



Dedicated to a better Brisbane

29 March 2011

Business Regulation Benchmarking
Attention: Mr John Papadimitriou
Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601

Dear Mr Papadimitriou

Thank you for the opportunity to provide feedback on the Productivity Commission's Draft Research Report on Performance Benchmarking: Planning, Zoning and Development Assessments

Please find attached a submission from Brisbane City Council on the proposed initiatives included in the Discussion Paper.

Thank you for the opportunity to provide feedback.

Yours sincerely

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Brisbane City Council Submission on the Productivity Commission's Draft Research Report on Performance Benchmarking: Planning, Zoning and Development Assessments

Overview

Thank you for the opportunity to make comment on the Draft Research Report for Performance Benchmarking of Business Regulation: Planning, Zoning and Development Assessments. The Report provides a comprehensive overview of planning and development assessment across the Nation. The leading practices identified in the report represent a commonsense approach to planning and Council would seek to achieve these as part of our current work practices.

For ease of review Council's comments correspond with the headings in the Report.

Regulatory Framework

- Page 68 Table 3.9 – Queensland (Qld) has both code assessment and compliance assessment under the Sustainable Planning Act. These have 2 different and independent types of assessment and approval processes.
- Page 69 Table 3.10 – The Qld regulations are not correct. Code and compliance assessment under the Sustainable Planning Act (SPA) have deemed approval provisions if Councils fail to comply with time frames. Impact assessment is subject to deemed refusal provisions with appeal rights.

The footnote "d" reflects town planning certificate preparation time frames not development assessment time frames. Compliance assessment time frames are 20 business days to decide before deemed approved, code assessment could be as short as 20 business days or up to around 160 business days+ dependent upon the complexity (including information requests and state government agency referrals), Impact Assessment adds a notification stage to these time frames so 175 business days + can be a typical time frame under the SPA identified DA processes. Council's Risksmart assessment model can substantially reduce timeframes.

- Similar applications (ie complex infill) in different jurisdictions can differ in assessment length because of their location, context, provision of insufficient information and communities of interest.
- Page 78 – the Qld planning legislation already provides for code assessment, a key change for SPA was the introduction of compliance assessment.

Infrastructure

- The infrastructure charges quoted for Qld appear correct. However, the report compares the charges unfavourably to Victoria. It is not clear whether Victoria is either financially sustainable, or hiding its charges in another form.
- The report claims that infrastructure charges have increased by 100% over 1995-2006. This is largely due to the State government introducing charges for transport and drainage. The State's requirement for fair apportionment led to water and sewer headworks increasing from what was previously a basic tax with no relationship to the real cost.

- Brisbane is noted as rating highest out of all capital cities for alignment of infrastructure planning with State/Territory budget, and the Priority Infrastructure Plans are a key to our success in this area. The State government is reviewing the Infrastructure Charges Framework and has not been clear about how Councils will manage the shortfall in revenue whilst maintaining their investment in infrastructure.
- The report is not accurate in its assessment of infrastructure providers for SE Qld. Water and sewerage distribution are delivered by independently controlled Council owned business enterprises. Brisbane City Council delivers arterial and trunk roads (table 5.8). It is noted that the report reiterates the Henry Tax Review's position that infrastructure charging regimes are the most efficient method for collecting charges to service a specific development.
- The State Government's proposed review of the infrastructure charging regime in Queensland represents a shift away from the 'need and nexus' test described in Box 5.4.
- The report suggests that Local Governments 'gold-plate' infrastructure. This is not the case in Brisbane, where the standard of infrastructure is kept to basic standards of service and the infrastructure that can be charged-for is strictly limited.
- The HIA opinion that infrastructure charges are a tax is fundamentally flawed in relation to Brisbane. It is very clearly a user-pays approach and the development community pays only for its share of the use of new infrastructure. Council does not, can not, recover the full cost of infrastructure through infrastructure charges in Qld.
- The report fails to recognise that in Brisbane infrastructure charges are also collected and remitted to private developers who provide infrastructure. The developer's charges are reduced if infrastructure is provided – although this is not reflected in the approval. Therefore, the charges quotes in this and other reports don't accurately represent the actual final charge paid by a developer.
- Page 186 claims that Brisbane pursues a full cost recovery approach to infrastructure charging. As stated above, this is fundamentally incorrect. SPA does not allow for it and actual recovery is lower than 50% in infill areas. It should also be pointed out that Brisbane has, for a number of years, subsidised infrastructure charges (by up to 35%). The charges are the cost of infrastructure per house – SPA requires Councils to use these charges and subsidise them if they wish to charge a lower amount than the cost (in the interests of transparency). This does not seem to be reflected in the average charges quoted in the report – which only quotes the unsubsidised charge (ie the cost).
- There seems to be limited discussion about the rising cost of the delivery of infrastructure in recent years. This would put significant upward pressure on infrastructure charges.
- The role of other taxes in land development is not recognised. In the recent years of significant growth, GST revenues to Government from land development and construction would have been very high, stamp duty would be similar. These charges are not related to user pays and have no relationship to the cost of infrastructure. It is not clear how these revenues are being used to fund local trunk infrastructure.

Compliance Costs

- Page 202 - Compliance costs incurred by Councils at the construction and auditing stages of developments have not been addressed. Brisbane City Council charges for these services to ensure that development is carried out in accordance with the approved drawings, reports and conditions of development.

- Page 203 - In Queensland new planning schemes prepared under the SPA must comply with the Queensland Planning Provisions. This will lead to a significant reduction in variability of planning schemes across Councils.
- Page 204 – The statement that fees are “typically imposed as a condition of development consent” is not correct. Most assessment fees are paid upfront when an application is made. The fee is for carrying out the assessment and deciding the application – not for giving an approval. This is a consistent misconception through the chapter.
- Page 205 - The statement that “regulatory costs associated with development assessment are dominated by the fee for determining whether a proposal meets ... requirements of the planning scheme” is not correct. Where applicable, infrastructure contributions/charges are much more significant by at least an order of cost.
- Page 217 Table 6.6 – The data for Brisbane City Council is not correct. The following amendments are applicable: plan sealing fee - \$125/lot totalling \$2500, public notification – developer responsibility, total charges – minimum \$11,600 maximum \$12,580.
- Brisbane successfully uses electronic lodgement and assessment of its applications.

Competition

- Page 255 –Many Councils condition approvals with hours of operation or direction on use mix to protect the amenity of an area. These conditions are not included to limit competition.

Transparency, accountability and community involvement

- Some 5 years ago Councils in SE Qld received funding from the Federal government to implement online planning schemes and DA tracking. The formatting of the current suite of online planning schemes in SEQ is a reflection of this project and the supplier of the technology at the time. Brisbane is currently reviewing its City Plan and the online useability/ functionality of that Plan will be a key element to its success.

Impact of Commonwealth on Planning

- Land use and infrastructure impacts resulting from development on Commonwealth land (particularly airports) continues to be an issue that requires resolution between both tiers of government. Council does regularly meet with the relevant airport corporations however the 2008 White Paper requires progression so that there is transparency in alignment and acknowledgement of Council planning intentions and apportionment of infrastructure costs.

Comments from Jurisdictions

- Brisbane City Council is not listed as one of the Councils surveyed (Vol 2 p31). Significant effort was invested in accessing information to complete the survey. The survey documentation was provided to the Commission on 10 November 2010.
- It is noted from the report that the Commission visited Gold Coast and Logan City Councils as part of the study. Brisbane would have appreciated the opportunity to discuss our submission and survey results with the Commission. This would have been particularly appropriate given that many Local Governments now use Brisbane’s Risksmart development assessment model.

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 further involved with this benchmarking study.