales 'off the plan'. This is further supported by building regulations which impose less costly building requirements (lower floor to ceiling heights and fewer lifts) for residential developments, increasing profitability of residential sites over commercial prospects for the same lot. The development of a residential product which could be converted to commercial use in the future is highly improbable under current arrangements and ultimately affects flexibility for future land uses.

Conclusion

Brisbane shows leadership in its approach to the forward planning framework for the City and its efficient implementation through the development assessment system. Council welcomes the opportunity to be involved with this benchmarking study and can provide further benchmarking information to the Commission if required to support this submission.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Ian Maynard', with a long, sweeping vertical line extending downwards from the end of the signature.

Ian Maynard
Acting Chief Executive Officer
Brisbane City Council