

Shire of Mundaring

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Regulation Benchmarking Study
Planning, Zoning and Development Assessments
Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601

Dear Sir / Madam

SHIRE OF MUNDARING – RESPONSE TO DRAFT REPORT

Thank you for the opportunity to comment on the Productivity Commission's draft report *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments*.

The following comments are drawn from a review of the "Overview" section of the report and represent a response to matters and positions raised within that section rather than the remainder of the report.

These responses identify experiences from the Perth Metropolitan Region generally rather than relating specifically to the Shire of Mundaring.

Necessary complexity

The draft report states:

The (planning) systems serve the valuable purposes of balancing the often competing social, environmental, and economic impacts of a development.

The quantity of knowledge within social, environmental and economic studies is expanding and becoming more politically contentious.

Planning within the public sector is positioned by legislation to respond by integrating these expanding fields of research into policy frameworks and development assessment amidst a turbulent political atmosphere to ensure sustainable development, which is the duty of care owed by public sector planning.

Such a process creates complexity and a delay in the production of planning outcomes, but such delays and complexities are linked to the democratic process and required to ensure progress towards more sustainable forms of development.

The invention of numerous layers of planning instruments, as quoted in the report "Western Australia seems the most complex with eight levels in the hierarchy of planning instruments", is a response to the necessity for their invention which suggests that some statements within the draft report require further consideration, such as:

This complexity suggests the regulatory systems are in need of further reform

For example, several of the 'layers' referred to above form a comprehensive suite of policies applied across the state to enable subdivision to be consistently assessed by the Western Australian Planning Commission (State government planning authority). Therefore, the quantity of 'layers' in Western Australia can be construed as an endeavour to create a more efficient planning system rather than an inhibitor to it.

In these ways, the complexity required to provide sustainable development could be viewed as 'necessary.'

Inefficiencies created by market competition

Matters raised under the heading "The Supply of Land" in the Overview section of the report note rezoning land as a time-consumptive process.

Numerous bodies of planning research have contested that the continual outward expansion of residential development represents an unsustainable pattern of growth generated by the increasing population and subsequent demands placed on development industry.

However, the process for amending the zones of greenfield land to be suitable for development is noted as complex as it requires addressing a raft of growing development criteria.

An alternative to greenfield growth supported by public planning agencies has been through the provision of zones permitting higher density development on developed and appropriately situated land.

The ensuing competition to accommodate a growing population within a limited area of developable land has in some instances resulted in developers "land banking." These actions have had downstream consequences such as unaffordable housing and pressure on governments to release land for greenfield development which, as mentioned, are matters which require time to resolve.

In this way, market forces have driven time costly land release and rezoning processes by withholding from development until such time as economic conditions are more conducive.

It is acknowledged that debate surrounds the effect of market forces on land affordability

Market inefficiencies

The draft report states that costs are incurred by the requirement to prepare, submit and provide material for planning scheme amendments or development applications.

In order for proponents of developers to demonstrate compliance with policy and legislative frameworks which endeavour to establish sustainable development, it is required that they demonstrate how the proposal meets these criteria in a development application so that development can be appropriately assessed.

Empirical evidence within local public sector planning finds resources expended by assisting developers with the preparation and revision of development applications to meet development criteria.

In some instances, it has been noted that developers will intentionally under-research proposals to save time costs and have an expectation that public sector planning staff will identify those issues which require them to provide further investigation. This has drawn staff time resources away from the assessment of development proposals and into the preparation of plans and reports.

Cost minimisation on the part of industry has lead to inefficiencies within public sector planning offices.

A precautionary approach

A "Big Challenge" for governments is noted as:

... 'objectives overload' including unresolved conflicting objectives, long time lags and difficult-to-correct planning mistakes.

Public sector planning generally takes a precautionary approach when determining applications for rezoning and development as mistakes are identified as "difficult-to-correct" in accordance with the above quote.

The precautionary approach necessitates careful consideration of the increasingly complex knowledge surrounding sustainable development during the assessment of planning proposals, as discussed earlier, which requires a higher expenditure of time than in the past.

The effects of such a precautionary approach are felt elsewhere - the draft report mentions:

If the prescriptiveness of zones and allowable uses were significantly reduced particularly those relating to business definitions and/or processes — it would facilitate new retail and business formats to locate in existing business zones without necessitating changes to council plans to accommodate each variation in business model.

Zones which prescribe the permissibility (or otherwise) of known uses and their effects gives a higher level of certainty to assessing officers that the proposed use is unlikely to generate consequential impacts on the area, thereby mitigating the risk of approving unsuitable development and expediting the assessment process.

However, it is common for instruments of development control (such as Local Planning Schemes) to include provisions which to consider unlisted forms of development for planning approval, which is a mechanism which is instrumental in expediting the approvals process.

It is for this reason that applications which are “deemed to comply” if not determined within set time frames erode the precautionary approach and potentially create a danger to human life, the environment and economy. Non-prescriptive zonings also have the propensity to permit leakage of undesirable land uses which would serve to operate against the principles of orderly and proper planning.

Acceptable inefficiency

The Objectives section of the report suggests that a meritorious planning system provides:

1. sufficient flexibility to entertain innovative forms of development and changing knowledge; and
2. statutory rigour and stable policy frameworks to ensure that sustainable development is implemented expediently, fairly and with development requirement certainty.

There is an obvious element of conflict in the provision of these two elements which is set to change in accordance with the competing perspectives of political viewpoints within local Councils.

The commendable objective to resolve inefficiencies in the planning system should recognise that the provision of these two elements will always be politically contested and therefore, an element of inefficiency must be accepted.

Your consideration of these matters is greatly appreciated.

Yours sincerely

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cc: Western Australian Local Government Association
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