



**Yasmin King**  
Small Business Commissioner

OUT11/20294

Business Regulation Benchmarking –  
Role of Local Government  
Productivity Commission  
Canberra City ACT 2601

Attn: Dr Warren Mundy

By email: [localgov@pc.gov.au](mailto:localgov@pc.gov.au)

Dear Dr Mundy

As the NSW Small Business Commissioner, I have been appointed to advocate on behalf of small businesses in NSW and advise on cutting red tape, amongst a number of other functions. I have recently been conducting regional forums across NSW to hear directly from businesses about the impediments they face which negatively impact on their business growth.

Some of the most common complaints I hear about are the delays and perceived obstructionism by local councils in relation to planning and other business-related applications made by small businesses.

These behaviours have the tendency to impose rules to hinder growth rather than provide solutions to encourage jobs growth, promote sustainable development and create thriving environments. In many cases, the perceived interests of local residents are favoured over actions which support local businesses or tourists or visitors to a local government area. It is in fact clear, that a balanced approach which supports the interests of all of these parties, and not one at the expense of others, will deliver better community outcomes over the long term.

### **Need for economic data**

I believe there is a lack of data which provides an evidence base for the economic impact of decisions made at local government level. I suggest that the Productivity Commission would find value in undertaking research which identifies the economic impact on a community based on council decisions which are inconsistent with:

- businesses being supported to grow and increase employment;
- growth of industries which provide an economic boost to local communities;
- planning for projected population growth;
- providing appropriate infrastructure and amenities to meet local community needs; and
- broader national and state objectives about sustainable development for areas larger than a local government area.

An increasingly important issue impacting on Australia's productivity is that policies which are developed at a national or state level to improve economic growth, create jobs and support growing industries can be undermined when the means to deliver these objectives are in fact controlled by another level of government.

In many cases, local governments are seeking additional revenue streams to support their operations, which have the unintended consequences of imposing additional costs on local

businesses which inhibit growth rather than encourage it, and have the potential to contribute to the undermining of an entire region's growth.

A common example raised with me is the threat to tourist destinations through local council decision-making which does not support the provision of tourist amenities such as adequate road infrastructure and car parking facilities, public toilets, tourist information or the hosting of events which attract tourists.

The benefits of a study, if able to be undertaken by the Productivity Commission, would be to understand how changes to make council decision-making more business-friendly, with appropriate consideration of issues raised by local communities, could lead to sustainable development and improved economic outcomes which benefit communities as a whole.

I have also set out below some examples which demonstrate the common issues raised with me about local councils.

### **Local council planning decisions**

Many small businesses face unacceptable delays when they seek planning approvals from councils. There is a common complaint that local council staff do not understand the financial impacts when small business owners are required to adhere to duplicative and excessive assessment procedures and wait for significant periods for council assessments. Anecdotally, the current situation has arisen due to lack of adequate resourcing of councils, a culture which is not strongly focussed on customer service or an appreciation of how businesses operate and lack of appropriately skilled planners to undertake assessments.

With the trend for local councils to have more influence on planning decisions, there is a real concern that the lack of focus on economic impacts for a local area and the opportunity costs of lost productivity to businesses, based on council decision-making, will lead to a lack of sustainable development required for thriving communities in the longer term.

Local councils, over time, have developed complex processes which are consistently applied to all applicants, regardless of their capacity to deal with these processes. This means that there is no discretion about how councils can work cooperatively with small businesses in a way which may be more appropriate than the way they deal with large businesses.

A small business is understandably less financially able to deal with long time delays in processing; however there is no capacity within councils to respond to the fact that the economic impacts for small businesses are significantly more arduous. It should not be acceptable that the approval process for development applications can take years in some instances, for what can be minor works. This can result in a small business deciding that growth of their business is not an option for them.

A significant concern for business is that if an applicant appeals a decision or seeks to make a formal complaint there is a fear of retribution and that future applications will not be fairly treated. There is not currently an effective mechanism through which applicants feel they can receive a fair hearing about the assessment of their application. If local councils knew that a third party could actively review their decision-making processes, this may provide an incentive to council assessors to ensure that assessment processes are in fact fair and equitable.

### **Car parking contribution levies**

I have received a number of complaints about councils imposing significant costs associated with car parking contribution levies, which negatively impact on the growth of local businesses. In the instance of a metropolitan Sydney council, a car parking contribution levy of \$31,000 per additional seat in a café was applied to a proposed expansion (amounting to approximately \$500,000). It is noted that no development proceeded, based on these substantial fees by council.

In a regional area, a new small business was advised that there would be a car parking contribution levy of \$11,000 applied for parking spaces for 20 vehicles (amounting to \$220,000 for this particular business). Again, this financial impost resulted in the small business operator deciding not to proceed with the investment.

In some instances, upfront fees required at the start of the development application process have been so excessive as to not make the business or business expansion viable. Small businesses owners have also been requested to pay upfront fees for pre-development application meetings with decision makers in council, which leaves less money for businesses to spend on profit-related activities. Unfortunately, in these cases, a common result is that a business owner decides not to grow their business or employ more staff. This is such a common story that the opportunity costs and lost productivity growth would be significant Australia-wide.

Should you wish to discuss any of the issues raised in this submission, please contact Ms Alyssa Stempniak, Senior Policy Advisor, Office of the Small Business Commissioner.

Yours sincerely

**Yasmin King**  
Small Business Commissioner