

Benchmarking: Role of Local Government as Regulator”

From: Graham Evans AO, former Chair, Victorian Competition and Efficiency Commission

I was the inaugural Chair of the Victorian Competition and Efficiency Commission (VCEC) and a Commissioner until retirement in August 2010. As you will be aware, VCEC was modelled on the Productivity Commission in terms of its functions and processes when it was established in 2004. The final report on which I worked at VCEC was “Local Government for a Better Victoria: An Inquiry into Streamlining Local Government Regulation”. In the course of this inquiry VCEC received 82 submissions and held 84 meetings, the majority with multiple participants (including two roundtables) in Melbourne and regional Victoria. The final report on Local Government was presented to the previous Victorian Government on 24 August 2010, as required by the Report’s Terms of Reference. .

It is not possible for the final report to be made public, other than by the Victorian Government, unless copyright is waived. My views on your inquiry and specifically the terms of reference: “specify best practices which have the capacity to reduce unnecessary regulatory costs for business” extend some of the points made in VCEC’s draft report. The report identified potential annual savings to business of between \$42 million and \$95 million, without undermining the benefits of regulation. (AFR, 13 December 2011) The majority of these savings relate to land-use planning, which is the main focus of this submission.

The draft VCEC report, to which you will have access, set out the planning framework for Victoria, but there was only brief discussion of strategic planning. Central to the views expressed in this Submission is the distinction between strategic and statutory planning:

Strategic planning, the research and formulation of policies or strategies to implement goals and objectives relating to particular land uses or areas

Statutory planning, the controls for land use and development, including the process of assessing applications

An effective strategic planning process is a pre-condition for process improvements in statutory planning. It is also necessary to achieve the efficient integration of other essential aspects of development, including the provision of transport, utility services, education and health services. This applies to all forms of development, and especially those which require special planning frameworks, such as coastal communities. The gains from effective integration in these areas would be much greater again than the substantial financial benefits from improved statutory planning processes which are quantified above.

In Victoria there are multiple State objectives for land use planning and development, with little clarity on how competing objectives are to be resolved. For example, the State Planning Policy Framework refers to 73 different objectives that planning officers may be required to consider, with no guidance other than that the result should achieve a “net community benefit” and “sustainable development”. It is not surprising, therefore, that there are often significant differences within and between local councils in their statutory planning decisions. Quite apart from the resulting

community concerns, the consequent uncertainty and delays significantly increase business costs.

Planning is one of the most divisive areas of public policy for State and local governments in Victoria, and indeed Australia. Many in the community do not understand the reasons for State Government interventions in statutory planning (often belatedly through planning scheme amendments) and consider decisions are often arbitrary, lacking transparency and inconsistent, and so they respond by way of objections and administrative appeals. This involves costs to all parties. Furthermore, in VCEC's experience few other than planning specialists understand the planning framework.

While the previous State Government provided some public guidance in its strategic planning intent through "Melbourne 2030" (and specifically the development of activity centres), implementation between State and local governments was deficient, especially through the frequent failure to subsequently develop Municipal Strategic Statements, in which all interested parties had been involved in their development. In other words, the input of all interested parties which should have been sought at the strategic planning stage, to enable the efficiency gains set out below was at best partial.

Two Victorian examples of best practice in this regard are the City of Melbourne's proposed new Municipal Strategic Statement (MSS) and the City of Glen Eira's local planning policy. It is suggested that the Productivity Commission look closely at both the process used by the City of Melbourne to develop its MSS, including proposals for managing future growth with least negative impact on local communities, and maximum use of existing public facilities. These should serve as a model for State – local government co-operation in strategic planning.

An improvement in strategic planning in Victoria will require additional resources for local councils, as a number made clear in their public submissions to VCEC. Not only are many currently understaffed, but they are reluctant to increase their investment in strategic planning resources where they see the benefits, including potential cost savings, accruing to those outside municipal boundaries.

Many of the efficiency gains from improvement to land-use planning processes in Victoria are set out in VCEC's draft report on "Local Government for a Better Victoria" and in the public submissions it received. These include the following, in the case of the State Government:

- the development of expected performance standards, including time for decision-making and achievement of housing growth capacity
- the implementation of "code access" for simple planning permits (current processes for high and low risk proposals are broadly the same) to enable these to be handled quickly and without public notification or an objection process, as these would be available at the strategic planning stage
- the development, with councils, of a best practice planning assessment process, including pre-application meetings, delegation of decision making, use of on-line tools, handling of notifications and objections, dealing with incomplete applications, and referral processes

- the rapid rollout and monitoring of the implementation of best practice in each of these areas and
- the development of a joint State and local government strategy to manage planning staff recruitment and retention, which should include an expanded role for private planners, especially in regard to code access fast track, and removing the current State Government cap on planning fees which does not permit full cost recovery for services (applies to statutory planning).

At the same time if the full benefit of efficiency improvements in land-use planning are to be achieved, the responsibility falls on local as well as State Government. Councils need to accept the State's planning objectives, (simplified, prioritised, and based on consultation with the State Government), better understand their costs of administering regulation (a pre-condition for full user pays fees), improve their regulatory processes in accordance with best practice, and avoid adding to the complexity of land-use planning regulation, by using it as a vehicle to achieve other policy objectives e.g. sustainability outcomes.