

**CITY OF MELBOURNE SUBMISSION:
VCEC INQUIRY INTO STREAMLINING LOCAL GOVERNMENT REGULATION**



Date 11 June 2010

To Local Government Regulation Inquiry
Victorian Competition and Efficiency Commission
localgovernment@vcec.vic.gov.au

From Geoff Lawler Director City Planning & Infrastructure

File DM5849761

I am please to provide the following response to the VCEC Inquiry into Streamlining Local Government Regulation - draft report.

Background

1. It is understood that the Victorian Treasurer commissioned VCEC to undertake this inquiry on 24 Aug 2009 and to present its final report by 24 Aug 2010.
2. City of Melbourne officers participated in consultation meetings with the Commissioners.
3. The draft report contains 27 draft recommendations to the Victorian Government and 22 requests for more information.
4. It notes the variation in population size between municipalities (3,200 – 238,000 people) and the size of Council budgets (\$6mil - \$312mil) but confirms that the structure of local government is outside its terms of reference.
5. The draft report does not reflect the uneven distribution of construction activities across the 79 Councils or the specific needs of heavily built up areas such as inner Melbourne.

Financial Benefits

6. The draft report claims that its recommendations could deliver annual cost savings of \$20-40mil through planning process and resource improvements; \$6-13mil through consistent local building and construction regulations and; \$6mil through improved council procurement. It also makes recommendations in relation to Government/Council institutional arrangements. We are not in a position to confirm these estimates or advise on other information sources to verify them although it is agreed that the proposals could result in significant savings and reduced frustration and uncertainty for industry.

Existing Strategies and Guidelines

7. The recommendations and strategies that result from the report should take into account the unique nature of some regions such as the Capital City (CBD, Southbank, South Wharf, Docklands, Carlton, etc) and ensure any credentialed Local laws fully address the specific needs of these types of areas as provided for in the current City of Melbourne Local Law, Code of Good Practice and Construction Management Guidelines.

Distribution of Construction Activity

8. The final report should identify where construction activities occur and outcomes should be 'indexed' or 'weighted' to reflect the higher levels of building activity in some regions and therefore be better tailored to meet industry and local area's needs.

Of the record \$21.4bil worth of Victorian construction activity in 2009, over \$3bil (or 14%) was within the City of Melbourne and over \$8.6bil (or 40%) was within inner Melbourne.

Planning Processes

9. The recommendations relating to planning process are generally supported:

- A higher emphasis on co-operative strategic planning is strongly supported. Currently the exercise and timeliness of the authorisation process for planning scheme amendments causes unnecessary delays. The implementation of performance measures in this case would be welcome, similar to the Planning Permits Activity reporting collated and published every year for each Council by DPCD.
- Councils typically have an assessment process for an application that has evolved over time and is subject to the level of delegation. The formulation of a best practice model that identifies standard processes and efficiency would be beneficial.
- The introduction of accredited private assessors for straightforward applications which would be subject to Council audit subject to clarifying the parameters of what is “straightforward”. Councils also need to reduce triggers for planning permits for simple matters to minimise the number of simple applications generated. For information, the City of Melbourne operates a fast track system for simple applications. In approximately 5-10% of cases applications initially identified as being straight forward are found to be more complicated, typically because the applicant has incorrectly identified the scope of what requires a permit or because the proposed works are not consistent with the scheme and the application is being refused.
- The placing of a time limit on referral authorities.
- The freeing up on the restrictions on Council setting fees for planning applications is supported on a full cost recovery basis. The Commission should note that this matter is the subject of a review currently being conducted by Access Economics on behalf of DPCD.

Building and Construction Regulation

10. The recommendations relating to local building and construction regulations call for the government to develop model “credentialed” Local Laws covering working hours, site fencing and asset protection on construction sites. It is expected that these would be subjected to a regulatory impact statement (RIS) process and made available for Councils to enact. This is supported provided that the model laws differentiate for high density areas where the impacts of construction are more disruptive on the public domain and public amenity.

11. In response to specific Building and Construction recommendations Council offers the following support and comments:

- The use of standardised terminology in Building and Construction Local Laws and in relevant Act and Regulations is supported.
- Council has developed and implemented a Local Law covering working hours and effectively managing exceptions through an efficient permit process. The Local Law is ideally suited to diverse and complex activity centres and inner city developments. There is full support for adopting these Local Laws to suit all municipalities across Victoria to ensure certainty, consistency and increase compliance.
- Inner city and rural sites will have significantly different needs for site fencing. A guideline acknowledging these differences and providing 'deemed to comply' solutions as specified in the [CoM Code of Good Practice](#) is supported and encouraged.
- The extent and value of assets required to be protected will vary considerably between rural, suburban and inner city circumstances. Within the CBD, Southbank, South Wharf and Docklands specialist pavement treatments and street furniture require greater protection levels (protection measures, value of deposits, etc) than might be expected for

a rural road. A consistent approach that can reflect these differences and adequately protect the assets is supported.

Environmental Performance of Buildings

12. The report recommends that the environmental performance of buildings should be regulated through national/state building regulations, not planning schemes. Given that the Melbourne Planning Scheme has such regulation in it, this is supported only if there is no consequent diminution and ideally an improvement in standards and the environmental performance of new and refurbished buildings.

Local Laws

13. In relation to the request for information Council offers the following:

- Variations occur across Councils in relation to working hours including start and finishing times both during the week and on weekends. Any harmonisation needs to reflect the variations in impact that working hours have when comparing work in rural, outer-suburban or industrial area versus that for high density residential areas. Similarly fencing requirements vary from rural areas where chain wire may be adequate to key activity areas such as the CBD, Southbank, South Wharf and Docklands where solid hoardings are mandatory. Furthermore, matters relating to asset protection will change significantly between an unsurfaced rural road and a cut bluestone pavement with stainless steel street furniture and custom designed planter boxes. These regional characteristics need to be considered and catered for in any uniform model Local Law.
- There is a gap in building legislation in relation to maintaining facades of buildings in a reasonable and safe standard unlike the requirements to maintain essential safety measures which are detailed and robust. For taller buildings maintenance regimes requiring owners to carry out detailed façade inspections every three or four years to reduce the potential for 'deciduous architecture' would be appropriate. Around the world major cities utilise 'Building Ordinance' or Local Laws to manage this issue although it would be better dealt with directly in the regulations. Council has included some provisions for dangerous, dilapidated and unsightly buildings in the current Local Laws however these have proven to be ineffective. With greater building density and the establishment of more activity centres, it is timely and appropriate for building legislation to be expanded to address this specific issue in a consistent manner.

Website Harmonisation

14. The inquiry has requested information regarding website harmonisation:

- *Is the Government's current initiative to encourage improved and more harmonised website protocols sufficient to address the problems in finding information on local laws?*
- *Would there be greater benefits from a consolidated website of all local laws, or should efforts be focussed on improving the websites of individual councils?*

Each Council should have an understanding of how best to communicate with their local community and how to effectively structure their websites to maximise access to information. Having consistent Local Laws and a model web based resource would be an important and useful step towards making the information as accessibly as possible. Ultimately Councils must not lose control of web content or lose the capacity to make immediate changes and improvements to their site.

Procurement

15. The recommendations in relation to Council procurement are generally supported:

- "Value for money" to be the guiding principle unless publicly declared why not
- Allow collective Council procurement or access to existing tenders and contracts conducted by prescribed procurement agents

- Councils to use standardised contract documentation and infrastructure specifications unless publicly declared why not.

Institutional Arrangements

16. The recommendations relating to institutional arrangements, if applied in a heavy-handed way could interfere with Council's ability to govern. If a guidance approach is taken, they will be beneficial:

- Local Government Victoria and MAV to measure the costs to Councils of administering State and local regulations
- Government develops a list of agreed priorities for regulatory services that Councils administer on its behalf
- Department of Treasury and Finance to provide guidance on the enforcement and administration of regulation; consult on extending the regulatory burden reduction targets to Local Government and require State Departments to consult local government before requiring it to enforce new or revised legislation (management proposes that this consultation should be with Local Governments themselves, not representative bodies).

Essential Services Commission

17. One recommendation relating to institutional arrangements is not supported at this stage. This is a recommendation that the Essential Services Commission (ESC) extends its draft performance reporting framework for local government to include indicators of regulatory services where there is net benefit and look for opportunities to streamline reporting requirements imposed on Councils by Government agencies. The City of Melbourne does not support the ESC's draft framework and together with 15 others has submitted an alternative structure and recommended that the framework not be implemented until there is a review and reduction of the existing reporting obligations on local government.

Conflict in Regulations

18. The inquiry has requested information regarding:

- *Which areas of regulation are experienced by councils as being in conflict with each other?*
- *Would clarification of the objectives of Acts through which councils enforce regulations contribute to more consistent enforcement?*
- *Which Acts should receive initial attention?*
- *What form could a process take for developing priorities for the remaining Acts?*
- *What would be the most effective way for more clarity to be provided?*

Council considers that there are potential gaps between the Planning and Environment Act 1987, Liquor Control Reform Act 1998, Building Act 1993, the Local Government Act 1989 and the Road Management Act 2004 when considering a variety of matters. A review of how these work together could be of value to industry with a view to minimising the number of agencies and professions required to deal with a single application.

In addition, there can be uncertainty as to how the Local Government Act and subsequent Local Laws should be applied in relation to areas that have their own Act such as The Casino Act, etc..

Setting Fees

19. The inquiry has requested information regarding the following fee related matters:

- *Do the current arrangements for setting regulatory fees cause any problems for councils or for those who are regulated?*
- *Are any of the options outlined above superior to the current arrangements and, if so, why?*
- *Is there a better option that is not listed above?*

- *Which areas of regulation are experienced by councils as being in conflict with each other?*

Fees need to reflect the nature of the specific circumstances should incorporate an application component to cover the all the administrative costs and an activity component to reflect the works, impact, risk or management/supervision demands. It is reasonable to expect a premium fee should apply where the area to be occupied, excavated or otherwise effected is of a complex nature and/or is located in a key activity hub or otherwise highly sought after area that has a significant value.

For further information please contact Geoff Lawler, Director City Planning & Infrastructure on geoff.lawler@melbourne.vic.gov.au or phone 9658 9466.