



SUBMISSION TO PRODUCTIVITY COMMISSION DRAFT REPORT – PERFORMANCE BENCHMARKING OF AUSTRALIAN BUSINESS REGULATION: THE ROLE OF LOCAL GOVERNMENT AS REGULATOR

The Department of Resources, Energy and Tourism (DRET) welcomes the findings of the draft report, particularly those surrounding the regularly burdens placed on businesses in relation to building, planning and land use. DRET supports the adoption of leading practices by governments that will reduce unnecessary regulatory burdens on business to enhance Australia's productivity and support economic growth. DRET sees value in leading practices that achieve greater consistency across Commonwealth, state/territory and local jurisdictions, particularly those that would lead to a more efficient and streamlined planning approvals process that minimises the need to seek separate approvals from different jurisdictions for the same development.

Building on the issues raised in the first DRET submission, this paper seeks to provide additional information on areas identified by the Productivity Commission (PC) as needing further investigation in relation to the resources, energy and tourism sectors.

RESOURCES

Some regulatory burdens arise from the lack of clarity in the scope of local government's role in the approval of major oil and gas projects. The Commission recommended in the *Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector (2009)* that the state and Northern Territory governments should make clear the scope of local government's role in upstream petroleum developments (and other major developments). Where aspects of these developments are already regulated by environmental agencies or major hazard facilities regulators, or where the regulation requires specialist industry knowledge, involvement of local government is not warranted.

In response, state and Northern Territory governments undertook to clarify local government's role via development of a Memorandum of Understanding (MoU). After consultation with key stakeholders, the Standing Council on Energy and Resources (SCER) agreed in December 2011 that a national MoU was not a viable approach from either an industry or local government perspective. Instead a guideline on the issues that should be considered by developers and local governments was deemed to be more appropriate. This approach was accepted by the Council of Australian Governments (COAG) in April 2012.

The Western Australian Department of Mines and Petroleum has taken the lead in developing draft *Guidelines of Engagement for Petroleum Developers with Local Government* that outline principles of engagement for petroleum developers with local government. The guidelines are currently being considered by SCER and will then be referred to COAG before the end of 2012.

Local governments may benefit from clear guidelines for the assessment of development proposals related to specific sectors. The proposed introduction of guidelines should help clarify the role of local governments and promote leading practice in assessments for petroleum proposals with potential application to mining and other extractive industries.



ENERGY

Land-use planning regulation can have a significant impact for the energy sector. The harmonisation and streamlining of local government land-use regulatory frameworks is particularly important for the deployment of renewable energy in Australia, facilitating greater integration of renewable energy technologies in local markets and systems, as well as ensuring that renewable energy developers (both domestic and international) are able to engage with local governments in a predictable and coherent way.

In particular the development of large-scale renewable energy projects and the installation of solar photovoltaic (pv) panels on residential and commercial premises is relevant when considering land-use regulation and engagement with local governments.

Regulation which reduces the ability to site wind turbines and solar systems in areas with high capacity factors can increase the cost of energy, reduce the efficiency of the Commonwealth's Renewable Energy Target and impose higher compliance costs on energy companies and other businesses with a Renewable Energy Target liability.

Local government regulation should also consider the ability for renewable energy land-use to co-exist with agricultural land-use where possible. This may reduce land costs for renewable energy projects making them more competitive and provide an additional revenue stream for agricultural businesses.

Regulation of solar pv panels which imposes considerable compliance costs can act as a deterrent for customers. This can have an impact on both the solar pv supplier through lost productivity and businesses seeking to reduce energy costs by taking advantage of incentives to use solar pv power. Local government authorities should seek to maximise the use of complying development regulations where possible. Local government authorities should also be mindful of the cumulative impact of development on solar access and take into account the siting of solar pv installations when considering future development applications.

TOURISM

As identified in the PC draft report, the tourism industry is a sector that is disproportionately affected by local government regulation, particularly in relation to planning and development activities. This regulatory burden is compounded by the large proportion of tourism related businesses (93 per cent¹) that are micro to small enterprises², where the impacts of what may appear to be small burdens can have a significant and cumulative impact on individual businesses. Any regulatory burden places strain on what are already small and volatile profit margins for tourism businesses, with average profit rates for the tourism industry (17 per cent) found to be significantly lower than for the all industry average (28 per cent) in Australia.³

This cumulative impact is further worsened by businesses having to satisfy the regulatory requirements of Commonwealth and state legislation and policy, with the added burden of interacting with more than one regulatory authority. For example a tourism company operating in Victoria may need to interact with:

- Local Council – food safety registration, permit and plan
- State Government – liquor licence (Department of Justice), bus operator accreditation (Public Transport Safety Victoria), accreditation to drive passenger vehicles (Victorian Taxi Directorate) licence to operate permit (Parks Victoria)
- Commonwealth Government – eco-tourism accreditation (Ecotourism Australia).⁴

¹ Tourism Research Australia (2011) *Tourism Investment in Australia*, pg 14.

² Includes non-employing business and businesses that employ five to 19 persons.

³ Tourism Research Australia (2011) *Tourism Investment in Australia*, pg 14.

⁴ Victorian Tourism Industry Council and Victorian Events Industry Council (2011) *Submission to the Victorian Competition and Efficiency Commission Inquiry: Victoria's Tourism Industry*.



Examples of good government practices for tourism developments

As recognised in the PC draft report, the *National Tourism Planning Guide* (Guide) can assist state/territory and local government planners in better understanding tourism related issues in considering tourism related development proposals. DRET would welcome the wider adoption of measures outlined in the Guide to overcome barriers to investment currently experienced by the tourism industry. In particular:

- state and regional planning policy proactively consider tourism development
- land use zoning and definitions incorporate tourism and assist planners to determine the appropriateness of tourism development
- call-in powers are considered to allow state governments to assess proposals
- mechanisms are established for planners to better engage with the tourism industry and make tourism related policy and land use planning decisions based on research.

In addition to the Guide and LEK report (outlined in the first DRET submission) the *Framework Guide to Facilitate Tourism Investment* and *Companion Report* provides a valuable resource which governments at all levels can use to identify and priorities the provision of effective tourism investment facilitation (available at www.ret.gov.au/tourism/policies/nlts/publications)⁵. As a part of this study, both government and industry were surveyed to provide an understanding of the current government facilitation services environment across Australia. This information was combined with case studies (from Australian and overseas) to provide a basis for a number of good practice recommendations. These recommendations highlight the role for that all levels of government in facilitating tourism investment (Attachment A).

In analysing the case studies, there were a number of themes or patterns which provided the basis for the best practice recommendations. These case studies may inform the PC's examination of governments which employ good regulatory practices in relation to tourism developments. In the majority of cases there were multiple government agencies involved in the development process, with state/territory government often playing a role in driving the development forward by:

- funding complementary infrastructure
- coordinating across agencies and stakeholders
- providing research and knowledge of the tourism industry and government processes
- implementing preferential zoning
- approving significant projects
- providing financial and other incentives.

This report also highlights changes to regulation and support for local government which will help to improve the investment environment for tourism development, including:

- embedding tourism expertise within state/territory and local governments and develop partnerships between different levels of government to share expertise
- ensuring that government agencies have the capacity/resources to assess tourism proposals
- publishing detailed information about government policy and facilitation services (including online)
- zoning sites for tourism developments and streamlining regulatory and planning approval processes at these sites
- integrating tourism investment strategies with local planning
- ensuring the appropriate level of government has approval authority and that state/territory approval process are clear
- making land available (including government holdings) for tourism development and ensure that land/building leases are long term.

⁵ Allens Consulting Group (2011) *Framework Guide to Facilitate Tourism Investment and Companion Report*.



Tourism 2020 – an update to the National Long-Term Tourism Strategy

On 6 December 2011, the Minister for Tourism, the Hon Martin Ferguson AM MP, launched the *Tourism 2020* strategy to further sharpen and priorities supply and demand side factors impacting on the tourism industry. Building on the work completed under the *National Long-Term Tourism Strategy*, *Tourism 2020* focuses on strengthening six main priority areas to ensure the continued growth and competitiveness of the tourism industry including:

- growing demand from Asia
- building competitive digital capability
- encouraging investment and implementing the regulatory reform agenda
- ensuring the tourism transport environment support growth
- increasing supply of labour, skills and Indigenous participation
- building industry resilience, productivity and quality.

Encouraging investment and implementing regulatory reform continues to be recognised, under *Tourism 2020*, as vital to the tourism industry's development. On 4 May 2012, Tourism Ministers from around Australia agreed to prioritise reforms to improve tourism investment facilitation and tourism development planning processes. The Investment and Regulatory Reform Working Group is continuing to address the recommendations of the review it commissioned into the impact of regulations on tourism investment⁶ and advocate that these recommendations (particularly around land-use definitions and zoning) are taken into consideration in any jurisdictional reviews of planning systems.

These reforms are consistent with the reforms proposed by the Business Advisory Forum and agreed by the COAG on 13 April 2012, including:

- addressing duplicative and cumbersome environment regulation
- streamlining the process for approvals of major projects
- improving assessment processes for low risk, low impact developments
- best practice approaches to regulation.

Tourism Ministers have also committed to writing to Small Business Ministers with examples of burdensome and unnecessary regulatory for consideration by the COAG Taskforce set up to prepare a report on regulations that frustrate small to medium businesses on a day to day basis.

In line with the whole of government approach taken under *Tourism 2020*, each state and territory will need to drive reforms within their own jurisdiction to reduce regulatory costs to business and improve competition and productivity.

⁶ L.E.K. Consulting (2011) *Tourism Investment and Regulation Review*.