

Regulatory Impact Statement System Guidelines

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Glossary

Agency – means all public sector departments, as well as statutory authorities. Refer to subsection 1.5 of these Guidelines for further information regarding the application of the RIS system to statutory authorities. If you are unsure whether this term applies to your organisation please contact Treasury.

Approval Authority – means the Minister, Chief Executive Officer (CEO) or other authority responsible for approving that a regulatory proposal be submitted to a Decision-maker (for example, Cabinet; Governor in Council).

CBRC – means the Cabinet Budget Review Committee. CBRC considers matters with financial or budgetary implications for the government. Initiatives or proposals that cannot be funded from existing appropriations must be directed to CBRC in the first instance for consideration.

COAG – means the Council of Australian Governments comprising the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association. The role of COAG is to initiate, develop and monitor the implementation of policy reforms of national significance and which require cooperative action by Australian Governments.

Consultation RIS – means a Consultation Regulatory Impact Statement, which is completed in accordance with these Guidelines after a PIA has assessed the impacts (economic, social, environmental, compliance costs, and competition impacts) of a proposal as potentially 'significant'. The Consultation RIS assesses the impacts of regulatory options on business, community and government to determine whether or not a policy proposal is the most efficient and effective way of achieving the desired policy objectives.

Decision RIS – means a Decision Regulatory Impact Statement, which is completed after the consultation process for a Consultation RIS is completed. The Decision RIS includes the Consultation RIS, a summary of the responses to consultation and a recommendation to the Decision-maker regarding the regulatory proposal.

Decision-maker – means, for the purposes of these Guidelines, the person or entity with the responsibility for finally approving the regulatory proposal. Where the proposal is for primary legislation, the Decision-maker is Cabinet and the Parliament. For significant subordinate legislation, the decision-maker is Cabinet and the Governor in Council; otherwise the Decision-maker is the Governor in Council. The Decision-maker for quasi-regulation is the person or entity responsible for approving the proposal under the applicable legislation or policy.

Exclusion – means a circumstance as outlined in subsection 3.2 of these Guidelines where the RIS system is not required to be implemented in respect of a regulatory proposal.

LSA – *Legislative Standards Act 1992*.

NCP – means the National Competition Policy. On 11 April 1995, leaders of the Commonwealth, State and Territory governments signed the three agreements (Competition Principles Agreement, Conduct Code Agreement, and the Agreement to Implement the National Competition Policy and Related Reforms) in which they committed to a program of economic reforms. This program was known as the National Competition Policy.

OBPR – means the Office of Best Practice Regulation, established in the Queensland Competition Authority to undertake functions as set out in these Guidelines and as directed by the Ministers under the QCA Act.

PBT – means the Public Benefit Test, which was the previous mechanism for conducting the legislation review and assessment process for legislation which restricts competition.

PIA – means Preliminary Impact Assessment. The PIA is the first of two levels of impact assessment under the RIS system. The PIA assesses potential impacts of a regulatory proposal on business, community and government, and whether further impact assessment is necessary. Completing the PIA assists agencies in identifying whether impacts are significant and, therefore, whether a RIS is required.

Post-Implementation Review – means a review commenced within two years of a regulatory instrument being implemented, where a RIS was required for a regulatory proposal with significant impacts but was not completed.

Primary legislation – means an Act of the Queensland Parliament.

QCA Act – means the *Queensland Competition Authority Act 1997*.

QCA – means the Queensland Competition Authority established under section 7 of the *Queensland Competition Authority Act 1997*.

Quasi-regulation – means industry codes, industry standards and industry accreditation schemes where the purpose is regulation.

Regulatory Reform Branch – means the Regulatory Reform Branch (RRB), a unit within Treasury, which has the responsibility of administering the Guidelines and the RIS system on behalf of Treasury.

Regulation – means primary and subordinate legislation and quasi-regulation.

RIS system – means the sequence of actions to assess the impacts of regulation. The key components of the RIS system are the RPC, PIA and RIS.

RPC – means the Regulatory Principles Checklist, which aims to demonstrate that a regulatory proposal has been developed in accordance with the COAG regulatory best practice principles.

Subordinate legislation – means subordinate legislation as defined by section 9 of the SIA.

SIA – *Statutory Instruments Act 1992*.

Treasurer's Exemption – means an exemption from preparing a Consultation RIS granted by the Treasurer.

Treasury – means Queensland Treasury and Trade.

1. Introduction

1.1 Purpose

The Guidelines are an administrative policy approved by the Treasurer and Minister for Trade (the Treasurer), describing the required procedure for developing regulation for Queensland Government agencies under the Regulatory Impact Statement (RIS) system. The purpose of the Guidelines is to reduce the regulatory burden in Queensland by requiring agencies to develop regulatory proposals in accordance with regulatory best practice principles and to assist officers working on the development, assessment and improvement of regulation, to produce better regulation.

1.2 Structure of the Guidelines

The Guidelines are structured as follows:

- Section 2 explains the roles and responsibilities of key stakeholders under the RIS system;
- Section 3 provides an overview of the RIS system and the steps used to assess regulation; and
- Section 4 describes the contents of a Consultation RIS.

1.3 Context

The Queensland Government is committed to reducing the regulatory burden on business and the community. As part of its commitment to reduce red tape by 20% by 2018, the Government has implemented several major reforms, including the establishment of the independent OBPR within the Queensland Competition Authority. The OBPR will report annually to Government on the performance of Government agencies in reducing the burden of regulation and their progress in achieving the Government's red tape reduction target.

The RIS system is an important element of the Government's approach to reducing the regulatory burden, with its key focus being to increase the rigour with which new regulation is made. As outlined in these Guidelines, agencies are now required to seek the OBPR's advice as to whether a RIS is required for any regulatory proposal, as well as submitting all RISs prepared by agencies to the OBPR for an assessment of their adequacy. The OBPR will also report annually to the Government on agency compliance with the RIS system.

Regulation is often necessary to protect the community and environment and is an essential part of running a well-functioning economy and society. However, it is important to find an appropriate balance between the benefits and costs of regulation. Central to achieving this aim is using best practice regulation to maximise the efficiency of regulation, as well as eliminating and preventing unnecessary and excessive regulatory impacts, while preserving or strengthening community safeguards.

The Queensland Government is committed to using regulatory best practice principles. A best practice approach to regulation carefully and fully assesses the impacts of a proposed regulation on business, community and government and ensures those designing, implementing and/or approving the regulation fully understand its potential impacts.

The key objectives of the RIS system are to:

- improve the quality of information provided to Cabinet and decision-makers, and those developing, assessing and maintaining regulation in accordance with regulatory best practice principles;
- communicate and consult with affected stakeholders on regulatory proposals;
- improve the quality and standard of regulation;

- ensure there is a thorough assessment of the need for regulation;
- where regulation is necessary, ensure it is designed to minimise compliance and administrative costs for business, community and government and maximise the benefits to the Queensland economy.

1.4 Regulatory Best Practice Principles

The Queensland Government has committed to ensuring that all regulatory processes are consistent with the following principles:

- establishing a case for action before addressing a problem;
- considering a range of feasible policy options including self-regulatory, co-regulatory and non-regulatory approaches, and an assessment of their benefits and costs;
- adopting the option that generates the greatest net benefit to the community;
- ensuring, in accordance with the Competition Principles Agreement, that legislation should not restrict competition unless it can be demonstrated that:
 - the benefits of the restrictions to the community as a whole outweigh the costs; and
 - the objectives of the regulation can only be achieved by restricting competition.
- providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation are clear;
- ensuring that regulation remains relevant and effective over time;
- consulting effectively with affected key stakeholders at all stages of the regulatory cycle; and
- ensuring that government action is effective and proportional to the issue being addressed.

To ensure these principles are embodied in the development of all regulation in Queensland, the Regulatory Principles Checklist (RPC) must be completed during the development of a regulatory proposal. The RPC is discussed in subsection 3.1.

1.5 Application of the Guidelines

Who should use the Guidelines?

The RIS system applies to all Queensland Government agencies including statutory authorities involved in the development of regulatory proposals. The RIS system does not apply to local governments.

The RIS system does not directly apply to statutory authorities who are not subject to direction by the State (i.e. by an agency or Minister). Whether the RIS system applies to a particular statutory authority is determined on an individual basis, and depends on the legal position of that entity. However, the relevant Minister should recommend the RIS system be implemented voluntarily by these entities for regulatory proposals under their discretion.

RIS system requirements will still apply to regulatory proposals associated with a function of a statutory authority that requires a determination or regulatory action by the State itself (for example, where a statutory authority is required under its legislation to obtain Ministerial approval for a particular piece of quasi-regulation). The responsibility for compliance in these circumstances rests with the relevant agency. The relevant statutory authority will need to be aware of the requirements of the RIS system in making submissions regarding the regulatory proposal to government.

When should the Guidelines be applied?

The Guidelines should be applied when a policy issue emerges that may require a regulatory response (a regulatory proposal). The Guidelines outline the process to be followed to determine whether a Consultation RIS is required for a regulatory proposal, the required documentation and procedures for the development and approval for the release of a Consultation RIS, consultation on a Consultation RIS, and preparation and approval for release of a Decision RIS.

What does the RIS system apply to?

The RIS system applies to the development of primary, subordinate and quasi-regulation. Box 1 contains definitions and examples of primary, subordinate and quasi-regulation.

Box 1 Definitions and examples of regulation

Regulation refers to the following regulatory instruments:

- primary legislation approved by Cabinet and enacted through the Parliament, that is Acts of Parliament, for example, the *Water Act 2000*;
- subordinate legislation (that is regulations, rules and orders in council) usually enacted through the Governor in Council and/or by publication in the Government Gazette, for example, *Electrical Safety (Codes of Practice) Notice 2010 – Electrical Work*, under the *Electrical Safety Act 2002*.
(The term “subordinate legislation” is defined in the SIA, and this definition is used in these Guidelines);
- quasi-regulation means industry codes, industry standards, and industry accreditation schemes (where the purpose is regulation), for example, “Recognised standard - 01: Underground electrical equipment and electrical installations” which is made by the Minister under section 72(1) of the *Coal Mining Safety and Health Act 1999*. Compliance with the standard is not mandatory under the Act, but when followed they provide a way of meeting safety and health obligations.

The RIS system does not apply to the following:

- information released to inform or educate the community and businesses, such as enforcement notes/legislation application, safety alerts, technical guidance notes, fact sheets, guides and brochures;
- recommendations and guidelines issued by public sector integrity and governance organisations (such as the Queensland Audit Office and the Crime and Misconduct Commission);
- policies and guidelines for application by Government agencies relating to public sector internal management and reporting; and
- commercial agreements or contracts.

The RIS system does not apply to regulation made by local government.

1.6 Interaction with other requirements of the policy process

The Guidelines are intended to be read in conjunction with applicable legislation (including the SIA and LSA) and existing policy development requirements. Existing policy development and legislative development processes continue to apply, including the need to take account of:

- Fundamental Legislative Principles in the development of regulation, required as a consequence of the provisions of the LSA¹; and
- Cabinet, Legislation and Executive Council handbooks.

In the case of inconsistency between an Act and the Guidelines, the Act will prevail.

1.7 Interaction with the budget process

Submissions to CBRC concerning regulatory proposals are subject to the requirements of these Guidelines. However, if the OBPR advises that a proposal requires a Consultation RIS, whether the Consultation RIS should be prepared before the submission goes to CBRC is determined on a case-by-case basis by the agency in consultation with Treasury and the Department of the Premier and Cabinet.

¹ Additional information is also available from the Queensland Government's Legislation Handbook, available from <http://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/legislation-handbook/fund-principles.aspx>.

2 Roles and Responsibilities

2.1 Ministers and Chief Executive Officers

Ministers and Chief Executive Officers are responsible for ensuring agencies under their direction comply with the RIS system and COAG regulatory best practice principles. Ministers also have the responsibility for recommending compliance to any statutory authorities not directly subject to the RIS system (refer to subsection 1.5).

The Treasurer has the responsibility for leading and directing the national and State regulatory reform agendas on behalf of Queensland and across the Queensland Government. The Treasurer has overall responsibility for the RIS system and these Guidelines. As part of this role, the Treasurer may grant exemptions to the requirement to complete a RIS. These will be granted only in exceptional circumstances (refer to subsection 3.4). The Treasurer may also challenge non-compliance with the RIS system. However, the Treasurer does not act as a formal gatekeeper to prevent non-compliant regulatory proposals from proceeding. This role is ultimately the responsibility of the Ministers and Chief Executive Officers.

2.2 The Office of Best Practice Regulation

The Office of Best Practice Regulation (OBPR) has been established within the QCA to undertake specific functions under these Guidelines, as directed by the Ministers under the QCA Act. In particular, the OBPR has responsibility for:

- assessing whether a Consultation RIS should be undertaken by:
 - assessing whether a regulatory proposal can be excluded from the RIS system; and
 - assessing whether a regulatory proposal is likely to have a significant impact; and
- assessing the adequacy of Consultation and Decision RISs prepared by agencies.

The OBPR also has responsibility for assessing the adequacy of post-implementation reviews and for providing training to agencies on the preparation of Consultation and Decision RISs.

2.3 Agencies

The responsibilities of agencies are:

- implementing and applying the RIS system;
- seeking OBPR advice early in the regulatory development process to facilitate the efficient operation of the RIS system;
- submitting a RPC to the OBPR for all regulatory proposals;
- submitting a PIA to the OBPR for all regulatory proposals that have not been excluded from the RIS system;
- consulting with the OBPR in the development of Consultation and Decision RISs;
- submitting RISs and related information to the OBPR and working with the OBPR to assist the OBPR in performing its functions in assessing whether Consultation RISs and Decision RISs are adequate;
- preparing post-implementation reviews and submitting to the OBPR;
- ensuring that appropriate internal systems (such as training, regulatory best practice processes, appropriate oversight) are in place to support compliance with the RIS system; and
- establishing or maintaining contact points within the agency regarding the regulatory development process and ensuring effective communication between the agency and OBPR.

2.4 Treasury and the Department of the Premier and Cabinet

The Department of the Premier and Cabinet is responsible, with Treasury, for administering statutes and policies relating to regulation making and review (for example, SIA, LSA, the Legislation Handbook and the Cabinet Handbook) as well as Queensland's ongoing obligations under the 1995 National Competition Policy and the 2008 National Partnership Agreement to Deliver a Seamless National Economy.

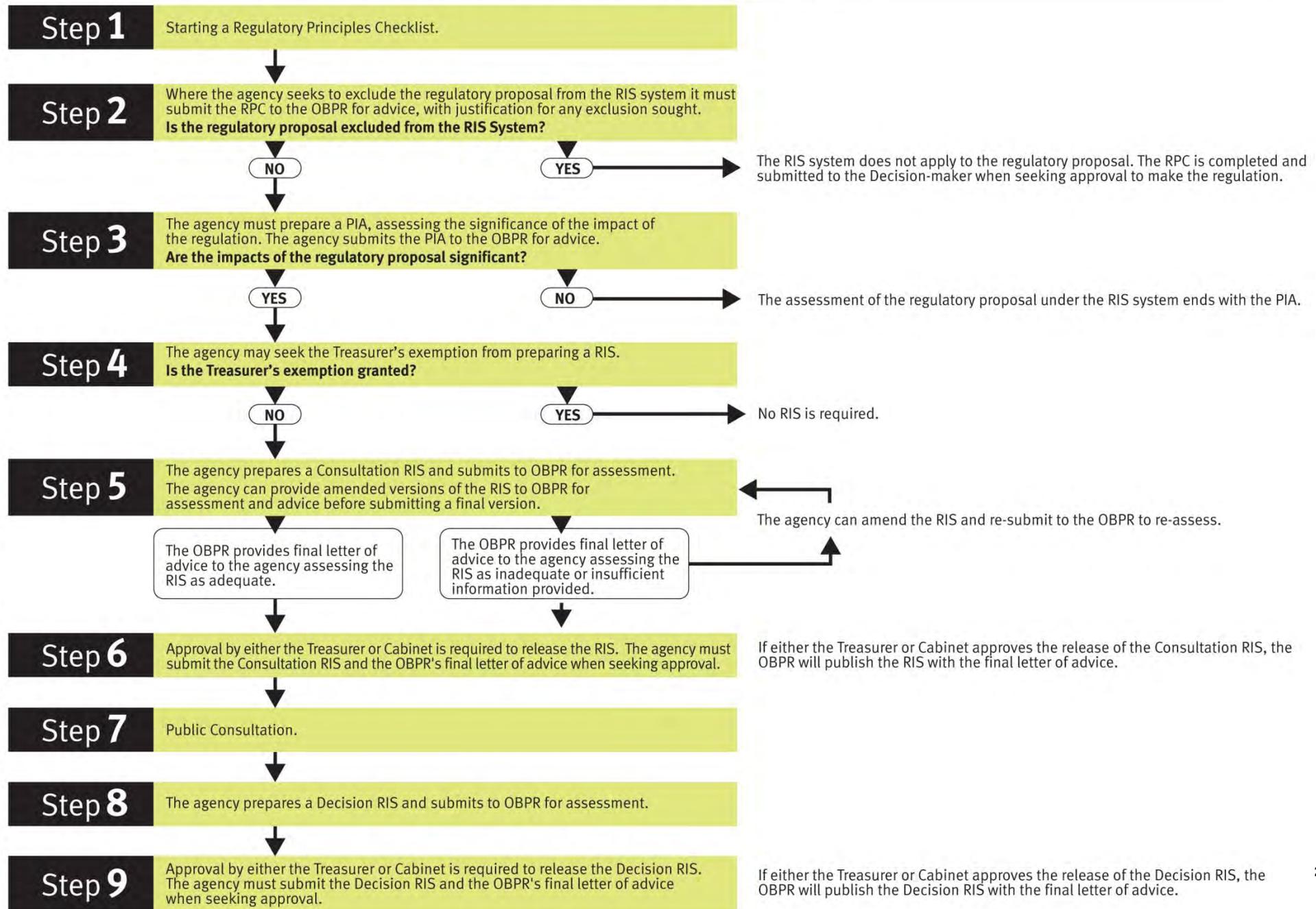
Treasury has policy oversight of the RIS system and these Guidelines. RRB within Treasury also provides guidance on seeking the Treasurer's exemption, as discussed in subsection 3.4.

2.5 Cabinet

Agencies must seek the approval of Cabinet or the Treasurer for the release of Consultation RISs and Decision RISs.

Where a RIS is required for a regulation that will be made by a Decision-maker other than Cabinet (for example, the Governor-in-Council), Cabinet or the Treasurer must still approve the release of any Consultation RIS and Decision RIS for that regulation.

Figure 1 Key steps and decisions in the Regulatory Impact Statement system



3 Steps in the RIS System

3.1 Step one – starting a Regulatory Principles Checklist

Where a problem that may require the introduction of regulation has been identified, the application of the RIS system is triggered. At this stage, the agency must start completing a Regulatory Principles Checklist (RPC).

This is discussed further in subsection 4.1 and Attachment A.

The RPC is a checklist to aid agencies in assessing the need for regulation and developing regulation according to regulatory best practice principles. It enables agencies to demonstrate that regulatory best practice principles have been considered throughout the development of the regulatory proposal. The RPC is at Attachment B. Where multiple regulatory proposals are being progressed to the Decision-maker together, it is not necessary to complete a separate RPC for each regulatory proposal. The agency may provide an appropriate attachment to the RPC with adequate detail on each regulatory proposal.

The RPC is progressively completed as a regulatory proposal is developed under the RIS system. All sections of the RPC must be completed and explanations provided for areas of non-compliance. For regulation excluded from the RIS system, only the case for action and the exclusion sections need to be completed.

Where an agency is seeking an exclusion from the RIS system, the agency should follow Step 2 below, which requires the agency to submit the RPC to the OBPR for assessment. Where a regulatory proposal does not fall under any exclusion under these Guidelines, the agency should continue to complete the RPC and provide the RPC to the OPBR with the PIA, under Step 3 below.

All RPCs must be endorsed by the relevant Minister or other Approval Authority and attached to the final regulatory proposal when seeking approval from Cabinet or other relevant Decision-maker to make the regulation.

Public consultation is a critical part of any regulatory development process. In line with regulatory best practice principles, there should be effective consultation with affected key stakeholders at all stages of the regulatory cycle. The Stakeholder Consultation Protocol (refer

Attachment L) contains best practice principles and minimum requirements for ensuring effective consultation with all affected parties at all stages of the regulatory cycle.

The reasons for any divergence from the consultation protocol are to be documented in the RPC.

3.2 Step two – determining if the proposal is excluded from the RIS system

(i) Identifying the exclusion

The agency developing the regulation should, in the first instance, assess whether a regulation belongs to an excluded category. The agency must complete questions one and two in the RPC and provide the justification for exclusion in an attachment to the RPC. The attachment should include a brief explanation of the regulatory proposal, the relevant exclusion category and the justification for the exclusion. Where the regulatory proposal is for subordinate legislation specifically excluded in the list below, questions one and two in the RPC should still be completed, with an attachment identifying the excluded category of subordinate legislation. Where an exclusion is sought, agencies are not required to complete the subsequent sections of the RPC.

Where multiple regulatory proposals are being progressed to the Decision-maker together and the agency seeks to exclude multiple regulatory proposals from the RIS system under an RPC it is not necessary for the agency to complete an RPC for each regulatory proposal. The agency may complete one RPC and provide an appropriate attachment detailing the multiple regulatory proposals and the justifications for excluding the regulatory proposals from the RIS system.

Agencies are encouraged to seek OBPR's advice before completing an RPC if uncertain as to whether a regulatory proposal is excluded from the RIS system.

(ii) Submission to OBPR

Where an agency has assessed that the regulation belongs to an excluded category, it must submit the RPC, with the justification for the exclusion attached, to the OBPR for its advice on whether the regulation falls within the excluded category. The OBPR may request additional information relating to the regulation in order to determine whether the exclusion applies.

Where an RPC has assessed that the regulatory proposal is excluded from the RIS System and the OBPR has advised that this assessment is correct, the RPC must be endorsed by the relevant Minister or other Approval Authority and the RPC must be attached to the final regulatory proposal when seeking the approval of Cabinet or the relevant Decision-maker to make the regulation.

(iii) Categories of Exclusions

The types of regulatory proposals outside the scope of the RIS system (i.e. exclusions) are general exclusions and specific exclusions.

General exclusions

- a) regulation which has already undergone, or regulation which under other legislation is required to undergo, an extensive impact assessment process (comparable to the requirements of the RIS system) that takes into account the impacts on Queensland and regulatory best practice principles;
- b) regulation which corrects drafting errors or is an amendment of legislation to take account of current Queensland drafting practice;
- c) regulation which imposes taxation or a royalty (excluding the administration of taxation or a royalty);²
- d) regulation providing for a financial grant for the purchase or construction of a home (excluding the administration of the grant);
- e) regulation for the internal management of the public sector or statutory authority;
- f) regulation that is of a savings or transitional nature, makes consequential amendments or is of a machinery nature;
- g) regulation which proposes standard annual fee variations in line with or below a Government endorsed indexation factor (for example, CPI);
- h) regulation which proposes variations to fees/premiums in line with actuarially determined assessments;
- i) regulation relating to police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services; and

² That is, a regulation dealing with the rate and base of taxation or royalties is exempt; however administration of taxation and royalties (such as tax compliance) is within the RIS system.

- j) regulation for a matter that requires an immediate legislative response to prevent damage to property or injury to persons, and to which the additional time required by the preparation of a RIS would represent an unacceptable increase in the risk of damage or injury.

Specific exclusions

Certain specific subordinate legislation is excluded from the RIS system. This subordinate legislation is excluded from the RIS system on the basis that it has been previously assessed as meeting one of the exclusion grounds, for example comparable consultation requirements or urgently required in the interest of public safety or health. Please see Attachment P for further information.

Excluding regulatory proposals authorising anti-competitive conduct

With regard to proposals seeking to authorise anti-competitive conduct, refer to subsection 4.6 of the Guidelines. A regulatory proposal which authorises anti-competitive conduct which, without a legislated exemption or other legal authority, would contravene Part IV of the *Competition and Consumer Act 2010* cannot be excluded from the requirement to prepare a Consultation RIS and is not eligible for a Treasurer's exemption, unless the Treasurer authorises an alternative form of public benefit test. Without a public benefit justification, the regulation may be overturned by the Commonwealth Government. Agencies seeking to authorise anti-competitive conduct must consult with Treasury immediately.

Box 2 provides examples of the types of regulation excluded from the RIS system. The examples are not intended to be exhaustive.

Box 2 Examples of the types of regulation excluded from the RIS system

Regulation which has undergone an extensive impact assessment process that takes into account the impacts on Queensland and regulatory best practice principles:

- regulation assessed by a national review process
- regulation relating to electoral systems and processes and the State's intervention powers in relation to Local Governments
- instruments including water licences, riverside protection permits, permits to occupy, stock route travel permits, environmental licence and notice to limit taking or interfering with water for which the primary legislation has been assessed by the RIS system
- decisions of the Queensland Competition Authority as the relevant legislation already requires an independent regulator to undertake appropriate decision making process including adequate consultation

Regulation which imposes taxation or a royalty (excluding the administration of taxation or a royalty):

- regulation amending tax or royalty rates or amending tax or royalty bases
- regulation introducing new taxes or royalties.

Regulation for the internal management of the public sector or statutory authority:

- the making of the *Financial and Performance Management Standard 2009* under the *Financial Accountability Act 2009*, which is a framework for an accountable officer of a department, or a statutory body, to develop and implement systems, practices and controls for the efficient, effective and economic financial and performance management of the department or statutory body

Regulation which is of a machinery nature:

- a notice about subordinate legislation, a statutory instrument or quasi-regulation
- regulation which provides for the commencement of an Act or subordinate legislation or a provision of an Act or subordinate legislation
- appropriation bills
- minor amendments which change either the intent or the interpretation of the legislation but do not affect stakeholders (for example, changing the name of a report referenced in legislation to update a reference)

Regulation relating to police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services:

- rules of court and practice directions under the *Supreme Court of Queensland Act 1991*
- *Corrective Services Act 2006* and *Corrective Services Regulation 2006*

Regulation for a matter that requires an immediate legislative response to prevent damage to property or injury to persons, and to which the additional time required by the preparation of a RIS would represent an unacceptable increase in the risk of damage or injury:

- regulation passed for the management of an outbreak of a disease that has or will cause injury to persons or property

Regulation which corrects drafting errors:

- technical amendments that do not change the intent or interpretation of the legislation (for example, correct an obvious typographical or punctuation error)

3.3 Step three – preparing a Preliminary Impact Assessment

A Preliminary Impact Assessment (PIA) is completed for all regulatory proposals, except in the following cases:

- those excluded from the RIS system;
- where the OBPR has determined, in relation to proposals designed primarily to reduce the burden of regulation and it is reasonably clear there are no significant adverse impacts, that a PIA is not required; and
- where the agency (on its own or in discussion with OBPR) believes the impacts are likely to be significant and decides to proceed directly to preparing a Consultation RIS.

The PIA is an initial level of assessment to assist in determining whether a RIS is required – that is, whether the proposal is likely to lead to benefits but not have significant adverse impacts. The PIA requires a brief assessment of the potential economic (including competition), social, environmental and compliance impacts on business, community and government. These impacts should be quantified where possible. If the impacts are not able to be quantified in terms of the dollar impacts, then they need to be assessed and discussed qualitatively.

The PIA must include an estimate of the compliance costs. If these costs are considered to be negligible or trivial, the agency needs to provide justification as to how it has drawn this conclusion. The Queensland Compliance Cost Calculator or an OBPR-approved costing methodology must be used to value compliance costs.

The cumulative burden from existing regulations and requirements should be considered when determining the significance of impacts on business, community and government.

In relation to new regulations or procedures that entail regulatory burden for small business, the PIA must provide up to three options for reducing regulatory burden elsewhere.

Agencies need to submit their completed RPC and, where required, PIA to OBPR to assess whether the proposed regulation will likely result in significantly adverse impacts. If OBPR determines the proposal is not likely to result in significant adverse impacts, assessment of the regulatory proposal ends at the PIA stage of the RIS process.

Box 3 provides some factors to consider in determining whether impacts are significant. These factors are not intended to be exhaustive.

Box 3 Definition and examples of significant impacts

To assess whether a regulation is significant will require careful assessment and judgement. The following factors should be considered in determining whether impacts are significant:

- probability of the impact occurring
- size and characteristics of affected stakeholder or stakeholder groups
- intensity of the impact relative to the affected stakeholder group
- whether particular groups/individuals will incur a disproportionate impact
- duration of the impact (ongoing or “one-off”)
- level of community concern
- extent to which impacts are reversible or can be mitigated
- likelihood of indirect impacts
- complexity of the issue and the degree of uncertainty regarding impacts

The assessment of impacts must evaluate how the regulation impacts stakeholders and whether there is potential to impact others indirectly. If there is doubt, impacts should be assumed to be significant.

Examples of significant impacts:

- economic impacts
 - material effects on cash flow, profitability or prices
 - large changes to definitions, including rules, thresholds and tests
 - requires a high level of initial and ongoing investment by business to comply
 - requires important changes to business practices
 - likely to affect the ongoing profitability and competitiveness of business
 - impacts resource allocation, savings and investment
- competition impacts
 - prevents entry or seriously restricts the conduct of business
 - creates a monopoly on a product or service
 - reduces the ability of, or incentives for, business to compete

- reduces consumer choice or access to goods and services
- impacts on employment and the mobility of labour
- social and environmental impacts
 - displaces the community, or part of a community
 - significantly impacts employment or skills development
 - restricts basic community services, and/or access to these services
 - substantial or irreversible environmental damage
 - high level of concern from the community as a group
- government impacts
 - substantially increases resources required
 - reduces productivity through time consuming, duplicative or unnecessary processes and systems
 - significantly reduces operational capacity and efficiency
 - increases the financial burden on government

Direct impacts are those immediate impacts on the stakeholder. Indirect impacts affect others through the impact of the proposal on stakeholders or other changes as a result of the proposal. Any of these identified impacts can be direct or indirect.

Consultation is required to support completion of the PIA. The consultation undertaken must be described in the PIA. The consultation for a PIA may not be as substantial as that required for a RIS, e.g. targeted consultation with key stakeholders rather than full public consultation. Attachment L provides further information on the best practice principles and minimum requirements that agencies should consider in relation to consultation.

Where a significant impact appears likely, it is recommended that agencies consult OBPR before completing the PIA. The PIA accompanies the RPC for proposals with no significant impact to fully inform decision-makers in their deliberations.

The PIA must be submitted to the OBPR in order for the OBPR to assess and advise whether the impacts of the regulatory proposal are likely to be significant. Where OBPR assesses that the impacts of the regulatory proposal are not likely to be significant, the PIA must be endorsed by the relevant Minister or other Approval Authority and the PIA (with the RPC) must be attached to the final regulatory proposal when seeking approval from Cabinet or other relevant Decision-maker to make the regulation.

Where the OBPR assesses that the impacts of the regulatory proposal are likely to be significant a Consultation RIS must be prepared, unless an exemption has been granted by the Treasurer.

If there are circumstances requiring an exemption from the requirement to prepare a Consultation RIS, an application should be made to the Treasurer after the PIA has been completed.

The PIA form is at Attachment F. Where multiple regulatory proposals are being progressed to the Decision-maker together, it is not necessary to submit a separate PIA for each regulatory proposal. The agency may provide an appropriate attachment or attachments to the PIA with adequate details on the regulatory proposals rather than submitting separate PIAs.

3.4 Step four – seeking the Treasurer’s exemption from preparing a RIS

The Treasurer has the discretion to exempt a regulatory proposal with significant impacts from the requirement to prepare a RIS. A Treasurer’s exemption will be considered in situations where:

- an immediate regulatory response is required; or
- notice of the proposal may render the rule ineffective or unfairly advantage or disadvantage any person likely to be affected by the regulation.

An application must be made in writing to the Treasurer by the relevant Minister or other Approval Authority stating the reason and argument for seeking the exemption. A completed PIA and RPC must be attached to the application. The agency should seek advice from RRB as to what information should be provided to support the application.

Each case will be assessed on its merits.

The Treasurer may attach conditions on the approval, including the timeframe for developing and implementing a monitoring and reporting framework.

Regulatory proposals seeking to authorise anti-competitive conduct cannot be exempted from the requirement to prepare a RIS by the Treasurer unless the Treasurer authorises an alternative form of public benefit test. Without a public benefit justification, the regulation may be overturned by the Commonwealth Government. Agencies seeking to authorise anti-competitive conduct must consult with Treasury immediately.

A post-implementation review of regulation exempted by the Treasurer must be commenced by the proponent within two years of the regulation's implementation date, unless the Treasurer waives this requirement when granting the exemption. This is discussed further in subsection 3.10.

Where the Treasurer's exemption is granted, the completed RPC and PIA (which must both be endorsed by the relevant Minister or other Approval Authority) should be attached to the regulatory proposal when seeking approval from Cabinet or other relevant Decision-maker to make the regulation. The submission to Cabinet or the relevant Decision-maker should state that the Treasurer's exemption has been granted and the grounds on which the Treasurer's exemption was granted.

3.5 Step five – Preparing a Consultation RIS

Where the regulatory proposal has been assessed as having a significant impact under the PIA and is not otherwise excluded from the RIS system, the agency must prepare a Consultation RIS³ for the regulatory proposal.

An agency should consult with the OBPR throughout the development of the Consultation RIS and should approach the OBPR at the earliest opportunity for advice on the preparation of a Consultation RIS. The Consultation RIS template is provided at Attachment J. The contents of a Consultation RIS are detailed in section 4.

Providing a detailed Consultation RIS is necessary to maximise the opportunity for stakeholders to consider and comment on the analysis of impacts and the evaluation of options. Improved understanding of the likely economic, social, environmental, compliance and competition impacts from regulatory proposals supports avoidance of unintended consequences and unnecessary compliance burdens.

³ See Glossary for definition of Consultation RIS.

A Consultation RIS requires a thorough analysis and assessment of the wider costs, benefits and other impacts of the proposal. Agencies must demonstrate that the option chosen is the one that generates the greatest overall net benefit to the community as a whole. A Consultation RIS must be supported by cost-benefit analysis. An agency should consult with OBPR on the extent of evaluation and detail required in the cost-benefit analysis for a particular Consultation RIS.

Where competition is restricted, agencies will also need to demonstrate that the objectives of the regulation can only be achieved by restricting competition. The adequacy of a Consultation RIS must be assessed by the OBPR, in accordance with the requirements of these Guidelines (see section 4) before it can be submitted to the Treasurer or Cabinet for approval to release for public consultation.

The time taken for a response from the OBPR will depend on the following:

- the complexity of the issue; and
- the quality and comprehensiveness of the supporting analysis provided by the agency, such as how well the agency has identified the problem, identified the objectives, considered all options (including non-regulatory options) and how well the impacts have been assessed.

The OBPR will endeavour to provide an initial assessment within 10 working days of receiving the draft Consultation RIS. The OBPR's initial and subsequent advices to agencies will be sent by email to the relevant officers preparing the RIS.

Once the initial assessment has been received from the OBPR, the agency can provide amended versions of the Consultation RIS to the OBPR if necessary. Several iterations of a draft RIS may be required.

The agency can request formal advice on the adequacy of the Consultation RIS at any point. The OBPR will provide a formal final letter of advice to the agency.

The OBPR will issue four broad categories of formal advice, as follows:

- a) Adequate with no substantial comments;
- b) Adequate with the letter raising specific issues or qualifications about the adequacy of the analysis in the RIS;
- c) Insufficient information provided to form a reasoned view;

d) Inadequate.

The agency may choose to resubmit a Consultation RIS that has been subject to a qualified final letter of advice for re-assessment. The OBPR will reassess the Consultation RIS and provide another final letter of advice.

3.6 Step six – Approval process for release of the Consultation RIS

Agencies must seek the approval of either Cabinet or the Treasurer for the release of a Consultation RIS. If approval is sought from the Treasurer, the Treasurer may, on a case by case basis, determine if Cabinet approval is required, taking into account the nature of the matters in question.

The completed Consultation RIS, the final letter of advice, the PIA and the RPC are attached to the documentation seeking Cabinet's or the Treasurer's approval for the release of the Consultation RIS. Once release of the Consultation RIS has been approved, the OBPR must publish the Consultation RIS and its final letter of advice on the QCA website.

If a Consultation RIS is required for a regulation that will be made by a Decision-maker other than Cabinet (for example, the Governor-in-Council), Cabinet or the Treasurer must approve the release of the Consultation RIS for this regulation.

3.7 Step seven – Public Consultation on the Consultation RIS

The Consultation RIS and OBPR's final letter of advice on the adequacy of the Consultation RIS may only be released after the release of the Consultation RIS is approved by either Cabinet or the Treasurer. After the release has been approved, the agency must make the necessary arrangements for the publication of the Consultation RIS and the OBPR's final letter of advice on the adequacy of the Consultation RIS on the Queensland Government *Getinvolved* website and the OBPR must publish the Consultation RIS and the OBPR's final letter of advice on the Consultation RIS on the OBPR website.

The release of a Consultation RIS and the consultation process must comply with any legislative requirements. A minimum period of 28 calendar days must be allowed for all public consultation on a Consultation RIS document. For major regulatory proposals, a longer time period should be considered.

When releasing the RIS for consultation, the agency should advise stakeholders that all submissions made in response to the Consultation RIS will be provided to OBPR as part of its assessment of the adequacy of the Decision RIS. OBPR will only utilise these submissions for the purposes of assessing the Decision RIS and will not publically release these submissions.

The Stakeholder Consultation Protocol (refer Attachment L) contains best practice principles and minimum requirements for ensuring effective consultation with all affected parties at all stages of the regulatory cycle.

The reasons for any divergence from the consultation protocol are to be documented in the RPC.

3.8 Step eight –Preparing a Decision RIS

The Decision RIS is a stand-alone document that builds on the Consultation RIS.

Once the agency has conducted public consultation on the Consultation RIS, it must consider the content of all responses and submissions received during that consultation process. A summary of the key messages/issues raised in the submissions should be made in the consultation section of the Decision RIS, together with the department's responses to these. A brief overview of the submissions received by the department should be provided as an attachment to the Decision RIS.

Depending on the nature of the responses in the submissions, the department may decide to revise certain sections of the approved Consultation RIS in preparing the Decision RIS. If any changes are made to the approved Consultation RIS, these need to be marked up (in track changes) in the relevant sections of the Decision RIS when provided to OBPR for assessment. Note that once OBPR has completed its assessment of the Decision RIS, the agency should provide a clean copy of the Decision RIS to OBPR for its records. A clean copy of the Decision RIS should also be provided to the Decision-maker.

The Decision RIS makes recommendations for the relevant Decision-maker to either implement the regulation as proposed in the Consultation RIS or implement the regulation with changes (stating the reasons for the changes, including where changes are the result of responses to

consultation). It is important that any changes made to the regulatory proposal from that proposed in the Consultation RIS be clearly marked (in track changes) for OBPR's assessment.

In preparing a Decision RIS, the agency should refer to the guidance material on the OBPR website (www.qca.org.au/OBPR/) and the RIS Guidelines in the first instance. If further assistance is required, the agency should contact OBPR at obpr@qca.org.au.

Once the initial assessment has been received from the OBPR, the agency can provide amended versions of the Decision RIS and additional information to the OBPR for its consideration and assessment if necessary. Once the agency is satisfied with the Decision RIS, the Decision RIS should be submitted to the OBPR as final. The OBPR will assess this Decision RIS and provide a formal final letter of advice to the agency.

The OBPR will issue four broad categories of formal advice, as follows:

- a) Adequate with no substantial comments;
- b) Adequate with the letter raising specific issues or qualifications about the adequacy of the analysis in the RIS;
- c) Insufficient information provided to form a reasoned view;
- d) Inadequate.

The agency may choose to resubmit a Decision RIS that has received a qualified final letter of advice for re-assessment. The OBPR will reassess the Decision RIS and provide another final letter of advice.

3.9 Step nine – Approval of the regulation and release of the Decision RIS

A Decision RIS, including the summary of the results of consultation and recommendations, should be submitted to the Decision-maker when seeking the Decision-maker's final approval to make the regulation, for example, for primary legislation, with the Authority to Introduce (ATI) Cabinet Submission. The OBPR's final letter of advice on the adequacy of the Decision RIS must be submitted to the Decision-maker with the Decision RIS.

The release of a Decision RIS must be approved by Cabinet or the Treasurer. The Decision RIS should be submitted to Cabinet or the Treasurer with the completed RPC, which must be endorsed by the relevant Minister or other Approval Authority, when seeking approval to release the Decision RIS. After Cabinet or the Treasurer approves the release of the Decision RIS, the OBPR must publish the Decision RIS and its final letter of advice on the Decision RIS on the QCA's website and the agency must make the necessary arrangements for the Decision RIS and the OBPR's final letter of advice on the Decision RIS to be published on the Queensland Government's *Getinvolved* website.

3.10 Post-implementation Review RIS

A post-implementation review must be commenced within two years of the implementation date of any regulation with significant impacts where a RIS was not conducted, including where a Treasurer's exemption was granted (unless the Treasurer waived this requirement when granting the exemption). The post-implementation review should be undertaken in the form of a Consultation RIS prepared under these Guidelines (see requirements in section 4 below). However, where the agency is of the view that a full Consultation RIS (as required under section 4 of these Guidelines) is not necessary for a specific post-implementation review RIS, the agency may make a submission to OBPR requesting that the OBPR agree to certain requirements in section 4 of the Guidelines not being included in that post-implementation review RIS.

The purpose of the post-implementation review RIS is to assess the impact, effectiveness and continued relevance of the regulation to-date. The review should be appropriate and proportionate to the regulatory issue being addressed.

In addition to the criteria outlined for the 10-year reviews (outlined in subsection 5.10), the post-implementation review RIS should:

- assess whether the regulation is being applied effectively and as intended, that is, is the correct interpretation of the regulation being implemented by government and those applying the regulation; and
- estimate incurred and on-going compliance costs.

Once prepared, the post-implementation review RIS must follow the same process required for a Consultation RIS under these Guidelines. The agency must submit the post-implementation review RIS to the OBPR in order for the OBPR to assess the adequacy of the post-implementation review RIS and following that, to either Cabinet or the Treasurer to determine whether the post-implementation review RIS should be released for consultation.

4 Contents of a Consultation RIS

This section describes the key steps in the analysis of a regulatory proposal.

The RIS system involves a logical and thorough assessment of the effectiveness and impacts of a regulatory proposal. Government agencies, in proposing regulation, should be able to demonstrate that:

- there is a significant problem that may require a regulatory response
- the benefits of the proposed response outweigh the cost
- the proposal represents the best approach to solve the problem

4.1 Identification of the problem

When preparing a Consultation RIS, the starting point should be a brief statement outlining the policy objective of the regulation. This section should define the issue in terms of its origins and impacts and state the underlying cause of the problem. This section should also explain why the regulation is a warranted response to the problem.

To assist with defining the issue to be addressed, the following types of questions could be asked:

- What is the issue that needs addressing?
- Who or what is causing the problem?
- Why is the issue a problem?
- Who is affected?
- How large (or small) is the problem?

- What is the probability of the problem occurring?
- What are the risks and consequences of maintaining the status quo (taking no action)?

4.2 Clear identification of the objectives

The objective of government action is to improve situations for business, community and government that cannot be improved through existing business and social institutions and mechanisms.

It is important for a Consultation RIS to express the objectives of the regulatory proposal in terms of what is to be achieved. Any constraints on the objectives should be identified.

A clear statement of objectives is critical for the evaluation of options and future reviews.

The Consultation RIS should include a statement of how the objectives outlined will be achieved by the proposed regulation and why this way of achieving them is reasonable and appropriate.

4.3 Consideration of all options

Regulation is seldom the only option available to government. The Consultation RIS should include a consideration of alternatives to regulation, such as the following:

- non-regulatory approaches like provision of information and self-regulation;
 - information may be provided to participants in a market or industry to improve the information available to participants. For example, information must be provided by electrical appliance manufacturers identifying the energy efficiency of their products;

- industry self-regulation may provide an effective constraint on behaviour. A number of industries have professional bodies that regulate providers, such as the Chartered Accountant and Certified Practising Accountant programs that apply to the accounting industry;
- creating markets to replace prescriptive regulation;
 - water markets have been created to replace regulatory systems for allocation of water entitlements;
 - environmental markets have been created for the trading of emissions;
 - natural resource markets have used tradable instruments to determine the allocation of resources in fisheries and the timber industry;
- charges or creating financial liability for the detrimental effects of an activity;
 - a financial liability can be placed on parties that undertake an activity that has a detrimental effect on other members of the community. The charge can be used to ameliorate the effect of the activity on others. Environmental taxes are an example of a financial instrument; and
- the option of taking no action also needs to be assessed.

In cases where the regulatory proposal involves amending existing regulation, it is expected that one of the options considered would be the 'no regulation' option. Where a RIS is being prepared in relation to sunseting regulation, the 'no regulation' option should be considered as the base case against which other options (including the existing level of regulation) are measured in terms of a cost benefit analysis.

A balance between the level of risk associated with a problem and the impact of government action needs to be achieved. In some cases government action will not produce the best outcome. The Consultation RIS should provide a robust rationale explaining why specific options were eliminated based on their perceived lack of effectiveness in adequately achieving the desired policy objectives.

If regulation is a better alternative to non-regulatory approaches, the different forms of regulation also need to be considered in the Consultation RIS. These will range from very prescriptive regulations which will typically prescribe a process and input controls to less prescriptive

regulations that establish outcomes and leave scope for innovation by those subject to regulation. More information on regulatory options can be found in Attachments C and D.

It is unlikely that a particular form of regulation will be appropriate to every situation and therefore an assessment of the benefits and costs of each alternative in the context of the problem to be addressed is essential to achieve the government's goal of better regulation.

4.4 Assessment of impacts (costs and benefits)

All impacts of a regulatory proposal are to be identified and assessed in the Consultation RIS. Often a wide variety of impacts will result from regulation, including economic, competition, social, environmental and compliance cost impacts.

The impacts for different groups within business, community and government should be analysed, as well as for the community as a whole. Attachment O provides an example impact matrix. It illustrates an appropriate consideration of the breadth of impacts on stakeholders.

Step 1 in the assessment of impacts is to collect information on the current state of the world. For example, a regulation which proposes to limit fishing in dams would gather information on the number of people fishing in dams, when they fish, estimates of how many fish are caught, fish stocks and how far people travel to fish in dams. This provides baseline data which is used to measure the expected impact of the regulation. The difference between the baseline data and the expected outcome when the regulation is applied is the impact.

Step 2 is to identify and explain each potential impact of the regulation, both positive and negative. The explanation of the impact should relate to how the regulation is likely to impact directly on the behaviour of those regulated and indirectly on other people or the environment. In the fishing example, the direct impact is on those who fish in dams but the regulation may also affect sellers of fishing equipment and accommodation providers as well as possible environmental impacts.

Step 3 is to identify the net change in welfare associated with the regulatory proposal to determine whether the community as a whole would be better off with a regulatory proposal, compared to maintaining the status quo. This can be a difficult task and may require specialist input.

Cost benefit analysis is a tool used to identify the present value in today's dollars of benefits and costs associated with each regulatory option identified. The requirements below outline the standard requirements for a cost benefit analysis to be included in a Consultation RIS, but an agency should consult with OBPR on the extent of evaluation and detail required in the cost-benefit analysis for a particular Consultation RIS. A number of regulatory options should be compared against the base case (no action option) to identify the preferred alternative. The base case must be defined in sufficient detail to allow robust comparison of the outcomes that are likely to eventuate, as compared to what would be expected if the current arrangements were to continue.

Whenever possible and appropriate, the Consultation RIS should assess the benefits and costs of a regulatory proposal quantitatively by assigning monetary values to the impacts on stakeholders. This allows for a clearer comparison both across and between options, and supports independent validation of results.

The discussion of quantitative benefits and costs in the Consultation RIS should be accompanied by a discussion of the impact in words. However, it may not be possible to assign a monetary value to some benefits and costs. This may particularly be the case for regulatory impacts that are not significant as the effort to value some impacts may not be proportionate to the significance of the regulatory proposal. When benefits and costs cannot be considered quantitatively, the benefits and costs of regulatory options should still be compared and assessed using a qualitative framework.

The level and depth of quantitative analysis depends on:

- the significance of the problem and the impacts of proposed options
- the type of impacts and availability of data on costs and benefits (financial and economic impacts can be more readily quantified than social or environmental impacts)
- the techniques available to reliably quantify costs and benefits

Compliance costs (calculated using the Compliance Cost Calculator or other appropriate methodology) are just one aspect of a cost benefit analysis and, on its own, will not satisfy the cost benefit analysis requirements of a Consultation RIS.

Further information on identifying and assessing impacts is provided at Attachments E and G respectively.

4.5 Cumulative regulatory burden

For each of the options discussed under 4.3 above, a Consultation RIS must include an assessment of the impact of each option presented in the Consultation RIS on the cumulative regulatory burden for affected stakeholders. The assessment of the effect on the cumulative regulatory burden should consider:

- (1) the regulatory burden on the affected stakeholders generally (focussing on regulation that has been imposed or is administered by the agency preparing the RIS);
- (2) whether there are offsetting options available for reducing the cumulative regulatory burden as part of the regulatory proposal; and
- (3) whether similar or duplicative regulation already applies to the affected stakeholders (should consider similar or duplicative regulation imposed by the Commonwealth or other State agencies).

4.6 Impact on competition

The Consultation RIS must consider the impact of a regulatory proposal on competition. In accordance with the *Competition Principles Agreement* (see Attachment K) regulation should not restrict competition unless it can be demonstrated that:⁴

- the benefits of the restriction as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

A regulatory proposal is likely to restrict competition if:

- it creates barriers to firms entering or exiting the market, for example, it creates a situation where there is higher ongoing costs for new entrants compared to existing players;
- it affects the market structure of the industry, for example, it limits the number of firms in an industry;

⁴ Competition Principles Agreement 1995.

- it restricts the ability of businesses to choose the price, quality, range or location of their products; and/or
- it inhibits innovation or the development of new products or services.

In addition, Part IV of the *Competition and Consumer Act 2010* (Cth) sets out specific examples of anti-competitive conduct. If a regulatory proposal seeks to authorise anti-competitive conduct which, without a legislated exemption or other legal authority, would contravene Part IV of the *Competition and Consumer Act 2010* (Cth), a Consultation RIS must be undertaken to justify the need for the legislation. Without this justification, a regulation may be overturned by the Commonwealth Government.

Any regulatory proposal that contains anti-competitive conduct is not eligible for the Treasurer's exemption, unless the Treasurer authorises an alternative form of public benefit test. Without a public benefit justification, the regulation may be overturned by the Commonwealth Government. Agencies seeking to authorise anti-competitive conduct must consult with Treasury immediately.

In accordance with clause 1(3) of the NCP, a Consultation RIS undertaken for any regulatory proposal which restricts competition must take the following matters, where relevant, into account:

- government legislation and policies relating to ecologically sustainable development
- social welfare and equity considerations, including community service obligations
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity
- economic and regional development, including employment and investment growth
- the interests of consumers generally or of a class of consumers⁵
- the competitiveness of Australian businesses
- the efficient allocation of resources.

4.7 Compatibility with other laws and regulations

All new regulation should be compatible and consistent, to the extent possible, with existing local, State or Commonwealth Government regulation. Potential conflicts with existing legislation or the common law need to be carefully identified and dealt with in the Consultation RIS. This includes where proposed regulation may be inconsistent with the policy objectives of existing regulation.

The *Right to Information Act 2009* provides for access to information held by government. The *Information Privacy Act 2009* places obligations on how agencies, collect, store, use and disclose personal information. Agencies need to consider the possible application of this legislation to any submissions made and other documents generated in the course of complying with the RIS system. The Right to Information Guidelines and Information Privacy Guidelines provide detailed information to agencies on their obligations under these Acts.

If the proposed regulation is inconsistent with other regulation (including the policy objectives of other regulation) the Consultation RIS should include:

- an explanation of the relationship between the proposed regulation and the existing regulation; and
- a statement of the reasons for the inconsistency.

The Consultation RIS should identify where intra-governmental and intergovernmental collaboration will be used to avoid overlap. The Consultation RIS should also identify best practice approaches to regulation adopted elsewhere.

Assessing compatibility with other laws and regulations also provides an opportunity to consider where regulation can be simplified, repealed or consolidated. Further information is provided in Attachment H.

4.8 Compliance and administrative burdens

The Consultation RIS should outline how the scope of the regulatory proposal is proportionate to the seriousness of the problem being dealt with. Regulation should not impose a burden on affected parties greater than the costs it is seeking to address. When assessing the burden imposed by a regulation, indirect costs on businesses and the community should also be considered.

The Consultation RIS should identify how the regulatory proposal has been prepared to minimise the regulatory burden on business, community and government. The greater the regulatory burden, the higher the compliance costs, and the more significant the impact on business efficiency and performance and the community.

The compliance and administrative burdens imposed by a regulation should be proportionate to the objectives of the regulation. The Consultation RIS for a regulatory proposal which is likely to have compliance cost impacts that are not negligible or trivial must quantify the estimated compliance costs on affected stakeholders using a standard costing methodology. The standard costing methodology to be applied is the Queensland Compliance Cost Calculator, or an alternative approved by the OBPR which satisfies principles for a robust costing methodology.

For further information on providing compliance support, refer to Attachment I. Principles for a robust compliance costing methodology are contained at Attachment M.

4.9 Consistency with fundamental legislative principles

The Consultation RIS should include a brief assessment of the consistency of the proposed regulation with fundamental legislative principles as outlined in the LSA. If the regulation is inconsistent, the Consultation RIS should include reasons for any inconsistency.

4.10 Additional requirements for subordinate legislation and quasi-regulation

A Consultation RIS for subordinate legislation or quasi-regulation should also include the following:

- the provision of the Act or subordinate legislation under which the proposed subordinate legislation or quasi-regulation will be made; and
- an explanation of how the proposed subordinate legislation or quasi-regulation is consistent with the policy objectives of the authorising law.

5 Other requirements of the RIS system

5.1 Reviews of regulation

All new regulation (including quasi-regulation) developed and implemented under the RIS system must be reviewed within 10 years of the regulation's commencement date, unless a pre-existing review arrangement is in place which meets the review criteria below.

All existing regulation at the time of implementation of the RIS system is required to be reviewed within 10 years of the RIS system's commencement⁶ unless:

- it has minimal impact on business, community or government; or
- it is already the subject of a SIA (i.e., sunset provisions) or NCP review obligation; or
- it is already scheduled for review in the agency's regulatory reform program.

This includes the quasi-regulation developed by statutory authorities which are under the direction of government.

The objective of the review is to evaluate the continuing relevance, effectiveness and efficiency of the regulation.⁷ The review should:

- identify the need for continued regulatory action – does a problem still exist?

⁶ The RIS System commenced in March 2010.

⁷ Agencies should be aware that subordinate legislation has a firm expiry date under section 54 of the *Statutory Instruments Act 1992*. The regulatory review under the RIS system should be completed in advance of this expiry date if the regulation is proposed to continue beyond its initial 10 year operation. This should avoid a regulation expiring under the SIA while a 10 year review of the regulation is being completed.

- evaluate whether the regulation met, or is meeting, its objectives while meeting regulatory best practice principles and not imposing unnecessary burdens on stakeholders;
- consider competition impacts;
- consider whether the regulatory objectives could be achieved in a more effective and efficient way; and
- include consultation with stakeholders.

Provisions in the regulation which have recently been reviewed or amended do not need to be reviewed again providing:

- details are given as to when they were last reviewed or amended; and
- the results of the review demonstrated the continued relevance, effectiveness and efficiency of the provisions.

In certain circumstances, an earlier review of a particular regulation may be required, for example, the government may also direct that a review be conducted more frequently than once every 10 years.

5.2 Monitoring and evaluation

To be consistent with regulatory best practice principles, agencies should review their monitoring arrangements for regulation and develop a monitoring framework for new regulation.

A monitoring framework will comprise the measures and data an agency will use to assess the performance of the regulation over time. Some important design issues for a monitoring framework include:

- key performance indicators which link to the regulation's objective
- availability of data
- frequency of collection

- cost effectiveness (including an estimate of compliance costs)
- frequency of evaluation
- format and frequency of reporting

Monitoring provides the information to allow continuous improvement of regulation. Apart from continuous improvement (including testing whether regulation is still relevant) the monitoring framework provides a database to inform the 10 year review of the regulation.

5.3 Stakeholder Consultation

Public consultation is a critical part of any regulatory development process. In line with regulatory best practice principles, there should be effective consultation with affected key stakeholders at all stages of the regulatory cycle.

The Stakeholder Consultation Protocol (refer Attachment L) contains best practice principles and minimum requirements for ensuring effective consultation with all affected parties at all stages of the regulatory cycle.

Under the RIS system, regulating agencies should ensure:

- adequate consultation with stakeholders has taken place to support the informed completion of the PIA;
- where feasible, advance notice is provided to business and community for all upcoming consultation activities via the Queensland Government's *Get Involved* website (at least three months' notice is recommended where feasible);
- a minimum period of 28 calendar days be allowed for all public consultation on a Consultation RIS document;
- all final RIS documents (both Decision and Consultation RISs), approved by Cabinet or the Treasurer for release, will be published on the Queensland Government's *Get Involved* website; and
- all other regulatory proposals are notified in the online register via the Queensland Government's *Get Involved* website.

The reasons for any divergence from the consultation protocol are to be documented in the RPC.

5.4 Effective communication of regulations

Those affected by regulation – business, community and government – must understand their regulatory obligations in order to enable their compliance. It is important that stakeholders have access to supporting documentation and tools that provide clear guidance on interpreting and complying with regulatory requirements.

In order to fulfil their responsibility of publicly providing information on compliance requirements, regulators should ensure that:

- regulations are clear, concise, consistent, and facilitate understanding and compliance by the regulated parties;
- appropriately targeted information, education and training strategies that clearly inform regulators and regulated parties of the policy intent and compliance requirements are developed;
- easily accessible compliance tools (for example, web-based tools, electronic forms) are developed to assist regulated parties; and
- appropriate government service standards and benchmarks (for example, response time) are established.

The Compliance Awareness Protocol is at Attachment N.

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A Establishing a case for action

A case for action requires careful and thorough analysis of the problem to be remedied. Officers need to establish that a problem exists that can be remedied by government.

A helpful way to conceive the problems which governments address is to assess whether there is a market failure.

Box 4 provides further information on types of market failure. This concept comes from economics and is widely used in the analysis of policy. The term market failure describes a situation where there is an inefficient allocation of goods and services in a market. The concept can be applied to economic, environmental and community problems. However, it may not be appropriate to all social and community issues.

If markets fail then perhaps governments need to respond to improve outcomes for the community and business. Regulation is one of several options available to government to address a market failure. Others include:

- directly providing services
- affecting prices by applying taxes and subsidies
- providing information.

Evidence should be provided that demonstrates the existence of the identified problem. Where possible, data that substantiates and/or details the problem should be collated.

Box 4 Types of Market failure

The most common types of market failure are:

- incomplete property rights
- market power
- incomplete information
- missing and incomplete markets.

Incomplete property rights – efficiency requires that all goods and services can be produced and exchanged to the benefit of the parties to the transaction. A property right provides the owner of the good with an exclusive right to consume or sell a good or service.

There are many goods and services for which this assumption does not hold. Without well-defined property rights goods and services will be under or over-priced compared to an efficient price. The outcome is that economic well-being is less than it might otherwise have been.

The terms externalities and public goods are used to describe particular examples of this market failure:

Externalities describe a situation where one or more parties incur a benefit or cost from the actions of another person that is not the subject of a market transaction. An example is the upstream factory that pollutes water needed by downstream firms. The absence of a property right for the right to pollute imposes uncompensated costs on the downstream firms. In some cases the existence of property rights will not guarantee an efficient outcome. This is because transaction costs of bargaining or enforcing property rights outweigh an individual's gain.

Public goods describe goods for which it is very difficult to exclude people outside the transaction and the good can be consumed simultaneously by more than one user. Defence expenditure is an example of a public good.

Market power – a perfectly competitive market assumes a firm has no ability to influence the price of a good or service. However, in some markets firms can raise prices without being disciplined by the actions of rivals. Market power can result in higher prices and reduced output compared to a competitive market. Market power can be temporary or enduring and it is usually the latter that is of concern to policy makers. Market power generally arises because rivals are faced with barriers which prevent them from imposing competitive discipline.

Incomplete information – A perfectly competitive market assumes that all agents are fully informed when transacting. In most cases, agents will have incomplete information when entering transactions mainly because there is a cost of gathering and evaluating information. Incomplete information can result in market failure when one party to a transaction has information relevant to the transaction that the other party does not have. In the extreme, it can cause markets to cease to exist. This type of market failure is often associated with insurance markets and markets where quality of a good affects its price.

Missing and incomplete markets – An efficient outcome assumes a full set of markets in which to exchange goods and services. When markets are missing, needs are unmet and so a potentially better allocation of resources would be available if the market existed.

Dissatisfaction with a market outcome does not, without more evidence, substantiate the existence of market failure that government intervention can remedy.

Other reasons for government to regulate relate to its objectives for society (such as fairness and equity, safety, liberty and opportunity).

While regulation can achieve these social objectives, the design of the instrument must avoid creating perverse incentives. For example, a subsidy on the cost of water provided to some consumers may have the effect of providing an incentive to over-consume the water. Instead, some other form of instrument could be used to reduce the cost of water to these users, without creating an incentive for over use. An option such as increasing social welfare payments to these consumers may have the combined effect of reducing the costs of essential goods, without removing the price incentives for efficient use.

The following questions are relevant to determine the need for action:

- How did the problem arise?
- How did the problem come to government's attention?
- How is the problem (whether a market failure or government objective) currently being addressed, if at all? Is any form of government intervention currently in place? Why is it inadequate?
- How widespread is the problem?
- How many people/and or businesses are affected by the problem?
- Is the problem a policy priority for the government?
- Is the problem an area of State Government responsibility?
- Is the problem likely to persist or is it temporary?
- To determine the 'root cause' of the problem, what could the identified problem/s be connected to, or caused by?
- Who or what is causing the problem? Is it due to market failure, regulatory failure, or risk of an unacceptable outcome?
- What is the probability of these consequences occurring?
- What is the cost of fixing the problem?
- Are there possible unintended consequences of regulating (in addition to perverse incentives)?

As a result of establishing the case for action, and considering the questions above, the objective of government intervention should be clear. The objective of the government intervention should be expressed in a manner that avoids aligning with, or pre-justifying a particular option.

B Regulatory Principles Checklist

The purpose of the Regulatory Principles Checklist (RPC) is to demonstrate that a regulatory proposal has been developed in accordance with regulatory best practice principles. An RPC is to be fully completed for all regulatory proposals within the scope of the RIS system put forward by Government agencies and statutory bodies. For regulatory proposals excluded from the RIS system, only sections 1 and 2 of the RPC need be completed, with the additional page completed identifying the relevant exclusion and providing the necessary justification for the exclusion.

The RPC is progressively completed through the regulatory development process and attached to all submissions seeking endorsement by Cabinet, Executive Council, the relevant Minister or other approval authority (for example, Chief Executive). Refer to the RIS Guidelines for further information about the RPC.

For further assistance, please contact the Office of Best Practice Regulation (see contact details over page).

Name of the proposal:	Name of proposal
Agency/Organisation:	Agency/Organisation
Contact officer:	Name: Name
	Phone: Phone
	Email: Email
Regulatory instrument: <i>(tick all appropriate)</i>	<input type="checkbox"/> Primary legislation <input type="checkbox"/> Subordinate legislation <input type="checkbox"/> Quasi-regulation

MINISTERIAL OR APPROVAL AUTHORITY ENDORSEMENT

1. Consideration has been given to regulatory best practice principles in the development of this regulatory proposal, and this is demonstrated through completion of the Preliminary Impact Assessment for non-significant regulatory proposals and the Regulatory Impact Statement for significant regulatory proposals, and this Regulatory Principles Checklist.

Minister/Approval Authority

Date / /

CRITERIA If answering NO to any of the questions 5 to 23 below, please attach an explanation.	Criteria Met	
	YES	NO
Case for action		
1. Has a clear case for Government action been established?	<input type="checkbox"/>	<input type="checkbox"/>
Exclusion		
2. Is this regulatory proposal excluded from the RIS system? If yes, provide your reasons on the attached page.	<input type="checkbox"/>	<input type="checkbox"/>
Has the agency already determined a RIS is required?		
3. Has the agency already determined that a Consultation RIS should be undertaken in relation to this proposal? If the agency believes the proposal could potentially have a significant adverse impact and it wishes to proceed directly to preparing a Consultation RIS, it is not necessary to prepare a PIA.	<input type="checkbox"/>	<input type="checkbox"/>
Regulatory burden reduction initiative		
4. Is this proposal designed to reduce the burden of regulation and it is reasonably clear there are no significant adverse impacts of the proposal? If yes provide details in Attachment 1 (below) of the nature and impacts of the proposal. If no, continue with the following questions.	<input type="checkbox"/>	<input type="checkbox"/>
Options analysis		
5. Have you considered a range of feasible policy options (i.e. regulatory and non-regulatory approaches)?	<input type="checkbox"/>	<input type="checkbox"/>
6. Have you considered the regulatory models in other jurisdictions, including whether a uniform or harmonised model would achieve the least burdensome outcome (or generate the greatest net benefit to the community)?	<input type="checkbox"/>	<input type="checkbox"/>
7. Is the proposed action effective and proportional to the issue being addressed?	<input type="checkbox"/>	<input type="checkbox"/>
Impact assessment		
8. Have you assessed the costs and benefits of all feasible policy options?	<input type="checkbox"/>	<input type="checkbox"/>
9. Does the proposed regulation generate the greatest net benefit for the community compared to other options?	<input type="checkbox"/>	<input type="checkbox"/>
10. Have you considered and quantified the direct and indirect impacts of the proposed regulation for business, community and government (including economic, competition, social and environmental impacts)?	<input type="checkbox"/>	<input type="checkbox"/>
11. Have you considered the compliance costs of the proposed regulation, including additional resource requirements (e.g. time, staff, training costs, expert advice, and equipment)?	<input type="checkbox"/>	<input type="checkbox"/>
12. Have you considered the costs to government of administering and enforcing the regulation?	<input type="checkbox"/>	<input type="checkbox"/>
13. Can administrative and enforcement costs to Government be met with existing resources?	<input type="checkbox"/>	<input type="checkbox"/>
Consistency with other regulation		
14. Is the proposed regulation consistent with the Competition Principles Agreement, including the principle that legislation should not restrict competition unless it can be demonstrated that: <ul style="list-style-type: none"> ▪ The benefits of the restriction to the community as a whole outweigh the costs; and ▪ The objectives of the legislation can only be achieved by restricting competition. 	<input type="checkbox"/>	<input type="checkbox"/>
15. Is the proposed regulation consistent with, and not duplicative of, Queensland Government policy and regulation?	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the proposed regulation consistent with, and not duplicative of, Commonwealth regulation?	<input type="checkbox"/>	<input type="checkbox"/>
17. Have opportunities to simplify regulation been adopted, including consolidating, reforming or repealing existing regulation or policy where possible?	<input type="checkbox"/>	<input type="checkbox"/>
Consultation		
18. Have you consulted with affected stakeholders (business, community and government) at all stages of the regulatory development cycle?	<input type="checkbox"/>	<input type="checkbox"/>
19. Have affected stakeholders had an opportunity to present their views on all policy options, including proposed legislative requirements?	<input type="checkbox"/>	<input type="checkbox"/>
20. Have you consulted with Treasury Department and the Department of the Premier and Cabinet?	<input type="checkbox"/>	<input type="checkbox"/>
Implementation and Compliance Support		

21. Is effective compliance support provided to relevant regulators and regulated parties through:		
(a) Clear, concise and consistent regulations that facilitate understanding and compliance?	<input type="checkbox"/>	<input type="checkbox"/>
(b) Appropriately targeted information, education and training strategies that inform regulators and regulated parties of the policy intent and compliance requirements?	<input type="checkbox"/>	<input type="checkbox"/>
(c) Easily accessible compliance tools (e.g. web based tools, electronic forms) developed to assist regulated parties?	<input type="checkbox"/>	<input type="checkbox"/>
(d) Setting appropriate government service standards and benchmarks (e.g. response or turnaround time)?	<input type="checkbox"/>	<input type="checkbox"/>
22. Have you considered the transitional issues related to the commencement date?	<input type="checkbox"/>	<input type="checkbox"/>
Review		
23. Are strategies in place to facilitate the periodic and systematic review of the proposed regulations to ensure they remain relevant and effective over time?	<input type="checkbox"/>	<input type="checkbox"/>

Attachment 1: Justification to support to support this application

Request for Exclusion from the RIS System

To assist OBPR's consideration of your request for this proposal to be excluded from the RIS system, please provide answers to the following, as a minimum:

- A brief explanation of the regulatory proposal;
- The category of exclusion; and
- The reason why the regulatory proposal falls under that exclusion category.

Initiative to Reduce Regulatory Burden

If a regulatory proposal is designed primarily to reduce the burden of regulation and it is reasonably clear there are no potentially significant adverse impacts of the proposal, OBPR has the discretion to determine whether a PIA needs to be completed. If the agency considers this proposal meets these criteria, to assist OBPR's consideration of whether a PIA is required, please provide the following information:

- An overview of the regulatory proposal;
- An outline of the nature and potential size of the impact likely to be generated by the proposal and reasons why no significant adverse impacts are expected; and
- A brief impact analysis, specifying any potential adverse impacts that may arise from the proposal.

Include Details and Explanation

Office of Best Practice Regulation

Telephone: (07) 3222 0555

Email: ris.exclusion@qca.org.au

Web: <http://www.qca.org.au/OBPR>

C Identifying options

A range of options, including regulatory and non-regulatory alternatives, will usually be available to solve an identified problem.

Taking no action

Continuing the current level of regulation (including no regulation) should always be considered as an option. A full description of the current level of regulation will also assist in identifying other alternatives.

Taking action

The appropriate form of regulation to apply will vary depending upon the problem being addressed. Both non-regulatory and regulatory approaches should be considered, see Attachment D.

Good regulation should meet the following guiding principles:

1. Transparent;
 - measures are supported by comprehensive and clearly documented policy deliberations to facilitate ease of scrutiny by decision makers and those affected by such measures
2. Informed;
 - measures are developed in a coordinated and collaborative manner within and across government agencies and are informed by community stakeholder involvement to ensure more integrated, robust and sustainable policy outcomes
3. Consistent;
 - measures are consistent with Queensland Government priorities and do not conflict with other relevant policy and legislation
4. Equitable;
 - measures are fairly applied, are proportionate to the risk being addressed, do not have an unduly negative impact on any sections of the community, and conform to fundamental legislative principles
5. Effective and efficient;
 - measures provide practical, cost efficient and workable solutions, are able to be effectively administered and enforced, and are clear and easily accessible
6. Accountable;
 - provision for the periodic and systematic review of regulations to facilitate robust scrutiny of regulatory design and implementation features.

It is also important to consider how the policy problem is addressed and managed in other jurisdictions, and whether a nationally consistent, or harmonised approach may be the most appropriate option.

Constraints on options

Constraints limit the options that are available in response to an identified problem. Potential constraints include:

- budget available for the policy
- timeframes for implementing policy (while policy design should not be rushed, not all alternatives will be capable of implementation within available timeframes)
- extent of consistency with existing policies.

Identifying constraints is the first step in narrowing down the identified options.

Consultation on options

During consultation, stakeholders may identify other options to address the identified problem. Agencies should be willing to add to their analysis further feasible options that emerge from consultation. A rationale of the rejection of options that are not considered feasible should also be included.

Removing existing regulation

As well as comparing options for introducing new policy instruments, or expanding the coverage of existing instruments, the possibility for repealing existing regulation should also be considered.

Content of the option

Each identified option should be developed in sufficient detail to enable analysis. In developing the details of each option, the following questions may be relevant:

- What are the key features of the option?
- What are the key assumptions of the option?
- What changes will be made to the existing regulatory structure under the option?
- Will there be duplication or inconsistency with existing local, state or federal regulations under the option?
- Are the options considered sufficiently distinct?

Useful resources

WA Government, Regulatory Impact Assessment Guidelines for Western Australia, http://www.dtf.wa.gov.au/cms/uploadedFiles/_Treasury/Microeconomic_policy/regulatory_impact_assessment_guidelines_for_western_australia_2009.pdf

UK Department for Business Innovation and Skills, Better regulation, better benefits: getting the balance right, October 2009, Annex 2, <http://www.berr.gov.uk/files/file53252.pdf>

D Forms of Regulation

Regulations are instruments which either impose mandatory requirements upon, or seek voluntary change of behaviour from, business and the community to improve economic, environmental or social outcomes. There are a range of alternatives that government may adopt to achieve its policy objectives. This attachment describes the range of regulatory responses available.

Table 1 Regulatory Alternatives

Regulatory Alternatives	Advantages	Disadvantages
Prescriptive Regulation Prescribes conduct or processes Detailed regulation	Requirements are very clear Consistency Suitable for high risk/high impact activities	Requires intensive enforcement Prevents innovation High compliance costs
Performance Based Regulation Performance or outcomes based Industry develops its own approaches to achieving outcomes Efficient design of processes to meet outcomes	Greater flexibility Encourage innovation Able to use industry approaches to achieve outcomes Greater flexibility results in cost reductions Outcomes and targets are easier to communicate to industry	Can add additional costs to small business (limited resources to address flexible approaches) Must be maintained and updated regularly Monitoring costs may be greater
Co-regulation Cooperation between industry and government Administered and enforcement by industry	Industry ownership Effective solution where the impacts are limited to a single industry	Potential for anticompetitive provisions Concerns about accountability
Codes of Conduct Set of agreed principles or guidelines outlining responsibilities and expectations May be voluntary or mandatory	Effective in encouraging wanted or discouraging unwanted behaviours Industry participation in development More informed, less costly Addresses consumer requirements – quality, price, choice, environment, health, safety More efficient than black letter regulation Improves industry standards and promotes best practice Improves the public image of industry and promotes public confidence Prescribes minimum standards of performance	Potential for poor design to cause additional cost and frustration Poor design can cause negative publicity Poor design may not achieve outcomes Codes can be anticompetitive If not transparent, will not achieve support Not effective if the Code does not address the risk or market failure problem

Regulatory Alternatives	Advantages	Disadvantages
	Easy to update and revise	
Standards Use existing or new measures to document outcomes Controls on processes or performance	Ability to quantify performance outcomes Industry understands standards and process controls Convenient measures which can be monitored	Australian Standards are optimal versus minimum standards required Constant monitoring required Requires strong industry involvement and understanding
Regulatory Tiering Different industry segments treated differently Aims to provide equity across different sectors	Able to recognise different sector experiences/ imbalances Cater for small business issues Preserve flexibility and outcomes without disadvantaging some sectors	Unforeseen impacts Risk of being misunderstood if complex Can create a threshold effect (deter business activity, employment, etc.)
Tradeable Permits Tradeable rights and permits manage access to a resource or a market (to conserve or preserve the resource; attach values and performance standards to permits or rights)	Tradeable licences and permits allow effective use of resources Able to embed performance expectations in permits	Can restrict market entry Market failures can prevent the system from operating successfully and may lead to constant monitoring by government
Negative Licensing Excludes unsuitable individuals or organisations from participating in a market or industry function	Excludes unsuitable individuals or companies Fewer costs to industry Avoids the need for positive licensing	May not be proactive in encouraging high standards of performance Difficult to detect breaches without ongoing screening Applies to past experience rather than current capabilities.
Third Party Certification A third party body (industry or industry/government) to monitor performance and compliance	Independence of certification process Can link education, information and support to certification Efficient and cost effective enforcement More market responsive, industry involved Supports industry – government partnerships	Can add additional costs The organisation selected can be inappropriate
Risk-Based Insurance Government-based insurance cover against risks associated with particular activities to lower costs involved Government encouragement to take out insurance cover	Provides adequate compensation for affected individuals and businesses May reduce need for other forms of regulation May reduce monitoring and enforcement by government	May encourage more insurance cover than necessary May restrict market freedom
Rewarding Good Behaviour Financial incentives and disincentives to influence behaviour	Efficient and respond to industry values Financial incentives encourage appropriate behaviour Market acceptance of rewards for outcomes	Requires monitoring and enforcement Financial incentives/ disincentives may be inappropriate Poor outcomes if industry is not involved

Source: Queensland Government, Public Benefit Test Guidelines, October 1999.

Useful resources

Standards Australia coordinates standardisation activities, develops internationally aligned Australian Standards® of public benefit and national interest and facilitates the accreditation of other Standards Development Organisations. Standards Australia represents an alternative to prescriptive regulation. <http://www.standards.org.au/default.asp>.

Australian Government Office of Best Practice Regulation Handbook, Attachment A, Forms of regulation and alternatives, available from <http://www.finance.gov.au/obpr/docs/handbook.pdf>.

E Types of impact

A regulation has impacts because it is designed to change outcomes that occur without the regulation. A regulation affects a wide range of business, community and government decisions. Impacts from a regulatory proposal may be direct or indirect. Direct impacts are those immediate impacts on the stakeholder. Indirect impacts affect others through the impact of the proposal on stakeholders or other changes as a result of the proposal. Any of these identified impacts can be direct or indirect. Listed below are a number of common impacts that can occur from regulation. The list is not exhaustive but is a starting point when identifying impacts of regulation:

Economic impacts:

- prices
- wages and profits
- employment
- skill levels
- income levels
- saving or investment
- consumption patterns
- production costs or production levels
- productivity.

Competition impacts, including markets upstream and downstream of the market in which a regulation is introduced:

- number of firms in a market
- intensity of competition
- a restriction on choice of products or inputs for buyers and sellers
- entry and exit barriers to an industry

- incentives to innovate and invest in research and development.

Social impacts:

- employment opportunities or growth in the community or part of the community
- public health
- safety
- recreational opportunities
- access to social services and infrastructure
- residential amenity or quality of life
- the legal rights of groups within the community
- the affordability and/or availability of housing
- religious or cultural sensitivities
- heritage impacts.

Environmental impacts:

- pollution (noise, air, water) levels
- biodiversity
- habitat or species loss
- forestry degradation or enhancements
- soil erosion or coastal destabilisation
- exploitation or protection of natural resources
- ecological sustainability impediments or improvements
- climate change.

Compliance costs to business and government:

- for business:
 - additional resources required to comply with the regulations (for example, time, staff, training expenses, travel, expert advice, license fees and technical equipment)
 - costs associated with compliance activities (for example, reporting certain events, obtaining permission to conduct an activity, record keeping, purchasing specific materials, participating in monitoring or enforcement activities such as audits, following specific procedures or practices).
- for government:
 - additional resources (for example, recruitment, administrative costs, new equipment and new technologies)
 - requirements to amend systems and procedures
 - reduced operational capacity and efficiency
 - diminished opportunities for sharing resources across agencies
 - adding to the financial burden (for example, not 'full' cost recovery)
 - reducing productivity (for example, key processes are affected through time consuming and complex methods, duplication of procedures).

Useful resources

Queensland Government, Environmental Protection Authority, Environmental Economic Valuation – An introductory guide for policy-makers and practitioners, available from <http://www.ehp.qld.gov.au/register/p00710aa.pdf>.

Queensland Government, Compliance Cost Calculator

F Preliminary Impact Assessment

The Preliminary Impact Assessment (PIA) is the first stage of assessment of the potential impacts of a regulatory proposal on business, community and government. The PIA also assists agencies in identifying the need for a Regulatory Impact Statement. A PIA is to be completed for all regulatory proposals put forward by government agencies and statutory authorities.

The PIA should be completed early in the policy development process, and progressively updated where appropriate.

For further assistance, please contact the Office of Best Practice Regulation (see contact details over page).

Name of the proposal:	Name of proposal
Agency/Organisation:	Agency/Organisation
Contact officer:	Name: Name
	Phone: Phone
	Email: Email
Regulatory instrument: <i>(tick all appropriate)</i>	<input type="checkbox"/> Primary legislation <input type="checkbox"/> Subordinate legislation <input type="checkbox"/> Quasi-regulation

Office of Best Practice Regulation

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Web: <http://www.qca.org.au/OBPR>

SECTION 1 – CASE FOR ACTION	
1.1 What is the nature and scale of the problem (and associated risks)?	
1.2 What evidence is there to substantiate the problem?	
1.3 Why is there a need for government action?	
SECTION 2 – OBJECTIVE	
2.1 What is the objective of government intervention?	
SECTION 3 – OPTIONS ANALYSIS	
3.1 What alternative policy options were considered for achieving the objectives (for example, self-regulatory, co-regulatory and non-regulatory alternatives)?	
3.2 What was the rationale for rejecting each of the options considered (consider the advantages & disadvantages of each)?	
3.3 How is the problem addressed in other jurisdictions?	
SECTION 4 – IMPACT ASSESSMENT OF POLICY OPTIONS	
4.1 Briefly discuss the potential direct and indirect impacts, both positive and negative, for each policy option on each stakeholder group and provide an indication of the significance/magnitude of each anticipated impact.	<p>(a) Impacts on Business Provide details of impacts to business including, but not limited to: economic & competition impacts (e.g. barriers to entry, price/production/conduct controls) and compliance costs (e.g. record keeping, staff training, licences). This information should include quantification of estimated costs per business and for the industry as a whole.</p>

<p>① <i>Categories of impacts to be considered for each stakeholder group include:</i> <i>Economic</i> <i>Competition</i> <i>Compliance</i> <i>Social</i> <i>Environmental.</i></p>	<p>(b) Impacts on Community Provide details of impacts to community including, but not limited to: financial costs (e.g. fees, time opportunity cost), social impacts (e.g. employment, public health & safety, access to services/infrastructure) and environmental impacts (e.g. pollution). This information should include quantification of estimated costs per member of the community and the community (or part thereof).</p>
	<p>(c) Impacts on Government Provide details of impacts on government including, but not limited to: compliance & enforcement, administration requirements, other impacts (e.g. IT systems, staff resources, security, assets, services & business processes). This information should include quantification of costs and details of arrangements for cost recovery if relevant.</p>
<p>SECTION 5 - PROPOSAL</p>	
<p>5.1 Provide an overview of the nature and scope of the preferred option</p>	
<p>5.2 Why is the preferred option the most appropriate?</p>	
<p>5.3 Is the proposed action proportional to the issue being addressed?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Please provide a rationale</p>
<p>5.4 Does the preferred option deliver the greatest net benefit to stakeholders compared to the other options?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Please provide a rationale</p>
<p>5.5 Does the proposal breach any fundamental legislative principles?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, how and why is a departure from the FLP justified?</p>
<p>5.6 Does the proposal include initiatives that reduce the regulatory burden on business, community or government?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, how?</p>
<p>SECTION 6 - KEY STAKEHOLDERS & CONSULTATION</p>	
<p>6.1 List the stakeholder groups (business, community and government) likely to be affected, directly or indirectly, by the proposed option.</p>	

<p>6.2 Detail any consultation that has occurred with stakeholders to date (including how it was conducted, for how long and what the feedback was).</p>	
<p>6.3 Outline any proposed consultation.</p>	
<p>SECTION 7 - OVERALL ASSESSMENT</p>	
<p>7.1 Is the proposal likely to impose significant impacts on the community, business or government or part of the community, business or government?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Please provide a rationale</p>
<p>7.2 Based on this assessment, is a RIS required?</p> <p><i>① A Regulatory Impact Statement will also be required if the proposal is to make subordinate legislation which is likely to impose appreciable costs on the community or a part of the community⁸</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>7.3 Is there any potential sensitivity associated with the proposal?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please describe these sensitivities, and how they may arise</p>
<p>7.4 Please attach any other relevant information, e.g., drafting instructions, publicly announced policy or media releases.</p>	<p>Please list any attached documents</p>

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⁸

G Quantifying impacts

Under the RIS system a cost benefit analysis is the preferred method for quantifying impacts. While a detailed cost benefit analysis is only required for a RIS, the cost benefit approach is a useful method to apply in a PIA to assess whether impacts are significant. However, a detailed cost benefit assessment is not a requirement for a PIA.

An important component, but not the only component, is the compliance cost impacts. Compliance costs must be quantified for the PIA and a RIS, unless compliance costs on stakeholders are expected to be negligible or trivial. However, it is also recognised that quantification of estimated compliance cost impacts may not be possible in all circumstances. Where this can be demonstrated, qualitative analysis may be appropriate

For calculating compliance costs the Compliance Cost Calculator (CCC), or some alternative approved by the OBPR must be used. The CCC report, or an equivalent if an alternative costing model is used, should be attached to the PIA and RIS.

Cost Benefit Analysis

Cost Benefit Analysis (CBA) is a widely used technique to provide information to decision makers on the impacts of a proposed change.

CBA involves a structured process of identifying and evaluating the costs and benefits to individuals of a proposed project, and then deciding whether the change should be implemented according to a particular decision rule that compares costs and benefits. CBA supports a change when the gains to individuals (benefits) resulting from the change exceed the losses to individuals (costs); that is, when there is a positive net benefit.

CBA considers the expected future benefits and costs. It therefore must compare current and future benefits and costs in a consistent manner. To achieve this CBA applies the financial mathematics technique of net present values. Net present value formulas are available in spreadsheet computer packages and therefore cost benefit models are typically spreadsheet models.

The key advantage of a CBA is that it succinctly and transparently presents the assumptions and information that underpin the quantification. This allows for informed debate on the analysis and provides an opportunity for stakeholders to present new or alternative data.

CBA provides an input to the decision making process; the more thoroughly it identifies and quantifies impacts, the more valuable it will be to decision makers. One of the weaknesses of CBA is that it implicitly assumes that a dollar value impact is the same for all members of the community. This will not always be the case and therefore it is important to disaggregate impacts for each stakeholder group. This allows decision makers to apply different weights to the benefits and costs for each group in making their decision.

CBA is a specialist skill that exists within many agencies. An officer may need to obtain advice and support from within their agency or externally to complete a detailed CBA. Queensland Government guidelines also exist for cost benefit analysis. It is recommended that you review the cost benefit guidelines before undertaking a detailed cost benefit analysis.

The following list will assist an officer undertaking a CBA to understand the key steps involved:

- the base case must be accurately defined in order to compare alternatives
 - for new regulation the base case is the scenario in which there is no regulation or the regulatory regime that is being replaced by the new regulation
 - for amended regulation the base case is the scenario in which the existing regulation continues
- all assumptions should be transparent and documented in sufficient detail to enable replication (sources of data should be referenced), including
 - timeframe considered – usually this will be 10 years but may be shorter if the regulation is to be reviewed
 - discount rates applied⁹
- all impacts should also be described in words
- identified impacts should be quantified in dollars to the greatest extent possible to allow comparison
- impacts and discount rates should be consistent
 - if impacts are expressed in real terms, a real discount rate should be used to discount future costs and benefits
 - if impacts are expressed in nominal terms, a nominal discount rate should be used to discount future costs and benefits
- if only a qualitative assessment is possible, a detailed description of how the impact will affect stakeholders should be provided
 - options are ranked according to a decision rule
 - net present value – which is a single number in dollar values representing the discounted difference between benefits and costs
 - benefit cost ratio – which is a ratio formed by dividing total discounted benefits by total discounted costs
 - sensitivity analysis should be included

⁹ Further details on discount rates are provided in the Queensland Government, Project Assurance Framework, Cost Benefit Analysis, Appendix B.3.

- sensitivity analysis assesses the variability of the results of the CBA to changes in key assumptions
- the parameters included for sensitivity analysis will depend on the CBA in question
- sensitivity analysis can be used to show the effect of uncertainty regarding assumptions.

Alternatives to Cost Benefit Analysis

There are alternatives to cost benefit analysis which may be a more appropriate method in some cases. Agencies should consult with the OBPR if they wish to apply an alternative quantification approach.

-Cost Effectiveness Analysis

Cost effectiveness analysis is applied when the benefits from each option are identical and the difference between options concerns costs. Cost effectiveness analysis is unlikely to be relevant to the assessment of regulatory alternatives.

-Break-even analysis

Break-even analysis identifies, based on the present value of the costs of the option, the minimum present value of benefits that are necessary for the option to break-even (when the benefits and costs of the option are equal).

-Multi-criteria analysis

Multi-criteria analysis (MCA) enables comparison of options where impacts cannot be assigned a monetary value. Under MCA a series of criteria are developed to value the options. For each criterion, a range of scores are possible, based on a qualitative assessment of the option. Criteria can be weighted, with the preferred option being identified based on having a higher weighted score than its alternatives.

Useful resources

Queensland Government, Environmental Protection Authority, Environmental Economic Valuation – An introductory guide for policy-makers and practitioners, available from <http://www.ehp.qld.gov.au/register/p00710aa.pdf>

Queensland Office of Economic and Statistical Research, <http://www.oesr.qld.gov.au/index.shtml>

Guidelines for Cost Benefit Analysis as part of Project Assurance Framework are available from <http://www.treasury.qld.gov.au/office/knowledge/docs/project-assurance-framework-guidelines/paf-cost-benefit-analysis.pdf>.

Australian Government Department of Finance and Deregulation Office of Best Practice Regulation <http://www.finance.gov.au/obpr/docs/handbook.pdf#page=135>

Australian Government, Department of Finance and Deregulation http://www.finance.gov.au/publications/finance-circulars/2006/docs/Handbook_of_CB_analysis.pdf

Australian Government, Department of Finance and Deregulation http://www.finance.gov.au/publications/finance-circulars/2006/docs/Intro_to_CB_analysis.pdf

Australian Government, Civil Aviation Safety Authority http://www.casa.gov.au/wcmswr/_assets/main/manuals/regulate/acm/257r003.pdf

United Kingdom Government guidance document on policy assessment (economic, financial, social, and environmental) and approach to cost-benefit analysis <http://greenbook.treasury.co.uk/>

H Ensuring consistency with other regulation

Maintaining the consistency of regulation across all levels of government can assist businesses and individuals to minimise compliance costs, lower administrative costs to government, and benefit the broader community through increased efficiency and effectiveness of regulation. As a result, new or amending regulation should be developed to maintain consistency with other regulation. To meet this requirement, three key questions should be answered:

- Is the proposed regulation consistent with, and not duplicative of, Queensland Government policy and regulation?
- Is the proposed regulation consistent with, and not duplicative of, Commonwealth regulation?
- Have opportunities to simplify regulation been adopted, including consolidating, reforming or repealing existing regulation where possible?

Consultation with stakeholders may help to identify whether proposed regulation is consistent with existing regulation. The provision of compliance support to regulated stakeholders may also identify the extent of consistency with other regulations, and may also provide the opportunity to demonstrate to regulated stakeholders that the regulation is consistent.

In the event that it is identified that the proposed regulation is not consistent with other regulation, then the proposed regulation should be reviewed and, if possible, amended to ensure consistency.

Consistency with the Competition Principles Agreement should also be maintained (see Attachment K).

I Providing compliance support

Effective and efficient regulation must be capable of being complied with and enforced without disproportionate costs. A compliance awareness strategy should ensure the greatest degree of compliance at the lowest possible cost to the regulator and regulated parties.

Non-compliance can be mitigated by avoiding:

- regulations that are poorly drafted or too complex
- inconsistent interpretations of regulation from enforcement officials.

Measures to encourage compliance include:

- ensuring regulatory clarity and brevity
- making certain that those affected by regulation whether business, community or government have access to supporting documentation and programs (such as a public education campaign or consultation with affected parties) that provide clear guidance on interpreting and complying with regulatory requirements.

Agencies should consider the following in developing their compliance support system:

- Provide targeted and accessible compliance information to stakeholders
- Ensure compliance information is communicated in a style and format that is easy to understand, clear and brief. Stakeholders should be consulted on the content and style of regulatory guidance information, with emphasis on ensuring the accountability and transparency of the new regulation
- Allow business and community sufficient time to prepare for the new compliance requirements prior to commencement. Sufficient time will depend on the issues and stakeholders in each case and is up to the relevant body
- Regularly review compliance awareness strategies. Agencies need to undertake periodic and systematic reviews of their compliance awareness strategies to ensure they remain effective and relevant over time. It is also their responsibility to actively seek feedback from regulated parties. This will help to establish more realistic compliance benchmarks (for example, response times) and government service standards

- Ensure consistent information is provided on regulatory requirements. Information provided by enforcing officers and authorities in related enforcement bodies should also be consistent
- Provide assistance to regulated entities to maintain compliance. Regulators should recognise compliance effort and provide further guidance to stakeholders when necessary
- Administration of regulation should be flexible enough to cope with changing compliance behaviour.

Sufficient incentives should be available to encourage regulatory compliance. Rewards for compliant behaviour and sanctions for non-compliance should be clearly specified. Rewards can take the form of recognition, awards, reduced monitoring or compliance burdens for good performers, financial incentives or research support. Ideally, penalties should be just high enough to achieve compliance, and can take the form of warnings, financial penalties, license suspension, recommendations for prosecution and prohibition.

In regard to prosecution or litigation options regarding enforcement, materials which may assist in guiding a regulator in exercising its discretion to take such action include the Model Litigant Principles issued by Crown Law available at <http://crownlaw.govnet.qld.gov.au/publications/> and the Director's Guidelines issued by the Director of the Office of Public Prosecutions.

These Guidelines are available at http://www.justice.qld.gov.au/__data/assets/pdf_file/0015/16701/Directors-Guidelines.pdf.

J Regulatory Impact Statement

The Regulatory Impact Statement (RIS) explains the need for a regulatory response to address a specific policy issue, and to present the evaluation undertaken of the likely costs and benefits to business, community and government that would flow from its adoption in comparison with other options explored. A RIS is required for all regulatory proposals with significant impacts put forward by government agencies and statutory authorities. Refer to the Guidelines for further information about the requirements for preparing a Consultation and Decision RIS.

The length of a RIS may vary considerably depending upon the scope and complexity of the proposal and its impacts, but should be concise. As a public consultation document, the information in a RIS should be pitched at a level which is easily understood by the layperson who may not have prior knowledge of the topic.

Public Access to Submissions

The *Right to Information Act 2009* provides for access to information held by government. You should consider the possible application of this legislation to any submissions made and other documents generated in the course of conducting the RIS.

For further assistance, please contact the Office of Best Practice Regulation (see contact details at bottom of page).

RIS Forms available to Queensland Government employees.

Title:	Insert contact details
Agency/Organisation:	Agency/Organisation
Further enquiries:	Name Phone Email
Closing date for public submissions:	Insert date
Written submissions should be sent to (mail, fax or email):	Insert details

MINISTERIAL OR APPROVAL AUTHORITY ENDORSEMENT

Minister/Approval Authority

Date / /

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EXECUTIVE SUMMARY

Provide a brief overview of the proposal including:

- *an outline of the policy issues and objectives and reasons for these objectives;*
- *a summary of the options considered and justification of preferred option;*
- *a brief statement of the consultation to date and going forward; and*
- *a statement of conclusions.*

State the provision of the legislation which provides the head of power under which any proposed subordinate or quasi-regulation will be made.

1. ISSUES STATEMENT

Provide a statement establishing the case for government action including:

- *identification of the policy problems and/or issues that require government intervention;*
- *identification of the affected groups (business, community, government); and*
- *a description of the actual or potential impacts of not taking action.*

2. POLICY OBJECTIVES

Clearly describe the policy objectives and reasons for these objectives.

Clearly describe the purpose of the proposed policy and what outcomes are expected to be achieved.

Describe how the proposed regulation will achieve the policy objectives.

Where subordinate legislation or quasi-regulation is proposed, provide a brief explanation of how the proposed regulation is consistent with the policy objectives of the authorising law.

If the proposed regulation is inconsistent with the policy objectives of other legislation, provide –

- (i) a brief explanation of the relationship with the other legislation; and*
- (ii) a brief statement of the reasons for the inconsistency.*

3. OPTIONS AND ALTERNATIVES

Identify the various alternatives for achieving the policy objectives (including, where appropriate, self-regulatory, co-regulatory and non-regulatory alternatives). Provide a clear description of each option including:

- key features;
- viability (i.e. to what extent does the option achieve the policy objectives?);
- risks; and
- underlying assumptions.

Where relevant, provide robust rationale if specific options are eliminated based on their perceived lack of effectiveness in adequately achieving the desired policy objectives.

In identifying all feasible options and alternatives:

- ensure that the status quo is considered as an option;
- demonstrate that non-regulatory options have been considered;
- demonstrate where opportunities to simplify, repeal or consolidate existing regulation have been considered and, where appropriate, acted on;
- include an assessment of how other jurisdictions (including international jurisdictions) have dealt with similar issues; and
- demonstrate where opportunities for cross-border uniform or harmonised regulatory models have been considered.

4. IMPACT ASSESSMENT

This section is integral to the RIS and must be comprehensive. The purpose of the impact assessment is to objectively quantify the benefits and costs to all affected parties (e.g. business, community and government) by each of the identified policy options to determine the most beneficial policy solution for stakeholders as a whole.

In most cases, potential impacts should be able to be quantified and expressed in \$ cost savings or increases. Where this is not possible, quantification can also be measured using indicators such as amount of time taken, number of steps required, or number of requirements.

Where it is not possible to quantify the costs and/or benefits of a proposal, qualitative analysis may be justified.

A full cost-benefit analysis is required as part of a RIS. The cost-benefit analysis should provide a comprehensive form of quantitative analysis that involves calculating the value of most or all impacts (both costs and benefits) over the life of the option to arrive at a net benefit. A comparative analysis is then made of the net benefits of all options to identify which option yields the greatest net benefit (or least net cost) to stakeholders.

The RIS must also include an assessment of the impact of each option presented in the Consultation RIS on the cumulative regulatory burden for affected stakeholders. The RIS should also present offsetting options available for reducing the cumulative regulatory burden as part of the regulatory proposal.

Restrictions on Competition:

In accordance with Clause 5(9) of the Competition Principles Agreement, where a proposal contains restrictions on competition, the impact assessment must also:

- Identify the nature of the restriction on competition; and
- Analyse the likely effect of the restriction on competition and on the economy generally.

For further information about cost-benefit analysis, please refer to the Queensland Government's Project Assurance Framework [Cost Benefit Analysis Guidelines](#), or contact the OBPR for assistance.

The business compliance impacts must be supported by an acceptable level of evidence. This includes, but is not limited to:

- *the Queensland Government's Compliance Cost Calculator; or*
- *an alternative costing methodology approved by the OBPR.*

5. CONSULTATION

Demonstrate that consultation has been undertaken in the policy development process to date, or describe the proposed consultation strategy going forward that will inform the final policy decision.

Some points to consider:

- *ensure all affected stakeholders are identified;*
- *describe the extent of consultation, including consultation model and period of consultation;*
- *demonstrate how consultation outcomes have been addressed, describing the central themes arising from consultation and main areas of support or dispute; and*
- *reasons for limited consultation, if relevant.*

6. PREFERRED OPTION

Clearly identify the option that is most effective in achieving the policy objectives, including demonstrating why the proposal is considered to:

- *be an effective and proportional response to the problem being addressed;*
- *generate the greatest net benefit to the community; and*
- *is reasonable and appropriate.*

Ensure the justification for the preferred option summarises the findings from the preceding sections.

7. CONSISTENCY WITH OTHER POLICIES AND REGULATION

Competition Principles Agreement

Provide a brief assessment of the consistency of the proposed regulation with Clause 5 of the Competition Principles Agreement. Reasons must be provided for any inconsistencies.

Clause 5(1) requires that legislation should not restrict competition unless it can be demonstrated that the:

- objectives of the regulation can only be achieved by restricting competition; and*
- benefits of the restriction to the community as a whole outweigh the costs.*

Fundamental Legislative Principles

Provide a brief assessment of the consistency of the proposed regulation with Fundamental Legislative Principles (FLPs). Reasons must be provided for any inconsistencies.

The FLPs are defined under section 4 of the Legislative Standards Act 1992 (LSA) as being 'the principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. These principles include requiring that regulation has sufficient regard to the rights and liberties of individuals and the institutions of Parliament. Section 4 of the LSA provides further detail on the types of issues which need to be considered in determining whether proposed legislation is consistent with FLPs. Where the proposal relates to primary or subordinate legislation, the Office of the Queensland Parliamentary Counsel has a role in advising on the application of FLPs under section 7 of the LSA, and accordingly should be consulted as part of the legislative drafting process regarding any such issues.

8. IMPLEMENTATION, EVALUATION AND COMPLIANCE SUPPORT STRATEGY

For the preferred option, briefly describe the proposed implementation plan, including any implementation issues or risks that may arise and mitigation strategies. For example, if implementation is phased, how will each stage be facilitated and what guidance and/or compliance support is required?

Identify a review and evaluation strategy for the regulatory proposal to ensure regulations remain effective and relevant over time. This should include identifying possible government service standards or performance indicators that the effectiveness of the proposed regulation can be assessed against.

K National Competition Policy requirements

All Australian Governments agreed to the National Competition Policy (NCP) in April 1995.

The purpose of NCP is to systematically explore opportunities to improve the efficiency of the private and public sectors and Australia's international competitiveness, thereby bringing about growth in the economy and better living standards for all Australians.

One of the NCP obligations relates to legislation review. The Competition Principles Agreement (CPA) establishes principles governing pro-competitive reform of government business enterprises and government regulation. Under the CPA, all governments agreed to the guiding principle that legislation should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs
- the objectives of the legislation can only be achieved by restricting competition.

To give effect to the guiding principle, governments agreed to:

- review and, where appropriate, reform all existing legislative restrictions on competition against the legislation review principle at least once every ten years
- ensure that all proposed new or amending legislation is assessed against the legislation review principle.

Where legislation (that is regulation) requires legislation review under the NCP, clause 1(3) of the NCP requires additional matters to be taken into account.

Prior to the introduction of the RIS system, the Public Benefit Test (PBT) was the mechanism used by the Queensland Government for conducting reviews of existing and proposed legislation which contained restrictions on competition.

L Stakeholder consultation protocol

Public consultation is a critical part of any regulatory development process. In line with regulatory best practice principles, there should be effective consultation with affected key stakeholders at all stages of the regulatory cycle.

The Stakeholder Consultation Protocol contains best practice principles and minimum requirements under the RIS system for ensuring effective consultation with all affected parties at all stages of the regulatory cycle.

Stakeholder Consultation Principles

<p>1. Consultation processes should be effectively targeted and be easily accessible</p> <p>Firstly, correct identification of interested and/or affected stakeholders is critical to the overall effectiveness of consultation. Relevant stakeholders should be identified in advance of the start of the regulatory development process.</p> <p>Secondly, consultation methods must be appropriate and accessible to each stakeholder group to ensure the benefits of stakeholder engagement can be maximised.</p> <p>2. Stakeholders should be given adequate opportunity to participate in regulatory development, implementation and review processes</p> <p>Consultation should occur at all stages of the regulatory development process, critically, when establishing the case for government action, in identifying and assessing a range of policy options, and when developing the preferred option in detail.</p> <p>3. Stakeholders should be adequately notified of proposed consultation activities</p> <p>Regulating agencies should provide advance notification to business and community of all upcoming reviews or other consultation activities and associated consultation periods, and seek nominations of interest to be consulted.</p> <p>4. Adequate time should be given for stakeholders to participate in consultation processes</p> <p>The consultation period should be sufficiently long to enable all stakeholders to provide informed and valuable contributions to the policy and regulatory development process.</p> <p>5. Outcomes of consultation should be reported back to stakeholders</p> <p>Notification of when and where outcomes of the consultation process will be made available to stakeholders should be provided during the consultation process to encourage greater transparency in government's decision-making processes.</p> <p>6. Consultation processes should be evaluated</p> <p>Evaluation of the consultation processes and mechanisms should be undertaken at each stage of the regulatory development process so improvements can be incorporated at the next stage to ensure maximum benefit is being achieved.</p>
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Minimum Requirements

Under the RIS system, regulating agencies should ensure:

- adequate consultation with stakeholders has taken place to support the informed completion of the PIA form
- where feasible, advance notice is provided to business and community for all upcoming consultation activities via the Queensland Government's *Get Involved* website (at least 3 months notice is recommended)
- a minimum period of 28 calendar days be allowed for all public consultation on a RIS
- a Consultation or Decision RIS, approved for release will be published on the Queensland Government's *Get Involved* website
- all other regulatory proposals are notified on the online register via the Queensland Government's *Get Involved* website.

Further Information

In general, any policy development process, including proposed new regulation or changes to regulation, should involve consultation with relevant stakeholders — including business, the community, regulators and other government agencies. Consultation on regulatory options can improve the quality of the solution adopted by:

- ensuring that both those affected by regulation and the actioning agency have a good understanding of what the problem is
- providing perspectives and suggestions on alternative options to address the problem from those parties that will be affected by the government action
- helping regulators assess competing interests
- providing a check on the regulator's assessment of costs (including compliance costs) and benefits and whether/how the proposed option will work in practice, thus reducing the risk of unintended consequences if a particular option is adopted
- identifying interactions between different types of regulations; and possibly enhancing voluntary compliance through greater understanding and acceptance of a proposal, thereby reducing reliance on enforcement and sanctions.

(Best Practice Regulation Handbook, Office of Best Practice Regulation, Australian Government)

The protocol is supported by the Engaging Queenslanders suite of guides for best practice community engagement. These guides provide information and assistance for agencies undertaking consultation, including detailed information on critical success factors, consultation through the policy cycle and engagement methods and techniques.

M Principles for a robust compliance costing methodology

The following principles for a robust compliance costing methodology are designed to ensure rigour and consistency in the way the impacts of compliance cost are quantified and costed. A regulatory proposal which is likely to have compliance costs that are not negligible or trivial, must quantify the estimated compliance costs using a standard costing methodology. For example, the Compliance Cost Calculator, or an approved alternative costing model which satisfies the below principles.

Principles for a Robust Compliance Costing Methodology

- 1. The methodology should be commensurate with the significance of the regulatory change.**
At a minimum, this will require consideration of the number of stakeholders affected, financial and non-financial costs.
- 2. The methodology should be sufficiently robust to withstand public and Cabinet scrutiny.**
At a minimum, this will require that the methodology:
 - have clearly defined and conservative assumptions
 - where possible, utilise independent data (i.e. Australian Bureau of Statistics)
 - be evidence based;
 - is well documented.
- 3. The methodology should clearly identify all stakeholders (business, community and government) impacted or potentially impacted by the regulatory reform.**
- 4. The methodology should clearly identify all relevant compliance cost categories (paperwork, non-paperwork and direct financial charges) for each group of stakeholders.**
- 5. The methodology should quantify all relevant compliance cost categories (time, number of steps, number of regulatory requirements and/or financial/economic impact) for each group of stakeholders.**
- 6. The methodology should ensure stakeholder consultation is undertaken.**
Stakeholder consultation is critical to ensure:
 - verification that all stakeholders and cost categories have been accurately identified;
 - quantification of all regulatory costs in terms of time, number of steps, number of regulatory requirements and/or financial /economic impact.
- 7. The methodology should include only savings or costs directly attributable to the policy or regulatory reform being measured.**
- 8. The methodology should ensure that any changes (i.e. increases / savings) to the regulatory burden are not doubled counted.**

N Compliance Awareness Protocol

An accessible and easily understood regulatory environment is vital to the productivity of the regulator and the regulated. Those affected by regulation – business, community and government – should have access to supporting documentation and tools that provide clear guidance on interpreting and complying with regulatory requirements. In order to fulfil their responsibility of publicly providing information on compliance requirements, regulators must have regard to the following principles in developing compliance awareness strategies.

Compliance Awareness Principles

- 1. Compliance information is targeted to, and accessible by business and the community.**

Accessible compliance support and information is critical to ensuring those regulated can correctly and effectively comply with the regulatory requirements.
- 2. Compliance information is promptly communicated to affected stakeholders.**

Regulators need to ensure all requirements relating to their regulatory activities are promptly communicated to affected stakeholders. Notification should occur prior to the proposal's commencement date to allow business and/or community time to make any necessary changes to comply with new requirements.
- 3. Stakeholders are consulted on the content and style of regulatory guidance information.**

Agencies should consult with affected stakeholders during the development of the content and style of regulatory guidance information to ensure: information is imparted in a format and style that is easily understood; access to clear and up-to-date information to meet regulatory requirements; and accountability and transparency are maintained.
- 4. Regulating agencies undertake regular review of the effectiveness of their compliance awareness strategies with a view to modifying them where they fail to meet business information needs.**

Regulating agencies need to undertake periodic and systematic reviews of their compliance awareness strategies to ensure they remain effective and relevant over time, including actively seeking feedback from regulated parties.
- 5. Regulating agencies ensure information given by officers enforcing regulatory requirements is consistent.**

Regulating agencies should ensure arrangements are in place to ensure information provided by enforcing officers, including effective arrangements for liaising with other authorities and enforcement bodies, are consistent.
- 6. Stakeholders are able to seek and receive information regarding regulatory compliance without triggering an enforcement action.**

Regulating agencies should provide information and guidance to help ensure compliance by the regulated business or community stakeholders. Enforcement practices should include recognition of actions already taken by regulated entities to meet compliance requirements.

Minimum Requirements

Under the RIS system, regulating agencies should ensure that:

- regulations are clear, concise and consistent, and facilitate understanding and compliance by the regulated parties
- appropriately targeted information, education and training strategies that clearly inform regulators and regulated parties of the policy intent and compliance requirements are developed
- easily accessible compliance tools (for example, web based tools, electronic forms etc.) are developed to assist regulated parties
- appropriate government service standards and benchmarks (for example, response time) are established.

O Stakeholder Impacts

Box 5 below provides an impact matrix prepared for an amendment to subordinate legislation to include environmental values and water quality objectives for waters of Moreton Bay/South East Queensland, Mary River Basin/Great Sandy Region and Douglas Shire. It illustrates thorough consideration of the impacts on stakeholders.

Box 5 Example impact matrix

This table summarises the benefits and costs of protecting waterway environmental values. These estimates should be interpreted as indicative rather than precise. They are to provide an indication of impacts to entities dependent on or influenced by water quality. Benefits were considered in general terms as 'expected short term and long term benefits from protecting current water quality'.

	<i>Benefits</i>	<i>Costs</i>
<i>Community</i>		
Local Community	<p>Maintenance or improvement of existing water quality and associated biodiversity.</p> <p>Able to satisfy strong public desire to protect environment values for current and future generations.</p> <p>Greater security of direct use values such as employment and indirect values such as education and research.</p> <p>Protection of or improvement in quality of life.</p>	<p>Possible indirect costs may result from increased infrastructure expenditure requirements for local government resulting from increased visitation and demographic shifts to areas having clean waterways, and from premium private-sector pricing of activities and services building on a clean green environment (e.g. tourism, land, property, recreation etc.)</p>
Other Australian and International Visitors	<p>Maintenance or improvement of water quality, biodiversity</p> <p>Visitation (particularly international and interstate) is largely dependent upon clean waterways and Queensland's clean, green environment.</p> <p>Increasing protection of environmental values would maintain and possibly increase the marketability of Queensland as a clean, green destination.</p>	<p>Such costs would be minor in relation to the costs of travelling to Queensland—even for discount tourism interests such as backpackers.</p>

		Increased willingness to pay for clean, green environment may therefore benefit tourism revenues and provide increased recreational opportunities and aesthetic enjoyment. Prices may increase through premium pricing for Queensland's clean, green environment -particularly in regions with limited competition with products at the "top end" of the market.	
Indigenous heritage	cultural	Increased protection afforded to traditionally important resources. For example, protection of key Indigenous values (e.g. fish traps and totemic species), maintenance or improvement of protected areas. Maintenance of cultural and spiritual wellbeing associated with healthy waterways.	Nil costs.
Direct recreation		Increasing protection of these values may would maintain and enhance existing recreational opportunities. Avoid decline in current use and expect some increase as swimming, boating and other activities are protected and become more attractive.	Possible increased cost of meeting public expectation of increased environmental compliance activity by the EPA and local governments under the Environmental Protection Act 1994, in relation to pollution incidents, dumping of waste and soil erosion.
Recreational Fishing		Significantly contributes to the tourism and regional growth in all areas, especially for the Great Sandy/Hervey Bay region and Moreton Bay. Increasing protection of environmental values of waterways would help protect recreational fishing and associated economic activity. Fishers current expenditure on accommodation, gear, travel and licences extrapolated over 20 years and (current annual value) per year-a SEQ—\$2,993m (\$217m/yr); Mary-GSS—\$185m (\$13m/yr) (Sunfish estimate \$140m/year for Great Sandy Region/Hervey Bay after accounting for all direct and indirect benefits); Douglas Shire—\$21m (\$1.6m/yr).	Increasing protection of aquatic ecosystems may increase pressure on wild fish stocks from increased recreational fishing. Increased recreational fishing activity may result in increased boat traffic, pollution, garbage dumping and bank erosion.

Property Values	<p>Avoid decline and possibly some increase in property prices—based on a high willingness to pay to live near high-quality water bodies and aesthetic locations.</p>	<p>Developments associated with desirable waterways throughout Queensland are already seeing premium pricing for “green” estates.</p> <p>May be slight increases in prices for residential land in those areas where local governments do not currently require best practice stormwater management as a condition of planning/development approval.</p>
Aesthetics	<p>Regions with high environmental aesthetics may become more socially and economically productive than regions with perceived environmental problems.</p> <p>Important for local residents wellbeing and underpins tourism and recreational visitation.</p>	<p>Impacts of population growth on areas of environmental advantage may require additional infrastructure services in order to protect environmental values.</p>
<i>Environment</i>		
Environmental values in estuary and coastal areas	<p>Increasing protection of environmental values would prevent decline and in some cases improve ecosystem health for sustainable use.</p> <p>Advances in sustainable management of aquatic ecosystems would insure ongoing provision of “ecosystem services”.</p> <p>May increase attractiveness of Queensland as a destination for tourism and increase recreational amenity for local communities.</p> <p>Contribution to meeting national and international agreements including Marine Parks, International Wetlands and World Heritage Areas.</p>	<p>Impacts of further population growth and increased visitation, possible associated infrastructure development and servicing costs.</p>
<i>Industry</i>		
Tourism	<p>Maintenance or improvement of existing environmental values may increase the quality and marketability of tourism destinations.</p> <p>Increasing protection of environmental values would increase security for</p>	<p>Enhanced clean, green image may increase visitation numbers and increase pressure for additional eco-tourism ventures—in turn pressuring sustainable levels in some areas.</p>

industry sectors such as tourism, which rely on good water quality.

Premium pricing may increase tourism revenues—apparent high willingness to pay in some regions and market segments.

Current regional expenditure by tourists extrapolated over 20 years and annually (current annual value) with current full time equivalent (FTE) employment—^b

SEQ—\$228,887m (\$10,683m/yr) 72,400 FTE employed;

Mary-GSS—\$17,290m

(\$807m/yr) 1600 FTE employed;

Douglas Shire—\$4328m

(\$202m/yr) 690 FTE employed.

Possible increased costs through premium pricing for Queensland's clean, green environment, primarily restricted to regions where competition is limited and at the upper segment of the market. Such costs would be minor in relation to the overall costs of travelling to Queensland—even for discount tourism interests such as backpackers.

General Industry

Increasing protection of environmental values would increase industry resource security by ensuring ongoing protection of water quality and providing clarity on water quality targets applying to individual waterways.

Greater transparency about the use of environmental targets and decision-making by environmental regulators.

By focusing on cleaner production and reviewing environmental performance, many companies achieve improved efficiencies and productivity gains due to waste avoidance, material substitution, or recycling of what were previously waste materials—may even provide a marketing edge in some cases.

Increased acceptance that wastewater is a resource, having an economic value.

Existing development approval conditions require continuous improvement of existing environmentally relevant activities and best-practice environmental management for new environmentally relevant activities.

Some industries may need to bring forward expenditure to improve environmental performance, in keeping with development approval conditions and increased public expectations.

<p>Agriculture and aquaculture</p>	<p>Increasing protection of environmental values would increase industry resource security by providing ongoing protection of water resources used by these activities.</p> <p>Greater transparency in environmental decision making for those activities regulated under the EP Act (includes cattle feed lotting, pig farming and aquaculture).</p> <p>Contribution to protection of gross value of agricultural production and aquaculture farm gate value in the project areas.</p> <p>Current gross value production extrapolated over 20 years and (current annual value) with current employment</p> <p>Greater industry security of access to water resources by protection of water quality;</p> <p>Productivity gains may be realised from best practice land management.</p> <p>Agriculture</p> <p>SEQ—\$18,897m (\$882m/yr)</p> <p>17,000 FTE employed Mary-GSS \$3831m (\$179m/yr)</p> <p>3200 FTE employed;</p> <p>Douglas Shire—\$399m</p> <p>(\$19m/yr) 1900 FTE employed</p> <p>Cost-effective focus on fertiliser and agricultural chemicals.</p> <p>Aquaculture</p> <p>Greater industry security of access to water resources by protection of water quality.</p> <p>Benefits from improved ecosystem health and clean/green production.</p>	<p>May be opportunity cost-^d for riparian land retired from production to protect of environmental values.</p> <p>Although not regulated through a permitting regime under the Environmental Protection Act 1994, a riparian land restoration case study (including a written information sheet) will be included in stakeholder consultation.</p> <p>Funds for diffuse (erosion/runoff) management are proposed to be sourced from NHT/NAP programs.</p> <p>There would be need for future funding for such programs on termination of the current bilateral agreements.</p> <p>Agriculture</p> <p>This ongoing requirement is proposed to be deal with in part by recent industry commitments to the voluntary implementation of Farm Management Systems and implementation of “best practice management” at the property level—e.g. the recent signing of the MOU between the Queensland Farmers’ Federation and the Queensland Government.</p> <p>There will also be a need for an ongoing focus on land stewardship and an attendant duty of care to the land and the environment; such as has been initiated under the draft State Rural Leasehold Land Strategy.</p> <p>Reef Water Quality Protection Plan, Farm Management Systems and Grazing Land Management Aquaculture</p> <p>Continuous improvement of existing ERAs and uptake of best practice management as improved environmental practices are developed.</p> <p>May constrain development of new feed based aquaculture relying on releasing wastes to Level 1 (or near pristine) waters and subject to development approval under the EP Act.</p>
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Commercial Fishing	<p>SEQ—\$512m (\$14m/yr) 153 FTE employed;</p> <p>Wide Bay—\$228m (\$6.1m/yr) 84 FTE employed;</p> <p>Far North Qld data—\$606m (\$18.5m/yr) 160 FTE employed;</p> <p>(Production mix—prawns 78%, barramundi 14.3%, other 7.7%)</p> <p>Protection of current values and expected increase in expenditure and value of catch assuming that fish catch rates improve.</p> <p>Greater industry security of access by protection of water quality, potentially sustaining the industry.</p> <p>Current annual wharf sales extrapolated over 20 years and annual values with employment—^e</p> <p>Benefits from improved ecosystem health and clean/green seafood production.</p> <p>SEQ—\$729m (\$60m/yr) 2000 FTE employed;</p> <p>Mary-GSS—\$411m (\$34m/yr) 1500 FTE employed</p> <p>(QSIA estimate \$73m/year, from gross value of production based on market value of commercial fishing in the Hervey Bay region);</p> <p>Douglas Shire—\$40m (\$3m/yr) 62 FTE employed No significant cost implication.</p>	Nil Costs
Urban Development	<p>Increased focus on planning and implementation of development controls on stormwater sediment and nutrient and litter pollution—towards sustainable ecosystem loads, against significant population growth trends in SEQ.</p> <p>Protected or enhanced visual and recreational amenity associated with waterways.</p> <p>Development of clean, green estates. Validation of best-practice</p>	<p>Developments associated with desirable waterways throughout Queensland are already seeing premium pricing for “green” estates.</p> <p>Additional development costs associated with implementing best practice stormwater management may be needed in areas where best practice is not currently being achieved.</p> <p>This may include for example, headworks charges imposed by local government or treatment/recycling of stormwater run-off from “Greenfield”</p>

	management.	development sites.
Forestry (native forest and plantation)	Validation of best-practice management. Supports forestry accreditation to environment management systems and other stewardship standards. Greater industry security of access to forestry resources by protection of water quality.	Little impact on State forestry activities already operating to codes of practice (native forests) or best-practice management (plantations). Parallels the proposed introduction of codes for private forestry activities. Continuing commitment to best-practice environmental management.
<i>Government</i>		
Local government- urban stormwater	Compliance and devolved authority obligations met. Healthy ecosystems and ecosystem services. Legislative and scientific rationale for decision-making. Future use and enjoyment of water bodies.	Urban retrofit stormwater expenditure over 20 years ^f and (current annual value) SEQ—\$115m (\$9.5m/yr). Future stormwater initiatives in all project areas, including Mary/GSS and Douglas, will be the subject of support under the new Environment Infrastructure Program (commencing 2008), promoting more sustainable and integrated water management.
Local government- sewage treatment plants	Basic services provided with population needs, upgrades and reuse addressed. Advances the achievement of sustainable ecosystem nutrient loads.	Upgrade expenditure over next 5 years ^g —2004/05 -> 2008/09—existing expenditure forecast by local government under the existing Local Governing Bodies' Capital Works Subsidy Scheme (current annual cost over five years). SEQ—\$136m (\$27.2m/yr) Mary-GSS—\$9m (\$1.92m/yr) Douglas Shire—\$2.75m (\$0.55m/yr).
Water authorities	Greater water supply security by protection of water quality. Water treatment costs likely to be maintained or reduced.	Increased pressure to address rural diffuse sources of pollution—may be transferred to riparian landholders.
State Government	Contribution to sustainable development and government priorities— Protecting our natural and cultural heritage;	Delivery of existing commitments under Local Governing Bodies' Capital Works Subsidy Scheme (LGBCWSS)—contribution of 40% to-sewage treatment plant infrastructure costs and 50% to water recycling projects. The

	<p>Promoting sustainable use of our natural capital; and</p> <p>Ensuring a clean environment. Environmental values protected—advance sustainable management of Queensland’s water environment.</p> <p>Commitment to national and international agreements.</p> <p>Contribution to national and international agreements—Marine Parks, Ramsar Convention on Wetlands and World Heritage Areas.</p>	<p>LGBCWSS subsidies will be supplemented with a new Environment Infrastructure Program, commencing 2008. The new program will provide subsidies towards a broader range of local government projects, including stormwater and erosion control initiatives.</p> <p>(Current annual cost over five years, 2004/05->2008/09.)</p> <p>SEQ—\$136m (\$27.2m/yr)</p> <p>Mary-GSS—\$9.6m (\$1.92m/yr)</p> <p>Douglas Shire—\$2.75m (\$0.55m/yr).</p> <p>Commitments under existing Natural Heritage Trust Extension and National Action Plan for Salinity and Water Quality programs, and possible future programs, targeting riparian management over 20 years.^h</p>
Federal Government	<p>Contribution to sustainable development and water quality initiatives. Progresses implementation of Water Quality Improvement Plans and Great Barrier Reef Water Quality Protection Plan.</p> <p>Contribution to and fulfilment of national and international agreements.</p> <p>Contribution to national and International agreements—Marine Parks, Ramsar Convention on Wetlands, World Heritage Areas, and Great Barrier Reef.</p>	<p>NHT/NAP funding of riparian rehabilitation and on-ground works over 20 yearsⁱ—sourced from existing and possible future programs.</p> <p>SEQ—\$95m(\$5m/yr)</p> <p>Mary-GSS—\$10.4m (\$0.5m/yr)</p> <p>Douglas Shire—\$6m (\$0.3m/yr)</p>

a Growth rate taken as population growth.

b Growth rate sources from Tourism Qld 2013 growth figures.

c Agriculture growth rate sourced from Productivity Commission, Reef Report.

Aquaculture growth rates sourced from personal communication DPI&F.

d Opportunity cost is a concept used by economists and accountants as the value of a benefit foregone in favour of an alternate course of action.

e Growth rates sourced from DPI&F.

f Overall impact of urban retrofits and sewage upgrades equivalent to about 1% of current rate of revenue funded over 20 years.

g DLGP five-year forward estimates 2004–2009 for sewage treatment upgrades, new plants and reuse. Data provided by local governments. Approximately 45% of expenditure is met by State Government as a subsidy to local governments, if eligibility criteria are met. Significant expenditure committed and work in progress. Costs under this category have been split 50:50 into the no-interventions and the interventions case.

h Current commitments exist into 2007—continuance to be negotiated.

i Current commitments exist into 2007—continuance to be negotiated.

Note: Figures are intended to provide insights into relative benefits and costs of protecting environmental values.

Data source: Table 1, Environmental Protection (Water) Amendment Policy, No. 30, 2006, (No. 1) 2006.

P Subordinate legislation specifically excluded from the RIS system

This subordinate legislation is excluded from the RIS system on the basis it has been previously assessed as meeting one of the exclusion grounds, for example comparable consultation requirements or urgently required in the interest of public safety or health.

The following subordinate legislation is excluded from the RIS system:

- a notice made under section 54(2) of the *Coastal Protection and Management Act 1995*;
- a regulation made under section 23 of the *Corporations (Ancillary Provisions) Act 2001*;
- a regulation made under section 67 or 72 of the *Disaster Management Act 2003*;
- a regulation made under section 19 of the *Marine Parks Act 2004*;
- a regulation made under section 323 of the *Public Health Act 2005*;
- a regulation made under section 14 of the *Public Safety Preservation Act 1986*
- rules of court as defined by section 12 of the *Statutory Instruments Act 1992*;
- a standard or amendment of a standard made under section 45 of the *Transport Operations (Marine Safety) Act 1994*;
- a standard or amendment of a standard made under section 92 of the *Transport Operations (Passenger Transport) Act 1994*;
- a water resource plan or a plan amending a water resource plan approved under section 50(2) of the *Water Act 2000*;
- a water use plan or plan amending a water use plan approved under section 65(2) of the *Water Act 2000*;

- a regulation declaring an area to be a declared area under the *Motor Racing Events Act 1990* will be excluded from the RIS system where
 - (1) the declared area under the regulation is the same as the declared area for the previous year; and
 - (2) the requirements of the RIS system (in these Guidelines and any applicable legislation) has been complied with for the proposed regulation declaring the same area to be a declared area for-
 - (i) the previous year; or
 - (ii) another year, if since that year the declared area for each intervening year has been the same.

For the purpose of this exclusion, **same** includes substantially the same.