



Australian Government

Department of Infrastructure, Transport, Regional Development and Local Government

Department of Infrastructure, Transport, Regional Development and Local Government (the Department) submission to:

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

Introduction

State and territory strategic planning, zoning and development assessments are integral to the successful implementation of a broad range of national policies and programs, including major infrastructure delivery. In order to meet national, state and local needs more effectively, development assessment reform is important and must be complemented by more effective strategic planning activities.

In recognition of the importance of land use planning on the delivery of strategic national and local infrastructure, the Commonwealth's engagement in planning issues continues to increase – most recently evident in the significant reforms being introduced through the Council of Australian Governments (COAG) with regard to capital cities planning systems.

The COAG reforms recognise the connection between land use planning and the ability of Australian governments to address key challenges such as population growth, housing affordability and climate change adaptation.

The Commonwealth's role in land use planning and planning system reform

For some time, successive Australian Governments have been aware of the need for planning and development assessment reforms as a means of:

- achieving greater efficiencies in local, regional and national economies and associated productivity growth; and
- addressing a number of nationally-significant policy issues, such as housing affordability and energy efficiency.

The Commonwealth engages with states and territories and local government on national level development assessment and planning reform through a range of forums. This has included the Development Assessment Forum (DAF), a coalition of all tiers of government as well as representatives from relevant industry bodies and professions, which has considered simpler, more effective approaches to development assessment.

In addition, the Local Government and Planning Ministers' Council (LGPMC) is tasked with accelerating development assessment and planning reforms as a part of broader reforms led by COAG's Business Regulation and Competition Working Group (BRCWG) under the National Partnership to deliver a *Seamless National Economy*.

Through the LGPMC, there has been extensive work undertaken to establish frameworks for development assessment reform, recognising the challenges associated with cross-jurisdictional implementation (both across states and territories and between state/territory governments and local governments). However, limited evidence to demonstrate the benefits that would accrue from the national reform process, and the general lack of awareness of the issue, has led to limited outcomes from these reform processes.

More recently there has been a greater interest in the potential benefits from integrated and best-practice planning processes. This has led to an increased focus on higher-level strategic planning reforms as a way of achieving greater efficiencies and increasing the effectiveness and functionality of our cities.

The COAG capital city reforms, agreed in December 2009, recognise the importance of well functioning cities in terms of their contribution to national productivity and the health of our economy. Strategic regional planning, particularly of our cities, is seen as critically important in preparing for significant population and demographic changes projected to occur over the next four decades, as well as addressing key issues such as housing affordability, climate change adaptation, and efficient location of industry and transport.

More information regarding these mechanisms for driving planning reforms, and their achievements to date, is at [Attachment A](#).

The importance of effective planning systems to Australia

While the states and territories are primarily responsible for the planning domain, the Australian Government needs to be in a position to work in partnership to enable the successful delivery of a range of nationally significant infrastructure policies and programs, for example:

- delivering national road, rail, aviation and maritime port policies and programs – the responsibility of this Department; and
- delivering communication networks, and addressing housing affordability and supply, and climate change adaptation (including water security) – the responsibility of other Commonwealth agencies.

Considering transport needs in land use planning

Suitable locations for airports and transport corridors are scarce, particularly within Australia's urbanised regions. Land use planning is the main mechanism available to protect

these strategic sites for future transport infrastructure. To this end, there are a number of national initiatives underway to link future transport infrastructure planning and investment to land use planning practices:

- Commonwealth, state and territory transport and planning agencies recently developed new *National Guidelines for Passenger Transport and Land Use Planning Integration*¹ to guide best practice in how jurisdictions reconcile passenger transport needs when developing land use plans in cities;
- In December 2009, the Australian Government released its National Aviation Policy White Paper: *Flight Path to the Future*. An objective of the White Paper is to develop a national land use planning regime in the vicinity of airports. The initiative seeks to reduce the impacts of development on airport operations and improve community safety and amenity (see [Attachment B](#)); and
- Infrastructure Australia and the National Transport Commission have been asked to develop a National Ports Strategy for COAG's consideration. The strategy seeks to identify the most effective regulatory and governance frameworks, ways to improve land planning and corridor preservation and the future infrastructure requirements of Australia's ports, including road and rail links.

Land Use Planning, Zoning and Competition in Local Markets

Reforming the development assessment element of planning systems has at times been viewed as the 'silver bullet' to address many challenges facing cities as they struggle to keep pace with the rate of growth and respond to increased demand for housing and retail space. In some cities with many local government areas (Sydney, Melbourne and Perth), development assessment delays are not so much related to the planning system itself but more the implementation by local governments – especially where development affects more than one council area.

There has been substantial discussion around the link between planning, zoning and development assessments and restricted competition in local markets, most notably:

- a. that, in a general shift toward planning system reform, the impacts of planning on competition in local markets needs to be considered at a policy level as opposed to the operational level; and
- b. the underlying assumptions of the cost/benefit of planning processes need to be properly understood.

In 2008, the *Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries* and the Productivity Commission's *The Market for Retail Tenancy Leases in*

¹ These Guidelines were endorsed by the Australian Transport Council in April 2010 as part of the ATC's 2006 Transport System Management Guidelines. They have been referred to the Local Government and Planning Ministers Council for counter-endorsement.

Australia concluded that planning and zoning legislation restricts competition through the supply and prescribed uses of retail space. While it was conceded that further improvements could be made, LGPMC noted concerns from its members on the link between planning and zoning laws and retail competition. LGPMC has stated it will work with the COAG Business Regulation and Competition Working Group (BRCWG) to ensure that comprehensive planning issues are adequately and consistently addressed².

Conclusion

There has been extensive and detailed work undertaken on planning system reform at both the national and state/territory levels, however the lack of clear implementation schedules and goals, as well as formal review processes have often resulted in lengthy reform processes with no clear end-point.

The Department believes planning reforms are an important way of addressing the growing national challenges associated with population growth, productivity, climate change and city functioning in general. The recent COAG cities reforms aim to improve integration across municipal functions (such as housing, transport, services and economic and commercial centres) and collaboration between the three levels of government to coordinate policy, investment and service delivery. The reforms reflect a renewed interest in strategic planning on a metropolitan or regional scale and a more holistic approach to the planning system.

The Productivity Commission's study into *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments* provides a valuable opportunity to properly understand the relationship between competition/economic pressures and land use planning and development. This will help inform the groundwork of future planning reforms to be progressed through cooperative mechanisms such as the BRCWG, to ensure reforms are targeted and evidence-based, and deliver the intended outcomes at national, regional and local levels.

Finally, implementation and evaluation mechanisms will need to be central to future reforms. Historically, the focus on designing planning system reform (rather than on its implementation) has sought to avoid the complexities of managing this across three levels of government, particularly political and community sensitivities and resourcing. While states and territories have invested significant effort into implementing reforms at a jurisdictional level to date, state-level outcomes have not readily translated into identifiable progress toward addressing nationally-identified issues.

² This statement appears in the communiqué following LGPMC's October 2009 meeting in Darwin. The communiqué can be found at: <http://www.lgpmcouncil.gov.au/communique/20091009.aspx>.

Current mechanisms for national level development assessment and planning reform

Development Assessment Forum (DAF)

The Development Assessment Forum (DAF) was formed in 1998 to recommend ways to streamline development assessment. In addition to Commonwealth, state, territory and local government representatives, DAF also includes representatives from relevant industry and professional bodies and is currently chaired by the member from the Property Council of Australia. DAF provides a forum for discourse on planning reform related topics from a range of views and objectives.

One of the key achievements of DAF was the release of its *Leading Practice Model for Development Assessment* in March 2005, which provides a blueprint for jurisdictions for a simpler, more effective approach to development assessment.

DAF has no direct implementation role, which remains a matter for government. Implementation of the *Leading Practice Model* by jurisdictions has been voluntary and based on the merits and/or advantages of it. In 2005, the Model was acknowledged by the local government and planning ministers and is being implemented by the jurisdictions according to their own timeframes.

The Model can be found at

http://www.daf.gov.au/reports_documents/leading_practice.aspx.

Local Government and Planning Ministers' Council (LGPMC)

In 2008, the Local Government and Planning Ministers' Council (LGPMC)³ accelerated development assessment and planning reforms as a part of broader reforms led by COAG's Business Regulation and Competition Working Group (BRCWG) under the National Partnership to deliver a *Seamless National Economy*. LGPMC established five projects aimed at delivering potential efficiency gains in planning reform through:

- A more effective policy framework which will reduce costs of time delays for developers and general administration costs;
- Risk-based assessment which can fast track low-risk/low-impact development applications; and
- More efficient administration through systems such as electronic development applications.

³ Following a review, COAG has agreed to reform the Ministerial Councils system by March 2011, including the LGPMC.

LGPMC Development Assessment Reform Projects

1. The National Performance Monitoring project reviewed current performance monitoring processes in each jurisdiction to develop a common set of measures to assess the 'health' of a DA system. Data will be published on a financial year basis on nine performance measures and each jurisdiction will work toward increasing the quantity and consistency of data collected. The first report is with COAG for consideration.
2. The National Planning System Principles project⁴ reviewed leading practice approaches to develop a set of national planning principles to guide a national approach to planning systems.
3. The national electronic development assessment processing (eDA) project is reviewing governance and operational mechanisms to enable national uptake of internet-based technologies for the various stages of the development assessment process. The project aims to achieve a common level of eDA capability across all jurisdictions, with the objective of greater consistency across jurisdictions, improved development assessment processes and help collect data more efficiently.
4. The Code-Based Assessment project developed a model template for code-based assessment of single residential dwellings (i.e. automatic approval against code or complying requirements) which each jurisdiction is implementing. A subsequent directive from COAG requested the LGPMC to review the merits of extending code-based assessment to multi-unit residential, commercial and industrial development. This work identified significant economic benefits would accrue but concerns were raised about the implications for multi-unit residential and dual occupancy dwellings. Negotiations will continue to consider these implications.
5. Measuring the Benefits of Planning Reform developed a framework to measure the economic impact and benefits of current and future planning reform initiatives, including the above four projects.

The COAG Capital City Reforms

COAG agreed in December 2009 to progress major reforms to capital city strategic planning. COAG's decision recognised the importance of well functioning capital cities in terms of their contribution to the national economy. It also recognised that our cities should be prepared for significant population and demographic changes projected to occur over the next four decades.

Under the reforms, states and territories are required to develop strategic plans by January 2012 which comply with nine criteria agreed by COAG. The Commonwealth will be responsible for coordinating Australian Government activities and investment in capital cities to be consistent with state and territory strategic plans.

⁴ This project and the DAF's Leading Practice Model are the two key reports on model planning systems. The National Planning System Principles project is available at <http://www.lgpmcouncil.gov.au/publications>.

Aviation White Paper Initiatives

The Aviation White Paper set out the Australian Government's intention to work with state, territory and local governments and industry stakeholders to:

- work with jurisdictions on a national land use planning regime near airports and under flight paths, to minimise sensitive developments being located in areas affected by aircraft operations;
- undertake a detailed examination of the implications of public safety zones in the vicinity of airports;
- improve and enhance land use planning arrangements and supplementary public information relating to the impacts of aircraft noise, including to:
 - refine the arrangements for use of the Australian Noise Exposure Forecast (ANEF) system;
 - supplement the use of the ANEF system with information tools such as measures of single event noise exposure at a location or measures of the frequency of noise exposures above a particular level (N65, N70); and
 - improve mechanisms for ensuring that prospective purchasers of properties in noise-affected areas have notice of the noise exposure and access to understandable information about the likely noise;
- improve access to guidance material for airports and off-airport planning authorities on the potential windshear and mechanical turbulence effects of new constructions;
- develop national guidelines for wildlife hazard management in and around airports to minimise birdstrike and other wildlife hazards;
- develop national guidelines to address technical and navigation issues relating to wind turbine developments, with regard to the potential for electromagnetic interference as well as the potential physical obstruction for aircraft;
- establish consultative processes to ensure that the potential effect of any new wind farm on aviation operations is considered and addressed prior to approval; and
- work with state and territory governments and authorities to strengthen arrangements to protect airspace around airports:
 - address potential risks to aviation safety arising from inappropriate developments in the vicinity of aerodromes;
 - ask that all states and territories put in place statutory powers and regulations to prohibit unauthorised construction that penetrates the published Obstacle Limitation Surface (OLS) and Procedures for Air Navigation Services – Aircraft

Operations (PANS-Ops) surfaces for all airports;

- strengthen requirements for notice of proposed developments in areas where protected airspace might be affected a proposed structure, by cranes or other equipment used during construction, plumes or other gaseous emissions;
- extend the coverage of operational airspace safeguards to all registered airports and aerodromes including incorporating requirements for notification to CASA and Airservices Australia of potentially impacting developments;
- prevent unnecessary interference to aviation technical facilities, such as radar, from new buildings in the vicinity of airports; and
- prevent unnecessary lighting and other pilot distractions from off-airport sources.

The safeguarding initiative is a long-term project involving considerable technical and coordination effort. Implementation of an effective national framework requires changes to state, territory and local planning systems, and would be developed in collaboration with all levels of government.

A group of Commonwealth and State officials, the National Airport Safeguarding Advisory Group has been established to progress these initiatives and provide recommendations to Commonwealth, State and Territory transport and planning ministers.