

CORRECTED VERSION

STANDING COMMITTEE ON ENVIRONMENT AND PLANNING

LEGISLATION SUB-COMMITTEE

Inquiry into the regulatory impact statement process

Canberra—20 June 2013

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Ms R. Bell, assistant commissioner, and

Mr S. Argy, inquiry research manager, Productivity Commission.

The CHAIR—I declare open the Legislative Council of the parliament of Victoria's Environment and Planning Legislation Committee public hearing. Today's hearing is in relation to the inquiry into the regulatory impact statement process. I welcome Ms Rosalyn Bell, the assistant commissioner from the Productivity Commission, and Mr Steven Argy, inquiry officer from the Productivity Commission.

All evidence taken at this hearing is protected by parliamentary privilege as provided by the Victorian Constitution Act 1975 and further subject to the provisions of the Victorian parliament's Legislative Council standing orders, the parliament of Victoria's Parliamentary Committees Act 2003 and the Defamation Act 2005 and, where applicable, the provisions of reciprocal legislation of Australian states and territories; therefore, you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege. All evidence is being recorded. You will be provided with proof versions of the transcript in the next week or so.

We will allow you 45 minutes for this session. To ensure there is sufficient time for questions, the committee asks that any opening comments be kept to about five to 10 minutes. I ask that you begin by introducing yourself and just providing a business mailing address so that we can provide you with a copy of the transcript. Again, welcome. Good morning.

Ms BELL—Thank you. Rosalyn Bell. The Productivity Commission, level 2, 15 Moore Street, Canberra City.

Mr ARGY—Steven Argy, inquiry research manager, also level 2, 15 Moore Street, Canberra City.

The CHAIR—Thank you. You have received some correspondence from us as to the reasons why we are having this inquiry, so perhaps in this short period you may want to just do a brief presentation and then we have a series of questions.

Ms BELL—Okay. As you are aware, the Productivity Commission received terms of reference for a benchmarking study in 2012. This was a study that basically required us to compare the RIA processes in Australia's 10 jurisdictions, so it is the Commonwealth, each state and territory and COAG RIA processes. Being a benchmarking study, we had to pick a point in time to do it, so January 2012 was the point in time in which we compared all those processes, but we did take into account changes throughout the course of last year.

The terms of reference for the study came to us from COAG's Business Regulation and Competition Working Group—the BRCWG—and we liaised extensively with the state Premier and Treasury officers, and the regulatory oversight bodies in each jurisdiction because they also had input into the terms of reference.

The primary objective for the study was to basically identify some leading practices from either Australian jurisdiction or from overseas that could be used to inform consideration of reform in one of the Australian jurisdictions, as you are looking at now. So we were directed to specifically not look at harmonisation across the jurisdictions. There was no scope to really consider getting rid of RIA practices altogether. This was really an exercise about looking for ways to improve them.

We found leading practice aspects in every jurisdiction, more in some than others, and we also found considerable room for improvement in each jurisdiction. In particular we found that there was quite a discrepancy in every jurisdiction, but in different areas, in terms of what the jurisdiction guidelines stipulated would happen in a regulatory impact analysis process, what would be included in a Regulation Impact Statement and what actually happened in practice. And these discrepancies are enunciated further in our report.

We went to considerable lengths to gather evidence to support our conclusions. We had around 90 meetings across the country. About 10 of these were in Victoria or had a Victorian type focus. We also had 37 public submissions and I think about a couple of those were Victoria related—not many.

Mr SCHEFFER—Who did those 37 come from? What sorts of organisations?

Ms BELL—They are listed in appendix A in our report. It is a cross-section of government bodies, business groups, consultants. We also undertook a couple of surveys. The first one was of government departments and officials that basically use RIA processes, so they are writing RISs, they are applying for exemptions and that sort of thing. We had 69 responses across the country to that. There was a relatively small number of responses from Victoria; I think there were four or something like that, from departments. We surveyed the nine regulatory oversight bodies across the country, as well, just to match what the agencies were saying with what the oversight bodies were saying.

We finally looked at all the RISs that we could basically get our hands on for 2010-11 across the country, and that was 182 RISs that were done. There were no BIAs, but we did look at quite a number of Victorian RISs. I think there were 24 RISs included from Victoria.

After all that, we have a broad view of how the jurisdictions compare, but there is no way we could claim to be an expert on any one of those 10 jurisdictions; but we are happy to talk to you further about our report today.

The CHAIR—Thank you very much. Did you have anything to add, Steven?

Mr ARGY—No, not at this stage, thank you.

The CHAIR—Okay. Table 1 of the report compares the RIA practices by jurisdiction, as you have outlined. Could you discuss the practices that have not been implemented in Victoria and where do you see the most scope for Victoria to improve the way it analyses regulation? I do note you have got table 1, which was the reason we are here, because it does give you a good snapshot.

Ms BELL—It is very good. Table 1 basically summarises our conclusions for the rest of the report in a fairly succinct way. When you are looking at the things that were not adopted in Victoria, it is the lighter squares. We found that Victoria actually had a number of areas that were leading practice. Where they seemed to fall a little bit short compared with some of the other jurisdictions was in the adopting of the two-stage RIS process. The first stage is a RIS that goes out to consultation, and it might have a statement of the problem and options, a little bit of preliminary discussion on the impacts that are likely on business or the community and the likely consultation process, and then it goes out to consultation and feedback comes back in, and the second stage would be that that consultation is incorporated and the final RIS is developed for the final record, basically, to be put up on a website somewhere.

Victoria did not have that two-stage RIS process and we considered that, where two-stage RIS processes were in existence, that increased the transparency of the whole policy-making process and the whole use of RIA in the policy-making process. It also gave the stakeholders an opportunity to see their input into the process and it improved the take-up of the legislation once it was in place. They could see it developing, they could see their role in it, and there was greater ownership of the final product. So that was one of the areas that Victoria was not implementing.

The second area that stood out for us was the differential treatment of primary and subordinate legislation in Victoria. The subordinate legislation basically ticked all the boxes. They seemed to be fairly transparent, at least in the consultation process and the consultation stage; there was not a final RIS for the subordinate legislation. In contrast, for the primary legislation there was no RIS that was available for consultation that we could see. We could not get copies of the BIAs to include in our analysis. They did not seem to be posted anywhere when they were completed, and so we considered that that was something that could be improved in Victoria.

Some of the more part-way points, I guess, for Victoria are the mid-shades of green in the table. Largely they reflect things that Victoria is doing quite well for its subordinate legislation for its RIS processes but not for the primary legislation and the BIAs. So we rated them part-way because they were for part of the legislation but not all of it.

The CHAIR—Thank you.

Mr SCHEFFER—Thank you for that. You mentioned the fact that Victoria does not publish the RISs for the primary legislation and you spelt that lack out for us, but could you talk to us for a few minutes about what the advantages are of revealing at that level.

Ms BELL—Publishing the RISs for the consultation stage?

Mr SCHEFFER—In response to the chair's question, I thought you were saying that one of the deficits was that Victoria did not publish the RISs for primary legislation and then you talked about the fact of that, but could you talk to us now about what the advantages are of doing it.

Ms BELL—There are two stages at which they could publish a RIS for primary legislation, but none seems to happen. There is the initial consultation stage. The primary advantages of publishing at that stage is it enables you to get more input from stakeholders—business, community—in development of the regulation, in quantifying or assessing the likely impacts of that regulation on those groups. That allows you to better finetune the regulation, both in the way it is specified but also in the implementation, a better-considered transition of bringing the legislation in and that sort of thing.

It also helps with gaining business and community support for actually having the legislation. They have had a chance to have an input into it, to specify the likely impact on them and they are more willing to be supportive of it when you finally get it in.

In the longer term, publishing a final RIS basically puts on the records the final conclusions of what the overall impact of the regulation is likely to be, which has longer-term benefits when you are coming back to review the legislation in five or 10 years time. You can go back and assess whether those impacts did actually come about in practice and it helps you to improve the regulatory framework over time.

Mr ELSBURY—Only two jurisdictions have fully implemented the two-stage RIS process. Can you discuss how this model works and if it were implemented in Victoria would it add to the cost and complexity of the existing RIS process we have in place?

Ms BELL—COAG and Western Australia are the two jurisdictions that currently implement a two-stage RIS process. The Western Australian process is very new. They have only had a formal RIA process in place since 2009 or thereabouts, so they are still developing their process. They have quite a good structure in place for the consultations and the final RIS and publishing at each stage. The other thing about the Western Australian process is that they do not have that many RISs to do. I think they probably have a lot less than Victoria would have and yet they still have a two-stage process.

Mr ELSBURY—Why would they have less to do? Is it just because they are a smaller jurisdiction?

Ms BELL—How many RISs they do depends on the volume of legislation that they are generating, but also the thresholds for when a RIS is actually required, so what is considered to be significant—

Mr ELSBURY—They have much higher thresholds for the requirement of a RIS?

Ms BELL—I defer to Steven on that one.

Mr ARGY—Sorry? Significance thresholds—

Ms BELL—For RIS in WA.

Mr ARGY—In Western Australia. I would have to refer to the material in here, but—

Mr ELSBURY—Okay. Sorry, do you want to add something else?

Mr ARGY—I was just going to say in relation to costing complexity, clearly formally going out for consultation on the basis of a draft RIS would add some extra cost. But we would recommend that consultation be carried out throughout the policy development process, so it is just good practice that at some

stage stakeholders are able to respond to a formal document where they can see the first estimates of the nature and magnitude of the impacts that they can expect. And one of the advantages of making the final RIS transparent is that to the extent that the proposal may have changed in response to consultation at the draft stage, then the stakeholders can see the impact analysis for the final proposal, not just the one that was at the draft stage.

Mr ELSBURY—That complexity: we have heard evidence from a variety of departments from Victoria and consultants that said that there did not appear to be an expert level in either camp. I do not know if you ever picked that up. Consultants said that the departments did not quite have the expertise and the departments said that the consultants did not quite have the expertise. Did you find that was a consideration where there was a two-stage process? Was there a reduction in that level of misunderstanding? Firstly, did you get that level of misunderstanding and secondly, if you did, was it absent in a two-stage RIS process?

Ms BELL—Consultants were not widely used in Western Australia, I think, and so we did not quite have that comparison. In the case of COAG, the regulatory proposals tended to be more complex and consultants were used because of the complexity but also to allow the lead jurisdiction in the process to take a bit of a hands-off, arm's-length approach to it and convey a little bit more objectivity and allow all the jurisdictions to have input into the process. So it would be fairly difficult to come to a conclusion on how consultants affected that.

In terms of the COAG process, I think most jurisdictions and most stakeholders that we met with were quite happy with the two-stage process as it operated in COAG. It was seen to be the best way to enable all the states and territories to basically have input into the development as it was progressing.

In terms of getting consultation and using the first stage of the process to do that, we did suggest in the report that consultation be proportionate to the proposal and the impacts of that proposal. So you would do the amount of consultation that was necessary given the scale of the problem and the scale of the likely impacts.

Ms PENNICUIK—Just following on from what we have been discussing, in some of our evidence there seems to be a resistance in Victoria to the two-stage process and, given that in the table really there was only one jurisdiction that had one that is partially getting there, is that resistance observable in other states as well or do you think that if you were to look again in five years you would find that it had been taken up in those states?

Ms BELL—The Commonwealth has decided to adopt a form of two-stage process for Australian government regulation now—since our report came out, actually—so there is another one to add to the list, I guess. The process that the Commonwealth is proposing to have I think is not mandatory for a consultation RIS, so it is a little bit different to the COAG process that is currently in operation. It is also not including the estimates of impacts in the early stage of the consultation RIS.

I do not think we got any objection from any other jurisdictions to having a two-stage RIS. Given the lack of volume of RISs that some of them do, there is probably less need for a very formal sort of structure around that process.

Ms PENNICUIK—From my questioning of some of the other witnesses and from my experience, it has been on the other end—before I was in parliament, looking at RISs for particular regulatory instruments or legislation—and I think you state in your report that some of the consultation is perfunctory and people just sort of get it shown to them at the end, 'What do you think?' So it seems to me that you are saying, and I am agreeing, that a two-stage process would ameliorate a lot of that because people would feel like they are being consulted, as you have just already said.

I am sensing a bit of a cultural resistance in the Victorian bureaucracy, and even in government of all persuasions, to openness and transparency, which you seem to be advocating throughout your report—'Publish everything,' 'Consult early'—so I am wondering, did you pick up those sorts of differences in cultures across states et cetera?

Mr SCHEFFER—Also, is there actually a rationale for it or is it just a cultural thing? Is there an

argument for it?

Mr ARGY—For greater transparency?

Mr SCHEFFER—No, for less. For resistance. Is it a position or is it just habit?

Ms BELL—I am not sure if Victoria was one of these or not, but several governments, I think, advised us that a lot of the material in their RIS is considered cabinet-in-confidence and so there was a reluctance to be transparent about that. New South Wales, seemed to have quite a good process for still publishing but maintaining that in confidence. They kept all the confidential material in their cabinet submission and then the RIS was the public document. We did not see any reason why Victoria could not have a similar process to what New South Wales were doing.

Mr SCHEFFER—So at root there is actually a serious principle around cabinet-in-confidence and it is the balancing of transparency and the necessity of government and the executive to keep certain things to themselves?

Ms BELL—There was a reluctance in some jurisdictions to have the canvassing of options as a public process because that might portray a lack of confidence in, or a lack of certainty about, any given direction.

The CHAIR—I was going to ask, as an extension: Mr Argy, you raised the issue about putting the RIS process out in relation to a policy position, but sometimes policy is intertwined, unfortunately or fortunately, with politics. Governments want to have, I guess, an upper hand leading into election processes. Did you find that could have been a barrier to some of those processes being as open and transparent as perhaps you are suggesting?

Mr ARGY—Particularly at the Australian government level, we did find that some of the proposals that potentially had the most significant impacts for the community were the ones that were not subjected to impact analysis and it was largely because of the political nature or sensitivity, we suspected.

The CHAIR—So were they exempted?

Mr ARGY—They were exempted, yes.

The CHAIR—I am heading a particular way. In the exemption process were there documents or guidelines that were applied to exempt that for the reasons outlined or were they just exempted at the whim of the minister or the government?

Ms BELL—I could not say.

Mr ARGY—There are some broad guidelines that exist for a Prime Minister's exemption, if that is what you mean.

The CHAIR—Yes.

Mr ARGY—But there was very little transparency about the reason for the exemption, yes.

The CHAIR—One of the things we have found is that because of complexity of the RIS and some of the processes around it—political, policy, whatever it may be—we now have this mass of guidelines that have been applied to a RIS process and that the RIS process itself has become overly complex, expensive, time-consuming and confusing for the stakeholders, the ones it is applied to. Did you find any of that process around other jurisdictions, including Victoria, where you found that the guidelines that were provided to RIS processes were overly complex? I think from our evidence we had 20 pages initially when it was first formed. We are now up to 95 pages with, I think, about 115 pages of appendices. Did you look at how those guidelines were being applied or were you looking at how to stop them growing their own life?

Ms BELL—We did find Victoria's guidelines were very comprehensive.

Ms PENNICUIK—Comprehensive, that's right!

Ms BELL—Comprehensive and detailed. Some jurisdictions had similarly or less detailed guidelines but they tended to have a summary version that allowed people in departments to basically access the RIA guidelines in a little bit of an easier way, whereas the consultants could refer to the more detailed one for doing a cost-benefit analysis or something. I think New South Wales and Queensland had those dual-purpose audiences—the summary version and the more detailed version.

The overwhelming impression that the agencies and departments gave us when we surveyed them was that often the staff that are doing the RIS might do one every couple of years or one in their lifetime, so it is not a recurring process for many of them and each time someone comes to do a RIS they have to immerse themselves in these complex requirements, so the simpler they are, the easier. That would help them.

Mr ARGY—There is also this point about the analysis in the RIS should be commensurate with the significance of the impact, so, whilst extensive quantification may be appropriate for some proposals with more significant impacts, perhaps there are some parts of the Victorian guide that may not be relevant for every RIS that needs to be done.

The other thing that we noticed about Victoria was the high proportion of RISs that were being done by consultants and I think there are some consultants who are doing a significant number of RISs; they have quite a high level of expertise in doing RISs. So I think it is important that the guidance material does recognise the different users of the material and makes sure that it is tailored to meet the requirements of those different users.

The CHAIR—Do you want to follow up?

Mr ELSBURY—I was just wanting a follow-up question. We have had some suggestion that perhaps a government department that was specialised in providing assistance in RISs would be helpful, considering as you say, some departments and some people within departments would only ever put a RIS together once in a lifetime. If you had someone in a rather senior department, say Treasury, that would be able to provide assistance to departments, having the knowledge of how RIS development works, understanding what needs to be put into a RIS, understanding the engagement with stakeholders, would that be something that is helpful or do you think that that would be a little bit too top-heavy and we would end up with just a factory, cookie-cutter version of RISs coming out?

Ms BELL—We found a number of different models across the country in terms of how governments structure these things in departments. Some departments had centralised coordination people for RISs within their department and that tended to help where the department as a whole was doing a lot of RISs. In Victoria we actually found a lot of departments were very happy getting assistance from VCEC and they seemed to be fulfilling, as far as we could tell, that role of assisting departments in undertaking their RIS processes.

Mr SCHEFFER—In your report you say that, I think in Victoria, only between one to three per cent of legislation goes through the RIS process and that is either because the legislation is minor or because it is granted an exemption of some sort. Do you think that that figure is too low? Is there an issue around thresholds and exemptions that might be tightened up?

Ms BELL—We were not really able to form a view on what that figure should be, whether it was too low or not. It was broadly similar across the country. In terms of the thresholds and what is actually getting a RIS, we compared the thresholds and we reported on the differences between them, but without going into looking at each individual RIS or regulatory proposal and evaluating whether it should have a RIS, we could not have formed a view on that.

Mr SCHEFFER—How might that be further looked at? One of the things we obviously have to do is to put recommendations together. Is that something that we should encourage government to investigate in a more detailed way?

Ms BELL—You would need to look at the things that did not get a RIS but potentially could have if the criteria had been slightly different, if the trigger for getting a RIS had been different.

Mr ARGY—We probably formed the view that it was less of a problem with fairly significant proposals not being RIS'd. The problem seemed to be more the potential for the more major proposals, where the RIS could potentially add the greatest value to the process, that they were not being scrutinised to the extent that they should be. It was not so much a problem at the lower end.

Ms BELL—At the bottom end, yes.

The CHAIR—Without being specific—but I will be—did you find any particular departments or groupings of departments Australia-wide where exemptions were probably applied more freely to avoid the RIS process? It is a generalised statement—but from your evidence?

Ms BELL—We did not really have enough information to form views on groupings of departments. One thing that was apparent was that it was not always those that you would think would be less skilled at doing the RISs that were necessarily not doing them and it was not those that you would think are most skilled that were doing them, but there were no broadbrush conclusions.

The CHAIR—Do you think there was a process where departments—for example, Planning—felt that they were above the need to have a RIS, so to speak, because they had their own internal processes to deal with consultation?

Ms BELL—No, we did not get that impression. Certainly it was quite clear that a lot of departments were still using the green paper/white paper type structure instead of a RIS process and we commented in the report that most governments seem to have failed to actually marry up the older green paper/white paper consultation process with the RIS process and the whole cabinet consultation process.

Mr ARGY—Our view was if there was an alternative equivalent process that would make transparent the impacts and include the analysis, then that should perhaps be considered as a substitute. Is it the case in Victoria that there is an exemption built into the system where there is an equivalent process? I cannot recall exactly, but I thought I read that.

Ms BELL—In Western Australia.

The CHAIR—Are you talking about the planning area?

Mr ARGY—Not particularly planning, no. Just further to your question, our view was informed as much by the perceptions that stakeholders seem to have about significant proposals, major proposals, slipping through the cracks. There is a lack of transparency across the jurisdictions about the proposals that are not being RIS'd, or exemptions. Victoria probably is a little more transparent than, say—

Mr SCHEFFER—How does that manifest itself? Do you mean that a stakeholder like a body or an entity that has to implement that regulation then finds, after the process has been completed, that it is not working for them and so they are reacting and that would give you a clue to the fact that maybe that process should have been subject to a RIS? That can be looked at, I guess.

Ms BELL—It could be.

Mr SCHEFFER—Yes.

Ms PENNICUIK—I am back on my topic, which is transparency. You just made the comment that you thought Victoria was fairly transparent, but if you look at table 1, it does not look very transparent because it does not do a two-stage process and it does not publish primary RISs. What else doesn't it do? PIRs, which we will probably get to in a minute. There is no independent—not that it is on its own there—oversight body et cetera. So I think you would agree that it could be more transparent?

Mr ARGY—No question.

Ms BELL—It could be more transparent. I think the part that Steven was referring to was the ministerial explanations that Victoria has provision to have.

Ms PENNICUIK—Does not always do, though.

Ms BELL—That is true. But no other jurisdiction has that provision and we considered that to be a leading practice that Victoria has.

Ms PENNICUIK—Yes. But you certainly think that publishing RISs for primary legislation would be something that we should be encouraging?

Ms BELL—Certainly.

The CHAIR—There was a question which Mr Elsbury raised before about the benefits of having a department that has a responsibility for oversight of RISs. In your view, if we go through a two-stage process, would it be of benefit to do that, that they could then call on that expertise, if needed, with the backup of VCEC, to provide that independent advice with the consultants? You have looked at all these models. If you were to wake up today and say, 'Right, I'm going to have the perfect model around Australia and this is what it's going to look like,' what would it be?

Ms BELL—Certainly it helps in those jurisdictions that had a central agency which was in a position to advise other departments on the need for a RIS. First of all, on the process, to help walk them through the guidelines where they are unfamiliar with the whole RIS process; and then we found that to improve the transparency and accountability of the whole process, you really need that central agency to basically be assessing the adequacy of the product that is coming out of it. So you need them to form an opinion on the quality of the RIS and the extent to which it has incorporated the views of stakeholders and assessed the impacts and the range of options. We advocated that that assessment of the RIS should be made public, and Victoria currently do that, as does the Commonwealth, and I think Queensland in their new process have suggested that they will as well.

The central agency model—and it does not have to be within the centre of government; it could be an independent body like the VCEC or the new Queensland Competition Authority—certainly seemed to be of big assistance to departments that are doing RISs and improved the real transparency and capability of the process.

The CHAIR—Where do you see the VCEC sitting in the process? At what stage in the independent advice that you outlined?

Ms BELL— We see the oversight bodies as basically having a role in assisting agencies to determine when a RIS is needed, assessing the quality of the RIS process that has been undertaken, and ensuring that proposals that do have significant impacts actually have a RIS.

Mr ARGY—But also providing that guidance and training that you are suggesting that a central agency could provide. One of the questions to ask would be: what is it about the current model that you think is not working? What would a central agency do that VCEC cannot already do or is not doing already? Can I just say, too, that one of the things that we found that was very important was getting RIA properly integrated into the policy development processes within departments and agencies and achieving the cultural change that is necessary. If you outsource that advisory sort of rule too much, then there perhaps is less internal learning and ownership of the process, so I think that you do need some experts that can be called upon when needed, but I just ask why that could not be VCEC. That does not seem to be a bad model.

Ms BELL—The other thing that some of the oversight bodies were doing that seemed to be particularly good for transparency was having a central register of their RISs on their website. Other jurisdictions that did not have that tended to have RISs spread across departments. Sometimes they were there;

sometimes they were not. The oversight body having a centralised register of all the RISs that are available, public, was a leading practice, we found.

Ms PENNICUIK—Just following on from the broad discussions, we have talked about expertise inside departments, the use of consultants and the role of the oversight body, which is all swirling around a little bit. I think it would be good for departments to have that basic understanding of how to make the decision without having to rely too much on a consultant or the VCEC to tell them, so that is one thing that you might want to comment on.

The other one was, if the VCEC is stepping in too early and saying, 'You should do it this way,' and, 'Here's some advice on how to do it,' and this, that and the other, and then at the end of the day it has to also make an assessment of it, is that a bit of a conflict there because they are being involved too much in the process? Can they really be the oversight body?

Then there is the use of consultants, which you have raised yourself and we know is probably more prevalent in Victoria than in other states. Is that de-skilling departments and is that getting in the way of the VCEC et cetera? I would like to get all that a bit straighter.

Ms BELL—Within departments you want a certain level of basic policy development skills. That necessitates that they know how to express the problem that they are seeking to address, they know how to consider alternatives, they have got a fair range of alternatives in the toolbox that they can consider, they know that these RIA processes exist and they know where to go hunting for the information to implement it if they need to. That sort of basic level of understanding you probably need to have in every department.

In terms of whether the oversight body is stepping in too early or there is a conflict between an educative role and the oversight role, I do not think we found evidence in any jurisdiction of there being a problem with that sort of educative versus oversight role coming from the same body.

Consultants are certainly used a lot more in Victoria than in other RIA processes, with the exception of COAG. We also found, however, that the overall comprehensiveness of the RISs that were coming out of Victoria and COAG were a lot better than the other jurisdictions, so there are obviously benefits from having it that way.

Ms PENNICUIK—So we need a bit of everything?

Mr ARGY—One of the things that we suggested in our report was that perhaps there was scope for agencies in some jurisdictions to be given more responsibility for making the call as to whether a RIS is required. That is the sort of self-assessment model. But you have to have checks and balances. There has to be accountability and we suggested that there should be some sort of audit process and, where agencies were making the wrong calls, that maybe they would lose the right in future to self-assess, but we saw that there could be some advantages in terms of reducing the costs in the system, and also there is some building of knowledge and expertise if you give them more responsibility.

But we also fundamentally believe that there are benefits in the agencies themselves having responsibility and ownership for the preparation of the RIS. They have not so much the technical knowledge of how to do RISs but they have the technical knowledge with respect to the policy area and so it would be difficult to outsource the whole RIS preparation to an external agency, for example. But you are right that it is about balancing lots of different considerations.

I think some stakeholders did suggest that there could potentially be an issue where a staff member in an oversight body was, if you like, working closely with a staff member in an agency on a RIS, helping them to achieve the standard that was required, and if that same officer then had to make the call, you can see how they might be potentially a little bit conflicted or reluctant to say it was noncompliant, but in a lot of oversight bodies it is not the same person that makes the final call and that could be a good practice, that, for example, someone up the line—

Ms PENNICUIK—Even so, if there are not that many staff in the oversight body, it is hard to make

the call against a colleague too.

Mr ARGY—But as Ros said, in practice we did not really see that as such an issue.

Ms PENNICUIK—Yes. I suppose what I am saying is that maybe if there is a bit more expertise in departments then there is less reliance on the VCEC to have to be guiding them through and then that becomes less of a problem, so that is the sort of balance that you would want.

Mr ARGY—Yes, but they are still there to maintain quality control as appropriate.

Ms BELL—There was a bit of a fine line in some oversight bodies between the oversight body basically coaching the agency to consider particular options to improve their RIS versus the more hands-off approach of just advising them on what is needed to get the RIS to be adequate. We did see some tension there.

The CHAIR—Yes, which is why I have asked where the VCEC would sit in the process.

Ms BELL—Victoria was not one of the jurisdictions where we saw that tension. There were other jurisdictions, but not Victoria.

Mr ARGY—Can I just say that there was one question that related to the threshold trigger for the Western Australian requirements and I would just refer you to page 113 of our report.

The CHAIR—Thank you. This brings our time to a close. I would like to thank you for your time and making yourselves available today. As previously advised, you will receive a transcript of the evidence that you have given, in the next week or so. You will have a specified time in which to make any corrections to typographical errors and return it, after which, and with the agreement of the committee, the evidence will be uploaded to our website, and of course on the conclusion of our report we will provide you with a copy of our final submissions. I do really appreciate your time today and the opportunity to share some of the experiences that you have had over many years, by the sound of it.

Mr ARGY—Thank you very much.

Ms BELL—Thank you.

Witnesses withdrew.

Hearing suspended.