COUNCIL OF CAPITAL CITY LORD MAYORS

SUBMISSION TO PRODUCTIVITY COMMISSION

Performance Benchmarking of Australian business regulation: Planning, Zoning and Development Assessments

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1. Introduction

The Council of Capital City Lord Mayors (CCCLM) represents the cities of Adelaide, Brisbane, Canberra, Darwin, Hobart, Melbourne, Perth and Sydney.

The CCCLM aims to establish a strong relationship with the Australian Government on major issues common to capital cities which are directly relevant to Federal Government policy.

CCCLM believes capital cities must be innovative, safe, accessible and globally competitive, supported by efficient transport, sound urban design and sustainable development and welcomes the opportunity to work directly with the Australian Government where appropriate to achieve this aim.

We believe better governance of our cities could be best achieved through the establishment of a tripartite agreement between the Federal, state and territory and local government. The South East Queensland (SEQ) Regional Plan represents good existing practice of cooperation between state and local governments and is also being pursued by other regions involving members of the Major Cities Working Group.

Local government must play an on-going, central role in the governance of Australia's major cities. We are the closest level of government to the people and best able to engage with, identify and help shape community values and attitudes about the built environment. Collectively, we invest on going time and resources into working with our local communities to help improve their understanding of their rights and responsibilities regarding changes to their local neighbourhoods.

Whilst there are vast differences between jurisdictions, and indeed Local Government, there is a shared desire to facilitate and support orderly and sustainable built environments.

Please note that this submission is drawn on input from the Cities of Adelaide, Brisbane, Darwin, Hobart, Perth, and Sydney and we would encourage direct follow up by the Productivity Commission with these cities.

2. Government coordination and cooperation in planning, zoning and development assessments

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?

Local governments are responsible for planning their local communities by ensuring appropriate planning controls exist for land use and development through the preparation and administration of local planning schemes and strategies.

Local governments are required to ensure their local planning schemes and policies are consistent with State and regional planning objectives and requirements.

In Perth, planning decisions are based on the provisions and controls in the local planning scheme, which must be reviewed every five years. The Western Australian Planning Commission (WAPC) has delegated to local government the quasi–judicial power to determine some development applications under the Metropolitan Regional Scheme (MRS). Local governments are also invited by the WAPC to comment on subdivision proposals and planning policies that guide decisions on subdivision or development matters.

The planning, zoning and development assessment decisions and actions of all levels of Government, in particular across State Government agencies and between State and Local Governments should be coordinated at all levels to ensure best possible social, economic and environmental outcomes. This also ensures certainty in the development process and continuity in the decision making process across all levels of Government.

There needs to be a whole of government approach across agencies involved in the planning and approvals process to address the key challenges faced by cities, that of environmental management, water management, the provision of major infrastructure, the provision of affordable housing and social infrastructure, the location of transport corridors and land uses.

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 Adelaide, the proposed Buckland Park development (on the fringe of metro Adelaide) will be largely car dependent and is not well linked to existing infrastructure or urban development. The development is not serviced by public transport.

In Hobart there has been an absence of any real metropolitan or regional planning framework and the rate of growth has been relatively slow when compared with major cities on the mainland. As a consequence there has been an approach of not pre-empting demand but more responding to increase needs as they reach a certain threshold. The failures of this approach and the absence of a coherent metropolitan plan are becoming increasingly evident with the unfettered growth in the south east beaches area that has placed increasing pressure on the road network.

Perth and Brisbane's planning framework has been challenged by developments on federal land that are inconsistent with their stated purpose and are exempt from Council and State planning systems. Examples of this include developments at the Brisbane and Archerfield airports in Queensland. These developments have caused significant inefficiencies in the infrastructure and economic planning of the City. In Perth, a number of significant developments at Perth Airport and the land in its vicinity have occurred with no provision made for the necessary transport infrastructure.

Other Perth examples include decisions made by the Department of Education regarding the closure of a number of high schools within the Perth metropolitan region. Minimal consideration was given to the long term impact on local communities affected by these closures. The redevelopment of the Royal Perth Hospital (RPH) is another example of the need for a co-ordinated approach to development across all levels of Government. The Department of Health has undertaken an agenda of health reform investigating such areas as the consolidation of existing health services. The State Government has decided to retain and upgrade the RPH facilities and redevelop the residual land. Whilst a steering committee of planning agencies comprising State and Local Government representatives has been established to prepare the master planning for the area, greater involvement of service agencies such as the Department of Transport and the Public Transport Authority is required to ensure a co-ordinated approach to the redevelopment is achieved.

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?

Good coordination:

- Provides a clearer understanding of where future urban development will occur and at what density, the level of service required for the projected population and economic growth and greater certainty for the timely provision of infrastructure.
- Reduces compliance costs through streamlining of the development process
- lessens delays in the DA process and therefore increases certainty to developers and the community greater consistency in the planning approach.

Poor coordination

- lack of necessary infrastructure such as public transport, schools and community centres and in the range of services provided in new developed areas on the urban fringe.
- Result in delays and resultant financial costs and possibly a less marketable product for developers
- lack of delivery of overall planning outcomes and delay the timely processing of development applications, impacting on developers and residents/businesses.
- increased costs and reduced availability of services for all
- Lack of coordination in the State and federal building standards represent a barrier to innovation in higher density building forms and building materials within urban renewal areas, due to increased compliance costs.

Within State jurisdictions, co-ordination between local and state government can often assist in positive development outcomes and streamline the planning and approvals process. An example of this has occurred in the approval of coastal developments in Perth, and the WA State Government's height policy for coastal developments. The policy provides clear guidance to a number of local authorities along the coast who were experiencing development pressure. Instead of various local governments contradicting each other there is now a uniform, albeit not unanimously agreed, height limit for coastal development being capped at five stories. This provides consistency in decision-making and a level of certainty for the development industry.

The Queensland State Government's Sustainable Planning Act 2009 (SPA) encompasses regional planning and seeks to standardise planning schemes across Queensland. Whilst the need to have

a consistent planning framework is supported there is little flexibility to allow Brisbane to articulate capital city functions. For example, Brisbane's CBD as a principal centre is not the same as a principal centre in Cooktown or Beaudesert. Ability to reflect the national planning criteria for capital cities in support of COAG planning reforms is essential.

Given the significance of large urban economies to national economies, a key issue to consider is how planning arrangements might deliver outcomes which are more effectively tailored to increasing efficiency and competition for businesses within Australia's large cities.

In NSW the State Government has announced moves to override council controls through the introduction of Competition State Environmental Planning Policy; this will have the potential to create uncertainty for community, proponents and existing landowners. It has the potential to vary the consistent application of local policy and therefore undermine council development policy more broadly. The consistent approach applied by Council policy is a strength when applications have been challenged in court.

3. Impact on competition

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?

The planning system impacts on competition through its regulation of zoning and use of land. Planning systems do not aim to restrict competition; rather this may result from addressing one or all of the above objectives, which are integral to the effectiveness of functioning cities.

Zoning has an influence on the cost, development potential and availability of land for different uses:

- statutory town planning schemes determine what uses can be considered within an area or on an individual site, the density of housing that may be developed, the configuration and design of developments and the types of services to support development (from utilities to community centres). The approval of similar land uses within an area can increase competition and affect the ongoing viability of existing operators
- regulatory planning provisions may constrain activity and reduce competition through the imposition of such controls as special design guidelines, maximum building envelopes and floor area for proposed sites
- the declaration of an area or individual building as being of heritage significance can impose additional requirements regarding its conservation and use. Conditions imposed on development approvals can restrict such matters as use, operating times, signage, and design which can impact on the ability of a business to be competitive in the marketplace.

Fundamentally these restrictions are designed to create an efficient and effective spatial framework for our cities to function.

The imposition of regulatory planning provisions serve a number of social, economic and environmental purposes including, but not limited to the:

- orderly and proper planning of a locality
- protection of the amenity and liveability of a community, area or individual resident
- enhancement of the physical quality and character of a streetscape, built or local environment
- retention and conservation of the heritage fabric of a locality
- preservation of compatible land uses
- provision of necessary public infrastructure and maximising the benefits and investment
- provision of a diverse range of uses, goods and services
- provision of a full range of housing types and densities that meet the needs of all people
- ability to cluster mixed uses and infrastructure in planned centres to maximise public transport patronage, increase social interaction and create vibrant public places
- protection and future management of natural resources and the environment.

As an example, Brisbane's planning scheme provides a sound balance between development control, competition in the market and natural change in the economy of a city. The following are key points to be made about Brisbane's planning and assessment system and impacts on competition:

- Council's centres hierarchy allows for a range and mix of retail, commercial and residential activities without the necessity for a publicly advertised development application.
- it is the property ownership of particular areas that can prevent competition. Council has little control over anti-competitive practices that may prevail in centres, including agreements signed with major tenants (eg supermarkets) and the ability of a small number of land owners to restrict supply or access by the market

- Brisbane's exposure to "gaming" of appeals is somewhat limited due to the State Planning legislation and provisions of the Brisbane City Plan 2000. In SPA the power to alter land zoning rests solely with the local authority. These provisions remove the ability for competitors to disrupt development applications during the assessment process, or lodge appeals against approvals. SPA also provides for the Court to award costs against a party if "the court considers the proceeding was instituted or continued by a party bringing the proceeding, primarily to delay or obstruct" (Section 457(2) (a)). This allows the Court to penalise anti-competitive behaviour
- in most circumstances tenancy changes within existing buildings in designated commercial centres and industrial areas are allowed without the need for planning approval. In addition, most applications to extend or construct new buildings within commercial centres and industrial zones are Code assessable development ie no third party appeal rights
- inability to locate within a centre can prompt lodgement of "out of centre" development applications. These are impact assessable and trigger third party appeal rights. The most common anti-competitive appeal in the BCC jurisdiction, are appeals lodged against commercial proposals outside the designated commercial centres. Whilst it is possible to make such applications Code assessable and not open to appeal, these are circumstances where community interests are appropriately sought
- child care centres approvals in the past have also been the subject of competitor appeals. Particular operators have been regular litigants against approvals for other childcare centres in close proximity to any of their existing premises
- urban renewal strategies in inner city areas have resulted in some inevitable conflicts between industrial and residential requirements. Council has identified the key industrial growth areas of the city and has developed appropriate buffering policies to ensure that residential developments are protected while industrial activities are supported within key areas
- Council's approach to consultation on planning and zoning is generally in excess of any requirements of State legislation, particularly for development of Neighbourhood Plans. Key stakeholders are specifically targeted with workshops, focus groups, business breakfasts as well as traditional methods of accessing the broader community.
- Council publishes a plan of its local infrastructure investment over a 20 year planning schedule. Infrastructure charges are carefully apportioned between users to ensure that the costs are fairly distributed. The infrastructure charging framework provides for developers to be reimbursed some of their costs if they contribute necessary trunk infrastructure.

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?

While it is understood that 'competition' is fundamental to the purpose of this review it would be beneficial for this meaning and purpose to be discussed more fully. For example are we examining the impacts on retailing and grocery prices, or is it broader than that. Further, the ACCC report on competitiveness in the supply of groceries the main issues are:

- there are only two major supermarkets in Australia that enjoy a healthy monopoly
- there are supply chain issues and leasing practices that prevent new entrants into the market

Sufficient land supply is not the only answer. It is more complicated. The only way planning can encourage competition is to interfere in who occupies retail space – i.e. approving a Woolworths' over a Coles because there is already a Coles close by. This is not possible under planning legislation. Councils' capacity to do anything about competition is minimal. One other way to encourage new entrants is to identify good locations for retail (i.e. centres) so new entrants can benefit from good transport infrastructure and benefit from co-location with anchors/ compete with anchors.

Are there particular examples where planning, zoning and DA systems are especially effective at encouraging competitive outcomes?

Planning systems allow for competition, the amount of businesses within the same field or industries that may operate in the one area are not precluded. As part of consultation procedures on development applications, objections may be received from existing business operators in a locality to the establishment of a competitive operator. Anti-competitive objections are not legitimate planning concerns and a development would generally not be refused because of an objection from a competitor. For example, the City of Perth City Planning Scheme No. 2 encourages the development of restaurants, cafes and nightclubs in Northbridge, in what is already Perth's primary entertainment and night life area. Generally in the City of Perth, a mix of land uses are encouraged under the various zonings under its City Planning Scheme No. 2, which results in a high level of competition and in a number of cases, the use with the highest financial return generally prevailing. Greater flexibility allows for greater market choice.

The City of Adelaide Development Plan (statutory land use document) encourages a wide range of land uses throughout the Council area which encourages and facilitates competition. For instance, larger scale commercial and residential development is desired in the Central Business Area and Mixed Use Zones that cover the northern part of the City centre. Similarly, there are areas where only low-scale residential and low-intensity commercial development are desired. The zoning policy framework reflects the types of land uses and physical appearance that is desired in various parts of the City.

Town planning by its very nature places controls around land use and development to produce acceptable economic, environmental and social objectives. These objectives are balanced against each other, but the underlying objective should be to ensure that planning controls contain an adequate supply of land and floor space in the appropriate locations to meet objectives and allow competition to flourish to ensure that planning potential. This approach was taken in the planning for the Green Square Urban renewal area in southern Sydney and informed by a retail study which can be found at:
http://www.cityofsydney.nsw.gov.au/Development/UrbanRenewalProjects/GreenSquare/GreenSquareSouthernAreasRetailStudy2008.asp

However, concerns about the economic well-being and sustainability of existing and planned centres are legitimate planning issues and concern. It is important that planning objectives and controls make this distinction to provide clarity and certainty for proponents, property and business investors, and government. The concern for government is that significant infrastructure investment is made into centres and is supported by planning controls which encourage development in and around these centres.

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

Regulatory requirements can unnecessarily restrict the final use of a site if they are not regularly reviewed. This highlights the importance of reviewing town planning schemes, strategies and plans to ensure that they reflect the current and future needs of a locality. Overly prescriptive rather than performance based provisions can limit development. Onerous regulation and over regulation can constrain the development of sites and negate an optimal development outcome. Some regulatory requirements can be contradictory and result in confusion. Interpretation and clear guidance is required to ensure the desired planning and development outcome is being achieved.

Although the focus is on planning, zoning and the DA process, it needs to be recognised that a number of regulatory requirements outside the planning sphere can unnecessarily restrict the final

use of a site, for example the restriction of retail trading hours within Western Australia under the *Retail Trading Hours Act 1987*. The *Liquor Control Act 1988* may also be seen as unfairly regulating the use of premises on which liquor can be sold and the services and facilities provided in conjunction with the sale of liquor. Other instruments which impact on the final use of a site, but not unnecessarily, include the *Disability Services Act 1993*.

The requirements under the *Building Code of Australia* (BCA) can also impact on the final use of the site. For example, residential dwellings and short term accommodation are classified under different classes in the BCA which precludes the location of both uses within a building as clause 22(2) of the *Building Regulations 1989* states that the use of a building shall not be changed from one class to that of another class unless the building complies with the requirements of the Building Code applicable to the new class. The BCA can also restrict the conservation and re-adaptation of buildings of heritage significance.

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

Consultation is a legislative requirement and an integral part of the decision making process which allows the community to engage in planning and decision making at a local level. The preparation of town planning schemes and amendments to them are subject to a process of public consultation.

The minutes of most cities' council meetings are public available on their websites.

All Australian planning systems set criteria for public consultation in legislation. Councils are required to liaise widely with the public (which includes residential and business interests), government agencies and adjoining Councils when they are proposing changes to zoning.

Most councils go beyond the basic statutory requirements for consultation. For instance, in Adelaide a recent *Development Plan Amendment* (DPA – is a change to zoning), Council contacted all affected residential and business property owners affected by heritage listing, and individually met with key business and industry stakeholders to gain feedback during the consultation phase.

In Tasmania, the process for introducing new planning provisions is extensive with opportunity for business and the public to comment on the proposals before they are formally released for comment through the *Land Use Planning and Approvals Act 1993* notification and hearing process. Officer reports on new provisions are made public as are the findings of the Tasmanian Planning Commission on its deliberations on the planning proposals.

In Perth, major region scheme amendments are subject to comment from affected landowners and infrastructure providers for a period of three months. Amendments to local planning schemes involve a 42 day public advertising period. It is further noted that these are minimum periods for consultation. A local government authority can decide to extend these periods when undertaking amendments to its Scheme. Additional and tailored consultation, in addition to the required sign on site and advert in the paper, can and is often undertaken in the form of community and stakeholder meetings, information sessions and booths at key local community facilities and written materials such as pamphlets explaining what is proposed.

Local Government has long established procedures, codes of conduct and legislative requirements to ensure its planning processes are transparent and accountable. The City of Perth's City Planning Scheme No. 2 contains mechanisms providing for consultation on development applications for unlisted uses and for other uses as the Council may direct, and as part of the formulation of planning policies. Council and Planning Committee meetings are open to the public,

and all agendas and minutes of these meetings are publicly available. The City of Perth in preparing the City Planning Scheme No. 2 undertook significant public consultation including internal and external information sessions and workshops.

In the case of residential development, Perth's Part 4 of the Residential Design Codes (R Codes) provides for a consultation process to be undertaken where developments require discretion by Council under the R Codes or under an adopted local planning policy and the proposed variation may adversely affect the amenity of an adjoining property. The R Codes details the procedure for consultation and an applicant's opportunity to respond.

In a recent example in Sydney, as part of the rezoning process for a 10 hectare urban renewal site at Harold Park the City of Sydney have conducted three community forums, exhibited six supporting draft technical studies prior to statutory consultation.

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?

City councils assess the potential benefits and costs of a change to planning controls through rezoning. If new planning provisions are likely to have an economic impact then these impacts should be considered at the time they are formulated and during the consideration and adoption process. The issue of competition, however, is but one part of the economic impact and would not normally carry determining weight when considering all the other factors within the planning equation.

The City of Adelaide will soon investigate opportunities for increasing development potential in parts of the City through a Population Capacity DPA. Further increasing development potential in the City provides more opportunities for a range of business activities to take place. An increase in opportunities will create an increase in the number (and therefore competition between) businesses in the City.

In considering requests for the rezoning of an area or site, the City of Perth's primary concern is the orderly and proper planning of the locality as legislated for under the *Town Planning and Development Act 2005*. Whilst the economic impact of a rezoning proposal would be taken into consideration as part of the assessment process, this would not be a primary factor.

The City of Sydney's underlying approach is to ensure an adequate supply of land and floor space is provided in the City's planning controls. The City measures this regularly through two separate Studies, its Floor Space and Employment Survey and Capacity Study. The Floor Space and Employment Survey coincides with each national census and collects detailed information for each building about industry, numbers of employees and composition of floor space. It provides the City with an accurate data base upon which our research is based. This data detailing existing floor space is then compared to key development controls to determine future capacity. A copy of Sydney's most recent Capacity Study can be is available on the city's website at http://www.cityofsydney.nsw.gov.au/Development/CityPlan/CoSCapacityStudy2008.asp. These studies guide the city's plan making processes and help to ensure that there is an adequate supply of floor space in appropriate locations to support government infrastructure investment.

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?

These issues should not occur if planning schemes are: a) reviewed frequently b) based on thorough research and consultation and anticipate trends in development and industry c) are supported by solid strategic planning platforms that allow for some discretion in applying controls because there is a clear strategic direction in place.

On the other hand in some instances zones are meant to prevent new entrants in certain areas for good reason. For example evolving industrial/ commercial uses are not always suitable uses in traditional industrial zones.

The preclusion of new industries and the continued existence of particular industries in some locations can arise from a local government authority's failure or delay to review its town planning scheme in a timely manner. The overly prescriptive nature of older town planning schemes in operation within some local government authorities can also preclude innovation, new development and technology and preclude local governments from being able to respond to market changes. In WA, local town planning schemes are required to be reviewed and updated every five years.

A lack of flexibility in the zoning process can restrict new business. This is evident through the land use tables in town planning schemes and where industry and business are continually evolving to meet market and consumer demand, that a particular use may not be adequately considered or prohibited.

WA's Model Scheme Text provisions and definitions in terms of land use and the need for all local town planning schemes to adopt and adhere to them can also limit new uses. Whilst the Model Scheme Text may allow for consistency in Scheme provisions across local government authorities, it needs to be regularly reviewed to ensure that it remains relevant and allows for consideration of local conditions. Some businesses do not readily fall within the land use definitions in local planning schemes and unless there is some flexibility and discretion available to officers, a use can be unnecessarily prohibited or curtailed. The local authority has no discretion to approve a prohibited use and a lengthy scheme amendment process may need to be instigated to allow for the proposed use, leading to delays in the entry of the new business into the economy.

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?

Fractured ownership can be a common barrier to coordinated development or redevelopment of land. In some instances it may be advantageous for governments to amalgamate allotments but this approach is often not necessary or desirable as it may work contrary to planning outcomes sought. Generally it is not a local government authority's role to resolve the land ownership issues within developments.

The time and effort to amalgamate sites can be cost prohibitive for some developers. It also allows governments to determine the development outcome rather than leaving it to the market. This can result in improved physical and social outcomes.

Another option would be to amend planning and zoning policies to provide increased development potential of land on larger allotments (ie allow higher densities). This will incentivise and encourage land owners and property developers to consolidate their allotments in order to achieve a higher economic return.

The City of Perth has prepared numerous minor town planning schemes to cover specific areas around the city and enable the subdivision of larger lots whilst retaining the co-ordinated development of the land. The purpose of the minor town planning schemes includes:

- comprehensive development of the land areas as a whole in a co-ordinated manner;
- adequate provision of landscaped areas;
- provision of pedestrian facilities;
- determining development standards such as car parking and plot ratio; and
- retention of heritage buildings.

The minor town planning schemes allows the City to enter into any agreement or arrangement with the owner of any land within the scheme area for the purpose of attaining any of the scheme's objects.

In addition to minor town planning schemes, special control areas for the development of specific areas have been prepared. For example, the Metro Markets Special Control Area was introduced to facilitate the development of land, pedestrian and vehicular access within the subject area as a whole in a co-ordinated manner.

Within the Perth metropolitan region, historically guided development schemes have also been used by some local government authorities to facilitate and encourage the progressive subdivision and development of land within a specified area.

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?

As part of public consultation processes, objections can be lodged by business competitors within the same field of business or industry to the establishment of a competitor within an area. Any submissions based on precluding the introduction of a competing operator are generally not based on sound planning concerns and would not prevent approval of a development application.

The transparency of local government procedures and the emphasis on public consultation can serve to negate the need for appeals

This is not an endemic problem in the South Australian planning system. This may be in part due to the limited opportunities to submit third party appeals.

The extensive public consultation undertaken, in excess of the minimum legislative requirements, by the City of Perth in formulation of the City Planning Scheme No. 2 resulted in a scheme which is flexible in its implementation and consideration of applications.

The appeal process within Western Australia consists of independent review by the State Administrative Tribunal, with limited third party rights of appeal.

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

An example of gaming that may occur in zoning and DA processes would be the lodgement of objections by existing businesses to the establishment of a competitor as part of any public consultation process undertaken on a development proposal. If these objections were not based on sound planning principles, they would not preclude approval of the subject development.

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?

Government regulations are put in place to protect environments and have been developed over many years and often in consultation with the wider community. While government is increasingly entering public private partnerships with private sector developers, it is imperative that there is no differential treatment in the zoning or DA process. However in working with government agencies in project developments, the private sector will contribute intellectual property and innovation with speed to market, while government will provide a thorough understanding of processes and procedures in progressing developments. The utilisation of existing processes is not considered preferential treatment, rather the knowledge and understanding of process is tantamount in achieving quick approvals and speed to market.

With respect to the City of Perth, its decision making processes are transparent and accountable. Each landowner, applicant, developer is treated equitably in the same manner and developments assessed on their compliance against the City Planning Scheme No. 2, strategies and plans. In the case of any development application made by, or on behalf of the City, clause 42 of the City Planning Scheme No. 2 requires the application be referred to the WAPC for determination. The development of the Perth Convention and Exhibition Centre (PCEC) involved partnership between the State Government and a private developer. In this case, the required reclassification of the reservation of the land was facilitated ahead of the development application being submitted.

Concerns of differential treatment have been a topic of some discussion within SA, the Major development status that removes a project from the normal planning process, are often to differential and favoured treatment – for example relatively small projects (in North Adelaide) given major project status for no apparent transparent reason.

Section 46 of the SA Development Act 1993 enables the Minister to declare a project as being a "major project" or "major development", thereby removing the project from the normal planning process, which often involves local government decision making power being removed.

The legislative criteria to designate "major project" are broad, with some of the discussion within SA suggesting that more tightly defined criteria are needed for transparency and governance accountability, and in order to lessen concerns regarding differential and favoured treatment. Council suggests that tighter criteria are needed, including a close alignment to the 30 Year Plan for Greater Adelaide. Such criteria should be developed in a consultative manner.

The normal planning process in Adelaide involves applications being assessed according to the Development Plan policies. This means that developers in bidding to acquire a site understand what the rules are and the level of risk they take when bidding for a site. When a site is designated as being subject to the major project process, the assessment rules are different, entailing that the value of the land is affected, usually resulting in inequitable development gain.

The major government created uncompetitive environment is the Commonwealth controlled airports. These facilities offer commercial opportunities with no reference to the wider regional planning objectives and unlike other commercial centres are not subject to economic impact assessments that major developments outside of these zones would normally be subject to. This competitive advantage is accentuated in smaller regional centres where a major commercial development at an airport can significantly alter the commercial centre landscape of a city or town much to the detriment of that city or town.

Perth provides experiences exemptions for public works on reserved and zoned land under region schemes in some circumstances but that this would not be considered preferential treatment for developers involved in undertaking these projects.

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?

The Adelaide City Council promotes new forms of development on Council owned land. For instance, the Balfours/Bus Station development, Sturt Street affordable housing development, the redevelopment of Council's former depot in Halifax Street and a new affordable housing project in Sturt Street (in the early stages).

As part of its' strategic property program, Council interacts with private developers in a variety of ways. For example:

- any actual development project needs to obtain a planning consent. As Council has a commercial interest by way of its ownership in the land, it is legally unable to be the planning authority, with this role being undertaken by the State Government's Development Assessment Commission
- for the Balfours/Bus Station project, Council initiated a proposal to rezone the land it owned in order to enable the preferred redevelopment concept to be able to obtain a planning consent. Whilst Council initiated the rezoning, the rezoning process followed the usual Development Act 1993 steps of investigation, consultation and review, with the final decision being made by the State Government Minister for Urban Development and Planning, and the Minister's decision being reviewed by Parliament's Environment, Resources and Development Committee.

These processes ensure that Council, where it has a commercial interest, remains at arm's length, with the final assessment of the planning outcome being determined by the State Government.

Some of the aims of these projects are to provide social benefits through offering different types of development (eg affordable housing), providing economic and business opportunities and to revitalise certain parts of the City. These can have positive impacts on the surrounding communities and often lead to an increase in development demand. These projects also offer opportunities to push beyond traditional design approaches and achieve better outcomes that used in the private sector.

As previously stated, Commonwealth land that is not subject to an integrated approach to commercial centre planning provides an unfair competitive advantage.

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?

Information on proposed developments is available to local communities and potential land buyers/users during the planning, zoning and DA processes.

Hobart City Council posts all discretionary applications on the Council web site as are planning scheme amendments and new planning schemes. Hard copies are available for people to view within the Council centre during opening hours.

The City of Perth Planning Scheme No. 2 contains mechanisms for the advertising of development applications. Agendas and minutes of development applications considered by Council and the Planning Committee meetings are publicly available on the City of Perth's website. Information on current major developments within the City is also available on the website. The amendment or

review of a town planning scheme involving the rezoning of land comprises an extensive consultation period.

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

Further definition and discussion of the meaning of competition and its application to the planning system is required to address this question.

In Adelaide, the Environment, Resources and Development Court (ERD Court) have made a number of decisions/judgements concluding that competition is not a planning consideration. When Council Development Plans are not regularly updated, they can fail to keep up with development trends (eg bulky goods outlets). Inappropriate siting of development can have a negative impact on a community and can influence the viability of existing businesses.

The City of Sydney's underlying approach to facilitate competition is to provide enough zoned land in appropriate locations. This is achieved through researching future demand and then assessing the capacity of planning controls.

In NSW, the State Government sets targets to ensure adequate supply.

To what extent does influence by interested parties, particularly those who may be politically active within the community, affect the decision-making processes? Does this improve or worsen outcomes? In what way? Do the views of these parties typically reflect the broader community sentiment?

The actions of interested parties, be they existing land owners, businesses or interest groups with particular political or social agendas can have some influence on the decision making process. This can occur through involvement in the public consultation process and the ability for such parties or individuals to lobby elected members on Council. The nature of public consultation is that it allows for an individual or group to participate in the decision making process. Similarly, any ratepayer or stakeholder can approach an elected member of Council to discuss matters under their consideration.

Outcomes can sometimes be positive, other times negative. In some cases, the views of particular interest groups or parties may not reflect the broader community's views and can dominate public forums. Regardless of the outcome this influence must be monitored and regulated and to this end, Councillors are required to declare an interest in items and any conflict of interest must be scrutinised. If the decision-making process is to be maintained in a fair and equitable manner, transparency of interest within and to the broader community must be maintained. This will allow community sentiment to be gauged and necessary review of process to be actioned.

Excessive influence by vested interests or vocal opponents can have a negative impact on good planning outcomes but often are part of a democratic process.

Public involvement is an important element to a successful planning outcome. It is the public consultation process that often brings new facts to the table that may not have been considered or adequately addressed. Importantly it also gives the public the opportunity to be informed by the arguments for and against the proposal.

4. Impact on compliance costs

Are there particular examples where planning, zoning and DA systems are especially effective at minimising unnecessary compliance costs for business?

The exemption of minor development from the requirement to obtain planning approval removes unnecessary compliance costs for business. The City of Perth is currently reviewing the types of development that require planning approval with a view of extending the range of developments that may be exempted from the need to obtain planning approval under the City Planning Scheme No. 2. Furthermore, in Western Australia, landowners and developers are not required to obtain planning approval for a single house unless the exercise of discretion under the R Codes is required.

Local governments in Western Australia have been delegated the power by the WAPC to determine most development applications under the MRS in addition to determining applications under their own local planning schemes. This reduces the compliance costs with business only having to seek the approval of a single assessment authority. It is noted that there are still a few circumstances whereby a development requires approval under the local planning scheme and under the MRS. This is a problematic process where it does occur and has been identified by the DoP in its *'Building a Better Planning System'* paper as an area which requires addressing.

The WA *Town Planning and Development Act 2005* prescribes that a development application is taken to have been refused where notice of planning approval or refusal is not given to the applicant within 60 days of receipt of the application or such further time as may be agreed in writing between the applicant and the determining authority within that period of 60 days. Should an application be deemed refused, rights of appeal are available to the applicant.

The divesting of an appropriate level of delegation from elected members to Council officers to determine development applications can also minimise unnecessary compliance costs by reducing processing times for development applications.

Where electronic DA processes have been implemented, have they had any material impact on compliance costs?

Electronic DA's can speed up the assessment of applications provided all the correct information is lodged.

Brisbane City Council is currently piloting electronic DA processing. During 2009/10, 473 electronic applications have been lodged and assessed. The business case for electronic Development Assessment (eDA) has conservatively estimated $31M in savings for the development industry and $9M savings for Council over the first 5 years. Other jurisdictions (Victoria and ACT) have reported a 30% reduction in decision time resulting from electronic processing of applications. Brisbane will be monitoring this statistic as a component of its pilot evaluation.

In Adelaide electronic lodgements have been limited to land divisions (state wide application through EDALA lodgement system with State Government).

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

Significant variations exist between jurisdictions in the definition and regulation of development. The introduction of standardised planning schemes by having a mandatory land use zones, definitions and formats would ensure land uses are consistent between local government jurisdictions although some local variation should be expected depending on the location and context of an area.

The City of Perth would not impose the same development requirements as a suburban local government authority as the area, scale of development and issues are incomparable. The introduction of the Model Scheme Text, a set of core legal and administrative provisions applied to all local planning schemes has assisted in achieving greater consistency with respect to development requirements. The R Codes also aim to provide uniformity of residential development standards, consistent with local needs.

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

As a local government authority it is not within cities purview to comment on whether planning, zoning or DA costs are unnecessarily high. The broad principle of value for money should be applied, in that the costs imposed should reflect the level of service provided. Cities are aware that some costs may be prohibitive, for example water head works costs within the Central City in Perth are high.

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

Measurable factors may include:

- the number of Government department/authorities/agencies from which approvals are required to be obtained
- the number of conditions imposed on development or subdivision of land and the number of different Government agencies involved in the clearance of these conditions
- the level of delegated decision making powers available to Council staff
- cost of application fees
- length of time taken to assess applications
- Standardisation of provisions across jurisdictions.

The primary difficultly in making valid comparisons between jurisdictions is the variability in the planning schemes. The key indicators are typically numbers of applications and decision time. For example, a jurisdiction that has worked hard to simplify regulation and deregulate development activity, would report higher decision making times and fewer DA's assessed due to an increased level of complexity. Accessibility to green field sites, the age and availability of major infrastructure can also determine how quickly a development application can be assessed. A study which identifies all of the types of potential development and how each jurisdiction regulates these would be useful to provide a real benchmark of the burden of compliance in each jurisdiction. Other process metrics, such as decision time, can then be applied within like for like comparisons.

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?

The timely delivery of rezoning is imperative in speeding up the land delivery process. It is often suggested that the delay in the zoning process is linked to process. Hence the simplification of process and the provision of clarity and transparency are imperative. The need for local authorities to have relevant and up to date planning schemes, which facilitate current demand, is also imperative.

The key determinant as to the timeliness of rezoning in Adelaide is the degree to which the proposed rezoning aligns with the State Government's 30-Year Plan for Greater Adelaide. The rezoning for the Balfours/Bus Station project, which facilitated a significant regeneration project within the CBD, took 13 months.

Where there are multiple desirable outcomes that need investigating and consultation to determine appropriate balanced policy outcomes, the timelines extend. For example, balancing growth and heritage, or balancing City vibrancy with safety. One benefit of the 30-Year Plan for Greater Adelaide is that the strategic plan has quantified population targets and a framework that makes proposing zoning changes more certain as the strategic goals are clearer. Nonetheless, the detailed investigations needed in some circumstances extend both the time and the cost.

The other element that is essential but adds time is ensuring the proposed zoning is defensible in planning assessment within the court system. Legal advice is essential to assist council staff in writing proposed zoning so that the intended planning assessment outcomes are able to be supported (if and when challenged) through the courts system.

In Adelaide, the rezoning of land requires Council's to work with the State Government to progress and finalise. There are limited State Government resources afforded processing these applications stretching some proposals out to many years. The process needs to be simplified and made more time efficient.

In Hobart, it depends on the complexity of the rezoning and the completeness of the submission. Additional resources at the State Government level may assist in reducing consideration times at that level.

Timeliness in land rezoning is always an issue in Western Australia. The State's economy has experienced unprecedented growth and the speed to market for land subdivision is lagging behind supply. The rezoning of land is a statutory process prescribed under the *Town Planning Regulations 1967*. The amendment or review of a town planning scheme involving the rezoning of land involves a number of approval stages at Local and State Government level and an extensive public consultation period. The DoP's *'Building a Better Planning System'* paper recommended consideration being given to the reduction of public advertising periods for amendments to region schemes from three to two months, and for local schemes from 42 to 30 days. The City of Perth supports the reduction of public advertising periods for minor region scheme amendments, but the consultation timeframes for other amendments should be retained to ensure maximum community participation in the planning process.

The introduction of the WA *Planning and Development Act 2005* transferred the responsibility for gazettal of local planning schemes and amendments after final approval by the Minister for Planning from the WAPC to local government. Some delays have occurred in gazettal of local schemes and amendments and this is another matter recommended to be addressed in the DoP's *'Building a Better Planning System'* paper

An external factor that has impinged on the timeliness in processing rezoning applications is the appropriate resourcing of State and Local Governments. Rapid economic growth in Western Australia up to 2008 resulted in the State experiencing significant labour and skill shortages at the same time as there was heightened development activity. Inadequate resourcing directly affected the capacity of the DoP and local government authorities in securing skilled staff to process rezoning and development applications in a timely manner.

It is also noted that delays can and do occur in the rezoning process as a result of applicants not providing adequate information for State and Local Governments to undertake assessment. Greater clarity as to information requirements would assist in minimising this.

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)?

The lodgement stage of the DA process can be improved by ensuring appropriate information is provided for the submission of development applications.

There is a need for greater consistency in submission requirements between jurisdictions as well as a better understanding by applicants of the submission requirements. This will provide greater certainty for developers and the business community, improved processing times and more efficient use of planning resources

It must be acknowledged that considerable delays in processing times can and do occur, because of the failure of developers, landowners and applicants to submit the required documentation at time of lodgement and during processing of development applications. Therefore the more pre-application assistance that can be provided the greater scope there is that the applicant does not have to provide additional information to allow the application to be assessed.

Adelaide City Council has a sophisticated and well-resourced approach to assessing development applications. Pre application assistance, tracking systems, appeals and external agency referrals are all conducted in a timely manner.

Brisbane City Council has had a comprehensive program of reform over the past two years to improve the timeliness of development assessments. The process began with development industry consultation regarding the causes of dissatisfaction with the development assessment approval process. The root causes and key impacts on housing affordability were found to be:

- inefficient business systems and processes and complex regulatory frameworks
- poor access to customer information regarding development assessment requirements
- applications being not well made and incomplete
- retention of skilled staff.

The City of Perth processes development applications in a timely manner, with simple proposals (e.g. change of use applications which comply with all Scheme and policy requirements) processed in 15 working days. More complex applications requiring a detailed and comprehensive assessment and which may involve consultation with external parties can take between six to eight weeks.

The City of Perth also provides considerable pre-application assistance to landowners and developers. The City's planning officers and architect often hold pre-lodgement meetings with landowners and developers to discuss preliminary plans and proposals prior to a formal application being submitted. This allows for issues to be resolved and the facilitation of a better planning outcome for the development, landowner and the City of Perth.

The City of Sydney has recently examined development assessment times and processes and compared them with those recently introduced by the State Government to support the Nation Building program. In the 3month period tested these so called fast track processes were not significantly faster on average compared to DA determination times by the City of Sydney which included notification obligations. The city's submission on this issue can be made available upon request.

The establishment of standardised delegations for the consistent processing of development applications from one local government to another should be considered. This would provide greater certainty and consistency in the way development applications are processed from one local authority to another. The elimination of the dual development approval process in Perth would also improve the DA process. There can also be inconsistent or conflicting conditions imposed which can cause problems and further time delays for the developer in attempting to seek clearance of the conditions from the relevant authorities.

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

In Adelaide, development plans are not always clear with their policy guidance and expression. This can lead to uncertainty for developers undertaking projects. Timing also has a big influence as land holding costs have to be factored into the time it takes to assess proposals. It is important that their controls contain some flexibility and certainty.

Applicants often seek a staged Building Rules Consent process for large scale developments to allow for demolition before the entire replacement building is given Building Rules Consent and Development Approval. Developers seek this to reduce time delays in the application process and costs. However, by granting Development Approval in a staged manner, there is no mechanism for Council to require the developer to complete the whole project where the work does not proceed past demolition. Where this occurs, the outcome can be sites that remain vacant and visually unappealing for extended periods of time, loss of an economic use of an existing building and where the building is of historic or character value, the loss of that building.

Undertaking large projects can be a risky process. City councils help to facilitate the processing of applications where ever possible.

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

The SA State Government recently released a 30 Year Plan for Greater Adelaide. The Plan aims to increase consistency between Councils and regions. In addition, the Better Development Plans project aims to improve consistency and expression in Development Plans across the State.

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?

This requires a detailed analysis of a series of planning approval conditions to provide meaningful comment. Limiting hours of operation in licensed venues may not increase running costs of businesses but will impact on their ability to make money. There are good reasons for implementing some of these conditions (eg social impacts – such as alcohol related violence in busy strips where venues are open late).

5. Impact on efficiency and effectiveness in the functioning of cities

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

All the Australian capital and major cities should be included in the benchmarking for this study. The challenges faced by the capital cities are similar and would allow for comparable measurement in terms of establishing benchmarks for planning, zoning and DA systems.

The City of Sydney has a comprehensive and accurate data base in its Floor Space and Employment Survey and supporting capacity studies which provide a sound basis for further and detailed analysis. The city would happy to provide assistance and be a part of future benchmarking.

Metropolitan Adelaide should be included for benchmarking in this study. The South Australian planning system has been affected by substantial reforms introduced in June 2008. Many of these reforms were aimed at stream lining the planning process and placing greater emphasis on moving the planning system away from low risk, small scale development towards strategic planning of the City over the next 30 years.

The City of Perth is particularly interested in being included in the benchmarking for this study as it is continually striving to improve the efficiency and effectiveness of its planning procedures.

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

The characteristics which make a city liveable and easy for business to operate include, but are not limited to:

- accessibility and affordability for people of different ages, incomes and needs
- socially just, inclusive and supportive of participation by all people in social, economic, educational and cultural activity
- economically efficient – engaging businesses and citizens in participating and supporting a competitive and diverse economy to provide essential city functions
- strong economic and employment base, with the equitable distribution of jobs
- environmentally and socially sustainable – development that is environmentally friendly and responsive to safety, universal design and community development issues
- diversity and vibrancy – recognising the diverse and changing needs of the citizens are understood and catered for
- integrated public and private transport networks designed to reduce cost, time and travel
- access to the workplace. Long commute times lead to reduced business performance and increased decisions by businesses to move to other locations
- good urban design that identifies protects and builds on existing streetscape and character.
- certainty and consistency of decision making processes
- grocery prices
- strategic and statutory planning mechanisms in place.

What challenges do governments and communities face in pursuit of liveability goals?

Some of the key challenges faced by Governments and communities in pursuit of liveability goals are:

- provision of affordable housing for people of all ages, incomes and needs. Part of the affordability challenge relates to the lack of diversity in the housing market
- management of significant population and economic growth and the resultant pressure on existing utility and social infrastructure, transport systems and land supply
- addressing changes in the natural environment and the impacts of climate change on infrastructure and community. The mitigation of greenhouse gas emissions, the preservation of

significant areas of landscape value and the protection of surface and groundwater supplies are just some of the issues that need to be addressed
- tackling increasing urban congestion and the need to better integrate planning and transport
- the co-ordinated planning, management and delivery of projects between all levels of Government.

How can these be addressed by planning, zoning and DA systems?

A co-ordinated planning system can deliver sufficient land supply to meet population demands, provide access to services and infrastructure, whilst protecting natural resources.

An agreement to a strategic framework and overview for the future development of cities by all levels of Government would assist in the pursuit of the above liveability goals.

DA systems set the framework and rules for land use and development. Planning and zoning is fundamental to making cities more liveable however they are only part of the solution. Capital funding by governments and private sector to facilitate the development of public infrastructure is of potentially greater importance to ensure that the plans are delivered.

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?

Poor planning can adversely impact on the functioning of cities by creating car dependency, urban sprawl and a lack of necessary infrastructure for newly developed areas. The provision of social and economic infrastructure, such as public transport, arterial road improvements, schools, health services and shops are important for residents' amenity. Delays in provision of such infrastructure can delay the release of land, increase car dependence and congestion.

The day to day functioning of a city is highly dependent on the effectiveness of its transport network. A significant amount of time, money and energy is consumed in the movement of people and goods around the city. An efficient movement network is crucial. A lack of integration of land use and transport will reinforce the reliance on the use of the private motor vehicle and increase the length of individual trips.

Over regulation and control can lead to over complication of development processes and frustrate the delivery of projects. Regulations unless well tested and applied with discretion can stifle innovation and entrepreneurial abilities of private sector developers and development agencies.

Inappropriate zoning of land for business and resistance to infill development, higher densities and innovative dwelling designs can reduce the provision of a variety of housing types and affect housing affordability. Within the Perth context, this can place more pressure on urban fringe locations to provide the bulk of new housing in the form of single detached housing. Poorly coordinated land releases on the fringe impact on the liveability of surrounding communities.

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

Measurable factors could include, but are not limited to:
- diversity and affordability of housing
- average residential density of dwellings per hectare
- provision of public, social and community infrastructure
- diversity in land uses, goods and services provided
- number of jobs provided
- number of new businesses

- number of small businesses
- number of people employed in the night time economy
- number of hotel rooms within a city
- proportion of creative industries
- availability, level of service and affordability of public transport
- targeted surveys of key stakeholders
- travel times
- spatially based health statistics
- modelling to show how growth affects efficient movement of traffic
- demand for new development in certain areas (can demonstrate success or otherwise of new developments)
- percentage of public transport usage and cycling.

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?

Local government is an effective and relevant decision-making body, one that allows transparency and accountability to the community that it serves. In instances where the local government has been removed from the decision making process less than optimal development outcomes have resulted. This is resultant from the disregard of local policies or scheme regulations, to provide and safeguard built form development outcomes.

As discussed where planning decisions are removed from local government responsibility, compliance with policy and scheme regulations can be ignored and hence unless the project is managed with regard to detailed design issues and design and delivery excellence, there is opportunity for the development to result in less than optimal outcomes due to the lack of checks and measures

Examples of less than desirable outcomes in Perth include the Perth Convention and Entertainment Centre, which is located contrary to its optimal location and based on State government site criteria. The Western Australian Tourism Commission selected the site and took leadership of the project. The WAPC was responsible for the development approval of the project. The PCEC is generally viewed as a poor planning outcome for the State in terms of function, design and integration with the City and its surrounds.

Other instances whereby local government has been removed as the final determining authority in Western Australia include the creation of redevelopment agencies such as the East Perth Redevelopment Authority and the Subiaco Redevelopment Authority. The creation of these redevelopment agencies has resulted in rapid regeneration and redevelopment of the areas under their control. In these cases, the respective local government authorities have maintained a role in the decision making process, with all development applications being referred to them for comment and recommendation. These authorities however have a dual role as developer and planning authority which at times can result in planning outcomes being compromised in order to maximise profit. The respective local authorities also issue all the building licence approvals for developments within the areas under the control of redevelopment agencies.

As part of its reform agenda, the WA State Government is committed to implementing Development Assessment Panels (DAPs) with the aim of expediting planning approvals. The proposed DAPs will consist of five members appointed by the Minister for Planning, comprising a Chairperson (independent member), two specialist members and two elected representatives. The panels will

have the power to determine applications for development of a certain class and value, instead of the existing decision making authorities. The introduction of DAPs will not create a new approval system, as the local government will continue to receive and assess the applications and prepare reports and recommendations in the same way as it currently does. The difference will be that a DAP, instead of the local Council or the WAPC, will determine the application.

The City of Perth has the following concerns regarding the introduction of DAPs:

- it does not address the complexity and lack of strategic co-ordination arising from the number of agencies that are involved in planning within the City of Perth. The DAPs will not replace determinations made by the East Perth Redevelopment Authority or the Swan River Trust. The DAP will add yet another determination authority to an already complex system
- no greater level of transparency or accountability will be provided by DAPs
- DAPs will have no effect on the problems some local governments face in terms of limited resources and expertise (skill shortages) or on a local government's ability to focus on strategic planning. Local government (and the DoP) planning officers will still be responsible for the assessment of the applications, the preparation of the planning reports and recommendations, for the clearing of conditions and enforcement of the planning decisions including any representation required for the review of a decision made by the DAP at the State Administration Tribunal
- Additional costs will be incurred by the City as a result of the operation of DAPs, as the City will be required to provide secretarial services and pay the full administrative costs and sitting fees of the specialist members.

The South Australian State Government is able to 'call in' development applications as major projects to largely remove Local Government from the planning process. This process can add sufficient time to the assessment of applications as there are a series of additional legal requirements placed on the development. It is rare for a major project to take less than 12 months to gain approval. This process also removes local perspectives on various development proposals.

In mid-2008, the South Australian State Government decided that development proposals costing more than $10M be determined by the State Government's independent Development Assessment Commission (DAC) as distinct to the Council's independent Development Assessment Panel (DAP).

This decision has entailed these $10M applications are now "commented" on by the Council's DAP and then determined by the State's DAC, thus duplicating the assessment by an independent panel, potentially extending the timeframe for applicants [thereby increasing costs] and resulting in duplication in processing with Council's planning assessment staff undertaking the majority of the work of assessment to report to the Council's DAP and then the State DAC. This process also duplicates work for the applicants in providing information and seeking comment from the DAP then seeking approval from the DAC.

As a result of this change, the decision making role of the local City population as represented by the Elected Member's on council's DAP has been reduced and certainty diminished as developers cannot rely on the State's DAC and the Council's DAP applying a consistent approach to the City's Development Plan.

The transparency of decision making processes by Council's DAP also differs from the State DAC:

- Council's DAP adopts the practice of hearing objectors and considering the merits of a proposal, and making a decision in public. The DAP has the option of making decisions in

confidence but has not exercised it, with the DAP being comfortable to make decisions in public as a means of balancing the role of a planning authority with public transparency and accountability

- the State DAC hears objectors in public but moves into confidence to consider the merits of a proposal and then make the decision. Whilst the DAC's decision is made public, its process of consideration to arrive at its reasons as to why it makes its decision is not made public.

The roles and responsibilities of Council in the planning process in the Northern Territory are limited. For a majority of development, the Department of Lands and Planning are the consent authority, which means for the most part they are the more appropriately resourced agency to address planning matters. This division of planning responsibilities has resulted in a lack of a coordinated strategic plan for the City.

6. Ensuring adequate supply of land for different uses

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

Environmental considerations:

- protection and management of significant genetic, species and ecosystems
- protection and long term management of water supplies
- protection and conservation of vulnerable coastal and riverine environments
- management of anticipated impacts of climate change.

Social considerations:

- provision of affordable housing
- provision of necessary community infrastructure such as public transport, schools, community centres, child care centres
- regulation of land supply to ensure all have equal opportunity to participate in land purchase.

Economic considerations:

- protection of employment and business
- control of price and ensure fluctuations and price spikes are moderated.

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

Developers may wish to control the release of developed sites/land so as to prevent an oversupply of land on the market, maintain demand and retain higher prices for land. Developers may rationally sell lots at market prices to maximise profits.

Government owned development bodies may wish to regulate the release of land to provide for a desired planning outcome which in the short term may not be financially viable. The staged release of land may also be proposed to ensure the provision of required infrastructure and better planning, rather than the dispersal of efforts which may affect the overall outcome. Government owned development bodies may regulate the flow of land to ensure price and demand are moderated.

Governments can require developers to commence development within a certain time frame to ensure the adequate supply of land, to avoid the 'banking' of land supplies and provide for owner-occupiers rather than investors in the market. This may also assist towards the provision of more affordable housing. Such actions may also over regulate a free market economy, which is responsive to consumer demand and resultant supply. WA Development timeframes have been enforced in built form projects by Landcorp, the Department of Housing and Works and private developers. Enforcement and remediation of contract default however is time consuming, costly and can cause emotional hardship for the purchaser. To date developers have preferred to use a 'carrot' rather than 'stick' approach by offering bonuses for early development. This approach is considered to be more successful.

The conversion of undeveloped land to newly created lots for the market can take a number of years for the final product to be developed. The approvals process for lot production and clearance of conditional approval can affect the timely completion of developments. Delays in obtaining infrastructure and environmental approvals for the subdivision of land can lead to inactive approvals. Economic factors may also impact on the completion of developments. The global

financial recession for example had a significant impact on the completion of developments, with the withdrawal or inability of developers to secure finance.

Since the Global Financial Crisis, regulations and institutional behaviour have further increased the propensity to undertake residential developments within prime inner city locations. Access to finance is impacting on the attractiveness of commercial developments with banks and developers more favourably inclined to loan/invest in strata title residential developments where money can be raised up front through sales 'off the plan'. This is further supported by building regulations which impose less costly building requirements (lower floor to ceiling heights and fewer lifts) for residential developments, increasing profitability of residential sites over commercial prospects for the same lot. The development of a residential product which could be converted to commercial use in the future is highly improbable under current arrangements and ultimately affects flexibility for future land uses.

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?

The SA State Government has a Metropolitan Development Program (MDP) which assesses future demand for land and controls land release. It is not possible to investigate the influence of land supply on Metro Adelaide's fringe on demand for development in the City.

Western Australia has in recent years experienced an inadequate release of land to service increased demand as a result of a growing population and high economic growth. The impact of the land supply shortage is evidenced in reduced housing affordability and increased land prices.

Indicators to illustrate this may include, but are not limited to:

- affordability of housing
- rental vacancy rates
- dwelling construction
- residential lot production and sales
- subdivision activity – number of applications and approvals
- developers stock of current conditionally approved lots available for development
- vacant floor space
- vacant land
- floor space demand
- age of building stock
- unused development capacity.

The SEQ Regional Plan identifies an urban footprint and growth targets for local authorities in SEQ. Brisbane's future growth is almost entirely dependent on the capacity of the City to grow within the existing urban footprint. The nature of growth in the city will largely be redevelopment of existing urban and brownfield areas rather than release of 'greenfield' sites for residential, industrial/retail and community land uses. Benchmarking should focus on supply of new lots and dwellings rather than land release.

Land supply to accommodate economic activity, supporting transport infrastructure and increased residential densification is a key issue that the planning scheme addresses and considers as part of the future requirements of the city. Many areas that are available for new development are constrained because they require significant up-front infrastructure investment. It is traditional for developers to provide this infrastructure. However, some areas of the city require too high an investment for any individual investor. Council has partnered with landowners to share the cost of

investment between existing and future users by establishing infrastructure charges plans and levying charges from future developers on behalf of the initial investor.

The understanding of current and future land supply requirements requires a well-developed evidence base detailing current land uses and forecasting future demand. Council's detailed economic forecasts for Brisbane estimate the long term employment growth of specific industries and apply the City Plan provisions and other endorsed policies to estimate economic activity growth within specific locations of the city. This exercise has led to the establishment of forecasts for the entire SEQ Region. Through these forecasts, the adequacy of land supply and infrastructure needs that will be required to support the future economy can be estimated. Forecasts are renewed periodically to incorporate more recent data as it becomes available.

What impact would limit 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?

South Australia has limited opportunities for third party appeals. Further minor refinements may be possible but requires detailed analysis and consideration.

Fast tracking approval processes need to be carefully considered in terms of how a planning policy framework will be able to still achieve good design outcomes. Getting a fast approval may work in some situations provided the quality of development is high.

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