

## **Productivity Commission Submission**

### **Background**

Following agreements at recent Council of Australian Governments (COAG) and the COAG Business Regulation and Competition Working Group, the Federal Assistant Treasurer asked the Productivity Commission to undertake a study into Australia's planning, zoning and development assessment systems. In preparation of the report the Productivity Commission has invited written submissions from people and organisations with an interest in the area. Initial submissions are due by 31 August 2010.

The scope of the report is to benchmark how the states' and territories' planning and zoning system impacts on competition (including unjustifiable restrictions on competition). The commission has also been asked to report on best practice approaches that support competition with particular reference to:

- preventing 'gaming' of appeal processes (using the planning system to stall development)
- maintaining adequate supplies of land suitable for a range of activities
- removing unnecessary protections from existing businesses from new and innovative competitors.

The results of the study will highlight areas where there may be benefits from further reform.

### **Summary of key issues for the City of Onkaparinga:**

1. The respective roles of government and the private sector as land bankers and land assemblers require review.
2. Adequate land should be provided for a range of uses, such as social infrastructure and employment land, not only residential land. To provide certainty for new communities and developers, and to ensure sustainability of new development areas, state government needs to commit to the development of essential new infrastructure in new greenfield developments such as public transport, schools etc at the planning stage. This allows adequate land to be set aside at the structure planning and land division stage with confidence.
3. A review is required of the market impacts of releasing large state government land holdings to the same developer in the same area. Mechanisms are required to ensure that land is brought to the market in a timely manner to improve competition rather than optimise returns due to the developer constraining supply.

4. Supermarkets in local and neighbourhood activity centres should be constrained as a proportion of an activity centre site to promote mixed use and competition, rather than one user dominating.
5. The use of encumbrances on certificates of title to disallow subdivision where the development plan allows this subverts planning intent under the Development Act, inhibits appropriate residential densities in and around activity centres necessary to promote viability of services, business and infrastructure, and distorts the land market.
6. There is a need for the development assessment system to balance speed of assessment outcomes (and attendant development holding costs), with good environmental, social and economic outcomes from development, and with adequate opportunity for community input

## **Discussion**

### **1. Maintaining adequate supplies of land suitable for a range of activities**

The most effective form of ensuring land supply and affordability has proven to be land banking by government, and release of land in response to demand.

There are large areas of developable land or land on the fringe of the city held in private ownership by developers. The market response is traditionally to hold land supply until such time as returns can be optimised rather than responding early in the demand cycle to contain land prices by ensuring supply.

In the context of a more sustainable urban form, there is a role for government to be involved in land assembly for urban regeneration, not only as a land banker of greenfields land on the urban fringe.

The planning system needs to ensure that developable land can be brought to market in a timely fashion and with a level of certainty for the market regarding the appropriate form of development. This requires structure planning, re-zoning and infrastructure provision ahead of land release. The act of lodging a development application for subsequent development of the land can then occur in a more certain policy and regulatory environment.

Land supply also tends to be strongly focused on residential land supply. There is a need for a broader view of land supply and additional research into ensuring adequate employment land supply in appropriate locations to support more sustainable urban development outcomes.

In addition, state government needs to be more cognisant of the need to make early spatial and budgetary provision for vital infrastructure and services in major greenfield developments.

As an example, in the planning for the new suburb of Seaford Heights research has indicated that the size and demographic profile will create a need for a primary school in the new suburb. A site has been identified at the neighbourhood planning stage to ensure provision is made where it is appropriately located relative to its catchment and where it can be provided with a well-connected street network focused towards it.

However there is not a commitment from the education department to provide a school on the site, and obtaining commitment from private schools to establish in

greenfields sites has in the past proven difficult.

In terms of infrastructure, early commitment to provision of public transport is fundamental to the planning framework for an area. This enables development to leverage off transport.

## **2. State government land releases**

A review is required of the market and competition impacts of current greenfield land release practices. The state government is the primary greenfields land owner in the City of Onkaparinga (although these holdings are diminishing over time) and releases land in parcels to the open market, generally in response to projected forward demand for allotments. The State Government's 30 year plan for greater Adelaide includes a target for a 15 year supply of zoned land for residential or commercial and industrial purposes.

A potential outcome of current practices is one developer controlling all or the majority of zoned land, and being able to manage land releases to optimise returns rather than in response to demand, with attendant impacts upon affordability through lack of competition.

Whilst greenfields land releases by state government are generally by open tender and market-driven, mechanisms are required to ensure allotments are subsequently released to the market in a timely fashion, and in balance with demand. This could be by way of more direct involvement of government through joint ventures, or through contractual arrangements.

## **3. Activity centre policies**

The City of Onkaparinga has prepared an Activity Centres Review containing goals and strategies for the development and redevelopment of centres across our city. This is included in attachment 1.

The goal of the Review is *a network of complementary activity centres that form the focus for sustainable urban development and engender profitable business, increased local employment, and vibrant community activity.*

The objectives of the Review that guide policy changes outlined proposed to council's Development Plan are as follows:

### **Ensure location, catchment and access fundamentals**

- within 1000m walking distance of urban households
- sufficient populations within 800m catchments (local: 1500 households, neighbourhood: 2500 households)
- sufficient land for its relative potential size
- associated with community land use such as schools, recreation facilities or beach
- convenient access to commuters and passers-by eg. on a main road
- well serviced by public transport

### **Require design that encourages activity and integration**

- urban form that is compact, human-scale, pedestrian (and cycling) oriented, and visually interesting, and includes a permeable street network

- active ground floor frontages oriented to public spaces
- car parking on streets, decks, under/over buildings and in small open-lots
- variable sized land parcels that encourage incremental development
- public spaces, such as streets, plazas and entrances, that invite walking, waiting, watching and gathering
- integration with viable transport options and the surrounding area
- design that minimises and conserves water and energy use

#### **Encourage diverse, complementary activity**

- commercial activities including retail with supermarket (anchor), offices, consulting rooms, food and catering, training/education and entertainment
- social and cultural services and activities provided by local and state government, non-government organisations and community groups
- integrated residential dwellings, mostly above ground floor
- activity that involves frequent movement, is visually open and attractive, and engenders attracting noise/colour/light/smell
- diverse, complementary activities that have usage peaks at different times and share facilities

In the City of Onkaparinga we are pursuing centre policies that constrain the size of individual supermarkets but not total leasable floor space in centres. This we argue will lead to significantly greater retail competition, and improved employment outcomes.

Traditionally centre policy has tended to cap leasable floorspace within a centre but not the size of individual uses within each centre. Even without policy restrictions on leasable floorspace most existing centres are constrained by their zone boundaries and the urban development surrounding them. These constraints ultimately mean that the number of uses in a centre will be determined by the size of the largest, i.e. the larger the supermarket the fewer opportunities for other premises to establish.

In the development and retail industries the viability of supermarkets is assessed as turnover per square metre of floorspace. This widely used model creates a choice between size and quantity across the various centres in the city, whether to have ten 4000m<sup>2</sup> supermarkets, twenty 2000m<sup>2</sup> supermarkets or twenty seven 1500m<sup>2</sup> supermarkets.

The City of Onkaparinga has made a strategic decision to prioritise accessibility and centre diversity by encouraging larger numbers of small to medium sized supermarkets in a network of local and neighbourhood centres rather than fewer larger stores in larger centres. A key component of this strategy is capping the floorspace of individual supermarkets to ensure that a single outlet does not become physically and commercially dominant and by doing so exclude other potential retailers from a centre.

Our strategy is to create an accessible spread of comprehensive centres across the city. The target is to encourage 44 centres with 50 supermarkets and a large number of smaller retail premises (up from the current 27 supermarkets in 19 centres).

To achieve this we are proposing to remove caps on total centre floorspace but to cap the floorspace of individual premises within local and neighbourhood centres at 1200m<sup>2</sup> and 2200m<sup>2</sup> respectively. We are also proposing to increase the size of well located centres zones in order to offer more development opportunities and a diversity of land ownership within each centre.

Large format stores will still exist in District and Regional Centres, which means every urban resident in the city will continue to be within a five minute drive of a centre with at least two large format supermarkets. We are also developing new policies and structure plans for our district and regional centres to increase the diversity of premises and ownership within each.

The reasons behind these policies are threefold.

- Firstly, quantity enhances accessibility, our goal is to have 80% of our residents living within a ten minute walk of a comprehensive centre with at least one supermarket. This has lifestyle and sustainability benefits
- Secondly, more centres and more supermarkets will ultimately lead to greater competition than fewer centres with larger stores.
- Thirdly, retail competition is not simply between supermarkets. A well functioning centre will have a diversity of retailers and personal service premises, including supermarkets but also butchers, greengrocers, bakers, delicatessens, specialty grocers, clothes shops etc.

Our goal is a network of well designed and accessible town precincts ideally with multiple ownerships within the centres. This will provide a much greater diversity of premises than shopping centres which typically have a single owner. For example, the Mount Barker Central area, made up of multiply owned precincts, has 1 shop per 44 residents, the town precinct of Gawler 1 shop per 69 residents and the Blackwood precinct 1 per 90. On the other hand the shopping centre dominated areas of the City of Onkaparinga such as Aldinga and Seaford in have 1 shop per 200 residents as do the shopping centre dominated areas of Flagstaff Hill/Aberfoyle Park and Woodcroft/Morphett Vale.

Overcoming the shortage of premises in these areas is not simply a matter of randomly building more shops. Spatial relationships between premises ultimately determine the success of a centre and the uses within it. The viability of most forms of retail and personal service premises is highly reliant on the numbers of pedestrians passing their shop fronts.

Mixed use precincts have the spatial arrangement that can maximise pedestrian movement and from it the number and diversity of uses in a centre. However, to function successfully they require both anchors (primary uses), and a magnet usually amenity and activity. Supermarkets and service facilities such as consulting rooms and government services are able to draw people into a centre, while amenity and a diversity of complementary commerce small retail, cafes, restaurants, take-aways, bars etc encourage them to linger. <sup>1</sup>

The planning framework should provide for centres to be designed in such away that businesses within them can flourish, complement each other but also compete to the benefit of consumers by providing a diversity of shops and owners in a functional pedestrian environment. Achieving this requires regulations that ensure good design, accessibility, diverse ownership and a balance between small and large premises.

We have agreed to work with state government to develop viable mixed-use policy over the next three months. However there is an on-going debate with state government over the impact of proposals to limit supermarket size or specifying a ratio between the supermarket and specialty uses upon competition. This issue

requires resolution in order to enable planning authorities to develop policy with confidence that it aligns with state and federal policy.

#### **4. The use of encumbrances which work against government policy**

It is common practice for a developer to encumber large greenfield land division developments to disallow further subdivision of residential allotments in perpetuity. The intent of the encumbrance is to preserve a desired 'character' for marketing purposes, but the encumbrance can subvert the planning system and prevent the market from operating freely.

While government regulation and the Development Act allow secondary subdivision, to promote the developer's preferred densities and housing form encumbrances are often imposed via the Real Property Act to ensure an owner is unable to subdivide a larger allotment into smaller allotments.

Such encumbrances restrict the ability of the market to operate freely and for secondary land division to occur in response to market demand. They also often run counter to state and council strategic directions of encouraging housing diversity and higher densities around centres and transport interchanges.

In addition, purchasers of smaller allotments in current greenfield developments will typically pay significantly more per square metre of land than the purchasers of large allotments.

As an example, in Stage one of the Seaford Meadows development in Adelaide's south, purchasers of small 200m<sup>2</sup> allotments pay around \$560 per square metre; those purchasing a 300m<sup>2</sup> lot \$390/m<sup>2</sup>; while those purchasing a 600m<sup>2</sup> allotment pay around \$280/m<sup>2</sup> and those purchasing a 945m<sup>2</sup> allotment pay around \$190/m<sup>2</sup>.

#### **5. Development assessment**

The development assessment system and planning authority decision-making processes are often the first target of criticism in relation to adding to development costs or reducing competitiveness. Development assessment outcomes are however widely variable and dependent upon a number of factors including:

- the quality and clarity of the planning policy framework against which applications are assessed
- the extent of opportunity for public input to development proposals (public notification requirements)
- the extent of delegations for determination of development applications
- the availability of skilled development assessment resources
- the quality and comprehensiveness of information supplied by applicants
- the extent of referrals required to outside agencies and the time allowed for responses
- access to appeal processes, including competitor appeals

Failings in one or a number of these factors can have a significant impact upon the efficiency of the development assessment system. Measures which can achieve a

level of baseline consistency across all planning authorities, and across these areas, would assist the overall efficiency of the development assessment system.

There is also a responsibility upon applicants and the development sector in the assessment process, particularly in relation to the quality of application documentation, and the role that applicants play in undertaking consultation on their own development proposals (as opposed to leaving this process solely to planning authorities). This importance of the role of developers in these aspects of the planning system is often overlooked or underestimated.

## **6. Summary**

The planning system is a complex interplay between the market and the need to achieve social, environmental and economic outcomes from development that the market may otherwise not deliver.

Whilst the fundamentals of the planning system have evolved over time in an effort to balance economic, social and environmental outcomes, it operates in a market environment and has potentially significant economic impacts both positive and negative. Competition is one element of this framework.

There are some issues related to the planning system and land supply process highlighted in this submission that warrant further investigation from an affordability, land supply and competition perspective.

There are, however, also broader issues such as taxation that arguably have a more significant impact upon the property market and competition than the planning system that also warrant further investigation.