

31 August 2010

Ms Christine Underwood
Business Regulation Benchmarking
Planning, Zoning and Development Assessments
Productivity Commission
PO Box 1428
CANBERRA CITY ACT 2601

Business
Council of
Australia



Dear Ms Underwood

BUSINESS REGULATION BENCHMARKING: PLANNING, ZONING AND DEVELOPMENT ASSESSMENTS

The Business Council of Australia (BCA) welcomes the opportunity to present its views to the Productivity Commission with regard to Australia's land planning, zoning and development assessment systems. The BCA represents the CEOs of 100 of the top businesses in Australia and works to achieve economic, social and environmental goals that will benefit Australians now and into the future.

Australia has emerged from the global downturn with sound prospects for economic growth and with projections of a rise in the population to 30 million or more by 2030. The rapid development of our region is expected to provide strong demand for Australian goods and services, underpinning sustained business investment and employment generation. Our planning systems and development assessment processes will play a crucial role in ensuring that Australia has the right economic infrastructure in place to support productivity and growth while also delivering better outcomes for liveability and sustainability.

Against this backdrop the BCA has strongly advocated that all governments commit to a long-term growth ambition for Australia linked to longer-term planning horizons and with the aim of lifting Australia's productivity rate. The adoption of a clear commitment to growth will flow through planning and zoning processes at all levels of government leading to better and more certain decision making. It will give governments the confidence to address the difficult challenges inherent in planning for growth in our cities and regions.

A comprehensive reform agenda for the better provision and use of infrastructure, including the need for improvements in Australia's planning systems to achieve these aims, was presented in our recent publication *Groundwork for Growth*. An overview of the recommendations is attached for your information.

The BCA also supports a seamless national economy to reduce unnecessary inconsistency and duplication in all areas of regulation, including Australia's multi-tiered planning and zoning systems, and lower the regulatory burden on business and the community.

The BCA urges the Productivity Commission to benchmark planning, zoning and development assessment systems against the need to better manage future growth in our economy and our population and to highlight the major shortcomings that need to be addressed.

It is generally acknowledged that Australia's governments need to improve coordination and better align planning and zoning processes with national policies on population growth – natural increase, long-term temporary migration and permanent migration – and the provision of infrastructure of national significance. The BCA welcomed COAG's announcement in 2009 to reform capital city strategic planning systems to move towards addressing these challenges.

Gaining support for economic and population growth from citizens concerned about clogged roads, strained services, pollution and social cohesion means governments across the country have to do a better job of explaining the importance of growth and planning for it. Governments need to better integrate planning of urban centres and infrastructure, including roads, public transport, water and electricity supply, as well as schools and hospitals. We must make better use of the infrastructure we have and speed up reforms already under way for our freight, road, water, telecommunications and electricity sectors.

Delivering efficient and effective planning and zoning outcomes will bring a number of benefits, including:

- Improved housing affordability and supply achieved through reduced costs to developers, greater flexibility to accommodate more affordable housing designs and bringing new housing stock to market more quickly. This will be required to address the housing shortfall, estimated by the National Housing Supply Council to increase to some 640,000 to 1.6 million dwellings over the next 20 years.
- Enhanced liveability through a mix of increased urban amenity, well-planned infrastructure and environmental sustainability, with a particular focus on reducing the costs of urban congestion estimated to cost business and the community around \$9 billion per annum.
- Increased productivity in our major urban areas through a reduced regulatory burden on business and the community and better functioning freight and logistics networks.
- Increased business investment in new projects that will sustain higher levels of innovation, GDP per capita and employment generation.

The remainder of this submission sets out some more detailed comments on the following important aspects of planning, zoning and development assessment:

- Government coordination and cooperation.
- Accelerated processes for significant infrastructure projects.
- More efficient planning, zoning and development processes.
- Better economic impact assessment of planning and development decisions.
- Improving environmental assessment and approvals processes.

Government Coordination and Cooperation

Planning and zoning matters in Australia should involve effective coordination and cooperation between all tiers of government, particularly in instances where:

- there are matters of state or national significance;
- incentives are necessary to attract investment;
- the state or federal government is funding the project;
- there are interactions with policies such as transport, education, health and strategic infrastructure; and
- decisions affect a number of local councils.

For planning and zoning processes to support growth it is critical that they effectively facilitate the implementation of the infrastructure strategies of governments. The recent COAG decision to link Commonwealth infrastructure funding to state and territory government planning meeting national criteria is one initiative that might lead to more integrated planning across infrastructure classes taking into account broader economic, environmental and sustainability issues. The effectiveness of intergovernmental coordination and cooperation on planning, zoning and development assessment should be assessed by the review.

Accelerated processes for significant infrastructure projects

Accelerated processes can be a viable method for fast-tracking projects of state and national significance if properly implemented. It is imperative that roles and responsibilities are clearly defined across tiers of government and that appropriate resources are allocated to support processes, notably sufficient expertise.

There has been some progress recently at the state level in the establishment of accelerated planning processes. For example, late in 2005, the New South Wales Government amended the *Environmental Planning and Assessment Act 1979* by introducing a new Part 3A to deal with major projects. However, according to some proponents these reforms have had only limited impact on assessment periods due to inadequate resourcing.

Similarly, the New South Wales Government's Precinct Acceleration Protocol is an example of an initiative with worthy objectives but which would appear to have had limited progress to date. Under the protocol, a government-appointed Precinct Acceleration Control Group undertakes the accelerated precinct planning and the proponent of the development agrees to cover basic costs incurred. After being formally announced in 2006, the BCA notes that at this stage the first precinct to be released under the protocol is yet to be rezoned so that development can commence.

The Victorian Government has increased its use of powers for the Planning Minister to 'call in' development applications. It has also introduced a legislative framework for a more rapid assessment and approval regime for major transport projects. Earlier this year, the Victorian Government also established a specialist planning list for planning matters with a value of over five million dollars for the Victorian Civil and Administrative Tribunal (VCAT), along with additional sessional members to speed up the resolution of planning matters.

While it is possible to have projects of economic significance fast-tracked in Victoria, some proponents suggest that the process is ad hoc, relying heavily on the discretion of the Planning Minister in using their powers and the proponent's knowledge of Victorian planning processes. Invest Victoria provides a useful entry point for business on these matters but this is not necessarily well known and it is not a formal part of the planning process.

From our limited observations the experience of accelerated planning approval processes at the state level has been mixed. Effective and transparent accelerated approvals processes with proper safeguards and appropriately resourced will be needed in all jurisdictions if we are to better manage growth. This is an area that would benefit from close inspection by the commission in its study.

Appropriate processes for intermediate-sized projects should also be considered. For example, industrial developments may not trigger major project or fast-track processes, but local planning processes in their current form may not be well equipped to progress such developments in the most efficient and effective manner possible.

Less costly, more efficient planning, zoning and development processes

Australia's planning, zoning and development assessment systems should be designed not to impose unnecessary costs on business and the community.

A significant burden on business from planning, zoning and development assessment processes tends to arise from delay costs including holding costs, standby costs and costs arising from uncertainty. These costs have proven difficult to estimate but are nonetheless relevant, and the BCA is hopeful that the commission's work will make a contribution to better understanding the potential impact of delays across different jurisdictions. A useful starting point may be to consider the risk premiums applied across jurisdictions by lenders when funding developments. These risk premiums differ between jurisdictions based on the expected delays in different planning systems.

In a submission to the Victorian Government's review of the *Planning and Environment Act 1987*, the Municipal Association of Victoria suggested that planning scheme amendments generally take around 50 weeks from receipt to finalisation. Complex amendments, amendments requiring environmental assessment or amendments requiring a panel exceed these general timeframes. One of the greatest frustrations for business is that the actual time taken to resolve planning and zoning matters generally exceeds published guidance on expected timeframes and there is limited accountability for delays. For companies operating across a number of jurisdictions, this creates considerable uncertainty and regulatory risk.

In some jurisdictions, significant delay and administrative costs are incurred as a result of the need for business to liaise with a number of government agencies and address their requirements as part of the planning and zoning process.

Better economic impact assessment of planning and zoning decisions

The BCA considers that there would be value in benchmarking the effectiveness of various jurisdictions' processes for assessing the economic impact of planning and zoning proposals. Planning decisions with significant economic impacts can be made through low-level regulatory instruments that don't require the preparation of regulatory impact assessments and therefore can lack a disciplined cost-benefit analysis. What is needed is a balanced approach that adequately identifies the degree of economic impact assessment needed for a particular planning decision and makes that analysis transparent without unnecessarily adding to delays.

Improving environmental assessment and approvals processes

While not explicitly addressed by the study's terms of reference, environmental assessment and approval processes interact with planning, zoning and development assessment systems, adding to the cumulative regulatory burden. The BCA acknowledges the importance and technical complexity of proper consideration of the environmental impacts of a development. However, this area can also be subject to unaccountable delays with limited acknowledgement by government officials of the resulting cost and uncertainty for business.

COAG has sought to more effectively integrate federal, state and territory processes through a number of bilateral assessment agreements and a commitment to deliver implementation plans on approvals bilateral.

The benefits, however, are not yet clear. The COAG Reform Council in its 2008–09 Report on Performance for the Seamless National Economy observed that 'the contribution of the agreements to the stated output for this reform – of reducing the regulatory burden of environmental assessment and approval processes where both Commonwealth and State and Territory environmental planning laws are involved – remains unclear'. The commission's study therefore provides an opportunity to add more clarity in this area.

The BCA looks forward to the PC's report and the valuable contribution that this study will make in informing the planning and zoning reform agenda.

Yours sincerely

Katie Lahey
Chief Executive

Attachment 1

A growth ambition for Australia that is agreed to by the federal and state governments	<p>Aim to be in the top five OECD countries on a measure of GDP per capita – strive for improved economic growth and standards of living</p> <p>Lift the productivity rate to underpin economic growth</p> <p>Ensure Australia's cities and regions have the infrastructure to stay ahead of population and economic growth</p> <p>Identify the infrastructure required to address the economic, social and environmental factors that will improve the health, amenity, convenience and efficiency of our communities while promoting greater productivity and higher living standards.</p>
Institutional and governance requirements	<p>The federal and state governments through COAG to take the lead in infrastructure reform</p> <p>Infrastructure Australia to advise the federal government on specific market or regulatory failures, assist in setting service standards for public infrastructure investment, and maintain a pipeline of transparently assessed, publicly funded projects.</p>
Policy and regulatory requirements	<p>Regulatory frameworks and improved pricing to encourage national markets, efficient infrastructure use and the provision of signals for investment</p> <p>National approach to regulations</p> <p>Transparent regulatory goals</p> <p>Application of COAG and OBPR best practice principles</p>
Planning requirements	<p>Longer-term planning horizons, linked to growth ambition</p> <p>Integrated planning across infrastructure classes taking into account broader economic, environmental and sustainability issues</p> <p>Cost-benefit analysis of infrastructure investments to ensure resources are directed to where they have maximum impact on productivity</p> <p>Transparent assessment of publicly funded projects</p>
Requirements for the measurement of progress	<p>Regular reviews of national infrastructure capacity by the Productivity Commission</p> <p>A nationally agreed framework of target service levels</p> <p>National measurement of progress and review of policies</p>