

24 May 2012

Business Regulation Benchmarking
Productivity Commission
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Canberra City ACT 2601

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Dear Sir/Madam

**Performance Benchmarking of Australian Business Regulation:
The Role of Local Government as Regulator**

Council has reviewed the Draft Report published by the Productivity Commission and wishes to provide a number of comments on the report

- Wagga Wagga City Council is committed to identifying and where possible reducing unnecessary compliance cost burdens on business. Wagga Wagga is a growing regional city which acts as a regional centre for the Riverina and as a catchment of some 200,000 residents. In this context and given recent strong growth, the Council is passionate to provide a supportive environment for further business investment.
- The population of the City of Wagga Wagga is 63,906 and the growth rate between 2006 and 2011 has averaged 1.4% compared with 1.1% for the State of NSW. The City supports approximately 5,400 small, medium and large business enterprises.
- Council's enforcement and regulatory activities are largely a result of NSW State laws rather than local laws. Council agrees with the following statement from page 5 of the report "*indeed, the source of burdens resulting from the regulatory of LGs can often be found in the policies and processes of other levels of government, most notably the states*".
- Council also supports the statement on page 9 of the report "*frequently LG's are caught in a tug of war between strongly expressed local opinions, a growing list of responsibilities and requirements delegated to them by their State Government.*" Council has at times faced strong criticism (from the

business sector in particular) for carrying out its statutory obligation to enforce NSW state requirements. Examples are traffic and parking laws, building code requirements, and environmental laws including the inspection of septic tanks.

- The findings of the survey of small and medium business that “... *the regulation of planning and land-use and building and construction have the most impact on business*” is supported by the feedback which Wagga Wagga City Council receives from the local business community. In response to this perception of bureaucratic red tape, Council has recently established a Planning Advisory Committee which includes 12 local business representatives. The Committee has recently made recommendations that Council has adopted that have improved the overall process for development activity within the City.
- Council notes and supports the comments provided in chapter 4 of the report which highlights the variable capacity of LG’s to act as regulators. This includes challenges associated with financial capacity and workforce capacity. Council’s capacity is limited by rate pegging, cost shifting and difficulties in attracting town planners and building inspectors. If Councils could more easily recruit and resource additional planners and building staff this would ease the burden on business through more timely outcomes. These issues are explored in detail in the report.
- An issue which is not mentioned in the report is the higher burden on regional and rural Councils relative to their metropolitan counterparts. Smaller rural Councils have a very limited staff resource who typically perform a range of functions and are unable to dedicate the time required to fully implement regulatory requirements or develop the specialist skills to undertake the role. Metropolitan Councils by virtue of their size and proximity are in a better position to access shared services and services offered by other levels of government which have a stronger presence in city areas. Regional Councils such as Wagga Wagga are seen as a one-stop shop for accessing services and are the first port of call for raising concerns about regulatory matters regardless of whether the matter falls within the Council’s responsibility. There is also a stronger media scrutiny of local regulatory matters in regional cities relative to metropolitan councils where the focus tends to be more on state and national issues.
- The report states that “*State Governments have an important role to play in building and maintaining LG regulatory capacity. Before delegating new regulatory functions state governments should ensure that LGs are suitably resources to handle the additional responsibilities. It is particularly important that state*

governments consult LGs before devolving additional responsibilities to them, and provide support to LG's in administering these responsibilities". State Governments in the past have not always made it a priority to consult with local government when it comes to introducing new regulations or making changes to existing regulations. This inhibits Council's ability to act effectively in its role as regulator.

- Council believes that an improved and respectful relationship between the three levels of government is required to improve the climate in which Local Government acts as a regulator. In this regard, Council supports the comments made on page 61 attributed to PriceWaterhouseCoopers *"... the links between LG and local business and industry put LG's in a good position to foster a 'bottom up' approach to regional development and makes LG's a sensible point access to inform business about other governments' services and programs and a possible location for delivery of such services."*
- Council fully supports the current review being undertaken by the NSW State Government of the Planning System. Council refers the Productivity Commission to the imminent release of the Green Paper associated with this review. Council is optimistic that the development of new Planning Act for NSW will address some of the issues raised in the Productivity Report.
- Recent developments in society generally have arguably resulted in communities and Governments across Australia becoming more risk averse. The flow on affect of this attitude is to impose further requirements on development consents and business generally to minimise a perceived risk. The requirement to undertake environmental impact assessments on smaller scale developments is an example of this.
- It is often frustrating for local councils who wish to introduce for example a local procurement policy which would potentially benefit local business, only to be advised that such policies conflict with state and federal laws applicable in the area of national competition and competitive neutrality.
- The report is comprehensive and attempts to address all four tasks identified by Bill Shorten, Assistant Treasurer.

I note the third task instructed by the Assistant Treasurer was

"to identify indicators and use them to assess whether different regulatory responsibilities and the approach to the exercise of those responsibilities, have a material effect on costs experienced by business"

Whilst the report details a number of barriers which were identified from business surveys including: complex regulatory frameworks, inter and intra-jurisdictional overlaps and inconsistencies, protracted timeframes etc; there does not appear to be a clear and distinct reference to the indicators which the Assistant Treasurer is seeking.

Yours sincerely

Phil Pinyon
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