



Dedicated to a better Brisbane

25 May 2015

General Manager
Small Business, Competition and Consumer Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: competition@treasury.gov.au

Dear Sir/Madam

**Re: Competition Policy Review final report
Submission by Brisbane City Council**

Thank you for the opportunity to comment on the Competition Policy Review final report. Brisbane City Council (Council) acknowledges the ongoing commitment to engagement on this important topic. Council takes this opportunity to comment on section 6 of the report and recommendations 8, 9 and 12 with specific reference to land use planning.

Section 6 – Retail Markets – Supermarkets

Brisbane City Plan 2014, the planning scheme for the City of Brisbane, commenced in June 2014, and provides for a network of well-located retail/activity centres supported by public and private transport capacity. It provides for adequate retail space irrespective of whether developers are new to, or well established in, the market. This network is used to guide infrastructure planning and delivery. *Brisbane City Plan 2014* does not explicitly or implicitly favour particular operators and Council considers it inappropriate to do so.

A further aspect of competition within the retail market that Council would like to draw to the attention of the Panel is shopping centre operations on federal land leased to airport corporations. Such shopping centres are not bound by the planning and development systems that operate in local government areas outside of airport land. They are not required to mitigate on or off site impacts from their development in the same way as their local competitors, nor are they subject to the infrastructure charging regimes of councils who are required to apply infrastructure charges to new development to contribute to the upgrade of infrastructure networks necessitated in whole or part by development on airport land.

The Panel is requested to give consideration to the development of supermarkets and other retail development on airport land and make recommendations regarding appropriate infrastructure charging to deal with off-site infrastructure impacts and improved competition outcomes.

Recommendation 8 — Regulation Review

Council notes earlier recommendations of the National Competition Council referenced by the Panel which encouraged competition between government and private providers in the planning approval process and would like to draw the attention of the Panel to a service offered by Council which has been well received by industry customers and the community alike. Council has introduced a process called RiskSMART for expediting the assessment of applications for certain types of development that comply with *Brisbane City Plan 2014*. Council has used a risk management methodology to determine low risk development types that can be submitted this way. RiskSMART relies on accredited consultants submitting decision-ready applications that comply with criteria for lodgement and application type as well as the relevant *Brisbane City Plan 2014* requirements.

The program offers an opportunity to advance government and industry partnerships and provides a risk management approach to service delivery. RiskSMART is a simple way to fast track the approval of low-risk development proposals and provides guaranteed turn around times.

The Panel is requested to acknowledge that in addition to direct competition between sectors, that competition policy can also be served by collaboration between government and private providers in the planning approval process.

Furthermore, the Australian Government is encouraged to provide financial support for the continued development of shared responsibility models in development assessment processes to ensure that regulation remains “light touch” whilst achieving the economic, social or environmental planning objectives set out in planning schemes.

With respect to recommendations on regulatory impact analysis, Council is conscious of the market impact of regulation and is keen to further develop expertise in regulatory impact analysis. The Australian Government and state governments are invited to assist local government with the financial and policy resources necessary to further this work.

Recommendation 9 — Planning and Zoning

The position of the Panel with respect to the operation of planning systems across the country producing potentially uncompetitive outcomes with respect to market entry, as well as a myriad of compliance and enforcement arrangements which national operators may find expensive to operate, is noted. *Brisbane City Plan 2014* has been drafted with the intention of avoiding these effects on new market entrants.

Council asserts that land use planning is a state responsibility and in Queensland, local governments are required by state legislation to manage the process by which development takes place. In doing so, Council manages a broad range of often competing social, environmental and social impacts. Council views restrictions on competition as unhelpful but submits to the Panel that there is often a broader suite of considerations to be taken into account.

The Panel is requested to acknowledge in Recommendation 9 that it is legitimate for local governments to incorporate planning for networks of mixed use activity centres into the strategic frameworks of planning schemes developed for local areas and endorsed by elected representatives.

The Property Council of Australia (Queensland) report - *Property Interests, Benchmarks for Queensland Planning Schemes* in August 2013, sets out to provide guidance to elected representatives, planning practitioners and the development industry on land use policy impact on the property (including retail) sector.

In order to provide direction on competition policy that is meaningful across a range of state and local government jurisdictions, it is suggested that the proposed Australian Council for Competition Policy develop tools capable of auditing state and local planning policies within individual jurisdictions to make those instruments more competition friendly.

Recommendation 12 – Retail Trading Hours

Council understands the view of the Panel that, from a competition perspective, as a matter of principle, restrictions on retail trading hours should be removed.

In Queensland trading hours are regulated by the state government and are not the direct responsibility of Council. Nevertheless, there are a number of instances where controls on hours of operation are used by council in the public interest. For example, *Brisbane City Plan 2014* has established hours of operation for centres that vary across different zones and are used to establish benchmarks by which uses can be judged as self-assessable. Similarly, many existing centres in Brisbane have been approved and built through a development approval process and have hours of operation which are controlled so that the use does not detrimentally impact on the amenity of adjoining residents.

Removing restrictions on trading hours potentially cuts across local circumstances where hours of operation are controlled to protect amenity or other negative impacts such as car parking. Extending those hours of operation may require the upgrade of facilities to ensure that such impacts continue to be mitigated within the context of extended trading hours. In this context, the Panel is requested to acknowledge that restrictions on hours of operation are often used by local governments to legitimately regulate impacts on public interests such as amenity for neighbouring uses and on-street car parking and that nothing in Recommendation 12 would prevent the continuation of those practices.

Once again thank you for the opportunity to make a submission on this topic. Should you wish to discuss any matter contained in this submission or receive further information on any of the points raised, please do not hesitate to contact Mr Richard Sivell, Manager Major Development Projects from Council's Development Assessment branch on 3403 8888.

Yours sincerely



Colin Jensen
CHIEF EXECUTIVE OFFICER