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21 October 2011

Commissioner
Business Regulation Benchmarking – Role of Local Government
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Dear Commissioner,



I write to you in relation to the Productivity Commission's Issues Paper on *Business Regulation Benchmarking – Role of Local Government*.

Business SA is South Australia's leading business membership organisation, representing thousands of businesses through direct membership and affiliated industry associations. We represent businesses across all industry sectors, ranging in size from micro-business to multi-national companies. Business SA advocates on behalf of business to propose legislative, regulatory and policy reforms and programs for sustainable economic growth in South Australia.

Regulations and particularly red tape associated with unnecessary regulations or timely and costly paperwork are major concerns of the business community.

To assist in providing a submission to the Issues Paper, Business SA included three supplementary questions regarding the influence of Local Government regulations on businesses in its September 2011 edition of the *Business SA Survey of Business Expectations*.

Almost 40 per cent of businesses indicated that Local Government regulations have a negative impact on their operations. Around 39 per cent of businesses indicated that there was no impact and 17 per cent indicated that there was a positive impact. Four per cent of respondents didn't know.

Fees and charges were considered the greatest concern by respondents to the survey (38 per cent), followed by timeliness of decision making (14 per cent), paperwork and reporting requirements (10 per cent), the consistency across Councils (10 per cent), the clarity and scope of information (4 per cent) and the transparency of processes (4 per cent). The remaining 20 per cent of business respondents indicated that no aspect of Local Government regulations were a concern.

Local Government regulations regarding building and construction were the greatest concern of respondents to the survey (27 per cent), followed by infrastructure and roads (20 per cent), planning and land use (18 per cent), health and safety (7 per cent) and environmental issues (3 per cent). The other quarter of respondents indicated that no area of Local Government regulations were a concern.

It is notable that between 20-25 per cent of respondents find no aspect or area of Local Government regulations a concern to their business. Some of this may be explained by a lack of knowledge about Local Government regulations and confusion or uncertainty about the responsibilities of this tier of Government, as well as differences between Councils. On the other hand, some businesses may be satisfied with the administering of regulations by their Council. Indeed, this would be supported by the 17 per cent of respondents that indicated Local Government regulations had a positive impact on their business.

Business SA released *Better Democracy in South Australia – Achieving the Best Governance of our State* in early 2010¹. This major policy document included a number of recommendations associated with Local Government, some of which are relevant to the Productivity Commission's study. These are repeated here:

- Transfers of functions from the State to Local Government should be accompanied by the funding necessary to carry out the functions efficiently
- There should be a clear division of powers established between the State and Local Governments
- The inter-relations and the fields of responsibility between Local Government and State Statutory Authorities should be rationalised
- Local Government in South Australia should be rationalised to a system based on Regional Councils
- The metropolitan area should be restructured into three Regional Councils, based on northern, southern and central regions, excluding the Adelaide CBD
- A City of Adelaide Authority should be established which replaces the Adelaide City Council
- The extra-metropolitan Councils should be restructured into seven Regional Councils, based on the areas defined by Regional Australia.

¹ This document can be accessed from Business SA's website at <http://business-sa.com/your-voice/submissions>

Business SA believes that Local Government amalgamations would enable economies of scale, increase effectiveness and efficiency and reduce the scope for inconsistency in and duplication of regulations. Business SA thus urges the Productivity Commission to use this benchmarking study to analyse whether larger Councils are more efficient and impose lower regulatory burdens on business, especially metropolitan Councils in urban areas.

Further to this, key aspects of Local Government regulations that Business SA believes should be thoroughly investigated are duplication and inconsistency and the extent to which these result in higher costs and burdens for businesses. This includes regulations at a Local Government level that duplicate or are not consistent with regulations at a State Government level and also inconsistent regulations or inconsistent application of regulations across different Councils.

In terms of making relevant comparisons about regulatory burdens across Local Government, Business SA considers that the seven merged classifications utilised by the Australian Classification of Local Governments (urban capital city, urban metropolitan developed, urban fringe, urban regional town/city, rural agricultural, rural significant growth and rural remote) would be appropriate.

Business SA also provided a submission to the Productivity Commission's Discussion Draft Research Report on *Identifying and Evaluating Regulation Reforms*. Some of the key points from that submission are relevant and are repeated here.

Business SA considers stocktakes of regulatory burdens to be a useful process, particularly if conducted by an independent body. However, the policy(ies) that are aligned to the regulations would ideally be analysed at the same time, to assess whether they are appropriate and whether regulations are necessary. Thus in-depth reviews are also supported.

Principles-based reviews are strongly supported, particularly where they are aligned with significant reform processes that can yield substantial benefits.

Business SA supports robust benchmarking and quantitative approaches, where possible, to assess the costs and benefits of regulations and of changes to those regulations, as well as to monitor the performance of jurisdictions in reducing regulatory burdens.

Business SA believes that the degree of regulation needs to be more seriously considered. In many cases, only light-handed regulation is required, with a minimal level of reporting and monitoring necessary. Indeed, voluntary codes of conduct or mechanisms may achieve better results than regulations in some instances. Regulations should also focus on outcomes, rather than prescribe actions that must be followed. Outcome-focused regulations are likely to enable innovative businesses to achieve what is required at a lower cost than if they are forced to do particular things. Heavy-handed regulation should only be used when absolutely necessary, such as to minimise what would otherwise be large costs to the community of particular activities.

Should you require any further information or have any questions, please contact Rick Cairney, Director of Policy, Business SA on (08) 8300 0060 or rickc@business-sa.com.

Yours sincerely

Peter Vaughan

Chief Executive Officer