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# 2012-13 Annual Report on Reducing the Burden of Regulation in Queensland

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31 October 2013

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## KEY CONTACTS

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## EXECUTIVE SUMMARY

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This is the first annual report by the Office of Best Practice Regulation (OBPR) on reducing the burden of regulation in Queensland. It supports the goals of the Queensland Government to reduce the cost burden of regulation on business and the community and to ensure that, where regulation is necessary, it is efficient, effective and in the public interest.

The OBPR was requested to provide the responsible Ministers with an annual report by 31 October 2013, on performance by agencies in achieving the Government's targets for reducing the regulatory burden. The OBPR was also requested to use a basket of measures to provide Government with the best information on regulatory burden and the reductions in that burden, using as proxies:

- changes in the number of regulatory obligations and requirements
- changes in the number of pages of legislation
- dollar estimates.

In pursuit of its target to reduce the burden of regulation by 20% by 2018, the Queensland Government has made each government agency responsible for pursuing regulatory reforms and has allocated individual percentage targets that each department must meet to reduce the number of regulatory requirements in the rules that they administer. The total of the percentage targets allocated sums to 20%, but the individual percentage target allocated to each department varies depending on the number and types of regulation they administer. Details of the requirements count process and the determination of departmental reduction targets are included in **Appendix C** of this report.

This report provides a comparison of the number of regulatory requirements contained across all the legislative instruments administered by the Queensland Government, including Acts, regulations, codes and guidelines at the baseline date (23 March 2012), and the first annual report date (30 June 2013). The change is disaggregated and reported for each government department, to track progress at a department level and at an aggregate level.

At the baseline date of 23 March 2012, there were a total of 265,189 regulatory requirements across the Queensland Government. Over the reporting period to 30 June 2013, there was a reduction of 9,404 requirements, equivalent to 4% of the baseline count.

The rate of change in requirements varies across departments – from a reduction of 40% for the Department of Local Government (which removed 448 requirements), to an increase of 5% for the Department of the Premier and Cabinet (which added eleven new requirements to an already very low base of only 234 requirements, largely due to changes to the Lobbyist's Code of Conduct).

At the baseline date of 23 March 2012, there were a total of 72,436 pages of legislation. By 30 June 2013, there had been a marginal decrease of 429 pages of legislation, resulting in a total number of 72,007 pages of legislation. However, a page count is just one proxy for changes in the legislative burden. A comparison with the reduction in regulatory requirements, for example, shows no correlation with the changes in the number of pages of legislation.

In addition, with the assistance of individual government departments the OBPR has quantified the impacts of six recent regulatory reforms to illustrate the dollar impact of the changes. Each case study illustrates the positive economic benefits that have been delivered to Queensland

through reforms in various sectors. These reforms include both policy changes that resulted in the reduction of regulatory requirements and measures to simplify and streamline regulatory processes.

Given that the cost of estimating the dollar value of all regulatory reforms would be prohibitive, the case study approach is a pragmatic way of providing an indication to the community of the monetary benefits of a sample of recent reforms undertaken by the Queensland Government. As departments become more practised at quantifying the expected benefits and costs of regulatory proposals as part of the Regulatory Impact Assessment (RIS) system, it is expected that the OBPR will be able to utilise this information to provide a more comprehensive assessment of the net benefits of reforms.

The OBPR was also directed by the responsible Ministers to report annually on compliance with the Regulatory Impact Statement System Guidelines, to inform the government thereby of the degree to which agencies have been applying the RIS system in the development of their regulatory proposals. In doing so, the OBPR has highlighted some of the key challenges for agencies in meeting the requirements of the RIS system and how the OBPR is assisting agencies to address these challenges and to develop better regulation.

The RIS system is an important process that will assist in achieving the government's goal of reducing regulatory burden, as it is designed to increase the rigour with which new regulation is made. The RIS Guidelines, administered by the Treasurer, describe the required procedures for developing regulation for Queensland Government agencies under the RIS system.

The RIS system requires regulatory agencies to submit all regulatory proposals to the OBPR to assess whether a Consultation RIS should be undertaken and if one is required, if it adequately meets the requirements of the RIS system. In the 12 months to 30 June 2013, only a small percentage of regulatory proposals have been considered likely to result in significant impacts, and therefore to warrant the preparation of a Consultation RIS. Of the 131 Preliminary Impact Assessments (PIAs) considered by the OBPR, only five were required to progress to the Consultation RIS stage.

For the RIS system to be effective in improving regulatory outcomes, it is necessary that it is integrated early in the policy development process. The OBPR has implemented a program of ongoing engagement with agencies, to develop a better understanding of the emerging legislative and regulatory priorities of their portfolios, and to provide training and lend early support with the application of regulatory analysis. Where the RIS process is embedded in the policy development processes of agencies, this should result in better regulatory outcomes. The OBPR's program of ongoing engagement with agencies will be further advanced through 2013–14.

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# 1 INTRODUCTION AND BACKGROUND

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## 1.1 Introduction

This is the first annual report of the OBPR's work in measuring the change in the burden of regulation in Queensland. It forms part of the Queensland Competition Authority's (QCA's) focus on the government's aim of reducing the burden of regulation by 20% by 2018.

The government has made a commitment to reduce regulatory burden on business and the community. As part of this commitment, the government has implemented several major reforms, resulting in the establishment of the OBPR within the QCA. The functions of the OBPR were established through changes to the *Queensland Competition Authority Act 1997* on 27 June 2012.

## 1.2 Ministerial Direction – regulatory burden

Following the establishment of the OBPR, on 3 July 2012, the QCA received a Ministerial Direction 'to investigate and report on a framework for reducing the burden of regulation, including a proposed framework for measuring the regulatory burden of legislation, with appropriate regulatory burden benchmarks against which Queensland Government departments may be assessed by the QCA on an annual basis'(p. 46). The context of this work was to be the government's target for the reduction in red tape and regulation. The Ministerial Directions are reproduced in **Appendix B**.

In response to this direction, the QCA published an Issues Paper in August 2012<sup>1</sup>, and sought comment from interested stakeholders (QCA 2012b). The Issues Paper canvassed a number of methods for measuring the regulatory burden, including the British Columbia (BC) approach of counting all regulatory requirements. The QCA received responses from 34 stakeholders.

In October 2012, the QCA published the *Interim Report on Measuring and Reducing the Burden of Regulation*,<sup>2</sup> recommending the BC approach of counting obligations to establish a baseline and measure progress towards the 20% reduction target (QCA 2012c).

On 19 February 2013, the Government responded to the QCA's Interim Report<sup>3</sup>. The Government's response indicated that the QCA should establish a baseline of the regulatory burden as at 23 March 2012, and that a modified BC approach should be one element of the baseline. The QCA was also requested to provide an annual report on agencies' progress towards the regulatory burden reduction target.

The government also requested delivery of a baseline count, together with recommended reduction targets for each agency. The government's response specified that measurement of burden reduction 'should use a basket of the measures to provide the government with the best information on the regulatory burden. The basket of measures should include page count, modified British Columbia approach and dollar cost.'(2013a: p.1)

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<sup>1</sup> Issues Paper – Measuring and Reducing the Burden of Regulation, August 2012, [www.qca.org.au/files/OBPR-QCA-IssuesPaper-MeasuringReducingBurdenRegulation-0812.pdf](http://www.qca.org.au/files/OBPR-QCA-IssuesPaper-MeasuringReducingBurdenRegulation-0812.pdf)

<sup>2</sup> Interim Report – Measuring and Reducing the Burden of Regulation, October 2012, [www.qca.org.au/files/OBPR-QCA-Report-InterimMRBurdenofRegulation-1112.pdf](http://www.qca.org.au/files/OBPR-QCA-Report-InterimMRBurdenofRegulation-1112.pdf)

<sup>3</sup> The Government's response is available on the QCA's website at [www.qca.org.au/files/OBPR-GOV-InterimReport-MRBR-0213.pdf](http://www.qca.org.au/files/OBPR-GOV-InterimReport-MRBR-0213.pdf)

In February 2013, the QCA published the *Final Report on Measuring and Reducing the Burden of Regulation*<sup>4</sup>. The Final Report addressed the government's response to the Interim Report and incorporated the results of further research and consultation.

In February 2013, the QCA commenced a BC style count of regulatory requirements in Queensland. This was a major undertaking, involving over 100,000 pages of regulation (including quasi-regulation) administered by 19 government departments. The QCA delivered the first baseline count, measuring requirements as at 23 March 2012, in April 2013. This first counting project had processed over 2,600 pages per working day; therefore it was not able to incorporate all relevant details, such as regulatory instruments split between departments.

The QCA undertook further refinement of the baseline count, and delivered an updated result in June 2013, in the *Final Report on Regulatory Requirements: Measurement and Targets for Queensland Government Departments*. This included both a baseline measurement and recommended reduction targets for each department. Cabinet approved the baseline and reduction targets in August 2013, noting that the numbers were subject to modification. The QCA further refined the baseline count after June 2013 in order to arrive at the current result. Details on the counting approach are set out in **Appendix C**.

Section 2 of this report presents the changes in the regulatory requirements count from 23 March 2012 to 30 June 2013.

### 1.3 Page count

In its October 2012 report, the QCA presented a page count of the regulatory baseline as at 23 March 2012. This page count focussed only on the regulatory instruments administered by the Office of Queensland Parliamentary Counsel (OQPC), mainly Acts and regulations. The count did not include guidelines, codes of practice and similar instruments administered by departments.

In July 2013, OQPC provided the QCA with a page count of its regulatory instruments as at 30 June 2013. This report presents the change over the period from the baseline date of 23 March 2012 (Section 3).

### 1.4 Dollar estimates

Consistent with the Government's response of 19 February 2013, the QCA sought to respond to the request for a dollar estimate of the net benefits of reforms undertaken up to 30 June 2013. Collecting data on the full scope of reforms is methodologically difficult, and would be prohibitively expensive (and place an undue load on departmental resources). This report therefore presents an illustrative sample of reforms, presented as case studies (Section 4).

### 1.5 Ministerial Direction – assessing regulatory impact statements

On 3 July 2012, the QCA also received a Ministerial Direction to assess the adequacy of Regulatory Impact Statements (RISs) submitted by departments. Furthermore, on 4 March 2013, the QCA received another Ministerial Direction, which transferred the remaining RIS functions from Queensland Treasury and Trade (QTT) to the QCA to advise agencies whether a RIS should be undertaken for regulatory proposals. The Ministerial Direction is reproduced in **Appendix A**.

Activity in relation to the assessment of RISs is presented in Section 6 of this report.

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<sup>4</sup> Final Report – Measuring and Reducing the Burden of Regulation, February 2013 (2013c)  
[www.qca.org.au/files/OBPR-GOV-FinalReport-MRBR-0313.pdf](http://www.qca.org.au/files/OBPR-GOV-FinalReport-MRBR-0313.pdf)



## 2 REGULATORY BURDEN – REQUIREMENTS COUNT

In the context of the government's aim to reduce the burden of regulation on the community, the regulatory requirements count has two main aims:

- to measure change in the burden of regulation over time. OBPR aims to achieve this by establishing a baseline at 23 March 2012, and then measuring the change at 30 June in each year, commencing in 2013.
- to influence future behaviour of regulators and policy-makers. This is achieved by signalling in advance that the requirements count will be reported as at 30 June each year. The Government has indicated that it will reinforce the effect on future behaviour by incorporating requirements count indicators in the performance agreements of Directors-General, as a means of measuring senior executive contributions to progress in reducing the burden of regulation.

In order to achieve its aims, the requirements count needs to satisfy three major conditions:

- (a) an acceptable level of accuracy in order to present regulators and policy-makers with credible outcomes
- (b) transparency, to allow verification of outcomes
- (c) a focus on regulation that imposes a burden on the community, rather than regulation that imposes a burden on government, or is otherwise not relevant to the government's policy intent. Table 1 gives further details of this focus.

**Appendix C** describes in detail the methods adopted by OBPR to ensure accuracy, credibility and relevance. Key features are as follows:

- (a) The counting process involved several cycles of providing results to departments and incorporating their comments. This included consultation to reach agreement between the QCA and departments on matters of principle.
- (b) The results were provided in spreadsheets, so that the results would be transparent to all departments, down to the smallest level of detail. A database program would have had technical advantages over a spreadsheet program but would not have been fully transparent.
- (c) The count was subject to an independent audit consisting of a 15% sample of the requirements, assuring an error rate below 3%. Full details of the audit process are described in **Appendix E**.
- (d) OBPR disaggregated regulatory requirements into specific categories, with detailed consideration of which categories should be included in the count in order to reflect the policy intention of reducing the burden of regulation on the community. Table 1 summarises the treatment of each category, with full details in **Appendix C**.

**Table 1: Categories included and excluded in the requirements count**

<i>Category</i>	<i>Recommendation</i>	<i>Comments</i>
Standard requirements	Include	These go to the core of the government's policy intent.
Government only (internal to department)	Exclude	Departments can choose to modify their own internal requirements without a government-wide process.
Government only (applied to other departments)	Exclude	Not part of government's policy intent. May be the subject of a future project.
Government owned corporations (GOCs)	Include	GOCs should align more closely with private sector companies.
Justice and policing	Exclude	Generally not part of government's policy intent. Unlikely that the OBPR would be able to provide useful scrutiny in any specific area.
Harmonised requirements	Include	Exclusion would send the wrong policy signal, and would allow gaming within the reduction program.
Fact sheets and other explanatory documents	Exclude	These do not impose additional requirements, but facilitate compliance. They may require separate scrutiny.
Voluntary codes of practice	Include	Codes are not voluntary where non-compliance has regulatory consequences. Exclusion could result in gaming.
Transitional provisions	Exclude	Transitional provisions do not impose an additional burden, and enhance transparency.

In achieving the government's 20% reduction target, the OBPR was aware that the target could not be applied equally to all departments due to differences in the nature of regulation across portfolios. **Appendix D** shows detailed considerations in setting portfolio targets. The most important factor was the proportion of harmonised regulation in each portfolio. Because harmonised regulation is more difficult to reduce, the OBPR applied a lower weighting to harmonised requirements, when setting departmental targets.

The OBPR also recommended low reduction targets (5%) for two departments: the Department of Premier and Cabinet (DPC) and the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs (DATSIMA) because of the particular nature of their regulation. Table 2 shows the final outcome of these considerations on individual departmental targets. These targets were approved by Cabinet on 12 August 2013<sup>5</sup>.

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<sup>5</sup> The figures shown in Table 2 are slightly different to the figures approved by Cabinet, but Cabinet made explicit allowance for a possible change in numbers due to further refinement of the requirements count.

**Table 2: Requirements count baseline and reduction targets for each department**

<i>Portfolio</i>	<i>Harmonised baseline</i>	<i>General baseline</i>	<i>Total baseline</i>	<i>Reduction target %</i>	<i>Total requirements reduction</i>
Aboriginal and Torres Strait Islander and Multicultural Affairs	0	1,291	1,291	5%	65
Agriculture, Fisheries and Forestry	8,830	11,773	20,603	17%	3,503
Communities, Child Safety and Disability Services	0	1,045	1,045	23%	240
Education, Training and Employment	4,845	6,758	11,603	17%	1,973
Energy and Water Supply	967	15,639	16,606	23%	3,819
Environment and Heritage Protection	797	13,831	14,628	23%	3,364
Health	10,149	16,569	26,718	18%	4,809
Housing and Public Works	1,558	11,918	13,476	22%	2,965
Justice and Attorney-General	6,944	47,889	54,833	21%	11,515
Local Government, Community Recovery and Resilience	0	1,108	1,108	23%	255
National Parks, Recreation, Sport and Racing	976	3,499	4,475	20%	895
Natural Resources and Mines	1,546	42,268	43,814	23%	10,077
Police and Community Safety	0	613	613	23%	141
Premier and Cabinet	0	234	234	5%	12
Science, Information Technology, Innovation and the Arts	102	269	371	19%	70
State Development, Infrastructure and Planning	0	8,594	8,594	23%	1,977
Tourism, Major Events, Small Business and the Commonwealth Games	0	189	189	23%	43
Transport and Main Roads	18,669	20,530	39,199	16%	6,272
Treasury and Trade	341	5,448	5,789	22%	1,274
<b>Total</b>	<b>55,724</b>	<b>209,465</b>	<b>265,189</b>	<b>20%</b>	<b>53,269</b>

Table 3 below shows the change in regulatory burden, as measured by requirements count, over the 15 months to 30 June 2013. Major features of the measured change include:

- The overall trend across government is a reduction in requirements of around 4% over 15 months. The current rate of reduction is therefore around the steady state rate that would be required to achieve the government's target over six years. However, as discussed further below, anticipated reforms will have a greater impact than the initial reforms captured in Table 3.
- Some departments show an increase in requirements of around 4-5%.
- Departments with small baselines can show percentage changes even where their actual change in requirements is not material. For example, the Department of Premier and Cabinet shows a 5% increase in requirements. This is a change of 11 requirements on the overall baseline of 265,189.

Some specific changes of interest include:

- The Department of Environment and Heritage Protection (DEHP) shows the biggest absolute decrease in requirements of 2,977. This represents a reduction of 20%, and is due largely to the suspension of the Queensland Coastal Plan and to streamlined paperwork requirements for mining and coal seam gas operations.
- The Department of Local Government, Community Recovery and Resilience (DLGCRR) shows the biggest percentage decrease in requirements of 40%. This is from a relatively small base, as DLGCRR has very little regulation affecting non-government stakeholders. The reduction is due to a streamlining of regulation applying to local government business entities, which in the requirements count fall into the same category as general business entities.
- The Department of Communities, Child Safety and Disability Services (DCCSDS) shows a reduction of 20%. This is from a small base, as most DCCSDS regulation applies to government or is of a justice and policing nature. The 20% reduction is due to a streamlining of disability services standards and disability advocacy standards.
- The Department of Transport and Main Roads (DTMR) shows the largest absolute increase in requirements. The largest portion of this is due to the introduction of the *Heavy Vehicle National Law Act 2012*, which is a harmonised instrument.
- The Department of Premier and Cabinet (DPC) shows the largest percentage increase in requirements of 5%. As previously noted this is a result of DPC's very small baseline and is not a significant part of the broader picture. The increase of 11 requirements is due to changes in the Lobbyists Code of Conduct.

**Table 3: Tracking the changes in requirements count from 23 March 2012 to 30 June 2013**

<i>Portfolio</i>	<i>Authoritative baseline</i>			<i>Annual Report</i>			<i>Difference</i>			
	<i>Harmonised</i>	<i>General</i>	<i>Total</i>	<i>Harmonised</i>	<i>General</i>	<i>Total</i>	<i>Harmonised</i>	<i>General</i>	<i>Total</i>	<i>% change</i>
Aboriginal and Torres Strait Islander and Multicultural Affairs	0	1,291	1,291	0	1,289	1,289	0	-2	-2	0%
Agriculture, Fisheries and Forestry	8,830	11,773	20,603	8,918	12,504	21,422	88	731	819	4%
Communities, Child Safety and Disability Services	0	1,045	1,045	0	831	831	0	-214	-214	-20%
Education, Training and Employment	4,845	6,758	11,603	4,845	6,663	11,508	0	-95	-95	-1%
Energy and Water Supply	967	15,639	16,606	967	13,809	14,776	0	-1,830	-1,830	-11%
Environment and Heritage Protection	797	13,831	14,628	797	10,854	11,651	0	-2,977	-2,977	-20%
Health	10,149	16,569	26,718	10,289	15,160	25,449	140	-1,409	-1,269	-5%
Housing and Public Works	1,558	11,918	13,476	1,590	11,891	13,481	32	-27	5	0%
Justice and Attorney-General	6,944	47,889	54,833	6,938	45,336	52,274	-6	-2,553	-2,559	-5%
Local Government, Community Recovery and Resilience	0	1,108	1,108	0	660	660	0	-448	-448	-40%
National Parks, Recreation, Sport and Racing	976	3,499	4,475	946	3,240	4,186	-30	-259	-289	-6%
Natural Resources and Mines	1,546	42,268	43,814	1,546	40,777	42,323	0	-1,491	-1,491	-3%
Police and Community Safety	0	613	613	0	613	613	0	0	0	0%
Premier and Cabinet	0	234	234	0	245	245	0	11	11	5%
Science, Information Technology, Innovation and the Arts	102	269	371	102	269	371	0	0	0	0%
State Development, Infrastructure and Planning	0	8,594	8,594	0	8,000	8,000	0	-594	-594	-7%
Tourism, Major Events, Small Business and the Commonwealth Games	0	189	189	0	189	189	0	0	0	0%
Transport and Main Road	18,669	20,530	39,199	19,881	20,917	40,798	1,212	387	1,599	4%
Treasury and Trade	341	5,448	5,789	341	5,378	5,719	0	-70	-70	-1%
<b>Total</b>	<b>55,724</b>	<b>209,465</b>	<b>265,189</b>	<b>57,160</b>	<b>198,625</b>	<b>255,785</b>	<b>1,436</b>	<b>-10,840</b>	<b>-9,404</b>	<b>-4%</b>

It is important to note that the requirements count is a proxy measure and does not capture all changes in the regulatory burden. For example, the Department of Energy and Water Supply (DEWS) has introduced reforms to dam safety assessment which reflect better regulatory practice and have produced savings for industry estimated by DEWS to be \$150,000 per annum. Previously all water supply dams which were more than 8 metres in height and met certain minimum capacity requirements were required to automatically undertake Failure Impact Assessments (FIAs) to determine if they had people at risk if they fail. The height requirement was increased to 10 metres, and the minimum capacity requirements were increased as well. The overall effect was that an estimated 180 dams, which would not have put people at risk if they fail, no longer have to do FIAs at a cost of around \$10,000 to \$50,000 – a significant saving.

However, the benefits of this reform are not reflected in the requirements count. The reason is that the changes to reporting requirements are a change of scope, not a change in the requirements themselves. While the requirements count is good as a proxy measure of regulatory complexity, it has the weakness of not capturing changes in the scope of regulation.

It is also worth noting that many departments are planning significant reforms that are anticipated to reduce their requirements count in the future. For example, the Department of Agriculture, Fisheries and Forestry (DAFF) is undertaking a major revision of biosecurity provisions. The complexity of these changes entails implementation over a number of years, so the significant reduction is not captured in the current report, but can be expected to be reflected gradually in future reports.

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### 3 REGULATORY BURDEN – PAGE COUNT

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The government requested that the OBPR report on the change in the total number of pages of regulation as one of the measures of regulatory burden. Changes in the number of pages of legislation can provide an impression of the level of legislative activity over a period, but give no indication of the effect of legislation.

Table 4 shows the change in page count from the baseline date of 23 March 2012 to the annual reporting date of 30 June 2013. Exact page count numbers depend on the approach taken, particularly with regard to elements such as the table of contents, and mirror legislation not passed by the Queensland Parliament. The page count numbers presented in this chapter are supplied by the OQPC, using a consistent approach over time to ensure that page count numbers remain comparable.

Table 5 compares the change in page count with the change in requirements count and shows there is little, if any, correlation between the two. For example, the page count for the Department of Communities, Child Safety and Disability Services (DCCDS) shows a 7% increase, while the requirements count shows a 20% decrease.

The major reason for this is that the requirements count distinguishes between categories of requirements. As set out in Table 1 above, categories such as government-only requirements, or justice and policing requirements, are excluded from the requirements count baseline, and changes in those categories are not measured in the annual report count as at 30 June 2013.

The page count, on the other hand, makes no distinction between types of regulation. It also does not distinguish between regulation that creates regulatory obligations and regulation with other purposes (such as regulation setting out rights and powers).

The page count may sometimes be taken as a rough indicator of the complexity of regulation. Arguably, the requirements count is more useful, in this regard, as stakeholders are likely to be more affected by the number of obligations they must take into consideration, rather than the number of pages setting out these obligations.

**Table 4: Change in page count from 23 March 2012 to 30 June 2013**

<i>Department</i>	<i>23-Mar-12</i>	<i>30-Jun-13</i>	<i>Change</i>	<i>% Change</i>
Aboriginal and Torres Strait Islander and Multicultural Affairs	546	548	2	0
Agriculture, Fisheries and Forestry	3,652	3,731	79	2
Communities, Child Safety and Disability Services	1,858	1,992	134	7
Education, Training and Employment	2,291	2,213	-78	-3
Energy and Water Supply	2,198	2,264	66	3
Environment and Heritage Protection	3,299	3,230	-69	-2
Health	4,408	3,649	-759	-17
Housing and Public Works	2,799	2,825	26	1
Justice and Attorney-General	20,900	20,875	-25	0
Local Government, Community Recovery and Resilience	1,333	1,172	-161	-12
National Parks, Recreation, Sport and Racing	1,492	1,492	0	0
Natural Resources and Mines	10,125	10,104	-21	0
Police and Community Safety	2,716	2,741	25	1
Premier and Cabinet	957	978	21	2
Science, Information Technology, Innovation and the Arts	595	600	5	1
State Development, Infrastructure and Planning	3,471	3,503	32	1
Tourism, Major Events, Small Business and the Commonwealth Games	119	153	34	29
Transport and Main Roads	5,365	5,556	191	4
Treasury and Trade	4,312	4,381	69	2
<b>Total</b>	<b>72,436</b>	<b>72,007</b>	<b>-429</b>	<b>-1</b>



**Table 5: Change in page count compared to change in requirements count**

<i>Portfolio</i>	A	B
	<i>Page Count Changes</i>	<i>Requirements Count Changes</i>
	<i>% change 23 March 2012 to 30 June 2013</i>	<i>% change 23 March 2012 to 30 June 2013</i>
Aboriginal and Torres Strait Islander and Multicultural Affairs	0	0
Agriculture, Fisheries and Forestry	2	4
Communities, Child Safety and Disability Services	7	-20
Education, Training and Employment	-3	-1
Energy and Water Supply	3	-11
Environment and Heritage Protection	-2	-20
Health	-17	-5
Housing and Public Works	1	0
Justice and Attorney-General	0	-5
Local Government, Community Recovery and Resilience	-12	-40
National Parks, Recreation, Sport and Racing	0	-6
Natural Resources and Mines	0	-3
Police and Community Safety	1	0
Premier and Cabinet	2	5
Science, Information Technology, Innovation and the Arts	1	0
State Development, Infrastructure and Planning	1	-7
Tourism, Major Events, Small Business and the Commonwealth Games	29	0
Transport and Main Road	4	4
Treasury and Trade	2	-1
<b>Total</b>	<b>-1</b>	<b>-4</b>

## 4 REGULATORY BURDEN – CASE STUDIES

### 4.1 Reporting on the economic benefits of reform

OBPR has quantified the impacts of six recent regulatory reforms with the assistance of individual government departments. The case study approach was seen as a pragmatic way of providing an indication to the community of the benefits of a sample of recent reforms undertaken by the Queensland Government given that the cost of doing so for all regulatory reforms would be prohibitive. As departments become more practised at quantifying the expected benefits and costs of regulatory proposals as part of the RIS system, it is expected that rather than quantifying impacts of regulations after they have been implemented, in the future OBPR will be able to report on the expected benefits and costs for regulatory proposals that have been quantified in regulatory impact statements.

Table 6 below summarises the net benefits of the six recent reforms designed to reduce regulatory burden. The first three reflect policy changes undertaken by the government which resulted in the removal of regulatory requirements. The last three refer to measures taken to simplify and streamline regulatory processes.

**Table 6: Case study summary**

<b>Case Study 1 – Summary</b>	<b>Net benefits (Change in Policy)</b>	<b>Evaluation</b>
Removing the requirement for newly constructed houses to install rainwater tanks.	The benefit to the community is the cost saving of removing mandatory tank requirements. The gross benefit is \$1.6 billion over 40 years. The costs of removing mandatory tank requirements include the increased reliance on bulk water sources and foregone environmental benefits. The cost is \$518.1 million over 40 years. The net benefit is \$1.1 billion over 40 years.	The costs of the mandatory requirement to install rainwater exceeded the benefits to the community.
<b>Case Study 2 – Summary</b>	<b>Net Benefits (Change in Policy)</b>	<b>Evaluation</b>
Removing registration requirements for speech pathologists and dental technicians.	The benefit to individual speech pathologists and dental technicians is the cost saving associated with removing annual registration fees. The benefits are \$274 and \$291 per annum, respectively. The benefit to Government is the cost saving of not subsidising the registration scheme. The benefit is \$900,000 per annum.	The costs to industry and Government of registering speech pathologists exceeded the benefits to the community.
<b>Case Study 3 – Summary</b>	<b>Net Benefits (Change in Policy)</b>	<b>Evaluation</b>
Closure of the Queensland Gas Scheme (QGS).	The net benefit is estimated to be \$290 million over 5 years. The benefits are potential cost savings to the community and regulated entities associated with the closure of the QGS. These benefits are \$278 million and \$12 million, respectively.	The closure of the QGS will reduce the burden of regulation for regulated entities and is expected to put some downward pressure on electricity prices.
<b>Case Study 4 – Summary</b>	<b>Net Benefits (No Change in Policy)</b>	<b>Evaluation</b>
Streamlining the development application and assessment process for selected projects.	The benefits are the cost saving to developers. The benefit is \$135.5 million over 10 years. The cost is the potential adverse consequences of streamlining development applications and assessments. The potential cost has not been quantified.	<i>The Economic Development Act 2012</i> reduces regulatory burden associated with the development application and assessment process for selected projects.
<b>Case Study 5 - Summary</b>	<b>Net Benefits (No Change in Policy)</b>	<b>Evaluation</b>
Simplifying regulatory approvals for the coal mining industry.	The net benefit is \$200.4 million over 40 years. The benefits are cost savings to industry and Government. The benefits are \$129.9 million and \$70.5 million, respectively.	Reduces the regulatory burden associated with coal mining approvals.
<b>Case Study 6 - Summary</b>	<b>Net benefits (No Change in Policy)</b>	<b>Evaluation</b>
Simplifying regulation of plumbing works.	The net benefit for 2012–13 and 2013–2014 is \$6 million and \$18 million, respectively. The net benefit is a cost saving to industry.	Simplifying the regulation of plumbing works results in substantial reduction in regulatory burden.

## 4.2 Case Study 1: Removing the requirement for mandatory installation of rainwater tanks

### Overview

The Queensland Development Code (QDC) Mandatory Parts 4.2 and 4.3 were introduced by the previous Queensland Government in 2007 and 2008 as part of a range of water conservation strategies in response to dwindling water supplies in the south-east of the State.

These required local governments to achieve water saving targets for new houses and alternative water sources for commercial buildings. To achieve these targets, water had to be sourced by means other than the use of reticulated town water supply. In new houses, the supply source is primarily rainwater tanks.

However, there was concern that the Government was unnecessarily adding to the expense of home construction and ownership. Therefore, to fulfil its commitments to lower the cost of living for families, the Government announced in its Six-Month Action Plan (July–December 2012) that a review of laws mandating rainwater tanks on new buildings would be undertaken.

### Review of regulatory requirement

The OBPR was directed in September 2012 to investigate and report on the repeal of the mandatory requirement and advise whether this would be of net benefit to the community as a whole.

This included a review of the cost to homeowners and businesses of complying with the requirement and the benefits of deferring bulk water infrastructure investment. The OBPR was also directed to advise on whether any other net benefits that had not been identified could be incorporated.

### Benefits and costs

In its report, the OBPR undertook a cost-benefit analysis of the mandatory requirement to install rainwater tanks in the South-East Queensland (SEQ) region.

### Benefits

The installation of rainwater tanks helps to reduce demand from bulk water sources such as dams. It was calculated that the removal of mandatory rainwater tank installations, based on water use data, may increase demand enough for bulk water augmentation to be required three years earlier than if rainwater tanks remained mandatory. Increased demand also increases the operating expenditure of the bulk water entity, such as the additional treatment of water supplies.

Rainwater tanks may also play a part in reducing environmental pollutants from stormwater runoff. For example, in new housing developments bioretention areas are commonly developed to achieve pollutant load reduction targets. These areas collect stormwater runoff and remove contaminants and sedimentation. As rainwater tanks can produce a reduction in pollutants, it is plausible that rainwater tanks can reduce the size of a development's bioretention areas.

## Costs

The primary cost of the requirement was the cost to purchase and internally plumb the rainwater tank into a new home. There are also additional ongoing operating costs including the electricity costs of pumping and required maintenance of the tank and its fittings.

## Results of analysis

The OBPR concluded that in SEQ the costs of the mandatory requirement to install rainwater clearly exceeded the benefits to the community. This was consistent across a range of scenarios to reflect upper, medium and lower bounds of rainwater tank costs and infrastructure and environmental benefits.

Under a medium benefits scenario, the net cost was calculated at \$1.13 billion over 40 years. Even under a higher benefits scenario, which reduced the cost of purchasing and installing a tank but increased the potential environment benefit, there was a likely net cost of over \$500 million. This is detailed below in Table 7.

**Table 7: Summary of SEQ cost-benefit analyses (\$m) present values in 2012**

	<i>Low Benefits</i>	<i>Medium Benefits</i>	<i>High Benefits</i>
Benefits	224.4	518.1	1,030.7
Costs	1,706.7	1,645.3	1,553.2
Net Present Value	-1,482.3	-1,127.2	-522.5

*Source: Queensland Competition Authority (2012a), Assessment of Proposed Repeal of Water Saving Regulations, November.*

Based on the SEQ analysis, extension to projected new dwellings state-wide could potentially generate substantial additional benefits. However, costs and benefits may vary between different areas of the state, leading to different outcomes.

Consequently, the OBPR's report also considered the city of Cairns to determine whether there would be a different result outside SEQ. Under a medium benefits scenario, the mandatory requirement represented an estimated net cost of \$57 million over 40 years.

While the mandatory requirement has been removed, new homeowners still have the ability to voluntarily install a rainwater tank. The government has announced that councils may be able to choose to retain mandatory rainwater tank requirements in the future, provided they can demonstrate a net benefit to the community.

## Evaluation

On 14 December 2012, the Minister for Housing and Public Works announced that the mandatory requirement for newly constructed residential and commercial properties to install water saving devices would be repealed. This came into effect on 1 February 2013.

Based on the OBPR's analysis, the removal of the requirement, if passed directly on to new homeowners who choose not to install a rainwater tank, could deliver an upfront saving of approximately \$3,500.

Considering the costs and benefits to the community of rainwater tank installations for new houses, the potential net savings from the removal of these requirements is estimated at \$1.13 billion over 40 years.

## 4.3 Case study 2: Removing registration requirements for speech pathologists and dental technicians

### Overview

On 27 March 2013, the *Dental Technicians Registration Act 2001* and the *Speech Pathologists Registration Act 2001*, which govern the registration of speech pathologists and dental technicians in Queensland were repealed. At the time, there were 1,522 registered speech pathologists and 878 registered dental technicians.

This case study examines the impacts of the cessation of professional registration of speech pathologists and dental technicians.

### Issue

Occupational regulation is established by government to protect the public by ensuring the quality of professional services through mandatory entry requirements and business practices. The Council of Australian Governments decided in 2008 to establish a single National Registration and Accreditation Scheme for regulation of health professions. This provided an opportunity for the Queensland Government to review state occupational registration schemes for health professions, including dental technicians and speech pathologist to ensure benefits to the public outweighed the costs of registration.

By 1 July 2012, 14 health professions became nationally regulated and speech pathologists and dental technicians were the only remaining professions registered under the Queensland scheme. These two professions were deemed by the Australian Health Workforce Ministerial Council to have 'either a very low, or no risk to the public' and therefore did not meet the criteria to transition to the national registration scheme. At the time Queensland was the only Australian jurisdiction that registered these professions.

Consequently, the Queensland Government completed an assessment of the potential impacts of abolishing the professional registration scheme for the two professions. The assessment concluded that deregistration of either profession was unlikely to represent risks to the community. The assessment also recognised that registration of professionals working with children and disabled adults would be maintained under another state regulatory framework which requires all individuals working with children and disabled adults to undergo criminal history checks (and obtain a 'blue card' or 'yellow card').

### Financial Implications

Historically, Queensland's registration scheme for speech pathologists and dental technicians was self-funded by registrants. Queensland Health has advised that the existing registration fees would have been insufficient to cover the costs of administration of the scheme without a government subsidy (or increase in registration fees) of \$900,000 per annum.

### Benefits and costs

#### Benefits

The OBPR has calculated that this regulatory reform will save the industry and government \$15.29 million over ten years in registration fees and government subsidisation. The key benefits to the industry include annual savings of \$274 per speech pathologist and \$291 per dental assistant.

### Costs

Speech pathologists and dental technicians working with children or disabled adults are required to obtain a blue or yellow card. The card costs \$72.50 and is valid for three years. Previously, these professionals were exempt from this requirement due to their registered health practitioner status.

Speech pathologists wishing to register with Medicare are required to have a practising membership with Speech Pathology Australia. Annual membership with Speech Pathology Australia costs \$517. Prior to the repeal of the registration regulation, registered speech pathologists were exempt from requiring Speech Pathology Australia membership for the purposes of Medicare. However, Queensland Health expects that most private practitioners hold Speech Pathology Australia membership regardless of Medicare registration, as it gives members access to professional and clinical guidelines and ongoing professional development.

## 4.4 Case study 3: Energy market restrictions – Queensland Gas Scheme

### Overview

This case study examines and quantifies the potential impacts of the closure of the Queensland Gas Scheme (QGS). The QGS was established in 2005 to promote the state's gas industry and reduce greenhouse gas emissions.

A review by the Queensland Government identified that the QGS has met its objective in maturing the gas industry and duplicates the function of the Australian carbon pricing mechanism (CPM). Based on the findings of this review, the Government decided to close the QGS on 31 December 2013.

The potential cost saving due to the closure of the QGS is estimated to be between \$290 million and \$633.6 million over 5 years.

### Background

Under the QGS, liable parties are required to source a prescribed percentage of their electricity from gas-fired generation. The liable parties are comprised of electricity retailers and large industrial users of electricity. The liable load of electricity is calculated based on a prescribed percentage (currently 15%) of the electricity delivered by retailers to its customers and used by large industrial customers.

The participation of eligible gas generators in the scheme is optional. Accreditation under the QGS will be granted to a generator on the basis that it does or will generate electricity:

- (a) from an eligible fuel source
- (b) above a baseline (representing existing gas-fired generation as at May 2000)
- (c) which supports electricity load in Queensland.

Accredited generators can create Gas Electricity Certificates (GECs) for each megawatt-hour (MWh) of eligible gas-fired electricity they produce.

Liable parties are required to purchase and surrender the appropriate number of GECs to the regulator (Department of Energy and Water Supply) in order to meet their obligation under this scheme each year. The GECs are transferable and a liable party can purchase them from another party.

The trading of GECs offers accredited generators an additional revenue stream, which offsets the higher cost of gas-fired generation relative to coal-fired generation. This arrangement creates an incentive for gas-fired generation of electricity by making it more cost-effective relative to coal-fired generation.

Further details on the operation of the QGS are available at

[www.business.qld.gov.au/industry/energy/gas/queensland-gas-scheme](http://www.business.qld.gov.au/industry/energy/gas/queensland-gas-scheme)

## Issues

After the introduction of the Australian Government's carbon pricing mechanism (CPM) in July 2012, the Queensland Government conducted a review of the QGS.

It identified that the QGS would likely duplicate the function and the expected impacts of the CPM in putting a price on carbon emissions.

The review also concluded that the QGS had met one of its key objectives, which is to establish a mature gas industry in the state. The Department of Energy and Water Supply (DEWS) noted that it has successfully diversified Queensland's energy mix towards greater use of gas. In its 2012 annual report on the QGS, DEWS identified that, as a proportion of Queensland's electricity generation mix, gas-fired electricity generation has increased from around 2% in 2005 to the current level of almost 20%<sup>6</sup>.

DEWS also noted that the QGS has assisted in encouraging the development of new gas sources and infrastructure in the state.<sup>7</sup> According to the Australian Government Department of Resources, Energy and Tourism, Queensland's gas production has increased from 71 petajoules (PJ) in 2004–05 to 243 PJ in 2010–11.<sup>8</sup>

However, it is unclear to what extent the greater use of gas in Queensland's generation mix and the growth in the state's gas production could be attributed to the QGS.

Given the government's assessment that the QGS achieved its objective in maturing the state's gas industry and to avoid duplicating the function of the CPM, it announced that it would close the scheme on 31 December 2013.

The government expects that closure of the scheme will reduce the burden of regulation and lower the cost of living by placing a degree of downward pressure on electricity prices.

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<sup>6</sup> Queensland Gas Scheme 2012 Liab Year Annual Report, [www.business.qld.gov.au/\\_\\_data/assets/pdf\\_file/0009/9198/2012-annual-report.pdf](http://www.business.qld.gov.au/__data/assets/pdf_file/0009/9198/2012-annual-report.pdf)

<sup>7</sup> Queensland Gas Scheme, [www.business.qld.gov.au/industry/energy/gas/queensland-gas-scheme](http://www.business.qld.gov.au/industry/energy/gas/queensland-gas-scheme)

<sup>8</sup> Energy in Australia 2011, [www.ret.gov.au/energy/Documents/facts-stats-pubs/Energy-in-Australia-2011.pdf](http://www.ret.gov.au/energy/Documents/facts-stats-pubs/Energy-in-Australia-2011.pdf)  
Energy in Australia 2012, [www.bree.gov.au/documents/publications/energy-in-aust/energy-in-australia-2012.pdf](http://www.bree.gov.au/documents/publications/energy-in-aust/energy-in-australia-2012.pdf)

## Overview of the methodology of analysis

A cost-benefit analysis was undertaken to quantify the potential impacts of the closure of the QGS.

Three key potential cost savings were identified in the analysis, as summarised in Table 8 below.

**Table 8: Potential cost savings due to closure of scheme**

<i>Stakeholder</i>	<i>Potential Cost Savings</i>
<i>Community</i>	<i>Reduced cost to community associated with transitioning to a more cost efficient electricity generation mix</i>
<i>Regulated Entities</i>	<i>Reduced cost to regulated stakeholders associated with the removal of registration , reporting and fee requirements under the QGS</i>
<i>Government</i>	<i>Reduced cost to government associated with the removal of the administration and enforcement of the QGS</i>

The forecasts for the Planning Scenario (PS) and Slow Rate of Change scenario (SRC) developed by the Australian Energy Market Operator (AEMO) were adopted for the purpose of our analysis.

The PS is based on AEMO's best estimate of future directions of major global and local drivers in the energy market. It accounts for the Australian Treasury's core policy scenario carbon price. Findings derived using the PS's forecasts will be compared against results derived from the SRC's forecasts, which were modelled as a sensitivity reflecting slower economic growth and a carbon price which effectively declines to zero after an initial two-year carbon price period.<sup>9</sup>

On this basis, two base cases with QGS in force were developed for comparison with two alternative cases where QGS was removed.

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<sup>9</sup> Australian Energy Market Operator(2012), 2012 Scenario Descriptions, January, [www.aemo.com.au /planning/2418-0005.pdf](http://www.aemo.com.au/planning/2418-0005.pdf)



The key assumptions and inputs adopted in this modelling are summarised below:

**Table 9: Key assumptions and inputs**

<i>Assumption Type</i>		<i>Assumption/Input</i>
General Assumptions	Base Year of Analysis	2013-14
	Evaluation Period	5 years (2013-14 till 2017-18)
	Real Discount Rate	7%
	Inflation Rate	2.5%
Scenarios	Planning (PS)	AEMO's scenario reflecting the best estimate of future directions of major global and local drivers in the energy market.
	Slow Rate of Change (SRC)	AEMO's scenario reflecting primarily a slower economic growth and a carbon price which effectively declines to zero after an initial two-year carbon price period in the energy market.
Projections	Electricity Demand	Electricity demand in Queensland forecast by AEMO for both PS and SRC were adopted.
	Gas-fired Electricity Generation (with QGS)	Accredited generators were assumed to generate enough electricity to create the minimum number of GECs required for liable parties to fulfil their obligations (under both PS and SRC). This assumption enabled us to derive the assumed gas generation of electricity.
	Gas-fired Electricity Generation (without QGS)	Optimised electricity generation mix by technology type (without QGS) forecast by AEMO for both PS and SRC were adopted.
	Short Run Marginal Cost (SRMC) of Generators	SRMC for coal- and gas-fired generators (under both PS and SRC) were derived using technical parameters of generators, fuel costs and carbon pricing scenarios obtained from AEMO.
	Reporting and Fee Requirements under QGS	Costs associated with mandatory periodic reporting and annual fees payable to the regulator borne by regulated entities under the QGS.
	Administration of QGS	Administrative cost of QGS consists of employee related cost and the cost involved in operating and maintaining a GEC registry.

For further details on the methodology framework, inputs and rationale behind the assumptions adopted please refer to the QCA's *Findings, Methodology, Inputs and Assumptions – Queensland Gas Scheme Case Study* (2013a).

## Costs and Benefits

**Table 10: Summary of results – QGS case study**

<i>Stakeholder</i>	<i>Potential Cost Savings over the next five years (PV, 2013-14 \$million )</i>	
	<i>Planning Scenario (PS)</i>	<i>Slow Rate of Change Scenario (SRC)</i>
<i>Community</i>	278	622.1
<i>Regulated Entities</i>	12	11.5
<i>Total</i>	290	633.6

The 5 year Present Value (PV) of the potential cost savings of the closure of the QGS are estimated to be \$290 million under the Planning Scenario (PS) and \$633.6 million under the Slow Rate of Change Scenario (SRC).

These potential cost savings can be primarily attributed to reduced cost to the community associated with transitioning to a more cost efficient electricity generation mix, as a result of the closure of the QGS.

Regulated entities accrue \$12 million under PS and \$11.5 million under SRC of these potential cost savings. The potential cost savings accrued by regulated entities are due to the removal of registration, reporting and fee requirements under the QGS.

The government will also experience reduced cost from the removal of the requirement as administrator and enforcer of the QGS. It is estimated that the government will reduce its expenditure by \$1.4 million in present value terms over 5 years for both scenarios.

However, given that cost of administration and enforcement of the QGS is fully funded by the fees paid by regulated entities, this reduced governmental cost has been captured under the savings accrued by regulated entities.

For detailed breakdown of the results, please refer to QCA's *Findings, Methodology, Inputs and Assumptions – Queensland Gas Scheme Case Study* (2013a).

## Evaluation

The closure of the QGS will reduce the burden of regulation for regulated entities and is expected to exert downward pressure on electricity prices.

It is important to note that this analysis does not model the electricity pricing implications due to the closure of the scheme. Instead, the analysis seeks to model the minimum cost borne by society due to a less cost efficient electricity generation mix under the scheme. However, the potential cost savings do not necessarily denote a decrease in future electricity prices as there are many other more significant cost drivers in the energy market which affect prices.

## 4.5 Case study 4: Assessing the impact of the *Economic Development Act 2012* on development projects

### Overview

This case study assesses the impact of the *Economic Development Act 2012* (EDA) on selected development projects against the base case under the *Sustainable Planning Act 2009* (SPA). Development projects assessed under the EDA are subject to a streamlined application and assessment process. The benefits of streamlining development processes are estimated to be \$135.5 million over 10 years. This assumes an equal or higher level of assurance that approved projects are in the general interest of the wider community, when compared with standard processes.

### Issue

The SPA provides the framework for the planning and assessment of development projects. For some projects, the SPA framework can be unnecessarily onerous. This may delay the delivery of important development projects or discourage investors from undertaking a particular project altogether.

### Initiative

The EDA allows specific sites to be declared Priority Development Areas. Priority developments undergo a streamlined application and assessment process compared to SPA. The streamlined assessment process under the EDA is achieved by removing:

- the requirement for development applications to be referred to specialist state agencies for assessment (e.g. the Department of Environment and Heritage Protection)
- the right of third parties to appeal the development assessment decision in the Planning and Environment Court.

The removal of these elements places additional importance on the robustness of the assessment process under the EDA.

### Assessment

**Table 11: Key impacts of the EDA**

<i>Stakeholder</i>	<i>Benefits</i>	<i>Costs</i>
Community	Increased incentives for developers to undertake projects leading to higher quality development at reduced costs	Increased risk of approving development that imposes a net cost on the community
Government	Reduced cost to government associated with planning and assessment - \$13.3 million over 10 years	
Developers	Reduced cost to developers associated with planning and assessment - \$20.5 million over 10 years Avoided project delay costs - \$101.7 million over 10 years	

### Benefits and costs

#### Benefits

The 10-year Present Value (PV) of the benefits of the EDA planning and assessment process is estimated to be \$135.5 million or \$17.5 million discounted over 10 years. These quantified

benefits can primarily be attributed to the development costs avoided by removing referral agency requirements and third party appeal rights.

Developers accrue \$122.2 million of these benefits, including \$101.7 million avoided holding costs associated with projects delays. The remaining \$20.5 million is due to lower costs incurred during the development application and assessment process. Cost savings under the EDA are avoided planning, assessment (e.g. responding to information requests from referral agencies) and appeal costs (e.g. legal costs).

Benefits to the government in terms of cost savings are estimated at \$13.3 million over 10 years. Cost savings comprise reduced effort and expenses that result from removing referral agencies and appeals processes.

In addition to the benefits quantified above, there may also be benefits to the community that are unquantifiable. For example, the streamlined process may increase incentives for developers to undertake projects leading to higher quality development at reduced costs.

### Costs

There are potential adverse consequences associated with removing referral agencies and appeals processes. Planning processes are important for preventing development projects that are not in the interest of the wider community. Though it has not been assessed, there is a theoretical risk that the EDA may represent some trade-off between streamlined processes and increased risk of approving developments that impose unintended costs on the community.

### Evaluation

The EDA reduces regulatory burden associated with the development application and assessment process for selected projects. The benefits of reducing regulatory burden are substantial. However, it is important to note that, in some cases, reducing the burden of regulation may also increase the risk of undesirable outcomes. These risks should be considered when implementing red-tape reduction initiatives. For further details please refer to Synergies' report, *Impact assessment of the planning and development assessment processes under the Economic Development Act 2012*.

## 4.6 Case study 5: Simplifying regulatory approvals for the coal mining industry

### Overview

Recent legislative amendments to allow the Minister to grant and renew coal mining leases, along with a more streamlined environmental approvals process, have reduced delays for coal mining projects and will continue to do so. The net benefit of these key amendments as it relates to the coal mining sector is estimated to be \$200.4 million.

Streamlining the permit approvals process is an important initiative of the Queensland Government to reduce red tape for the coal mining and exploration industry. The project commenced in January 2009 and over the past five years the Government launched Mines Online and the MyMinesOnline to facilitate a faster and more integrated applications process and introduced *Mines Legislation (Streamlining) Amendment Act 2012*. A key change is to allow the Minister to grant and renew coal mining leases. This is complementary to the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which has created a single and fast-tracked process for obtaining environmental approvals. These amendments are a part of an ongoing process to reduce regulatory burden.

### Description

The purpose of this case study is to estimate the net benefits of the *Mines Legislation (Streamlining) Amendment Act 2012* and *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* as it relates to Queensland's coal mining industry. The methodology involves:

- a review of the key amended Acts, the *Mineral Resources Act 1989* and *Environmental Protection Act 1994*
- a limited survey of the coal mining industry to understand how the amendments translate into time savings
- the development of a cash-flow analysis model to capture the time value of an earlier return on investments and earlier receipt of royalty payments.

### Review of regulatory requirements and consultation with departments

A review of the legislation suggests that three key amendments are the primary drivers underlying the streamlining of processes – they will deliver the largest savings through reduced time delays. The three key amendments are listed below.

**Table 12: Key legislative changes for the coal mining sector**

<i>Key legislative amendment</i>
The Minister may grant and renew mining leases (previously undertaken by the Governor in Council).
If an Environmental Impacts Statement (EIS) has been undertaken as a part of a project and the project has not changed, then the proponent will not have to duplicate the information in the environmental authority application.
If an EIS has been undertaken as a part of a project and the environmental risks have not changed, then the proponent will not be required to replicate the public notification process.

## Evaluation

A discounted cash-flow analysis was undertaken to estimate the net benefit, firstly, to the Queensland coal mine owners in the form of an earlier return on investment; and secondly, to the government in the form of an earlier receipt of royalty payments. It should be noted, however, that this approach does not capture the wider economic, social or environmental benefits and the cost of compliance. A survey of industry members and consultation with departments suggests that the savings from reduced delays, while important, are highly variable and difficult to ascertain.

The QCA's modelling shows that a three-month time saving is estimated to deliver savings of \$129.9 million to mine owners and \$70.5 million to the government over 40 years. This is based on the following assumptions:

- (a) a typical coking/thermal coal mine of 3.4 million tonnes per annum (mtpa)
- (b) real discount rate of 4.4%
- (c) a forecast of 24 new mines (3.4 mtpa each) coming online over the next 40 years adding approximately 81.3 mtpa by year 2053
- (d) coking coal operational cost of \$97.8 per tonne, at a sale price of \$165 per tonne
- (e) a thermal coal operational cost of \$83.9 per tonne, at a sale price of \$104.5 per tonne
- (f) royalty paid to Government is the royalty rate multiplied by revenue minus deductions.

The delay period was varied to test the sensitivity of the results to this important parameter. The results are presented in Table 13 below.

**Table 13: Mining reforms results**

<i>Delay period</i>	<i>Mine owners \$ millions</i>	<i>Government \$ millions</i>	<i>Total \$ millions</i>
One month	43.1	23.4	66.5
Two months	86.5	46.9	133.3
Three months	129.9	70.5	200.4
Four months	173.5	94.1	267.6
Five months	217.3	117.8	335.1

For further details on the methodology framework, inputs and rationale behind the assumptions adopted please refer to the QCA's *Findings, Methodology, Inputs and Assumptions – Simplifying regulatory approvals for the coal mining industry* (2013b).

## What-if analysis

It is a challenging task to quantify how legislative amendments cause uncertainty and impact on the appetite of the industry to invest. To put this into perspective, we asked the question “what if the legislative changes were just sufficient to persuade a mine owner to invest in Queensland instead of South America?” Our modelling shows that a coal mine producing 3.4 mtpa, which commences operations in year 2025, will contribute \$2 billion towards Australia's Gross Domestic Product, over 25 years.

## 4.7 Case study 6: Simplifying regulation of plumbing works

### Overview

In November 2012, the government reduced the burden of regulation on plumbers through reforms to the *Plumbing and Drainage Act 2002*.

The reforms introduced a category of 'notifiable work' for routine plumbing work, covering around 75% of plumbing and drainage work in Queensland. This includes most work performed in existing homes, such as:

- (a) kitchen and bathroom additions and renovations
- (b) installing or replacing hot water heaters including electric, solar or heat pump hot water heaters
- (c) installing additional fixtures such as toilets, showers and sinks
- (d) extending or altering pipe work.

### Issues

Before the reforms were introduced, these types of work were subject to local government approval, which required:

- an application fee of \$300 to \$1,600, depending on the local government area and type of work
- completion of a three-page application form
- a time delay of up to 20 days for approvals, with additional delays waiting for inspections at different stages of work.

The new process involves lodging a simpler form within 10 business days of completing the notifiable work. The lodgement fees are \$25.90 for electronic lodgement, and \$35 for paper lodgement. The Department of Housing and Public Works (DHPW) considers that it is important to maintain paper lodgement as an option, as many plumbers are not fully skilled in electronic lodgement.

The Plumbing Industry Council audits the lodgement of forms, while local governments audit notifiable work in their region. DHPW gives local governments funding for auditing up to 5% of notifiable work, which is sourced from lodgement fee revenue.

The reforms also broadened the category of 'minor work', which does not require approval or notification. The expanded category of minor work includes replacing toilet cisterns, installing pumps or water filters, and most repairs and maintenance work.

**Table 14: Minor plumbing work**

<i>Type of work</i>	<i>Before 1 November 2012</i>	<i>After 1 November 2012</i>
Installing new items in a bathroom renovation	Cost of \$300 - \$1,600 3 page application form Delay of up to 20 days for approvals, with additional delays for inspections	Cost of \$25.90 (electronic lodgement) or \$35 (paper lodgement) Online form completed in 5 minutes No time delays for approvals or inspections
Extending any length of existing water supply piping		
Installing a new electric or gas hot water heater Replacing plumbing or drainage pipework		

<i>Type of work</i>	<i>Before 1 November 2012</i>	<i>After 1 November 2012</i>
Installing an apparatus such as a pump or domestic water filter	Cost of \$300 - \$1,600 3 page application form Delay of up to 20 days for approvals, with additional delays for inspections	No forms or payment No time delays for approvals or inspections Must be performed by a licensed person
Replacing a domestic water filter cartridge	Must be performed by a licensed person	May be performed by an unlicensed person
Replacing a toilet cistern	Cost of \$300 - \$1,600 3-page application form Delay of up to 20 days for approvals, with additional delays for inspections	No forms or payment No time delays for approvals or inspections Must be performed by a licensed person

(Table based on Plumbing Industry Council fact sheet Notifiable work.)<sup>10</sup>

The reforms have made a significant difference to the work of plumbers. Apart from the high fees and lengthy forms required, the previous process involved unpredictable approval delays and did not allow for efficient scheduling of work. In some cases, other trades on a project were unable to continue working while they waited for the plumbing tasks to be completed.

The high regulatory burden of the previous system resulted in many licensees performing routine plumbing work without notification or approval, which could cause problems for future plumbing work. The number of forms being lodged with Plumbing Industry Council has increased from approximately 100 per day when the new system commenced, to approximately 260 per day. It is expected that this number will continue to increase to around 500 forms per day, as awareness of the reforms and notifiable work audit programs increases.

### Benefits and costs

The changes are revenue-neutral for the Government, as administration and audits are funded by application fees. The savings to the community from reduced fees for approvals are estimated in Table 15 below. These savings do not include savings for the plumbing industry from reduced time for lodging forms and reduced delays in waiting for approvals and inspections. The forward estimate of \$18 million savings each year is based on a lodgement rate of 1500 forms per week (300 per day).

**Table 15: Savings to plumbing industry (\$m)**

	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>
Saving to community	6	18	18	18	18	18

## 4.8 Summary of requirement changes for case studies

The case studies above demonstrate quantifiable benefits from regulatory reforms. These specific initiatives also generally result in a reduction in the requirements count, although the page count is not necessarily reduced.

Table 16 notes the change in the number of pages of legislation and regulatory requirements resulting from each of the reforms discussed in the case studies.

<sup>10</sup> Notifiable Work fact sheet - [www.hpw.qld.gov.au/construction/buildingplumbing/plumbing/notifiablework/pages/default.aspx](http://www.hpw.qld.gov.au/construction/buildingplumbing/plumbing/notifiablework/pages/default.aspx)



**Table 16: Case study requirement changes**

<i><b>Case Study</b></i>	<i><b>Legislative Changes</b></i>	<i><b>Page Count</b></i>	<i><b>Requirements Count</b></i>
Removing the requirement for newly constructed houses to install rainwater tanks	Amendments (not repeal) to: a) Queensland Development Code (QDC) Mandatory Parts (MP) 4.2 and 4.3 b) Building Regulation 2006 c) Standard Plumbing and Drainage Regulation 2003	No reduction in Page counts for the regulation or QDC MP 4.2.  Reduction of 2 pages for QDC MP 4.3.	No change in requirements for QDC instruments between baseline count and 30 June 2013  While the installation of a tank is no longer mandatory, when a tank is installed voluntarily there are still requirements to adhere to
Removing registration requirements for speech pathologists and dental technicians	The following instruments were repealed: a) Speech Pathologists Registration Act 2001 b) Speech Pathologists Registration Regulation 2001 c) Dental Technicians Registration Act 2001 d) Dental Technicians Registration Regulation 2002	Reduction of  a) 135 pages b) 7 pages c) 142 pages d) 8 pages  Total reduction: 292 pages	Reduction of standard requirements a) 447 b) 12 c) 225 d) 0  Total reduction: 684 requirements
Closure of the Queensland Gas Scheme (QGS)	The chapters of the following instruments identified will expire on 30 June 2014 a) Chapter 5A of the Electricity Act 1994 b) Chapter 6 of the Electricity Regulation 2006	Reduction of  a) 137 pages b) 3 pages  Total reduction: 140 pages	Reduction of standard requirements a) 356 b) 29  Total reduction: 385 requirements
Streamlining the development application and assessment process for selected projects	The following instruments were introduced: a) Economic Development Act 2012 b) Economic Development Regulation 2013 c) Economic Development (Vegetation Management) By-law 2013  The following instruments were repealed: a) <i>Urban Land Development Authority Act 2007</i> b) Urban Land Development Authority Regulation 2008 c) Urban Land Development Authority (Vegetation Management) By-law 2009 d) Industrial Development Act 1963	Increase of  a) 146 b) 12 c) 29  Reduction of a) 98 b) 10 c) 29 d) 14  Total increase: 36 pages	Increase of standard requirements a) 83 b) 12 c) 60  Reduction of standard requirements a) 242 b) 16 c) 103 d) 0  Total reduction: 206 requirements

<b>Case Study</b>	<b>Legislative Changes</b>	<b>Page Count</b>	<b>Requirements Count</b>
Simplifying regulatory approvals for the coal mining industry	Amendments to the following instruments simplified regulatory approvals for the coal mining industry: a) Mineral Resources Act 1989 b) Environmental Protection Act 1994	Reduction of  a) 0  b) 17  Total reduction: 17 pages	Reduction of  a) 14  b) 186  Total reduction: 200 requirements
Simplifying regulation of plumbing works	Amendments to the a) Plumbing and Drainage Act 2002	Increase of a) 6  Total increase: 6 pages	Reduction of a) 11  Total reduction: 11 requirements

## 5 TOWARDS BEST PRACTICE REGULATION

### 5.1 Delivering better regulation

Regulation is often necessary to achieve economic, social and environmental objectives. Therefore, it is important to ensure that all regulation is effective in addressing the policy problem and in delivering net benefits to the Queensland community. To this end, the government is committed to ensuring that all regulatory processes are consistent with the Queensland Government's Regulatory Best Practice Principles listed in Table 17 below.

A best practice approach to regulation carefully and comprehensively assesses the impacts of a proposed regulation on business, community and government and ensures those who design, implement and approve regulation have considered and fully understand its potential impacts.

Where regulation is necessary, agencies are required to ensure it minimises costs to business, community and government and maximises the benefits to the Queensland economy.

**Table 17: Queensland Government's regulatory best practice principles**

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

- (a) establishing a case for action before addressing a problem
- (b) a range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed
- (c) adopting the option that generates the greatest net benefit for the community
- (d) in accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:
  - (i) the benefits of the restrictions to the community as a whole outweigh the costs
  - (ii) the objectives of the regulation can only be achieved by restricting competition.
- (e) 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
- (f) ensuring that regulation remains relevant and effective over time
- (g) consulting effectively with affected key stakeholders at all stages of the regulatory cycle
- (h) government action should be effective and proportional to the issue being addressed.

*Source: Queensland Government, Regulatory Impact Statement System Guidelines, p 13.*

### The objectives of the Regulatory Impact Statement (RIS) system

The Regulatory Impact Statement System Guidelines approved by the Treasurer and Minister for Trade (the Treasurer) form an important process that will assist in achieving the government's goal of reducing regulatory burden. It is designed to increase the rigour with which new regulation is made. The RIS Guidelines describe the required procedures for developing regulation for Queensland Government agencies under the RIS system.

The purpose of the RIS system is to reduce the regulatory burden in Queensland by requiring agencies to develop regulatory proposals in accordance with regulatory best practice principles and to assist officers working on the development, assessment and improvement of regulation, to produce better regulation.

The key objectives of the RIS system are:

- (a) to ensure there is a thorough assessment of the need for regulation
- (b) to communicate and consult with affected stakeholders on regulatory proposals
- (c) to improve the quality and standard of regulation
- (d) to improve the quality of regulatory policy through information provided to Cabinet and decision-makers, and those developing, assessing and maintaining regulation in accordance with regulatory best practice principles
- (e) to ensure, where regulation is necessary, that it is designed to minimise compliance and administrative costs for business, community and government and maximise the benefits to the Queensland economy.

*Source: Queensland Government, Regulatory Impact Statement System Guidelines, p 12-13.*

## 5.2 Challenges on the path to better regulation

For the Government to meet its target of reducing regulatory burden by 20% by 2018 and to ensure that any new regulation is necessary, appropriate, efficient and effective, it is important that the principles of good regulation are considered by agencies early in the policy development process.

The potential benefits from using the RIS system are not likely to be fully realised unless these principles are well integrated into the policy processes of agencies and support the Cabinet process. Since assuming responsibility for improving the quality of regulation, the OBPR has noted issues with the comprehensiveness of the initial information provided by agencies, and the quality of analysis provided in the proposals submitted by agencies for assessment. The types of challenges experienced with the integration of regulatory impact assessment into the policy processes of agencies are typical of evolving regulatory impact assessment systems, and include the following:

- a) The case for government action is often not well established. Proposals from agencies often assume that regulation is a necessary solution to an identified problem without giving due consideration to alternative non-regulatory means of achieving policy objectives.
- b) Confusing means with ends. The policy objectives are not clearly identified and are often confused with the means by which the objectives will be achieved, which undermines the analysis.
- c) The identification and clear presentation of the benefits and costs of each option are often not sufficiently developed, making it difficult to properly identify which of the options is likely to provide the highest net benefit to the community.
- d) Consideration is only afforded to determine the impacts on particular sectors of the community (for example business), while the impacts on the broader community are not sufficiently taken into account.

## 5.3 The OBPR's commitment to achieving best practice regulation

The OBPR is undertaking a program of activities with the objective of engaging with agencies early to assist them to meet the government's objectives of ensuring that, where regulation is deemed appropriate, it is both efficient and effective. The following provides an overview of the OBPR's activities that seek to achieve these ends.

### Advice and guidance

The OBPR provides advice to agencies based on the requirements of the RIS Guidelines and the Government's Regulatory Best Practice Principles.

## Improving the RIS guidelines

In April 2013, the OBPR's online version of the RIS Guidelines went live. The web-based version has been designed to be more user-friendly and improve their use by agencies. The online version contains a level of interactivity for the user by providing a step-by-step guide to the process of developing a regulatory assessment, whether a Request for Exclusion, Preliminary Impact Assessment (PIA) or a Regulatory Impact Statement (RIS).

As the custodian of the RIS Guidelines and RIS template documentation, Queensland Treasury and Trade (QTT) is responsible for making any changes to these documents. Therefore, where minor, ad hoc changes have been identified to improve functionality, the OBPR sends these recommendations to the QTT for its consideration and action. The OBPR will be undertaking a more comprehensive review of the RIS Guidelines and RIS templates, and plans to provide advice on proposed changes to the QTT in the first quarter of 2014.

## Engaging with agencies

The OBPR has developed a program of ongoing engagement with agencies to gain a better understanding of their forward legislative and regulatory programs to assist and advise agencies more effectively on how the RIS process can help improve the development of regulatory proposals. Specifically, the OBPR has established four teams with the responsibility for a group of portfolio areas. Each team is the key point of contact on all regulatory issues for each of their respective portfolios.

## Training

The OBPR has provided training to agencies on cost-benefit analysis (CBA) at three two-day workshops. The training was provided by an expert in CBA at no cost to agency staff. It introduced the key activities and skills required to undertake a basic CBA for a Regulatory Impact Statement (RIS). All course participants were provided with their own workstations to enable them to work through each of the case study examples covered in the course.

The OBPR is also preparing a program of training on the RIS system to provide agency staff with the skills to work through the RIS process, consider and develop policy responses and undertake quality analysis of potential regulatory impacts. This training is planned to begin in late 2013.

## Regulatory complaints mechanism

The establishment of a formal complaints mechanism in relation to regulatory matters was recommended in OBPR's Final Report on Reducing and Measuring the Burden of Regulation. After receiving support from the Queensland Government, the complaints mechanism was established on 18 June 2013.

The complaints mechanism is intended to be an avenue for individuals, businesses and community organisations to raise issues in relation to regulatory matters. Through this, inefficient or ineffective regulation can be identified and reviewed.

Once the OBPR receives a complaint, it records this information in its complaints register and then forwards the feedback or concern to the agency responsible for administering the relevant regulation. The agency is then tasked with reviewing the complaint and providing a response to the person or organisation raising the concern. The agency is also requested to notify the OBPR of its response to the complainant.

Given the complaints mechanism was only established at the end of this financial year, the OBPR will begin providing a summary of the complaints received in the 2013–14 OBPR Annual Report.

## 6 REGULATORY ASSESSMENT ACTIVITY

### 6.1 Summary of regulatory assessments

The OBPR's responsibility to assess the adequacy of Consultation and Decision Regulatory Impact Statements (RISs) commenced on 2 July 2012. Its responsibility to assess 'Requests to exclude regulatory proposals from the RIS system' and 'Preliminary Impact Assessments (PIAs) to determine if a RIS is required' commenced on 4 March 2013.

Given the large number of Requests for Exclusion and PIAs, the OBPR experienced a significant increase in the volume and nature of the assessment work it undertakes on regulatory proposals. The nature of the assessment undertaken for Requests for Exclusion and PIAs contrasts with that for Regulatory Impact Statements (RISs), which are fewer in number but involve a more intensive process of assessment. Depending on the quality and complexity of a Consultation RIS submitted for review, three or four drafts may be necessary before it meets the requirements of the RIS Guidelines and receive a Letter of Adequacy.

Only a small percentage of regulatory proposals have been considered likely to result in significant adverse impacts, and therefore to warrant the preparation of a Consultation RIS. For the 131 PIAs assessed by OBPR, between 4 March and 30 June 2013, only five have been progressed to the Consultation RIS stage.

Table 18 below displays the number of assessments that were completed for Requests for Exclusion, PIAs and Consultation RISs during 2012–13, as well as the average time taken to complete each assessment or draft of a RIS.

The OBPR received 10 Consultation RISs, which were underway prior to the OBPR acquiring responsibility for advising whether a RIS is required. Five were assessed as fully meeting the requirements of the RIS Guidelines and three of these progressed to the Decision RIS stage, while the two other proposals have not yet proceeded to the Decision RIS stage. The remaining five proposals were not finalised by 30 June 2013 and their progress will be reported in the 2013–14 OBPR Annual Report.

**Table 18: Regulatory assessments by proposal type 2012–13**

<i>Type of assessment</i>	<i>Number</i>	<i>Average time of assessment (days)</i>
Requests for exclusion	104	3.6
Preliminary impact assessment	131	5.2
Draft regulatory impact statements (Consultation RISs)	10	6.5
<b>Total/average</b>	<b>244</b>	<b>4.3</b>

Table 19 lists the five regulatory proposals for which RISs were issued with Letters of Adequacy. A copy of the RIS documents and the OBPR's Letters of Adequacy are available on the OBPR's website.

**Table 19: RISs that received a Letter of Adequacy**

<i>Regulatory proposal</i>	<i>Summary of proposal</i>	<i>Assessment date</i>
Greentape Reduction: Review of Environmentally Relevant Activities – <ul style="list-style-type: none"> <li>• Consultation RIS</li> <li>• Decision RIS</li> </ul>	This proposal included changes to the Environmental Protection Regulation 2008 as part of the Government's broader Greentape Reduction project which sought to streamline, integrate and coordinate regulatory requirements under Queensland's <i>Environmental Protection Act 1994</i> .	<ul style="list-style-type: none"> <li>• September 2012</li> <li>• March 2013</li> </ul>
Review of Protected Plants Legislative Framework – <ul style="list-style-type: none"> <li>• Consultation RIS</li> <li>• Decision RIS</li> </ul>	This reflected a review of the expiring regulatory instruments relating to the management of protected plants under the <i>Nature Conservation Act 1992</i> .	<ul style="list-style-type: none"> <li>• February 2013</li> <li>• June 2013</li> </ul>
Review of Electrical Safety Regulation 2002 – <ul style="list-style-type: none"> <li>• Consultation RIS</li> <li>• Decision RIS</li> </ul>	This proposal was based on a review of the expiring Electrical Safety Regulation 2002 and incorporated amendments aimed at improving the regulation.	<ul style="list-style-type: none"> <li>• March 2013</li> <li>• June 2013</li> </ul>
Amendments to the Petroleum and Gas Health and Safety Fee Post-Implementation Review – <ul style="list-style-type: none"> <li>• Consultation RIS.</li> </ul>	In 2010 the Government exempted a proposal that changed the way that the Petroleum and Gas Inspectorate was funded, due to the unprecedented growth in petroleum and gas industries in Queensland and the increased resource and administration costs on the Inspectorate.	<ul style="list-style-type: none"> <li>• April 2013</li> </ul>
Review of Queensland's Mine Safety Framework - <ul style="list-style-type: none"> <li>• Consultation RIS</li> </ul>	This proposal included changes aimed at improving mine safety in Queensland and to align it with the National Mine Safety Framework.	<ul style="list-style-type: none"> <li>• June 2013</li> </ul>

## 6.2 Regulatory proposals exempted by the Treasurer

According to the RIS Guidelines, the Treasurer will consider granting an exemption from the requirement to prepare an RIS when:

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

Where an exemption is provided, a post-implementation review (PIR) must be commenced within two years of the implementation of the regulation, unless the Treasurer waives this requirement. Table 20 provides a list of regulatory proposals granted a Treasurer's exemption from the requirement to undertake a RIS in 2012–13.

**Table 20: Exemptions granted by the Treasurer**

<i>Proposal</i>	<i>Reason for exemption</i>	<i>Date</i>	<i>PIR required</i>
Amendments to the <i>Industrial Relations Act 1999</i>	Exemption granted due to immediate response criteria	8 May 2013	OBPR not advised
Amendments to the Draft Coastal Protection State Planning Regulatory Provision 2013	Exemption granted due to immediate response criteria	28 May 2013	PIR is required
Emergency Management, Fire and Rescue Levy	Exemption granted due to immediate response criteria	31 May 2013	No PIR required
Amendments to the <i>Electricity Act 1994</i>	Exemption granted due to immediate response criteria	3 June 2013	No PIR required

## 6.3 Regulatory proposals not meeting the RIS Guidelines

It is also necessary to report on regulation that has been made without undergoing the steps required by the RIS Guidelines. The OBPR is aware of two regulatory proposals progressed during 2012–13 (listed in Table 21) that did not meet the requirements of the RIS Guidelines.

**Table 21: Regulatory proposals not meeting the requirements of the RIS Guidelines**

<i>Proposal</i>	<i>Reason</i>
Amendment of definition of worker under the Workers Compensation and Rehabilitation Act 2003.	RIS requested, but not provided
Industrial Relations and Other Legislation Amendment Bill 2013.	PIA required, but not provided

## 6.4 Deferring the review of expiring regulation

Sunset clauses are requirements for legislation to expire after a certain period if not remade (typically every five to 10 years). In Queensland, part 7 of the *Statutory Instruments Act 1992* (SIA) specifies that subordinate legislation will expire every 10 years or sooner unless a regulation is made exempting it from expiry. The rationale for sunset clauses is to ensure that the stock of regulation remains up to date and relevant.

Under this arrangement, each sunset regulation must be reviewed, and if remade must follow the same procedural requirements as new regulation, including those specified in the RIS Guidelines.

The efficacy of sunset clauses is reduced when legislative mechanisms are used repeatedly to delay the expiry of subordinate legislation without review. The Productivity Commission (2012) also noted that for sunset provisions to be effective, exemptions and deferrals need to be contained to limit undue deferral of review.

In Queensland, exemptions from expiry are provided under sections 56 and 56A of the SIA. Section 56 provides five-year extensions for legislation that is substantially uniform or complementary with the Commonwealth or other states. Section 56A provides one-year extensions for other legislation. These are set out in Table 22 below.

**Table 22: Statutory instrument exemptions**

<i>Section 56</i>	<i>Section 56A</i>
'Uniform subordinate legislation'	Other subordinate legislation
Extension of 5 years	Extension of 1 year
No grounds for exemption required	Grounds for exemption: Replacement being drafted and to be ready within a year No replacement, subordinate legislation to lapse Governing Act subject to review
Unlimited number of repeat extensions	Unlimited number of repeat extension where governing Act under review
Instruments to expire in 2013: 3	Instruments to expire in 2013: 105
Instruments extended in 2013: 3	Instruments extended in 2013: 78
Instruments with multiple extensions granted: 3	Instruments with multiple extensions granted: 53

*\*As at 1 September 2012. It is important to note legislation due to expire on 31 August or 1 September 2013 under the SIA may have been repealed prior to 1 September 2012. During the period 1 January 2008 to 1 September 2012 however, the QCA is aware of only one regulation being repealed.*



The OBPR notes that a significant amount of Queensland legislation will receive an extension in 2013-14. Extensions will be provided to 81 of the 108 uniform and other legislation due to expire either on 31 August 2013 or 1 September 2013. Of these, 56 have already been extended in previous years. The Stock Regulation 1988, for example, was due to expire in 1998, but has received 16 consecutive one-year extensions.

There are a number of other regulations which have been extended multiple times. For example, Apiaries Regulation 1998 has been extended six times, Interactive Gambling (Player Protection) Regulation 1998 has been extended six times, Casino Control Regulation 1999 has been extended five times. A full list of legislation receiving exemption in 2013 can be found in Schedule 2 of the Statutory Instruments Regulation 2012.

The OBPR considers that potential community benefits may be realised if the legislation was reviewed and remade, rather than being extended. This was the original intention of sunset clauses.

While there can be legitimate reasons for deferring the expiry of legislation, such as allowing for the thematic or packaged review of related primary and subordinate legislation, the OBPR considers that extensions should only be granted in exceptional circumstances to avoid frustrating the intent of the SIA. It is likely that some of the regulation that has been extended could reasonably have been reviewed and remade or updated as necessary prior to expiry.

Government agencies are aware that subordinate legislation has a firm expiry date and should plan to conduct sunset reviews accordingly. This includes taking into consideration that remade regulation is required to undergo review under the RIS system. The RIS Guidelines state that:

*“The regulatory review under the RIS system should be completed in advance of this expiry date if the regulation is proposed to continue beyond its initial 10 year operation. This should avoid a regulation expiring under the SIA while a 10 year review of the regulation is being completed”.*

## GLOSSARY

### A

AEMO	Australian Electricity Market Operator
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### B

BC	British Columbia
BREE	Bureau of Resources and Energy Economics

### C

CBA	Cost-Benefit Analysis
COAG	Council of Australian Governments
CPM	Carbon Pricing Mechanism

### D

DAFF	Department of Agriculture, Fisheries and Forestry
DCCSDS	Department of Communities, Child Safety and Disability Services
DETE	Department of Education, Training and Employment
DEWS	Department of Energy and Water Supply
DEHP	Department of Environment Heritage and Protection
DHPW	Department of Housing and Public Works
DJAG	Department of Justice and Attorney-General
DLGCRR	Department of Local Government, Community Recovery and Resilience
DNRM	Department of Natural Resources and Mines
DSDIP	Department of State Development, Infrastructure and Planning
DPC	Department of the Premier and Cabinet
DTMR	Department of Transport and Main Roads

### E

EDA	<i>Economic Development Act 2012</i>
EIS	Environmental Impacts Statement

### G

GEC	Gas Electricity Certificate
GOC	Government Owned Corporation

### M

MWh	MegaWatt-hour
mtpa	million tonnes per annum

### O

OBPR	Office of Best Practice Regulation
OQPC	Office of the Queensland Parliamentary Counsel

**P**

PJ	Petra-Joules
PS	Planning Scenario
PIA	Preliminary Impact Assessment
PV	Present Value

**Q**

QCA	Queensland Competition Authority
QDC	Queensland Development Code
QGS	Queensland Gas Scheme
QTT	Queensland Treasury and Trade

**R**

RIS	Regulatory Impact Statement
RET	Renewable Energy Target

**S**

SRC	Slow Rate of Change scenario
SEQ	South-East Queensland
SIA	<i>Statutory Instruments Act 1992</i>
SPA	<i>Sustainable Planning Act 2009</i>

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## Acts

*Dental Technicians Registration Act 2001*

*Economic Development Act 2012*

*Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*

*Environmental Protection Act 1994*

*Heavy Vehicle National Law Act 2012*

*Mineral Resources Act 1989*

*Mines Legislation (Streamlining) Amendment Act 2012*

*Plumbing and Drainage Act 2002*

*Queensland Competition Authority Act 1997*

*Speech Pathologists Registration Act 2001*

*Statutory Instruments Act 1992*

*Sustainable Planning Act 2009*

## Regulations

*Apiaries Regulation 1998*

*Casino Control Regulation 1999*

*Interactive Gambling (Player Protection) Regulation 1998*

*Stock Regulation 1988*

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## APPENDIX A: MINISTERIAL DIRECTION – ASSESSING REGULATORY IMPACT STATEMENTS

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QLD COMPETITION AUTHORITY

- 3 JUL 2012

DATE RECEIVED

**QUEENSLAND COMPETITION AUTHORITY ACT 1997**  
**Section 10(lb)**

**MINISTERS' DIRECTION NOTICE**

In our capacity as responsible Ministers, pursuant to sections 10(lb) of the *Queensland Competition Authority Act 1997*, we hereby direct the Queensland Competition Authority (the Authority) to:

- (i) assess the adequacy of regulatory assessment statements submitted by departments in accordance with the Regulatory Assessment Statement Guidelines; and
- (ii) report annually on regulatory assessment statements.

In performing assessments as directed in paragraphs (i) and (ii), the Authority may delegate the preparation and approval of such assessments to appropriate staff of the Authority.



**TIM NICHOLLS**  
Treasurer and Minister for Trade



**JARROD BLEIJIE**  
Attorney-General and Minister for Justice

**QUEENSLAND COMPETITION AUTHORITY ACT 1997**  
**Section 10(lb)**

**MINISTERS' DIRECTION NOTICE**

In our capacity as responsible Ministers, pursuant to section 10(lb) of the *Queensland Competition Authority Act 1997*, we hereby direct the Queensland Competition Authority (the Authority) to advise agencies whether in accordance with the Regulatory Impact Statement System Guidelines:

- a. regulatory proposals can be excluded from the Regulatory Impact Statement System; and
- b. the impacts of regulatory proposals are likely to be significant.

In performing assessments as directed above, the Authority may delegate the preparation and approval of such assessments to appropriate staff of the Authority.

In this direction, "Regulatory Impact Statement System Guidelines" refers to the guidelines for a regulatory impact statement system, approved by the Treasurer.



**TIM NICHOLLS**  
Treasurer and Minister for Trade



**JARROD BLEIJIE**  
Attorney-General and Minister for Justice

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## APPENDIX B: MINISTERIAL DIRECTION – REGULATORY BURDEN

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QLD COMPETITION AUTHORITY

- 3 JUL 2012

DATE RECEIVED

**QUEENSLAND COMPETITION AUTHORITY ACT 1997****Section 10(e)****MINISTERS' DIRECTION NOTICE**

In our capacity as responsible Ministers, pursuant to sections 10(e) of the *Queensland Competition Authority Act 1997*, we hereby direct the Queensland Competition Authority (the Authority) to investigate and report on a framework for reducing the burden of regulation, including:

- a) a proposed framework for measuring the regulatory burden of legislation, including appropriate regulatory burden benchmarks against which Queensland Government departments may be assessed by the Authority on an annual basis;
- b) a proposed process for reviewing the existing stock of Queensland legislation; and
- c) priority areas for targeted regulatory review having regard to the regulatory burden imposed by legislation.

**Matters to be considered**

In undertaking this investigation, the Authority is to:

- a) Develop methodology for measuring the regulatory burden of legislation, including appropriate regulatory burden benchmarks against which departments may be assessed by the Authority on an annual basis.

In developing methodology, the Authority is to consider both quantitative and qualitative measures of regulatory burden.

For the purpose of this review, regulatory burden includes administrative and compliance costs, delay costs to business and other costs that affect the community as a whole.

- b) Develop a process for reviewing the existing stock of Queensland legislation.

For the purpose of this review, legislation includes Acts and regulations.

- c) Consider other Australian and international approaches for measuring and reviewing regulatory burdens, reviewing legislation and identifying priority review areas. In particular, the Authority should review, and report on, the approach taken by the Victorian Competition and Efficiency Commission for measuring regulatory burden.
- d) Have regard to the costs of implementing possible frameworks for measuring regulatory burden, including costs associated with data collection and assessment.

The proposed framework should include a requirement that the Authority publish an annual report on departmental performance against regulatory burden benchmarks, taking into account the Government's target of a 20 per cent reduction in red tape and regulation.

### **Consultation**

The Authority must undertake open consultation processes with all relevant parties and consider any submissions received within the reporting timeframes. Relevant parties include business, the community and relevant government departments and regulatory agencies.

### **Reporting**


The Authority must provide:

1. an Interim Report by 1 November 2012 regarding a proposed framework for measuring regulatory burden and identifying initial priority areas for targeted regulatory review; and
2. a Final Report by 31 January 2013.

The Authority should publish issues papers, reports and submissions on its website as it considers appropriate.



**TIM NICHOLLS**  
Treasurer and Minister for Trade



**JARROD BLEIJIE**  
Attorney-General and Minister for  
Justice



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## APPENDIX C: REQUIREMENTS COUNT – DETAILED DESCRIPTION OF THE COUNTING PROCESS

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The purpose of this appendix is to describe the process of counting requirements in order to establish the baseline number and then to count the change from the baseline date (23 March 2012) to the first annual report date (30 June 2013). There are separate appendices describing the process of assigning a reduction target to each department (**Appendix D**) and auditing the count (**Appendix E**).

### Approach to requirements count measurement

The project of measuring regulatory requirements has far-reaching implications for Queensland Government agencies, as it establishes the baseline for the government's 20% reduction target. The reduction target is likely to be reflected in the performance agreements of Director-Generals and other senior executives. As a result, OBPR worked to ensure that:

- (a) the measurement process was fully transparent to departments
- (b) departments had confidence in the outcome.

The OBPR rejected from the outset any "black box" strategy for counting requirements. Rather than use customised software or database software such as Microsoft Access, the OBPR chose to work with Microsoft Excel. All Queensland Government agencies are licensed to use Excel and are familiar with it, so they were able to verify (and if necessary replicate) the details of the count. Database software would have simplified the OBPR's task, but is less transparent.

The OBPR supplied departments with spreadsheets showing how the count applied to each sub-section of legislation. If the OBPR had only supplied the number of regulatory requirements in the portfolio or in whole legislative instruments, departments would have been unable to verify the results. Supplying full details also revealed the ambiguities and errors involved in the counting process. Nevertheless, exposure to full details has made departments more aware of the true significance of the count. The obligations count is not an exact census of all regulatory requirements in Queensland but it provides a generally accurate summation of regulatory requirements and will be a useful guide in assessing regulatory reform.

For an extra level of assurance in the counting process, the OBPR engaged an independent auditor to verify the count. This meant that departments with limited resources did not need to apply a full audit process but could choose to focus on areas where they would add the most value. The OBPR supplied departments with full details of the audit (once again, down to the level of each sub-section), so they could have confidence in the audit process and question any apparent anomalies.

### Guidelines

In order to ensure a consistent count across departments, the OBPR developed a set of guidelines for the count. The final version of the guidelines is available on the QCA's website.

The guidelines went through a number of iterations. As a first step, the OBPR consulted the guidelines used to count regulatory restrictions in British Columbia (BC). The OBPR made numerous changes to the BC guidelines, with the aim of aligning the approach more closely with the policy aims of the 20% reduction target.

The OBPR sent the first draft to all departments for comment and input. A number of departments provided comments related to specific features of their legislation which did not receive adequate treatment in the first draft. The OBPR used these comments to create the next version, being particularly careful to avoid perverse incentives which might have arisen from some quirks in the drafting of

regulation. Once the requirements count started, it became apparent that the guidelines required further refinement. In particular, it was necessary to add a more detailed treatment of optional requirements. The next version of the guidelines specified more closely the difference between optional requirements and different requirements applying in different circumstances. For example, a speed limit of 60 km/h on weekends and 40 km/h on weekdays is not an optional requirement – rather, two requirements applying in different circumstances. However, a regulatory requirement to install either airbags or anti-lock brakes in a car would be an optional requirement, if the manufacturer had discretion to choose between the two.

The guidelines now account for most quirks and anomalies encountered in the counting process, and should require little (if any) further revision. However, the OBPR is prepared to make further revisions as necessary.

### Implementation of measurement

The OBPR began scoping the measurement project in September and October 2012, and it quickly became apparent that the task was too large to complete internally. The OBPR developed draft terms of reference for the project in November 2012, and sent them to potential bidders for comment. Final terms of reference, with an invitation to bid, were sent out on 21 December 2012.

There were a number of options for completing the count:

- (a) Use internal the OBPR resources. This would probably be the least cost option, but presented some practical problems. The OBPR's limited resources would make it a protracted project and would require all other work to be put on hold.
- (b) Have each department do its own count. This option presented a range of problems. It would place an undue burden on departmental resources, entail a potential conflict of interest, and possibly lead to problems of inconsistent counts. The OBPR's understanding of the count process in BC suggested that a central count was preferable.
- (c) Have the count done by one or more consultants. This was the highest cost option, but could be achieved quickly, with generally good quality control.

Due to the size, complexity and tight deadline of the project, the OBPR selected KPMG and Ernst & Young. The OBPR also decided to engage a third, independent, company to audit the results supplied by the two consultants, and selected Clayton Utz as auditor.

In order to focus consultant resources on counting rather than ancillary technical tasks, the OBPR supplied consultants with documents in Excel format where possible. The Office of Queensland Parliamentary Counsel (OQPC) provided useful assistance. The OQPC is responsible for primary and subordinate legislation (mainly Acts and regulations), which form the greater part of Queensland regulation (over 70,000 pages). The OQPC enabled OBPR to obtain that body of regulation, as applicable at 23 March 2012, in Excel format. The conversion process began in November 2012, and took around two months, with a number of iterations to iron out technical quirks associated with the conversion to Excel. Guidelines, codes of practice and similar documents are not held by any one agency, so consultants implemented their own conversion for these documents.

The counting process began on 13 February 2013, with a specified delivery date of 8 April 2013. The volume of regulation requiring assessment was estimated at 90,000 pages, which presented the challenge of analysing around 2,600 pages per working day. This body of regulation included Acts, regulations, and quasi-regulation such as guidelines and codes of practice. In the course of counting, further examples of quasi-regulation came to light, and eventually the project processed over 100,000 pages of regulation.

As well as counting regulatory requirements, the consultants were required to categorise them. The reason was so that the OBPR could eventually frame recommendations focussing on the core elements of the 20% reduction target, and make adjustments to allow for specific types of regulation. Table 23 below sets out the different categories of requirements, and how they were eventually incorporated in OBPR's recommendations.

The counting process also incorporated input from departments. Results of the count are set out Table 25.

### Audit process

The OBPR specified an audit process based on a truly independent assessment. The mechanism to achieve this was referred to in the project as the 'double blind' process. Rather than start with the consultants' counts and assess their accuracy, the auditors started with their own count and then compared their results with the consultants' results. Both the auditor and the consultants completed their count without knowledge of the other count, hence the term "double blind".

The most thorough audit would involve an independent count of the full body of regulation, i.e. a 100% audit. That would, however, at least double the cost of the project, and the OBPR did not consider this cost effective. The OBPR settled on a 15% audit using a random sample, rather than a 'targeted' 15%, which would be subject to unknown selection bias.

Details of the audit process are set out in **Appendix E**. The OBPR was generally satisfied with the outcomes. The first audit results identified some anomalies, and enabled the consultants to avoid those anomalies in the remainder of the process.

Some departments alerted OBPR to a systematic error in a number of spreadsheets, namely that the sum of requirements was incorrect because the range specified for the sum did not cover all relevant rows. OBPR instituted a separate process of scrutiny to detect and correct this error where it arose. Ultimately, the fact that departments detected this error confirmed the importance of the transparency of Excel spreadsheets. An equivalent error in a database output would probably have passed undetected.

### Categories included and excluded in the baseline

Regulatory requirements are not uniform in nature and the different impact of different types of requirements requires some analysis in order to ensure the most effective application of the government's goal of reducing the burden of regulation by 20% by 2018. Over the course of the project The OBPR engaged in extensive discussion both internally and with departments in order to come to a considered view. Table 23 below summarises the OBPR's preferred approach and is discussed in further detail below.

**Table 23: Classification of inclusion or exclusion of regulatory requirement categories**

<i>Category</i>	<i>Recommendation</i>	<i>Comments</i>
Standard requirements	Include	These go to the core of the government's policy intent.
Government only (internal to department)	Exclude	Departments can choose to modify their own internal requirements without a government-wide process.
Government only (applied to other departments)	Exclude	Not part of the government's policy intent. May be the subject of a future project.
Government owned corporations (GOCs)	Include	GOCs should align more closely with private sector companies.
Justice and policing	Exclude	Generally not part of the government's policy intent. Unlikely that the OBPR would be able to provide useful scrutiny in any specific area.
Harmonised requirements	Include	Exclusion would send the wrong policy signal and would allow gaming of the reduction program.

<b>Category</b>	<b>Recommendation</b>	<b>Comments</b>
Fact sheets and other explanatory documents	Exclude	These do not impose additional requirements but facilitate compliance. They may require separate scrutiny.
Voluntary codes of practice	Include	Where non-compliance with codes has regulatory consequences, they are not voluntary. Exclusion could result in gaming.
Transitional provisions	Exclude	Transitional provisions do not impose an additional burden and enhance transparency.

### Standard requirements

Standard requirements are those imposed on individuals and businesses in Queensland. These are unambiguously the focus of the government's aim of reducing the burden of regulation by 20% by 2018.

### Government only (internal to departments)

Departments have a large body of instruments to regulate their internal workings in areas such as human resources, information technology and facilities management. They are not directly relevant to the Government's policy intent of reducing the burden of regulation on the community and departments are able to manage their internal regulation without intervention from government-wide reform processes.

### Government only (applied to other departments)

Departments are subject to whole-of-government requirements in a broad range of areas. For example, the Chief Information Office specifies in its print services policy that, unless exempt for good reason, printers in government departments should be set to print monochrome, double-sided and draft quality. Queensland State Archives have a suite of documents setting out how departments should archive e-mails and other electronic documents. Such restrictions exist for a range of reasons, and some of them may have a net adverse impact on government administration. However, they are not directly relevant to the government's policy of reducing the burden of regulation on the community, and the OBPR therefore proposes not to count them in the regulatory baseline.

Depending on the government's policy priorities in matters such as the cost of government and autonomy in departmental administration there may be a need to examine such requirements in the future.

### Government Owned Corporations (GOCs)

Government Owned Corporations (GOCs) are subject to numerous restrictions not imposed as regulatory requirements on private sector companies. These restrictions generally exist to ensure probity in the use of public funds or consistency with the Government's policy priorities. In some cases private sector companies have similar probity mechanisms but they are internal matters rather than externally imposed regulations.

For reasons of competitive neutrality, regulation of GOCs should be aligned more closely with regulation of private sector companies. The extra probity required for public funds can be a matter of internal administration rather than external regulation.

### Justice and policing

Justice and policing requirements have long been exempt from scrutiny under the Regulatory Impact Statement (RIS) process. The definition for the purposes of RIS exemption is 'regulation relating to police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services'.

Most of these categories are clearly beyond the ambit of the government's policy intentions in reducing the burden of regulation. The one area of possible interest to the OBPR is the administration of courts as it applies to resolution of contractual and business disputes - a well-functioning system lowers business costs. However the administration of courts is a highly specialised area and a major point of interest for the legal profession. The OBPR considers that reforms in this area are a matter for specific legal profession reform, rather than general regulatory reform. As a result, the OBPR prefers to exclude all justice and policing requirements from the regulatory requirements baseline count.

### Harmonised requirements

Harmonised requirements form a growing proportion of the regulatory burden in Queensland. The OBPR's interim and final reports identify harmonisation as being among the top ten priorities for review, since it is not always clear that harmonisation brings net benefits.

From an administrative point of view, harmonisation can be implemented in a number of ways:

- (a) Legislation is harmonised and administration is largely transferred to a central body. Queensland has adopted this approach for the regulation of energy transmission and distribution.
- (b) Legislation is harmonised with administration remaining mainly at state level and some functions are centralised. This is the approach taken for building regulation, where the central body's task is limited to maintaining and updating the National Construction Code, which is administered by state bodies. In the case of building regulation there are also mechanisms for specific state exemptions.
- (c) A state regulator adopts a national code or guideline with no transfer of responsibilities. This is the case, for example, with Queensland's adoption of the (national) Model Code of Practice for the Welfare of Animals - Husbandry of Captive-bred Emus. The National Emu Code is a document created by the Primary Industries Ministerial Council, and published by Commonwealth Scientific and Industrial Research Organisation (CSIRO). Its application in Queensland involves no transfer of administrative responsibilities.

If harmonised regulation is not included in the requirements count the differing administrative arrangements create different incentives for departments. Departments are unlikely to transfer functions to a central body simply in order to reduce their requirements count. However, adoption of harmonised requirements can be an attractive proposition if it reduces the requirements count and involves no loss of administrative functions (as in the case of the National Emu Code). In such a case, the department has no incentive to question whether the harmonised regulation is better or worse than the state-based regulation it is replacing.

The process also works in reverse. If it becomes clear that a harmonised instrument regulating a particular sector is dysfunctional, the relevant department will resist a return to state-based regulation if this results in an increased requirements count. Furthermore, if not motivated by the requirements count, departments may use harmonisation as a screen for inaction, using the argument that modifications are outside their control. This has been a frequent theme in discussions to date – some departments have been reluctant to consider that they have the option of modifying harmonised instruments, creating exemptions or reverting to state-based regulation.

The departmental argument of being unable to modify harmonised instruments actually points to some fundamental problems of harmonisation<sup>11</sup>:

- (a) It can create regulation beyond the effective control of any minister or parliament.
- (b) When circumstances change, or anomalies become apparent, it can be difficult or impossible to modify the relevant regulation.
- (c) Because responsibility for the regulation is diffused, it is possible that, once introduced, it will never be subject to scrutiny by a regulatory review body.

In the course of stakeholder consultation for the OBPR report on *Measuring and Reducing the Burden of Regulation*, harmonisation was a frequent source of complaint. OBPR would be sending the wrong policy signal if it's tracking of requirements shows a decrease in burden, where there is in fact an increase because of harmonisation.

OBPR therefore considers that harmonised regulation should be included in the baseline requirements count.

At the same time, OBPR recognises the additional difficulty of modifying harmonised regulation. For this reason, OBPR has used a different weighting for this category when developing recommended reduction targets. The effect of a lower reduction target for harmonised instruments is a higher reduction target for all other instruments, in order to maintain an overall 20% reduction. The different weighting for harmonised instruments leaves some perverse incentive for departments to favour harmonisation, but a full reduction target for harmonised instruments would leave some departments with unattainable goals.

### Fact sheets and other explanatory documents

Many departments have issued fact sheets and similar explanatory documents. The aim of these documents is to explain existing regulatory requirements and facilitate compliance, rather than to impose new requirements. For this reason, these documents should be excluded from the requirements count.

However, there are problems with the variable quality of these documents. Because some documents expound regulatory requirements in general terms, without detailed regulatory references, it can be difficult to verify that they contain only pre-existing requirements. Fixing this problem is a low priority but may merit attention in the future, on the grounds that stakeholders should always have a clear idea of their regulatory obligations.

Examples of well-written explanatory documents, where the regulatory underpinning is clear, include:

- (a) The Queensland State Archives plain English guide to the *Public Records Act 2002*<sup>12</sup>.
- (b) The Landholders' guide to the Regrowth Vegetation Code published by the Department of Natural Resources and Mines (DNRM)<sup>13</sup>.
- (c) The Department of Environment and Heritage Protection fact sheet on The Queensland Heritage Register<sup>14</sup>.

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<sup>11</sup> General issues of harmonisation are discussed in OBPR's report on measuring and reducing the burden of regulation, and in the OBPR-commissioned report by Professor Henry Ergas of Deloitte Access Economics, available at [www.qca.org.au/files/OBPR-DEL-ErgasReport-C&B-RegHarmon-1212.pdf](http://www.qca.org.au/files/OBPR-DEL-ErgasReport-C&B-RegHarmon-1212.pdf)

<sup>12</sup> Available at [www.archives.qld.gov.au/Recordkeeping/GRKDownloads/Documents/PRAplainenglishguide.pdf](http://www.archives.qld.gov.au/Recordkeeping/GRKDownloads/Documents/PRAplainenglishguide.pdf)

<sup>13</sup> Available at [www.nrm.qld.gov.au/vegetation/pdf/regrowth-guide-code-sept-2011.pdf](http://www.nrm.qld.gov.au/vegetation/pdf/regrowth-guide-code-sept-2011.pdf)

<sup>14</sup> Available at [www.ehp.qld.gov.au/heritage/documents/fs\\_h1\\_qld\\_heritage\\_register.pdf](http://www.ehp.qld.gov.au/heritage/documents/fs_h1_qld_heritage_register.pdf)

## Voluntary codes of practice

Many departments have guidelines and codes of practice labelled as “voluntary”. Departments have frequently suggested that these codes should be excluded from the baseline count and at the same time have acknowledged that compliance (or non-compliance) with the codes has regulatory consequences.

OBPR has included in the count those instruments with regulatory consequences. These consequences can include loss of licence, a more onerous inspection regime, or increased exposure to prosecution in the event of non-compliance. The effect of such consequences is similar to, and sometimes stronger than, regulatory requirements set out in black letter law.

There is also the question of strategic behaviour by departments. If Acts and Regulations are counted in the baseline but codes and guidelines are not, it is possible that departments will reduce their count by transferring requirements from included instruments to excluded instruments. The unintended consequence could actually be an increase in the regulatory burden since departments would almost by default utilise regulatory instruments not scrutinised by Parliament and not subject to Regulatory Impact Statement (RIS) assessment.

## Transitional provisions

Transitional provisions exist as a bridge to new regulatory requirements and counting them duplicates a portion of the count, as they do not impose additional requirements. The OBPR understands that transitional provisions make regulation more transparent. Counting them would provide an incentive for departments to delete them, making regulation less transparent.

Transitional provisions account for requirements equivalent to around 2.4% of the total regulatory baseline. Their impact is insignificant overall, but can be significant for specific pieces of legislation.

## Consultation with departments

### Initial consultation leading to April 2013 report

The OBPR first canvassed a British Columbia (BC) style requirements count in its August 2012 Issues Paper on *Measuring and Reducing the Burden of Regulation*<sup>15</sup>. The QCA wrote to Directors-General of all Queensland Government departments seeking comment. Four agencies made public submissions on the Issues Paper but none commented specifically on the BC approach to measuring the regulatory burden<sup>16</sup>.

In December 2012, the QCA wrote again to Directors-Generals seeking comments on the draft counting guidelines and on OBPR’s tentative list of codes of practice and guidelines for each department. The OBPR received extensive input arising from this, both in written form and in the course of meetings with departments. As a result, the OBPR made some revisions to the guidelines and improved the accuracy of its list of codes and guidelines.

In March 2013, the OBPR held an information and training session for all departments, with 80 people in attendance. In the course of a full morning, OBPR introduced all the people who would be working on the project, fielded a large number of questions and comments, and worked through some examples of how to count requirements. Departments expressed reservations about the application of a 20% reduction to their portfolio, and also pointed to anomalies in the counting guidelines. The OBPR used this input to refine and update the guidelines. One theme emerging from the session was departments pointing to specific legislation in their portfolio that should not be subject to a 20% reduction. OBPR clarified that the

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<sup>15</sup> The Issues Paper is available at [www.qca.org.au/files/OBPR-QCA-IssuesPaper-MeasuringReducingBurdenRegulation-0812.pdf](http://www.qca.org.au/files/OBPR-QCA-IssuesPaper-MeasuringReducingBurdenRegulation-0812.pdf)

<sup>16</sup> Public submissions in response to the Issues Paper are available at [www.qca.org.au/OBPR/rbr/IssuesPaper/](http://www.qca.org.au/OBPR/rbr/IssuesPaper/)



20% reduction did not apply to every piece of legislation, but to the portfolio as a whole. Departments have the discretion to apply the reduction where they consider most appropriate. This theme of specific instruments, and OBPR's response, arose a number of times throughout the course of the project.

Once the counting process commenced, the OBPR maintained extensive contact with departments to clarify specific details. The most significant input from departments was comment on the count and audit spreadsheets once the count for each portfolio was completed. The OBPR supplied the spreadsheets with a request to comment on specific matters:

- (a) the accuracy of the count and audit
- (b) identification of justice and policing requirements
- (c) identification of harmonised instruments
- (d) instruments split between departments
- (e) reasons why the portfolio should have a higher or lower reduction target
- (f) identification of government-only instruments.

Because of the compressed time frame of the project, departments had only four working days to provide comment. The OBPR received very detailed and useful input and was able to incorporate nearly all the input to improve the accuracy of the count, with one noteworthy exception. The split of instruments between departments turned out to be more complex than anticipated and OBPR was not able to incorporate all the relevant information. The OBPR informed departments that it would incorporate this information as part of refinements leading up to the first annual report on progress in reducing the burden of regulation.

A number of departments put forward reasons why their reduction target should be lower than average. The OBPR was not able to accommodate all of these requests, since it would either have compromised the overall 20% reduction target, or led to a significant increase in the reduction target for other departments. Nevertheless, the OBPR was able to recommend special consideration for two departments, as described in **Appendix D**.

As soon as it was possible to compile a preliminary version of the requirements count results the OBPR sent the results, and proposed target reductions, to Directors-Generals of all departments. The response was generally positive, as departments could understand the reasoning behind the proposed targets.

### Consultation after April 2013

After the completion of the count in April 2013, it was apparent that further work would improve the accuracy of the count. The OBPR commenced almost immediately on work to incorporate information that had not been processed in the extremely tight timeline. There was a continuous dialogue with departments, leading up to a new report in June 2013. This report was submitted to the government, and was considered and approved by Cabinet in August 2013.

The OBPR convened an all department meeting in June 2013 to explain how the counting process would work in the lead-up to the annual report in October 2013. OBPR also hosted a number of training sessions in the counting method so that departments would be able to undertake more detailed verification of their delivered counts.

In the lead-up to the annual report, there were two cycles of departmental input and adjustment of numbers. In each case departments had 10 working days to comment on their numbers. This was a significant improvement on the pre-April process, where the timetable only allowed four working days for comment.



A significant feature of the post-April consultation was that the process could accommodate instruments split between departments. Incorporation of this final detail ran quite smoothly, with departments agreeing among themselves how instruments should be split, with minimal need for OBPR involvement. The departments then provided the OBPR with the outcome of their discussions. Table 24 outlines the milestones of the requirements count process.

**Table 24: Milestones of the requirements count process**

Publication of Interim Report, recommending requirements count	31 October 2012
Issue of Terms of Reference to potential consultants	21 December 2012
Commencement of requirements count	13 February 2013
Response by the Government to the Interim Report	19 February 2013
First report on requirements count and recommended reductions	30 April 2013
Revised report on requirements count and recommended reductions	28 June 2013
Further consultation with Departments	July – October 2013
First annual report on reducing the burden of regulation	31 October 2013

**Table 25: Requirements count result**

<i>Portfolio</i>	<i>Total requirements</i>	<i>Exclusions</i>	<i>Harmonised baseline</i>	<i>General baseline</i>	<i>Total baseline</i>
Aboriginal and Torres Strait Islander and Multicultural Affairs	2,511	1,220	0	1,291	1,291
Agriculture, Fisheries and Forestry	27,169	6,566	8,830	11,773	20,603
Communities, Child Safety and Disability Services	23,480	22,435	0	1,045	1,045
Education, Training and Employment	28,548	16,945	4,845	6,758	11,603
Energy and Water Supply	23,568	6,962	967	15,639	16,606
Environment and Heritage Protection	22,267	7,639	797	13,831	14,628
Health	54,617	27,899	10,149	16,569	26,718
Housing and Public Works	18,231	4,755	1,558	11,918	13,476
Justice and Attorney General	107,499	52,666	6,944	47,889	54,833
Local Government, Community Recovery and Resilience	7,726	6,618	0	1,108	1,108
National Parks, Recreation, Sport and Racing	10,107	5,632	976	3,499	4,475
Natural Resources and Mines	64,814	21,000	1,546	42,268	43,814
Police and Community Safety	12,510	11,897	0	613	613
Premier and Cabinet	2,757	2,523	0	234	234
Science, Information Technology, Innovation and the Arts	2,536	2,165	102	269	371
State Development, Infrastructure and Planning	15,200	6,606	0	8,594	8,594
Tourism, Major Events, Small Business and the Commonwealth Games	342	153	0	189	189
Transport and Main Roads	47,176	7,977	18,669	20,530	39,199
Treasury and Trade	24,488	18,699	341	5,448	5,789
<b>Total</b>	<b>495,546</b>	<b>230,357</b>	<b>55,724</b>	<b>209,465</b>	<b>265,189</b>

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## APPENDIX D: DETERMINING THE REDUCTION TARGET

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The purpose of this appendix is to describe the process of assigning reduction targets to each portfolio.

### The process of determining the reduction target

In setting reduction targets for individual departments, the OBPR weighed up a number of considerations:

- (a) the overall reduction must amount to 20%
- (b) the reduction should be targeted so that it makes a genuine impact on the burden of regulation
- (c) departmental targets need to be realistic and achievable.

Many departments put forward reasons why their reduction target should be lower than average and OBPR was not able to accommodate all these requests. Nevertheless, the OBPR made two important adjustments to reduction targets:

- (a) In calculating each department's overall reduction target, the OBPR recommends a lower target for harmonised requirements. This makes a small difference to departments with no harmonised requirements but makes a significant difference to others. The Department of Agriculture, Fisheries and Forestry (DAFF), for example, has a baseline comprising roughly 43% harmonised requirements. Applying a full reduction target to those requirements, which are difficult to reduce, would in some ways be equivalent to almost doubling the reduction for the non-harmonised requirements, since they would be the most likely source of any reductions.
- (b) The OBPR recommends a lower reduction target for two departments. The baseline count for these departments accounted for only 0.6% of the overall baseline count, so their reduced target makes a minor difference to the target for other departments.

### Special consideration (lower targets)

The Department of Aboriginal and Torres Strait Islander and Multicultural Affairs (DATSIMA) has a baseline forming around 0.5% of the government-wide total. The DATSIMA's non-government restrictions fall into three broad categories:

- (a) Cultural heritage restrictions in the *Aboriginal Cultural Heritage Act 2003*, the *Torres Strait Islander Cultural Heritage Act 2003*, and similar instruments. These account for around 65% of the restrictions in the department's baseline.
- (b) General welfare and social responsibility provisions in the *Family Responsibilities Commission Act 2008*.
- (c) Justice and policing matters set out in instruments like the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

The OBPR does not consider that these types of regulatory provisions should be subject to a 20% reduction. It may be possible to reduce the number of restrictions by combining the two cultural heritage Acts (which are very similar), but they were enacted at the same time, suggesting that Parliament had a good reason to keep them separate. The OBPR therefore recommended a 5% reduction target for the DATSIMA.

The Department of Premier and Cabinet (DPC) has a baseline forming approximately 0.1% of the government-wide total. The DPC's non-government restrictions are all related to the machinery of government and good governance. They cover matters such as protection of whistleblowers, security requirements for visitors to Parliament, and registration of lobbyists. The OBPR does not consider that

these types of regulatory provisions should be subject to a 20% reduction. The OBPR therefore recommended a 5% reduction target for the DPC.

### Calculation of reduction targets

In recommending reduction targets for departments, OBPR applied a target reduction of 23.4% to general requirements, and 8% to harmonised requirements. The weighted average of these two reduction rates leads to an overall reduction of 20%. Details are set out in Table 26 below. The OBPR rounded the percentage reduction for each department to a whole number, to avoid the false precision of fractions of percentages.

**Table 26: Regulatory requirements and recommended reduction targets by Department**

<i>Portfolio</i>	<i>Harmonised</i>	<i>General</i>	<i>Total</i>	<i>Reduction target</i>	<i>Total requirements reduction</i>
Aboriginal and Torres Strait Islander and Multicultural Affairs	0	1,291	1,291	5%	65
Agriculture, Fisheries and Forestry	8,830	11,773	20,603	17%	3,503
Communities, Child Safety and Disability Services	0	1,045	1,045	23%	240
Education, Training and Employment	4,845	6,758	11,603	17%	1,973
Energy and Water Supply	967	15,639	16,606	23%	3,819
Environment and Heritage Protection	797	13,831	14,628	23%	3,364
Health	10,149	16,569	26,718	18%	4,809
Housing and Public Works	1,558	11,918	13,476	22%	2,965
Justice & Attorney General	6,944	47,889	54,833	21%	11,515
Local Government	0	1,108	1,108	23%	255
National Parks, Recreation, Sport and Racing	976	3,499	4,475	20%	895
Natural Resources and Mines	1,546	42,268	43,814	23%	10,077
Police and Community Safety	0	613	613	23%	141
Premier & Cabinet	0	234	234	5%	12
Science, Information Technology, Innovation and the Arts	102	269	371	19%	70
State Development, Infrastructure and Planning	0	8,594	8,594	23%	1,977
Tourism, Major Events, Small Business and the Commonwealth Games	0	189	189	23%	43
Transport and Main Roads	18,669	20,530	39,199	16%	6,272
Treasury and Trade	341	5,448	5,789	22%	1,274
<b>Total</b>	<b>55,724</b>	<b>209,465</b>	<b>265,189</b>	<b>20%</b>	<b>53,269</b>

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## APPENDIX E: THE REQUIREMENTS COUNT AUDIT PROCESS

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The purpose of this appendix is to provide a detailed description of the process for auditing 15% of the requirements count in order to ensure an acceptable error rate.

The detailed steps of the audit process were as follows:

- (a) The OBPR supplied the auditor with spreadsheets containing regulation, but with no count. The consultants used the same spreadsheets for their counts.
- (b) The auditor used a random number generator to select 15% of the regulation for scrutiny.
- (c) The auditor completed a requirements count of the selection and supplied this to OBPR.
- (d) Once the OBPR had the auditor's count, it supplied the auditor with the consultant's count.
- (e) The auditor then compared their count with the consultants' counts. Where the results were the same no further investigation was necessary.
- (f) Where the results differed the auditor applied closer scrutiny to determine which count was correct. The three possibilities were that the consultant's count was right, the consultant made an error, or the count was ambiguous. Ambiguities arose where the regulation could be interpreted in a number of ways or where the count guidelines did not clarify the exact approach required.
- (g) The auditor then calculated the error rate and sent the full comparison results to OBPR and to the consultant.
- (h) Upon receiving the results the consultant examined the items marked as errors. The aim of this examination was to verify that they were in fact errors and to incorporate any lessons into the consultant's counting procedure.
- (i) The consultant and the auditor then had a discussion (with the OBPR facilitating the meeting), where the consultant could put forward arguments why some items marked as errors might not in fact be errors.
- (j) Based on the discussion the auditor produced an updated audit and error rate.
- (k) The OBPR then sent this audit result to the department concerned, along with the full consultant count and a summary break-up of restrictions.
- (l) At the same time, the consultants re-counted individual instruments identified as having an unacceptably high error rate (over 5%).

One of the key outputs of the audit process is the error rate at the instrument and portfolio level. The error rate is a measurement tool to allow the OBPR to discern the quality and robustness of the counting process and therefore accept the count or require the consultants to re-count.

The general principle of the error rate is to capture the number of errors divided by the number of potential errors.

For each line of text audited the auditor makes a determination on the consultant's count and categorisation. Examples of each are set out in Table 26 below.

- (a) "Agree" indicates that the auditor has independently come to the same count and/or categorisation (Line 1) or after some consideration agrees with the consultant's count and/or categorisation (Line 2).
- (b) "Ambiguous" indicates that the auditor has independently come to a different count and/or categorisation. However the reasons for the discrepancy may be due to uncertainty surrounding (a) the interpretation of the Guidelines or (b) interpretation of the instrument and hence there is merit to both answers (Line 3).
- (c) "Error" indicates that the auditor has independently come to a different count and/or categorisation and after some consideration disagrees with the consultant's interpretation (Line 11). That is, a requirement has not been identified where it should have been, a requirement has been identified where it should not have been or a requirement has been correctly identified but miscategorised into the sub-categories (Government only, GOC or standard).

The number of "potential" errors is the number of times the consultant may incorrectly count or miscategorise compared to the true answer. For example:

- (a) When the auditor concludes that there should be both a count and categorisation, then the number of potential errors is two.
- (b) When the auditor concludes that there should only be a count but not a categorisation then the number of potential errors is one (Line 7 and Line 11).

The number of errors is the number of times the consultants has incorrectly counted or miscategorised compared to the true answer. This is denoted by the "Error" determination in the table below which shows a few examples of the error rate calculation.

**Table 26: Error rate calculation**

	<i>Consultant's count</i>		<i>Auditor's count</i>		<i>Auditor's decision</i>		<i>No. of errors</i>	<i>No. of potential errors</i>	<i>Error Rate</i>
	<i>Count</i>	<i>Cat</i>	<i>Count</i>	<i>Cat</i>	<i>Count</i>	<i>Cat</i>			
<b>Zero errors</b>									
Line 1	2	GOC	2	GOC	Agree	Agree	0	2	0/2
Line 2	2	Gov't	3	Misc	Agree	Agree	0	2	0/2
Line 3	2	Gov't	3	Misc	Ambiguous	Ambiguous	0	2	0/2
Line 4	2	Gov't	2	Misc	Agree	Ambiguous	0	2	0/2
Line 5	2	Gov't	3	Misc	Agree	Ambiguous	0	2	0/2
Line 6	2	Misc	3	Misc	Ambiguous	Agree	0	2	0/2
Line 7	0	n/a	0	n/a	Agree	Agree	0	1	0/1
Line 8	2	Misc	0	n/a	Agree	Agree	0	2	0/2
<b>One error</b>									
Line 9	2	GOC	2	Gov't	Agree	Error	1	2	1/2
Line 10	3	Misc	2	Misc	Error	Agree	1	2	1/2
Line 11	3	Misc	0	n/a	Error	n/a	1	1	1/1
<b>Two errors</b>									
Line 12	2	Gov't	3	Misc	Error	Error	2	2	2/2
Line 13	0	n/a	2	Misc	Error	Error	2	2	2/2
Total								7/24 or 29%	

**Table 27: Error rate for baseline count 30 April 2013**

<i>Department</i>	<i>Error rate</i>
Aboriginal and Torres Strait Islander and Multicultural Affairs	1.3%
Agriculture, Fisheries and Forestry	1.11%
Communities, Child Safety & Disability Services	1.15%
Education, Training and Employment	0.87%
Energy and Water Supply	0.81%
Environment and Heritage Protection	0.78%
Health	0.8%
Housing and Public Works	0.78%
Justice and Attorney-General	1.65%
Local Government	1.44%
National Parks, Recreation, Sport and Racing	0.53%
Natural Resources and Mines	2.51%
Police and Community Safety	1.04%
Premier and Cabinet	1.19%
Science, Information Technology, Innovation and the Arts	1.05%
State Development, Infrastructure and Planning	1.33%
Tourism, Major Events, Small Business and the Commonwealth Games	0.00%
Transport and Main Roads	1.74%
Treasury and Trade	1.15%

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