

22 July 2010

Performance Benchmarking Australian Business Regulation
Productivity Commission
PO Box 1428
Canberra City ACT 2601

By email: planning@pc.gov.au

To Whom It May Concern

**Submission: Performance Benchmarking of Australian Business Regulation: Planning,
Zoning and Development Assessments**

NSW Business Chamber welcomes the opportunity to provide comment to the Productivity Commission on the *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments* discussion paper.

As New South Wales' largest business association, NSW Business Chamber represents the interests of around 22,000 companies across New South Wales, from all industry sectors, business sizes and business types ranging from owner-operators to corporations, from product-based manufacturers to service provider enterprises.

Affiliated with over 100 Chambers of Commerce throughout the State, representing a further 10,000 businesses, the Chamber's broad-based membership is supported through a network of regional offices located in the Hunter, Illawarra, Central Coast, Northern Rivers, Murray and Riverina districts, in Canberra and throughout Western, Southern and Northern Sydney, and the Sydney CBD in the metropolitan area.

NSW Business Chamber believes that a system of performance benchmarking of planning, zoning and development assessments protocols is required to provide sound, transparent, and long-term urban development plans able to properly address the infrastructure demands arising from expected economic and population growth and to meet the challenge of building cities and communities which are productive, liveable, affordable and sustainable.

Government coordination and cooperation in planning, zoning and development

The creation of a development assessment system that is coordinated between the three levels of government and between states is important to building community and business confidence and to ensuring that investments made in the built environment are cost effective and deliver the outcomes required. Further, there needs to be greater transparency of the demarcation of decision making between jurisdictions and between the different levels of government.

NSW Business Chamber
incorporates:

- > Sydney Chamber of Commerce
- > Australian Business Limited Apprenticeship Centre
- > Australian Business Pty Ltd

NSW Business Chamber Limited
140 Arthur Street
North Sydney NSW 2060

ABN 63 000 014 504

Locked Bag 938
North Sydney NSW 2059

DX 10541 North Sydney

t > 13 26 96
f > 1300 655 277
e > navigation@nswbusinesschamber.com.au

Regional Offices ACT, Mid North Coast, Western Sydney, Northern Rivers, Hunter, Murray/Riverina, Illawarra, Southern Sydney, Northern Sydney, Central Coast

Indecision, together with the lengthy time taken by some local governments to make planning decisions and approve development applications stifles and discourages investment. Community and business consultation is critical to timely and successful development, and local governments need assistance in establishing appropriate protocols to achieve these outcomes. Without the coordination and cooperation of local governmental jurisdictions, decisions critical to preserving and enhancing local and regional characteristics, activities, and natural resources are also compromised.

Coordination in planning decisions is particularly an issue for businesses and developers located on border towns (therefore with different states' legislation and regulation applying) and to those operating across local government boundaries, where there is inconsistent decision making and/or regulatory standards within those local government areas. Reducing regulatory inconsistency will stimulate economic growth and job creation, through removal of unnecessary impediments to investment and create more certainty about the development assessment process, through simpler regulation focused on the achievement of clear and consistent outcomes. Efficient and effective public sector decision making through elimination of duplication, inconsistency and anti-competitive administrative practices will ensure business growth.

Currently the Government is not implementing effective planning which is focused on delivering appropriate, practical and realistic community outcomes. Ensuring coordination between Government at all levels will guarantee that consistent application of clear, simple planning principles, objective merit-based decision-making and evaluation of options, rational and efficient allocation of resources and consideration of the long-term interests of the State and its growing population are addressed.

The NSW Business Chamber advocates integrated planning, zoning and development assessment processes which are designed to deliver a consistent approach to land use, transport, energy, water, communications and community and public services.

Impact on Compliance Costs

NSW Business Chamber has long advocated for a consistent approach to, and minimising the various regulatory compliance costs on business.

Extended approval and zoning processes are seen to be the product of increased complexity in planning schemes, State legislation, and the negotiation of individual applications. Setting red tape reduction targets, for both the whole of government and individual agencies will have a positive impact on compliance costs.

It is not unusual for businesses to be undertaking development or manufacturing activities across local government areas. Ensuring that a business is compliant on zoning grounds and meeting other red tape requirements is highly convoluted.

While the introduction of standard Local Environment Plans has been the first step in addressing this issue, the consistent take up across local governments has been slow. By establishing national standards and performance benchmarks, business will have certainty where currently little exists. Appropriately developed and implemented nationally consistent standards will, reduce the frustration of the current planning and development process, but minimise additional regulatory costs on business.

The NSW Business Chamber recommends a National framework for making, amending and deleting regulation across all industry sectors, including planning, development and zoning regulation, which should be:

1. Proportionate – Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.
2. Accountable – Regulators must be able to justify decisions, and be subject to public scrutiny.
3. Consistent – Government rules and standards must be joined up and implemented fairly.
4. Transparent – Regulators should be open, and keep regulations simple and user friendly.
5. Targeted – Regulation should be focused on the problem, and minimise side effects.

Impact on Efficiency and Effectiveness in the Functioning of Cities

The New South Wales planning reform legislation, passed in 2008, goes part of the way to providing for an effective, functioning city. The reforms commenced a depoliticised model of regional based planning, with formation of Joint Regional Planning Panels and the Planning Assessment Commission. This is a significant but welcome policy shift which allows major developments to be assessed by independent experts with the added opportunity for community engagement. NSW Business Chamber believes these reforms provide for the timely and objective assessment of major projects. NSW Business Chamber notes the current review of the Central Sydney Planning Committee. Sydney Business Chamber believes this Committee has been operating both effectively and efficiently, with a concentrated whole-of-city perspective to planning determinations, which, due to the composition of the Committee, are made in a de-politicised environment with all views afforded equal consideration.

The NSW Business Chamber believes planning reform is a critical element in the positioning of Sydney as a leading global city. The long lead times on projects means that the longer they are delayed the greater the pressure on current infrastructure. Currently, delays, especially for those projects which have reached advanced planning stages, also damages the business community's planning and confidence levels.

From a business perspective, the need for change is driven by a concern that operational and planning inefficiencies negatively impact on the availability and cost of services.

In March 2007, the NSW Business Chamber highlighted businesses' increasing concerns about the interaction between State and Local Government on planning and revenue allocations. These concerns related specifically to a need for:

- Transparency in use of financial resources as a result of mandatory development related contributions (Section 94) to ensure the delivery of adequate infrastructure
- Structures for consultation with the business community as an integral aspect of council planning and service delivery.

Additionally as part of NSW Business Chamber's program *10 Big Ideas to Grow NSW*, the Chamber calls for the creation of Metropolitan Sydney Planning Committee. In conjunction with major local government reform, the NSW Business Chamber advocates that the Metropolitan Sydney Planning Committee will assess all major projects within Metropolitan Sydney Councils, where the projects have a value in excess of \$50 million. The Committee will consist of four representatives of the State Government and three representatives of the Council area from which the project originates.

In 1988, the State Government established the Central Sydney Planning Committee (CSPC). The Committee, made up of four representatives of the State Government and three representatives of the City of Sydney Council assesses major development applications (worth more than \$50 million) which come before the City of Sydney Council. The CSPC is recognition that major developments within the CBD have an impact and importance beyond the local government area. The CSPC has worked well and demonstrated how state and local government can develop a constructive relationship of major projects. NSW Business Chamber supports the expansion of such a system to include all Sydney metropolitan Councils.

Local government reform will provide a closer alignment of State and Local Government responsibilities to link growth and development with infrastructure and the needs of local communities. NSW Business Chamber currently sees an inconsistent approach towards planning, growth and infrastructure.

Too much is falling between the cracks. Amalgamation of the current 41 local government areas into ten strong regional areas will also provide the right framework for other State Government agencies to align their activities along the same model providing greater levels of accountability across all portfolios of government.

The creation of larger local government areas with stronger planning powers represents a reversal of recent policy, which has seen the progressive emasculation of local council powers and funding within the Sydney Metropolitan Area.

The guiding principles of planning reforms must be focused on better integrating residential and commercial growth with a sustainable public transport strategy. The ongoing development of key hubs is critically important if we are to address the significant transport issues in NSW. However, we believe that over the long-term NSW must move towards a more regionally focused local government structure to better facilitate the provision essential infrastructure and services.

NSW Business Chamber expresses its support for streamlining the process of state agency concurrences, referrals and secondary approvals. Where concurrences and referrals are justified, they should be processed in a timely and coordinated manner.

The current planning system is costly, complex and time consuming, resulting in additional costs to business.

Planning reform should be underpinned by the following criteria:

- standardization of the definitions for approvals,
- clear and standard requirements for development application lodgments,
- commitment to achieve a timely and realistic approval timeframe.

The NSW Business Chamber recommends the following to achieve a robust, client centered process that supports appropriate and sustainable development:

- Local Councils are to be encouraged and financially supported, where necessary, to build the systems required to implement standard planning and approval systems and develop shared services across regions.
- In recognition of the need to support permanent change a focus on influencing the culture of the planning system should be a priority, resulting in one that encourages education, clear and concise communication and engagement.
- Clear and achievable national benchmarks for planning decisions be established and in instances where these benchmarks are not met, the systems includes some compensatory measure for business, including of the receipt of rebates on application costs where significant overruns in time occur.
- Benchmarks that provide development assessments to be measured at state, and local government level. Development benchmarks should ensure better management and provide the following:
 - Provide clear timeframes for referrals, assessment and determinations
 - A data collection system which determines the length of time taken for each phase of assessment (from receipt to notification, length of referral period, internal consideration, total time taken from lodgement to determination) allowing for cross comparison between states and improved decision making standards

Recommendations

1. Coordination and cooperation between all levels of Government to be achieved through policy which is:
 - a. Cost effective
 - b. Performance based
 - c. Based on standard definitions and terminology
 - d. Streamlined, simple and accessible
 - e. Integrated with various policies and assessments applying to a given site
 - f. Transparent and accountable in administration
2. Red-tape reduction, for whole of government and individual agencies which will ensure a reduction of business compliance costs.
3. Local Councils to be encouraged to build systems required to implement a set of national standard planning and approval systems and develop shared services across regions.
4. Encourage education, clear and concise communication and engagement regarding amendments to the planning system.
5. Clear and achievable benchmarks regarding customer responsiveness be set and collated centrally within a National register.

Yours Sincerely

Paul Orton
Director, Policy and Advocacy