Mrs Jan Kronberg MLC  
Chair  
Outer Suburban Interface Services & Development Committee  
Parliament of Victoria

Dear Mrs Kronberg,

Inquiry into Growing the Suburbs: Infrastructure and Business Development in Outer Suburban Melbourne

Thank you for your letter of 7 November 2011 to Mr. Peter Lisle, Acting Victorian Small Business Commissioner, providing a copy of the Terms of Reference for the Inquiry, and inviting the Office of the Small Business Commissioner to make a submission addressing the Terms of Reference.

The Terms of Reference of the Inquiry are not directly relevant to the role of the Small Business Commissioner, although Term (e): ‘examine the role of small business, local councils and community groups … in developing local expertise’ does raise the issue of the role of small business in business development in growing areas. Accordingly, it may be of benefit to the Committee to receive the following information about the services provided by the Office of the Small Business Commissioner to Victorian small businesses.

The Small Business Commissioner Act 2003 (SBCA) established the office of the Small Business Commissioner to enhance a competitive and fair operating environment for small business in Victoria. The SBCA (section 5) defines the functions and powers of the Commissioner. The Act does not define ‘small business’, and the Small Business Commissioner since inception has not sought to differentiate between small and medium businesses when determining jurisdiction or audience.

Of the range of functions of the Commissioner, I would like to highlight two which have been a major focus of the Office since establishment. These are the promotion of informed decision making by small businesses in order to minimise disputes with other businesses, and to receive and investigate complaints by small businesses regarding unfair market practices and mediate between the parties involved in the complaint. In summary, the Office of the Small Business Commissioner

- Informs and educates businesses to avoid disputes; and
- When disputes arise, provides a quick, low cost and accessible dispute resolution process.

In addition to its broad functions under the SBCA, the Small Business Commissioner has specific dispute resolution and other functions under the Retail Leases Act 2003\(^1\) (RLA), the Owner Driver and Forestry Contractors Act 2005 (ODFCA), and from December 2011, the

Farm Debt Mediation Act 2011 (FDMA). The major function under all three Acts is to provide a dispute resolution process. In all three Acts, there is a statutory requirement for disputes to be referred to the Small Business Commissioner for attempted resolution before disputes can be progressed to other jurisdictions – to the Victorian Civil and Administrative Tribunal in the case of the RLA and ODFCA, and to enforcement of debt recovery through the Courts in the case of the FDMA.

In 2010/11, the Office received nearly 8,000 enquiries and over 1,500 applications for dispute resolution.

Office staff provide information and assistance to businesses by phone and email, and seek to resolve disputes prior to formal mediation where possible. These services are provided at no cost to businesses. Formal mediation of disputes is arranged by the Office, using independent mediators.

Not every dispute received by the Office progresses to formal mediation for a variety of reasons. However, for those that do, the office achieves high resolution rates. In 2010/11, over 600 mediations were conducted, and of those finalised, a success rate of 78.6% was achieved. Since establishment, the Office has achieved a resolution rate of mediated disputes of 79.2%.


The mediation process offered by the Office is quick, low cost and effective. Currently, parties to a mediation under the SBCA, RLA or FDMA each pay $195 for a 3-4 hour mediation session. For disputes under the ODFCA, the cost per party is $95. The Office subsidises the remaining cost of the mediation session.

A key role of the Commissioner is to ensure that the services of the Office are known to all businesses, large and small. An extensive education and information strategy is pursued each year, through partner bodies such as industry associations, government departments and agencies and local councils. Knowledge of the services the Office can provide would be particularly helpful to small businesses establishing in growth areas, where other information networks may not be fully operative, and new businesses may be unsure of their rights particularly relating to retail leases, or as an owner driver. Where disputes arise, the Office can provide a low cost, quick and effective dispute resolution service to small businesses.

I trust this information is of assistance to the Committee. If any further information is required, I can be contacted on 9651 7596 or at geoff.browne@sbc.vic.gov.au.

Yours faithfully

Geoff Browne
Victorian Small Business Commissioner

22/11/2011