



22 March 2013

Small Business Study
Productivity Commission
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Dear Commissioner Mundy

Submission to the *Benchmarking Study on Regulator Engagement with Small Business*

The Local Government Association of Queensland (LGAQ) is pleased to provide this submission to the *Benchmarking Study on Regulator Engagement with Small Business* (the Study) in accordance with the terms of reference provided in the Issues Paper January 2013.

The Commission's Issues Paper notes previous studies on regulation design and review, and that this study will look more at operational matters, including administration, enforcement practices and cultures. These aspects are of course inter-related and there are opportunities to continue to improve operations through better regulation design and review eg. model regulations / local laws, providing guidance to regulators in legislation, and continuous improvement including reviews to achieve 'red tape' reduction.

LGAQ's previous submission to the Business Regulation Benchmarking: Role of Local Government October 2011 Review noted that many of the regulations local government is required to administer and enforce are delegated by the Commonwealth and State Governments.

The delegation of the regulatory functions can be conferred with varying degrees of formal instruction and resources. LGAQ has noted in previous submissions that where the delegation involves 'cost-shifting' administrative, inspection, enforcement and other regulatory roles onto local government the regulatory function is compromised from the outset and may not be sustainable (LGAQ submission to the Cost Shifting Inquiry 2002).

Other regulation by local government arises from local laws which are intended to improve the overall operation and welfare of the local community. Local government recognises the importance of small businesses to local economies and its responsibility to foster an environment of business confidence. Opportunities for improving interactions with small businesses are pursued and leading practice examples from a number of councils are noted in this submission.

LGAQ is pleased to provide this submission and to further contribute over the course of the Study.

Yours sincerely

Simone Talbot
AGENERAL MANAGER – ADVOCACY



Submission to the

Study into

Regulator Engagement with Small Business

Productivity Commission

Local Government Association of Queensland

March 2013

Background

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individual needs. LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

LGAQ's Responses to the Review

LGAQ is pleased to provide the following summary responses, followed by more detailed commentary on the Commission's Issues Paper topics:

1. The LGAQ supports development, in consultation with the ABS, of a definition which identifies a number of levels of business size by activity (volumetric), which can be cross-tabulated by employee numbers, by industry sector classification, and by the latest geographic classification;
2. The LGAQ recommends a continuing program of regulation reduction and continuous improvement as a central strategy to address regulation costs to small businesses and the community;
3. The LGAQ does not support the delegation of regulatory functions where this involves cost-shifting from one level of government onto local government as this does not support effective regulation;
4. The LGAQ supports council (and other regulator) engagement with their small business communities, local chambers of commerce and/or other representative bodies to develop constructive dialogues on regulation, economic growth and sustainability;
5. The LGAQ notes that Queensland councils are continuing to develop online resources for small businesses to improve access to information, and to reduce transaction and other costs – examples include the Development Application toolbox, food business licensing and rating schemes and compliance information on noise pollution and waste disposal (initially developed with Regulation Reduction Incentive Fund funding to successful applicant councils);
6. The LGAQ notes that Queensland councils are developing and implementing programs which apply risk-assessment principles to a regulated activity to reduce costs to both councils and businesses – examples include food business rating and 'green business' licensing schemes;
7. There are opportunities to improve engagement with small businesses by consolidating regulation information across the three levels of government into 'one stop' web sites which cover the requirements of local, State and Commonwealth governments where practical, or at least the provision of flow-chart style maps for approval / compliance processes linking to other regulators.
8. In relation to regulation enforcement, models should identify and borrow rectification approaches using education advices from existing programs allowing for corrective action options that precede penalties provide a model which both educates and achieves compliance.

1. Terms of Reference and Local Government

In undertaking this study, the Productivity Commission is asked to:

- identify the nature of the regulatory posture of Commonwealth and state and territory regulators with respect to small business, including the extent to which facilitative and educative approaches are appropriately combined with compliance based approaches, and the extent to which approaches vary according to the nature and objectives of the regulations;
- In doing so, the Commission should draw where appropriate on examples of the various approaches that are used in shaping regulatory culture (including by incorporating regulatory objectives into legislative instruments).
- identify the levels of assistance and education that jurisdictions provide to small business and consider whether this could be better targeted;
- identify the extent to which regulators apply a risk based approach to enforcement and compliance, including the mandating of information requirements, in regulating small business;
- clarify the extent to which regulators consider the size and nature of a business when undertaking compliance and enforcement and compliance based information-gathering activities;
- identify whether particular approaches to the exercise of regulatory roles have the capacity to reduce unnecessary compliance costs incurred by small business, while sustaining good regulatory outcomes, and could therefore be described as best practice; and
- have regard to leading practices in overseas jurisdictions.

Consider and determine a definition of what constitutes a small business, noting that different regulators and jurisdictions use different definitions. As a starting point, the Commission may wish to consider whether there would be benefit in broader adoption of the Australian Bureau of Statistics (ABS) definition of a small business to provide for ease of comparison with ABS data.

The Commission's Issues Paper also provides a number of other guiding statements (p1-2):

"Regulator behaviour is critical, as in many cases it is difficult to change the underlying regulations, so the ability to improve the way regulations are administered and enforced, in practice, matters.

The term 'regulator' is used throughout this issues paper to denote officials, departmental units and independent statutory agencies that ensure the compliance of business or other groups in the community within an area of the law by drawing on their authority to undertake inspections, licensing and accreditation, or other enforcement activities. There are roughly 1100 regulatory bodies across Australia's federation (including more than 560 local governments), with around 75 regulators operating nationally.

The focus of this study is on the administration and enforcement of regulation by regulators at the Commonwealth, state and local government level.

This study will aim to identify and assess regulator engagement strategies that seek to improve the delivery of regulatory objectives and reduce unnecessary compliance costs to small business, while sustaining good regulatory outcomes."

Local Government is a regulator by virtue of responsibilities delegated by Commonwealth and State Governments and in administering local laws covering a broad range of community and business activities.

In addition to directly regulating some aspects of small businesses, local government also regulates areas which affect supplier and customer access to small businesses, such as zoning, licensing and permitting, signage placement, local road and mall access for certain classes of vehicles and parking.

LGAQ notes that it has previously provided a submission to the Business Regulation Benchmarking: Role of Local Government October 2011 Review and LGAQ refers the Commission to this previous submission as a relevant background paper.

Since then LGAQ has undertaken an extensive consultation and review program through its Red Tape Reduction Taskforce. The work of the Taskforce resulted in a report recommending a significant number of improvements being prepared and was submitted by LGAQ to the Queensland Government.

A copy of LGAQ's Red Tape Reduction Taskforce report is attached for reference.

Following from this and other related work the *Local Government and Other legislation Amendment Bill 2012 (Qld)* was enacted on 22 November 2012 introducing amendments to the *Local Government Act 2009 (Qld)* and the *City of Brisbane Act 2010*. Related changes were also made to consolidate regulations, resulting in the *Local Government Regulation 2012 (Qld)* and the *City of Brisbane Regulation 2012*.

There is also a current Queensland Government program for the identification of further priorities for regulation reduction including for local government being undertaken by the Queensland Office of Best Practice Regulation (OBPR). A number of recommendations have been made to the Queensland State Government and a copy of this report is available from the QCA / OBPR website.

Also, the recent streamlining by the Queensland Government of *Environmentally Relevant Activities* will reduce the number of regulated businesses and the volume of work for councils in administering and enforcing this delegated role, and consequently reduce the compliance costs for small businesses. The recent work of the OBPR and changes to *Environmentally Relevant Activities* are outlined in following Queensland Ministerial Statement of 8 March 2013 which includes estimates of savings from the changes:

Assistant Minister for Finance, Administration and Regulatory Reform Ms Deb Frecklington
OBPR releases framework for reducing red tape

The Newman Government is a step closer to implementing a framework for reducing burdensome red tape following the release of the Office of Best Practice Regulation's (OBPR) Final Report.

Assistant Minister for Administration, Finance and Regulatory Reform Deb Frecklington said the OBPR's Final Report provided a structure for the Newman Government to go about achieving its goal of reducing red tape and regulation by 20 per cent.

"In keeping with our election commitment, the Office of Best Practice Regulation was set up within the Queensland Competition Authority to drive regulatory reform and help restore transparency and accountability," Ms Frecklington said.

The OBPR Final Report identifies a range of priority areas, including 10 fast-track reforms and eight medium-term priorities.

"The Newman Government will consider the OBPR's Final Report before responding to it, but we have already committed to adopting the majority of the report's 50 recommendations," Ms Frecklington said.

"Importantly, the Newman Government has already started on its regulatory reform agenda, with more than 300 red-tape reduction initiatives implemented or underway.

"As part of these reforms, departments are now required to submit Regulatory Impact Statements for an assessment of their adequacy before releasing them for consultation.

"Ministers are also now required to propose up to three options to reduce or 'off-set' regulatory burdens when bringing forward any proposals that impose a new regulation or procedure on small business."

The Final Report recommends a Whole-of-Government Regulatory Management System, with each Minister to be responsible for reform in their departments.

"Ministers will be allocated a red tape reduction target for their portfolio," Ms Frecklington said.

"The reduction target for each portfolio will also be included in the key performance indicators of Directors-General."

Ms Frecklington said the actions taken since the Newman Government's election underlined its commitment to achieving its red tape reduction target.

"We have streamlined the approvals process for all Environmentally Relevant Activities saving on average \$20,000 in application costs, 150 pages of paperwork and 68 days of processing time," she said.

"From 31 March, more than 9,400 small business operators will no longer need to apply for a license or pay an application fee, and no longer need to submit an annual return.

"These changes will save small businesses more than \$6 million in annual fees, and will let them get on with what they do best—contributing to the economy and generating jobs.

"One of our biggest reforms has been increasing the payroll tax exemption threshold to \$1.1 million this financial year, the first step in our six-year commitment to increase the threshold to \$1.6 million.

"These reforms are all about making Queensland the most attractive place in Australia to invest and conduct business."

The Office of Best Practice Regulation's Final Report is available at <http://www.qca.org.au/OBPR/>

8 March, 2013

2. Significance of small businesses

The significance of small businesses to local communities is well understood by local government. In regional and remote councils many elected representatives have a small business / agri-business background. Elected representatives in local government, particularly in regional areas, can draw on this experience and networks to advocate for the small business sector in their communities.

As noted in the Commission's Issues Paper, the 2006 Regulation Taskforce noted a number of concerns by the business sector including excessive prescriptiveness, and a lack of communication and guidance. These and a number of the concerns listed arise from regulation administration and enforcement activities, or what the Commission's Issues Paper refers to as operational matters.

Policy makers in large organisations can be more 'removed' from community groups, including the small business sector. Consultation and engagement strategies can be implemented to address these issues. Large urban councils need to manage larger numbers of regulated entities and transactions. Workforce management includes training and systems that build 'resilience' in a busy enforcement environment, and these and other factors can influence the culture of regulator units.

While the Commission's Issues Paper comments that operational matters are 'easier' to change than the underlying legislation and regulation instruments themselves, the change may require significant effort to achieve. This is because any change in the way engagement occurs at an operational level needs to extend across both formal and informal communication channels and practices.

This can be achieved from a better, shared understanding of the purpose of a regulation on the part of both the regulator and regulated entity. Better understanding of the objectives and benefits by small business should result in better compliance, while better regulator understanding of constraints faced by small business should result in more flexibility.

Educating regulators should be based on the broad outcomes being sought through the regulation. This should include community-wide benefits such as those indicated by the data cited in the Commission's Issues Paper (p2) on the contribution made by small business to local, state and national economies.

The LGAQ supports council (and other regulator) engagement with their small business communities, local chambers of commerce and/or other representative bodies to develop constructive dialogues on regulation, economic growth and sustainability

What regulatory problems arise from the absence of a consistent definition of small business?

The absence of a consistent definition of small business makes it difficult to identify relevant data and in turn can make it difficult to develop policies and regulations to achieve intended outcomes. Policy and program development that does not have the benefit of a reliable and comprehensive data set can result in regulations which produce sub-optimal outcomes. There is also inherent inefficiency in the use of resources to pursue outcomes developed without adequate data for both development and evaluation.

In broad terms there are different risks associated with business activities which regulators seek to mitigate and for which data can be used to provide threshold indicators. One of the basic problems that can arise from the lack of a business size indicator is the difficulty this presents for assessing risk and the consequent application of the same level of compliance requirements.

This can place a disproportionate cost on small businesses seeking to operate in the market. In cases where this is not justified, the compliance cost may act as a regulatory barrier to entry which can create a disincentive for innovation and competition and reduce consumer choice.

Risks can be thought of as relating to the volume of activity and the numbers of employees. That is, there are two basic indicators which can be used to classify risks. Activity indicators such as turnover can be used to consider risks associated with the volume of the business' activities eg. environmental risks.

Employee numbers are relevant to regulations such as workplace health and safety. With the exception of some capital intensive businesses, the volume of business activity and the number of employees will be positively correlated. There are also business entity (legal) structures to which corporations law will apply.

LGAQ supports the adoption of a consistent, appropriate definition for levels of small businesses as discussed on page 3 of the Commission's Issues Paper. Further, this should be cross-tabulated with ABS industry classifications so data on business size, by number of employees, by industry and by the latest geographic classification system can be obtained.

Other indicators which provide for the development of programs targeted at specific groups, for example Indigenous, long-term unemployed and NESB start-up businesses, should also be considered and advice sought from the ABS on how best to identify sub-groups of particular interest.

If a single definition of small business was considered appropriate, what factors would need to be taken into account in its development? If such a definition is appropriate, should it be based on a measure of firm size or the organisational characteristics of the business?

The preceding discussion suggests a definition which provides for a classification of businesses similar to that suggested by the Parliamentary Joint Committee on Corporations and Financial Services and cited in the Commission's Issues Paper p.3.

A multi-level classification definition which allows classification of businesses of different sizes based on turnover or other suitable indicator of volume of activity, and further tabulated by number of employees, would provide relevant indicators for regulator and other purposes.

Organisational 'characteristics' insofar as this means business entity (legal) structure will be relevant in the application of corporations law and this should also be available but could be sourced from either ABS or ABR data bases.

The costs of a risk-based approach to regulation are related to business activity (eg. turnover, production volume). A single definition applied to regulation requirements would allow regulation to be tailored to recognised risks as they relate to higher volumes of activity, and higher-turnover businesses would have a greater capacity to meet commensurate regulatory requirements. That is, the availability of this data would provide an opportunity to assess the scale of risk according to the scale of a business' operations.

A disproportionate regulatory burden is placed on 'micro-businesses'. Sole operators and businesses based on family workers have limited capacity to devote time and resources to meet regulatory requirements. There is also a lower capacity to meet regulatory costs and the application of the same level of regulatory requirements will represent a disproportionate cost to sole operators / micro businesses, for example in some creative industries where turnover is relatively modest.

There will of course be businesses that handle materials considered to be dangerous and risk-assessments of these may trigger an appropriate standard of regulation at low volumes of operation.

3. What key characteristics of regulators influence their posture toward small business?

What are the key factors that influence how regulators engage with small business and in what manner are individual factors influential?

The Commission's Issues Paper notes a number of characteristics and provides related discussion p4-5.

In relation to the 'separation' of policy from program delivery and regulatory responsibility, in addition to responsiveness and ownership / accountability issues, the extension of this concept to the delegation of regulatory responsibilities to local government presents similar problems.

While separation of policy from administration roles can remove the potential for conflict, this delineation of roles tends to reinforce a more rigid compliance regime within the administrator due to the narrower focus of the activity. That is, an administrator can justify their operations in terms of simple KPIs such as the number of infringements issued, whereas the responsibility for evaluation and modifying a regulation to better achieve the intended outcome does not fall with its remit.

Cost-shifting by other levels of government onto local government has produced situations where the delegated regulatory activity has been unfunded, only partially funded or not funded on a continuing basis. In these cases the regulating local government entity becomes reliant on the revenues from licensing / registration and enforcement. This can also be true of entities set up as autonomous regulators.

LGAQ supports proper funding of regulatory activities where these are delegated by the Commonwealth or State governments and notes that simple cost-shifting onto local government compromises the effectiveness of regulation and creates additional costs for the community including small businesses.

Where local government acts as a regulator its engagement strategies for small business are an extension of community engagement practices (ACELG 2011, MCMR 2005). These can be implemented through chambers of commerce or groups convened to obtain feedback and improve regulatory outcomes.

4. Which regulator practices affect engagement with small business?

What are leading regulator practices in relation to:

- **monitoring of business awareness and understanding of regulations?**

Regulators including local governments have a range of traditional and modern methods to monitor business awareness available to them, including enquiry and enforcement data series obtained from field operations, monitoring customer contact centres, web site visits, surveys and advertising evaluations. Many councils use customer satisfaction surveys in relation to their operations amongst targeted groups.

Some leading practices include the use of council customer contact centres to enter data on enquiries and website tools which track access to information. LGAQ's ICT service *Resolute* has supported over 40 councils in setting up their web analytics capability. These systems provide web site access and packages which can report unique visits to forms and to pages containing information about a regulated activity.

- **ensuring regulatory decisions and advice are clear, accessible, consistent and timely?**

Councils use in-house skills or engage professional writers to ensure that web page content, including regulatory information and forms, is written in clear and concise language. Language translation tools and services are also offered on council web sites.

In some cases background information and decisions are published on web sites, including town planning development processes that are subject to public comment / objection.

Consistency is achieved through the development and publication of guiding documents, such as town plans, neighbourhood plans and other reference documents for regulated activities.

It is also a common practice for councils to apply service delivery charters which set out the timelines involved in a process which include expected response times to applications and enquiries.

Local government decision review processes are required under primary legislation and information on reviews is provided with decision advice.

- **addressing the information needs of small businesses including those located in regional areas or those with owners/managers of a non-English speaking or Indigenous background?**

All councils have developed an access and equity policy which is applied to all services delivered to their communities. Specific information needs are considered as part of community engagement programs.

In relation to small businesses, a number of councils are developing applications using a business information platform which assigns a unique identifier to a (self-nominated) business. This system then allows the council regulator to provide updates directly via email to the business in relation to upcoming changes to regulatory requirements, renewal reminders etc.

This project is jointly funded by the Commonwealth and State Governments with participating councils also contributing resources to implement the system, initially in the areas of developing forms and information for food businesses. An example of this program can be viewed at <http://www.brisbane.qld.gov.au/laws-permits/laws-and-permits-for-businesses/food-business-licences/index.htm>

- **ensuring the information businesses provide is necessary and that feedback about the impact of such requirements is taken into account?**

The need to reduce or minimise the reporting burden on small businesses and other groups is generally recognised by local governments, who face similar issues.

As a regulator, local government collects some data particularly at the time of initial registration / licensing / permitting for the specific regulated activity for which it is responsible. Data bases are then maintained as a resource in renewing licences, permits etc and other regulatory activities (inspection scheduling etc).

LGAQ and member councils liaise from time to time with the ABS on data collections which may cover small businesses, but does not typically include questions or conduct its own surveys of businesses.

An exception may be where a survey is conducted on businesses in a precinct in relation to a proposed regulatory change, such as a ban on smoking in a particular retail precinct. In these cases significant effort is made to minimise the respondent burden and to explain the need for the survey.

Do compliance and enforcement approaches and the decisions of regulators appropriately reflect the likelihood and consequences of non-compliance?

- ***What systems and approaches do regulators use to inform themselves about risks, including emerging risks? Do regulators have a good knowledge of the areas they regulate that are high risk?***

Risk management is a feature of regulation of small businesses by councils. Regulation officers receive relevant training and apply the systems and their experience in carrying out their role.

For example, there are established standards in food handling in which officers receive training to allow them to inspect food businesses and establish that proper procedures are being followed.

- ***Do regulators respond proportionately to compliance breaches? Do they have enough flexibility in terms of how they respond?***

In terms of response to breaches within the scope of those activities regulated by councils, the nature of the activities and application of principles of accountability and fairness require that regulatory responses (infringement notices, fines etc) are applied consistently. Training programs include circumstances where the compliance officer may exercise judgment and whether there is scope for flexibility.

The extent of risk mitigation can range from 'light handed' to efforts to completely regulate away all risk. The level of risk aversion can be set by organisational units or other decision makers outside of the regulating unit, for example by separate legal departments, and this unit may have the authority to direct regulating unit to regulate to a level that seeks to remove all risk. Where the level of risk mitigation to be pursued is determined by a unit separate to the regulating unit, proper consideration may not be given to the costs of adopting this level of enforcement for both the regulator and regulated entities.

- ***Which regulators most effectively manage risks and what particular strategies have worked well?***

There are good examples of risk being managed through the use of food ratings system that uses an inverse sliding scale of inspections relative to the rating of the business (Brisbane City Council).

A similar scheme – Green Licensing - was operated by Brisbane City Council for a period of time which applied similar approach to small businesses with Environmentally Relevant Activities (ERAs). The number of small businesses now subject to ERAs has recently been reduced by the Queensland Government (p3).

What factors cause individual officers to diverge from appropriate behaviours?

As noted above, training programs include circumstances where a compliance officer may exercise judgment and whether there is scope for flexibility. Factors within regulating units could include formal KPIs or informal expectations regarding indicators such as the number of infringement notices issued.

What are the relative risks presented by small business compared to larger businesses? How does this relationship vary between regulatory areas?

Using a basic probability approach, relative risk by business size suggests higher levels of risk for higher volumes of production. However risks for small businesses which do not have the same resources to devote to compliance can represent 'poor systems' risks. System approaches which set out standard practices to be followed are used to address risks and can account for the volume of production activity.

There will be businesses that handle materials considered to be dangerous and risk-assessments of these may trigger an appropriate standard of regulation at low volumes of operation.

What coordination occurs between and within regulators to share business data and avoid overlap and duplication in forms and data requirements?

As noted above, the need to reduce or minimise the reporting burden on small businesses and other groups is generally recognised by local governments, who face similar issues.

As a regulator, local government collects some data particularly at the time of initial registration / licensing permitting for the specific regulated activity for which it is responsible. Data bases are then maintained as a resource in renewing licences, permits etc and other regulatory activities (inspection scheduling etc). LGAQ and member councils liaise from time to time with the ABS on data collections which may cover small businesses, but does not typically include questions or conduct its own surveys of businesses.

To what extent do regulators use emerging technologies, such as online tools, to improve access to information and increase compliance?

Online tools provide one of the most affordable and accessible ways of improving communication and education, and ultimately compliance, by small businesses.

As noted above, a number of councils are developing applications using a business information platform which assigns a unique identifier to a (self-nominated) business. This system then allows the council regulator to provide updates directly via email to the business in relation to upcoming changes to regulatory requirements, renewal reminders etc.

This project is jointly funded by the Commonwealth and State Governments with participating councils also contributing resources to implement the system, initially in the areas of developing forms and information for food businesses. An example of this program can be viewed at <http://www.brisbane.qld.gov.au/laws-permits/laws-and-permits-for-businesses/food-business-licences/index.htm>

A number of these initiatives were supported under the Commonwealth Government's 2006 Regulation Reduction Incentive Fund (RRIF) and the funding made available to successful councils provided an important resource to achieve such innovation and improvements to business and regulatory efficiency.

Which regulators have appropriate mechanisms for handling complaints and resolving disputes? Are they tailored for small business?

All areas regulated by councils have review processes and these are clearly documented and available on web sites. Decision advices refer to review processes and these are accessible to all businesses.

Regulation reviews should be conducted using a comprehensive program and should utilise a broad-based data sources to establish effectiveness and opportunities for improvement. Focusing on a single or limited data sources can bias a review and can result in unnecessarily heavier enforcement and this will increase costs for both the regulator and the regulated entity.

Regulators have a responsibility to properly assess and independently review regulatory practices (and underlying regulations) to determine whether changes are required.

5. How does regulator engagement impact on small business costs?

How do regulators' engagement approaches affect the nature and impact of compliance costs on business? What are some examples of regulators' engagement approaches that impose excessive or unnecessary costs on business?

All regulation creates costs for regulators and regulated entities.

In larger urban centres, the requirement to effectively manage much larger volumes of enquiries and regulatory tasks and lead the (local government) regulator to adopt systems which can appear to be a less flexible.

Also due to the volume of transactions, dispute resolution processes may be perceived as being lengthy and this may discourage the lodging of disputes, allowing dissatisfaction amongst regulated entities to be unreported. This deprives the system of an important source of feedback.

In terms of costs, all of the initiatives being pursued by councils noted in this submission are aimed at reducing costs for both small businesses and councils.

LGAQ recommends a continuing program of regulation reduction and continuous improvement as a central strategy to address regulation costs to small businesses and the community.

Which regulators monitor and/or seek to measure the regulatory compliance costs their administration and enforcement practices impose on business? Which regulators do this most effectively?

In the same way that the Commission is considering a working definition, it would seem appropriate for this Study to consider investigating broader applications (and data collection) offered by the Business Cost Calculator and similar methods as presented <http://www.finance.gov.au/obpr/bcc/index.html>

LGAQ is not aware of any comprehensive data on the costs of council-enforced regulations on business. The following is a project outline for a Development Assessment reform project:

Development Assessment Reforms

The LGAQ and SEQ Council of Mayors are currently considering terms for the Development Assessment Innovation Project.

The project aims to expand, advance and implement innovative business solutions to deliver efficient, comprehensive and streamlined development assessment processes to high growth councils across Queensland.

The Project focuses on the following **four key elements** that will be implemented through a combination of methods, including the hands on mentoring of pilots and the provision of advice and guidance.

1. RiskSmart and Fast Track Process

SUCCESS CRITERIA

- A 75% reduction in assessment timeframes for simple (low-risk) development applications resulting in a reduction from the average of 93 business days to 5 days for low risk applications.

2. Development Partnership Process

SUCCESS CRITERIA

- A 25% reduction in assessment timeframes for complex (high risk) development applications resulting in a reduction from the average of 364 business days to 60 days.

3. Risk Management of Operational Works

SUCCESS CRITERIA

- A 50% reduction in assessment timeframes for operational works development applications resulting in a reduction from the average of 55-88 business days to 2 days for private / low risk applications

4. Streamlined Plan Sealing Process

SUCCESS CRITERIA

- A 75% reduction in plan sealing process timeframes resulting in a 2 days approval target for developments complying with conditions

In what ways can regulators improve their current engagement approaches and compliance practices to better achieve regulatory objectives and reduce unnecessary compliance costs on business?

Programs that feature two-way education and engagement for regulators and regulated entities offer the best general model for improving compliance outcomes and reducing costs.

Community engagement principles are widely accepted by local and other levels of government and much has been written on this subject (ACELG 2011, MCMR 2005). This approach usually identifies specific groups and lends itself to be used to consider the needs of small businesses as a group in the community that requires consideration by regulators.

While small businesses are generally aware of the penalties associated with non-compliance, there are opportunities to engage with small businesses to highlight the benefits of good compliance and better achieve regulatory objectives. While a number of small businesses proudly display their license / compliance certificates, extending this to be a feature of the regulatory program could allow businesses to display a sign / permit that recognises compliance, and possibly the achievement of a rating or ranking. This would give the small business the ability to communicate this to prospective customers and differentiate itself in a competitive market.

Is there a rationale for treating small business differently?

The data provided in the Commission's Issues Paper clearly shows that contribution by the small business sector to the Australian economy. It is also generally accepted that small businesses have fewer resources and therefore a lower capacity to meet unnecessary or excessive regulatory requirements.

As noted above, there will be businesses that handle materials considered to be dangerous and risk-assessments of these may trigger an appropriate standard of regulation at low volumes of operation.

The cost of obtaining information for a variable approach as mentioned on page 12 of the Commission's Issues Paper should be minimal as such an approach is likely to be determined from the volume of business activity and location in a town planning context. This would be facilitated by the adoption of a standard definition as discussed above.

In what ways do regulators currently provide special assistance or employ a different engagement approach for small business?

Councils have recognised small business needs (and the need to manage its own resources) and developed online tools and resources that, while available to all businesses, are specifically designed to assist small businesses.

Under what circumstances, if any, is it appropriate for regulators to adopt a different engagement approach for small business?

There could be benefits for some regulators of small businesses to revisit traditional engagement channels, particularly as part of regulation reviews, through chambers of commerce and other representative groups. Similar strategies have been pursued in the past in developing priorities for industry policies with industry sector groups.

Where appropriate regulators undertaking a review could engage an expert panel to assist in identifying issues. This has the benefit of being potentially able to elicit more open responses from regulated entities than the regulator may receive directly.

How might regulators reduce compliance burdens on small business?

LGAQ recommends a continuing program of regulation reduction and continuous improvement as a central strategy to address regulation costs to small businesses and the community.

The consolidation of regulation information across the three levels of government into 'one stop' web sites which cover the requirements of local, State and Commonwealth governments where practical, or at least the provision of flow-chart style maps for approval / compliance processes linking to other regulators.

Identifying and borrowing from existing programs which apply rectification approaches using education advices and allowing for corrective action options that precede penalties provide a model which both educates and achieves compliance.

What aspects of a regulator's performance and, in particular, their engagement practices, should be monitored and/or subject to review? What key aspects of regulators' performance might it be possible and informative to measure and compare?

All aspects of a regulator's performance and engagement practices should be monitored and subject to review. The review process serves to correct for unintended outcomes or 'side-effects' of regulation.

In undertaking any review it is instructive to recognise that there is a fundamental challenge in achieving a shared understanding of the purpose of a regulation across elected representatives, policy makers, program administrators / enforcement officers, the regulated entity and the community.

A primary consideration becomes how best to achieve the balance between regulatory enforcement and business facilitation / enablement. Regulation is theoretically about improving the operation of markets for the benefit of the community.

There are however segmented views of regulation which have developed over time and through the way in which regulatory responsibilities are divided. These views include applying regulation as an edict to be enforced and in some circumstances to utilise it as a (necessary) source of revenue.

In this setting, education of all levels of regulators, including field officers, and regulated entities (small businesses) can provide for better engagement. Regulator engagement with small business can be seen as an extension of community engagement. By working with the small business community to achieve mutually beneficial outcomes the effectiveness of regulation is improved: regulators will gain a better appreciation of the capacities and constraints on small business; small business will appreciate the social benefits of compliance which will engender a culture that seeks to comply as a good community member.

Reduction of unnecessary and excessive regulations reduce costs for regulators, regulated entities, and the wider community, and this should remain the central strategy to address regulation costs to small businesses and the community.

LGAQ appreciates the opportunity to comment on this Study. The Association's contact for this submission is:

Mr Greg Hoffman PSM
General Manager – Advocacy

Attachments:

LGAQ Red Tape Reduction Taskforce Report and submissions to the Queensland Office of Best Practice Regulation 2012

References:

ACELG *Local Government and Community Engagement in Australia* Working Paper No.5 Nov 2011

LGAQ submission 'Business Regulation Benchmarking – the Role of Local Government Oct 2011

LGAQ submission on Cost-shifting 2002

Ministerial Council on Mineral and Petroleum Resources (MCMPR) *Principles for Engagement with Communities and Stakeholders* 2005

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