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Regulatory Assessment Statement System Guidelines

These Guidelines were produced by the Queensland Office for Regulatory Efficiency.

The Queensland Office for Regulatory Efficiency welcomes any feedback you may have on the Guidelines or training modules.

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Glossary

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

Approval Authority – 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 – refers to 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 – refers to 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.

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 3.3 of these Guidelines where the RAS system is not required to be implemented in respect of a regulatory proposal.

LSA – Legislative Standards Act 1992.

NCP – On 11 April 1995, leaders of 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.

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

PIA – Preliminary Impact Assessment. The PIA is the first of two levels of impact assessment under the RAS 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, that a RAS is required.

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

Quasi-regulation - includes instruments and arrangements which governments expect business to comply with but which are not legally binding, for example, industry codes, industry standards and industry accreditation schemes (where the purpose is regulation). It also includes statutory instruments and other regulatory proposals which are not within the scope of the terms subordinate or primary legislation. Refer to subsection 1.6 for more information.

RAS system – refers to a sequence of actions to assess the impacts of regulation. The key components of the RAS system are the RPC, PIA and RAS.

RAS – refers to a Regulatory Assessment Statement, which is completed after a PIA has assessed the impacts (economic, social, environmental, compliance costs, and competition impacts) of a proposal as potentially 'significant'. The RAS 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.

Regulation – refers to the broad range of legally enforceable instruments imposing mandatory requirements upon business and the community, as well as those government voluntary codes and advisory instruments, for which there is a reasonable expectation of widespread compliance. Therefore it includes, but is not limited to, primary, subordinate and quasi-regulation.

RIS – refers to a Regulatory Impact Statement under Part 5 of the Statutory Instruments Act 1992 (SIA), which is required to be prepared in respect of proposed subordinate legislation which is likely to impose appreciable costs on the community or a part of the community. The requirements for a RIS remain applicable, but the RAS system and in particular the RAS form has been designed to incorporate the RIS requirements.

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

SIA – Statutory Instruments Act 1992.

Treasurer's exemption – refers to an exemption from preparing a RAS granted by the Treasurer.

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1 Introduction

1.1 Purpose

The Guidelines describe a streamlined procedure for developing regulation for Queensland Government agencies under the Regulatory Assessment Statement (RAS) system. Its purpose is to assist officers working on the development, assessment and improvement of regulation, to produce better regulation in accordance with regulatory best practice principles.

Treasury encourages agencies to seek its assistance throughout the application of the RAS system.

Compliance with the RAS system will facilitate better regulation and better benchmarking of Queensland's regulation making and review processes against other jurisdictions when subjected to external scrutiny.

1.2 Structure of the Guidelines

The Guidelines have been prepared having reference to the legislative requirements and processes in Queensland, and have been informed by the regulatory assessment systems and drawn upon the guidelines of other jurisdictions, including:

New South Wales Governments – Better Regulation Office

Victorian Government – Victorian Competition and Efficiency Commission (VCEC); Victorian Government – Regulatory Reform

South Australian Government – Regulatory Reform

WA Government – Regulatory Impact Assessment guidelines for Western Australia

Australian Government – Office of Best Practice Regulation (OBPR)

United Kingdom Government – Better Regulation Executive

British Columbia Government – Straightforward BC.

The Guidelines are structured as follows:

Section 2 explains the roles and responsibilities of key stakeholders under the RAS system

Section 3 provides an overview of the RAS system and the steps used to assess regulation

Section 4 describes key issues considered in preparing a RAS.

1.3 Context

Regulation is 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 this is using best practice regulation to maximise the efficiency of regulation and eliminate and prevent unnecessary and excessive regulatory impacts, while preserving or strengthening community safeguards.

The Queensland Government is committed to using regulatory best practice principles. A modern 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.

Before the RAS system, regulatory impacts (such as economic, social, environmental and compliance) and competition impacts were assessed under two separate processes in Queensland: the RIS process under the SIA, and the PBT process under the Competition Principles Agreement. Agencies also carry out various separate cost-benefit analyses when assessing regulatory proposals.

The RAS system streamlines the assessment process by integrating RIS and PBT assessment processes and standardising the assessment process for all agencies.

The key objectives of the RAS system are to:

- Improve the quality of information provided to decision-makers, and those developing and maintaining regulation in accordance with regulatory best practice principles.
- Build the policy development capability and capacity across the public sector.
- Streamline impact assessment requirements, and minimise the compliance burden on agencies.

The RAS system has been developed to meet the Queensland Government's policy objectives for improving regulation including its commitment to national regulation reform agreed by COAG.

1.4 COAG Regulatory Best Practice Principles

The Queensland Government has committed to ensuring that all regulatory processes are consistent with the following COAG 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
 - 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
- 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) has been created. The RPC is discussed in subsection 3.2.

1.5 Who should use the Guidelines

The RAS system applies to all Queensland Government agencies including statutory bodies.

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

RAS system requirements will still apply to regulatory proposals associated with a function of a statutory body that requires a determination or regulatory action by the State itself (for example, where a statutory body 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 body will need to be aware of the requirements of the RAS system in making submissions regarding the regulatory proposal to government.

The Guidelines provide advice on how to conduct a RAS process once it becomes apparent that a policy issue requires regulatory intervention, and on the required RAS documentation and procedures.

The Guidelines should be used by Queensland public sector employees (including policy, legislation and technical officers) involved in the development of regulatory proposals.

1.6 What does the RAS system apply to

The system applies to the development of primary, subordinate and quasi-regulation. For quasi-regulation, the RAS system is limited only to the following types of quasi-regulation until a review of the RAS system is undertaken in 2011:

- industry codes
- industry standards
- industry accreditation schemes.

Box 1 contains definitions and examples of primary, subordinate and quasi-regulation.

Box 1 Definitions and examples of regulation

Regulation refers to the broad range of legally enforceable instruments which impose mandatory requirements upon business and the community as well as those government voluntary codes and advisory instruments for which there is a reasonable expectation of widespread compliance.

Regulation refers to all regulatory instruments including:

- primary legislation approved by Cabinet and enacted through the Parliament, that is Acts of Parliament;
- 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 2002, Electrical Safety (Installation of Ceiling Insulation) Notice 2009 and Electrical Safety Regulation 2002 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 includes instruments and arrangements which governments expect business to comply with but which are not legally binding, for example, industry codes, industry standards and industry accreditation schemes (where the purpose is regulation). It also includes statutory instruments and other regulatory proposals which are not within the scope of the terms subordinate or primary legislation.

The RAS system applies to the development of regulatory proposals. There are a number of activities of government that support the development or administration of regulation. These activities are not subject to the RAS system. Examples include:

- 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
- commercial agreements or contracts.

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

1.7 Interaction with Regulatory Impact Statement (RIS) and Public Benefit Test (PBT) requirements

The RAS system integrates the RIS and PBT processes into a streamlined and harmonised process for application to all regulatory proposals. RIS requirements are statutory requirements under the SIA while PBT requirements are a policy direction agreed and implemented under National Competition Policy (NCP). The RAS system will initially be implemented as a government policy without legislative backing and contains additional requirements to those required under the SIA.

The government may give further consideration to amending the SIA, but at present the SIA requirements will continue to apply. However, the RAS system has been designed to incorporate the requirements of the SIA for a RIS so that:

- only documentation required under the RAS system is used. RIS forms are not required
- for subordinate legislation, a proposed initiative with an 'appreciable' cost under the SIA is deemed to have a 'significant' impact and require a RAS.

1.8 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 (FLP) in the development of regulation, required as a consequence of the provisions of the LSA ¹
- Cabinet, Legislation and Executive Council handbooks.

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>.

Further, as the RAS is a policy-based system, it must be read and applied subject to any applicable legislation relevant to the particular regulatory proposal. Examples of potential inconsistency issues related to the RAS are included in Box 2. In the case of inconsistency between an Act and the RAS Guidelines, the Act will prevail.

Box 2 Examples of potential inconsistencies between the RAS and existing legislation

Where the RAS requirements will impose additional requirements over that for a RIS under the SIA.

This would arise only where the regulatory proposal is, or involves, subordinate legislation. For example, there is a proposal for a regulation to be made which will amend a fee, but the amendments will not be in accordance with a government endorsed indexation factor. However, the proposal is consistent with another announced government policy.

Under Section 46(1)(j) of the SIA, a regulatory impact statement need not be completed, as it is consistent with an announced government policy. However under the RAS system, unless the policy proposal has already been through the RAS process or the Treasurer has otherwise exempted the proposal, a RPC and a PIA, or a RPC and a RAS would be required to be submitted to Treasury and with the Cabinet submission seeking to forward the regulation to the Governor in Council.

Where a regulatory process undertaken under other legislation may be in conflict with the RAS requirements/considerations.

This situation could arise for quasi-regulation. For example, there is a process for the making of a standard by a decision-maker which will be applicable to a particular industry. The standard is not subordinate legislation, but will be a statutory instrument within the meaning of Section 7 of the SIA.

The decision-maker is required under the applicable legislation to take into account a range of factors which are specified in the legislation. The legislative provision limits the decision-maker's discretion to take into account other relevant considerations. As part of the RAS, stakeholder consultation has raised some issues which are outside of the scope of relevant considerations specified in the legislation. In making the final decision as to the contents of the standard and in the wording of the RAS, care would need to be taken that only considerations within the scope of those which the decision maker was able to consider are actually taken into account.

If the decision is made taking into account irrelevant considerations, a consequence may be that the decision could be successfully challenged under the *Judicial Review Act 1991*, and the standard overturned by the Supreme Court.

1.9 Interaction with the budget process

Submissions to CBRC concerning regulatory proposals are accompanied by a RPC and PIA. If it is deemed that a proposal requiring CBRC approval may impose 'significant' impacts, the need for a RAS to be prepared prior to CBRC is determined on a case-by-case basis in consultation with Treasury Department and the Department of the Premier and Cabinet.

1.10 Commencement

Phased implementation facilitates the transition of agencies to the RAS system. The timetable for application of the RAS system is as follows.

From 31 March 2010, the RAS system applies to all new or amending regulatory proposals requiring Cabinet consideration where the policy:

- has not been considered by Cabinet
- has been considered by Cabinet but requires a reassessment of impacts because of policy changes.

From 1 October 2010, the RAS system applies to all new and amending regulatory proposals not requiring Cabinet consideration.

1.11 Review of the RAS system

The RAS system will be reviewed in terms of objectives, impacts and opportunities for improvement with a report for Cabinet consideration by 30 June 2011.

Following this review, further consideration may be given to legislative backing for the RAS system.

2 Roles and Responsibilities

The roles and responsibilities under the RAS system are explained below. The responsibilities are spread throughout government as achieving better regulation is a shared responsibility.

2.1 Ministers and Chief Executive Officers

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

The Treasurer has the responsibility for leading and directing the national and state reform agendas on behalf of Queensland and across the Queensland Government. As part of this role, the Treasurer will grant exemptions to the requirement to complete a RAS. These will be granted only in exceptional circumstances (refer to [subsection 3.5](#)). The Treasurer may also challenge non-compliance with the RAS 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 Agencies

The responsibilities of agencies are:

- implementing and applying the RAS system
- seeking central agency advice (such as relevant business branches in Treasury Department, the Queensland Office for Regulatory Efficiency (QORE), and/or the Department of the Premier and Cabinet) early in the policy development process before deciding on a regulatory option
- ensuring that appropriate internal systems (such as training, regulatory best practice processes, appropriate oversight) are in place to support compliance with the RAS system
- establishing or maintaining contact points within the agency regarding the regulatory development process (such as through the use of a Regulatory Reform Champion as a first point of contact for issues regarding regulatory development).

2.3 Treasury Department and Department of the Premier and Cabinet

Central agencies play a key role in ensuring that the Guidelines are applied consistently across government through the provision of training and advice and reviewing and monitoring the RAS system.

The Department of the Premier and Cabinet is responsible, with Treasury Department, for administering statutes and policies relating to regulation making and review (for example, SIA, LSA 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 Department administers the Guidelines and provides advice to agencies on the requirements of the RAS system. The immediate point of contact with Treasury Department is through each agency's Treasury Analyst.

QORE is the central point of contact for advice, guidance and training about the RAS system and supports Treasury Analysts in advising agencies on compliance with the RAS system. QORE also provides assistance by reviewing and endorsing RASs. However, it should be noted that the role of Treasury Department is advisory only.

3 Steps in the RAS System

Figure 1 sets out the key features of the RAS system including their relationship to regulatory best practice principles and the regulatory development and review cycle. It shows how regulatory best practice principles (left hand side of Figure 1) underpin the design of the RAS system. The middle box of Figure 1 portrays the key elements of the RAS system:

- broad application to all regulation
- exclusions from the system
- Regulatory Principles Checklist
- Preliminary Impact Assessment
- For regulation with significant impacts either:
 - exemption by the Treasurer
 - preparation of a Regulatory Assessment Statement.

Finally the box on the right hand side shows how the RAS system integrates with the policy development process.

Figure 1 Key features of the Regulatory Assessment Statement system

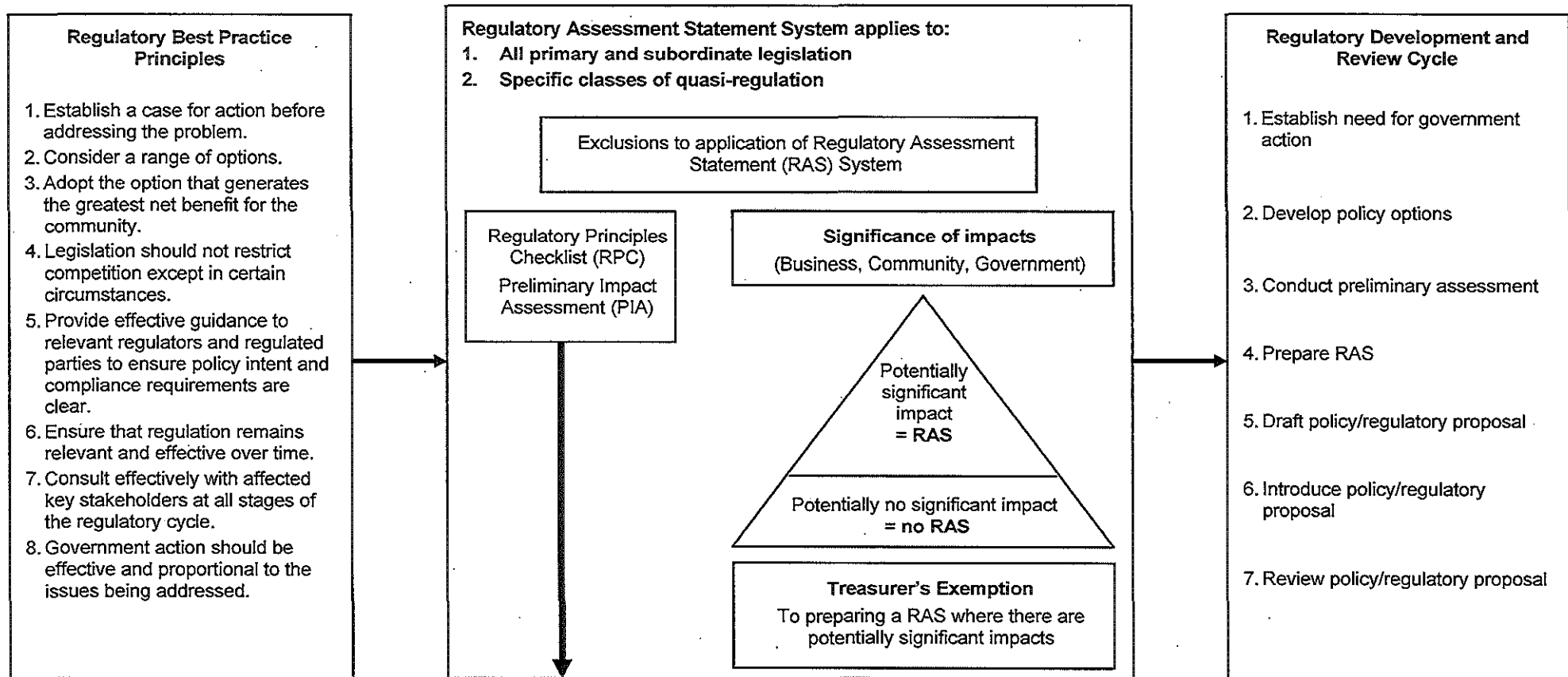
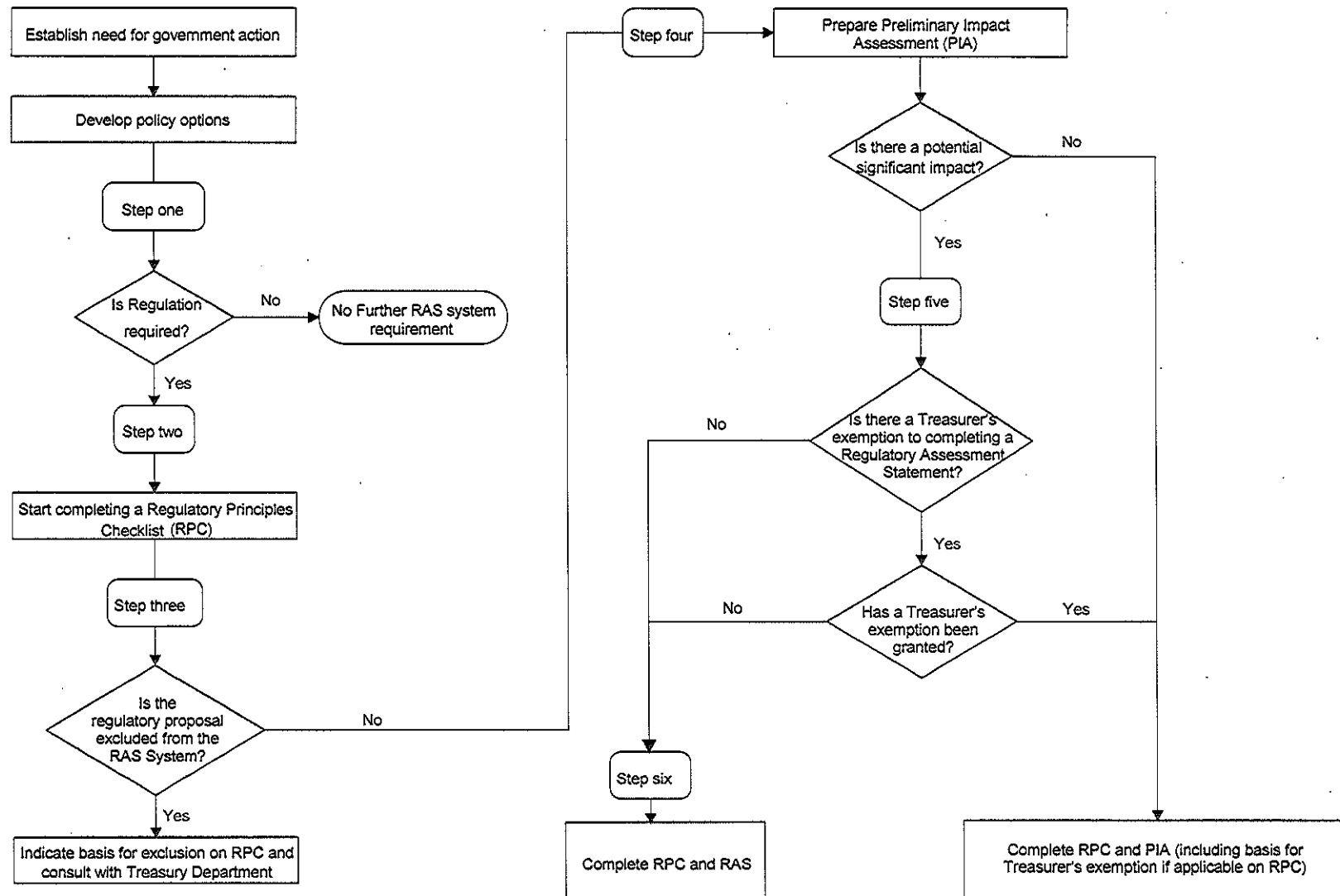


Figure 2 Key steps and decisions in the Regulatory Assessment Statement system



3.1 Step one – determining that regulation is necessary

It is important to establish that a problem requiring the introduction of regulation exists. The source, nature and scale of the problem, and its impacts, should be clearly identified. Evidence of a problem, including data on the scale and magnitude of the problem, should be gathered.

This is discussed further in subsection 4.1 and Attachment A.

If regulation remains a potential option to address the problem then application of the RAS system is triggered.

3.2 Step two – starting a Regulatory Principles Checklist

The Regulatory Principles Checklist (RPC) is a checklist to aid agencies in assessing the need for regulation and develop it 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.

The RPC includes the following sections:

- case for action
- exclusion
- options analysis
- impact assessment
- consistency with other regulation
- consultation
- implementation and compliance support
- review.

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

The RPC endorsed by the relevant Minister or approval authority is to be attached to the final regulatory proposal when seeking approval from Cabinet or other relevant decision-maker.

3.3 Step three – determining if the proposal is excluded from the RAS system

To achieve the Government's objective, the RAS system must apply broadly. However, applying the RAS system to certain types of regulatory proposals would produce negligible net benefit or net cost. The types of regulatory proposals outside the scope of the RAS system (that is, exclusions) are:

- regulation which has already undergone an extensive impact assessment process that takes into account the impacts on Queensland and regulatory best practice principles
- regulation which imposes taxation (excluding the administration of taxation)²
- regulation for the internal management of the public sector or statutory body
- regulation which corrects drafting errors, makes consequential amendments or is of a machinery nature
- regulation which proposes variations to fees/premiums in line with actuarially determined assessments
- regulation relating to police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services.

With regard to proposals seeking to authorise anti-competitive conduct refer to section 4.5 of the Guidelines; agencies must also consult with Treasury Department immediately.

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

The agency developing the regulation decides whether a regulation belongs to an excluded category. The agency must complete that part of the RPC relating to the type of exclusion category and provide the justification for exclusion. Agencies are not required to complete the subsequent sections of the RPC. Agencies should seek Treasury Department's advice if uncertain as to whether a regulatory proposal is excluded from the RAS system. Notwithstanding an exclusion, the Minister or relevant approval authority has the discretion to apply the RAS system in order to gain information on the potential impacts of the regulation.

Box 3 provides examples of the types of regulation that would be excluded from the RAS system. The examples are not intended to be exhaustive.

Box 3 Examples of the types of regulation excluded from the RAS 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 RAS 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 adopting an Australian or international protocol, standard, code, or intergovernmental agreement or instrument, if an assessment of the benefits and costs has already been made and the assessment was made for, or is relevant to, Queensland (for example, where a COAG/National RIS was prepared).

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 RAS 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 adopting an Australian or international protocol, standard, code, or intergovernmental agreement or instrument, if an assessment of the benefits and costs has already been made and the assessment was made for, or is relevant to, Queensland (for example, where a COAG/National RIS was prepared).

Regulation which imposes taxation (excluding the administration of taxation):

- regulation amending tax rates or amending tax bases; and
- regulation introducing new taxes.

Regulation for the internal management of the public sector or statutory body.

Regulation which corrects drafting errors, makes consequential amendments or is of a machinery nature:

- 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);
- technical amendments that do not change the intent or interpretation of the legislation (for example correct an obvious typographical or punctuation error);
- amendments that take account of current legislative drafting practice; and
- commencement of an Act or subordinate legislation, or a provision of an Act or subordinate legislation.

Regulation which proposes standard annual fee variations in line with, or below, a government-endorsed indexation factor (for example CPI):

- annual fee variations – changes in line with or below a government endorsed/approved indexation factor (for example CPI).

Regulation which proposes variations to fees/premiums in line with actuarially determined assessments.

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 Section 118 of the *Supreme Court of Queensland Act 1991*; and
Corrective Services Act 2006 and *Corrective Services Regulation 2006*.

3.4 Step four – preparing a Preliminary Impact Assessment

A Preliminary Impact Assessment (PIA) is completed for all regulatory proposals, except those excluded from the RAS system. The PIA is an initial level of assessment to assist in determining whether a RAS is required – that is, whether the proposal is likely to have a significant impact. 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.

The PIA must include an estimate of compliance costs unless they are considered to be negligible or trivial. A QORE-approved costing methodology (for example Queensland's Compliance Cost Calculator) must be used to value compliance costs. Where appropriate, the cumulative burden from existing regulations and requirements should be considered when determining the significance of impacts on business, community and government.

If the impacts are not significant, assessment of the regulatory proposal ends with the PIA.

Box 4 provides some factors to consider in determining whether impacts are significant. These factors are not intended to be exhaustive.

Box 4 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 RAS, for example, targeted consultation with key stakeholders rather than full public consultation. Attachment M 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 Treasury Department before completing the PIA. Where the impacts are significant a RAS must be prepared, unless an exemption has been granted by the Treasurer.

If there are circumstances requiring an exemption from the RAS, an application should be made to the Treasurer after the PIA has been completed.

The PIA form is at Attachment F.

3.5 Step five – seeking the Treasurer’s exemption from preparing a RAS

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

- an immediate regulatory response is required
- 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 approval authority stating the reason and argument for seeking the exemption. A completed RPC and PIA must be attached to the application.

Each case will be assessed on its merits.

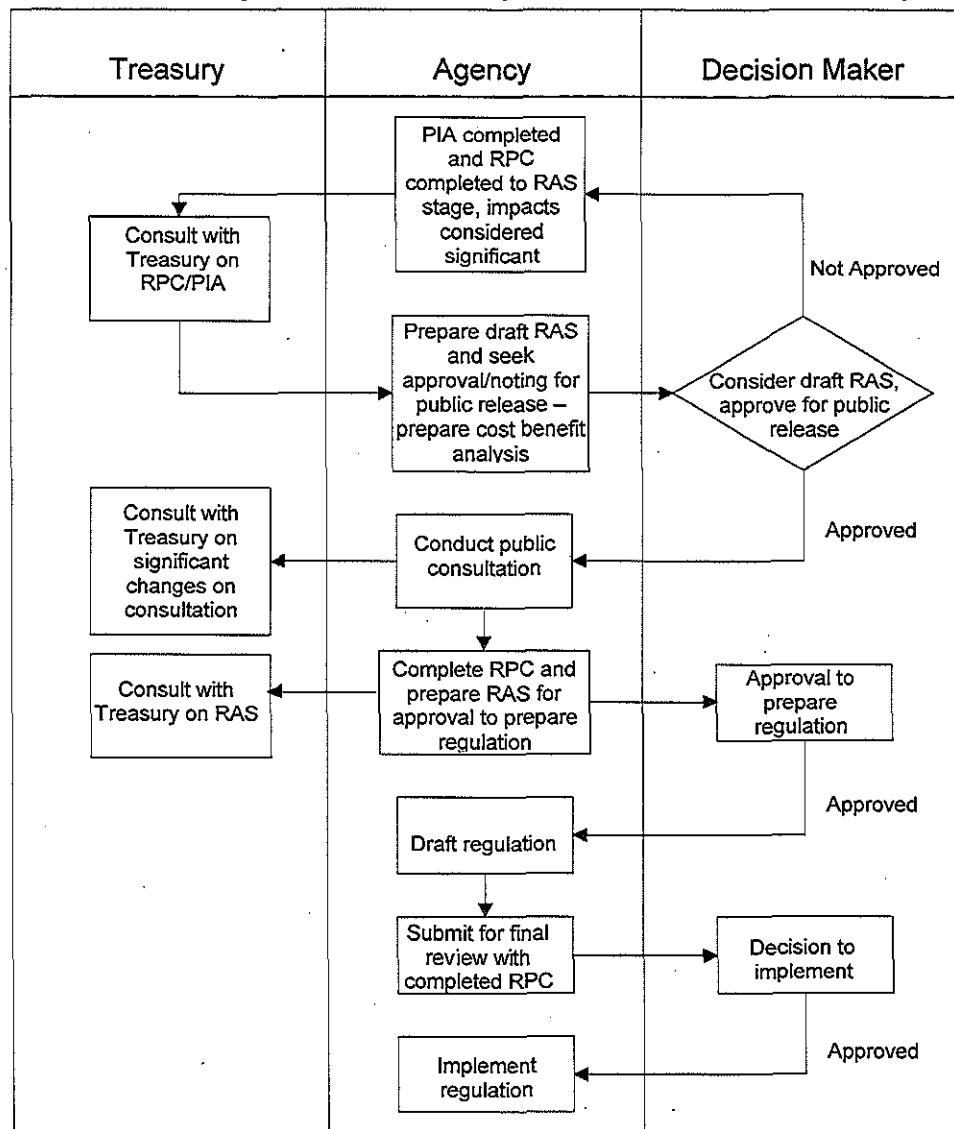
The Treasurer may attach conditions on the approval, including the timeframe for developing and implementing a monitoring and reporting framework.

For regulatory proposals seeking to authorise anti-competitive conduct, refer to section 4.5 of the Guidelines. Agencies seeking to authorise anti-competitive conduct must consult with Treasury Department immediately.

A review of regulation exempted by the Treasurer must be commenced by the proponent within two years of the regulation's implementation date. This is discussed further in subsection 3.8.

3.6 Step six – preparing a Regulatory Assessment Statement

Figure 3 A flow diagram setting out the key steps and decisions of the RAS system



The RAS requires a series of actions by Treasury Department (including QORE), the agency and the relevant decision-maker that follow the policy development process prescribed in the Cabinet Handbook. The sequence of actions required in completing a RAS, and the responsible parties, are portrayed in Figure 3.

The process in Figure 3 assumes a PIA has been completed and the impacts of the regulation will be significant. The RPC will have been created and acts as a checklist for agencies. If an agency is unsure about any element of preparing a RAS it should consult with Treasury Department.

A draft RAS would be prepared and submitted to the relevant decision-maker for noting or approval to release the RAS for public consultation. A draft RAS must be sufficiently detailed and have addressed the following areas:

- Issues statement
- Policy objectives
- Options and alternatives
- Impact assessment
- Consultation
- Preferred option
- Consistency with other policies and regulation
- Implementation, evaluation and compliance support strategy.

The RAS template is provided at Attachment J.

Providing a detailed RAS 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.

A RAS 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 RAS must be supported by cost-benefit analysis.

Where competition is restricted, agencies will also need to demonstrate that the objectives of the regulation can only be achieved by restricting competition. In accordance with clause 1(3) of the Competition Principles Agreement (see Attachment L), the following matters must, where relevant, be taken into account when undertaking a RAS:

- 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 consumers³
- the competitiveness of Australian businesses
- the efficient allocation of resources.

After the results of consultation have been compiled, a final RAS can be completed. This should include a summary of the results of consultation. The preparation of a final RAS provides a good opportunity to consult with Treasury on any issues emerging from the consultation.

The completed RPC and RAS are attached to the documentation seeking the decision maker's approval of the regulatory proposal.

³ In November 2000, COAG determined that when examining matters governments should give consideration to explicitly identifying the likely impact of reform measures on specific industry sectors and communities, including expected costs in adjusting to change.

3.7 Approval processes

Attachment K provides guidance charts that are examples of the approval processes under RAS system for the following types of regulatory decisions and decision-makers:

Cabinet/Executive Council concerning a regulatory proposal with:

- a. significant impacts
- b. no significant impact

Any decision-maker other than Cabinet/Executive Council concerning a regulatory proposal with:

- a. significant impacts
- b. no significant impact.

These charts do not change other existing policy and/or legislative development processes. The RAS system recognises that there may be exceptional circumstances where the process is truncated (for example, a combined ATP/ATI).

3.8 Reviews of regulation

All new regulation (including quasi-regulation) developed and implemented under the RAS 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 RAS system is required to be reviewed within 10 years of the RAS system's commencement unless:

- it has minimal impact on business, community or government
- it is already the subject of a SIA (that is, sun setting provisions) or NCP review obligation
- it is already scheduled for review in the agency's Regulatory Simplification Plan.

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

The objective of the review is to evaluate the continuing relevance, effectiveness and efficiency of the regulation.⁴ The review should:

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

⁴ Agencies should be aware that subordinate legislation has a firm expiry date under s54 of the Statutory Instruments Act 1992. The regulatory review under the RAS 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.

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.

A post-implementation review must be commenced within two years of the implementation date of any regulation with significant impacts where a RAS was not conducted, including where a Treasurer's exemption was granted.

The purpose of the post-implementation review 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, the post-implementation review 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 the regulated
- estimate incurred and on-going compliance costs.

The review should be similar in scale and scope to what would have been prepared for the decision-making stage.

For both the 10 year and post-implementation reviews, at a minimum, a RPC and PIA is completed for approval by the approval authority. The review may be public if the agency considers it appropriate, and can be conducted internally by the agency or independently.

3.9 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.

An example of a monitoring framework is the performance measurement framework used to measure the management arrangements of the East Coast Inshore Fin Fish Fishery Queensland developed by Primary Industries and Fisheries (within the Department of Employment, Economic Development and Innovation).⁵

⁵ A summary document of this performance measurement framework is available from http://www.dpi.qld.gov.au/documents/Fisheries_SustainableFishing/ECIFFF-Perf-Measure-System.pdf.

4 Assessment Issues

The RAS 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
- the benefits of the proposed response outweigh the cost
- the proposal represents the best approach to solve the problem.

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

4.1 Identification of the problem

When preparing a PIA or RAS, the starting point should be a brief statement outlining the policy issue to be resolved. This section should define the issue in terms of its origins and impacts and state the underlying cause of the problem. Box 5 provides an example of problem identification for a proposal to regulate providers of services to people with a disability.

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)?

Box 5 An example of identifying the nature of the problem – regulation of service providers to people with a disability

Careful consideration is required to precisely identify the problem that regulation could be used to address. In May 2005, the Queensland Government announced a package of reforms to the services provided to people with a disability. The reforms applied to services delivered or funded by the government. However, the reforms did not apply to services provided by the private sector purchased without government funding.

A Public Benefit Test was required to assess the benefits and costs of regulating all services provided to people with a disability. The first step in the assessment process is to identify and understand the 'problem' that this regulation is intended to address.

One of the key objectives that underpinned the government's reforms was minimising the risk of abuse and neglect of people with a disability. The first step was to define the industry and collect available data on the industry. The second step was to assess whether there were a significant number of problems arising from services delivered by the private sector. The potential for inadequate services to be provided to people with a disability seemed obvious but investigations revealed that very often the services were purchased by carers rather than the person with a disability.

With limited information, the consultation process was used to gather information on the scale and nature of the risk of abuse and neglect to people with a disability when they purchased services.

Analysis of the problem was extremely important to the design of the consultation process and eventually the recommendations of the report.

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 the objectives of government action to be expressed in terms of what is to be achieved, rather than how the objective 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.

4.3 Consideration of all options

Regulation is seldom the only option available to government. Alternatives to regulation that should be considered include:

- 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
- the option of taking no action also needs to be assessed.

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.

If regulation is a better alternative to non-regulatory approaches, the different forms of regulation also need to be considered. 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 identified and assessed. 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 P 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 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. 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 benefits and costs of a regulatory proposal should be assessed 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.

Quantitative benefits and costs 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 RAS.

Further information on identifying and assessing impacts is provided at [Attachments E](#) and [G](#) respectively.

4.5 Impact on competition

The impact of a regulatory proposal on competition needs to be considered. In accordance with the Competition Principles Agreement (see Attachment L) regulation should not restrict competition unless it can be demonstrated that:⁶

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

An option is likely to restrict competition if:

- it affects the market structure of the industry (limits the number of firms in an industry)
- it creates barriers to firms entering or exiting the market
- it restricts the ability of businesses to choose the price, quality, range or location of their products
- there will be higher ongoing costs for new entrants compared to existing players, and/or
- it inhibits innovation or the development of new products or services.

An example of the analysis of a restriction on competition is provided in Box 6.

⁶ Competition Principles Agreement 1995.

Box 6 Competition impacts, ambush marketing

The policy issue to be addressed by the legislation was 'ambush' marketing at major events. Ambush marketing occurs when one brand pays to become a sponsor of a large-scale event (usually a sporting event) and a competing brand connects itself with the same event without paying the sponsorship fee. The prohibition on ambush marketing is applied by declaring a specific event as subject to the regulation of the right to advertise in a specified airspace, or on a building or other structure, that is within sight of a major sports facility during a specified time.

Market definition is a critical consideration to determining impacts on competition. In analysing market definition, the primary questions relate to the product and geography dimension. The questions that must be answered to define the market include:

- what are the product dimensions of the market
- what are the geographic dimensions of the market
- what is suggested by case law
- what is suggested by academic literature
- is there reliable empirical evidence of cross-price elasticity or clear anecdotal evidence of substitutability?

The process of declaration has the characteristic of a conduct restriction. A conduct restriction is a regulation which limits specific behaviour by businesses. The issue which now needs to be considered is the impact of the regulation on competition.

The proposed legislation was considered not to impact competition for the following reasons:

- competition for advertising at events is primarily driven by competitive processes undertaken by event organisers. The proposed regulation will not interfere with that process;
- the proposed legislation does not create any structural barriers to the market as firms are free to enter and exit the relevant market; and
- the proposed legislation will proscribe conduct in the market, but only in defined circumstances. The legislation will only prevent one type of major event marketing and even then it is possible to obtain permission for the conduct.

A RAS must be undertaken for any regulatory proposal which authorises anti-competitive conduct which, without a legislated exemption or other legal authority, would contravene Part IV of the *Trade Practices Act 1974*. Such proposals cannot be excluded from the RAS system and are not eligible for a Treasurer's exemption. Agencies seeking to authorise anti-competitive conduct must consult with Treasury Department immediately.

4.6 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 as part of the assessment process under the RAS system.

Intra-governmental and intergovernmental collaboration should be used to avoid overlap and to 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.

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 RAS system. The *Right to Information Guidelines*⁷ and *Information Privacy Guidelines*⁸ provide detailed information to agencies on their obligations under these Acts.

⁷ <http://www.oic.qld.gov.au/right-information>

⁸ <http://www.oic.qld.gov.au/information-privacy-guidelines>

4.7 Compliance and administrative burdens

The scope of the regulatory proposal should be 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.

The regulatory burden on business, community and government should be minimised. The greater the regulatory burden, the higher the compliance costs, and the more significant the impact on business efficiency and performance.

The compliance and administrative burdens imposed by a regulation should be proportionate to the objectives of the regulation. 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 QORE which satisfies principles for a robust costing methodology.

QORE may seek the advice of the Office of Economic and Statistical Research or other technical experts to validate the adequacy of alternative costing methodologies presented by agencies.

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

4.8 Stakeholder consultation

Public consultation is a critical part of any regulatory development process. In line with COAG 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 M) contains best practice principles and minimum requirements for ensuring effective consultation with all affected parties at all stages of the regulatory cycle.

Under the RAS 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)
- a minimum period of 28 days be allowed for all public consultation on RAS documents
- all final RAS documents, approved for release, will be published on the Queensland Government's Get Involved website
- 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.

In applying the requirements of the protocol, agencies need to be mindful of obligations contained in Part 5 of the SIA, which continue to apply for subordinate legislation, and/or other relevant legislation and the Cabinet, Legislative and Executive Council handbooks.

4.9 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
- appropriate government service standards and benchmarks (for example, response time) are established.

The Compliance Awareness protocol is at Attachment O.

LIST OF ATTACHMENTS

The following list of attachments are referenced in the Guidelines

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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 7 provides further information on types of market failure. This concept comes from economics and it widely used in the analysis of policy. The term market failure is when 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 7 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?

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. A RPC is to be fully completed for all regulatory proposals within the scope of the RAS system put forward by government agencies and statutory bodies. For regulatory proposals excluded from the RAS system, only sections 1 and 2 of the RPC need be completed.

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).

For further assistance, please contact Treasury Department.

[RPC Form available to Queensland Government Employees](#)

Regulatory Principles Checklist (RPC)

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

Minister/Approval Authority

Date / /

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 Assessment Statement for significant regulatory proposals, and this Regulatory Principles Checklist.

2. I confirm that, to the extent it is applicable, this regulatory proposal is in compliance with Part 5 of the *Statutory Instruments Act 1992*.

CRITERIA If answering NO to any of the questions 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 RAS system? If yes, provide your reasons.	<input type="checkbox"/>	<input type="checkbox"/>
Options analysis		
3. Have you considered a range of feasible policy options (i.e. regulatory and non-regulatory approaches)?	<input type="checkbox"/>	<input type="checkbox"/>
4. 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"/>
5. Is the proposed action effective and proportional to the issue being addressed?	<input type="checkbox"/>	<input type="checkbox"/>
Impact assessment		
6. Have you assessed the costs and benefits of all feasible policy options?	<input type="checkbox"/>	<input type="checkbox"/>
7. Does the proposed regulation generate the greatest net benefit for the community compared to other options?	<input type="checkbox"/>	<input type="checkbox"/>
8. 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"/>
9. Have you considered the compliance costs of the proposed regulation, including additional resource requirements (for example time, staff, training costs, expert advice, and equipment)?	<input type="checkbox"/>	<input type="checkbox"/>
10. Have you considered the costs to government of administering and enforcing the regulation?	<input type="checkbox"/>	<input type="checkbox"/>
11. Can administrative and enforcement costs to Government be met with existing resources?	<input type="checkbox"/>	<input type="checkbox"/>
Consistency with other regulation		
12. 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"/>
13. Is the proposed regulation consistent with, and not duplicative of, Queensland Government policy and regulation?	<input type="checkbox"/>	<input type="checkbox"/>
14. Is the proposed regulation consistent with, and not duplicative of, Commonwealth regulation?	<input type="checkbox"/>	<input type="checkbox"/>
15. 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		
16. Have you consulted with affected stakeholders (business, community and government) at all stages of the regulatory development cycle?	<input type="checkbox"/>	<input type="checkbox"/>
17. Have affected stakeholders had an opportunity to present their views on all policy options, including proposed legislative requirements?	<input type="checkbox"/>	<input type="checkbox"/>
18. Have you consulted with Treasury and DPC?	<input type="checkbox"/>	<input type="checkbox"/>
Implementation and Compliance Support		
19. Is effective compliance support provided to relevant regulators and regulated parties through: <ul style="list-style-type: none"> (a) Clear, concise and consistent regulations that facilitate understanding and compliance? (b) Appropriately targeted information, education and training strategies that inform regulators and regulated parties of the policy intent and compliance requirements? (c) Easily accessible compliance tools (for example web based tools, electronic forms) developed to assist regulated parties? (d) Setting appropriate government service standards and benchmarks (for example response or turnaround time)? 	<input type="checkbox"/>	<input type="checkbox"/>
20. Have you considered the transitional issues related to the commencement date?	<input type="checkbox"/>	<input type="checkbox"/>
Review		
21. 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"/>

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 six Queensland Government endorsed guiding principles.⁹

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

⁹ Smart Regulation: Enhancing the competitiveness of Queensland business, Queensland Government, 2006.

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 <ul style="list-style-type: none"> • Prescribes conduct or processes • Detailed regulation 	<ul style="list-style-type: none"> • Requirements are very clear • Consistency • Suitable for high risk/high impact activities 	<ul style="list-style-type: none"> • Requires intensive enforcement • Prevents innovation • High compliance costs
Performance Based Regulation <ul style="list-style-type: none"> • Performance or outcomes based • Industry develops its own approaches to achieving outcomes • Efficient design of processes to meet outcomes 	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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 <ul style="list-style-type: none"> • Cooperation between industry and government • Administered and enforcement by industry 	<ul style="list-style-type: none"> • Industry ownership • Effective solution where the impacts are limited to a single industry 	<ul style="list-style-type: none"> • Potential for anticompetitive provisions • Concerns about accountability
Codes of Conduct <ul style="list-style-type: none"> • Set of agreed principles or guidelines outlining responsibilities and expectations • May be voluntary or mandatory 	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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
	<ul style="list-style-type: none"> Improves the public image of industry and promotes public confidence Prescribes minimum standards of performance Easy to update and revise 	
Standards <ul style="list-style-type: none"> Use existing or new measures to document outcomes Controls on processes or performance 	<ul style="list-style-type: none"> Ability to quantify performance outcomes Industry understands standards and process controls Convenient measures which can be monitored 	<ul style="list-style-type: none"> Australian Standards are optimal versus minimum standards required Constant monitoring required Requires strong industry involvement and understanding
Regulatory Tiering <ul style="list-style-type: none"> Different industry segments treated differently Aims to provide equity across different sectors 	<ul style="list-style-type: none"> Able to recognise different sector experiences/ imbalances Cater for small business issues Preserve flexibility and outcomes without disadvantaging some sectors 	<ul style="list-style-type: none"> Unforeseen impacts Risk of being misunderstood if complex Can create a threshold effect (deter business activity, employment, etc.)
Tradeable Permits <ul style="list-style-type: none"> 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) 	<ul style="list-style-type: none"> Tradeable licences and permits allow effective use of resources Able to embed performance expectations in permits 	<ul style="list-style-type: none"> Can restrict market entry Market failures can prevent the system from operating successfully and may lead to constant monitoring by government
Negative Licensing <ul style="list-style-type: none"> Excludes unsuitable individuals or organisations from participating in a market or industry function 	<ul style="list-style-type: none"> Excludes unsuitable individuals or companies Fewer costs to industry Avoids the need for positive licensing 	<ul style="list-style-type: none"> 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 <ul style="list-style-type: none"> A third party body (industry or industry/government) to monitor performance and compliance 	<ul style="list-style-type: none"> 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 	<ul style="list-style-type: none"> Can add additional costs The organisation selected can be inappropriate

Regulatory Alternatives	Advantages	Disadvantages
Risk-Based Insurance <ul style="list-style-type: none"> • Government-based insurance cover against risks associated with particular activities to lower costs involved • Government encouragement to take out insurance cover 	<ul style="list-style-type: none"> • Provides adequate compensation for affected individuals and businesses • May reduce need for other forms of regulation • May reduce monitoring and enforcement by government 	<ul style="list-style-type: none"> • May encourage more insurance cover than necessary • May restrict market freedom
Rewarding Good Behaviour <ul style="list-style-type: none"> • Financial incentives and disincentives to influence behaviour 	<ul style="list-style-type: none"> • Efficient and respond to industry values • Financial incentives encourage appropriate behaviour • Market acceptance of rewards for outcomes 	<ul style="list-style-type: none"> • 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.epa.qld.gov.au/register/p00870aa.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 Assessment 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 Treasury Department.

PIA Forms available to Queensland Government Employees

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 Assessment 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 Treasury Department.

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

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	
<p>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> <p>① <i>Categories of impacts to be considered for each stakeholder group include:</i></p> <ul style="list-style-type: none"> <i>Economic</i> <i>Competition</i> <i>Compliance</i> <i>Social</i> <i>Environmental.</i> 	<p>(a) Impacts on Business</p> <p>Provide details of impacts to business including, but not limited to: economic & competition impacts (eg. barriers to entry, price/production/conduct controls) and compliance costs (eg. record keeping, staff training, licences).</p> <p>This information should include quantification of estimated costs per business and for the industry as a whole.</p> <hr/> <p>(b) Impacts on Community</p> <p>Provide details of impacts to community including, but not limited to: financial costs (eg. fees, time opportunity cost), social impacts (eg. employment, public health & safety, access to services/infrastructure) and environmental impacts (eg. pollution).</p> <p>This information should include quantification of estimated costs per member of the community and the community (or part thereof).</p> <hr/> <p>(c) Impacts on Government</p> <p>Provide details of impacts on government including, but not limited to: compliance & enforcement, administration requirements, other impacts (eg. IT systems, staff resources, security, assets, services & business processes).</p> <p>This information should include quantification of costs and details of arrangements for cost recovery if relevant.</p>

SECTION 5 - PROPOSAL	
5.1 Provide an overview of the nature and scope of the preferred option	
5.2 Why is the preferred option the most appropriate?	
5.3 Is the proposed action proportional to the issue being addressed?	<input type="checkbox"/> Yes <input type="checkbox"/> No Please provide a rationale
5.4 Does the preferred option deliver the greatest net benefit to stakeholders compared to the other options?	<input type="checkbox"/> Yes <input type="checkbox"/> No Please provide a rationale
5.5 Does the proposal breach any fundamental legislative principles?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, how and why is a departure from the FLP justified?
5.6 Does the proposal include initiatives that reduce the regulatory burden on business, community or government?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, how?
SECTION 6 - KEY STAKEHOLDERS & CONSULTATION	
6.1 List the stakeholder groups (business, community and government) likely to be affected, directly or indirectly, by the proposed option.	
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).	
6.3 Outline any proposed consultation.	
SECTION 7 - OVERALL ASSESSMENT	
7.1 Is the proposal likely to impose significant impacts on the community, business or government or part of the community, business or government?	<input type="checkbox"/> Yes <input type="checkbox"/> No Please provide a rationale
7.2 Based on this assessment, is a RAS required?	<input type="checkbox"/> Yes <input type="checkbox"/> No

<p>① A Regulatory Assessment 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 community¹⁰</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>7.3 Please attach any other relevant information, for example, drafting instructions, publicly announced policy or media releases.</p>	<p>Please list any attached documents</p>
<p>7.4 Where significant impact has been identified, do exceptional circumstances exist for which a RAS exemption can be sought?</p> <p>① An exemption from preparing a RAS can only be granted by the Treasurer.</p> <p><i>Note: If this proposal relates to subordinate legislation within the scope of section 43 of the Statutory Instruments Act 1992 (SIA), but is not required to be prepared due to the application of one of the exceptions in section 46 of the SIA, a RAS must still be completed unless an exemption is granted as provided above.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, demonstrate why an exemption should be granted</p>

¹⁰ Statutory Instruments Act 1992 section 43 requires a regulatory impact statement in these circumstances, and the regulatory assessment statement is to be used for this purpose.

G Quantifying impacts

Under the RAS system a cost benefit analysis is the preferred method for quantifying impacts. While a detailed cost benefit analysis is only required for a RAS, 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 RAS, 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 QORE must be used. The CCC report, or an equivalent if an alternative costing model is used, should be attached to the PIA and RAS.

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 applied,¹¹
- 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

¹¹ Further details on discount rates are provided in the Queensland Government, Project Assurance Framework, Cost Benefit Analysis, Appendix B.3.

- 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
 - 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 Treasury 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.epa.qld.gov.au/register/p00870aa.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.dip.qld.gov.au/resources/guideline/project-assurance-framework/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](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](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.gov.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 L](#)).

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; and
- 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 (this is available at http://www.justice.qld.gov.au/data/assets/pdf_file/0015/16701/Directors-Guidelines.pdf).

J Regulatory Assessment Statement

The Regulatory Assessment Statement (RAS) 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 RAS is required for all regulatory proposals with significant impacts put forward by government agencies and statutory authorities.

The length of a RAS may vary considerably depending upon the scope and complexity of the proposal and its impacts, but should be concise. Generally, most RASs should not exceed 10 pages in length. As a public consultation document, the information in a RAS 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 RAS.

For further assistance, please contact Treasury Department.

[RAS Form available to Queensland Government Employees](#)

EXECUTIVE SUMMARY

2. POLICY OBJECTIVES

4. IMPACT ASSESSMENT

6. PREFERRED OPTION

8. IMPLEMENTATION, EVALUATION AND COMPLIANCE SUPPORT STRATEGY

*State the provision of the Act or regulation which provides the head of power under which any proposed subordinate or quasi-regulation will be made.*¹³

MINISTERIAL OR APPROVAL AUTHORITY ENDORSEMENT

Minister/Approval Authority _____

Date / / _____

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 objectives¹⁴.

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

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 law¹⁵.

If the proposed legislation 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.¹⁶*

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.*

¹⁴ Required by section 44(b) SIA for subordinate legislation

¹⁵ Required by section 44(d) SIA for subordinate legislation

¹⁶ Required by section 44(e) SIA for subordinate legislation

4. IMPACT ASSESSMENT

This section is integral to the RAS and must be comprehensive. The purpose of the impact assessment is to objectively quantify the benefits and costs to all affected parties (for example business, community and government) by each of the identified policy options to determine the most beneficial policy solution for stakeholders as a whole¹⁷.

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 RAS. 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.

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 QORE 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 QORE.*

¹⁷ Required by section 44(g) SIA for subordinate legislation

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.¹⁸*

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:

- (a) *objectives of the regulation can only be achieved by restricting competition; and*
- (b) *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.¹⁹

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.

¹⁸ Required by section 44(c) SIA for subordinate legislation

¹⁹ Required by section 44(h) SIA for subordinate legislation.

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 Approval process charts

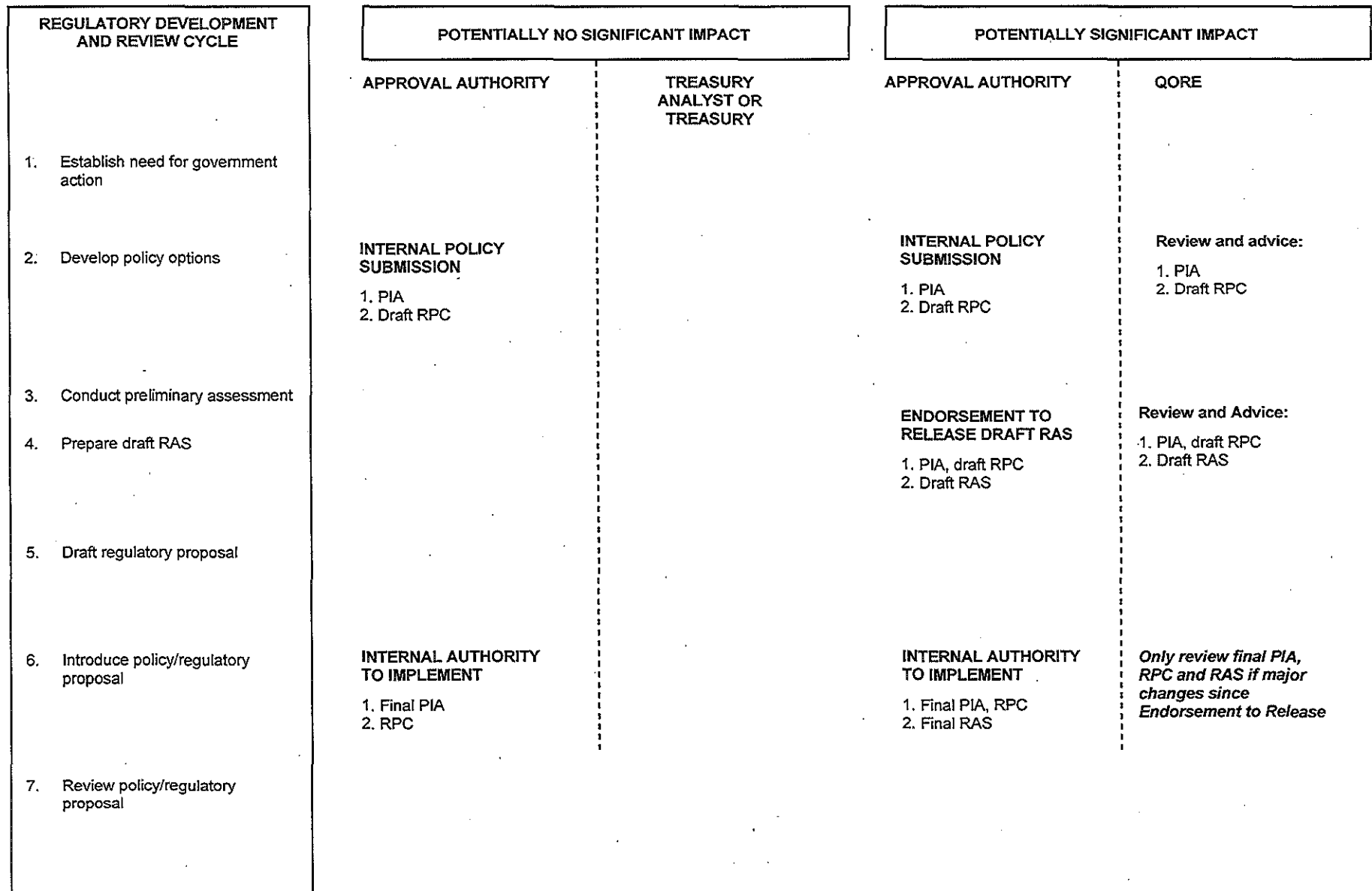
These charts provide examples of the stages in the approval process under the RAS system; however it is not an example of Cabinet processes. The actual process of development under the RAS system does not need to be exactly as provided in these charts. The charts should be read in conjunction with applicable existing policy and legislative development processes. These existing 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 LSA
- Cabinet, Legislation and Executive Council handbooks.

Figure 4 Key stages in the approval process – Cabinet/Executive Council

REGULATORY DEVELOPMENT AND REVIEW CYCLE	POTENTIALLY NO SIGNIFICANT IMPACT		POTENTIALLY SIGNIFICANT IMPACT	
	CABINET/EXECUTIVE COUNCIL	TREASURY ANALYST OR TREASURY BUSINESS GROUP	CABINET/EXECUTIVE COUNCIL	QORE
1. Establish need for government action		Review and advice 1. Draft PIA 2. Draft RPC		Review and advice: 1. Draft PIA 2. Draft RPC
2. Develop policy options	POLICY SUBMISSION 1. PIA 2. Draft RPC	Review and advice: 1. PIA 2. Draft RPC	POLICY SUBMISSION 1. PIA 2. Draft RPC	Review and advice: 1. PIA 2. Draft RPC
3. Conduct preliminary assessment				
4. Prepare draft RAS			INFORMATION/POLICY SUBMISSION ON RELEASE OF DRAFT RAS 1. Draft RPC 2. Draft RAS	Review and advice: 1. Draft RPC 2. Draft RAS
5. Draft regulatory proposal	AUTHORITY TO PREPARE (ATP) 1. PIA 2. Draft RPC	Review and advice: 1. PIA 2. Draft RPC	AUTHORITY TO PREPARE (ATP) 1. Draft RPC 2. Revised RAS	Review and advice: 1. Draft RPC 2. Revised RAS
6. Introduce policy/regulatory proposal	AUTHORITY TO INTRODUCE (ATI)/ AUTHORITY TO FORWARD SIGNIFICANT SUBORDINATE LEGISLATION (ATFSSL)/EXECUTIVE COUNCIL MINUTE (ECM) 1. Final PIA 2. Final RPC	<i>Only review final PIA and RPC if major changes since ATP</i>	AUTHORITY TO INTRODUCE (ATI)/ AUTHORITY TO FORWARD SIGNIFICANT SUBORDINATE LEGISLATION (ATFSSL)/EXECUTIVE COUNCIL MINUTE (ECM) 1. Final PIA 2. Final RPC	Review and advice: 1. Final RPC 2. Final RAS
7. Review policy/regulatory proposal				

Figure 5 Key stages in the approval process – Approval authority other than by Cabinet/Executive Council



L 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 10 years
- ensure that all proposed new or amending legislation is assessed against the legislation review principle.

Prior to the introduction of the RAS 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.

M 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 RAS system for ensuring effective consultation with all affected parties at all stages of the regulatory cycle.

Stakeholder consultation principles

1. Consultation processes should be effectively targeted and be easily accessible

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.

Secondly, consultation methods must be appropriate and accessible to each stakeholder group to ensure the benefits of stakeholder engagement can be maximised.

2. Stakeholders should be given adequate opportunity to participate in regulatory development, implementation and review processes

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.

3. Stakeholders should be adequately notified of proposed consultation activities

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.

4. Adequate time should be given for stakeholders to participate in consultation processes

The consultation period should be sufficiently long to enable all stakeholders to provide informed and valuable contributions to the policy and regulatory development process.

5. Outcomes of consultation should be reported back to stakeholders

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.

6. Consultation processes should be evaluated

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.

Minimum requirements

Under the RAS 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 days be allowed for all public consultation on a RAS
- a final RAS, 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.

In applying the requirements of the protocol, agencies need to be mindful of obligations contained in Part 5 of the *Statutory Instruments Act 1992*, which continue to apply for subordinate legislation including some statutory instruments, and the Cabinet, Executive Council and Legislation Handbooks.

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.

N 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.

Where relevant, QORE may use the Office of Economic and Statistical Research or other technical experts to validate the adequacy of alternative compliance costing methodologies presented by agencies. Agencies are encouraged to consult with QORE early in the development of a methodology to ensure the adequacy of the approach.

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 (that is, increases / savings) to the regulatory burden are not doubled counted.**

O 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 RAS 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.

P Stakeholder impacts

The box 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.

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>
Community		
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 (for example, 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</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>

	<p>maintain and possibly increase the marketability of Queensland as a clean, green destination.</p> <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.</p>	
Indigenous cultural heritage	<p>Increased protection afforded to traditionally important resources. For example, protection of key Indigenous values (for example fish traps and totemic species), maintenance or improvement of protected areas. Maintenance of cultural and spiritual wellbeing associated with healthy waterways.</p>	Nil costs.
Direct recreation	<p>Increasing protection of these values may would maintain and enhance existing recreational opportunities.</p> <p>Avoid decline in current use and expect some increase as swimming, boating and other activities are protected and become more attractive.</p>	<p>Possible increased cost of meeting public expectation of increased environmental compliance activity by the EPA and local governments under the <i>Environmental Protection Act 1994</i>, in relation to pollution incidents, dumping of waste and soil erosion.</p>
Recreational Fishing	<p>Significantly contributes to the tourism and regional growth in all areas, especially for the Great Sandy/Hervey Bay region and Moreton Bay.</p> <p>Increasing protection of environmental values of waterways would help protect recreational fishing and associated economic activity.</p> <p>Fishers current expenditure on accommodation, gear, travel and licences extrapolated over 20 years and (current annual value) per year-a</p> <p>SEQ—\$2,993m (\$217m/yr);</p>	<p>Increasing protection of aquatic ecosystems may increase pressure on wild fish stocks from increased recreational fishing.</p> <p>Increased recreational fishing activity may result in increased boat traffic, pollution, garbage dumping and bank erosion.</p>

	<p>Mary-GSS—\$185m (\$13m/yr)</p> <p>(Sunfish estimate \$140m/year for Great Sandy Region/Hervey Bay after accounting for all direct and indirect benefits);</p> <p>Douglas Shire—\$21m (\$1.6m/yr).</p>	
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>
Environment		
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>

Industry

Tourism

Maintenance or improvement of existing environmental values may increase the quality and marketability of tourism destinations.

Increasing protection of environmental values would increase security for 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.

Enhanced clean, green image may increase visitation numbers and increase pressure for additional eco-tourism ventures—in turn pressuring sustainable levels in some areas.

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

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>waste avoidance, material substitution, or recycling of what were previously waste materials—may even provide a marketing edge in some cases.</p> <p>Increased acceptance that wastewater is a resource, having an economic value.</p>	
Agriculture and aquaculture	<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</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 <i>Environmental Protection Act 1994</i>, 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—for example 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</p>

	chemicals.	development approval under the EP Act.
	Aquaculture	
	Greater industry security of access to water resources by protection of water quality.	
	Benefits from improved ecosystem health and clean/green production.	
	SEQ—\$512m (\$14m/yr) 153 FTE employed;	
	Wide Bay—\$228m (\$6.1m/yr) 84 FTE employed;	
	Far North Qld data—\$606m (\$18.5m/yr) 160 FTE employed;	
	(Production mix—prawns 78%, barramundi 14.3%, other 7.7%)	
Commercial Fishing	<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 management.</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” development sites.</p>
Forestry (native forest and plantation)	<p>Validation of best-practice management. Supports forestry accreditation to environment management systems and other stewardship standards.</p> <p>Greater industry security of access to forestry resources by protection of water quality.</p>	<p>Little impact on State forestry activities already operating to codes of practice (native forests) or best-practice management (plantations).</p> <p>Parallels the proposed introduction of codes for private forestry activities.</p> <p>Continuing commitment to best-practice environmental management.</p>
Government		
Local government-urban stormwater	<p>Compliance and devolved authority obligations met. Healthy ecosystems and ecosystem services.</p> <p>Legislative and scientific rationale for decision-making.</p> <p>Future use and enjoyment of water bodies.</p>	<p>Urban retrofit stormwater expenditure over 20 years⁹ and (current annual value) SEQ—\$115m (\$9.5m/yr).</p> <p>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.</p>
Local government-sewage treatment plants	<p>Basic services provided with population needs, upgrades and reuse addressed. Advances the achievement of sustainable ecosystem nutrient loads.</p>	<p>Upgrade expenditure over next 5 years⁹—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).</p> <p>SEQ—\$136m (\$27.2m/yr)</p> <p>Mary-GSS—\$9m (\$1.92m/yr)</p> <p>Douglas Shire—\$2.75m (\$0.55m/yr).</p>

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	<p>Contribution to sustainable development and government priorities— Protecting our natural and cultural heritage;</p> <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>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 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.