

31 March 2011

Business Regulation Benchmarking
Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601

Dear Sir/Madam

**PERFORMANCE BENCHMARKING OF AUSTRALIAN BUSINESS REGULATION:
PLANNING, ZONING AND DEVELOPMENT ASSESSMENTS – PRODUCTIVITY
COMMISSION DRAFT RESEARCH REPORT**

The City of Perth (the City) welcomes the Productivity Commission's draft research report (February 2011) on benchmarking of planning, zoning and development assessments across Australian jurisdictions, and the opportunity to make comment on its findings. The study, when finalised will be a valuable resource for the City in reviewing its planning controls and processes.

The seven leading practices aimed at achieving more effective planning and zoning outcomes, identified in the draft research report are generally supported.

The City strongly endorses the underlying approach of focusing efforts on resolving land use and coordination issues at the strategic planning stage. In doing so, significant issues can be addressed at the outset which would allow for a more streamlined and efficient development application process. The engagement of the community, both early and fully, in developing strategic land use plans is seen as integral. Although, the ability to influence long term planning needs to be reconciled and tempered against the broader strategic planning needs of the community.

The City's commitment to the above approach is evidenced in its current review of the plot ratio, building height and ensuing built form standards of the City Planning Scheme No.2 to determine whether the standards are appropriate for the future development needs of the city. The City has engaged directly with a wide range of stakeholders including developers, State Government agencies and service authorities, professionals, industry groups and peak bodies in discussing the principles and options for development of the city over the next 20 years.

The City generally supports a reduction in the prescriptiveness of zones and permitted uses, although it is considered that this should be focused on commercial and industrial zoned areas. The prescription of uses is considered more appropriate in residential areas to provide certainty for residents. Some certainty in terms of zoning and land use is also required by landowners and developers to assist in their planning and due diligence on commercial and industrial developments. Furthermore, businesses seeking to lease premises and requiring development approval for the change of use also require greater certainty in terms of permitted uses at an early stage. This may not always be possible with more flexible zonings and descriptions which, if not carefully managed, can result in a culture of over consultation and loss of powers of delegation.

The application of the New South Wales model of a single business zone across an entire centre, with the mix of uses being left totally to the market may not always result in the desired outcome or appropriate mix of land uses. Broader community uses such as child care centres, and other uses such as residential or hotels may not be competitive in the market. The city has experienced a lack of residential development within its core, despite residential being a permitted or contemplated use, and this is a function of the market rather than the City Planning Scheme No.2. Accordingly, the City is looking at providing incentives to encourage residential development and other land uses, such as hotels, which the market has not delivered in the city.

The application of a betterment tax for any party that successfully negotiates a rezoning to deter rezonings that are aimed at capturing windfall gains in land values requires further consideration. The draft research report identifies the requirements to prepare, submit and provide supporting material for planning scheme amendments or development applications as one of the main planning costs imposed by planning systems. The imposition of a betterment tax would only add to compliance costs and act as a disincentive for development, particularly in addition to increased rates and the possible imposition of developer contributions. Furthermore, if a rezoning application complied with the relevant strategic plan this should not be an issue.

The City supports the legislation of timeframes for planning processes as they provide a level of certainty to the development industry and hold assessment bodies accountable. The draft research report acknowledges that in setting timeframes the objective should not be to place undue pressure on the system but rather to encourage planners to meet reasonable deadlines. Whilst planners are required to meet deadlines, it must also be recognised that landowners, developers and applicants need to submit complete applications and address requests for further information in a timely manner. The deemed to refuse provisions which trigger a right of review in Western Australia rather than the preferred ACT model of deemed to approve, is supported and is considered to work well.

Transparency and accountability are key principles in the operation of local government. The City supports the availability of appeals, but not third party appeals. If community engagement is effectively front loaded into the strategic

planning process, where issues of amenity and community aspirations are appropriately addressed, then this negates the need for third party appeals. Third party appeals of development approvals even if limited to matters the subject of the determination, would delay planning and zoning outcomes and not necessarily result in competitive outcomes.

The adoption of electronic development application systems should be identified as an effective way of providing greater accountability and transparency to the process of decision making. The ability to track a development application would not only hold assessment bodies accountable but also landowners, developers and applicants in responding to requests for information. The need for all levels of Government, including State Government and redevelopment authorities to make their decisions publicly available should also be identified as a measure to enhance greater transparency. The City also agrees that the implementation of development assessment panels will require greater transparency and clear and impartial criteria in regard to decision making.

The City does not agree that Western Australia has the most complex hierarchy of plans and that it is difficult to discern how everything fits together. The planning system in Western Australia consists of three tiers as follows:

- State planning framework - which sets out the general principles for planning and development and brings together State and regional policies, strategies and guidelines into a central framework.
- Regional planning framework - comprising regional strategies (which provide the broad framework for planning at the regional level and the strategic context for local planning schemes) and region schemes (which provide the statutory mechanism to implement regional strategies, coordinate the provision of major infrastructure and set aside areas for regional open space and other community purposes).
- Local planning framework - comprising local planning strategies which set out the general aims and directions of local governments for planning in their areas; and local planning schemes which provide the statutory mechanisms for local governments to implement local planning strategies through zonings, reservations and planning controls.

The processes for making a development application, amending a local town planning scheme or objecting to a development application are clearly prescribed in legislation and local planning instruments. It is agreed that Western Australia does have the most centralised system with approval of subdivisions under the control of the Western Australian Planning Commission (WAPC). The City considers that there is scope for the WAPC to focus on state/regional strategic planning, although this should be reconciled by the efficiencies provided by the centralised approach.

In regard to the supply of land, the draft research report identifies the 10 per cent fixed requirement for public open space in Western Australia as overly prescriptive and an area for improvement. Whilst it may be appropriate to review the percentage of the fixed requirement for public open space, the application of such an approach

provides certainty for developers in business planning and ensures community needs are met. The establishment of timeframes for rezoning and structure planning and the completion of structure plans in advance of development occurring in an area, are supported.

With respect to *information request 7.4* in terms of centre planning, criteria for assessing the impact on existing businesses may include retail/floor space demand based on population catchments and accessibility. The City does agree that broader implications of business location on the viability of activity centres should be considered at strategic planning stage rather than during development assessment. This is consistent with the overall 'front end' loading approach. This has been addressed in the WAPC's State Planning Policy 4.2 – Activity Centres for Perth and Peel.

The City supports the suggested leading practice approaches in regard to referrals, in particular:

- the application of binding timeframes, with limited 'stop the clock' provisions to decisions made by referral departments/agencies; and
- introduction of clear and concise 'model' development approval conditions used by referral departments/agencies.

Yours sincerely

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