

21 April 2011

Performance Benchmarking Australian Business Regulation  
Productivity Commission  
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Canberra ACT 2601

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To Whom It May Concern

### **Addition to NSW Business Chamber Submission DR80**

The NSW Business Chamber welcomes the opportunity to provide an additional submission to the Productivity Commission's draft report, *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments*. The purpose of this submission is to provide the Commission with an example which demonstrates the delays caused to business operation resulting from local government planning regulations as well as the inconsistencies in regulations between different local government areas.

The following example outlines how it took six months for one small business owner to gain approval to refurbish a small retail space in order to open up a delicatessen in a pre-existing building. This six month timeframe was the result of the lengthy response times from the local Council and unnecessary conditions placed on the applicant in order to approve the Development Application for the refurbishment.

The applicant submitted the Development Application to refurbish the small site on 22 October 2010 after meeting with the Council Office. The applicant was hoping to open the delicatessen before Christmas to benefit from the Christmas trade. The applicant, presuming this refurbishment would not incur a lengthy approval time, quit their previous means of employment to focus on meeting this target.

The Council did not approve the Development Application until 6 January 2011, meaning the delicatessen owner had missed the Christmas trading period, despite a development officer initially indicating that it should take approximately ten days.

Part of the reason behind this lengthy delay in approval was that the plans submitted by the applicant were not drawn by a professional draftsman and therefore were rejected by the Council. The applicant was also told to consider the provision of disability access, despite it being a pre-existing building. Not only did this lead to time delays, it also incurred significant costs to the applicant to source a professional to draw up these plans.

The neighbouring Council area does not require plans for the occupation of shops to be drawn by a professional nor does it require disability access to be considered for the occupation of existing shops. Such applications in the neighbouring Council take 7-10 days.

Despite receiving development approval on 6 January 2011, the applicant could then not occupy the retail space until 12 April 2011 due to the conditions placed on this approval. For the applicant to be awarded an Occupation Certificate and thus

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be allowed to commence trading, the applicant needed to be awarded a Section 73 Compliance Certificate from Sydney Water. This is despite the fact that the building where the proposed retail space was located inside had these services when it received Council approval. There were also operating shops on either side of the proposed retail space as well as occupied flats above.

The Section 73 Compliance Certificate was awarded by Sydney Water on 1 March 2011. This Certificate incurred \$840 in costs, and merely states that water and sewerage facilities are available. Following receipt of the Section 73 Compliance Certificate, inspections were made by various Council officers and, following attending to some minor matters raised in these visits, an Occupation Certificate was finally issued on 12 April 2011. This is six months after initially visiting the Council office and lodging the Development Application.

This example highlights not only the delays caused by local councils, which often appear to be unnecessary, but also shows the effects these delays can have on local business owners. Given the applicant's expectation that this approval process would not take as long as it did, the applicant ended up foregoing personal income, incurred significant rental, capital and compliance costs, without being able to generate revenue from the business because it was not able to operate.

Thank you for your opportunity to provide the Commission with this example which we hope you find useful.

Yours sincerely

**Paul Orton**  
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