

Submission to Productivity Commission Benchmarking Study on Planning, Zoning and Development Assessments

The Australian Government Department of Resources, Energy and Tourism welcomes the opportunity to make a submission to the Productivity Commission's (the Commission) benchmarking study of planning, zoning and development assessments.

The Commission's benchmarking study is part of its ongoing work in benchmarking Australian regulatory burdens and as such is relevant to the implementation of the National Long-Term Tourism Strategy (the Strategy).

The National Long-Term Tourism Strategy

The Strategy, which was released on 15 December 2009 by the Minister for Resources, Energy and Tourism, the Hon Martin Ferguson AM MP, aims to increase the industry's long-term resilience and productive capacity by addressing the structural supply side issues impacting on industry growth.¹ The Tourism Ministers' Council has endorsed the Strategy and appointed an Investment and Regulatory Reform Working Group to identify areas of regulation that impedes tourism investment.

As part of its work the Investment and Regulatory Reform Working Group has identified a number of planning issues that impact on tourism development including:

- Inconsistent and complex definitions and treatment of tourism uses across states, public land management and local government areas;
- Tourism is not considered or included in strategic regional planning;
- Exclusion of tourism land use from suitable standard land use zones;
- Lack of integration in land use planning between tourism and commercial, residential, transport and other land uses reliant on tourism;
- Tourism's inability to compete with residential; or commercial development in mixed use zones;
- Considerable uncertainty on the difference between commercial short term accommodation and residential use; and
- Development controls which make tourism investment unviable.

The Department of Resources, Energy and Tourism considers that exploring these issues is within the scope of the Commission's study, which is

“to examine and report on the operations of the states and territories' planning and zoning systems, particularly as they impact on:

- *business compliance costs;*
- *competition; and*
- *the overall efficiency and effectiveness of the functioning of cities.*

In doing so, the Commission is to report on best practice approaches that support competition, including:

¹ See Martin Ferguson, National Long-Term Tourism Strategy, 2009.

- *measures to prevent 'gaming' of appeals processes;*
- *processes in place to maintain adequate supplies of land suitable for a range of activities; and*
- *ways to eliminate any unnecessary or unjustifiable protections for existing businesses from new and innovative competitors.*²

This submission will outline: the economic significance of tourism; why planning is important for tourism; the development of a possible tourism planning code and the impact of current zoning systems and competition for land on the tourism industry. The submission will also highlight areas that the Commission should investigate as part of its study.

The Economic Significance of Tourism

The Australian tourism industry is economically significant. In 2008-09, it contributed almost \$33 billion to Australia's Gross Domestic Product and directly employed around half a million people. Expenditure on tourism related products was over \$92 billion. With export earnings of almost \$24 billion, tourism is Australia's largest services export. In 2008-09, the Australian tourism industry accounted for 2.6 per cent of Australia's gross domestic product, 4.5 per cent of total employment and 8.3 per cent of total exports.³

Why Planning is Important for Tourism

Planning laws have a significant impact on the operation of the tourism industry. Land zoning regulations, permits to operate in public places, loading zones and parking restrictions and approval of building developments, extensions and subdivisions can have a material impact on the operations of firms in sectors of direct relevance to tourism such as the accommodation sector, cafes, restaurants and takeaway food services, pubs, taverns and bars and clubs as well as creative and performing arts activities.

Most tourism enterprises are spatially sensitive: accommodation tends to be located close to natural attractions and areas of high visitor amenity. Other aspects of tourism related infrastructure such as restaurants, bars and taverns tend to be in easily accessible areas of high visitor traffic. Patronage of these facilities is often maximised if they are located in designated leisure or entertainment precincts.

Because of the visitor appeal of areas of environmental and heritage significance, many new tourism enterprises seek to locate in these areas and need to go through additional approval processes to be built in these sensitive zones. Similarly, tourism related enterprises such as cafes, restaurants, take away food services, taverns, bars and gaming venues are often located in areas that abut residential zones and have noise and other amenity implications.⁴ Consequently, it is not uncommon for tourism related development to encounter a more complicated approval process (which can often be more protracted and costly) than that experienced by other land uses.

² Nick Sherry, Terms of Reference to the Productivity Commission, issued 12 April 2010

³ Australian Bureau of Statistics, Tourism Satellite Account 2008-09

⁴ These enterprises are not entirely dependent on tourists but as they earn a significant portion on revenue from tourist are classified as tourism related

Many tourism enterprises depend on surrounding infrastructure and amenity to provide quality tourism experience visitors. But the provision of this infrastructure and amenity is shaped by the planning system and the zoning requirements that govern the list of permissible developments. Zoning requirements that permit the development of tourism related enterprises but do not provide for the adequate provision of supporting infrastructure like public space, street dining and flexible operating hours can constrain investment.

In addition to this, tourism enterprises, like other enterprises in the economy are affected by the multi-jurisdictional nature of planning. The majority of planning laws are applied at state and local government level and many differ from jurisdiction to jurisdiction. This imposes additional compliance costs on industry that operate within different jurisdictions and diminish the business case for investing in Australia compared to other jurisdictions that have more harmonised planning systems.

As part of the development of the National Long-Term Tourism Strategy, Minister Ferguson commissioned an independent steering committee. The steering committee, which was chaired by Ms Margaret Jackson AC, found that:

“Multiple and often overlapping planning and approval requirements and a lack of certainty in some planning environments such as built heritage, environment and Indigenous land-use can cause delays that negatively affect return on investment. This is an issue of international competitiveness for Australia in a global environment where investment dollars are becoming scarce. Such time lags are not encountered in many of our competing tourism destinations, particularly in Asia and the Middle East.”

The steering committee also noted that:

“State and local statutory zoning practices which restrict land use to residential or agricultural purpose can also hinder tourism development.”⁵

A 2009 Access Economics study found that “tourism capital is heavily invested in land buildings, with over two thirds of tourism net capital stock invested in non-dwelling construction.”⁶ This high level of exposure to building activity demonstrates the disproportionate sensitivity that firms in the tourism sector have to the planning system. Similarly, any delays in decision making that might result from overlapping jurisdictional regulations or decision making process that are not transparent and well understood are also likely to have a disproportionate impact on firms in the tourism sector.

Research into housing affordability suggests that the opportunity costs imposed by the uncertainties of the planning approval process can be significant. Some estimate that approval times can take between one and two years and that planning compliance costs amount to between 6 and 10 per cent of total construction costs.⁷ Anecdotal

⁵ Jackson, *Op. Cit.*, p.29

⁶ Access Economics, National Long Term Tourism Strategy Economic Modelling Consultancy: Phase I Report, 2009, p.ii

⁷ Nicole Gurrán, Kristian Ruming, Bill Randolph and Dana Quintal, Planning Government Charges and the Costs of Land and Housing, Australian Housing and Urban Research Institute, 2008, p.6

evidence from the commercial accommodation sector suggests that the opportunity costs in that sector may well be similar.

Firms in the tourism industry, particularly those in the accommodation sector, have asserted that the operation of the planning system creates barriers for tourism developments. This assertion is echoed by town planning firm Tract Consultants, who note that there are fewer barriers to high density residential development than a hotel, with this imbalance greatest in inner city municipalities. Despite the two being treated similarly in legislation, it is in the application of this legislation that such an imbalance emerges.⁸ Industry argues that this imbalance tilts the investment fulcrum away from investing in tourism infrastructure such as hotels and towards other forms of commercial and residential investment. Industry has attributed this characteristic of the market as a key reason behind the lack of new investment in tourism infrastructure like hotels.

Recommendation 1: The Commission should consider the impact of various aspects of planning and zoning systems, including the business compliance costs to the tourism industry, the opportunity costs associated with delays in approval (including costs imposed by the uncertainty associated with the approval system), and the costs imposed as part of its study.

A Planning Code for Tourism

The Strategy's Investment and Regulatory Reform Working Group has identified that the planning approval framework in most jurisdictions does not specifically consider tourism related uses. As a result, approvals of tourism related uses are often managed under either residential or commercial frameworks. In some cases this approach may not account for the particular characteristics of tourism developments, and consequently increase approval costs for developers as well as result in suboptimal outcomes from a planning perspective.

In this context, the Tourism and Transport Forum (TTF) is represented on the working group, and has been awarded a grant under the Australian Government's TQUAL Grants Program to develop a draft Voluntary Tourism Planning Code (Code). The Code will identify a best practice approach for the planning, assessment and subsequent development of new tourism infrastructure, including hotels and other tourism attractions.

Initial research conducted by Urbis Consulting on behalf of the TTF in developing the Code found that the developers of tourism infrastructure considered that:

- there is a general lack of understanding regarding the benefits of tourism to the local economy and it is believed that tourism is not adequately considered in the process of planning for infrastructure;
- from a developer perspective, there is an inherent complexity in the planning system, its hierarchy and procedures, as well as lack of transparency and politicisation of the decision-making process;

⁸ See Access Economics, National Long Term Tourism Strategy Economic Modelling Consultancy Phase II Report, 2009, p.19

- it is often difficult to predict the length of time it will take to have a proposal accepted or rejected;
- tourism development is poorly understood by planners and tourism developments are often not approved; and
- When a tourism development is approved it is often done so with conditions which make investment unviable.

Urbis' consultation with planners found that:

- many localities do not see the deliberative restriction of land uses, via the planning process, as an effective way of encouraging particular classes of development;
- planning has a key role to play in facilitating the adequate provision of land for tourism purposes and can prove instrumental in managing overall built-form outcomes, the character and presentation of a location; and
- rezoning can be a long and costly process and is often viewed as reactionary rather than strategic or pro-active.⁹

Many of the characteristics of the interaction between the tourism industry and the planning industry that have been identified by Urbis are not unique to tourism. Investors from other sectors find the system complex and costly and could assert that the modes of land use they propose are not well understood by planners. The existence of these characteristics in other sectors of the economy does not diminish the conclusions that Urbis have made, but suggest that the existence of information gaps exist amongst both planning assessors and planning proponents may be a negative feature of planning systems across the country.

Recommendation 2: The Commission should examine the extent to which inefficiencies in the planning system are caused by information gaps.

Urbis concluded that there is:

- a general lack of understanding regarding the strategic economic, social and environmental value of tourism when planning for key infrastructure;
- a lack of formal institutional arrangements providing for coordination amongst State Tourism Organisations and planning authorities to ensure tourism strategies are effectively translated into land use policies;
- a limited policy focus that does not recognise tourism as an activity that brings with it a land use dimension nor does it explicitly encourage a unified and consistent approach to the way in which state and local planning frameworks address tourism; and
- inherent complexity in defining tourism as a land use activity, a poor understanding of the tourism product and the lack of effective guidance that allows for effective and informed decision making in the approvals process.¹⁰

Urbis recommended that a National Tourism Planning Guide be developed to overcome some of these issues. The Tourism Ministers' Council is scheduled to consider a National Tourism Planning Guide at its 10 September 2010 meeting.

⁹ Urbis Consulting Tourism Planning and Future Directions – Draft Report unpublished 2010

¹⁰ Urbis Consulting, Tourism Planning Guide: Presentation to Stakeholders, 2010

Recommendation 3: *The Commission should consider how a National Tourism Planning Guide can be implemented in a way that enhances the efficiency and effectiveness of planning systems and facilitates increased tourism investment.*

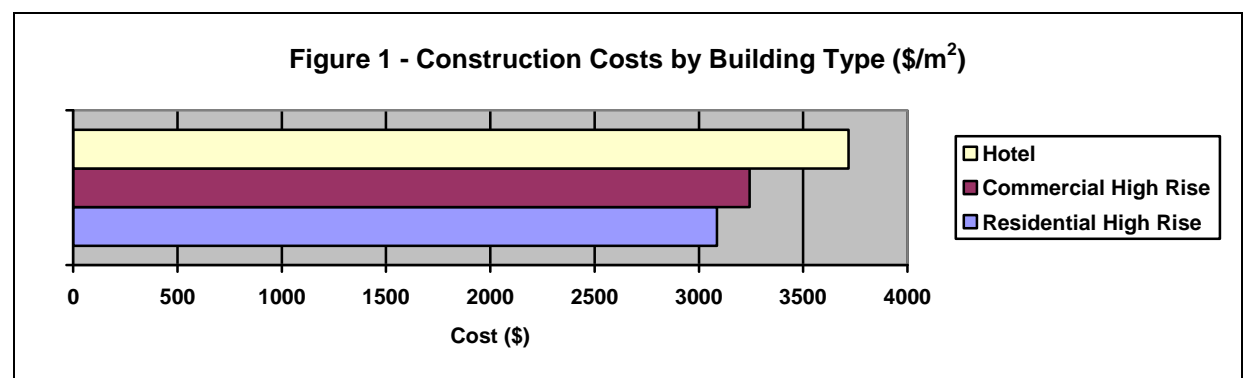
Land Zoning and Effective Competition

As part of the Urbis report, Urbis noted that many stakeholders considered that commercial development of tourism infrastructure, particularly accommodation stock, was not commercially viable compared to other land uses.

This finding is supported by research from Access Economics into accommodation in Perth that was conducted earlier in 2010. Access Economics found that there is a shortage of accommodation stock in Perth that cost the Western Australian economy \$46 million and 200 jobs between 2006-07 and 2008-09. Access Economics concluded that the shortage was caused by commercial factors, such as lower returns on investment compared to other uses of capital and higher construction costs compared to residential and office buildings. Access Economics also concluded that current market signals were insufficient to stimulate new investment.¹¹

This finding validated the research of two separate studies in 2009 that the market is not functioning in a manner to encourage new investment.¹²

Figure 1 illustrates that construction costs associated with building a hotel in Australia are significantly higher than for other comparable land uses such as residential or commercial high rise buildings.¹³



While the causes of the differing construction costs do not appear to be caused by the operation of the planning and zoning system, the existence of this differential illustrates that hotel developers are more sensitive to costs caused by any inefficiencies in the operation of a planning system.

Taken together, the findings from Urbis and Access Economics suggest that the current commercial and planning environment are not conducive to stimulating new investment in tourism infrastructure and that a form of market failure may exist. Lack of investment is creating capacity constraints that are preventing Australia from fully

¹¹ Access Economics, *Perth Hotel Economic Impact Study: Final Report 2010*

¹² See Jones Lang LaSalle, *Review of Accommodation Development in Western Australia*, 2009 and Colliers, *Investment Australia*, 2009

¹³ Davis Langdon, *Blue Book*, 2009 quoted in Access Economics *Op. Cit.*

exploiting the economic potential of the tourism industry. This is imposing net costs on the rest of the Australian economy.

A lack of investment means that Australia's accommodation stock is ageing and less able to cope with increasing demand. Data from the Organisation for Economic Cooperation and Development illustrates that Australia's accommodation sector has the highest occupancy rate amongst OECD economies.¹⁴ The Access Economics research suggests that higher occupancy rate and lack of new investment are being manifested through higher room rates and 4 and 5 star facilities failing to meet international expectations for facilities of this nature.

The Access Economics Report demonstrated that sub-optimal investment in accommodation does not just affect the competitiveness of the tourism investment, but imposes broader costs on other sectors of the economy. OECD data and anecdotal evidence from industry suggest that the shortage of accommodation stock is not confined to Perth.

These factors are likely to reduce demand and result in Australian destinations being perceived to offer less value for money than other destinations. This is one of a number of complex factors leading Australians to increasingly choose international destinations over domestic destinations that has contributed to a tourism trade deficit of almost \$4 billion in 2008-09.¹⁵ The existence of this trade deficit constitutes a drag on the Australian economy that restricts growth.

The Access Economics report suggests that the one of the ways in which accommodation development could be stimulated is through site selection and fast-tracking regulatory approvals. This suggestion is relevant to the Commission's study, implying that the zoning system could be designed in a manner to correct the market failures that may exist around the development of tourism infrastructure.

Current zoning requirements restrict the location of tourism related enterprises to areas in which they are competing with other commercial uses or prevent them from competing with alternative uses such as residential. However, commercial factors provide insufficient incentive for the market to invest in classes of tourism infrastructure compared to other land uses, which is imposing broader economic costs.

Zoning systems that provide more incentive for developers to invest in tourism infrastructure can help to maintain adequate supplies of land suitable for a range of activities required to contribute to well functioning cities and regions.

Recommendation 4: The Commission should consider how zoning requirements could facilitate sufficient investment in tourism infrastructure to ensure Australia's cities and regions have appropriately priced tourism infrastructure to attract domestic and international visitors.

¹⁴ OECD, Tourism Trends and Policies 2010, 2010

¹⁵ Australian Bureau of Statistics, Tourism Satellite Account 2008-09