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By email: cheyne@act.gov.au

cc: David Clapham
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Dear Minister

Better Regulation Taskforce

Thank you for the invitation to provide feedback, examples, and ideas to the taskforce on this important issue. The Canberra Business Chamber believes that regulatory impacts have a major role on the success or failure of local firms, and in this submission we have provided:

- specific and often “micro” issues that are consistently raised by members and businesses;
- specific examples of regulation and/or engagement with the ACT government provided by members that could be easily rectified.

We would also like to thank the government for its work and interest in this area, and especially the support of the Minister for Business and of the Chief Minister. We are keen to work with government on making this reform project successful.

Throughout our discussions with members there is a consistent theme of concerns with the implementation of regulation (as opposed to the regulation itself), the macro level approach to regulation by the ACT Government, and cultural issues within the ACT public service. While these are more complex issues, they also present very significant opportunities to make a major difference to the Canberra business community and for collaboration between business and government.

We also refer you to the Productivity Commission’s *Regulator Engagement* report (2013), which examined many of these issues in detail across all levels of government in Australia, and which contains many more detailed suggestions and observations about how local and state regulators can most effectively engage with, and successfully regulate, businesses in local communities. We also refer you to the WA government’s 2019 inquiry into licensing and other regulatory issues impacting on local businesses, and its reform suggestions.¹

¹ Economic Regulation Authority, Western Australia (2019) *Inquiry into Reform of Business Licensing in Western Australia – Final Report*, February, Perth: ERA.

Background: The Size and Shape of The Canberra Business Community

It is important for the taskforce to note the particular characteristics of our local business population. The Australian Bureau of Statistics, its latest counts of businesses² showed that, at the end of June 2020:

- The total number of actively trading businesses in the ACT was approximately 30,800. Most of these firms were either micro-sized or small. Accordingly, regulatory reform is more likely to be effective when it focuses on these firms, rather than on medium- or large-sized ones.
- Our business population continue to grow, but also faces some unique challenges. In the 2019-20 financial year, Canberra's overall business population grew by a net figure of 817, part of a long-term trend that has seen the ACT's total number of firms continuing to grow on a year-on-year basis over some time.
- However, this net figure masks the fact that we have the highest rates of both new business formation and closure in the country. The ACT had 4,877 new startups in the 2019-20 financial year (a 16.2% increase, c.f. the national average of 14.5%), as well as 4,111 exits/closures/cessations (a 13.7% increase, compared to national average of 12.5%).
- But we also have the lowest long-term business survival rate in the country: within 5 years, only 62.5% of startups still trading (compared to the overall national average of 65.1%).

Relevant figures are attached in Appendix 1.

As these figures suggest, the ACT must consider how policy settings can encourage business survival and growth, and how regulation hinders or helps this process. The Chamber has received feedback from a range of small businesses, growing enterprises, and local industry associations which can assist in this task.

Part 1: Issues Consistently Raised By Members

1.1 Websites and Information

Government has focussed on providing information online, but these channels have problems. Many ACT government websites are difficult to read and use for business operators, especially on mobile devices such as mobile phones and tablets. In some cases, links are broken or ineffective, yet are provided as a key source of information³. There is a need to make sure that all ACT govt websites are easier to read and use and are constantly updated to ensure content is live and currently valid.

Providing Personal Contact Points in Government Messaging

After accessing information online, business operators and start up entrepreneurs often need to talk to someone in government personally. Some have ideas or questions not resolvable online; others find existing text confusing or contradictory and need clarification.

² Australian Bureau of Statistics (2021), *Counts of Australian Businesses, Including Entries And Exits*, cat.no.8165.0, Canberra.

³ For example, as at 29th March 2021, Access Canberra's link to advice on starting a home-based business refers readers to a section on approvals, stating that there are "general exemptions" to be noted – but the corresponding hyperlink doesn't work...

https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/9/related/1/session/L2F2LzEvdGltZS8xNjE0MDYxOTk0L2dlbi8xNjE0MDYxOTk0L3NpZC9mVTd1UjZtbVFFcUptNVpPRmJTa3I2YnhkWkFRaHFfSGREekgyMkVkYVJ0aFFLYVnNvXZKaGFHY3paMU1Ub3RXTXFlbWVlS0hoNVcyZiU3RTlpYUNHR3ZaTXN3ak5jdDhHNHY2OWRPSHBydFZQc1ZLdkhMbG1raW03ZyUyMSUyMQ%3D%3D

Communiqués and information sent from the ACT government often fails to provide businesspeople with an opportunity to talk to a human being. Much information is routed through websites, and there is no phone number or other way in which affected businesses can talk to an officer. An example is the March 12 email regarding single-use plastics (copy attached as Appendix 2). Governments need to give business operators an opportunity for phone calls, to help answer questions, give the personal touch and get feedback or identify problems from business.

1.2 Parking

Much of Canberra's business community consists of small retailers operating in streetside premises. However, access to inexpensive, convenient short-term parking is a major problem in many local precincts around Canberra, such as in Phillip and Braddon. There are many different parking period restrictions, as well as too many pay parking facilities and too few free zones, which often deter customers from patronising these areas. We note also that most parking zoning and rules are set by government without prior consultation with local traders.

1.3 Licensing Renewals

Many business licenses are offered on an annual basis, although renewal is routine and non-controversial. Renewing licenses is a task that takes up time and managerial effort. We suggest that businesses be given options to opt for a multi-year regime, as well as annual renewals. This would make it similar to the ACT's driver license renewal system, where individuals can opt for a long-term renewal (up to 5 years), or elect instead to pay annually.

Part 2: Specific Examples Raised by Members

2.1 Employment Agents' Licensing Fees

The imposition of a universal, one-fee-for-all approach to employment agents imposes an unfair and unnecessary cost burden on small local employment firms. For example, sole trader businesses operating as recruitment consultants in the ACT are required to obtain an Employment Agent's licence, and to pay the same fee (\$792) as multinational firms and other significantly larger local firms who also operate in the same industry. This is inequitable and unnecessary. A lower fee (or, ideally, no fees – these businesses already pay a range of other taxes and charges) should be considered.

2.2 GM Food Bans

Genetically modified agriculture is still banned in the ACT, but no longer so in NSW, Victoria or Queensland. As a small, landlocked jurisdiction with minimal agricultural output, and surrounded by a state with no such ban, it seems superfluous to retain this rule.

2.3 Pop Up or Short-Term Cafes and Vendors

The Chamber continues to receive complaints from operators of some of the popular "pop up" wine bars about the degree of degree of bureaucracy within the ACT Government and the lack of coordinated approach to approvals and regulations around operating their business. These includes disjointed and contradictory requirements from different branches of the ACT government (including TCCS); government bodies placing new infrastructure or facilities (such as rubbish bins and bollards) onto proposed wine bar sites without advising affected businesses; amending the schedule of forecast future site locations, so that the same site cannot be used two weekends in a row; and effectively giving operators only 4-5 day's notice before confirming if a planned weekend trading site will be approved.

2.4 Confusion Over Government Portfolios and Responsibilities

As the Chamber indicated in its September 2020 ACT election manifesto, at present there is no clear delineation of ministerial responsibilities, with too many portfolios, resulting in many ministers in overlapping control of the same directorates. Individual business operators have continued to complain to us that, even when they approach a minister to discuss a regulatory issue, it is often unclear (both to businesspeople and to some Ministers themselves) whether that Minister actually has responsibility for the directorate's activities. A case in point is economic activities relating to green issues, where there are separate Ministers for Climate Action; Emissions Reduction; and the Environment.

2.5 Introducing/Changing New Rules with Little or No Prior Consultation

As a general rule of good governance, any proposed changes which are likely to impact on business costs, trading hours or employment practices should be advertised and made clear well in advance of any such changes being implemented. At present in the ACT, it is possible for last-minute, significant and sudden changes to be introduced with almost no consultation. An example is the recent decision by Minister Gentleman to unilaterally declare Sunday 25th April as a second ANZAC day public holiday in addition to 26 April, and so imposing extra employment and award costs on businesses in the hospitality sector at short notice. There have also been several examples of new or changed public health directives taking effect without sufficient time to communicate with business owners and for the necessary changes to be made to operations.

Part 3: Opportunities to Address Structural and Cultural Issues

3.1 Budget Presentation

We believe the ACT budget should clearly recognise the important role of the local private sector in generating economic growth and jobs. At present, this is often lacking, whereas most other Australian governments have been clear in their support of the business community. For example, when delivering the 2021 -2022 Federal Budget speech, Treasurer Frydenberg stated that "8 of 10 Australian jobs are in the private sector", and noted that "small businesses and family businesses are the engine room of our economy". His message to the Australian people was that "this will be a business led recovery."

In contrast, ACT government budget speeches and communications have omitted specific references to, and information for, business when the financial plans and forecasts of the territory are handed down. Whereas government prepares specific information for many other stakeholder groups (including those in the health, environment, education and other sectors), there is no specific information provided for businesspeople and their representative organisations.

We believe the importance of the business community should be acknowledged in the ACT budget and in Ministerial statements, and that businesses should be given detailed information about how the budget affects them.

3.2 Deepening the Level of Business Knowledge Within the ACT Public Sector

As Part 1 of this submission notes, there are frequent examples of the lack understanding of business needs by government officials, and often disjointed and contradictory approaches from different areas of the ACT government.

These practices act as a disincentive to business growth; they deter entrepreneurs and take up time that could be better spent operating and growing a firm. We need government as a whole to be

more mindful of the business community, and in this section we briefly spell out some suggestions we have to create a greater level of business awareness amongst the public service.

A substantial and ongoing complaint is that career public servants often do not fully appreciate what it is like to have to operate a business, and to juggle the many (and sometimes conflicting) demands imposed on them by all levels of government. Typical of this perception is this statement from one of our members:

“Public servants in the ACT don’t know what it’s like to be unsure about whether or not bills can be paid, or staff can be paid.”

Chamber member in the hospitality sector

A lack of knowledge in some parts of the ACT government about the nature of the local business community means that many public servants do not understand the constraints and challenges that business owners and managers operate under.

We suggest that there are several ways in which the Chamber, other peak industry groups, and government can work together to drive a cultural change to address this.

We suggest creating the opportunity for public servants to base themselves in the offices of industry associations, or for staff to be seconded to these organisations for specific projects. This is a common practice for Commonwealth agencies and national industry bodies. For example, now that off-site work has become the norm, it might be possible to have Access Canberra staff working from Chamber offices and in other local industry bodies.

We also encourage government to actively recruit public service candidates with a former business background, and/or to seek candidates from a business-enabling background (such as former local government economic development officers), who have focused on how to help business. This skill set can provide a different perspective and balance to those from an enforcement background (such as policing), who often take a punitive and highly-rules based approach to interaction with businesses.

“We come to government with an idea or something to do and the attitude is very much one of, ‘you’re trying to do the wrong thing,’ and the first response is almost always to say no.”

Chamber member launching a new business venture

3.3 Timely Responses Matter

A number of organisations have repeatedly advised us that many ACT government decisions take a very long time to be concluded. Whether it be a grant application, a licensing application outcome, or an appointment to a statutory body, there is often a considerable delay between the public deadline and decisions being made and communicated. This is an issue that both private sector and not-for-profit bodies have raised. Working in a timely manner is a small but significant change that will help many local enterprises.

“We’re still waiting nearly six months for a decision from ACT Health on a spend by them with us for only a few thousand dollars. It took over six weeks to get a \$5k funding decision from ArtsACT.”

Chamber member

3.4 Adopt A “Think Small First” To Regulation and Legislation

Much regulation in the ACT continues to be developed on the premise that most of the territory’s businesses are large, and therefore have the capacity and resources to cope with sophisticated, complex and frequently onerous regulatory burdens. Yet – as our statistics at the start of this submission show – most of our firms are very small indeed.

The ACT government has an opportunity to lead the way in Australia and adopt the “think small first” approach to regulation already espoused in parts of Europe and New Zealand, wherein laws are written first and foremost for small businesses, considering their ability to comply. If greater or higher standard of compliance are expected by larger firms, then this should be an explicit addition to the law.

3.5 Benchmark the ACT Business Operating Environment Relative To NSW

As a small landlocked economy surrounded by NSW, where businesses can often relocate easily across the border, we believe that the ACT needs to compare and contrast its performance to that of nearby regional NSW.

Which side of the border has the easiest rules and licenses? What are costs and fees in, say Queanbeyan and Yass compared to Canberra? We should not be afraid to at least match, or better, the operating environment for businesses in NSW.

3.6 Default Adoption of NSW or National Laws

Similarly, as a small jurisdiction surrounded by NSW, there are numerous cases where different rules apply on different sides of Lanyon Drive. Unless there is a good reason not to do so, the ACT should strive to have identical or similar laws to those in NSW, thus reducing the cost of different regulation for two adjacent jurisdictions.

3.7 Measurement of Regulatory Burdens

We would also encourage government to examine some of the prior research done by various other public and private bodies on the overall calibre and quantum of regulation, and to regularly measure the burden. At present, we believe, the ACT government does not really know how much regulation actually impacts on business, nor does it have a regular mechanism for measuring changes in the overall perceived level of regulatory burden. This may require annual or bi-annual surveys.

Conclusion

We believe that there is great opportunity for changes that will make a real difference for ACT businesses, and hope that these initial ideas will assist the work of the taskforce. This submission spells out these ideas in only minimal detail; we would be happy to meet with you further to discuss and flesh out any or all of these reform suggestions.

Regards

A handwritten signature in black ink that reads "Graham Catt". The signature is written in a cursive style and is followed by a long, horizontal line that extends to the right.

Graham Catt
CEO
Canberra Business Chamber

19 May 2021

Appendix 1: ACT Business Statistics

See attached PDF file.

Appendix 2: Email Example

From: ACT Waste Policy <ACTWastePolicy@act.gov.au>
Sent: Friday, 12 March 2021 12:45 PM
To: ACT Waste Policy <ACTWastePolicy@act.gov.au>
Subject: Re. Single-use plastic ban update as at March 12 2021

OFFICIAL

Dear ACT business owner.

Re. Single-use plastic ban update

The ACT Government would like to provide you with an update on the commitment to phase out single-use plastic in the ACT.

In December 2019, the ACT Government indicated its intention to phase out certain single-use plastics in the ACT. On 31 March 2021, the ACT Legislative Assembly is expected to pass the *Plastic Reduction Bill 2020* which will give effect to phasing out certain plastic products.

From 1 July 2021, the following three items will be prohibited from sale, supply or distribution in the ACT:

1. Single-use plastic cutlery (including bioplastic and PLA)
2. Single-use plastic drink stirrers (including bioplastic and PLA)
3. Expanded polystyrene takeaway food and beverage containers.

The ACT Government is committed to supporting businesses and the community to transition to the new requirements.

It is important you begin to:

- check your inventory of single-use plastic cutlery and stirrers (including bioplastic products) and expanded polystyrene food and beverage containers
- STOP ordering these items (be careful with cutlery and stirrers as many products are promoted as 'green' but contain bioplastic such as PLA which are on the list of materials to be banned)
- use up any existing stock before 1 July 2021.

For further information on the ACT's phase out of single-use plastics and to view the Bill please visit yoursay.act.gov.au and act.gov.au/single-use-plastics.

Thank you.

The ACT NoWaste team
actwastepolicy@act.gov.au



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