AUSTRALIAN PROPERTY INSTITUTE INC.

AND

SPATIAL INDUSTRIES BUSINESS ASSOCIATION AUSTRALIA

JOINT SUBMISSION TO

PRODUCTIVITY COMMISSION

ON

PERFORMANCE BENCHMARKING OF AUSTRALIAN BUSINESS REGULATION:

PLANNING, ZONING AND DEVELOPMENT ASSESSMENTS

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PREFACE

This joint submission to the Productivity Commission has been prepared by the Australian Property Institute (API) and the Spatial Industries Business Association (SIBA) as part of ongoing joint collaborative research efforts and dissemination of factual and dispassionate information about property rights and spatial information in Australia.

This close disciplinary collaboration between the property profession and spatial science professionals has been further strengthened through the preparation of this joint submission to the Productivity Commission. In addition, the API and SIBA record their appreciation for the invaluable and numerous discussions that occurred during the preparation of the submission with members of the Submission Committee.

INTRODUCTION

This submission constitutes a response by API and SIBA to the Issues Paper *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments* released by the Productivity Commission in May 2010 for public consultation and input.

The overall need for a benchmarking study of the states and territories' planning and zoning systems and land development assessments (DAs) is supported by API and SIBA, and in particular it is noted that the Commission in the *Terms of Reference* is requested to examine and report on the operations of the abovementioned systems as they impact *inter alia* on:

…the overall efficiency and effectiveness of the functioning of cities…

with particular reference to

…*maintaining adequate supplies of land suitable for a range of activities*… [1]

It is noted with approval the varied matters addressed in the Issues Paper, and the Commission is to be commended for its attempt to address these concerns given the immensely broad nature of most of issues. In this light, it is further noted the Commission has endeavoured to ensure:

…the cooperation of governments, business and other interested parties to provide much of the data and information..[the Commission] *needs.*[2]

In analysing the content of the Issues Paper, API and SIBA have formed the view that there are two distinct elements embedded within the various matters canvassed, firstly the efficiency of the current planning and zoning systems, and secondly, future functioning of Australian cities as likely impacted upon by such planning and zoning systems in the future. With such understanding, this submission has been prepared recognising that both elements have a number of aspects that require careful consideration. These aspects are dealt with in the main body of this submission following the introductory comments below.

Importantly, it is noted by API and SIBA with approval that the Issues Paper in introducing "Scope of the study" observes:

…the results of this study will highlight areas where there may be benefits from further reform.[3]

[1] Issues Paper, Attachment A (*Terms of Reference*), 33.
[2] Issues Paper, 5.

Further, API and SIBA also note that the *Town Planning Act 1932* (UK) was arguably the source of much Australian planning and zoning legislation post World War 2. The first significant planning legislation in Australia was the *County of Cumberland Planning Scheme Ordinance* [4], passed by the NSW Parliament on 27 July 1951. The *Ordinance* introduced planning and zoning along UK lines prevailing in the 1930s, and importantly included compensation provisions for those owners injuriously affected by zoning in particular:

> *[l]legislation providing for planning must ensure that those injuriously affected by a scheme and those from whom land is compulsorily acquired will not be unjustly treated, but the legislation must also ensure so far as possible that the community will not be forced to pay unreasonably. In order to achieve these results, there must be carefully detailed clauses in the Act saying whether compensation is or is not payable in particular circumstances, and just how the assessment of compensation is to be determined.*
>
> *Town and country planning legislation almost invariable provides that owners of property which is injuriously affected and loses value when the scheme comes into effect will be entitled to payment of compensation by the responsible planning authority, usually the local governing authority, or council.*[5]

The *County of Cumberland Planning Scheme Ordinance* also provided for the collection of betterment charges for those owners gaining beneficially from zoning. However, the extraction of betterment from private landowners has never been greatly successful in Australia, except as an offset to compensation arising from expropriation of actual private ownership rights. For example, specific provisions for betterment as an offset arising from public works, notable railways have been provided for in NSW *cf s.18 City and Suburban Electric Railways Act 1915 - 1967* (NSW).

Planning and zoning introduced the notion of separating uses by the states and territories on the grounds of public health and amenity, features which still pervade the underlying objectives of states and territories' planning and zoning systems.

API and SIBA also note that there are jurisdictional aspects arising from the Australian *Constitution* which have acted to inhibit any significant move away from an obviously outdated focus on exclusory zoning. The six Australian states were, until 1901, separate British colonies and they retained individual

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[3] Issues Paper, 3.

[4] The County of Cumberland Planning Scheme Ordinance was prepared pursuant to the *Local Government (Town and Country Planning) Amendment Act 1945* (NSW).

[5] Brown A.J & Sherrard H.M., (1969) *An Introduction to Town and Country Planning* 2nd ed. (Sydney: Angus & Robertson Ltd), 365-366.

responsibility at Federation for land management within each state as this task is not a power specifically vested in the Commonwealth of Australia under the *Constitution*. Management of the water of rivers is also vested firmly in the states[6]. There has been an almost covert reluctance to harmonise the planning and zoning systems nationally, arguably reflecting the jealously preserved powers of the states at Federation. It is this dysfunctional situation that clearly requires reform to enhance overall efficiency and effectiveness of the states and territories' planning and zoning systems for the national benefit.

Finally, API and SIBA would be pleased to discuss any of the matters raised in this submission or provide any additional information that may be requested.

The following comments adopt the order of content as detailed in the Issues Paper.

COMMENTS AND RECOMMENDATIONS

The following comments and recommendations have been framed to respond to the sequence of the pages and headings in the Issues Paper.

On what matters should the planning, zoning and DA related decisions and actions of governments be coordinated? How should performance on these matters be benchmarked?
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?

In many parts of Australia such as the new residential area of Rouse Hill to the northwest of Sydney, residential zoning and land subdivision precedes infrastructure construction such as road, public transport and schools. In Rouse Hill, light rail corridors have been zoned and acquired, however, the actual facility remains to be constructed even though the area now houses a large young population of families

Critical to the development of new urban areas, is the provision of sufficient and timely zoned land for employment and business., for example in south western Sydney:

… 56% of the resident workforce has to leave the South West to find work..[7]

[6] *s.100* Australian *Constitution.*
[7] MACROC (2008) Employment Prospects for South West Sydney (August).

API and SIBA consider population levels in various areas of Australian capital and regional cities are not being robustly and sustainably conceived, and as a result the disposition of those populations in those areas is often occurring in a manner which is ill informed by environmental and spatial constraints. There appears to be little understanding of the limitations of energy and water reticulation needs and capacity, and in particular the scarcity of valuable arable land which should not be available for housing residential growth.

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?***

API and SIBA have noted the absence of consistency in zoning and planning approaches even between adjoining local government area in a particular state or territory inhibits good coordination between and within levels of government. As a result, property developers and non-property businesses are restrained in even modest attempts to invest across jurisdictional boundaries due to the uncertainty and hence, likely financial risk. Greater consistency would obviously ameliorate this risk, and increase cross jurisdictional investment.

Poor coordination between states and within states is particularly evident in the current responses to assess the effects of sea level rise and storm events on land potentially threatened. Vulnerability mapping is a critical tool in the development control process, and land use planners such as Harty have observed that:

…*where existing land uses and development are identified as being at risk, new zones and development controls should be developed and applied to implement management actions to avoid and minimise impacts through strategies that protect or remove the risks from sea level rise.*[8]

In 2008 the Victorian Coastal Council published the *Victorian Coastal Strategy 2008*[9] which attempts to address prospective sea level rises of between 40 cm and 80 cm by 2100, and the impact upon future development. In February 2009 the NSW Department of Environment and Climate Change published a *Draft Sea Level Rise Policy Statement*[10] setting benchmarks for sea levels in 2050 at 40cm above 1990 mean sea levels and in 2100 at 90cm above 1990 mean sea

[8] Harty, Chris (2008) "How can planning address the effects of sea level rise?" *Australian Planner*, 45(4) (December), 25.
[9] Victorian Coastal Council (2008) *Victorian Coastal Strategy 2008* (Melbourne).
[10] Department of Environment and Climate Change (2009) *Draft Sea Level Rise Policy Statement* (Sydney) February.

levels.[11] The *Statement* has been issued in part to guide local Government in assessing development applications, and states that:

The Department of Planning will be preparing guidelines on how sea level rise should be considered in land use planning and development approval decisions by councils. This will also provide guidance to landowners, infrastructure providers and developers.[12]

However, Deputy NSW Premier Carmel Tebbutt subsequently stated that "there will be no regulatory or statutory requirements to comply with the benchmarks".[13] Coastal local government of NSW and Victoria bears the responsibility for assessing most development applications and is confronted with different assessments of sea level rise at 2100 depending on which side of the state border the development is situated.

The response of state and local governments to prospective sea level rise and storm events remains inadequate and poorly coordinated, which is of considerable concern given much existing development along the Australian coast is of very high value. If future 'green field' development or redevelopment of existing properties is constrained or even denied, claims for compensation and subsequent litigation are an obvious concern for state and local government. Nevertheless, the NSW *Statement* attempts to offset any such claims through the following disclaimer:

Coastal hazards and flooding are natural processes and the Government considers that the risks to properties from these processes appropriately rest with the property owners, whether they be public or private. This will continue where these risks are increased by sea level rise. Under both statute and common law, the Government does not have nor does it accept specific future obligations to reduce the impacts of coastal hazards and flooding caused by sea level rise on private property.[14]

API and SIBA regard the uncoordinated response to planning, zoning and development assessment in the coastal zone to be appallingly inadequate such a position is totally unacceptable, and API and SIBA believe that climate change issues require a greater input and coordination at a federal level.

A further example of poor co-ordination between authorities is the approval for the mining of coal gas in areas recently zoned for residential development in Sydney, and a consequential impact of the mining operation on residential use. .

[11] Department of Environment and Climate Change, 3.
[12] Department of Environment and Climate Change, 4.
[13] Tebbutt, Carmel cited in *The Manly Daily*, (2009) "Climate change draft policy fails to deliver", (24 February), 8.
[14] Department of Environment and Climate Change, 4.

API and SIBA believe there is both an economic cost to the developer and an amenity cost to adjoining resident

What are the ways in which regulations or government processes restrict competition for land and its use? What are social, economic or environmental purposes that these restrictions serve? Could the purpose be achieved without restricting competition?

State and territory road agencies significantly restrict competition and restrain land development and utilisation through the retention of zones and reservations for new roads which are not constructed for many years, or not constructed at all. API and SIBA believe that construction authorities' activities should be centralised, better coordinated with their data bases of landholdings used more effectively through inter-agency data sharing. Clearly, a land corridor reserved by one agency can be utilised by a number of infrastructure agencies for different but complementary land uses. An example is the suggested multiple use of land corridors for joint road, rail, electricity and water reticulation.

Do some governments (and their regulators) or government processes restrict competition more than others? If so, what are the ways in which they do this? Are there particular examples where planning, zoning and DA systems are especially effective at encouraging competitive outcomes?

Whilst there are many examples that could be cited of restrictions that inhibit competition, particularly for the highest and best use of land, there are somewhat rarer examples where innovative planning has encouraged competitive outcomes, such as North Ryde/Macquarie Park industrial estate in northern Sydney.

At a time when Silverwater east of Parramatta was the most desirable industrial location in Sydney, more flexible and innovative land use zoning encouraged new technologically advanced industrial/commercial uses to locate in the new area of North Ryde/Macquarie Park. Heavy industry and traditional warehousing was a typical use in Silverwater, which did not meld comfortably with newer "high tech" uses which often needed higher levels of security. This need was more difficult to create in a traditional industrial area such as Silverwater.

Conversely, anecdotal information suggests that transport planning undertaken in the absence of an appreciation of future land uses is a significant restriction on competition. Confidential examples were provided in a number of states where absence of coordination resulted in the planning of inappropriate rail and road facilities, which in turn significantly impacted upon the orderly and appropriate development of land in the immediate vicinity. Often, once a facility (eg. bus stop, railway station, roundabout) was planned it was impossible for other agencies and private property developers to convince the relevant agency to change the location of the proposed facility. The reason advanced was often simply that the

location had been chosen many decades ago and would not be changed as the facility was "on the plans." This inertia was irrespective of obvious substantially altered circumstances in the locality, which were dismissed.

Which regulatory requirements on developments unnecessarily restrict the final use of a site?

A typical example is where land is reserved for road widening or for transport corridors which subsequently are not proceeded with, the affected land if privately held and adjoining land can be blighted for years or decades.

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

Public consultation for rezoning and development applications when dealt with by local government are generally regarded as quite broad and transparent.

However when development applications are dealt with at Ministerial level, such as Part 3A under the *Environmental Planning and Assessment Act* 1979 (NSW), such transparency is widely regarded as problematic. The Director General (DG) of Planning is obliged to exhibit Part 3Aproposals for 30 days and invite public comment. The DG must provide copies of any submissions to the applicant and relevant public authorities. Subsequently, the DG is to provide an assessment report to the Minister who may or may not approve the proposal.

In assessing the potential impact of rezoning an area/site, do governments consider the potential benefits and costs of competition for the local economy and community? If so, how are these considered and what factors are taken into account?

Arguably most rezonings are occurring in peri-urban areas of the capital and larger regional cities to accommodate urban expansion. It is the strong view of API and SIBA that the real impact on the remaining stock of arable land in these peri-urban areas is not being considered. The importance of the peri-urban areas surrounding Sydney have been described by Sinclair as:

…one of the State's food bowls. It produces $1 billion of agricultural produce each year[15]

Further, Sinclair points out that the peri-urban areas are a major supplier of perishable vegetable production providing:

…91% of NSW Asian vegetable production, 90% of parsley, 82% of Mushrooms, 76% of capsicum and chillies, 70% of cucumbers, 63% of basil and coriander and

[15] Sinclair, I. (2009) "Planning for Sydney's Food Security: Part 1" *New Planner* (December), 21

61% of cabbages. The dominance of the Sydney region is also evident with poultry, nurseries, flowers and turf.[16]

Anecdotal evidence provided to API and SIBA also strongly suggests that a similar threat to arable lands exists in the peri-urban areas of Brisbane, notable in the rapidly urbanising southeastern corridor, while similar threats to peri-urban food production areas surrounding Melbourne are also reported. Unfortunately, the majority of Australia's land mass falls within the categories of relative poor to moderate potential for food production, Flannery soberly observing in 1994:

…[c]urrently, 22 million hectares of arable land is being used in Australia. Much of this land would be considered marginal agricultural land on other continents. Yet it is by far the best of our arable land. The rest is decidedly marginal even by Australian standards, and is largely untested. Already, after less than 200 years of use, 70 per cent of that 22 million hectares is degraded and in need of soil restoration programmes.[17]

Arguably, the 70 per cent degradation of the 22 million arable hectares has increased since 1994.

Given the above, It is strongly suggested by API and SIBA that consideration should be given to an extension of the existing triggers in the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth.) to protect increasingly scarce arable land in the national interest. In addition, it would appear reasonable for the states and territories' heritage legislation to be extended to protect highly arable lands. This could be achieved in the manner of permanent heritage protection orders to obviate creeping encroachment by urbanisation in the peri-urban areas in particular.

Such action would of necessity need to be informed by upgraded spatial data on soil, location of basic infrastructure and enhanced interoperability of state, territory and Commonwealth spatial data which is currently highly variable.

To what extent do planning and zoning systems have the effect of unnecessarily limiting the entry of new industries or supporting the continued existence of particular industries in some locations?

[16] Sinclair, 21.
[17] Flannery, TF (1994) *The Future Eaters: An ecological history of the Australasian lands and people* (Sydney: Reed Books) 367.

As previously stated, the continuing exclusory nature of states and territories' planning and zoning systems tend to constrain the introduction of new or unfamiliar land uses, whilst tending to force older uses out through the creation of non-conforming uses in new zones.

API and SIBA consider that the current outmoded approach to land uses could be remedied by the adoption of a more flexible planning system based on localities and desirable future character. Such outcomes could include a list of "Category One" land uses, supported by "Category Two" and "Category Three" land uses, a methodology successfully adopted in the Warringah Local Environmental Plan 2000. This approach allows a range of compatible land uses to co-exist in specific localities, whilst clearly defining certain land uses which are prohibited.

What are some ways that governments could address anti-competitive practices in the planning, zoning and DA systems?

It is a truism that development assessment, and rezoning in particular, are reactive processes rather than proactive processes. Hence, the inherent inertia of the current states and territories' systems acts as a retardant and are significant anti-competitive actors in the functioning of cities. As an example, the proposed introduction of a new supermarket in an area will almost certainly require a rezoning, and always a development consent. The population may be rising significantly, and yet the rezoning and development assessment processes can be expected to take some years to complete irrespective of the urgency of the demand.

To what extent do the difficulties of dealing with fractured land ownership make it difficult for smaller developers to enter some markets? Should governments have a role in the merging of small separately-held parcels of land into larger plots in order to facilitate large-scale developments? If so, why?

Consolidation of fragmented sites to permit redevelopment is highly desirable for the overall efficiency and effectiveness of the functioning of cities, however the last resort of compulsory acquisition of fragmented sites for such purposes requires careful legislative drafting to ensure that individual owners are not financially disadvantaged. As an alternative, greater use of market-driven mechanisms such as FSR and building height bonuses may facilitate the creation of larger redevelopment plots[18].

[18] Collaborative research is currently being undertaken by the API, the Asia Pacific Centre for Complex Real Property Rights (APCCRPR) at the University of Technology, Sydney, and the Faculty of Law, University of Wollongong on the issue of transferable development rights, in association with the Programme in Territorial and Urban Planning at 'Sapienza' University of Rome.

Are appeals to zoning and DA applications by competing businesses a regular part of operations for some businesses? Why are they made? Where third party appeals are possible, what might be effective ways of identifying and preventing those that contain no substantive complaint?

Such actions whilst sometimes perverse are nevertheless the result of a free society which has access to arbitral processes such as specialist land and environment courts in the states and territories.

Are there examples of 'gaming' occurring in zoning and DA processes?

Such actions are not uncommon, however local government and in particular the courts are generally able to respond to appropriately if an abuse of processes is seen.

Do developers who 'partner' with governments for particular projects and/or undertake government preferred projects receive differential treatment in the zoning and/or DA process?
Does this differ depending upon whether the decision maker in the process is a local council, state/territory planning department, or a minister? If differential treatment occurs, is it justified in achieving planning objectives?

In such projects the planning objectives would appear to warrant the receiving of differential treatment in zoning and development assessment.

How do planning/zoning/DA decisions on council or state-owned land affect the competitive environment? Are these decisions transparent and even-handed? If not, in what ways could the process be improved?

It appears that such decisions are often more closely scrutinised by the media than private development applications, arguably ensuring heightened transparency. The threat of possible referral to investigative tribunals such as ICAC in NSW is a significant ameliorating force.

Is information on proposed developments available to local communities and all potential land buyers or users during the planning/zoning/DA processes in a complete, effective and timely manner?

Yes, (Part 3A is a different consultation process from that undertaken at a local level)

What are some examples of planning/zoning/DA processes which do not adequately consider the implications for competition?

As previously mentioned the consumption of arable land in peri-urban locations for expansion of capital and regional cities is poorly recognised as having adverse implications. The competition for such land currently favours urban uses, rather than the maintenance of this scarce resource.

To what extent does influence by interested parties, particularly those who may be politically active within the community, affect the decision-making processes?

Organised supporters or objectors to rezonings or development applications are provided with public hearings to air their views, with the obvious hope to influence decision-makers. Such a process if transparent can be productive.

Does this improve or worsen outcomes? In what way? Do the views of these parties typically reflect the broader community sentiment?

The API and SIBA are aware that there will always be disappointed applicants and objectors, however the state and territories' systems do strive to access a range of views, albeit sometimes imperfectly.

Are there particular examples where planning, zoning and DA systems are especially effective at minimising unnecessary compliance costs for business? Where electronic DA processes have been implemented, have they had any material impact on compliance costs?

Electronic lodgement has reduced the costs of compliance, however there still remains a substantive and continuing need for paper based documentation.

Further, the determination that some minor developments are "Complying Development" in NSW has removed a layer of Local Government approval, saving time and cost , allowing the local authority to concentrate resources on more significant projects.

Do the requirements to be met for development approval vary unnecessarily between jurisdictions?

Yes – see earlier comments.

For the jurisdictions in which you operate or live, what planning, zoning or DA costs do you consider to be unnecessarily high?

API and SIBA are national peak organisations and are aware that jurisdictional differences exist between and within the various states and territories – see earlier comments.

What measurable factors would best be used to compare the compliance burden of planning, zoning and DA processes across jurisdictions?

Cost of lodgment fees, together with initial and subsequent documentation preparation costs.

Where 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 rezoning process to be consultative and transparent?

No - see earlier comments.

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

No – see earlier comments.

To what extent do the risks associated with the timing and outcome of DAs deter some developers from undertaking projects?

See earlier comments.

Is the uptake of state planning/zoning policies/overlays consistent between regions or local government areas?

No – see earlier comments.

Do particular zoning or DA conditions (such as hours of operation) create costs either directly or through lost opportunities? If they do, how significant are these costs and lost opportunities?

Conditions of development consent are sometimes unrelated to the land use for which consent is sought, arguably reflecting a lack of awareness of the particular business or activity by decision-makers.

Which cities should be included in the benchmarking for this study?

All capital cities, together with a selection of regional cities such as Geelong, Bendigo, Newcastle, Dubbo, Toowoomba, Townsville, Launceston, and Mt.Isa.

What characteristics make a city more/less liveable and easy for businesses to operate in?

Rail and road transport. High quality communication systems, broadband internet.

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

As mentioned earlier, the provision of basic infrastructure prior to releasing land for residential or other land uses.

What are some examples of the ways in which planning, zoning and DA regulations, or the way in which they are implemented, adversely impact on the functioning of cities?

See earlier comments in this submission.

What measurable factors would best be used to compare the impact of planning, zoning and DA systems on the functioning of cities?

See earlier comments.

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?

API and SIBA are aware that the south-west and north-west growth centres of Sydney were planned and implemented under the now defunct Growth Centres Commission. These areas spanned numerous local Council areas and also involved the co-ordination of many State authorities. The resultant co-ordinated approach provided an integrated structure on which efficient development and business decisions can be based.

There are also many part 3A Major Project Approvals that would not have been possible left with Councils involving issues having a long term effect on the sustainability, efficiency and function of NSW, for example a Wind farms, sewerage schemes, Business Parks, gas fired power stations, and hospital redevelopment.

What are the social, environmental and economic reasons for which governments may wish to control the supply of appropriately zoned sites for development?

Presumably to ensure the orderly growth of cities, however the API and SIBA are aware that such constraints on supply have also acted to raise vacant land

values and in particular, the value of existing built form whether residential, industrial, retail or commercial. Such actions also raise the amount of stamp duty received by state and territory governments, and the amount of land taxes where based on statutory property values. In addition, the Commonwealth government also receives an increase in the amount of Capital Gains Taxes from the sale of taxable properties.

Why might developers (including government owned development bodies) wish to control the release of developed sites and/or hold on to land and not develop it?

It is a truism that private developers generally do not hold land supply back due to holding costs which are significant. The reasons for such action by government agencies are unknown. However, the financial incentives for governments to bank land are considerable.

Should local and state governments require developers commence development within a certain time frame? What discourages timely completion of developments?

No.

Development is undertaken within the constraints of the market. Developers will develop if it is profitable to do so. The GFC has reduced the general availability of investment capital.

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?

See earlier comments.

How successful are governments in assessing the need for future land uses and facilitating the availability of appropriately zoned sites in a timely manner? What indicators (for example, land price trends or affordability indices) would illustrate this?

See earlier comments.

Has land in your district been zoned for a certain purpose (residential, commercial, industrial, other) but the location or other features of the land render it inappropriate for the use for which it has been zoned? If so, please provide details*.*

No comment.

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

No comment.

Is there land in your district that is zoned for a certain purpose (housing, commercial, industrial, other) that is not being used for the purpose as it is part of a 'land bank' held by either government or a member of the private sector? If so, how has this affected the supply of that type of land in the district, the prices paid for it and commercial activity more generally?

Land banking is a normal dynamic of property markets as is speculation, which is associated with the orderly supply of land.[19]

What impact would limiting opportunities for third party objections/appeals and so fast-tracking projects through planning and DA processes have on the supply of land for different uses?

See earlier comments.

[19]For a discussion on land speculation as the key phase of the urban land use cycle, see Harris, J.P. and Sheehan, J.B. (1980) "Land Speculation" *The Valuer* 26 (April), 126-128.

APPENDIX 1

AUSTRALIAN PROPERTY INSTITUTE INC.

The Australian Property Institute, (formerly known as the Australian Institute of Valuers and Land Economists), has enjoyed a proud and long history. Originally formed over eighty years ago in 1926, the Institute today represents the interests of more than 8000 property experts throughout Australia. As the nation's peak professional property organisation, the API has been pivotal in providing factual, objective and dispassionate advice on a broad range of property issues addressed by the Commonwealth and State/Territory governments since the Institute was formed.

In addition, the Institute's advice has increasingly been sought by overseas bodies such as the United Nations, the FAO and the World Bank, evidencing a level of expertise within the API and its membership, which is recognised globally.

However, as a professional organisation the primary role of the Australian Property Institute is to set and maintain the highest standards of professional practice, education, ethics and discipline for its members.

Institute members are engaged in all facets of the property industry including valuation, property development and management, property financing and trusts, investment analysis, professional property consultancy, plant and machinery valuation, town planning consultancy, property law, and architecture. Membership of the Australian Property Institute has become synonymous with traits and qualities such as professional integrity and client service, industry experience, specialist expertise, together with tertiary level education and life long continuing professional development.

The Membership of the Australian Property Institute is bound by:

- A Code of Ethics and
- Rules of Conduct

APPENDIX 2

SPATIAL INDUSTRIES BUSINESS ASSOCIATION LTD.

In September 2001, the then Minister for Industry, Science and Resources, Senator Nick Minchin, released the Spatial Industry Action Agenda Report, *Positioning for Growth*.

One of the first things the Action Agenda process created was the (now) Spatial Industries Business Association (SIBA), which represents the business interests of some 400 companies throughout Australia.

SIBA has been an important contributor to key government policy imperatives. In 2003 the then Deputy Prime Minister, John Anderson, commissioned ASIBA, together with the NSW Division of the Australian Property Institute (API), to develop a definition for a property right in water. In March 2004, ASIBA presented to the Deputy Prime Minister the final report titled *An Effective System of Defining Water Property Titles,* which was the foundation for the National Water Initiative. Recently, the OECD has referred to this work as “world leading”.

Throughout its short life, SIBA has contributed to policy debate on water, salinity science, bushfires and security. Governments now consider spatial information and technology to be essential infrastructure and management tools. SIBA has also been a leader in bridging the web services gap with its recently completed and much lauded Spatial Interoperability Demonstration Project (SIDP). This Project produced technical documentation to support spatial interoperability solutions for emergency management and the insurance and utilities sectors.

Much of SIBA’s work in delivering the interoperability Project has already been acclaimed around the world. The international standards body for spatial information, the Open Geospatial Consortium (OGC), has asked permission to use one of our documents as an international White Paper on interoperability. The Project is a tribute to cooperation across the public and private sectors, the states, territories and commonwealth.

As the premier business representative body in the spatial information arena, SIBA speaks for its member firms in a range of forums on land and land-legal matters. SIBA also contributes significant public comment through its awareness programs in the Australian popular press.

SIBA’s work on key policy issues will have a significant and positive impact on the Australian community and economy for many years to come.

APPENDIX 3

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